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RIJEKA, 2022.

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IMPACT OF COVID-19 PANDEMIC ON VIOLENCE AGAINST CLOSELY RELATED PERSONS IN CROATIA

Prof. dr. sc. Marissabell Škorić*

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Summary

For victims of domestic violence, obligatory lockdowns aimed at preventing the spread of COVID-19 have trapped them inside the home with their abusers 24 hours a day and isolated them from the people and resources that could help them. Due to the countrywide lockdown, the abusers are continuously present in the victims' lives and have a greater ability to terrify them and control their lives. Home has become a double-edged sword for the victims of domestic violence – the safest place from the Coronavirus and the most dangerous place because they are isolated with their abusers. This research aims to explore how COVID-19 social restrictions have affected the occurrence of violence against closely related persons in Croatia. To this end, police data will be compared and analysed on the number of reported cases of violence committed to the detriment of a closely related person during the lockdown period and immediately before and after it. Special attention will be paid to the qualification of criminal offences committed against a closely related person and to the socio-demographic characteristics of perpetrators and victims of that violence. Based on the interpretation of the data, we assess whether significant discrepancies in the cases of family violence committed during lockdown can be detected. The conclusion points to certain shortcomings in the manner of monitoring the trend of violence among closely related persons in Croatia and the need to address this phenomenon systematically and comprehensively.

Keywords: *violence against closely related persons; criminal offense; misdemeanour; COVID-19 pandemic; lockdown; Croatia.*

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1 INTRODUCTION

The World Health Organization declared COVID-19 a pandemic in March 2020, after which Croatia, as well as many other countries, began implementing restrictive policies of social distancing in order to reduce the spread of the virus. The new circumstances dramatically affected economic, social, and working conditions and wholly changed the way people live and work around the world. All other negative effects of the new crisis came to the fore very quickly, and it has been warned that the COVID-19 pandemic presents “the perfect storm” (i.e., an event where a set of rare circumstances combine) for domestic violence, resulting in a significant aggravation of the resulting event.¹ Namely, the increase in the time families spend in isolation to curb the spread of the COVID-19 disease epidemic has increased the risk of domestic violence. Furthermore, as additional triggers for domestic violence, the stress of being isolated, the fear of losing employment, new working conditions, financial insecurity, and anxiety as a consequence of such conditions should be added. All these factors have significantly increased the risk of domestic violence worldwide, as confirmed by numerous studies.² Indeed, when we consider the combination of pre-existing gender inequalities, economic and wellbeing insecurity caused by the pandemic, and counter-pandemic measures such as restrictions on movement and social isolation measures, the exponential increase in domestic violence is unsurprising. In April 2020, the UN Secretary-General António Guterres agreed that *over the past weeks, as economic and social pressures and fear have grown, we have seen a horrifying surge in domestic violence.*³

This research aims to explore how the COVID-19 pandemic has affected the occurrence of violence against closely related persons in Croatia.⁴ On March 11, 2020, the Minister of Health declared the outbreak of the COVID-19 disease caused by the SARS-CoV-2 virus. Since then, a number of very strict epidemiological measures

- 1 Kim Usher *et al.*, “COVID-19 and Family Violence: Is This a Perfect Storm?”, *International Journal of Mental Health Nursing* 30, (2021): 1022.
- 2 Julia Brink *et al.*, “Intimate Partner Violence During the COVID-19 Pandemic in Western and Southern European Countries”, *European Journal of Public Health* 31, no. 5 (2021): 1058-1063; Elishabeth Mahase, “COVID-19: EU States Report 60% Rise in Emergency Calls About Domestic Violence”, *BMJ* (2020), 10.1136/bmj.m1872; Deniz Ertan *et al.*, “COVID-19: Urgency for Distancing from Domestic Violence”, *European Journal of Psychotraumatology* 11, no. 1 (2020): 1-6.
- 3 Part of the statement made by the United Nations Secretary-General António Guterres at a virtual news briefing at United Nations headquarters in New York, 6th April, 2020.
- 4 Pursuant to Art. 87, Para. 8 and 9 of the Criminal Code, closely related persons are family members: the spouse or cohabitant, life partner or informal life partner, their children and children of either of them, lineal blood relative, collateral blood relatives up to the third degree of kinship, relatives by marriage up to the second degree as well as adopter and adoptee. In addition to family members, closely related persons include former spouse or cohabitant, former life partner or informal life partner, current or former partner in an intimate relationship, persons having a child together, and persons living in a common household. When referring to victims of domestic violence in this paper, this term includes all persons listed in paragraphs 8 and 9 of the Criminal Code, Official Gazette, no. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21 (hereinafter: the Criminal Code or CC/11).

have been adopted in Croatia aimed at the prevention of the spread of COVID-19 and its suppression, such as the closing of schools and universities and switching to online teaching; banning public gatherings and sports events; closing restaurants and non-essential shops, and border closing. Restriction of movement within the country was also introduced. This period during which the strict measures were in place (hereinafter: lockdown) lasted until May, when the easing of complete lockdown measures began.⁵ COVID-19 lockdowns have significantly disrupted the daily lives of individuals with increased time at home. This paper aims to analyse the impact of the COVID-19 lockdown on violence against closely related persons in Croatia and compare it with trends before and after this period. Based on the interpretation of the data analysis, we will conclude about the effect of the lockdown on the number of police reports of violence against closely related persons. Special attention will be paid to the qualification of criminal offences committed against a closely related person during the lockdown period and to the socio-demographic characteristics of perpetrators and victims of that violence. We will compare them with previous trends and assess whether significant changes in those characteristics in the cases of violence committed during the lockdown can be detected.

2 COVID-19 PANDEMIC AND DOMESTIC VIOLENCE TRENDS

A number of scientific studies have been conducted on the effects of the pandemic and lockdown on domestic violence. Numerous authors have discussed the impact of the pandemic caused by the COVID-19 virus on the rise of domestic violence. Leslie and Wilson state that the pandemic and consequent measures taken to prevent the health crisis have led to an increase in calls to the police due to domestic violence by 10.2%.⁶ According to the United Nations Development Program, one of the UN's development agencies in France, domestic violence cases have increased by 30% since the lockdown on March 17. The helpline in Cyprus has registered an increase in calls by 30%. Singapore has registered an increase of 33%. In Argentina, emergency calls for domestic violence cases have increased by 25% since the beginning of the lockdown. Increased cases of domestic violence and the demand for emergency shelter have also been reported in many other countries, such as Canada, Germany, Spain, the United Kingdom, and the United States.⁷ According to the Regional Director of the World Health Organization for Europe, Hans Kluge, member states reported up to a 60% increase in emergency calls by women subjected to violence by their intimate partners in April 2020 compared to the previous year.⁸ Although the situation generated by

5 For details on the course of introducing disease control measures in Croatia, see Nika Lazić, Vanja Lazić, and Branko Kolarić, "First Three Months of COVID-19 in Croatia, Slovenia, Serbia and Federation of Bosnia and Herzegovina - Comparative Assessment of Disease Control Measures", *Infektološki glasnik* 40, no. 2 (2020): 44-45.

6 Emily Leslie, and Riley Wilson, "Sheltering in Place and Domestic Violence: Evidence from Calls for Service During COVID-19", *Journal of Public Economics* 189, (2020), <https://doi.org/10.1016/j.jpube.2020.104241>.

7 *United Nations Development Program, Gender-Based Violence and COVID 19*, 4.

8 Statement to the press by Hans Henri P. Kluge, World Health Organization Regional Director for

COVID-19 has no precedent, those studies are in line with previous studies that have shown an increase in violence after natural disasters (e.g., earthquakes, hurricanes, or floods). In those circumstances, perpetrators take advantage of extraordinary measures which significantly increase the risk of violence.⁹ The previously mentioned data show that the effects of this pandemic are no different and that there has been an increase in violence in a number of countries.¹⁰

During the COVID-19 disease pandemic, it is especially emphasised that domestic violence is gender-based violence. The UN Special Rapporteur on violence against women, Dubravka Šimonović, warned that *the home can be a place of fear and abuse for too many women and children. That situation worsens considerably in isolation cases, such as the lockdowns imposed during the COVID-19 pandemic.*¹¹ One of the main goals of gender-based violence is to control the victim and isolate her from those who can support her in an attempt to hide the violence. Restrictions on movement and the “*stay-at-home and stay safe*” orders proclaimed during the pandemic can be considered counterproductive to gender-based violence, bearing in mind that the most dangerous place for many women is their own home, even in ordinary times. Executive Director of UN Women, Phumzile Mlambo-Ngcuka, claimed that the world was experiencing a “shadow pandemic” of violence against women and girls.¹² Detaining victims in a home together with a violent person has the direct consequence of increasing control over the victims and increasing the risk of their exposure to violence. At the same time, the possibility is reduced for the victim to avoid violence, as well as the possibility for violence to be detected and the perpetrator punished. The COVID-19 pandemic has led to the fact that we have conditions that, on the one hand, favour the escalation of domestic violence. On the other hand, they significantly reduce access to various forms of assistance and support to victims. Namely, the implementation of COVID-19 measures has created challenges for the criminal justice system in responding to gender-based violence.

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- Europe, 7th May 2020, entitled “During COVID-19 Pandemic, Violence Remains Preventable, not Inevitable”, <https://www.euro.who.int/en/media-centre/sections/statements/2020/statement-during-covid-19-pandemic,-violence-remains-preventable,-not-inevitable>.
- 9 Debra Parkinson, “Investigating the Increase in Domestic Violence Post Disaster: An Australian Case Study”, *Journal of Interpersonal Violence* 34, no. 11 (2019): 2333-2362; Sera Gearhart *et al.*, “The Impact of Natural Disasters on Domestic Violence: An Analysis of Reports of Simple Assault in Florida (1999–2007)”, *Violence and Gender* 5, no. 2 (2018): 87-92; Andrew M. Campbell, “Improving Prevention of Family Violence During (and After) Disaster: Lessons Learned from the COVID-19 Pandemic”, *Forensic Science International: Reports* 3, (2021), <https://doi.org/10.1016/j.fsir.2021.100179>.
 - 10 Amber Peterman *et al.*, “Pandemics and Violence Against Women and Children”, *Center for Global Development. Working paper* 528, (2020); Andrew M. Campbell, “An Increasing Risk of Family Violence During the COVID-19 Pandemic: Strengthening Community Collaborations to Save Lives”, *Forensic Science International: Reports* 2, (2020): 1-3.
 - 11 The Office of the High Commissioner for Human Rights, “States Must Combat Domestic Violence in The Context Of COVID-19 Lockdowns - UN Rights Expert”, 27th March 2020, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25749&LangID=E>.
 - 12 Statement by Phumzile Mlambo-Ngcuka, Executive Director of UN Women, “Violence Against Women and Girls: The Shadow Pandemic”, 6th April 2020, <https://www.unwomen.org/en/news/stories/2020/4/statement-ed-phumzile-violence-against-women-during-pandemic>.

Police and other law enforcement agencies have less time and human resources to respond to incidents of gender-based violence and are likely to shift priorities towards enforcing quarantine, monitoring social distancing, and other related measures.¹³ During the COVID-19 disease pandemic, access to certain services and mechanisms for protection against domestic violence was largely limited, which means that many victims were left without adequate and timely protection.

Although a number of authors and studies have shown an increase in the number of reports of violence between closely related persons during the pandemic and especially the lockdown, the results presented are not unique. Thus, some authors point out that in certain countries, i.e., in certain areas during the lockdown, there were no significant oscillations in the number of domestic violence cases. For example, Piquero *et al.* state that they did not detect strong evidence of any change in the trend of domestic violence.¹⁴ Similarly, Campedelli, Aziani and Favarin highlight that no significant effect has been detected for intimate partner assault.¹⁵ In order to investigate the effect of the lockdown on the prevalence of violence between closely related persons in Croatia, we analyse the statistical data of the Ministry of the Interior below.

3 STATISTICAL DATA: THE EXTENT OF VIOLENCE AGAINST CLOSELY RELATED PERSONS IN CROATIA

Current legislation in the Republic of Croatia regulates domestic violence as an independent criminal offence in Article 179.a of the Criminal Code¹⁶ as a qualified form of certain criminal offences prescribed in the Criminal Code¹⁷ and as a misdemeanour

13 United Nations Office of Drugs and Crime, *The Impact Of COVID-19 on Criminal Justice System Responses to Gender-Based Violence Against Women: A Global Review of Emerging Evidence* (2021), https://www.unodc.org/documents/justice-and-prison-reform/Assessment_COVID-19_and_CJS_responses_to_GBVAW_23Mar2021.pdf.

14 Alex R. Piquero *et al.*, "Staying Home, Staying Safe? A Short-Term Analysis of COVID-19 on Dallas Domestic Violence", *American Journal of Criminal Justice* 45, no. 4 (2020): 601, 616.

15 Gian Maria Campedelli, Alberto Aziani, and Serena Favarin, "Exploring the Immediate Effects of COVID-19 Containment Policies on Crime: An Empirical Analysis of the Short-Term Aftermath in Los Angeles", *American Journal of Criminal Justice* 46, (2021): 704, 711.

16 Art. 179.a reads: *Whoever seriously breaches the provisions on protection from domestic violence and thus causes fear for safety to a family member or to close person or the safety of persons close to this person or brings a person into a humiliating position or into a state of long-term suffering, and by this act a more serious criminal offence is not committed, shall be punished by imprisonment from one to three years.* The criminal offence of domestic violence as an independent criminal offence was reintroduced into domestic criminal legislation by an amendment from 2015 (Official Gazette, no. 56/15). On the earlier legal regulation of domestic violence, see Velinka Grozdanić, Marissabell Škorić, and Ileana Vinja, "Nasilje u obitelji u svjetlu promjena Kaznenog zakona", *Hrvatski ljetopis za kazneno pravo i praksu* 17, no. 2 (2010): 669-698.

17 The Criminal Code prescribes the punishment of violent behaviour committed against a closely related person as a qualified form in the following criminal offenses: aggravated murder (Art. 111. Para. 3), bodily injury (Art. 117. Para. 2), serious bodily injury (Art. 118. Para. 2), particularly serious bodily injury (Art. 119. Para. 3), serious bodily injury resulting in death

in Art. 10 of the Law on Protection from Domestic Violence.¹⁸ It should be noted that the legal qualification of domestic violence cases in case law raises significant dilemmas because the legislator has not established a clear demarcation line between domestic violence as a misdemeanour and domestic violence as a criminal offence.¹⁹ The distinction between criminal and misdemeanour regulations of domestic violence is an important legal issue for many reasons.²⁰ However, from the aspect of determining the prevalence of domestic violence, this distinction is not crucial. Therefore, in order to get a complete picture of the prevalence of this social phenomenon in Croatia, we analysed summary phenomenological data on the number of reports of domestic violence as an independent criminal offence (Article 179.a of the Criminal Code), the number of reports of the qualified form in criminal offences committed to the detriment of a closely related person and the number of reports of domestic violence as a misdemeanour regulated in Art. 10 of the LPDV.

Given that the final completion of (criminal and misdemeanour) proceedings takes some time, in order to get a comprehensive picture and comparable results on the occurrence of domestic violence during the lockdown, the first part of the paper analyses the data on the number of criminal and misdemeanour reports for violence committed against closely related persons. The second part of the research focuses on the analysis of criminal reports filed during the lockdown and immediately after the lockdown measure was lifted in the Republic of Croatia.

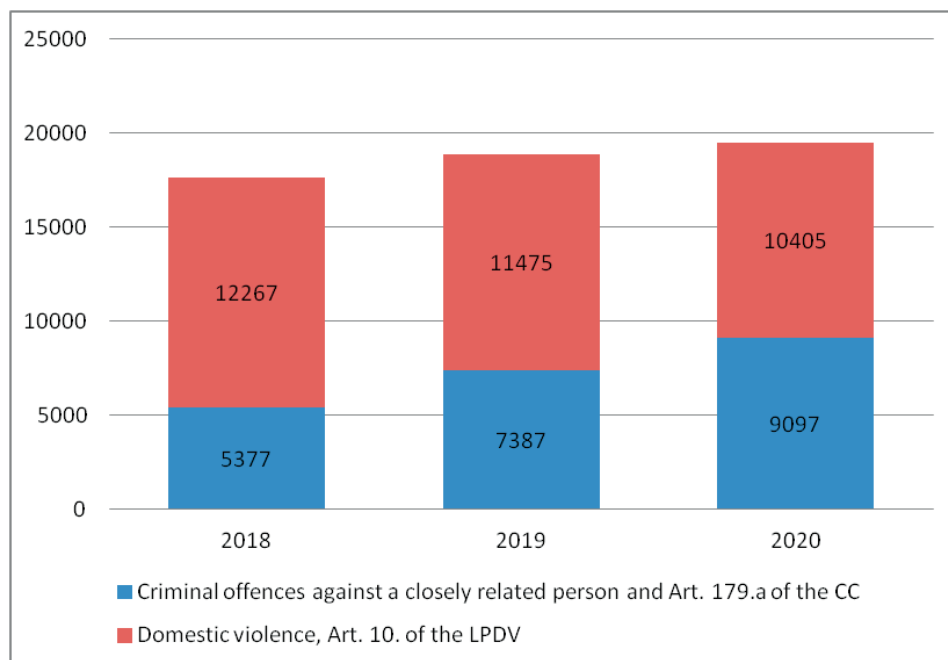
(Art. 120.), serious bodily injury caused by negligence (Art. 121.), unlawful deprivation of liberty (Art. 136. Para. 3), kidnapping (Art. 137. Para. 2), threat (Art. 139. Para. 3), stalking (Art. 140. Para. 2), rape (Art. 154. Para 2), lewd acts (Art. 155.) and serious criminal offence of child sexual abuse and exploitation (Art. 166.).

- 18 Pursuant to Art. 10, domestic violence is 1) *the use of physical force resulting in no physical injury; 2) corporal punishment or other forms of degrading treatment of children; 3) psychological violence which has caused injury to dignity or anxiety to the victim; 4) sexual harassment; 5) economic violence as a prohibition or disabling of the use of joint or personal property, disposing of personal income or property gained by personal work or inheritance, disabling employment, deprivation of resources for maintaining a common household and child care; 6) neglecting the needs of a person with a disability or an elderly person which leads to causing her anxiety or insulting her dignity and thereby causes her physical or mental suffering.* Law on Protection from Domestic Violence, Official Gazette, no. 70/17, 126/19, 84/21, (hereinafter: LPDV).
- 19 For more, see Marissabell Škorić, and Dalida Rittossa, “Nova kaznena djela nasilja u Kaznenom zakonu”, *Hrvatski ljetopis za kazneno pravo i praksu* 22, no. 2 (2015): 497-500, Davorka Martinjak, and Hrvoje Filipović, “Prekršajna ili kaznena odgovornost u slučaju nasilja u obitelji”, *Hrvatski ljetopis za kaznene znanosti i praksu* 26, no. 2 (2019): 636-639, Marta Dragičević Prtenjača, “Dihotomija pristupa u rješavanju nasilja u obitelji putem prekršajnopravne i kaznenopravne regulative”, *Hrvatski ljetopis za kaznene znanosti i praksu* 24, no. 1 (2017): 141-175.
- 20 Among others, it is important for the legal security of citizens, especially because of the significant difference in prescribed penalties.

3.1 *Phenomenology of Violence to the Detriment of a Closely Related Person*

The occurrence of violence among closely related persons in Croatia can be observed from various aspects. Graph 1 shows the phenomenological aspects of violence through the statistical data of the Ministry of the Interior in the period from January 1, 2018, to December 31, 2020. With the analysis of collected data on the number of criminal and misdemeanour reports for violence committed against a closely related person, the aim is to investigate the prevalence, structure, and dynamics of domestic violence in the previous mentioned period in Croatia and the impact of the lockdown as a criminogenic factor during 2020.

Graph 1 Violence to the Detriment of a Closely Related Person from 2018 to 2020 (Criminal Offences and Misdemeanours)



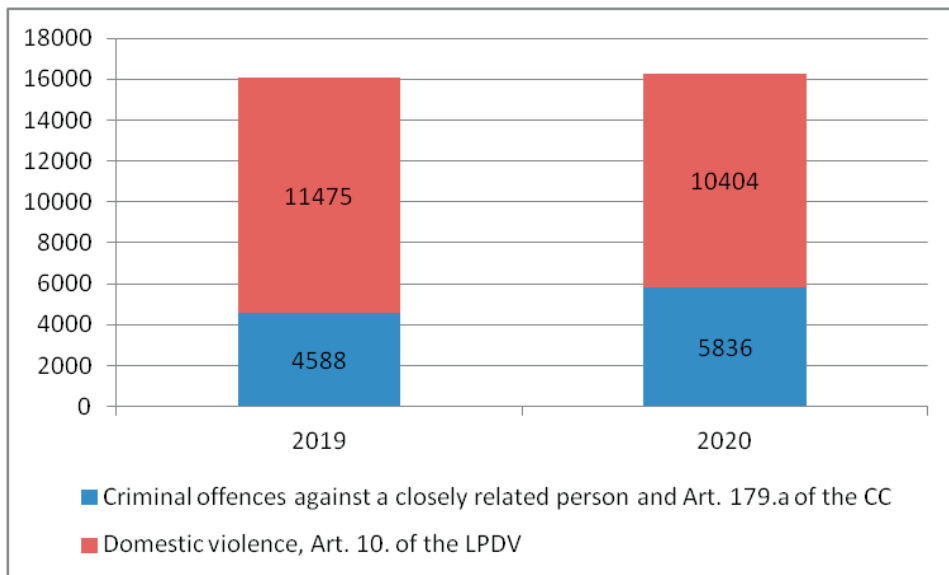
Statistics on reports of criminal offences among closely related persons kept by the Ministry of the Interior not only include data on reports of criminal offences for which the legislator prescribed the circumstance that they were committed to the detriment of a closely related person as a qualifying circumstance,²¹ but these statistics include all criminal offences committed among closely related persons. Thus, in the statistics of the Ministry of the Interior, among the presented data on criminal offenses among closely related persons, there are also data on the number of reports for, e.g., the criminal offense of unlawful use of personal data, enabling the use of drugs, killing

21 See *supra* note 18.

or torturing animals, dangerous execution of construction works, and causing a road traffic accident.²²

If we take into account only the data on the number of reports for the crime of domestic violence (Art. 179.a) and criminal offences in which violence against a closely related person is prescribed as their qualifying form in the Criminal Code, we get the following data presented in Graph 2.²³

Graph 2 Violence to the Detriment of a Closely Related Person From 2019 to 2020 (Criminal Offences and Misdemeanours)



These data show that, in 2020, the total number of reports (criminal and misdemeanour) due to violence among closely related persons in the Republic of

22 See, for example, the Statistical Survey of Basic Safety Indicators and Work Results for 2019, Zagreb, March 2020, 71-72. Other authorities also collect and process data on violence to the detriment of a closely related person, but these data are incomplete. Thus, the Croatian Bureau of Statistics does not provide precise data on the number of reports of criminal offences among closely related persons. Namely, violence to the detriment of a closely related person is only one of the prescribed qualifying circumstances for a number of criminal offences. From the data presented by the Croatian Bureau of Statistics, it remains unknown whether the number of the qualifying form of offence refers to the circumstance that it was committed to the detriment of a closely person or whether it was realised under some other qualifying circumstance (e.g., the act was committed against an official or responsible person, against a journalist, or out of hatred). The Ombudsperson for Gender Equality publishes statistical data on the criminal offence of domestic violence and violence among closely related persons in her Annual Report, referring to official data from the Ministry of the Interior; however, the report does not show which criminal offences are covered by these statistics. See Annual Report for 2020, 73.

23 The Statistical Survey of Basic Safety Indicators and Work Results for 2018 does not contain numerical data on all criminal offences among closely related persons. Therefore, given that they are not comparable with the data for 2019 and 2020, they have not been included in Graph 2.

Croatia increased by slightly more than one percent (1.1%), while the number of criminal reports in 2020 increased significantly, by as much as 27.2% compared to the previous year. Thus, the share of criminal reports in the total number of reports in 2020 increased to 35.9% compared to 2019 when it was 28.6%.²⁴ This trend is not new, as the annual reports of the Ombudsperson for Gender Equality on the number of criminal and misdemeanour reports due to domestic violence and violence among closely related persons from previous years also confirm that the number of criminal reports has been growing since 2014.²⁵ The same conclusion was reached by Martinjak, Kikić and Kovčo Vukadin, whose research also confirms that the total number of reports for violence committed against closely related persons in Croatia from 2018 to 2020 was continuously increasing.²⁶

The increasing trend in the number of criminal reports of violence against closely related persons may point to the conclusion that in recent years, we have begun to face more severe forms of domestic violence. However, this conclusion should be taken with some caution because, without an analysis of the case-law of misdemeanour and criminal courts, it is difficult to provide a precise answer to the question of whether we are witnessing an escalation of more severe forms of domestic violence.²⁷ Due to the insufficiently clear distinction between domestic violence as a criminal offence and as a misdemeanour, the discretionary assessment of the competent authorities on how to qualify certain behaviour remains significant.²⁸ Also, it should be noted that the increase in the total number of reports of violence does not necessarily mean that it escalated in this period because these data should be viewed in light of the growing

24 Numerous authors warn that domestic violence is not an isolated incident but a systematic recurrence of violence that usually begins with relatively mild forms of violence (for example, controlling the victim) followed by much more severe ones involving physical and/or sexual violence. Compare Anna Constanza Baldri, and Elishabet Duban, *Improving the Effectiveness of Law Enforcement and Justice Officers in Combating Violence Against Women and Domestic Violence* (Strasbourg: Council of Europe, 2016), 11-12.

25 Annual Reports of the Ombudsperson for Gender Equality for the period from 2014 to 2020 are available at <https://arhiva.prs.hr/index.php/izvjesca>. Data from previous reporting periods were difficult to compare due to a change in the way the Ministry of the Interior statistics are kept (Annual Report for 2014, 65-66).

26 The data included in this research refer to the criminal offense of domestic violence (Article 179.a) and criminal offenses committed among closely related persons (aggravated murder, bodily injury, and sexual offenses) in the period from 2014 to 2018. Davorka Martinjak, Suzana Kikić, and Irma Kovčo Vukadin, "Viktimološka obilježja obiteljskog nasilja s posebnim osvrtom na pravnu kvalifikaciju događaja", in: *Zbornik radova VII. međunarodne znanstveno-stručne konferencije Istraživački dani Visoke policijske škole u Zagrebu*, eds. Irena Cajner Mraović, and Mirjana Kondor - Langer (Zagreb: Ministarstvo unutarnjih poslova, Policijska akademija, 2020), 307.

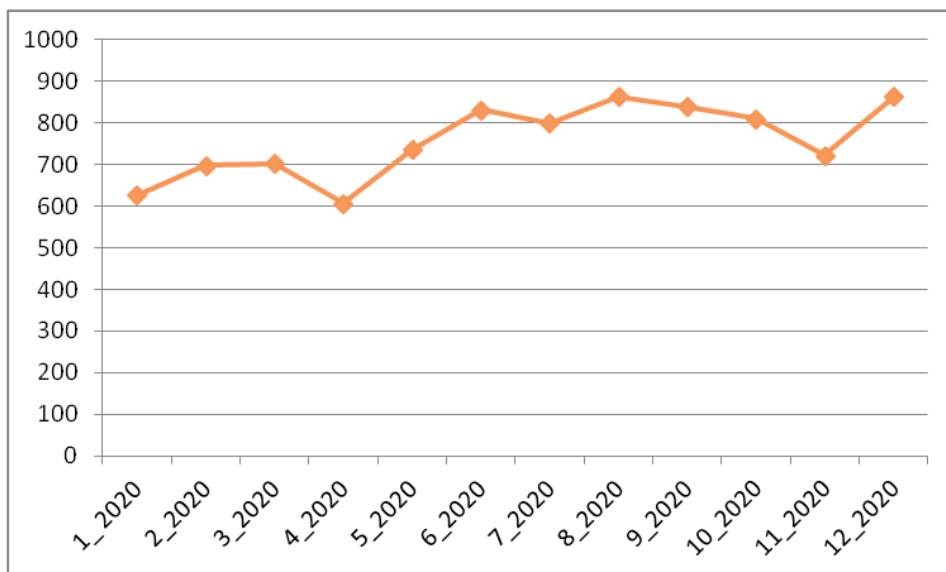
27 According to the State Attorney's Office, the reason for the decrease in the number of misdemeanour reports and the increase in the number of criminal reports for the criminal offence of domestic violence (Art. 179.a) is the change in the definition of physical violence from Art. 10 of the Act on Protection from Domestic Violence. See Report of the State Attorney General of the Republic of Croatia on the Work of State Attorney's Offices in 2020, Zagreb, 2021, <https://dorh.hr/hr/izvjesca-o-radu/izvjesce-o-radu-drzavnih-odvjetnistava-u-2020-godini>.

28 Compare Dragičević Prtenjača, *Dihotomija pristupa u rješavanju nasilja u obitelji putem prekršajnogpravnog i kaznenopravnog regulative*, 171.

activities to empower victims to report domestic violence.

The overall numerical indicators of violence among closely related persons in Croatia in the pandemic year 2020 show an increase of 1.1% compared to the previous year,²⁹ which is significantly lower than the increase reported by some other countries in 2020. In order to further investigate how the number of cases of domestic violence has been affected by the COVID-19 pandemic disease and the measures taken to combat it, especially the lockdown, Graph 2 shows the trend of reports of violence against a closely related person during 2020.

Graph 3 Reports of Violence to the Detriment of a Closely Related Person (Criminal Offences and Misdemeanours) in 2020



Looking at the total number of reports of violence to the detriment of a closely related person in 2020, it can be observed that during the first three months of 2020, this number increased, while in April, there was a significant decline of 13.5% in the number of reports compared to March. The data on the reduction in the number of reports in April can be interpreted in different ways.

This phenomenological trend in the number of reports can be related to the fact that from mid-March 2020, various measures began to be introduced to combat the spread of COVID-19 disease, resulting in the introduction of the lockdown, i.e., the suspension of all educational institutions, catering facilities, cinemas, museums, theatres, the cancellation of all public events, a ban on gatherings, and the whole range of businesses were limited in their activities or completely closed. It is possible that data for April indicate that during the lockdown, there had indeed been a reduction in

²⁹ According to the Report of the Ombudsperson for Gender Equality, in 2020, the total number of criminal and misdemeanour reports was 1.4% higher than in 2019. Annual Report for 2020 of the Ombudsperson for Gender Equality of the Republic of Croatia. March 2021, 73.

violent behaviour among closely related persons. Namely, domestic violence is often violence in which one party wants to take power and control in a partnership and completely dominate the other party's life. In order to maintain that control and power, they use various violent means. Lockdown as a measure taken to combat the spread of the COVID-19 disease allowed complete control over victims who were forced to be trapped with their abusers throughout its duration. Therefore, it is possible that due to the lockdown in April, the number of violent events was indeed lower. However, it should be noted that experts warn that the prolongation of social isolation aggravates the situation and leads to a resurgence of domestic violence. It is a well-known fact that stress is a frequent trigger of domestic violence. New life circumstances increase the risk of violence in partnerships and its escalation, so it was assumed that longer and isolated stays inside one's home necessary to combat the spread of the COVID-19 disease over time would further contribute to the increase in domestic violence.³⁰ The basis for this interpretation can be found in the analysed data, which show that there was a decrease in the number of reports in April. However, there was an increase in the number of reports in May and June and especially in August, when the increase was as much as 42% compared to April.

When interpreting the data on the small number of reports during the lockdown, one must not lose sight of the fact that the victims were locked with their abusers 24 hours a day, which certainly made it much harder for them to call and ask for help. The uncertainty caused by this pandemic and the exposure of the victims of domestic violence to additional pressure and fear for the health of their families, especially children, should also be taken into account. In addition, the COVID-19 pandemic has led to changes in the functioning of state bodies and services, so these figures should be viewed in the context of the reduced availability of adequate assistance and support to victims of domestic violence. All of these can be arguments in support of the thesis that there had been no reduction in violence but only a reduction in the reporting of that violence. In addition to all the above, the fact that the dark figure in this form of violence is still present should not be overlooked, despite the significant increase of society's sensitivity to domestic violence in recent times.³¹

In the second half of 2020, the number of reports of domestic violence fluctuated, so that a decline was recorded in the number of reports in July, September, October, and especially in November. However, in December 2020, which was marked as the month in which the intense second wave of the epidemic reached its peak in Croatia, there was a significant increase in the number of reports, 19.5% compared to the previous month.³²

30 Ajduković Marina, and Dean Ajduković, "Partnerski odnosi u vrijeme COVID-19 krize: Kako sačuvati dobre odnose, spriječiti ili/i zaustaviti nasilje?", in: *Koronavirus i mentalno zdravlje* (Zagreb: Hrvatska psihološka komora, 2020), 159-171.

31 According to some research, the dark figure for domestic violence is 25 unreported cases of domestic violence per each reported case. Danijela Lazarić Zec, and Gordana Pavleković, "Iskustvo i samoprocjena znanja stručnjaka u lokalnoj zajednici o problemu nasilja nad ženom u obitelji", *Ljetopis socijalnog rada* 13, no. 2 (2006): 297-314.

32 Some authors associate the increase in the number of reports in December with the fact that household members spend time predominantly at home with each other during the holidays.

3.2 Results of Police Case Analysis and Discussion

In this part of the paper, the connection between lockdown status and violence committed to the detriment of a closely related person will be explored through the analysis of criminal records. Using the random sampling method, 10 police files related to the criminal offence of domestic violence (Art. 179.a) or another criminal offence committed to the detriment of a closely related person in the period from the beginning of the lockdown in Croatia to July 31, 2020, in the area of five police stations – namely, Rijeka, Pula, Split, Zagreb, and Osijek – were analysed. This part of the paper aims to show the qualification of committed acts of violence to the detriment of a closely related person, the socio-demographic characteristics of the perpetrator and the victim, and their interrelationship.

3.2.1 Qualification of Acts of Violence Committed to the Detriment of a Closely Related Person

The first characteristic that was analysed refers to the qualification of violence committed in a specific case. In most of them, the act is qualified as a criminal offence of domestic violence under Art. 179.a or as a criminal offence of threat under Art. 139, para. 3 of the Criminal Code. For the sake of clarity, Table 1 shows the number of reports related to these acts. However, considering that in a large number of cases, the perpetrator was reported not only for one of the mentioned offences but also for some other criminal offences committed to the detriment of a closely related person, Table 1 also contains data on how many offences were committed in concurrence of offences.

Table 1 Criminal Offence to the Detriment of a Closely Related Person and Concurrence of Offences

CRIMINAL OFFENCE TO THE DETRIMENT OF A CLOSELY RELATED PERSON	NUMBER OF REPORTS	COMMITTED IN CONCURRENCE WITH OTHER OFFENCE(S)
Domestic violence (Art. 179.a)	43	39
Threat (Art. 139. para. 3.)	7	3

It is observable from Table 1 that out of 50 analysed police cases, as many as 86% relate to the criminal offence of domestic violence under Art. 179.a, while 14% of reports were filed due to the criminal offence of threat under Art. 139 para. 3 of the Criminal Code. The research also showed that, in the majority of cases, these criminal offences were committed in concurrence with one or more other criminal offences.³³

Ria Ivandić, Tom Kirchmaier, and Ben Linton, *Changing Patterns of Domestic Abuse During COVID-19 Lockdown* (London: Centre for Economic Performance, 2020), 118.

33 On the issue of concurrence of the criminal offence of domestic violence and other criminal offences, see Škorić, Rittossa, *Nova kaznena djela nasilja u Kaznenom zakonu*, 495-496, Igor Martinović, “Kaznenopravni aspekti obiteljskog nasilja”, in: *Ljudska prava žena - Razvoj na međunarodnoj i nacionalnoj razini 30 godina nakon usvajanja Konvencije UN-a o uklanjanju*

In addition to the criminal offence of domestic violence, as many as 43 perpetrators committed an additional 91 criminal offences to the detriment of a closely related person. Thirty of them were charged with one or more charges of violating the rights of the child (Art. 177), which was committed to the detriment of a total of 57 victims. In addition to the criminal offence of domestic violence, 21 perpetrators were also reported for the criminal offence of threat (Art. 139, para. 3), and nine of them for the criminal offence of bodily injury (Art. 117, para. 2). Other criminal offences committed in concurrence with a criminal offence of domestic violence were stalking (Art. 140, para. 2), serious bodily harm (Art. 118 para. 2), unlawful deprivation of liberty (Art. 136, para. 3), and, in one case, a serious criminal offense against sexual freedom (Art. 154, para. 1).³⁴ These data show that monitoring statistics on the number of domestic violence reports (Art. 179.a) is by no means sufficient to gain an accurate insight into the prevalence of domestic violence because it almost always occurs in concurrence with other criminal offences committed to the detriment of a closely related person.

In seven cases, the perpetrators were reported for the criminal offence of threat, with three of them being suspected of having committed this criminal offence in concurrence with the criminal offences of bodily injury, stalking, or violation of the rights of the child.

3.2.2 *Socio-Demographic Characteristics of Perpetrators and Victims and Their Interrelationship*

3.2.2.1 *Socio-Demographic Characteristics of Perpetrators and Victims*

Table 2 contains the data from the analysis of the sex of the perpetrators and victims, whereby only the data on the sex of the primary adult victims are listed.³⁵

Table 2 Perpetrator and Victim Sex

	MEN	WOMEN	TOTAL
Perpetrators	48	2	50
Adult victims	8	47	55

It is evident already from the data on the perpetrators' and the victims' sex that this research has also confirmed that the perpetrators of violence to the detriment of a closely related person are mostly men, while the victims are mostly women.³⁶ The

svih oblika diskriminacije žena, eds. Ivana Radačić, and Jelka Vince Pallua (Zagreb: Institut društvenih znanosti Ivo Pilar, 2011), 274-275.

34 Compare Martinjak, Filipović, *Prekršajna ili kaznena odgovornost u slučaju nasilja u obitelji*, 645.

35 The total number of victims is significantly higher. See graph 6.

36 Data from previous years point to the same conclusion. Thus, according to the results of the Croatian Bureau of Statistics, the share of men as perpetrators of domestic violence committed in the period from 2007 to 2010 was 95.5%, while the share of women was only 4.5%. Croatian

gender basis of domestic violence in the Republic of Croatia is also indicated by other domestic research. Due to its scope, the research carried out by the Ombudsperson for Gender Equality should be highlighted. The sample was composed of final criminal convictions on violence against women rendered in the period between 2012 and 2016. Its analysis confirmed that domestic violence is gender-based violence against women because it disproportionately affects women.³⁷ Research results obtained by Martinjak, Kikić and Kovčo-Vukadin, which included 85 police cases processed during 2017 and 2018, related to the crime of domestic violence and in which all perpetrators of domestic violence were male, point to the same conclusion.³⁸

Although no one disputes that domestic violence victims can be and are persons of both sexes, the gender conditions of domestic violence are supported by numerical indicators at the international level, which also confirm that its most frequent victims are women.³⁹ Thus, according to the World Health Organization, 30% of women worldwide have experienced violence by an intimate partner or sexual violence by another person in their lives; 1/3 of women who have been in a relationship claim to have experienced some form of physical or sexual violence by a partner.⁴⁰ That domestic violence against women is one of the biggest global problems is also shown by the results of research according to which nine out of ten victims of intimate partner violence in the European Union are women.⁴¹

Violence against women is systematic and widespread, and what is particularly worrying is the fact that over time, it takes on increasingly more severe forms. An additional, extremely serious problem is the increase in femicide, to which the Ombudsperson for Gender Equality of the Republic of Croatia draws attention.⁴² According to official data gathered by the European Institute for Gender Equality, 444

Bureau of Statistics, *Domestic Violence: Legal Framework and Forms of Appearance, 2007 – 2010* (Zagreb: 2012), 27.

37 Research was focused on the 572 decisions of individual municipal courts and covered certain criminal offences (domestic violence, violation of children's rights, illegal deprivation of liberty, stalking, bodily injury etc.). The research was also conducted in relation to the verdict of misdemeanour courts on violence against women. For more, see Dalida Rittossa, and Sandra Juranović, *Stručna analiza pravomoćnih kaznenih presuda o nasilju prema ženama 2012 – 2016* (Zagreb: Ured Pravobraniteljice za ravnopravnost spolova, 2020); Branka Žigante Živković, and Robert Završki, *Stručna analiza pravomoćnih prekršajnih presuda o nasilju prema ženama 2012 – 2016* (Zagreb: Ured Pravobraniteljice za ravnopravnost spolova, 2019).

38 Martinjak, Kikić, Kovčo Vukadin, *Viktimološka obilježja obiteljskog nasilja s posebnim osvrtom na pravnu kvalifikaciju događaja*, 308, 311.

39 Report of the Special Rapporteur on violence against women, its causes and consequences, A/HRC/26/38, 28 May 2014, § 61.

40 *World Health Organization*, Access 25th March 2022, <http://www.who.int/mediacentre/factsheets/fs239/en/>.

41 *Review of The Implementation of the Beijing Platform for Action in the EU Member States: Violence Against Women - Victim Support* (Luxembourg: Publications Office of the European Union, 2013), 3.

42 See *Annual Report for 2020*, 75. For more on femicide in Croatia, see Dalida Rittossa, and Marissabell Škorić, "Abandoned and Forgotten? Violent Deaths of Previously Abused Female Victims in Croatia", *Pravni vjesnik* 37, no. 3-4 (2021): 7-30.

women across 10 EU Member States were killed by their intimate partners in 2020.⁴³ Data from the United Nations Office on Drugs and Crime show that some 47,000 women and girls worldwide were killed by their intimate partners or other family members in 2020. Trends show that the magnitude of gender-related killings remains largely unchanged, with only marginal increases and decreases over the past decade.⁴⁴

Table 3 Perpetrator and Victim Age

AGE	PERPETRATOR	VICTIM
-18	-	57
19-30	11	10
31-40	17	12
41-50	12	22
51-60	7	2
61-70	1	4
71 and above	2	3
Unknown	-	2
Total	50	112

Table 3 presents the data on the age of the victim and the perpetrator, which shows that the majority of adult victims are between 41 and 50 years of age. The obtained data for victims of domestic violence are in line with the results of Martinjak, Kikić and Kovčo-Vukadin as well as the results of research conducted by Mamula and Dijanić Plašć, who analysed socio-demographic data on a sample of 183 adult victims of domestic violence.⁴⁵ As for the perpetrators, they are dominated by those aged 31 to 40, followed by those aged 41 to 50.⁴⁶

43 *European Institute for Gender Equality*, Access 25th March 2022, <https://eige.europa.eu/news/femicide-name-it-count-it-end-it>.

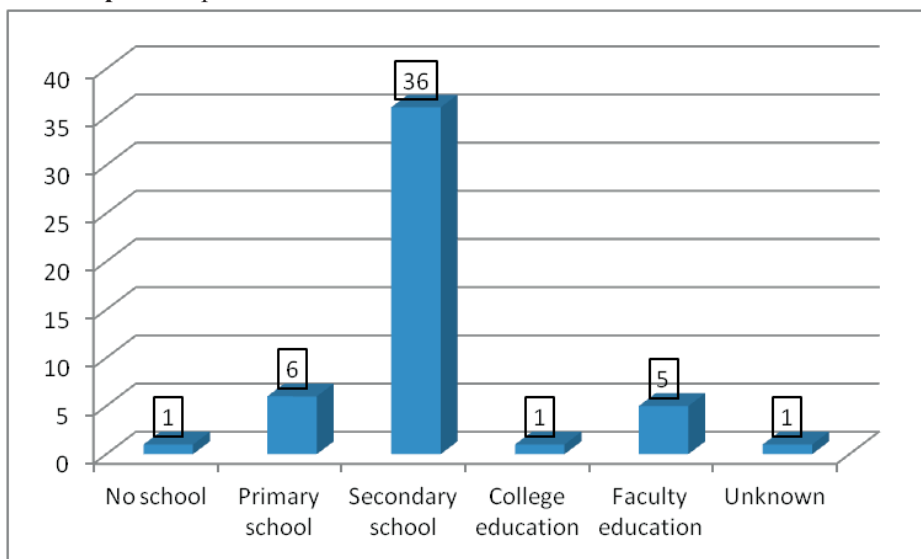
44 In 2017, 50 000 women were killed by their intimate partners or other family members (58% of all homicides of women), while in 2012, 47% of all female homicide victims were killed by intimate partners or other family members. United Nations Office on Drugs and Crime, *Global Study on Homicide. Gender-Related Killing of Women and Girls* (Vienna: UNODC, 2019), 10; United Nations Office on Drugs and Crime, *Killings of Women and Girls by Their Intimate Partner or Other Family Members* (Vienna: UNODC, 2021).

45 Martinjak, Kikić, Kovčo-Vukadin, *Viktimološka obilježja obiteljskog nasilja s posebnim osvrtom na pravnu kvalifikaciju događaja*, 312; Maja Mamula, and Ivana Dijanić Plašć, "Tipična žrtva obiteljskog nasilja u RH - sociodemografski profil", *Život i škola* 60, no. 32 (2014): 115.

46 These data are in line with previous research, according to which the perpetrators of the criminal offence of domestic violence were in the age group of 40 to 49 years, followed by the perpetrators in the age group of 30 to 39 years. Croatian Bureau of Statistics, *Domestic Violence: Legal Framework and Forms of Appearance, 2007 - 2010*, 27.

Graph 4 shows the data on the perpetrators' education, while the same data for the victims were omitted because they were not indicated in the majority of files; therefore, we do not consider the available data sufficient to draw relevant conclusions.

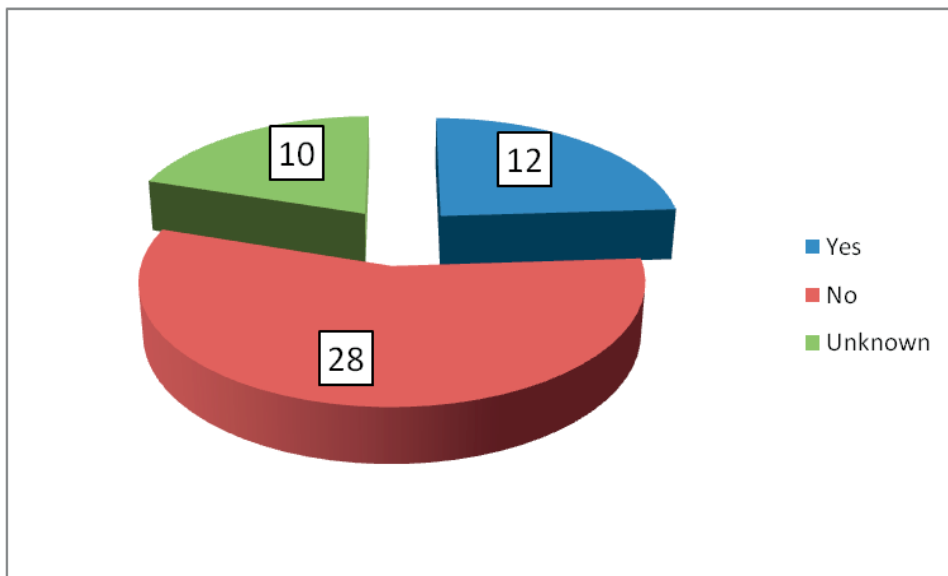
Graph 4 Perpetrator's Education Level



The perpetrators in the examined sample had varying levels of obtained education. The data refer to 49 perpetrators, while such data is not available for one perpetrator. An insight into Table 4 shows that, in the observed period, the majority of perpetrators had completed secondary education (72%). A total of five perpetrators had obtained a university degree, while only one perpetrator had received no education. These data are largely confirmed by the results of previous criminological research, which showed that the structure of perpetrators of domestic violence is dominated by perpetrators with completed secondary education.⁴⁷

⁴⁷ Croatian Bureau of Statistics, *Domestic Violence: Legal Framework and Forms of Appearance, 2007 - 2010*, 27.

Graph 5 Previous Reports



Graph 5 contains data on previous reports, which show that 12 perpetrators (24%) had previously been reported for violence to the detriment of a closely related person. When we compare the available data on previous reports with the results of other research on the recidivism of perpetrators of domestic violence, it can be concluded that there are no significant deviations. Thus, according to research conducted by Dragičević Prtenjača, statistical data covering the period from 2011 to 2015 showed that 29% of perpetrators of the crime of domestic violence were recidivists.⁴⁸ According to the Croatian Bureau of Statistics, for the period from 2005 to 2012, recidivism among perpetrators of domestic violence ranged from 20% to 31%.⁴⁹ However, previous data on recidivism deviate significantly from the results of research by Martinjak and Filipović, according to which as many as 55.29% of perpetrators had already been punished for domestic violence.⁵⁰

With regards to the recidivism of perpetrators of domestic violence, it should be noted that a perpetrator who commits a crime to the detriment of a closely related person and had previously been convicted in misdemeanour proceedings for domestic violence will not be considered a recidivist in the criminal legal sense; therefore, such a perpetrator will not be included in statistics relating to recidivism.⁵¹ Given the significant intertwining of misdemeanour and criminal liability and the exceptional

48 Dragičević Prtenjača, *Dihotomija pristupa urješavanju nasilja u obitelji putem prekršajne i kaznenopravne regulative*, 170.

49 Croatian Bureau of Statistics, *Punoljetni počinitelji kaznenih djela, prijave, optužbe i osude u 2005., 2006., 2007., 2008., 2009., 2010., 2011., 2012.*

50 Martinjak, Filipović, *Prekršajna ili kaznena odgovornost u slučaju nasilja u obitelji*, 647-648.

51 Dragičević Prtenjača, *Dihotomija pristupa urješavanju nasilja u obitelji putem prekršajne i kaznenopravne regulative*, 172.

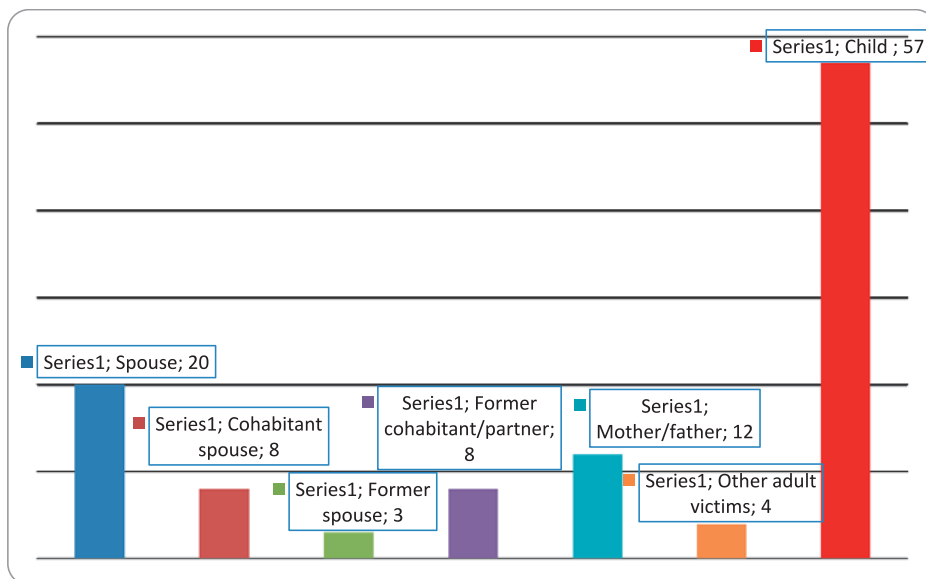
importance of this data in this type of violence, it should be clear from the criminal report whether the perpetrator had previously been reported or convicted for violence against a closely related person, regardless of whether it was qualified as a criminal offence or a misdemeanour.

The analysed files also reveal that for 20% of perpetrators, there is no information on whether they had previously been reported for violence against a closely related person (or any other criminal offence). This is a worrying fact because the previous criminal (or misdemeanour) report or conviction for domestic violence to the detriment of a closely related person is an important predictor of the perpetrator's future behaviour. The actions of competent authorities may depend on this data, especially regarding the prompt protection of victims of domestic violence.

3.2.2.2 Relationship Between the Victim and the Perpetrator

The perpetrators committed acts of violence to the detriment of a total of 112 closely related persons. In addition to 55 adult victims, this figure also includes children. Graph 6 presents the data on the relationship of the victim to the perpetrator.

Graph 6 Victim-Perpetrator Relationship



The analysis shows that 28 adult victims (51%) were the spouse and cohabitant spouse. Of these, as many as 27 were women, while in only one case, the victim was the perpetrator's husband. This is followed by the perpetrator's parents (mother and/or father), who make up 21.8% of the victims. In third place in terms of representation are former cohabitants or partners, of which there were slightly fewer, 20%, with all but one victim being female. Other adult victims include a brother, sister, grandmother, and daughter-in-law.

This structure of the relationship between the victim and the perpetrator in the analysed sample confirms that the most prevalent are current partnerships and that the most frequent victims of domestic violence are women and children, who are unfortunately often direct witnesses of this violence.⁵² Research shows that children suffer violence by witnessing various forms of abuse (verbal, psychological, physical) of people to whom they are emotionally attached (in most cases, their mothers) in their family home. This form of violence leaves very serious negative consequences for the psychological and emotional development of the child and, therefore, it is extremely important to recognize it in time and take appropriate measures to help children cope with severe traumatic experiences.⁵³

4 CONCLUSION

The triple approach of violence among closely related persons in current legislation does not make it at all easier to monitor the trends of this social phenomenon in the Republic of Croatia. Different authorities collect and process different data on violence among closely related persons, but there are no uniform and comprehensive statistics that include all relevant data. Thus, the statistics kept by the Ministry of the Interior contain data on criminal reports filed for violence among closely related persons, including the sex of the perpetrator and the victim, but there is no data on the relationship of the perpetrator to the victim and other important data.⁵⁴ Particularly problematic seems to be the lack of reliable data on recidivism among perpetrators of violence to the detriment of a closely related person. Data from the Croatian Bureau of Statistics are more comprehensive in this regard, because for each criminal offence, in addition to the number of reports, they also contain data on the number of charges and convictions as well as the sentences and other measures imposed on the perpetrator. They also contain information on the sex of the perpetrator and their previous convictions. However, the Croatian Bureau of Statistics does not keep data on the sex of the victim or the relationship between the perpetrator and the victim. An additional significant problem is that its data show only the number of reports, charges, and convictions for the criminal offence of domestic violence (Art. 179a), but not the number of reports, charges, and convictions for criminal offences in which violence against a closely related person is punished as their qualifying form. Namely,

52 Compare Council of Europe, *Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence*, Access 21st February 2022, <https://rm.coe.int/ic-and-explanatory-report/16808d24c6>.

53 See Committee on Women's Rights and Gender Equality, *Report on the Impact of Intimate Partner Violence and Custody Rights on Women and Children*, 2019/2166(INI), 23.7.2021. Previous research also shows a high prevalence of psychological violence against children, which includes witnessing violence. Jelena Ogresta *et al.*, "Analiza obilježja prijavljenih događaja nasilja nad djecom u obitelji evidentiranih u centrima za socijalnu skrb", *Ljetopis socijalnog rada* 19, no. 3, (2012): 455.

54 See, e.g., Ministry of the Interior of the Republic of Croatia, *Statistical Survey of Basic Safety Indicators and Work Results for 2020*, Access 24th February 2022, <https://mup.gov.hr/UserDocsImages/statistika/2021/Basic-safety-indicators-2020.pdf>.

in a number of criminal offences, violence against a closely related person is only one of the prescribed qualifying circumstances, so it remains unknown whether the qualified form of, for example, the criminal offence of bodily injury exists because it was committed against a closely related person or because it was committed out of hatred. Therefore, the data of the Croatian Bureau of Statistics on the number of reports, charges, and convictions for crimes committed against a closely related person are incomplete, and, consequently, the data on the sex of perpetrators and victims, the share of recidivists among perpetrators, and other relevant data on crimes against closely related persons are incomplete as well.

The Croatian Bureau of Statistics kept separate, very detailed statistics related to domestic violence when it was prescribed twice, as an independent criminal offence and as a misdemeanour. Thus, in special publications in 2008 and 2012, it published data on the socio-demographic characteristics of perpetrators of the criminal offence of domestic violence and the perpetrators of the misdemeanour of domestic violence (sex, age, marital status, education, and occupation), decisions of criminal proceedings authorities and decisions of misdemeanour courts, including imposed sanctions.⁵⁵ This practice should be renewed, and the above-mentioned data should be supplemented with data related to the qualified form of criminal offences committed to the detriment of a closely related person as well as data on the socio-demographic characteristics of victims.

Despite certain shortcomings and difficulties in the methodological approach to monitoring the trends of violence among closely related people due to different ways of keeping statistics and the lack of all relevant data that could be analysed over a longer period of time, taking into account the results of this research and comparing them with previous research in the Republic of Croatia, it can be concluded that domestic violence is still a very widespread form of violence in our society. When we compare the phenomenological indicators related to the total number of misdemeanour and criminal reports for violence against a closely related person during 2020, the analysed statistical data show an increase of 1.1% compared to 2019. This data, especially when compared with data from some other countries, point to the conclusion that, in Croatia, there was no significant increase in violence among closely related persons due to the pandemic caused by the COVID-19 disease. However, at the same time, the data show that, in 2020, the prior trend of an increase in criminal offences compared to misdemeanour reports continued. During the 2020 pandemic, the number of criminal reports was almost 29% higher than the number of criminal charges in the previous year. It should be noted that this increase is not unique to 2020 but that the trend of the increasing number of criminal reports has been recorded since 2014. This situation can be partly explained by legislative changes in misdemeanour and criminal legislation in relation to violence among closely related persons. However, it should be noted that there is a lack of recent research on this issue related to the demarcation of domestic violence as a criminal offence and a misdemeanour, and the case law

55 *Nasilje u obitelji 2001.-2006.* (Zagreb: Državni zavod za statistiku Republike Hrvatske, 2007); *Nasilje u obitelji: pravni okvir i pojavni oblici 2007.-2010.* (Zagreb: Državni zavod za statistiku Republike Hrvatske, 2012).

should certainly be analysed in this regard.

In terms of criminological and victimological characteristics of perpetrators and victims, this research has certain limitations that prevent the generalisation of results. However, it fully confirms the results of previous research, that the majority of victims are women and that most perpetrators are men wishing to gain control and domination over them through violence. Gender-based violence is one of the most complex social phenomena, and the answer to it cannot be sought exclusively in the sphere of law, whether misdemeanour or criminal. Addressing the domestic violence issue is a matter of concern for all of society.⁵⁶ Dealing only with the consequence and lack of a comprehensive analysis of this phenomenon and systematic engagement with it, especially in the part that refers to its causes, obviously does not yield results. How to recognize this type of violence, how to protect oneself from it, and how to prevent it are topics that need to be discussed much more frequently in our society, and educating oneself on this issue should start from an early age because today, it is more than evident that mere frequent changes in legislation in this area will not lead to changes in society.

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⁵⁶ Igor Šlosar, "A Pandemic in a Pandemic: Domestic Violence in Croatia", *The Visio Journal* 6, (2021): 44.

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Sažetak

UTJECAJ PANDEMIJE BOLESTI COVID-19 NA RAŠIRENOST NASILJA POČINJENOG NA ŠTETU BLISKE OSOBE U HRVATSKOJ

Mjere poduzete u svrhu sprječavanja širenja COVID-19 bolesti, posebice mjera strogog ograničenja kretanja (*lockdown*), za žrtve obiteljskog nasilja značile su cjelodnevno zatvaranje u domu sa svojim zlostavljačima. Istodobno im je zbog poduzetih mjera značajno smanjen pristup različitim oblicima pomoći i podrške. Boravak u domu je za žrtve obiteljskog nasilja postao, tzv. dvosjekli mač - s jedne strane za njih je dom najsigurnije mjesto za zaštitu od korona virusa, a s druge strane to je najopasnije mjesto jer su u njemu izolirane sa svojim zlostavljačima. Cilj je provedenog istraživanja čiji su rezultati prezentirani u ovom radu bio ispitati kako su mjere poduzete radi sprječavanja širenja COVID-19 bolesti utjecale na pojavu nasilja na štetu bliske osobe u Hrvatskoj. U tu svrhu analizirani su policijski podaci o broju prijavljenih slučajeva nasilja počinjenog na štetu bliske osobe u razdoblju *lockdowna* te neposredno prije i nakon njega. Posebna pažnja usmjerena je na kvalifikaciju kaznenih djela počinjenih na štetu bliske osobe te na sociodemografske karakteristike počinitelja i žrtava nasilja. Na temelju analiziranih podataka procjenjuje se da li postoje značajna odstupanja u broju prijava i obilježjima nasilja počinjenog na štetu bliske osobe tijekom trajanja *lockdowna* u Hrvatskoj. U zaključku se ukazuje na određene nedostatke u načinu praćenja kretanja nasilja među bliskim osobama u Republici Hrvatskoj te na postojanje potrebe da se rješavanju ovog fenomena pristupi na sustavan i cjelovit način.

Ključne riječi: *nasilje na štetu bliske osobe; kazneno djelo; prekršaj; COVID-19 pandemija; lockdown; Hrvatska.*

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VIOLENCE AGAINST CHILDREN IN FAMILY SETTINGS DURING THE COVID-19 OUTBREAK IN CROATIA: LESSONS LEARNED FROM THE (IN)VISIBLE PANDEMIC

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Summary

In recent times, humanity has experienced the devastating effects of the COVID-19 crisis, which has caused sharp ruptures in different spheres of social life. Detrimental effects of the almost unprecedented crisis have triggered an avalanche of research to explore the phenomenon in focus while conducting scientific investigation that matters. Despite the rapid influx of scholarly articles, recent literature has shown that there is still a remarkable lack of scholarly attention on disasters and their impact on children. While trying to contribute to and address the noted research gap, to the best of the author's knowledge, this is the first study that explores pathways to violence against children in the time of the COVID-19 pandemic in Croatia with a focus on the national lockdown. The sample consisted of 63 randomly selected police files involving 65 suspects of criminal offences with elements of violence against 108 closely related children at the five police departments centred in Pula, Rijeka, Zagreb, Split and Osijek. In order to "capture" the violence that emerged during the lockdown and was reported after restrictive measures were lifted, a seven-month time frame (March–September, 2020) was implemented as an additional sampling parameter. The study has revealed that most children repeatedly experience multiple forms of violence within the family that are damaging to their health and wellbeing. Infringement of child's rights was the most prevalent principal offence allegedly committed to the detriment of both boys and girls who were mostly primary-schoolers. Similarly, consistent with previous findings, the study demonstrated that in most cases, alleged abusers are first-time suspected fathers in their 30s with high school education and average financial assets. This calls

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for future research and the implementation of effective preventive measures to improve family resilience in the face of disasters yet to come.

Keywords: *violence; children; COVID-19; phenomenological oscillations; etiological causes; empirical research.*

1 INTRODUCTORY REMARKS – THE COVID-19 PANDEMIC AS A “BROADER CHILD RIGHTS CRISIS”

Human history has been marked with periods of great catastrophes and the constant struggle to ameliorate negative effects on social structures and community members' wellbeing. Natural disasters, such as volcanic eruptions, earthquakes, hurricanes and tsunamis, have taught us that they can change the course of humanity, causing widespread devastation and even the fall of entire civilizations.¹ Man-made hazards continue to pose a significant risk for society, the environment, and individual and social development, and they may in fact have an overall societal impact.² The list of negative occurrences associated with catastrophic consequences is surprisingly long, and it is hard to contest Jake Frederick's statement that disasters are almost necessarily a part of human history. According to Frederick, we are living in a dramatic historic moment caused by the spread of COVID-19, a unique disaster which is present everywhere and with very familiar, already apparent consequences that continue to unfold.³ These very true words well describe the devastating effects of the novel Coronavirus disease that emerged at the end of 2019, and due to its alarming levels of contagiousness and severity, on 11 March 2020, the WHO declared COVID-19 to be a pandemic.⁴ While the virus has continued to spread around the world, official government policies to contain the virus implemented a restrictive approach in an increasing number of countries. Social distancing measures, stay-at-home orders, isolation, and similar tactics were seen as suitable means to curb the pandemic, and as early as the next month, a third of the world's population was under some form of a lockdown.⁵

The virus paradigm has caused an avalanche of research activities to understand the pandemic and its impact in a political, social, economic, and cultural context.

- 1 Jean Ripert, Marla Lacayo-Emery, and Stephen Rattien, "Outsmarting the Forces of Nature", *Issues in Science and Technology* 6, no. 1 (1989): 75.
- 2 Beth Barnes, Sarah Dunn, and Sean Wilkinson, "Natural Hazards, Disaster Management and Simulation: A Bibliometric Analysis of Keyword Searches", *Natural Hazards* 97, no. 2 (2019): 813.
- 3 Ed Berthiaume, "In Midst of Pandemic, Disasters Class Draws Poignant Lessons from History", *Lawrence University News*, 19th November 2020, <https://blogs.lawrence.edu/news/2020/11/in-midst-of-pandemic-disasters-class-draws-poignant-lessons-from-history.html>.
- 4 WHO, *WHO Director-General's Opening Remarks at the Media Briefing on COVID-19 - 11 March 2020*, Access 12th February 2022, <https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.
- 5 Laura Iesue, Felicia O. Casanova, and Alex R. Piquero, "Domestic Violence During a Global Pandemic: Lockdown Policies and Their Impacts Across Guatemala", *Journal of Contemporary Criminal Justice* 37, no. 4 (2021): 589-590.

Even though the Coronavirus is a communicable disease with physical health implications, a broad body of research tends to link it to various ruptures in society, systematic disturbances, and their impact on public and individual behaviour. The rapid influx of scholarly articles and preprint papers soon followed, and Reinge Gonzales and colleagues explained that in fewer than five months, the number of indexed publications in Scopus exceeded 12,000 with expectations of increasing. In the interest of conducting research that matters in unprecedented times, the scientific community has addressed COVID-19 as a research priority, overwhelming the journals with submissions.⁶ Although scientific attention remains focused on the subject matter, the research is almost silent on the impact of such disasters on children. According to Todres, the persistent inadequate scholarly attention to children's position during and in the post-disaster period corresponds to their inadequate status in society and the lack of policymakers' support and planning in the disaster response initiatives.⁷ This stands in sharp contrast to our knowledge about the harmful outcomes on children brought by the pandemic. The severity of the problem was recognised by UN Secretary-General António Guterres, who clearly warned that the Coronavirus disease pandemic was quickly turning into a "broader child rights crisis".⁸ The magnitude of the pandemic's negative effects on children is tremendously severe, and according to UNICEF Executive Director Henrietta Fore, the pandemic is the biggest threat to child progress in UNICEF's 75-year history. The report issued ahead of UNICEF's landmark anniversary sent a clear warning that pandemic circumstances have pushed more children into poverty, hunger, school closure, forced marriage, and abuse.⁹ Throughout the pandemic, children's rights, such as the right to co-parenting, the right to be informed and heard, and the right to equal access to education, have been seriously jeopardised, along with the right to live a life free from any form of violence. According to Winkler, "domestic walls have seen far too much domestic violence",¹⁰ and as the COVID-19 crisis continues, it is highly unlikely that we will witness significant reductions in child victimisation cases. Given that the said pandemic is seen as a key roadblock to improvement in lowering the prevalence of abuse in the family ambit, for violence researchers, we are faced with the "invisible"¹¹ or "shadow pandemic".¹² The negative scenario foresees children being both victims

6 Jennifer M. Reingle Gonzalez *et al.*, "Trends in Family Violence Are Not Causally Associated with COVID-19 Stay-at-Home Orders: a Commentary on Piquero *et al.*", *American Journal of Criminal Justice* 45, (2020): 1101.

7 Jonathan Todres, "Children and Disasters: The Essential Role of Children's Rights Law", *Yearbook of International Disaster Law* 2, (2021): 177.

8 António Guterres, "Protect Our Children", Access 21st March 2022, <https://www.un.org/en/un-coronavirus-communications-team/protect-our-children>.

9 UNICEF, *Preventing a Lost Decade: Urgent Action to Reverse the Devastating Impact of COVID-19 on Children and Young People* (New York: UNICEF, 2021), 2.

10 Sandra Winkler, "The Impact of COVID-19 on Children's Rights", *ECLIC* 5, (2021): 591.

11 Aluette Merenda, Maria Garro, and Massimiliano Schirinzi, "The Invisible Pandemic: Domestic Violence and Health and Welfare Services in Italy and in the United Kingdom during Covid-19", *International Journal of Humanities Social Sciences and Education* 8, no. 10 (2021): 11-20.

12 Jennifer Koshan, Janet Mosher, and Wanda Wieggers, "COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence", *Osgoode Hall Law Journal* 57, no. 3

and witnesses of violence within a family and exposes them to a growing risk of online deviant behaviours.

However, when interpreting the gravity of these results, one has to bear in mind that the violence against children is a pervasive and persistent social phenomenon that has affected lives of many children across the world even prior to the pandemic. The analysis of 38 reports of representative surveys estimating the prevalence of violence against children showed that globally, 1 billion children aged 2-17 years are subjected to some form of violence in a year.¹³ Violence in the form of disciplinary measures is repeatedly used by caregivers of almost 1 in 7 of the world's children aged 2 - 4 years.¹⁴ Although it is difficult to measure exactly how many children experience emotional abuse, available evidence shows that worldwide, 1 in 3 children are estimated to have suffered some form of nonphysical degrading behaviour or attitude.¹⁵ Moreover, examinations of global patterns of violence against children have demonstrated that 1 in 4 children live with a mother who is in an abusive relationship.¹⁶ The devastating impact of child abuse is actively discussed in scientific discourse, and there is a mutual understanding that subjecting children to violent treatments of any degree is a cause of immediate and long-lasting adverse consequences. A child who has experienced violence is at increased risk of developing psychological issues like low self-esteem, and consequently, this could lead to substance use and high-risk sexual behaviour. Certain studies link exposure to childhood violence to a range of mental health problems, i.e. anxiety, depression, post-traumatic stress disorder, sleep and eating disorders, and suicide. Research confirms that the onset of the COVID-19 pandemic has augmented these challenges.¹⁷

2 THE TWO FACES OF THE COVID-19 OUTBREAK – THE PANDEMIC AS A SOCIAL STRESSOR AND CRIMINOLOGICAL CONSTRUCT

A growing body of research firmly showed that the impact of COVID-19 extends far beyond that of a contagious disease expressed in numbers of infected cases and deaths. The unprecedented healthcare demand has almost driven the health care systems to the point of collapsing. Moreover, the government-mandated restrictions

(2020): 739-799.

- 13 Susan Hillis *et al.*, "Global Prevalence of Past-Year Violence Against Children: A Systematic Review and Minimum Estimates", *Pediatrics* 137, no. 3 (2016): 1.
- 14 Dave Hancock, "Banning Physical Punishment of Children in the UK", *Journal of Health Visiting* 9, no. 9 (2021): 374.
- 15 World Health Organization, *Global Status Report on Preventing Violence Against Children 2020* (Geneva: WHO, 2020), 1.
- 16 Lynette M. Renner, Molly C. Driessen, and Angela Lewis-Dmello, "An Evaluation of a Parent Group for Survivors of Intimate Partner Violence", *Journal of Family Violence* 37, no. 2 (2022): 247.
- 17 Najat Maalla M'jid, "Hidden Scars: The Impact of Violence and the COVID-19 Pandemic on Children's Mental Health", *Child and Adolescent Psychiatry and Mental Health* 14, no. 1 (2020): 1.

designed to suppress the pandemic have forced everyone into a period of uncertainty and started a chain of reactions in a negative direction, causing economic and social blows and huge budget deficits in addition to substantially increased public debts, job loss, long spells of unemployment, and low pay.¹⁸ The rates of risk of falling into extreme poverty and the number of people experiencing chronic hunger have never been more alarming.¹⁹ Two years after the onset of the COVID-19 pandemic, the negative outcomes caused by this disaster of global proportions unfortunately continue to evolve. While the world is immersed in a social crisis never seen before, a number of secondary effects in society confirm previous grim predictions that the pandemic is a sort of “social tsunami”, a “social nuclear bomb”, and to traverse this uncharted territory, we need the state lifeboats, strategic planning, and coordinated action.²⁰ As the pandemic unfolds, the emerging of new information and evidence on the pandemic’s consequences has revealed that there is an urgent need to prepare and put into practice a comprehensive plan for maintaining and upgrading social services and reinforcing the already over-stretched systems that provide them. The lessons from past highly disruptive events and epidemics caused by infectious diseases show that without such a plan, violence might increase during and in the aftermath of disease breakout.²¹ In the time of crisis, special attention has to be given to vulnerable members of society as they are the ones who suffer the most social turbulence. As to the unique nature of childhood, children are among the most vulnerable to disasters.²² Their susceptibility of being harmed in disaster settings springs from their young age and psycho-social development as well as from their dependence on others to exercise their rights and achieve well-being. It is therefore no surprise that past research has already linked children to a higher risk of being exposed to violence during emergency situations.²³

Although data on violence against children during the COVID-19 pandemic are scarce, recent research studies confirm that the pandemic might act as a criminological construct. From the criminological perspective, the novel Coronavirus carries a criminogenic potential as a global phenomenon that causes a series of factors which are directly associated with violent behaviour. Given that home is the place where a child’s exposure to violence is most likely to occur, the risk factors for family violence

- 18 Dalida Rittossa, “The Institute of Vulnerability in the Time of Covid-19 Pandemic - All Shades of the Human Rights Spectrum”, *ECLIC* 5, (2021): 821-822.
- 19 Hilal Elver, and Melissa Shapiro, “Violating Food System Workers’ Rights in the Time of COVID-19: The Quest for State Accountability”, *State Crime* 10, no. 1 (2021): 81, 86-87.
- 20 Dalida Rittossa, and Dejana Golenko, “Information Needs of Vulnerable Groups in the Time of COVID-19: The Theoretical Framework”, in: *Exploring the Social Dimension of Europe: Essays in Honour of Prof. Nada Bodiroga Vukobrat*, eds. Gerald G. Sander, Ana Pošćić, and Adrijana Martinović (Hamburg: Verlag Dr. Kovač, 2021), 410.
- 21 Mia Roje Đapić, Gordana Buljan Flander, and Krešimir Prijatelj, “Children Behind Closed Doors Due to COVID-19 Isolation: Abuse, Neglect and Domestic Violence”, *Archives of Psychiatry Research* 56, (2020): 184.
- 22 Jonathan Todres, “Children and Disasters: The Essential Role of Children’s Rights Law”, *Yearbook of International Disaster Law* 2, (2021): 178.
- 23 Ilan Cerna-Turoff *et al.*, “The Pathways Between Natural Disasters and Violence Against Children: A Systematic Review”, *BMC Public Health* 21, no. 1249 (2021): 1.

may be considered to be a driving force for the violent victimisation of children. The pandemic has compounded a range of economic and social justice concerns, and families have to struggle with financial uncertainty, low income, job losses and a sudden increase in poverty. For those who managed to maintain their work, the pandemic brought additional stress and pressure due to working in extremely unusual circumstances. Previous studies also reveal that remote work could be related to higher levels of stress²⁴ and that the complete change in working environment has led to an increased care burden on parents, adding even more stress.²⁵ Alcohol misuse by a family member was another general risk factor for family violence linked to a growth of stressful life events and a lack of social support.²⁶ Except as a social stressor in many households, the COVID-19 pandemic can exacerbate risks of violence for children through unintended effects of state responses to stop the spread of the virus.

The unprecedented health emergency has caused the unprecedented state measures to contain the novel Coronavirus. While primarily focusing on the protection of public health, governments in numerous countries have acted swiftly and made decisions about restricting individual rights and liberties as well as reorganising the delivery of public services. Mandatory lockdowns, stay-at-home orders, social distancing recommendations, travel bans, quarantines, and curfews are some of the forms of exceptional restrictions on freedom of movement and association that led to the potential increase of child abuse offences. Some scholars hypothesise that policy interventions designed to mitigate COVID-19 transmission could force children to live with their abusive parents and put them at even greater risk of violence.²⁷ It also seems that the likelihood of exposing children to violence could increase due to intensive childcare facilities and school closure.²⁸ The pandemic is a perilous juncture for public services, and the notable interruption of social support networks may prevent children from reporting abuse and seeking help. An additional aggravating factor is the fact that during the COVID-19 pandemic, the social care sector and criminal justice system slowed down their work in order to protect their employees and users from infection. Furthermore, confining children within four walls has caused a serious disruption in informal protective support networks, loosening their ties with friends, relatives,

24 Juan Sandoval-Reyes, Sandra Idrovo-Carlier, and Edison Jair Duque-Oliva “Remote Work, Work Stress, and Work–Life during Pandemic Times: A Latin America Situation”, *International Journal of Environmental Research and Public Health* 18, no. 13 (2021): 7070.

25 Cara Eberta, and Janina I. Steinert, “Prevalence and Risk Factors of Violence Against Women and Children During COVID-19, Germany”, *Bulletin of the World Health Organization* 99, no. 6 (2021): 430.

26 Andrew M. Campbell, “An Increasing Risk of Family Violence During the Covid-19 Pandemic: Strengthening Community Collaborations to Save Lives”, *Forensic Science International: Reports* 2, (2020): 1, <https://www.sciencedirect.com/science/article/pii/S2665910720300384>.

27 Noemí Pereda, and Diego A. Díaz-Faes, “Family Violence Against Children in the Wake of COVID-19 Pandemic: A Review of Current Perspectives and Risk Factors”, *Child and Adolescent Psychiatry and Mental Health* 14, (2020): 1.

28 Cirenía Chavez Villegas, Silvia Peirola, and Matilde Rocca, “Impacts of Health-Related School Closures on Child Protection Outcomes: A Review of Evidence from Past Pandemics and Epidemics and Lessons Learned for COVID-19”, *International Journal of Educational Development* 84, (2021): 7-8.

broader family and neighbours during mobility restrictions.²⁹ Thus, the situational circumstances of the pandemic have reshaped children's socio-ecological systems, creating a potentially hostile environment in which children's wellbeing is seriously put at risk. However, we did not anticipate such a causal development of events. In the 2030 Agenda, the world's governments already expressed their determination to "end abuse, exploitation, trafficking and all forms of violence against and torture of children",³⁰ and in order to achieve this, we first have to focus our attention on child maltreatment and map pathways to violence during the Coronavirus outbreak through empirical research. Although COVID-19 has few precedents, it is vital to assess patterns of the violent victimisation of children in order to prepare comprehensive future plans for child protection in disaster settings and beyond.

3 VIOLENCE AGAINST CHILDREN IN THE WAKE OF COVID-19 PANDEMIC: A RESEARCH STUDY

3.1 Methodological Framework and Data Collection

According to Arnout, scientific research is a journey of discovery from the unknown to the known; due to the acceleration of challenges caused by the COVID-19 pandemic, he argues, there is an urgent need for scientific research and planning.³¹ Yet, it is worth nothing that although desirable and needed, the research in different fields of study may pose different levels of hazards for participants' wellbeing. Involving children in such a scientific research endeavour raises a number of ethical issues related to their vulnerability, autonomy, and ability to give informed consent.³² Lott stresses that child participation in research deserves a special consideration because of a troubling paradox. On the one hand, children belong to a group of already disadvantaged individuals susceptible to harm and exploitation, and on the other, they are attractive for research purposes precisely because of their vulnerability.³³ To conduct research on violent child victimisation is even more problematic. There is an inherent difficulty in involving children previously exposed to violence in any kind of research activity designed to assess their victimisation experience. While retelling their story for research purposes, children can be traumatised a second time. Awareness of this raises a number of ethical, safety and methodological questions, and therefore, it is no surprise that UNICEF advises avoiding evidence generation

29 World Health Organization, *Addressing Violence Against Children, Women and Older People During the COVID-19 Pandemic: Key Actions* (Geneva: WHO, 2020), 2.

30 Target 16.2 of the 2030 Agenda for Sustainable Development, Transforming our World: The 2030 Agenda for Sustainable Development A/RES/70/1, United Nations, 2015.

31 Boshra A. Arnout, "Investing Scientific Research in Light of Crises and Disasters: COVID-19 Crisis as a Model", in: *Psychology and COVID-19: Quantitative and Qualitative Studies*, eds. Boshra A. Arnout, and Abdalla S. Abdelmotelab (Beau Bassin: Scholars' Press, 2020), 57, 59.

32 Jo Aldridge, *Participatory Research, Working with Vulnerable Groups in Research and Practice* (Bristol: Policy Press University of Bristol, 2016), 36.

33 Jason Pl. Lott, "Module Three: Vulnerable/Special Participant Populations", *Bioethics Developing World* 5, no. 1 (2005): 31.

involving children, unless their safety and protection can be ensured.³⁴ Alternative data collection should have a precedence over collecting primary data from children because substantial risks associated with the latter are likely to be increased amidst the COVID-19 pandemic, and “no data are worth risking a child’s safety”.³⁵

Bearing all this in mind, it is thus decided to build a research sample on secondary data sources. The data for the study were obtained from police files of criminal offences with elements of violence, abuse and/or neglect as a form of psychological violence, allegedly committed against or in the presence of children, i.e. persons below the age of 18, under the criteria that the victim and the offender are tied by a relationship of closeness.^{36,37} According to the specific letter of the Criminal Code, such a relationship exists between family members, former spouses or cohabitants, former life partner or informal life partner, persons having a child together and persons living in a common household.³⁸ The normative concept of “closely related person” is further settled by a special normative definition of family members that acknowledges family ties between the spouse or cohabitant, life partner or informal life partner, their children and the children of either of them, lineal blood relatives, collateral blood relatives up to the third degree of kinship, in-laws up to the second degree as well as adopter and adoptee.³⁹ The grammatical analysis of the concept in question shows that the child is a string that bonds constructive elements of the term “cohabitation” together. Pursuant to Art. 87, Para. 10, a cohabitant is a person living in a cohabiting union of a more permanent character or for a shorter time if a child is born to cohabiting parents.⁴⁰ In certain countries, cohabitation is one of the fastest rising family living arrangements,

34 UNICEF Office of Research – Innocenti, *Ethical Considerations for Evidence Generation Involving Children on the COVID-19 Pandemic* (Firenze: UNICEF, 2020), 9.

35 UNICEF, *Research on Violence Against Children During the COVID-19 Pandemic: Guidance to Inform Ethical Data Collection and Evidence Generation* (New York: UNICEF, 2020), 17.

36 Art. 111, Subpara 2 and 3; Art. 116., Para. 3; Art. 117, Para. 2; Art. 118, Para. 2; Art. 119, Para. 2; Art. 136, Para. 3; Art. 137, Para. 2; Art. 139, Para. 3; Art. 140, Para. 2; Art. 156; Art. 166, Para. 2 and 3; Art. 171; Art. 174, Para. 2, 4 and 5; Art. 176; Art. 177; Art. 179.a of the Criminal Code, Official Gazette no. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21 (hereinafter, the CC/11).

37 The criteria presented above are carefully chosen in order to capture the whole spectrum of abusive and negligent behaviours that children may experience in a close family circle. They also correspond to the WHO definition of violence against children in the interpersonal context that, *inter alia*, includes child maltreatment, “an abuse and neglect of children by parents and caregivers, most often in the home but also in settings such as schools and orphanages.” (World Health Organization, *Global Status Report on Preventing Violence Against Children 2020*, 11) Furthermore, it is important to note that strict guidelines defining child abuse were laid down by the same organisation in 1999; according to its precise wording, child abuse encompasses “... all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment or commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power.” (World Health Organization, *Report of the Consultation on Child Abuse Prevention* (Geneva: WHO, 1999), 15)

38 Art. 87, Para 7 and 9 of the CC/11.

39 Art. 87, Para 8 of the CC/11.

40 Art. 87, Para 10 of the CC/11.

and empirical evidence shows that child abuse cases also occur in cohabiting-parent families.⁴¹ It is quite obvious that very little is left to be determined in a courtroom. In fact, a precise normative definition is also provided for the notion of “informal life partner”, and therefore, the relationship of closeness is acknowledged between persons living in a same-sex partnership of a more lasting character and their partner’s children.⁴² Child maltreatment literature has long been focused on various family structures as determinants of child victimisation experiences, and the expected level of prohibited behaviour may vary depending on a number of factors.⁴³ Indeed, precise legislative wording for the relationship of closeness was set out in order to strengthen state protection and react to significant harm resulting from child abuse and neglect within a (broadly defined) family.

In view of the above, the key objective of this study is to empirically assess concrete implications of the COVID-19 crisis on violence against children within the family circle. In order to reach this aim and overcome obstacles in police records archiving and retrieving policies, a sample building strategy was implemented through a few crucial steps. First, in collaboration with the Police Academy - High Police School, 190 original police files were collected blindly from five police departments, centred in Pula, Rijeka, Zagreb, Split and Osijek. The geographical distribution of cases was carefully chosen to properly map family violence data for the most populated regions in the country. These files were randomly drawn from police records by police officers who employed sampling parameters that included a crime report of a violent offence against closely related persons submitted during the three months of national lockdown (March–May 2020) and subsequent period (June–September 2020). A seven-month time frame focusing on the said police reports within a defined area was applied to capture both the lockdown cases and the reopening cases, leaving open the possibility that some victims may report the offence immediately to law enforcement while others may wait until the COVID-19 restrictions are lifted. After victim- and suspect-specific data were anonymised by a police officer, files were checked to see whether the sample inclusion criteria had been adequately applied. The current study is part of a larger empirical study based on police files analysis, and in the next research phase, police files for violent offences solely committed against an adult family member were excluded, as were files focusing on the identification of suspects who share family ties with a child victim that do not fall under the definition of a “closely related person” (e.g., the suspect is a grandfather’s brother or victim’s cousin). A separate research sample was also created for sexual offenses against children, due to their criminological and victimological specificity and excluded from the present study. After all inclusion and exclusion criteria were successfully applied, the final research sample consisted of 63 police files that registered violent offences against children allegedly inflicted by closely related offenders.

41 Wendy D. Manning, “The Implications of Cohabitation for Children’s Well-Being”, in: *Just Living Together – Implications of Cohabitation on Families, Children, and Social Policy*, eds. Alan Booth, and Ann C. Crouter (London: Routledge, 2013), 124.

42 Art. 87, Para 11 of the CC/11.

43 William Schneider, “Relationship Transitions and the Risk for Child Maltreatment”, *Demography* 53, no. 6 (2016): 1774-1775.

3.2 Phenomenological Description of Patterns of Violence

The analysis of police files has revealed that from March through August 2020, a significant number of cases was opened at the police departments in Split (n=15) and Zagreb (n=15), whilst police officers archived 13 cases in Osijek and 10 cases in Rijeka as well as in Pula. There were 65 closely related offenders charged with different violent (n=118) and nonviolent (N=2) offences to the detriment of 108 underage family members. In 11 cases, the criminal complaint contained charges alleging that suspects had committed multiple (more than one) offences against a single child victim. All the random sample cases are still pending, and due to the fact that the public prosecutor did not desist from prosecution, there is a significant probability that the cases will have an epilogue in the form of a final court judgement. We should keep in mind, though, that the pending status of the case might impact the extent to which research conclusions can be generalised. The sample size being relatively small and the use of the random sampling method additionally call for caution. This is a considerable limitation to the study; however, the results of the research are a good starting point in understanding different layers of abuse and neglect of children in times of crises and perceiving the future development of its etiological threads.

A review of existing research and published work has shown that exposing children to violence within a family is a highly complex, multidimensional phenomenon that occurs in different forms and contexts, and due to its sociocultural complexity, it might last for a long time. Single incidents of childhood violence are highly rare. Rather, child violence researchers find that the phenomenon in focus has a repeated pattern of prohibited behaviour and that children are caught in a climate of violence together with other family members. In fact, violent attacks against children are part of a wider phenomenological mosaic depicting offenders' abusive attitudes and behaviours.⁴⁴ The data from Table 1 confirm these findings.

Table 1 Dispersion of Criminal Activity Involving Violence Against Children at the Time of Filing a Criminal Complaint

CRIMINAL OFFENCES AGAINST A CHILD		CRIMINAL OFFENCES AGAINST ANOTHER CLOSE PERSON		CRIMINAL OFFENCES AGAINST A THIRD PERSON, PUBLIC ORDER OR OTHER OFFENCES	
DURING THE NATIONAL LOCKDOWN					
Bodily Injury, Art. 117, § 1 and 2	3	Serious Bodily Injury, Art. 118, § 1 and 2	1		
Threat, Art. 139, § 2 and 3	2	Threat, Art. 139, § 2 and 3	5		
Child Desertion, Art. 176	2	Family Violence, Art. 179.a	11		

⁴⁴ Božica Cvjetko, and Mladen Singer, *Kaznenopravna zaštita djece* (Zagreb: Nakladni zavod Globus, 2013), 337, 344.

Infringement of a Child's Rights, Art. 177, § 1	2				
Infringement of a Child's Rights, Art. 177, § 2	29				
Family Violence, Art. 179.a	2				
Enabling the Use of Drugs, Art. 191, § 1 and 2	1				
IN THE POST-LOCKDOWN PERIOD					
Bodily Injury, Art. 117, § 1 and 2	3	Bodily Injury, Art. 117, § 1 and 2	9	Threat, Art. 139, § 2	2
Threat, Art. 139, § 2 and 3	5	Serious Bodily Injury, Art. 118, § 1 and 2	1	Unauthorised Manufacture of and Trade in Drugs, Art. 190, § 1	1
Violation of Duty of Maintenance, Art. 172, § 1 and 2	1	Threat, Art. 139, § 2 and 3	23	Unlawful Possession, Making and Procurement of Weapons and Explosive Devices, Art. 331, § 1	2
Infringement of a Child's Rights, Art. 177, § 2	69	Family Violence, 179.a	30		
Family Violence, Art. 179.a	1	Stalking, Art. 140, § 1 and 2	1		

The in-depth analysis of police files demonstrates that violent victimisation of children is not an isolated incident. The facts of scrutinised cases show that we are faced with the plurality of diverse forms of criminal activity. Child abusers and neglecters are charged with a number of violent offences or with offences that indicate a propensity to commit violent crime (e.g., the offences of unlawful possession, making and procurement of weapons and explosive devices). This suggests that being faced with obstacles or an unwillingness to suppress or misdirect their aggression, the suspects express it through physical, psychological or economic violence directed towards their children, other close family members or third persons. Even if abusers are only violent to the youngest family members, their abusive techniques yet again involve multiple variants of violence. The analysis has shown that 25,4% of all opened cases only involved violence to the detriment of children; however, the abusive and neglecting behaviours included the whole spectrum of prohibited actions that are detrimental to children's physical, psychological, and emotional development or wellbeing. Certain cases are examples of the vivid metamorphosis of violence as abuse mutates into different forms and almost daily articulates its presence, creating a web of abusive, critical, and manipulative behaviours. For example, a nine-year old girl has lived through a year of abuse and emotional deprivation since she moved into her grandmother's home. Acts of psychological violence such as verbal insults, humiliations, and toxic criticism alternated with hair pulling, kicking, and

slapping, and subsequently, the abuse was manifested in death threats and threats of eviction.⁴⁵ Interestingly, the analysis has revealed that violence against children was also manifested in its passive form. Children's rights were infringed by serious parental neglect and economic deprivation, and there have been cases where parents refuse to pay or delay paying their child support, show a lack of interest in or desert their children. The detected phenomenon might be related to economic stressors that emerged during the mandatory confinement due to COVID-19. Restraining measures have caused a wave of economic crisis, and studies confirm that the said consequences might lead to or favour family violence behaviours.⁴⁶

As noted in previously published studies, during the national lockdown period, the police files primarily recorded violent offences involving family relations. Most children were subjected to abuse that was contrary to their fundamental rights (70,7 % of all lockdown reported cases), whilst others experienced violence that resulted in bodily injury or threat or was categorised as one of the prohibited behaviours under the more broadly defined offence of family violence.⁴⁷ The said offence was the most common form of abuse of persons who are tied to both the child and the abuser by a relationship of closeness (64,7 %). This study confirms the grim prediction that, while mobility was considerably reduced by the lockdown measures, children and their family members were exposed to violence in their homes. An example of serious victimisation within family walls is the Rijeka case that well represents the gravity of violence and atmosphere of intimidation and fear that few victims can escape. According to police records, verbal insults and name calling were the abuser's regular psychological tactics used to degrade and humiliate his cohabiting partner and her son from a previously dissolved marriage. The eight-year old child was psychologically wounded by his stepfather's yelling, insults labelling him as stupid, and being forced to leave the apartment while not being dressed properly. Family life during the lockdown was also permeated by physical violence in the form of pushing, slapping and hitting. While his mother suffered a twisted ankle after being grabbed and pushed to the floor, the boy was subjected to whips by a thick rod that was casually placed on the kitchen counter as a warning of the inevitability of corporal punishment yet to come.⁴⁸ It seems that even after more than seven decades of intensive research and political debate on corporal punishment of children, Croatian families do not accept the fundamental fact that inflicting physical violence on children for disciplinary purposes fails to respect their intrinsic human dignity and constitutes a violation of the right to bodily integrity.

As it was predicted, violent behaviours that have detrimental effects on children's wellbeing and family relationships were more frequently reported after the

45 Ri-23, Record of Criminal Complaint of 25th August 2020.

46 Eberta, Steinert, *Prevalence and Risk Factors of Violence Against Women and Children*, 429.

47 Pursuant to Art. 179.a. of the CC/11, a family violence offender is a person who commits a serious breach of the regulations on protection from family violence, thus, causing a family member or another close person to feel fear for their safety or the safety of persons closely related to them or bringing them into a humiliating position or a state of long-term suffering under the condition that no more serious offence has been committed with actions of the offender.

48 Ri-12, Record of Criminal Complaint of 9th April 2020.

lockdown measures were eased in May. The most persisting form of violence against children were infringements of children's rights due to their exposure to abuse and maltreatment (87,3 % of all post-lockdown reported cases), while other close family members were subjected to family violence (46,9 %) or exposed to serious life threats (35,9 %). In terms of their frequency, emerging evidence on child victimisation and family violence confirm that criminal offences under Article 177 and 179.a are the most commonly committed crimes in family settings.⁴⁹ In the second research period, as the circle of violence extended, suspects' abusive actions included threats towards third persons, unlawful possession of live ammunition and unlawful marihuana production.

3.3 Etiological Findings on Violence Against Children

3.3.1 Causes Related to Victims

Violence against children in the immediate family context is one of the most deviant social occurrences universally recognised as highly complex and multifaceted. The extensive criminological literature on family violence has given a considerable amount of attention to the etiological complexity of the phenomenon in question, and there continues to be debate about the factors and possible causes that increase the risk of violence, especially towards children.⁵⁰ No matter the noted causal multiplicity, the common pattern related to gender characteristics of children, their age, family environment, types of abuse suffered, and attitudes towards violence can be distinguished as a thread that ties together our knowledge of child victimisation in times of uncertainty and crisis such as the COVID-19 pandemic. An excessive focus on multiple variables that contribute to child abuse and maltreatment has showed that the victims are both boys and girls from infants up to age 18.⁵¹ The analysis of the present study strongly supports this conclusion. Research results reveal that abuse and neglect was experienced by 54 girls and 51 boys. In the remaining two cases, the police files did not contain the gender details for three child victims. Furthermore, stratification regarding age showed that at the time of filing a criminal complaint, most children were primary-schoolers between 6 and 12 years (44,4 %). Empirical evidence has revealed that the primary school age is the age range of greatest risk for abuse.⁵² The second most frequent age group includes teenagers aged 13 to 17 (35,2 %). There was no difference in victimisation frequency between toddlers (9,3 %) and preschool children (9,3 %), and police records were silent about the exact age of two child victims. Even though the results are in line with previously published

49 Cvjetko, Singer, *Kaznenopravna zaštita djece*, 260-261.

50 Lora Briški, and Mojca Mihelj Plesničar, "Intimate Partner Homicide in the Times of Covid-19 in Slovenia", *Lex Localis - Journal of Local Self-Government* 20, no. 2 (2022): 456; Pereda, Díaz-Faes, *Family Violence Against Children*, 2.

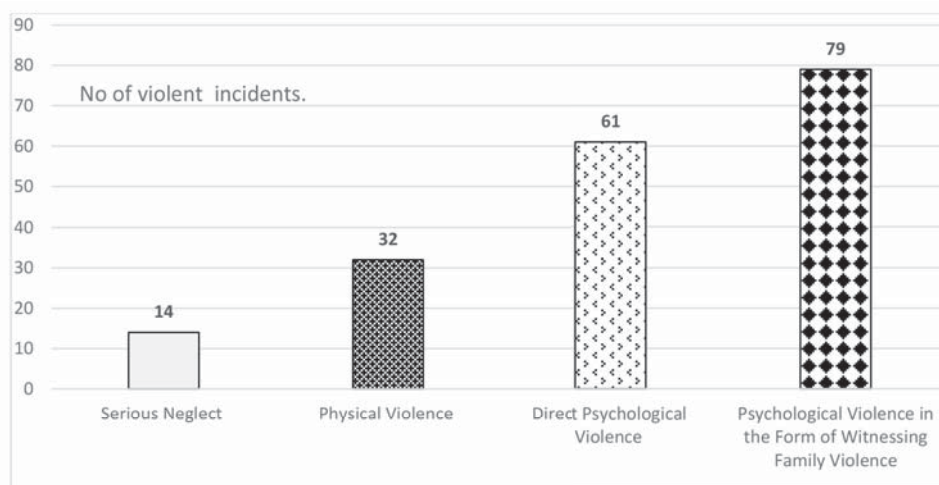
51 Cvjetko, Singer, *Kaznenopravna zaštita djece*, 394; Dunja Marinović *et al.*, "Kazneno djelo zapuštanja i zlostavljanja djeteta ili maloljetne osobe u praksi Općinskog suda u Rijeci", *Policija i sigurnost* 19, no. 4 (2010): 437.

52 Jelena Ogresta *et al.*, "Analiza obilježja prijavljenih događaja nasilja nad djecom u obitelji evidentiranih u centrima za socijalnu skrb", *Ljetopis socijalnog rada* 19, no. 3 (2012): 449.

knowledge, the fact that the youngest maltreated child was only 6 months old raises a serious concern. According to the factual substrate recorded in the police file, the child and her six-year-old sister, on numerous occasions, witnessed brutal assaults against their mother by her partner. They both were exposed to cohabiting physical and psychological violence in the home, witnessing the offender's insults, rage, and punches that, at one occasion, injured their mother enough to require medical care.⁵³

Exposure to repeated or more severe family violence combined with the child victim's young age might increase the likelihood of experiencing future negative outcomes: the younger the age and the harsher the assaults are, the greater is the victimisation impact. Such correlative relations call for careful scrutiny to assess and evaluate the level, type and severity of reported violence against children.

Graph 1 Different Manifestations of Violence against Children



In line with relevant research, the results of the present study confirm that victimised children in families experience the least psychological abuse in the form of serious neglect (13 %). The majority of children, more precisely 86,1 %, are the direct victims of physical or psychological abuse. Further stratification of the data by the frequency of certain types of abuse showed that 29,6 % child victims were subjected to physical violence, and 56,5 % of them were subjected to psychological assaults. In most of these cases, physical abuse as a form of maltreatment involved pushing; slapping; hitting with the hand, stick, belt, silicon brush, cell phone, frozen meat, wooden spoon, plastic hanger or book; punching, hair pulling, neck grabbing, kicking in the buttocks, pushing into doors and walls, and dragging on the floor. The attacks of physical aggression frequently resulted in red marks and bruising, yet police records also show that in certain cases, physical violence caused blurred vision⁵⁴ and

53 Ri-25, Record of Criminal Complaint of 25th June 2020.

54 Zg-29, Record of Criminal Complaint of 12th March 2020.

nosebleed⁵⁵ as well as facial⁵⁶ and multiple bodily contusions.⁵⁷ Although physical violence was the third most frequent type of experienced violence, the results call for concern since such adverse experiences can greatly affect the lives of children and cause them to cope with both physical and mental health problems including emotional disruptive behaviour, depression, and PTSD symptoms.⁵⁸

Recent findings suggest that direct victimisation in the form of psychological abuse can have similar devastating effects on the child. Children who fall victim to abuse at the hands of their caregivers struggle with low self-esteem and sense of unsafety, social isolation, attachment problems, intellectual deficits, affective-behaviour problems, anxiety, depression, PTSD and suicidality; according to experts, psychological childhood abuse is the most damaging category of child maltreatment.⁵⁹ Therefore, the fact that direct psychological violence is almost two times more common than physical abuse raises a serious concern. The analysis has discovered that children were psychologically abused when suspects yelled at them or subjected them to constant criticism,⁶⁰ deliberately woke them up by shouting in their ear,⁶¹ forced them to do their homework till midnight,⁶² gave them “long lectures” under the guise of upbringing,⁶³ or threatened to kill them⁶⁴ and put them on the street.⁶⁵ Direct psychological violence caused children considerable psychological harm as close family members called them “stupid” and “retarded”,⁶⁶ “uneducated”,⁶⁷ “incompetent”,⁶⁸ “lazy”,⁶⁹ “monkeys”,⁷⁰ “cows”,⁷¹ “whores”,⁷² “ugly and fat”,⁷³

55 Ri-24, Record of Criminal Complaint of 29th May 2020; Os-25, Record of Criminal Complaint of 30th April 2020;

56 Os-25; Zg-21, Record of Criminal Complaint of 15th March 2020.

57 Zg-24, Record of Criminal Complaint of 15th February 2020.

58 Adele M. Laye, and David B. Mykota, “Rural Canadian Youth Exposed to Physical Violence”, *Canadian Journal of School Psychology* 29, no. 1 (2014): 27.

59 Haya Sakakini, “Psychological Abuse Claims in Family Law Courts in BC: Legal Applications and Gaps”, *Canadian Journal of Family Law* 34, no. 1 (2021): 28.

60 Ri-2, Record of Criminal Complaint of 27th June 2020.

61 Ri-20, Record of Criminal Complaint of 10th June 2020.

62 Zg-21.

63 St-1, Record of Criminal Complaint of 22nd March 2020.

64 Ri-27, Record of Criminal Complaint of 17th August 2020; St-37, Record of Criminal Complaint of 27th May 2020; St-38, Record of Criminal Complaint of 3rd July 2020; St-40, Record of Criminal Complaint of 3rd May 2020; Os-20, Record of Criminal Complaint of 5th March 2020; Os-28, Record of Criminal Complaint of 27th April 2020; Os-31, Record of Criminal Complaint of 28th May 2020; Zg-40, Record of Criminal Complaint of 23rd April 2020.

65 Zg-7, Record of Criminal Complaint of 3rd April 2020.

66 Os-24, Record of Criminal Complaint of 24th June 2020.

67 Ri-12.

68 Ri-19, Record of Criminal Complaint of 12th August 2020.

69 Zg-2, Record of Criminal Complaint of 6th April 2020.

70 St-5, Record of Criminal Complaint of 18th May 2020.

71 St-26, Record of Criminal Complaint of 12th May 2020.

72 Os-25; Os-26, Record of Criminal Complaint of 29th April 2020.

73 Zg-22, Record of Criminal Complaint of 1st September 2020.

“trash” and “shit”⁷⁴, and “idiots”.⁷⁵ There were also cases in which the suspects threatened their children with suicide, and due to parental manipulative behaviour, children began displaying more anxiety and concern.⁷⁶

The current study has confirmed previous findings that different forms of family violence frequently co-occur.⁷⁷ Experts explain that witnessing family violence might be a common experience among children whose family environment is marked by coercion and threats.⁷⁸ The results indicate a significant prevalence of the said pattern of abuse since 73,1 % of all children have witnessed family violence by observing a violent interaction between two closely related persons, in most cases between their parents and / or other caregivers. The detected frequency of witnessing violence at home as a child is consistent with Dodaj’s findings that the prevalence of the indirect psychological abuse of children by their exposure to family violence is fairly high and, consequently, of great concern.⁷⁹ Moreover, numerous studies have demonstrated that children living in homes where there is a presence of abuse are subjected to direct violence and substantially exposed to a high risk of neglect.⁸⁰ After the additional stratification of indirect psychological abuse cases, this study has shown that 63,3 % of these children also experienced physical attacks and verbal violence resulting in psychological suffering. In addition, the results indicated that, overall, only 39,8 % of all child victims suffered one form of violence, and as it was expected, in 72 % of cases, they were witnesses of family violence.

There is a great probability that the coexistence of different forms of violence is associated with a poor family environment corroded by alcohol or drug misuse, economic burdens and poor parental skills. A number of studies that examined the overall association between these variables and child abuse have demonstrated a tight link pointing at low family cohesion, poor operationalisation of family quality, inadequate family support and inter-parental conflict.⁸¹ Along these lines, this study confirms that family-related variables are a considerable predictor of child exposure to different, coexisting forms of violence in family settings. For example, in the Osijek case, for over a year, the family dynamics were characterised by the father’s excessive drinking and physical and psychological abuse directed towards the children’s mother. Three underage boys were witnesses of the suspect’s ruthless attacks as he grabbed his spouse by the throat and pushed her to the floor while attempting to strangle her. Family violence included the children observing threats by knife and an array of verbal insults (“whore”, “stupid”, “...she runs after men and needs to be taught a lesson”),

74 St-40.

75 Os-23, Record of Criminal Complaint of 18th June 2020; Zg-29.

76 Pu-1, Record of Criminal Complaint of 7th August 2020.

77 Marina Ajduković *et al.*, “Epidemiološko istraživanje prevalencije i incidencije nasilja nad djecom u obitelji u Hrvatskoj”, *Ljetopis socijalnog rada* 19, no. 3 (2012): 394-395.

78 Marinović *et al.*, *Kazneno djelo zapuštanja i zlostavljanja djeteta ili maloljetne osobe*, 435.

79 Arta Dodaj, “Children Witnessing Domestic Violence”, *Journal of Children’s Services* 15, no. 3 (2020): 168.

80 Ogresta *et al.*, *Analiza obilježja prijavljenih događaja nasilja nad djecom*, 455.

81 Gianluca Serafini *et al.*, “Life Adversities and Suicidal Behaviour in Young Individuals: A Systematic Review”, *European Child & Adolescent Psychiatry* 24, no. 12 (2015): 1432.

and on numerous occasions, they also experienced verbal aggression while being called stupid and retarded. The police records show that their screams of “He’ll kill our mom” did not stop the suspect from violent behaviour.⁸² Another case reveals the facts of a highly dysfunctional family with the elements of father’s alcohol abuse and constant parental conflict. As far as he remembers, the child has witnessed frequent marital fighting and has experienced violence at the hands of both parents.⁸³

Although the path from spousal violent victimization to child abuse perpetration is not quite clear, a growing body of research confirms that such adverse experiences may cause immediate and long-lasting negative outcomes. Growing up in an abusive family and experiencing direct violence has brought trauma expressed in myriad ways such as persistent fears, crying, anxiety,⁸⁴ motor tics, head-shaking,⁸⁵ bedwetting, and more complex psychological outcomes that require psychiatric and psychological intervention.⁸⁶ Exposing children to violence contributed to their low self-confidence, poor assertiveness and self-control, poor educational outcomes (lower grades and skipping classes),⁸⁷ and thinking about running away from home.⁸⁸ Being helplessly caught in the net of violence that spreads tensions and stress within the family system, the child victims cope with the abuse they have suffered in a variety of ways. The applied coping strategies regularly included efforts to reduce the gravity of the situation and to offer explanations to justify the abuser’s behaviour. For example, while trying to provide a rational explanation for her grandmother’s death threats, a nine-year old child victim said that “Grandma wouldn’t do that. She just said that because she was nervous. Later she calmed down and it was all okay. Grandma is *a little weird in the head*.”⁸⁹ Children also believed that when parents yell at their children, they “take care of them” and “do it for their own good”.⁹⁰ The coping strategies are a potential mechanism in the pathway between child abuse and neglect and the severity of the consequences, and in order to understand the dynamics of violence against children, it seems quite important to investigate the victim’s relationship with the suspect and other suspect-related variables.

3.3.2 Causes Related to Suspects

Gender is one of the most consistent sociodemographic characteristics associated with crime, and a growing body of evidence indicates that female caregivers commit a sizeable portion of violent crime against children. For example, a recent study has associated caregivers violence with a significantly higher rate of female offenders (61,19 %).⁹¹ Similarly, Cvjetko and Singer discovered that the prevalence of women

82 Os-24.

83 Zg-24.

84 Ri-23; St-40.

85 Ri-21, Record of Criminal Complaint of 10th June 2020.

86 Os-25.

87 Pu-5, Record of Criminal Complaint of 11th August 2020.

88 Zg-24.

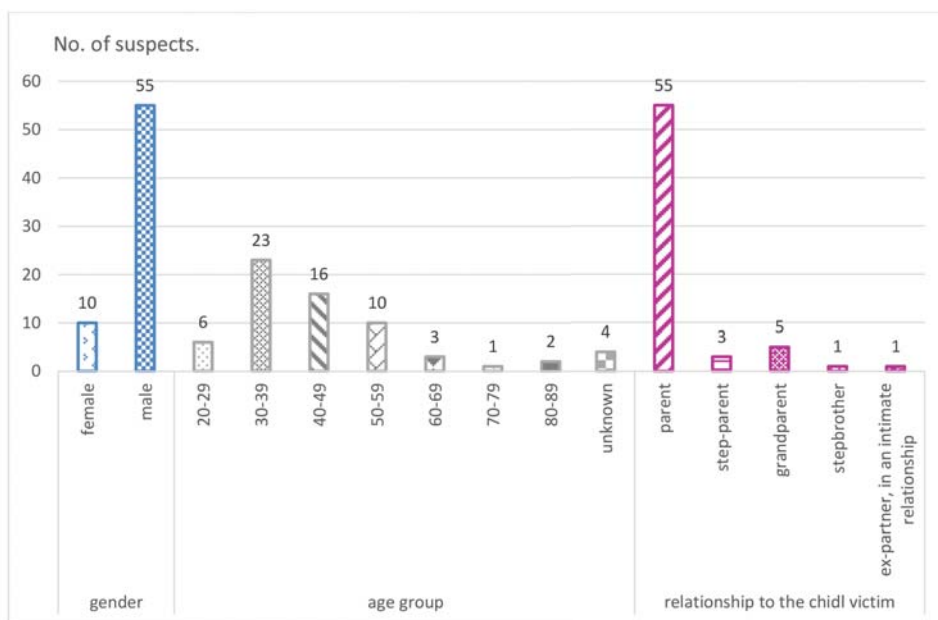
89 Ri-23.

90 Os-23.

91 Catherine Carlson *et al.*, “Violence Against Children and Intimate Partner Violence Against

who abuse their children and cause them serious consequences may account for 50 % of all aggravated child abuse cases.⁹² On the other hand, some studies have shown that child maltreatment predominantly involves male offenders. According to Martinović and colleagues, the percentage of female neglecters and abusers among the offender population sample was modest (29 %) compared to the 71 % of men pronounced guilty for identical criminal acts. Focusing on female offenders of violent crimes against children in the family circle, Ogresta and a group of researchers reached conclusions pointing to an even lower prevalence rate (21,2 %). Data from Graph 2 stand in line with the latter mentioned research results.

Graph 2 Suspect Sociodemographic Characteristics Associated with Violence Against Children - Gender, Age, and Relationship to the Victim



The findings of the current assessment confirm that 15,4 % of all suspects are of female gender. However, a probable reason for such a low prevalence might be the phenomenological construct of underreporting. Given what we know of women offending within the family, the violent victimisation of children might be less likely to be reported than male violence. The invisibility of female crime against children in the family surroundings might likewise be caused by the fact that due to the random sampling strategy, the analysed police records did not contain any information revealing that the abused mothers also use violence against their children. Although female victimisation and offending behaviours may co-occur within a context of the

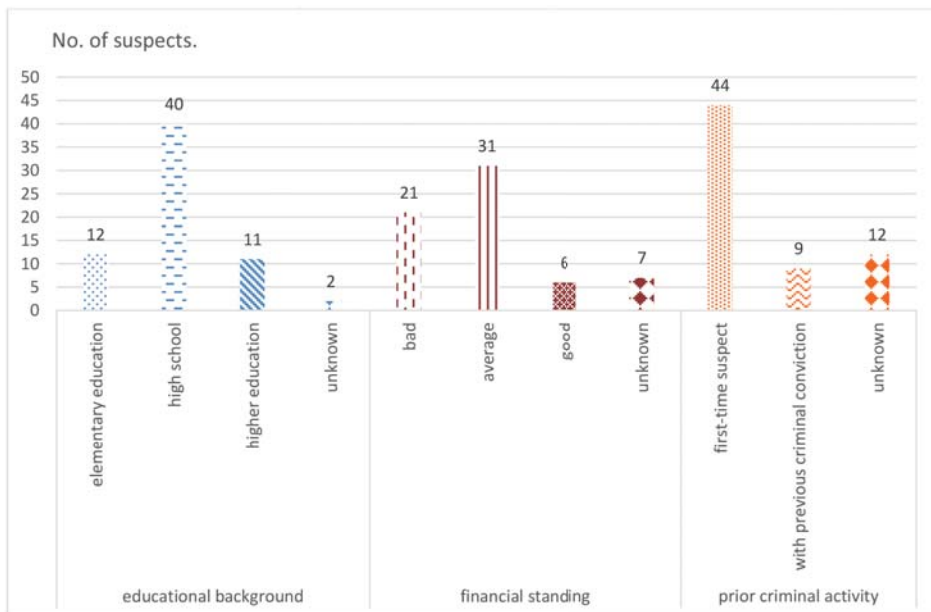
Women: Overlap and Common Contributing Factors Among Caregiver-Adolescent Dyads”, *BMC Public Health* 20, (2020): 5.

92 Cvjetko, Singer, *Kaznenopravna zaštita djece*, 271.

women's exposure to family violence,⁹³ the noted phenomenon was not detected in the present study, leading to their under-representation as suspected persons in violent incidents involving children.

In the cases in which the suspect's age was known, the youngest suspect was 23 years old, and the oldest was 82 years old, the average age being approximately 40 years. The majority of the offenders are in their 30s (35,4 %) or 40s (24,6 %). From the beginning of adulthood, offender criminal activity tends to increase with age, and therefore, it seems reasonable that the empirical evidence confirms that most alleged maltreaters belong to the most active age groups. Moreover, the specified age groups are associated with the highest number of persons who are married or living with a partner in legally recognised family units. Related to this hypothesis is the fact that most suspects are parents of the abused child (84,6 %). This study shows that children also experience violence inflicted by grandparents (7,7 %) as well as by step-parents (4,6 %). In a separate case, two underage boys were exposed to insults, threats and destruction of property, which their stepbrother used as a powerful weapon against them and their mother. A somewhat different case concerned a fifteen-year old girl who suffered psychological blows in the form of death threats from her ex-intimate partner. Similar to the findings of previous studies, sociodemographic characteristics like the suspect's gender, age, and relationship to the child victim seem to be quite strong predictors of family violence incidents against children.

Graph 3 Suspect Sociodemographic Characteristics Associated with Violence Against Children – Educational Background, Financial Standing, and Prior Criminal Activity



93 Carlson et al., *Violence Against Children and Intimate Partner Violence Against Women*, 2.

Research findings on suspects' educational background and financial standing support previous empirical conclusions that child maltreatment through physical and psychological violence occurs in families of all socioeconomic levels.⁹⁴ Although the predominant public belief connects violent incidents with lower-class homes, it is important to stress that child abusers tend to be well-educated and financially stable. The significant majority completed high school (61,5 %), while 16,9 % of them achieved higher education. When asked about their financial standing, the suspects mostly reported an average financial state (47,7 %). In spite of these seemingly good financial conditions, 32,3 % stated that they were struggling with severe financial difficulties. Bearing in mind that in a considerable number of police files (n=7) there were no data on the suspects' financial status, in reality, the socioeconomic stratum could have been marked with a higher prevalence of bad financial standing. The theoretical and empirical approaches to family violence have well established that economic deprivation and financial hardship can add stress to the family environment, leading to conflict; such conflict is perceived as a substantial risk factor for a broad spectrum of violent behaviours towards family members.⁹⁵ Starting from these premises, it seems safe to conclude that the COVID-19 economic maladies that recently dealt a blow to the financial stability and safety of Croatian families have probably increased the likelihood of childhood exposure to family violence. Police records do not systematically provide information on what led to a suspect's violent actions, yet a glimpse of indications of COVID-19 criminogenic influence was found in a few analysed criminal complaints.

The facts of the Osijek case reveal that during the COVID-19 pandemic, violence against children in the form of corporal punishment intensified. As homeschooling and online education have become a new standard, some children have experienced difficulties adjusting to the new educational environment. A 13-year old boy was following online classes with his mother's assistance; however, this required far more effort and studying on his part, and he was unable to follow through. As the child was put under increased educational pressure and time demands, his father's verbal abuse and physical punishment intensified.⁹⁶ Similarly, the method of corporal punishment was used as a correctional measure against an elementary schooler for low grades. The boy's father did not refrain from using physical violence and psychological aggression, invoking fear in his son to learn better and become more successful at school. However, according to the explanation provided by the boy, during the distance learning period, he simply could not get out of bed and accumulated a number of low grades.⁹⁷ In another case, efforts were made to justify a four-year old boy's facial injury, causing a nosebleed, by his father's three-month absence from work due to COVID-19 restrictions and over-tense nerves.⁹⁸ The COVID-19 economic pressures, e.g., the loss of livelihood and child benefits during the national lockdown, might have been criminological factors that pushed a female spouse to physically assault

94 Ogresta *et al.*, *Analiza obilježja prijavljenih događaja nasilja nad djecom*, 462.

95 Cvjetko, Singer, *Kaznenopravna zaštita djece*, 387.

96 Os-23.

97 Pu-5.

98 Ri-24.

her husband in the presence of their children. Having no financial resources, she had made a long list of household essentials, and after her husband refused to execute her commission, she resorted to violence in a spousal conflict and inflicted psychological harm on the children exposed to such scenes.⁹⁹

This study indicates that it is quite possible that high levels of tension within the family, among other COVID-19 negative outcomes, have created an unsafe environment for children, exposing them to an increased risk of family violence. It seems that the challenges posed by the pandemic could have created a web of etiological factors associated with violence even in families not affected by suspects' previous criminal histories. It appears that violent parents from the four cases mentioned above were first-time offenders with no prior criminal record. Overall, 67,6% of all suspects included in the sample have never faced an investigation resulting in a conviction and criminal sentencing, as opposed to just over one-tenth of the recidivist suspects. Among these, two suspects were previously pronounced guilty for the offence of family violence.¹⁰⁰ There is a great probability that odds for prior criminal history of violence involving family members could have been significantly higher as nearly 1 in 6 criminal records did not contain any information on suspects' prior criminal offending. However, the records show that two suspects had never been charged with a criminal offence but had been found guilty for misdemeanours connected to family violence.¹⁰¹ This raises a serious concern since the weakness of the misdemeanour justice system might result in subsequent violent offending that more seriously crosses the threshold of criminal behaviour.

4 CONCLUSION

The phenomenon of exposing children to different forms of violence in family settings is a highly complex, multifaceted, persistent and pervasive reality that affects the lives of countless children and families. Previous research and global reports have already revealed grim statistics confirming the existence of 1 billion child victims between 2 and 17 years of age who experience some form of violence yearly. In the wake of the COVID-19 crisis, the intensity and frequency of child abuse and maltreatment could have been exacerbated. To the author's knowledge, this study is the first to examine the phenomenological outline and etiological narratives related to violence against children that emerged or worsened during COVID-19 in Croatia and to explain the criminogenic potential of the novel Coronavirus. The study confirms that during the national lockdown (March–May 2020) and in four subsequent months, criminal complaints were filed against 65 close family members for a variety of violent criminal offences to the detriment of 108 underage family members. In almost unprecedented circumstances during the pandemic crisis, the risk of child victimisation in the family has revealed its full potential.

Police files contain substantial information about problematic, dysfunctional,

99 St-25, Record of Criminal Complaint of 25th March 2020.

100 Os-31; Zg-25, Record of Criminal Complaint of 7th July 2020.

101 St-1; Zg-6, Record of Criminal Complaint of 9th March 2020.

and deviant family dynamics that create an atmosphere of fear and helplessness in which children are directly physically (29,6%) and psychologically abused (56,5%) and exposed to serious neglect as a form of psychological maltreatment (13%). Children who live with physical abuse are pushed, slapped, hit, punched, pulled by the hair, grabbed by the neck and thrown onto the ground. Threats of violence, insults and name calling were the most common psychological assaults experienced at home. Despite the clear condemnation of corporal punishment, the study reveals that this method has still been used for the purpose of correcting or punishing a child in Croatian families. Violence against children within a family has many faces, and a serious concern is raised by the fact that more than two thirds of children have witnessed violent interactions between their parents and/or other caregivers. The metamorphosis of violence was rapid, intensive and dynamic, and in certain cases, the child victim was exposed to physical and psychological attacks and pulled into highly conflictual and violent family scenes. The noted poor family environment already corroded by poor parental skills and disturbed family relationships has been additionally aggravated by the challenges brought by the lockdown measures and other relevant societal responses. The study shows that online education and distance learning have intensified the use of corporal punishment, and the economic hardship has led to new violent incidents involving children. Further stratification of etiological characteristics explains that the common victimological profile refers to both boys and girls, primary-schoolers aged 6-12 years, who experienced multiple forms of abuse at home. The alleged suspects were predominantly male in their 30s with secondary school education, an average financial situation, and no criminal record.

The obtained research findings confirm already published knowledge about the violence against children; however, the study has also shed light on the new pathways to abuse in the family context under the influence of exogenous causes related to disasters. The research insight into the impact of the COVID-19 pandemic on abusive behaviours and the victimisation of children should further focus on efficient preventive measures and strategies to improve family resilience in the face of disasters yet to come. A much greater focus should be directed towards the protection of particularly vulnerable children from abusive or “at-risk” families monitored and supervised by child protective services. More research is needed to increase the efficiency of the social security and criminal justice systems and reshape official policies with a child-centred approach.

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Dalida Rittossa*

Sažetak

NASILJE NAD DJECOM U OBITELJI U DOBA BOLESTI COVID-19 U HRVATSKOJ: LEKCIJE (NE)VIDLJIVE PANDEMIJE

U zadnje vrijeme, suočeni smo s razornim posljedicama COVID-19 krize koje su prouzročile oštre rupture u različitim sferama društvenoga života. Negativni učinci jedne od kriza kojoj se teško može pronaći pandan u prošlosti pokrenuli su lavinu znanstvenih istraživanja kako bi se rasvijetlio fenomen u fokusu, a sve u nastojanju ostvarivanja ideje da znanost mora služiti boljitku zajednice. Unatoč iznimno brzom priljevu velikog broja znanstvenih radova, nedavno objavljene studije pokazale su kako još uvijek postoji zamjetan izostanak istraživačkog interesa za problematiku vezanu uz nepogode i njihov utjecaj na djecu. U nastojanju da se odgovori na i premosti uočen istraživački procjep, nastala je, prema znanju autora, prva empirijska studija koja istražuje nasilje nad djecom u doba COVID-19 bolesti u Hrvatskoj s posebnim fokusom na razdoblje *lockdowna*. Istraživački uzorak obuhvatio je 63 nasumice odabrana policijska spisa koji su otvoreni zbog počinjenja nasilnih kaznenih djela 65 osumnjičenika na štetu 108 dječaka i djevojčica s kojima ih veže odnos bliskosti u pet policijskih uprava (primorsko-goranska, istarska, zagrebačka, splitsko-dalmatinska, osječko-baranjska). Kako bi se u uzorak uvrstili slučajevi nasilnih kaznenih djela koji su prijavljeni tijekom *lockdowna* i neposredno nakon popuštanja restriktivnih mjera, istraživanje je obuhvatilo policijske predmete u kojima su kaznene prijave podnesene u razdoblju od sedam mjeseci (ožujak - rujan 2020.). Analiza je pokazala kako je većina djece stalno izložena višestrukim oblicima nasilja u obitelji koji narušavaju njihovo zdravlje i dobrobit. Povreda djetetovih prava najčešće je prijavljivano kazneno djelo počinjeno na štetu i dječaka i djevojčica koji većinom pohađaju osnovnu školu. Kao i većina prethodno objavljenih radova, ova je studija pokazala kako su najveći broj prijavljenih osumnjičenika očevi u tridesetim godinama sa završenom srednjom školom i srednjeg imovnog stanja, a koji do sada nisu evidentirani kao počinitelji kaznenih djela. Dobiveni istraživački rezultati zovu na provođenje daljnjih istraživanja i primjenu učinkovitih preventivnih mjera kako bi se pojačala otpornost obitelji u vrijeme nepogoda koje će tek nastupiti.

Ključne riječi: *nasilje; djeca; COVID-19; fenomenološko kretanje; etiološki uzroci; empirijsko istraživanje.*

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THE ROLE OF CIVIL SOCIETY IN A TIME OF PANDEMIC: BRIDGING THE GAP BETWEEN OFFICIAL POLICIES AND INFORMATION NEEDS OF VICTIMS OF FAMILY VIOLENCE

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Summary

A large number of studies have been conducted on the information behaviour and needs of vulnerable groups, especially victims of family violence during (quasi)emergencies and the role of NGOs in providing assistance to their users. Still, in the Republic of Croatia, it is an unexplored area. The lack of research was the reason for conducting a broader study in the Republic of Croatia that would enable a deeper understanding of the described topic. The aim of this study is to fill the gap on the role of NGOs in providing the necessary information to their users in order to identify the best ways and communication channels through which victims who have experienced family violence can access the necessary information in everyday life. The purpose of this study is to investigate the problems encountered by employees of NGOs in accessing and using information from the immediate environment during COVID-19, especially relevant information for preserving and protecting the rights of persons exposed to family violence and potentially other vulnerable groups. Efforts are being made to investigate the experiences and knowledge of NGO professionals regarding the violent victimisation of their users and COVID-19 as a potential criminogenic factor in the occurrence of family violence. A qualitative focus group method was used in the research. Focus groups were conducted from September 2020 to December 2021 in five different cities among NGO employees dealing with the protection of victims of family violence. Given the lack of research on the topic, the research results contribute

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to the theoretical and practical reflection on the role of NGOs in providing the necessary information to its users at the national and international levels. In the scientific sense, the conducted research opens the way for further research and increases awareness of this topic in the community.

Keywords: *COVID-19; victims of family violence; information behaviour of NGO professionals; communication channels; NGOs.*

1 INTRODUCTION - THE IMPORTANCE OF RELEVANT INFORMATION IN THE CONTEXT OF VULNERABLE GROUPS IN SOCIETY

Throughout its unsteady course, the COVID-19 pandemic has touched all aspects of human life and initiated considerable alterations in different spheres of society. Economic stress, job loss, food insecurity, a rapid surge in poverty, and a dramatic decline in trade flows were experienced in almost every part of the world. Due to an abrupt rise in infected cases, the health system's resilience was tested at its maximum levels, counting lost lives and assessing the gravity of health issues of patients who have recovered from the virus. The impact of COVID-19 on education, social stability and individual and social growth has been associated with grim predictions that call for urgent measures and targeted actions in crisis situations.¹ However, the initial response of several countries aimed at curbing the spread of the virus and reducing its negative socio-economic impacts consisted of an accumulation of various measures that restricted freedom of movement and NGOs. The first phase of the exit roadmap for the crisis initiated by a rapid rise of active COVID-19 cases involved lockdowns, social distancing measures, mandatory stay-at-home orders, and curfews. While these could be good tactics and strategy tools to stop the virus, it was soon evident that the social isolation and measures in focus could increase family violence.² The bulk of research confirms that mandatory Coronavirus cohabitation has exposed victims to a higher risk of abuse and deprived them of physical space to report the violence they have suffered.³ It seems that the lockdown measures caused unintended consequences for women and children, exposing them to another, "shadow pandemic" behind closed doors. This directly contradicts statements by the High Representative, Josep Borrell Fontelles, who emphasised that, *inter alia*, protection of human rights is at the heart of the EU's response to and recovery from the COVID-19 pandemic, and therefore, "*No one should be left behind, no human right ignored*".⁴

1 *State of the Least Developed Countries 2021 - Building Back Better in Response to COVID-19* (New York: UN-OHRLS, 2021), 17.

2 Edidiong Mendie *et al.*, "Nowhere to Run: Impact of Family Violence Incidents during COVID-19 Lockdown in Texas", *Journal of Family Strength* 21, no. 2 (2022): 1.

3 Kim Usher *et al.*, "Family Violence and COVID-19: Increased Vulnerability and Reduced Options for Support", *International Journal of Mental Health Nursing* 29, no. 4 (2020): 549-552.

4 *Human Rights Day: Declaration by the High Representative Josep Borrell on Behalf of the European Union*, Access 27th January 2022, <https://www.eeas.europa.eu/delegations/nigeria/>

Traditionally, the protection of the rights of victims of family violence is linked through the joint cooperation of all stakeholders, policy-makers, the community, and various NGOs.⁵ Recently, this protection has been strengthened due to the adoption of new legal standards according to which persons who have experienced family violence belong to vulnerable groups whose vulnerability needs to be addressed by concrete legal and practical measures.⁶ Relevant information is provided to these people on the one hand by professionals and on the other by non-professionals who are most often friends and members of the immediate and extended family. The most common problem faced by all vulnerable groups, including victims of family violence, is insufficient knowledge of how to obtain the necessary information, find a reliable source, and which is the most appropriate communication channel, which can affect the initiation of mechanisms for the protection of their basic rights and freedoms. Insufficient knowledge of how to obtain the necessary information and whom to contact, especially in times of pandemic, might influence the victim's decision to report the abuser and start adequate misdemeanour or criminal procedure. Therefore, one of the key elements in creating policies and communication channels to help and support victims of family violence is to know how to provide them with the necessary and relevant information.

1.1 Information Needs of Vulnerable Groups

Most papers in the field of information science in the context of the information behaviour of vulnerable groups deal with the question of how those who are vulnerable access the necessary information in everyday life by identifying the needs and types of information, the ways of accessibility and confidentiality of information, and to whom they first turn for help.⁷ However, many authors warn that the answers to these questions cannot be applied in general as each situation of family violence is different, and each victim, depending on place of residence, information, wider context, family situation, level of education, financial situation, social norms, disability, and social network, requires different types of information.⁸ Dunne, who in his research used

human-rights-day-declaration-high-representative-josep-borrell-behalf-european_en.

- 5 Jeanine Finn *et al.*, "Unprepared for Information Interactions: Abuse Survivors and Police", *Journal of Documentation* 67, (2011): 933-957.
- 6 See more: Dalida Rittossa, "The Institute of Vulnerability in the Time of Covid-19 Pandemic – All Shades of the Human Rights Spectrum", *ECLIC* 5, (2021): 843-845.
- 7 Jerry Finn, "Domestic Violence Organizations on the Web: A New Arena for Domestic Violence Services", *Violence Against Women* 6, no. 1 (2000): 80–102; Lynn Westbrook, "Crisis Information Concerns: Information Needs of Domestic Violence Survivors", *Information Processing & Management* 45, (2009): 98-114.
- 8 Daniel J. Whitaker *et al.*, "A Network Model for Providing Culturally Competent Services for Intimate Partner Violence and Sexual Violence", *Violence Against Women* 13, (2007): 190-209; Joanne Klevens *et al.*, "Latinos' Perspectives and Experiences with Intimate Partner Violence", *Violence Against Women* 13, no. 2 (2007): 141-158; Roma Harris *et al.*, "Searching for Help and Information: Abused Women Speak Out", *Library & Information Science Research* 23, no. 2 (2001): 123-141.

Allen's⁹ model *Everyday life information seeking* (ELIS) based on "A person-in-situation approach", warns about the described problem as a basis for the analysis of the different information needs of IPV survivors who escaped from violent situations and lived independently.^{10, 11} Westbrook continues on Dunne's research, applying the ELIS (ELIS) person-in-progressive situation approach" for IPV survivors by setting a framework for 16 "specific information needs from different angles of victims of family violence (e.g. *considering the choice to leave the abuser; either temporarily or permanently; building a viable life immediately after escape and constructing the basis of viable, long-term independence after escape*).¹²

1.2 Vulnerable Groups Seeking Information

Another group of papers relevant to our research addresses how vulnerable groups who have experienced violence obtain the information they need and to whom they turn for help. It is also necessary to determine the role of various stakeholders in providing the necessary information to vulnerable groups, such as police, public prosecution officers, judiciary, social services, and NGOs given their contribution to creating a safety net that helps survivors to cope with life situations or escape from violent situations.¹³ Finn *et al.* emphasise that in such situations, it is extremely important that government bodies have the necessary communication skills to provide information in order to effectively meet the needs of those in crisis.¹⁴ Harris and Dewdney warn that existing systems and services have not adequately met the needs and expectations of victims of family violence. One of the key findings from their study is that seeking help is influenced by factors unique to each person's situation, and the decision to seek or not seek help is influenced by a number of variables.¹⁵ They also found that one of the main obstacles is that women know what kind of help they want but cannot get it in their community.

- 9 Allen Bryce, "Information Needs: A Person-In-Situation Approach", in: *Information Seeking in Context: Proceedings of an International Conference in Information Needs, Seeking and Use in Different Contexts, 14-16 August, 1996, Tampere, Finland*, eds. Pertti Vakkari, Reijo Savolainen, and Brenda Dervin (London: Taylor Graham, 1997), 111-122.
- 10 Reijo Savolainen, *Everyday Life Information Seeking. Encyclopaedia of Library and Information Science* (New York: Dekker Encyclopaedia, 2004).
- 11 Jennifer E. Dunne, "Information Seeking and Use by Battered Women: A "Person-In-Progressive-Situations" Approach", *Library & Information Science Research* 24, (2002): 343-355.
- 12 Lynn Westbrook, "E-Government Support for People in Crisis: An Evaluation of Police Department Website Support for Domestic Violence Survivors Using "Person-In-Situation" Information Need Analysis", *Library & Information Science Research* 30, (2008): 22-38, 25.
- 13 See more: Heidi L. M. DeLoveh, "Where Do I Turn? A Qualitative Investigation of College Students' Help Seeking Decisions After Sexual Assault Victimization" (PhD diss., George Mason University, 2014); Julia Skinner, and Melissa Gross, "The ISSAS Model: Understanding the Information Needs of Sexual Assault Survivors on College Campuses", *College & Research Libraries* 78, no. 1 (2017): 23, <https://doi.org/10.5860/crl.78.1.23>.
- 14 Finn *et al.*, *Unprepared for Information Interactions*, 933-957.
- 15 Roma M. Harris, and Patricia Dewdney, *Barriers to Information: How Formal Systems Fail Battered Women* (Westport: Greenwood Press, 1994).

Going a step further is a study conducted by DeLoveh on the moment when women who are victims of sexual abuse make the decision to seek help, which is linked to four behavioural choices: dealing independently without the support of others; seeking support from friends/family; seeking support from formal sources; or covertly seeking help, where needs are met without data disclosure.¹⁶ In addition to this research, it is important to mention the Skinner and Gross study in which the authors propose a model, “Search for information from survivors of sexual abuse” (ISSAS), by exploring the process and barriers to seeking information through different stages of healing.¹⁷ The primary context surrounding the ISSAS survivor are the three recovery phases described by Harney, Lebowitz, and Harvey.¹⁸ These three phases (restoring security, remembering and grieving, reconnecting with others) are located around the user and provide a context in which an individual, both an adult and a minor, constructs a new meaning based on information.

1.3 Information Channels of Vulnerable Groups

The research shows the importance of creating different networks through which vulnerable groups can access the necessary information, a topic that is discussed by many authors.¹⁹ Thus, in some countries around the world, various services, websites, and platforms have been created on a practical level that offer victims of family violence and underage victims of abuse various types of relevant information that can help them in everyday life in times of crisis.²⁰ Such online services can be seen as a kind of communication channel, which makes it easier for victims to access the necessary information. Members of various NGOs certainly contribute to this.²¹

2 GENERAL PRESENTATION OF CURRENT CONDITIONS

Most authors emphasise that knowing how to provide credible, reliable and relevant information to victims of family violence is one of the key elements in creating policies and communication channels for help and support. Operating in a constantly changing external environment, NGOs have proven to be one of the important stakeholders in providing and managing the necessary knowledge and information for their users, especially in times of pandemics and (quasi)emergencies.²²

16 DeLoveh, *Where Do I Turn*, 4.

17 Skinner, Gross, *The ISSAS Model*.

18 Patricia A. Harney *et al.*, “A Stage by Dimension Model of Trauma Recovery: Application to Practice”, *Clinical Psychology* 3, no. 4 (1997): 91-103.

19 Tameka L. Gillum *et al.*, “The Importance of Spirituality in the Lives of Domestic Violence Survivors”, *Violence Against Women* 12, no. 3 (2006): 240-250; Whitaker *et al.*, *A Network Model for Providing Culturally Competent Services for Intimate Partner Violence and Sexual Violence*, 190-209.

20 See more Elizabeth A. Edwardsen, and Diane Morse, “Intimate Partner Violence Resource Materials: Assessment of Information Distribution”, *Journal of Interpersonal Violence* 21, no. 8 (2006): 971-981.

21 See Westbrook, *E-government Support for People in Crisis*.

22 Martha Sabelli, “Information Behaviour Among Young Women in Vulnerable Contexts and

Sabelli also points out that NGOs are an important bridge in providing the necessary information to victims of family violence and gaining the necessary knowledge about the daily life of individuals and their lives within the community.²³ Their role becomes even more essential during crisis situations, such as the outbreak of COVID-19 and lockdown when many facilities were closed and their users were unable to obtain the necessary information.²⁴ Their work is based primarily on the knowledge, skills and experiences they develop in everyday work with users and the so-called “person-centred approach”.²⁵ For them, at a time of great social stressors that cause a stalemate in the work of traditional, state aid systems, and services to victims of crime and misdemeanours, this is certainly an advantage that is not easy to find in any other type of institution.²⁶

Since most NGOs can be described as local organisations that are very flexible and adaptable, the question of their role in reaching and providing the necessary information to their users, especially during the COVID-19 pandemic, proved to be challenging and interesting.

3 RESEARCH PROBLEM AND RESEARCH QUESTIONS

A large number of studies has been conducted on the information behaviour and needs of vulnerable groups, especially victims of family violence during (quasi) emergencies and the role of NGOs in providing assistance to users, yet, in the Republic of Croatia, it is an unexplored area.²⁷ Several papers on the information behaviour of vulnerable groups in society have been published. However, no paper has focused on the role of NGOs in providing, finding, and using the necessary information for their users during crisis situations.²⁸ The scarcity of literature was the reason for conducting broader research that would enable a deeper understanding of the described topic in the Republic of Croatia. The aim of the study is to fill the gap on the role of NGOs in providing the necessary information to their users in order to identify the best communication channels and networks through which victims of family violence

Social Inclusion: The Role of Social Mediators”, *Information Research* 17, no. 4 (2012): 1-16.

23 Sabelli, *Information Behaviour Among Young Women in Vulnerable Contexts and Social Inclusion*, 1.

24 Alexandra Zbucea *et al.*, “Knowledge Sharing in NGOs: The Importance of the Human Dimension”, *Kybernetes* 49, no. 1 (2020): 182-199, <https://doi.org/10.1108/K-04-2019-0260>.

25 Lindsay Bloice, and Simon Burnett, “Barriers to Knowledge Sharing in Third Sector Social Care: A Case Study”, *Journal of Knowledge Management* 20, no. 1 (2016), 125-145.

26 Zbucea, *Knowledge Sharing in NGOs*.

27 See more: Finn *et al.*, *Unprepared for Information Interactions*, 933-957; Sabelli, *Information Behaviour Among Young Women in Vulnerable Contexts and Social Inclusion*, 1.; Dalida Rittossa, and Dejana Golenko, “Information Needs of Vulnerable Groups in the Time of COVID-19: The Theoretical Framework”, in: *Exploring the Social Dimension of Europe: Essays in Honour of Prof. Nada Bodiroga Vukobrat*, eds. Gerald G. Sander, Ana Pošćić, and Adrijana Martinović, (Hamburg: Verlag Dr. Kovač, 2021), 407-419.

28 See more Snježana Stanarević Katavić, “Informacijske potrebe i obrasci informacijskog ponašanja oboljelih od rijetkih kroničnih bolesti u Republici Hrvatskoj” (PhD diss., University of Zadar, 2013), 3.

can access the necessary information in everyday life. The purpose of this study is to investigate and identify problems encountered by NGOs in accessing, using, and providing information from the immediate environment during the COVID-19 pandemic. We want to explore how NGOs find the most necessary and relevant information to protect the rights of vulnerable groups, especially victims of family violence. Moreover, we will try to identify the role of NGOs and determine policies and services designed to promote and facilitate access to and the use, dissemination and sharing of information to victims of family violence. The study also aims to open the debate on how confinement due to the global pandemic can affect the rights of victims of family violence and their exposure to violence.

Several research questions arise from the above:

1. What are the experiences of NGOs in dealing with the protection of the rights of victims of family violence and other vulnerable persons in dealing with information in their daily work, especially during the lockdown and COVID-19?

2. Who are the most frequent users of NGOs' services that provide protection of the rights of victims of family violence and other vulnerable people – especially during the lockdown and COVID-19?

3. What are the victimological characteristics and types of violent behaviour experienced by NGO service users, especially during the lockdown and COVID-19?

4. How do NGOs provide information to their users in their daily work, especially during the lockdown and COVID-19?

5. What is the position of NGOs on how victims of family violence and other vulnerable groups obtain the information they need in everyday life, especially during the lockdown and COVID-19, and in which cases do they turn for help?

6. What sources do the NGOs use the most, and how do they find and obtain the necessary information important for helping their users in their daily work, especially during the lockdown and COVID-19?

7. What problems and obstacles do the NGOs encounter in accessing and using the information in their daily work with their users, especially during the lockdown and COVID-19?

8. What is the position of the NGOs on the most appropriate communication channels and strategies for providing the necessary information to both victims of family violence and NGO professionals?

9. What types of training do NGO professionals attend to help them provide the necessary information to their users?

4 METHODOLOGY

We sought answers to these questions in a study that included extensive research using a qualitative focus group research method. Today's trends in the field of studying information behaviour recommend researching users in small groups in order to understand someone's behaviour and discover the cause of behaviour.²⁹

²⁹ See more: Christine Bruce, *The Seven Faces of Information Literacy* (Adelaide: Auslib Press, 1997), 6, 84; Donald O. Case, and Lisa M. Given, *Looking for Information: A Survey of*

The qualitative focus group method is one of the most frequently used methods in researching information behaviour that is particularly useful for uncovering the underlying reasons for opinions and motivations for actions, emotions and feelings.³⁰ Focus group methodology is a powerful research strategy that is well suited for exploring family violence, a social phenomenon that might be considered a forbidden topic in certain contexts.³¹

4.1 Participants in the Focus Group

The sample included 21 NGO participants dealing with the protection of victims of family violence from five urban centres of the Republic of Croatia: Rijeka, Poreč, Zagreb, Osijek, and Split. The following factors were taken into account in the selection of participants:

1. NGO employees from various urban centres were selected to gain insight into the bigger picture and identify similarities and differences in the work of NGOs during the pandemic with emphasis on the lockdown, March 16 to May 10, 2020 (see Table 1).

2. In order to gain a comprehensive insight into the work of NGOs and to identify challenges and types of services provided to their users, NGO employees of different professions participated in the study, e.g. psychologists, lawyers and NGO directors (see Table 2).

Table 1 Representation of NGO Professionals with Regard to Urban Centres Where the Research Was Conducted

FOCUS GROUPS (URBAN CENTRES)	NUMBER OF PARTICIPANTS
Rijeka	6
Poreč	3
Zagreb	5
Osijek	3
Split	4
TOTAL:	21

- Research on Information Seeking, Needs, and Behaviour*, 4th ed. (Bingley: Emerald, 2016), 245.
- 30 Peggy Mullaly-Quijas *et al.*, "Using Focus Groups to Discover Health Professionals' Information Needs: A Regional Marketing Study", *Bulletin of the Medical Library Association* 82, no. 3 (1994): 305-311; Naomi M. Wright *et al.*, "Development of a Legal Service Needs and Barriers Measure for Victims of Family Violence and Other Crime", *Journal of Family Violence*, (2022): 1-19, <https://doi.org/10.1007/s10896-021-00348-4>.
- 31 Victor Jupp, ed., *The Sage Dictionary of Social Research Methods* (London: SAGE Publications, 2006), 121-122.

Table 2 Occupations of NGO Professionals Covered by the Research

NGO EMPLOYEES PROFESSION	NUMBER OF PARTICIPANTS
Psychologists, psychotherapists	6
Lawyers	8
Other	7
TOTAL:	21

Most of the participants completed the study of psychology or psychotherapy (six participants) or the study of law (eight participants), while seven participants completed other studies and are heads of offices or coordinators of the NGOs (e.g., economists, a professor of Croatian language, a master of sociology etc.) or manage a web portal of the NGOs (a computer scientist). The main motive of the participants for working in the NGO field was their desire to provide support and assistance to vulnerable groups in society. Some of them decided to join the NGOs because of their history of previous victimisation or the victimisation of close friends or family members.

The study was conducted in the period from September 2020 to December 2021. Focus groups were conducted on the premises of NGOs and recorded on a dictaphone of a mobile device. Recorded conversations were processed with VLC Media Player.³² Three to five participants participated in the groups, depending on the number of employees in the NGOs who work directly with users.³³ The interviews lasted an average of 90 to 120 minutes, depending on the readiness and interest of the participants in the topic and the interview. As the participants knew each other, the atmosphere was relaxed and pleasant. The moderators did not have to intervene much as the participants were happy to participate in the discussion, answered questions spontaneously, listened to each other and did not feel insecure or afraid when expressing their opinions. Questions within each block opened new ones and spontaneously followed up on a new topic.

Prior to the wider research, a pilot study was conducted to test the set methodology and guided questions. The pilot study was conducted in September 2020 among employees of the Rijeka NGO for the protection and support of victims of family violence. The main problems that arose in the pilot study were the terms used that may have different meanings in certain disciplines (e.g., law, information sciences, psychology). Therefore, the questions originally asked have been redrafted, further clarified and supported by examples to avoid possible doubts.

32 VLC Media Player is a free open source multimedia player, and it is an alternative to Windows Media Player, iTunes, and RealPlayer. VLC Media player, Access 27th January 2022, <http://vlc-media-player.en.softonic.com/>.

33 Ljubica Paradžik *et al.*, "Primjena fokusnih grupa kao kvalitativne metode istraživanja u populaciji djece i adolescenata", *Socijalna psihijatrija* 46, no. 4 (2018): 442-456. <https://hrcak.srce.hr/214846>.

4.2 Focus Group Tool and Research Flow

After the pilot study, seven main groups of questions were formed about NGOs' opinions and attitudes about the access, use and provision of information to users and gaining insight into users, the environment in which they live, victimological characteristics and types of violent behaviour. Within each group, subcategories were further developed, emphasising lockdown time, in an attempt to identify differences in ways of communicating with users. The first group included questions about the education of employees of the NGO and their reasons for working in the NGO. The second group contained questions on age, gender, marital status, education, living space, internet access and mobile networks. The aim was to explore the experiences and situations of their users, which may play an important role in identifying ways to obtain the necessary information in their everyday lives.³⁴ The third group of questions was related to the victimological characteristics of their users, types and intensity of experienced violent behaviour in the family circle, and the most common offenders. In cases of physical violence, the types of bodily injuries inflicted on users were also investigated. Furthermore, special attention was paid to whether the lockdown and COVID-19 affected the change in the frequency of victims' exposure to family violence. For the third group of questions, the three-level understanding of family violence as a legal concept coined in the misdemeanour and criminal spheres was used as a basis.

Depending on the type, intensity, consequences for the victim and other relevant circumstances, violence against a family member may be a misdemeanour under the Law on Protection from Family Violence,³⁵ a family violence criminal offence³⁶ or one of the qualified criminal offences with elements of violence committed against a close person.³⁷ The fourth group of questions was related to the ways of communicating with users and situations in which users decide to make contact, especially during COVID-19. The questions covered the specific information needed for vulnerable groups and the types of information NGO professionals most often provide to their users. For the fourth set of questions, the Westbrook study, which used the ELIS person-in-progressive-situation approach to IPV survivors, was used as a framework, setting out 16 specific information needs from different angles of victims of family violence.³⁸ The fifth group of questions included questions about how the NGOs get the necessary information that can help them to protect the rights of users, which sources they use, and problems and obstacles that affect the access, use, and flow of information in everyday work with users. The sixth group of questions examined their

34 Westbrook, *E-government support for people in crisis*, 1.

35 Art. 10 and 22 of the Law on Protection from Family Violence, Official Gazette, no. 70/17, 126/19, 84/21.

36 Art. 179.a of the Criminal Code, Official Gazette, no. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21 (hereinafter CC/11).

37 Art. 111, Subpara. 3; Art. 116, Para. 3; Art. 117, Para. 2; Art. 118, Para. 2; Art. 119, Para. 2; Art. 136, Para. 3; Art. 137, Para. 2; Art. 139, Para. 3; Art. 140, Para. 2; Art. 154; Art. 166 of the CC/11.

38 Westbrook, *E-government Support for People in Crisis*, 1.

views on the most appropriate communication channels and communication strategies to provide the necessary information to users. The seventh group of questions intended to investigate whether members of NGOs received some form of additional education and training in the context of information skills in accordance with the needs of their work environment, which would help them provide the necessary information to their users.

After the focus groups, transcripts were made and e-mailed to the participants for confirmation before the next stage of the research – analysis of results – began. In Chapter 5, participants are coded with the following codes: N1, N2, N3, N4, N5, N6, N7, N8, N9, N10, N11, N12, N13, N14, N15, N16, N17, N18, N19, N20, and N21. Given the described and limited space in the paper, we will reveal the most important results of the research according to the described main groups of questions.

5 RESULTS

5.1 Users of the Services of NGOs that Provide Protection of the Rights of Victims of Violence and other Vulnerable Groups, Especially During the Lockdown and COVID-19

The results showed that the most common NGO users are adult female victims of violence that corresponds to one of the misdemeanours prohibited under the Law on Protection from Family Violence or the criminal offence of family violence. In addition to adult female victims of these prohibited behaviours, other types of users are represented, depending on both the geographical location of the city centre of the NGO and its field of work. Thus, in the Osijek NGO, in addition to adult female victims of family violence, professionals work with other vulnerable groups, such as the homeless and the elderly, who receive free legal aid services (e.g., in the case of fraud committed through a lifetime maintenance contract), and the veteran population. The average age of the users is 55+, and in terms of education, the users are mostly women of lower financial status, most often with completed primary and secondary school, who come from both rural and urban areas of Slavonia and Baranja. [N15-N17] The research showed that only two NGOs, one from Rijeka and the other from Split, have family violence offenders as users.

We are not working with the offenders; we are somehow still at a distance on this issue; we do not want to actually cause some distrust in the victims; we would certainly lose their confidence if we worked with the offenders... [N15]

The Zagreb NGO has the largest range of different groups of users from all parts of the Republic of Croatia, but the primary users are mostly women exposed to family violence from Zagreb and its surroundings. [N7-N11] In Rijeka, the most significant number of users are still adult female victims. However, NGOs also work with adult offenders, juveniles and young adults, and young people with learning, behavioural or family difficulties who are directed to NGOs through the public prosecutors' offices or social welfare centres. [N1-N3; N12-N14] In the Poreč NGO, the largest number of users are female victims of violent behaviours aged 25 to 55. There have also been

incidents of violence against children in kindergarten and young people in violent relationships. [N4-N6] The Split NGO mostly provides services to adult female victims of family violence. Still, as stated above, NGO professionals run a special programme dedicated to male offenders of these violent acts. [N18-N21]

During the lockdown, new users, such as parents who had experienced violence at the hands of their children, also contacted the NGOs. Young men exposed to violence from their parents and people who experienced neighbourhood violence also sought help. In the Osijek region, adult victims of family violence, both female and male, came forward and asked for free legal aid. Among the users are also older adults who want to file for divorce (persons + 70 years) or send a request for resolving property and legal issues (e.g., lifelong support). [N15-N17] In the Split region, the number of services related to resolving property and legal matters, such as the issue of inheritance due to increased fear of existence, has increased. The Split NGO has also noted a rise in contacts made by older adults, the long-term unemployed, mostly women, and middle-aged men (35 to 55 years). The number of services related to psychosocial support has also increased. [N18-N21] Cases of neighbourhood violence have been reported in Rijeka's NGOs. Regarding the living space of users, most users have access to the internet and mobile devices regardless of the urban or rural area from which they come. [N1-N3; N12-N14]

5.2 Victimological Characteristics of NGO Service Users and Types of Experienced Violent Behaviours, Especially During the Lockdown and COVID-19

The analysis has shown that violence experienced by specialist family violence NGO users is a complex, highly dynamic, and regular rather than episodic occurrence. Most victims are women in abusive relationships aged 20-50 years who live in economically deprived circumstances, as well as a smaller number of children. They have been exposed to a number of different violent behaviours in the family environment for a considerable period of time. [N1; N4; N7-N9; N13] Although family violence is a conglomerate of many diverse behaviours marked by the use of force or threat, NGO participants are unanimous in noting that psychological and/or physical violence prevail. Psychological blows and emotional deprivation are almost a common experience for every woman who has sought support and assistance from NGOs. Coercive control, forced confinement in the home, threats of physical violence, insults, and ignoring create an offensive or intimidating atmosphere seriously impairing the victim's psychological integrity. [N1; N4] Physical attacks usually follow creating a general pattern of abuse. [N17; N21] The issue of family violence becomes worse in cases where a woman is not employed and suffers economic harm being economically dependent on her partner or spouse.

...more or less all types of violence are represented constantly when we talk about family violence... however, one form of it, as N17 said... the psychological is always present. The physical sometimes; but I say, the economic aspect, it is added if... a woman does not work... these are (the perpetrator's) manipulations.
[N16]

...she knows it's not her money, so her husband keeps the household income, he has a car etc. He makes all the rules. [N9]

In certain cases, the economic deprivation combined with psychological harassment in the form of ignoring may last for 20 years and sometimes even longer. Without financial freedom, low prospects for employability, and burdened with other issues like poor health or disability, victims can suffer emotional distress at the hands of their abusers for many years [N16], and remaining in an abusive relationship seems to be the only option. [N16-N17]

One of the significant issues in the support and assistance system for family violence victims is the commonly acknowledged fact that the victims themselves, and their closest environment, are the ones who fail to recognise violence. [N1; N5; N7] A lack of perspective may lead to systems of control and new forms of abuse resulting in more short and long-term detrimental effects. For example, due to social perception of sexual marital rights, forced sex between husband and wife or intimate partners is not recognised as a criminal offence, rather, it is perceived as a woman's duty that she fulfils for the sake of "peace in the house". [N4] The participants stress that the most easily recognisable form of violence arises when a victim is subjected to physical abuse, and physically violent episodes in family settings are the main reason why victims come forward and turn to NGO-run services. Once they disclose the physical violence and continue to use the available services, the degree of awareness and their knowledge about the experienced violence increases, and attitudes towards personal victimisation change. [N1-N21]

Users mostly contact us because of physical violence for the pure reason that it is easiest for them to recognise that they are victims of violence... then, of course, in a conversation, it turns out that she is also a victim of psychological violence. You have to know that very rarely we will have physical violence without (acts of) psychological (abuse), and then follow both the economic and sexual. In most cases, we have to deal with a combination of all types of violence. [N7]

We also got to that part when I asked her if there was sexual violence. She said something like, "He has needs"... She even said that it was not a rape, it was more like mutilation ... even though it had happened in a horrible way in front of children. [N8 and N9 discussing a case from Slavonia]

For the most part, infringement of sexual freedom is the rarest subgroup of family violence. According to Zagreb NGO's statistics, less than 10% of all female users seek psychological help to work through difficult circumstances to heal after experiencing sexual violence inflicted by a family member [N8] (in most cases by a current or former spouse or intimate partner, older brother, father, grandfather, or uncle). [N4; N13] Their primary need is to find someone who can help them with their grief. [N7] As a result of rape in the family context, victims may experience significant negative impacts on their physical and social wellbeing and psychological distress. [N18]

Focus group participants acknowledge that all types of violence in the family environment can bruise or severely harm a victim's mental health, physical integrity and personal safety. The NGO professionals are aware of the full range of

consequences associated with family violence; however, the impact of consequences is particularly striking in cases of physical abuse. The manifestation of it covers the whole spectrum of bodily injuries, including swelling, redness, burns, cuts, broken teeth, and hematomas as well as injuries that require urgent medical attention. [N1; N4; N21] Victims often experience a direct assault on the body by slapping, pushing, punching, throwing down, and choking. [N1-N3] The offender's abusive behaviour may also result in serious bodily injuries and aggravated assaults. According to NGO records, a father was accused of inflicting serious bodily injuries on his three underage children by beating them up so severely that one child suffered both physical and mental trauma that needed to be addressed and likewise worked through in psychiatric treatment. [N16] A shocking and extreme example of physical abuse included regular violent attacks, and at some point, the offender unleashed his aggression and assaulted his wife by whipping and beating her. [N20]

Depending on the types of services they provide and the geographical area they cover, certain participants confirm a link between the COVID-19 virus and the rise in family violence. In contrast, others report an equal incidence or a diminution of delinquent behaviour in focus. If the frequency of users' phone calls is an indicator of family violence prevalence, NGO professionals from Zagreb maintained that the national lockdown generated a 25% increase in family violence because, during that particular time, violence behind family doors that had started earlier intensified and became more visible. [N7-N9] Furthermore, the NGO from Rijeka confirmed that statistical parameters before and during the lockdown did not show any variation in users' exposure to violence within the family. [N1] Additionally, a decrease in demand for NGO services was also noted, [N12-N13] and the general hypothesis of service providers for such phenomenological construction was based on the fact that

...during the lockdown, everything stopped, but really everything stopped... at that point, public prosecutor's offices and courts closed. Hearings were cancelled. [N4]

Besides, some believe that the lockdown situation caused feelings of distress and loneliness and the belief that users had no one to contact. [N19] However, as the restrictive measures imposed to control the pandemic proceeded, participants noticed a notable increase in phone calls and other ways of communication. [N4; N12-N13] The phenomenon is multidimensional and caused by multiple, diverse factors associated with the victims' personal situation and external social circumstances.

At the very beginning of the lockdown... life stopped for all of us. We waited to see what would happen. Then, when we got used to it, and accepted that it would take some time, we started with calls and information gathering... Moreover... victims were locked down with their abusers. This means they were not even in the condition to contact us. My assumption is that a considerable number of family violence cases went unreported. [N14]

Participants reveal that apart from influencing the phenomenological oscillations in demand for NGO family violence services, the COVID-19 pandemic has proven to be a criminological factor significantly associated with the new forms of violence. The offenders used the virus as an excuse to prevent child contact with the mother in

custody cases. [N21] Coercive control in prohibiting the victim from leaving home because “she will catch the virus and spread it to all household members” was also reported. [N7-N10, N20-N21] A number of abusers inflicted psychological harm on their victims, threatening them with COVID-19 infection to gain additional power and control. [N8]

Therefore, it does not come somewhat as a surprise that in the time of the COVID-19 pandemic,

...when looking at all crime victims, working with victims of family violence is the most complex. [N15]

5.3 NGOs' Ways of Communicating and Providing Information to Users, Especially During the Lockdown and COVID-19

Several factors have to be considered when NGOs communicate and provide information to their users. NGOs most often provide two types of services – psychological and legal counselling. Due to this fact, the specific information needs of their users and the types of information they offer mostly differ. For example, the service of psychological counselling is longer and is provided by the professionals of the NGOs on a continuous basis. Providing legal services may involve less complicated cases, and the legal issue may be resolved during only one meeting. [N1-N21]

The number of applications for legal advice remained on average during the lockdown, and even a smaller number of calls were recorded in some NGOs (e.g., the Rijeka NGO). The amount of psychological counselling for people who need conversation or emotional support greatly increased, as did psychological help during self-isolation or quarantine [N1-N5].

...I think that the number of users of our psychological and legal counselling services is average, but there was an increase in those calls made by people who are not actually our registered users... [N1]

The most common way of communicating with users in their daily work before the pandemic outbreak was in person and via the free SOS telephone line. [N1-N21]

I have continued to work with my users, and most often, how we communicate on a daily basis and constantly is by phone. This is most convenient for people because they can adjust the place where they can talk safely, during the time when it suits them. [N4]

During the pandemic, and especially during the lockdown, the means of communication changed primarily because the offices of the NGOs were closed, and personal attendance was mostly prevented. Therefore, employees turned to working from home with users and redirected phones from NGOs to their homes and personal cell phones. They also communicated with the older users by phone and via Facebook, while they communicated with the younger population more via Instagram. [N15]

First, in the lockdown, everything stopped. However, we still maintained communication. What I personally did was I called all the current users myself. I asked them where they were and if they had a problem. I explained that I was still there if something went wrong. Therefore, in that sense, we continued to provide the same services. [N4]

If a user personally visited the NGOs office, the visit was announced by phone in compliance with the highest epidemiological measures and social distancing or was arranged in an open space. NGOs communicated with users using ZOOM, Viber, WhatsApp, Messenger, etc. and published information and notices via social networks (e.g., Facebook) or on the NGO website. [N1-N21]

5.4 NGOs' Opinions Regarding Ways in Which Victims of Family Violence and Other Vulnerable Groups Obtain the Necessary Information in Everyday Life, Especially During the Lockdown and COVID-19, and in Which Cases They Seek Help

According to the participants, users obtain the necessary information most often through NGOs, families, police, the internet, social networks (e.g., Facebook support groups), lawyers, social welfare centres, recommendations and acquaintances if someone has already used the services of the NGO. [N1-N21]

The NGO users, primarily adult female victims of family violence, decide to turn to NGOs for help in different life situations. Some users ask what kind of procedures they can expect during, for example, divorce; others ask how to persuade the abusive partner to engage in psychiatric treatment for alcohol addiction or how to stop the violence. The NGOs also receive requests for information related to finding accommodation after leaving the abuser or what to expect when going to a safe house. [N1-N21]

Participants also pointed out that their users do not take the next step to leave the abuser due to difficult employability and insecurity. [N1-N3; N4-6]

70% of our calls and our users are victims of family violence. Our conversations are mostly about victims' individual situations. What did they do? Are they safe now? Do they call immediately after the violent incident, or are they just thinking about their options (i.e., leaving the abuser, getting the accommodation in a safe house...)? I explain to them what is available. I offer them the opportunity. [N7]

At the same time, all participants emphasised that the most common trigger for asking for help is the moment when the offender starts to be violent towards children. [N1-N3; N4-N6]

...women can suffer years of violence, both economic and psychological, physical and whatever you want. I think their first trigger for reporting is when children get involved in any way... Women report when violence becomes extremely brutal and intensive or when it starts happening in the presence of children and towards children. [N4]

Participants believe that their users turn to them for help because they feel safe with them, and they are bound by mutual trust in a friendly, safe environment without judgments or bullying. [N4]. Their users often state that they have not received feedback from other institutions they had previously contacted, that the system does not want to listen to them or that they do not understand the system. The users ask NGOs for help and assistance because their inner feelings tell them that something is wrong. However, they do not know whom to turn to etc.

It is always very surprising to me when they open up and when they really gain that unreserved trust; It is unbelievable that these people have been suffering for years, and they had no one to talk to. [N4]

...a person does not feel supported at all stages. (...) This is the feedback from the users... therefore, we cannot say that she is confident that she will receive help and support no matter if she already reported the abuser or is just thinking about reporting. [N18]

Participants stated that the described situations were further aggravated during the lockdown when all institutions were closed, and the process of providing the necessary assistance was very difficult. [N1-N21]

On the other hand, a number of contacts associated with new users emerged during the lockdown due to the fact that NGOs were intensively represented in the media or because of users' ignorance of where to find the necessary information. [N1-N21]

...it should be said that a lot of users who contacted us actually in these times of crisis only needed a person to talk to. There were a lot of older people, a lot of lonely people. Then these people don't even know whom to call. "Well, we know about your NGO. You know everything. You can do anything, so let me hear what you think about this or that." [N7]

5.5 Sources for Finding Relevant Information in Daily Work with Users, Especially During the Lockdown and COVID-19

Participants cite their colleagues and associates as the most common source of information in their daily work with users. At the same time, they point out that they rely mostly on colleagues because of their expertise, knowledge, and work experience. Depending on the type of services they provide, they communicate with many experts from different fields, but primarily lawyers, psychologists, psychiatrists, sociologists, etc. The important sources of information are higher education institutions, such as law faculties and legal scholars. [N1-N21]

I think that Croatia is a small country, and the NGOs working with the family violence victims are few, and we all know each other somehow. There are those few places we always know we can call. [N1]

In their daily work, NGO professionals use electronic sources (e.g., websites of ministries, legal databases, etc.), textbooks and papers in the field of law and psychology, depending on the service they provide [N1-N3; N7-N11; N15-N17].

Over the years, they have developed different techniques and tools for finding and evaluating the necessary information in performing daily tasks depending on the expectations and requirements of NGO users. They explain that due to different services (legal and psychological counselling) and types of information, the ways of finding the necessary information may be different. [N1-N21]

...we have a completely individual approach to every person who comes here... we use all our knowledge, acquaintances, abilities, possibilities, and we work together with the users on what they want, the outcomes they set, goals, changes they want to achieve... [N12]

During the pandemic, and especially the lockdown, NGO professionals used relevant websites of various ministries, networks of institutions and organisations at the national and international level (e.g., the official website of the Government of the Republic of Croatia on Coronavirus and the Croatian Institute of Public Health, the website of the Ministry of Labour, Pension System, Family and Social Policy and the Ministry of the Interior) and legal databases (e.g., IusInfo, Official Gazette). The reliable sources of information were proven to be the websites of Croatian and international courts, as well as the official portal of the European Union (EUR-Lex), the European Court of Justice, and the European Court of Human Rights. [N1-N3; N7-N11; N15-N17]

...specifically, I personally inquired about COVID-19 recommendations using the ministries' websites. What can we do now? What do we need? (...) Have we followed all the measures? [N7]

Participants regularly informed the public about their services and activities through various media (e.g., publishing texts on the NGO's websites or Facebook) while trying to provide their users with the necessary information. Some NGOs printed leaflets and delivered them to victim and witness support departments at county courts. [N4-N6; N15-N17] Some even went a step further and participated in campaigns on violence against women, took part in television and radio commercials, and advertised their activities on local radio stations. One NGO has also opened its own YouTube channel and has been creating new online platforms for special user groups. [N7-N11]

5.6 Problems and Obstacles Encountered by Employees of NGOs in Accessing and Using Information in Their Daily Work, Especially During the Lockdown and COVID-19

One of the main challenges faced by NGOs, which was pointed out by all participants regardless of the pandemic, is stability, i.e., sustainability for further development since their work is funded by different projects. [N1-N21] The number of services they will be able to provide for their users will also depend on the financial resources they receive. This problem was particularly intensified during the lockdown, when they needed to resolve issues related to payment of rent and purchase of hygiene products in accordance with epidemiological recommendations. [N15]

Another problem that emerged during the lockdown was the lack of IT infrastructure to communicate with users, [N7-N11] particularly in situations when users did not have internet access or access to Viber and other mobile networks. [N1-N3]

The issue of credibility and reliability of sources was stressed during the focus group discussion. Participants are aware of the importance of the relevant information their users receive given that such information may determine their future decisions and pathway to end violence.

...when a woman turns for help, the first information she receives is very important; her whole further journey may depend on it, and this is frightening. [N13]

The person who provides information must be a person of trust, someone who is informed, educated and has a certain responsibility. [N4; N15]

The implementation of the lockdown measures has created obstacles in managing family violence proceedings, which were not conducted in a timely manner. As a result, most NGOs have created new services by providing community assistance within their capacity (e.g., accommodation of users in safe houses, testing of users for COVID-19 disease). [N1-N21]

5.7 NGOs' Opinions on the Most Appropriate Communication Channels and Communication Strategies for Providing the Needed Information

Over the years, participants have developed a number of informal communication channels, creating a network of people with whom they cooperate. Members of their network are professionals from different institutions and civil society – police officers, prosecutors, social welfare professionals, county court employees working for the victim and witness support departments, city administration officers, volunteers engaged in emergency telephone services, and the staff of shelters and safe houses. [N1-N3; N7-N11; N12-N14]. Given the sensitivity of everyday life situations of family violence victims, the most appropriate communication channel has proven to be phone conversations, including the emergency telephone calls. While talking to the NGO professionals, family violence victims maintain their privacy and a sense of distance. [N4]

They always have the opportunity to visit our office. When I'm in Pula or some other city, and I know they need to talk to me, I let them know and arrange a meeting. However, I really think that the telephone communication channel is the most acceptable to them. They feel close enough because we hear each other and distant enough to have their own sense of privacy and the non-personal. [N4]

The internet offers a large number of information choices, and consequently, family violence victims may face difficulty in finding the relevant information. [N4; N12]. Different factors may influence users' decision to use a certain communication channel while seeking the necessary and credible information, e.g., the victim's age, social context, availability of the internet, and their information skills. According to NGO professionals, younger generations prefer to use Instagram, while middle-aged users focus more on seeking information via Facebook. Bearing this in mind, they firmly believe that the necessary information for vulnerable users exposed to family violence should be available in various media. In addition to the above, the information has to be clear and written in a comprehensive manner, avoiding the excessive use of terms specific to a particular profession. [N12-N14]

The biggest problem in Croatia is information sharing: What is the target media that suits victim's needs the most? There is none... For children, you can always find children's TV shows; for adults and the elderly, we also have special shows... However, victims of family violence come from all spheres of society... it seems to me that institutions such as emergency rooms, social centres and

police stations are the ones who should immediately inform the victim that there is another circle of support and help they can have access to, apart from the institutional and formal one. [N4]

Another worrying issue is the fact that there is no unique website that would provide relevant information that can be used in NGOs' daily work with users. [N15-N16] In future efforts to create such a communication channel, first and foremost, the victim's information needs must be placed in the centre of attention, and available options have to be created via cross-sectoral cooperation. [N4; N15-N17]

...the need for cross-sectoral cooperation is important, i.e., actors involved and those working with victims – they all have to be connected because one of the biggest problems is a mutual misunderstanding, and ignorance about who has to do what and when... [N4]

Publicly available information bears significant importance, and thus, the example of good practice can be seen in police forms that contain information on NGO services for family violence victims. [N1; N4; N15, N18] However, NGO professionals believe that in the digital age, it would be highly important to create an online interactive map for victims of violence to rapidly access all the relevant and critical information. [N15-N17]

5.8 Education and Training of NGO Professionals

NGO professionals have attended different education and training programs to enhance their competencies and skills depending on the type of services they provide and the needs of their working environment. A certain number of participants have a special licence to carry out activities within their NGOs. In order to gain additional pedagogical competencies and social and psychological skills, NGO professionals attend a variety of interdisciplinary seminars and activities. For example, they gained a special knowledge of how to communicate with children involved in the criminal justice system and enhanced their competencies while attending the education programs created in cooperation with the victim and witness support departments at county courts. [N1-N21]

...I often participate in various training programs... and in all these training programs, you get new information, solutions to specific cases... and every time, I hear something useful from practitioners or scholars... [N16]

NGO professionals are left to decide by themselves whether or not to attend certain forms of education due to the fact that in the Republic of Croatia, there is no formal training to work with users, particularly with victims of violence. Nevertheless, their official reports have to be supported with evidence that they are trained to work with this special group of vulnerable users. [N1-N3]

...in Croatia, there are no specific, formalised or approved training seminars to work with victims of violence... Since last year, the Ministry of Social Affairs has been asking NGOs to provide evidence and certificates from formal training programs, and this does not exist. [N2]

Most of the participants did not attend any training to develop their information skills, which would help them provide the necessary information to their users, nor did they attend information literacy programmes on how to evaluate, use and search

for relevant sources of information. [N4-N21]

6 CONCLUSION

Family violence is a highly negative, pervasive, and persistent social phenomenon that inhibits personal and community growth. In recent years, the general and scholarly public has been focused on family violence and associated issues, and the common conclusion is that due to intensified societal and concrete legislative measures, it has begun to transit from the private sphere to the public view. Unfortunately, a series of recent brutal attacks on women in the family context seriously call into question the effectiveness of the current system for the protection of the rights of family violence victims.³⁹ To a certain degree, the system has been remodelled and upgraded, and elements of multisector cooperation are more strongly interconnected in order to facilitate the access of victims to protection services;⁴⁰ however, a question emerges: Is this system sufficiently operational, particularly in a time of crisis?

The COVID-19 pandemic is a global stressor that has created penumbras of uncertainty and insecurity associated with overwhelming consequences for health, social, and economic domains, which may generate tensions that could increase the likelihood of abuse within the family. Social distancing and lockdown measures have additionally increased the risk of family violence, creating the opportunity for the abuser to tighten his controlling grip on his victim. The conditions of isolation and movement control imposed by the lockdown measures are part of the everyday reality of life for many victims of family abuse. In circumstances when such reality is spread out nationwide, likewise affecting the offender, violence may surge. With this in mind, it is no surprise that all NGO professionals who participated in the research, regardless of the number of calls received during the national lockdown period, expect a rise in family violence incidents. Due to external circumstances and limited access to support services, their clients were exposed to physical attacks, psychological harassment, economic deprivation, and violation of sexual integrity. The current pandemic has amplified the severity of abuse in the family context, generating new forms of violence. Evidence shows that offenders used threats of spreading the virus and infecting their family members. Coercion and control in child custody cases using the virus as an excuse as well as a method to isolate the partner further from friends and family was also reported in the ambit of oppression and manipulation. Although COVID-19 has confirmed itself to be a strong driver of family violence, the research has disclosed that its effect on incidence and metamorphosis of abuse is significant

39 Hina, "Muškarac koji je pucao na bivšu suprugu prijavljen za pokušaj teškog ubojstva", *Jutarnji list*, 28th March 2022, <https://www.jutarnji.hr/vijesti/crna-kronika/muskarac-koji-je-pucalo-na-bivsu-suprugu-prijavljen-za-pokusaj-teskog-ubojstva-15176474>; Ivana Šilović, "Ubojica bivše partnerice prijavljen za teško ubojstvo", *HRT News*, 1st December 2021, <https://vijesti.hrt.hr/hrvatska/tragedija-u-splitu-sluzbenih-potvrda-o-motivima-ubojstva-jos-uvijek-nema-3631590>.

40 For more details about the need to reform Croatian family violence system services, see in: Marissabell Škorić, "Obiteljsko nasilje u praksi Europskog suda za ljudska prava s posebnim osvrtom na presude protiv Republike Hrvatske", *Hrvatski ljetopis za kaznene znanosti i praksu* 25, no. 2 (2018): 387-415.

but not fundamental. Women who have been victims of family abuse also face other challenges such as unreported employment, job loss, financial hardship, alimony issues, childcare and home-schooling.

The bigger problem associated with the lockdown was that the system left people who were either in poverty or at risk of poverty to fall anyway. The system collapsed for the most vulnerable, it really did. [N13]

Therefore, research has shown that at the time of the COVID-19 pandemic, the importance of finding and obtaining relevant and credible information has never been more crucial. Given the everyday life situations of family violence victims, the right information can be vital for choosing the first step to get out of the abusive relationship. There are different situations in which users decide to turn to NGOs for help and assistance; yet, all these personal circumstances can be divided into three basic groups from Westbrook's study: considering the choice to leave the abuser, either temporarily or permanently; building a viable life immediately after the escape and constructing the basis of viable, long-term independence after the escape. On the other hand, we have to bear in mind that every victim has different access to the necessary information or uses a different source of information depending on cultural, social, and other life circumstances. Consequently, the credible information source is actually the key to accessing relevant information and users' previously acquired information and digital skills.

The research has shown that victims exposed to family violence face difficulty finding the necessary information on the internet due to the large amount of information and their personal lack of knowledge of where to find the right information. A considerable obstacle on this path is also the absence of a unique website dedicated to family violence victims that would include various types of relevant information. While creating the best communication channel that would provide the necessary and credible information, creators of public policies and NGO representatives have to take into account a variety of victims' personal circumstances, such as their age, social context, availability of the internet and information skills.

The study opened the door in the information literacy field and criminology for considering the necessary information skills of NGOs and their users as a prerequisite for effectively protecting their rights in times of crisis. To the best of the authors' knowledge, this is the first research that investigates the issues in focus in the Republic of Croatia. This study has raised a large number of new questions that require broader research from different angles and perspectives. Protecting the rights of victims of family violence during the COVID-19 pandemic requires an interdisciplinary, holistic approach that should be the backbone of a strengthened, upgraded and user-friendly service system. Such a system can only be built through the critical engagement of all parties involved in finding the best way to provide the needed information to the user in each individual situation.

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Sažetak

ULOGA UDRUGA U DOBA PANDEMIJE: SPONA IZMEĐU SLUŽBENIH POLITIKA I INFORMACIJSKIH POTREBA ŽRTAVA OBITELJSKOG NASILJA

O informacijskom ponašanju i potrebama ranjivih skupina, osobito žrtava obiteljskog nasilja tijekom (kvazi)izvanrednih situacija i ulozi udruga u pružanju pomoći svojim korisnicima proveden je veliki broj istraživanja u svijetu, no u Republici Hrvatskoj ono je neistraženo područje. Upravo je stoga neistraženost teme bila povod za provođenje šireg istraživanja u RH koje bi omogućilo dublje razumijevanje opisane tematike. Cilj je rada ispuniti prazninu o ulozi udruga u načinu pružanju potrebne informacije svojim korisnicima kako bi se utvrdili najbolji načini i komunikacijski kanali putem kojih bi žrtve koje su iskusile nasilje u obitelji mogle doći do potrebne informacije u svakodnevnom životu. Svrha je rada istražiti probleme na koje nailaze djelatnici udruga u pristupu i korištenju informacija iz neposredne okoline osobito u doba bolesti COVID-19, posebno relevantnih informacija za očuvanje i zaštitu prava osoba izloženih nasilju u krugu obitelji i potencijalno drugih ranjivih skupina. Nastoje se istražiti i iskustva i saznanja djelatnika udruga o nasilnoj viktimizaciji njihovih korisnika i bolesti COVID-19 kao potencijalnom kriminogenom čimbeniku u nastanku nasilja u obitelji. U istraživanju je korištena kvalitativna metoda fokus grupe. Fokus grupe su provedene od rujna 2020. do prosinca 2021. u pet različitih gradova među djelatnicima udruga koje se bave zaštitom žrtava obiteljskog nasilja. S obzirom na nedostatnu istraženost teme rezultati istraživanja doprinose su teorijskom i praktičnom promišljanju o ulozi udruga u načinu pružanja potrebne informacije svojim korisnicima na nacionalnoj i međunarodnoj razini. U znanstvenom smislu provedeno istraživanje otvara put daljnjim istraživanjima i povećava osviještenost o navedenoj tematici u društvenoj zajednici.

Ključne riječi: *COVID-19; žrtve obiteljskog nasilja; informacijsko ponašanje djelatnika udruga; komunikacijski kanali; udruge.*

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VIOLENCE IN INTIMATE PARTNER RELATIONSHIPS DURING THE COVID-19 EPIDEMIC IN SLOVENIA

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Summary

Measures taken to restrain the spread of the coronavirus have significantly impacted people's well-being and behaviour, increasing thereby the likelihood of family violence, especially of violence against women. This paper tests the hypothesis that family violence has increased during the epidemic in Slovenia by analysing police datasets on reported cases of family violence in Slovenia during the pandemic. The results, which were confirmed by a series of t-tests, indicate that compared to a 10-year average, in 2020 there was an average number of reports of family violence, in contrast to a 20% lower number of reports in 2021. Similarly, the number of misdemeanours of family violence was almost average in 2020, and lower in 2021. Likewise, the number of restraining orders imposed in 2020 and 2021 was close to the above-mentioned 10-year average. Within a period of eleven weeks during both the first and the second lockdown period, there were higher instances of detected criminal offences and misdemeanours, whereas the number of restraining orders imposed and breached decreased.

Keywords: *Slovenia; family violence; intimate partner violence; epidemic; COVID-19; criminal offence; restraining order.*

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1 INTRODUCTION

At the time of writing, almost two years have passed since 11 March 2020, when the World Health Organization declared the Novel Coronavirus Disease (COVID-19) outbreak as a pandemic. Based on the data researchers have collected on crime, we are witnessing global changes – among many others – in the scale and structure of crime during this pandemic era.

These changes are also apparent in violence perpetrated by the victim's intimate partner (hereinafter IPV). The heightened risk of IPV during the pandemic has been underscored by international organisations¹ and criminology scholars alike² as well as national criminal justice stakeholders (e.g. the Slovenian Police³).

That IPV increases in times of crisis is not a new notion. It has been recorded during previous epidemics, although none of the earlier epidemics (Z.I.K.A., AIDS, EBOLA) was quite as overwhelming as this one.⁴ Other crises also influenced IPV levels, especially natural disasters.⁵

In this paper, we examine how the epidemic of COVID-19 has affected IPV in Slovenia. To curb the spread of the virus, Slovenia, like other countries, introduced various measures such as the closure of schools, kindergartens, universities, and cultural institutions, the assembly ban and movement restriction between municipalities (and regions), and in the second lockdown even a night-time curfew (between 9 p.m. and 6 a.m., later changed to between 10 p.m. and 5 a.m.). In addition to these rules, the authorities advised citizens to work from home and avoid unnecessary social contacts

- 1 U.N. Women, Asia and Pacific, *COVID-19 and Ending Violence against Women and Girls, 2020*, <https://asiapacific.unwomen.org/en/digital-library/publications/2020/04/covid-19-and-ending-violence-against-women-and-girls>.
- 2 Frederick Buttell, and Regardt J. Ferreira, "The Hidden Disaster of COVID-19: Intimate Partner Violence", *Psychological Trauma: Theory, Research, Practice, and Policy* 12, no.1 (2020): 197, <https://doi.org/10.1037/tra0000646>; Caroline Bradbury-Jones, and Louise Isham, "The Pandemic Paradox: The Consequences of COVID-19 on Domestic Violence", *Journal of Clinical Nursing* 29, no. 13-14 (2020): 2047-2049, <https://doi.org/10.1111/jocn.15296>; Amber Peterman *et al.*, "Pandemics and Violence Against Women and Children", *Center For Global Development Working Paper* 528 (2020), <https://www.cgdev.org/publication/pandemics-and-violence-against-women-and-children>; Julia Brink *et al.*, "Intimate Partner Violence During the COVID-19 Pandemic in Western and Southern European Countries", *European Journal of Public Health* 31, no. 5 (2021): 1058-1063, <https://doi.org/10.1093/eurpub/ckab093>.
- 3 Ministry of Interior of the Republic of Slovenia, *Obeležujemo mednarodni dan boja proti nasilju nad ženskami*, Access 25th November 25, 2020, <https://www.policija.si/medijsko-sredisce/sporocila-za-javnost/sporocila-za-javnost-gpue/106650-obelezujemo-mednarodni-dan-boja-proti-nasilju-nad-zenskami>.
- 4 Joanie Mitchell *et al.*, "Intimate Partner Violence, H.I.V., and Mental Health: A Triple Epidemic of Global Proportions", *International Review of Psychiatry* 28, no. 5 (2016): 452-463, <https://doi.org/10.1080/09540261.2016.1217829>; Kimberly Adams Tufts, Paul Thomas Clements, and Judy Wessell, "When Intimate Partner Violence Against Women and H.I.V. Collide: Challenges for Healthcare Assessment and Intervention", *Journal of Forensic Nursing* 6, no. 2 (2010): 66-73, <https://doi.org/10.1111/j.1939-3938.2010.01071.x>.
- 5 Mohsen Rezaeian, "The Association Between Natural Disasters and Violence: A Systematic Review of the Literature and a Call for More Epidemiological Studies", *Journal of Research in Medicine Science* 18, no. 12 (2013): 1103-1107.

(the recommended Stay-At-Home preventive measure).

Some of the public health measures were in place for a shorter period of time, rather than for the entire period during which the epidemic was declared in Slovenia. Thus, periods of stricter and less strict regimes alternated during the declared epidemic. There were two periods during which the strictest measures were in place (hereinafter: lockdown periods): the first occurred March and May 2020 and the second between October 2020 and January 2021. During these two periods, public life was halted as much as possible, limiting individuals to spending time in their own homes unless otherwise absolutely necessary. We have analysed the trends in IPV during the two lockdowns and compared them with long-term trends in IPV. Based on the analysis, we assess whether significant changes in numbers of reported IPV during the lockdowns can be detected. Finally, we relate the findings to those derived from international literature on IPV cases during the pandemic and explain the reasons for any discrepancies.

2 LITERATURE REVIEW

The first findings of studies examining changes in the rate and structure of crime in the early stages of the pandemic seem to show a reduction in criminality as a sum of all committed criminal offences.⁶

Although the data show that crime – as a sum of different types of crime – has generally decreased, there are studies showing its possible displacement⁷ as well as an important increase in specific types of crime. This is particularly the case for various forms of cybercrime (increases in this type of crime are reported⁸ and family violence as explained below).⁹

Brink *et al.*¹⁰ have compared the official IPV data from the U.K., the Netherlands, France, Italy, Spain, Flanders, Germany, Austria, Switzerland, Ireland and Portugal. Stay at home orders were implemented starting from 10 March 2020 (Italy) to 27

6 See for instance: Mane Gerell, Johan Kardell, and Johanna Kindgren, “Minor COVID-19 Association with Crime in Sweden, a Ten Week Follow Up”, *SocArXiv Papers*, <https://osf.io/preprints/socarxiv/w7gka/>; N.S.W. Bureau of Crime Statistics and Research, *Crime Plummetts During COVID-19 Lockdown 2020*, https://www.bocsar.nsw.gov.au/Pages/bocsar_media_releases/2020/mr-COVID-19-crime-trends-in-NSW.aspx.

7 David S. Abrams, “COVID and Crime: An Early Empirical Look”, *Journal of Public Economics* 194, (2021): 104344, <https://doi.org/10.1016/j.jpubeco.2020.104344>.

8 For example, Harjinder Singh Lallie *et al.*, “Cyber Security in the Age of COVID-19: A Timeline and Analysis of Cyber-Crime and Cyber-Attacks During the Pandemic”, *Computers & Security* 105, (2021): 102248.

9 The articles that we found on this topic used several terms, sometimes even interchangeably: the majority used the term IPV, others used domestic violence, rarely family- or gender-based violence. All of the articles mentioned in this chapter used the first two terms: IPV or domestic violence. We included the latter because it was clear from the context that the authors meant violence between intimate partners by domestic violence since they used other terms for other members of the household.

10 Brink *et al.*, *Intimate Partner Violence During the COVID-19 Pandemic in Western and Southern European Countries*, 1059.

March 2020 (Ireland). Italy also implemented much more rigorous restrictions than the other countries; Germany, Spain, Switzerland, the Netherlands, and the U.K. implemented the least stringent restrictions, while the restrictions in other countries were moderate.¹¹ In more than half of European countries (6 out of 11), an increase in IPV was noted, in two countries no changes were reported, and in another two a decrease was noted. The majority of the countries that indicated an increase reported a significant increase of more than 40%, indicated by more calls to the helplines. All six countries with an increase were implementing low (Spain and U.K.) or moderate restrictions (Austria, Flanders, France and Ireland). Interestingly, Italy, with the strictest restrictions, had a decrease in reported IPV.¹² Belizzi *et al.*¹³ shed some light on these Italian statistics. They observe that the Italian national network of shelters for women subjected to gender-based violence, called D.I.R.E., reported a 74.5% increase in March 2020 compared to months before. Even more concerning, three-quarters of the women, who contacted the network, had never contacted them before (in 2018, the percentage of first-time callers was 22%). This shows that relying solely on official data may give a skewed picture of the social reality.

Silverio-Murillo *et al.*¹⁴ avoided this issue by using two sources: a domestic violence hotline and official police reports for Mexico City, Mexico. They noticed that the calls increased during certain weeks of the lockdown, whilst official reports of IPV declined and then rose back to pre-COVID levels.

Argentinian researchers¹⁵ conducted a confidential web-based survey between April and May of 2020. They surveyed approximately 1,500 women in quarantine who were at least 18, and had been cohabiting with a partner for a year or more. Of those, 58.7% reported emotional, 10.1% sexual, and 13.2% physical violence in general (before the quarantine), which was in line with previous studies; respondents, who quarantined with their partners reported higher incidences of all types of violence.¹⁶

An increased number of police reports has been detected in many countries and cities; in France, criminal complaints increased by 30%,¹⁷ in some U.S. cities by 10%

11 Brink *et al.*, *Intimate Partner Violence During the COVID-19 Pandemic in Western and Southern European Countries*, 1059.

12 Brink *et al.*, *Intimate Partner Violence During the COVID-19 Pandemic in Western and Southern European Countries*, 1059.

13 Saverio Bellizzi *et al.*, "Violence Against Women in Italy During the COVID-19 Pandemic", *International Journal of Gynaecology and Obstetrics* 150, no. 2 (2020): 258-259.

14 Adan Silverio-Murillo, Jose Roberto Balmori De la Miyar, and Lauren Hoehn-Velasco, "Families Under Confinement: COVID-19, Domestic Violence, and Alcohol Consumption", *S.S.R.N. Electronic Journal* (2020), <https://doi.org/10.2139/ssrn.3688384>.

15 Amelia M. Gibbons, Tommy E. Murphy, and Martin A. Rossi, "Confinement and Intimate Partner Violence", *Kyklos* 74, no. 3 (2020): 349-361, <https://doi.org/10.1111/kykl.12275>.

16 Gibbons *et al.*, *Confinement and Intimate Partner Violence*, 354.

17 Andrew M. Campbell, "An Increasing Risk of Family Violence During the COVID-19 Pandemic: Strengthening Community Collaborations to Save Lives", *Forensic Science International Reports* 2, (2020): 100089, <https://doi.org/10.1016/j.fsir.2020.100089>.

to 35%,¹⁸ in New Orleans by as much as 37%,¹⁹ in Spain by 18%.²⁰ Police reports also increased in Italy, Canada and Germany.^{21, 22} In Brazil, the number of reports jumped by 40-50%,²³ and the number of calls also increased in Peru.²⁴ In the first week after introducing stricter measures, the number of calls to the leading victim assistance organisation (Refuge) in England increased by 25%, while the number of visits to their website increased by 150%.²⁵ In Slovenia, a study of emergency calls showed an overall steep incline in the first weeks of lockdowns, followed by a steep and significant decline as the epidemic continued. Calls related to IPV fell about 4% when compared to the pre-pandemic year.²⁶

2.1 The Impact of the COVID-19 Pandemic on Intimate Partner Violence

The reasons behind IPV are numerous and intertwined. Most often, the study of factors focuses on the individual characteristics of the perpetrator and the victim, on the characteristics of the relationship between the perpetrator and the victim, and on the social context.²⁷ This follows the widely accepted typology in all but one aspect; the latter distinguishes between narrower and broader social context, usually called the community and social context. Sánchez *et al.*²⁸ have introduced a comprehensive figure explaining this typology with different factors that influence IPV and are cumulative, like onion peels; at the core, they introduce individual factors, such as stress, impulsivity, anxiety, depression and mental health issues. Moreover, they include problems regarding the loss of employment, increase in unpaid work (child care), fear of the virus, alcohol and substance abuse, and financial strain.

- 18 Brad Boserup, Mark McKenney, and Adel Elkbuli, "Alarming Trends in U.S. Domestic Violence During the COVID-19 Pandemic", *The American Journal of Emergency Medicine* 38, no. 12 (2020): 2753-2755, <https://doi.org/10.1016/j.ajem.2020.04.077>.
- 19 Buttell, Ferreira, *The Hidden Disaster of COVID-19*, 197.
- 20 Farangis Sharifi, Mona Larki, and Robab Latifnejad Roudsari, "COVID-19 Outbreak as Threat of Violence against Women", *Journal of Midwifery and Reproductive Health* 8, no. 3 (2020): 2376-2379, <https://doi.org/10.22038/jmrh.2020.16036>.
- 21 Sharifi, Larki, and Roudsari, *COVID-19 Outbreak as Threat of Violence against Women*, 2378.
- 22 Campbell, *An Increasing Risk of Family Violence During the COVID-19 Pandemic*.
- 23 Campbell, *An Increasing Risk of Family Violence During the COVID-19 Pandemic*.
- 24 Jorge M. Agüero, "COVID-19 and the Rise of Intimate Partner Violence", *Working Paper 2020-05*, http://vox.lacea.org/?q=abstract/covid19_partner_violence.
- 25 Bradbury-Jones, Isham, *The Pandemic Paradox*, 2048.
- 26 Bogomil Brvar, and Mojca M. Plesničar, *Primerjalna analiza klicev na interventno številk 113 med leti 2019 in 2020* (Ljubljana: Inštitut za kriminologijo, 2021), <http://inst-krim.si/wp-content/uploads/2021/02/Brvar-Plesni%C4%8D-Dar-Primerjalna-analiza-klicev-na-113-2020-2019.pdf>.
- 27 Jasna Podreka, *Bila si tisto, kar je molčalo: intimnopartnerski umori žensk v Sloveniji* (Ljubljana: Znanstvena založba Filozofske fakultete, 2017); Deborah M. Capaldi *et al.*, "A Systematic Review of Risk Factors for Intimate Partner Violence", *Partner Abuse* 3, no. 2 (2012): 231-280, <https://doi.org/10.1891/1946-6560.3.2.231>.
- 28 Odette R. Sánchez *et al.*, "Violence Against Women During the COVID-19 Pandemic: An Integrative Review", *International Journal of Gynaecology and Obstetrics: The Official Organ of the International Federation of Gynaecology and Obstetrics* 151, no. 2 (2020): 180-187, <https://doi.org/10.1002/ijgo.13365>.

Many of these factors were influenced by the pandemic.²⁹ The effect of the Stay-at-home policy is similar to that of a quarantine, which means a strict prohibition from leaving home. The psychological consequences of quarantine are multiple and far-reaching, from anger to depression³⁰ and post-traumatic stress disorder.³¹

Authors³² also mention the risk of alcohol (ab)use during pandemics as an inadequate response to stressors. The causal link between alcohol abuse and intimate partner violence is still the subject of debate in the criminology literature;³³ however, the correlation between alcohol consumption and violence in the family has been confirmed in several studies.³⁴

A diminishment of economic resources during a crisis leads to added stress, frustration, and conflicts between partners, which increases the likelihood of all forms of violence against women.³⁵ Declining family incomes have also been identified as an important factor for intimate partner violence during lockdowns in a study based on a survey of 1,502 women in Argentina;³⁶ a comparison of victimisation of women whose partners were in lockdown with women whose partners were not in lockdown showed a positive association between mobility restrictions and intimate partner violence.

The second layer in typography³⁷ is the relationship between the perpetrator and

29 See for example: Buttell, Ferreira, *The Hidden Disaster of COVID-19*, 197.

30 A survey of 3,500 adults in Croatia found that almost half of those surveyed faced varying degrees of depression, anxiety or stress due to measures to prevent the spread of the new virus. Nataša Jokić-Begić *et al.*, *Kako smo? Život u Hrvatskoj u doba korone: preliminarni rezultati istraživačkog projekta* (Zagreb: Odsjek za psihologiju Filozofskog fakulteta Sveučilišta u Zagrebu, 2019).

31 Nicole van Gelder *et al.*, “COVID-19: Reducing the Risk of Infection Might Increase the Risk of Intimate Partner Violence”, *EClinicalMedicine* 21, (2020): 100348, <https://doi.org/10.1016/j.eclinm.2020.100348>.

32 Samantha K. Brooks *et al.*, “The Psychological Impact of Quarantine and How to Reduce It: Rapid Review of the Evidence”, *The Lancet* 395, no. 10227 (2020): 912-920, [https://doi.org/10.1016/S0140-6736\(20\)30460-8](https://doi.org/10.1016/S0140-6736(20)30460-8); Catherine Kaukinen, “When Stay-at-Home Orders Leave Victims Unsafe at Home: Exploring the Risk and Consequences of Intimate Partner Violence During the COVID-19 Pandemic”, *American Journal of Criminal Justice* 45, no. 4 (2020): 1-12, <https://doi.org/10.1007/s12103-020-09533-5>; Gelder van *et al.*, *COVID-19*, 100348.

33 Kathryn Graham *et al.*, “Alcohol May Not Cause Partner Violence but It Seems to Make It Worse: A Cross National Comparison of the Relationship between Alcohol and Severity of Partner Violence”, *Journal of Interpersonal Violence* 26, no. 8 (2011): 1503-1523, <https://doi.org/10.1177/0886260510370596>; Silverio-Murillo, Balmori De la Miyar, and Hoehn-Velasco, *Families under Confinement*.

34 Katja Filipčič, “Miti o nasilju v družini”, *Revija za kriminalistiko in kriminologijo* 51, no. 3 (2000): 197-206.

35 Kaukinen, *When Stay-at-Home Orders Leave Victims Unsafe at Home*, 6.

36 Santiago M. Perez-Vincent *et al.*, “COVID-19 Lockdowns and Domestic Violence. Evidence from Two Studies in Argentina. Technical note IDB-TN-1956”, *Inter-American Development Bank* (2020), <https://publications.iadb.org/publications/english/document/COVID-19-Lockdowns-and-Domestic-Violence-Evidence-from-Two-Studies-in-Arentina.pdf>.

37 Sánchez *et al.*, *Violence against Women During the COVID-19 Pandemic*, 182.

the victim; it is connected to increased dependence,³⁸ spending more time together, which in turn can mean increased control behaviour as well as decreased social contact and peer support – idea also supported by other authors.³⁹

The third layer⁴⁰ is that of community. In the context of the pandemic, this layer emphasises a lack of access to social networks/social support as well as restricted access to health services. Although various support systems exist (police, N.G.O.s, social services), victims find it more difficult to contact them due to the constant surveillance of the perpetrator or the changed or limited way these institutions operate.

Due to the pandemic measures, counselling, mental health services and social services have started to operate remotely. This change in working practices has placed a new barrier in front of victims of violence. The potential presence of the perpetrator in a shared home made it impossible for victims to talk about the abuse over the phone or use online tools near the perpetrator. Access to support services was further hampered for victims of violence who lacked access to modern technologies.⁴¹ Moreover, women who needed medical attention due to violence also did not visit a doctor for fear of being infected with the new virus.^{42, 43}

Lastly, the fourth layer in the scheme⁴⁴ is the societal layer. This is where the pandemic has had the strongest impact, including a health, economic and social crisis, movement restrictions, less access to the justice/protection system, etc. Moreover, the pandemic led to unemployment, economic vulnerability, and the strengthening of xenophobic and racist discourses.⁴⁵

Peterman *et al.*⁴⁶ distinguish pathways through which a pandemic could lead to increased IPV: disaster and conflict-related unrest, exposure to exploitative

38 Dwindling economic resources not only increase the risk of violence, but are also the reason why women do not leave a violent partner. In a Slovenian survey conducted during the pandemic, as many as 15% of women answered that their survival during the covid-19 pandemic was even more dependent on their partner, while 11% had this dependence established earlier. Ana Pavlič, *Vzdušje v intimno-partnerskih odnosih in družinah v času karantene in povečane negotovosti* (Ljubljana: Inštitut za preučevanje enakosti spolov, 2020), <http://ipes-si.org/blog/2020/06/08/raziskava-vzdušje-v-intimno-partnerskih-odnosih-in-druzinah-v-casu-karantene-in-povecane-negotovosti/>.

39 Gelder van *et al.*, *COVID-19*, 100348.

40 Sánchez *et al.*, *Violence against Women During the COVID-19 Pandemic*, 183.

41 Jennifer Koshan, Janet Eaton Mosher, and Wanda Ann Wiegers, “COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence”, *Osgoode Hall Law Journal* 57, no. 3 (2021): 739-799.

42 Silverio-Murillo, Balmori De la Miyar, and Hoehn-Velasco, *Families under Confinement*.

43 On the other hand, access to alcohol, drugs and weapons, risk factors for intimate partner homicide (Biljana Simeunović-Patić, and Sladana Jovanović, “Intimnopartnerski umori v Srbiji: pojavne značilnosti, dejavniki tveganja in spolne (ne)simetrije”, *Revija za kriminalistiko in kriminologijo* 68, no. 1 (2017): 33.), has also been restricted during the pandemic. However, we should note that restrictions on alcohol consumption in public places (closure of bars, restaurants, etc.) do not necessarily mean lower alcohol consumption at home.

44 Sánchez *et al.*, *Violence against Women During the COVID-19 Pandemic*, 184.

45 Koshan *et al.*, *COVID-19, the Shadow Pandemic, and Access to Justice for Survivors of Domestic Violence*, 769.

46 Peterman *et al.*, *Pandemics and Violence Against Women and Children*.

relationships due to changing demographics, reduced health service availability, virus-specific sources of violence, exposure to violence and exploitation, and violence perpetrated against health workers. These pathways are dependent on the virus – how aggressive it is and on the fact that the pandemic has reached a more extensive penetration in society. Furthermore, authors⁴⁷ put forward three channels of IPV; the first channel is connected to the inability of the victim to flee the abusive behaviour, the second channel stems from social isolation, furthering mental disorders and limiting monitoring of the services and the third channel relates to the economic insecurity. However, a large study⁴⁸ indicated that only prolonged exposure to partner and a drop-in family/partner income had a measurable influence on reported IPV.

In the study of IPV across Europe,⁴⁹ the authors conclude that low to moderate intensity restrictions to reduce the spread of the virus are likely to have impacted the increase in IPV, while high-intensity restrictions may have masked this increase. This explains the decrease in reported IPV in Italy, which had the strictest restrictions. As the authors⁵⁰ warn: ‘high-intensity limits can also make it more difficult to report violence and seek help’.

Last but not least, the pandemic has also affected the functioning of the justice system. The Commission on Crime Prevention and Criminal Justice report shows that in almost every country globally, courts have operated on a limited basis or have even been closed at some point during the pandemic. This means, among other things, that there is a backlog in the prosecution of criminal offences (including IPV). In many countries, IPV cases were not a priority during the period of limited court activity. Even when general lockdown measures were lifted, court hearings and trials have continued to be postponed due to COVID infections or quarantines. The point at which a case is resolved in court has thus been delayed during the pandemic, undermining the victims’ trust in the justice system.⁵¹

3 THE EXTENT OF IPV IN SLOVENIA

3.1 Research Methods

We studied the extent of IPV in Slovenia during the COVID-19 pandemic by analysing police data on reports of the criminal offence of family violence under Article 191 of the Criminal Code [KZ-1] (2008) in the period from January 2019 to August 2021. To see if the lockdown periods resulted in different patterns of reported

47 Peterman *et al.*, *Pandemics and Violence Against Women and Children*.

48 Gibbons *et al.*, *Confinement and Intimate Partner Violence*, 358.

49 Brink *et al.*, *Intimate Partner Violence During the COVID-19 Pandemic in Western and Southern European Countries*, 1060.

50 Brink *et al.*, *Intimate Partner Violence During the COVID-19 Pandemic in Western and Southern European Countries*, 1062.

51 United Nations Office on Drugs and Crime, *The Impact of COVID-19 on Criminal Justice System Responses to Gender-Based Violence Against Women: A Global Review of Emerging Evidence* (Vienna: UNODC, 2021), https://www.unodc.org/documents/commissions/CCPCJ/CCPCJ_Sessions/CCPCJ_30/E_CN15_2021_CRP2_e_V2102901.pdf.

violence, we looked at the lockdown periods more closely – from March to June 2020 and October to January 2021, to be exact to include the periods of stringent lockdowns. We obtained the data from the Slovenian Police; they provided us with daily data on detected criminal offences for the aforementioned period and the same period in 2019. To have a wider context for the number of criminal offences of family violence, we also obtained data on other criminal offences in the same way.

For the same period, the Police also provided us with data on reports of family violence as a misdemeanour under Article 6, paragraph 4 of the Protection of Public Order and Peace Act - ZJRM-1 (2006) and on restraining orders imposed under Article 60 of the Police Duties and Powers Act - ZNPPol (2013).⁵² To calculate trends in the movement of total crime, separate criminal offences, misdemeanours under ZJRM-1 (2006), and the imposed restraining orders, we used police data published annually on detected crime in the first six months of each year from 2012 to 2021.⁵³

The data were analysed using the IBM SPSS Statistics 22 software tool. Whether there was a statistically significant difference in the number of previously mentioned criminal offences, misdemeanours and police measures compared to the long-term average was checked by a one-sample t-test. According to the findings from abroad (mentioned in the previous chapter of this article), we expected to confirm the hypothesis that IPV had increased during the lockdowns.

3.2 Results

3.2.1 The Variation in The Number of Criminal Acts During the Two Lockdowns

We looked at the lockdown periods more closely: the first lockdown covered the period from 20 March to 31 May 2020 and the second lockdown lasted from 18 October to 31 December 2020. We have separated the total observed period from January 2019 to the end of August 2021 into even 11-week periods to match with the two periods of lockdown (Table 1). These new variables, containing weekly sums of 13-time slots, each containing 11 weeks, were checked for normality of distribution. Afterwards, we conducted a one-sample t-test to check if the sums of lockdowns one and two were statistically significantly different compared to the rest of the sums.

52 ZNPPol enables the police to impose a restraining order prohibiting the person in question from approaching a particular place or person if there are reasonable grounds to suspect that the person has committed family violence (that constitutes either a criminal offence or a misdemeanour).

53 *Policija*, Access 1st April 2022, www.policija.si/o-slovenski-policiji/statistika.

Table 1 Family Violence (Criminal Offences and Misdemeanours), Restraining Orders and Breached Restraining Orders: Means (M), Standard Deviations (SD) And Numbers of Offences / Misdemeanours (N) for a Period from January 2019 to End of August 2021 and First / Second Lockdown Period Separately (source: Police)

	PERIOD FROM JANUARY 2019 TO END OF AUGUST 2021 – ALL		FIRST LOCKDOWN PERIOD	SECOND LOCKDOWN PERIOD
	M	SD	N	N
Family violence - criminal offence	283.5	38.2	297	333
Family violence - misdemeanour	575.5	57.5	689	572
Restraining orders	205.4	14.54	193	181
Breached restraining orders	87.2	26.8	81	56

Table 2 One-Sample Tests for First Lockdown Period Between 20 March and 31 May 2020 - Values of T-Tests, Significance Levels, Means and Standard Deviations (source: Police)

	T	DF	SIG. (2-TAILED)	MEAN DIFFERENCE
Family violence under Article 191 KZ-1 (Test Value = 297)	-1.277	12	.226	-13.538
Misdemeanours under ZRJM, Article 6, paragraph 4 (family violence) (Test Value = 689)	-7.115	12	.000	-113.462
Imposed restraining orders (Test Value = 193)	3.091	12	.009	12.462
Breached restraining orders (Test Value = 81)	.838	12	.419	6.231

Table 3 One-Sample Tests for Second Lockdown Period Between 18 October and 31 December - Values Of T-Tests, Significance Levels, Means and Standard Deviations (source: Police)

	T	DF	SIG. (2-TAILED)	MEAN DIFFERENCE
Family violence under Article 191 KZ-1 (Test Value = 333)	-4.672	12	.001	-49.538
Misdemeanours under ZRJM, Article 6, paragraph 4 (family violence) (Test Value = 572)	.222	12	.828	3.538
Imposed restraining orders (Test Value = 181)	6.068	12	.000	24.462
Breached restraining orders (Test Value = 56)	4.199	12	.001	31.231

The mean score for family violence under Article 191 KZ-1 was not statistically significantly lower than the score of first lockdown, 297 cases in 11 weeks, but there was a statistically significant difference for the second lockdown, with 333 cases in 11 weeks.

Continuing with misdemeanours, the variation of reported misdemeanours of family violence under Article 6, paragraph 4 of ZRJM was statistically significantly lower than the score of first lockdown, with 689 cases in 11 weeks, but not for the second one, with 572 cases in 11 weeks.

The sums of imposed restraining orders were statistically significantly higher from the sum of the first lockdown, in which there were 193 cases in 11 weeks, and even more so for the second one, with 181 cases in 11 weeks.

Lastly, the sums of breached restraining orders were not statistically significantly higher from the sum of the first lockdown, 81 cases in 11 weeks, but were statistically significantly higher for the second one, with 56 cases in 11 weeks.

3.2.2 Deviations from the Ten-Year Average (2012-2021)

Relying on one specific moment in time in assessing trends is risky and may quickly lead to unreliable conclusions. More precisely, we would be inclined to attribute any change in trends to the lockdowns, when they might in fact be a piece of a long-term trend.

In the first six months of 2020, family violence under Article 191 of KZ-1 was slightly above the ten-year average (749 offences compared to 732.2 ± 137.5) but entirely below the average in 2021 (127 offences less) (Tables 5 and 6). These differences were statistically significant.

For the number of family violence misdemeanours and the number of measures taken by police officers due to family violence (which constitutes either a criminal offence or misdemeanour) – restraining orders under Article 60 ZNPPol (2013), we also performed a t-test to determine whether the number of misdemeanours and measures deviated from the long-term average. We took the number of misdemeanours and number of measures in the first six months of each year in the last ten-year period.

Compared to the ten-year average of the number of family violence misdemeanours ($1,419.4 \pm 159.2$), the first six months of 2020 was almost on average with 1,441 offences, whilst 2021 numbers were by far the lowest in the ten years – 1,104 misdemeanours, surpassing even the lower confidence interval of difference (Tables 5 and 6).

The number of imposed restraining orders in the first six months of 2020 and 2021 are only slightly above (490 in 2020) and below (437 in 2021) the long-term average (461 ± 49.9), compared to the ten-year period (Tables 5 and 6).

Table 5 Family Violence (Criminal Offences and Misdemeanours) and Restraining Orders: Means (M) and Standard Deviations (SD) for Years 2011-2020 and First Half-Year Periods of 2012-2021 (Source: Police)

	YEARLY PERIOD 2011-2020		FIRST HALF -YEAR PERIOD 2012-2021	
	M	SD	M	SD
Family violence - criminal offence	1488.4	212.1	732.2	137.5
Family violence - misdemeanour	3092.2	353.1	1419.4	159.2
Restraining orders	958.1	82.3	461.7	49.9

Table 6 Family Violence (Criminal Offences and Misdemeanours) and Restraining Orders: Values of T-Tests (T), Significance Levels (P), Means (M) and Standard Deviations (SD) for Ten-Year-Period 2011-2020 (Source: Police)

	t	p	M	SD
Family violence - criminal offence	16.843	.00	732.20	137.473
Family violence - misdemeanour	28.191	.00	1419.40	159.217
Restraining orders	29.238	.00	461.70	49.936

4 DISCUSSION

4.1 Definitions

Slovenian criminal law incriminates severe forms of family violence as a criminal offence under Article 191 of KZ-1 (2008) and minor forms of family violence as a misdemeanour under of Article 6, Par. 4 of ZJRM-1 (2006). The distinction between the criminal offence and the misdemeanour is an important legal issue. It affects the process of dealing with the perpetrator and the various sanctions that can be imposed on the perpetrator. However, from the point of view of determining the extent of family violence, the significance of these differences is fading. Thus, in our research, we considered both the extent of family violence as a criminal offence and the extent of family violence as a misdemeanour when determining the extent of family violence.

Furthermore, in the article, we were interested in IPV against women. The criminal offence and misdemeanour in question cover not only violence against women, but also violence against other family members. Victims of an offence under Article 191 of KZ-1 (2008) may also be other adult family members (such as partners, adult children and parents). Under Article 6, Par. 4 of ZJRM-1 (2006), victims of a misdemeanour may be adult and minor family members. In the analysis, we covered

all reports of criminal offences and misdemeanours, regardless of which of the above family members were involved as their victims. However, data from the Police and the Ministry of Labour, Family and Social Affairs show that more than 80% of victims of family violence are women. In comparison, about 99% of perpetrators of family violence are men.⁵⁴ National surveys also show similar data on family violence.⁵⁵ Considering all this, we conclude that the data on the incidents of family violence as criminal offences and as misdemeanours primarily represent IPV against women. For further research, however, the question remains as to the more precise share of this specific type of violence in both criminal offences and misdemeanours.

4.2 Changes in Crime Trends

The analysis of police data was divided into two parts. First, we compared the scope of the criminal acts (criminal offences and misdemeanours) from January 2019 to August 2021. These weekly data were sectioned into 13 even periods, to match the two 11-week periods of epidemic declaration in Slovenia, which occurred from 20 March 2020 to 31 May 2020 and 18 October to 31 December 2020. The changes found abroad show a decline in crime overall on the one hand⁵⁶ and an increase in some types of crime, including IPV, on the other.⁵⁷

In parallel with the findings from other countries, incidents of family violence as a criminal offence increased by 5% in the first lockdown period and by 18% in the second lockdown period. The volume of reported misdemeanours of family violence increased by 19% in the first lockdown and decreased by 1% in the second. The number of imposed restraining orders decreased by 6% in the first lockdown period and 12% in the second; this was mirrored in breached restraining orders – a decrease of 9% in the first lockdown period was followed by a decrease of 36% in the second lockdown period.

Following the example of foreign authors, the increase in family violence could also be confirmed for Slovenia based on such data. Both more severe forms of family violence (representing a criminal offence) as well as milder forms of family violence (representing a misdemeanour) increased.⁵⁸ While the increase itself is not unexpected, the decrease in the number of restraining orders on the other hand is – further research into the question of why the number of restraining orders imposed has been reduced seems necessary.

54 Government of the Republic of Slovenia (Vlada RS), *Zakon o spremembah in dopolnitvah Zakona o preprečevanju nasilja v družini, predlog*, EVA: 2016-2611-0006, prva obravnava (2016).

55 Mateja Sedmak, and Ana Kralj, "Nevarna zasebnost - nasilje v družinah v Sloveniji", *Družboslovne razprave* 22, no. 56 (2006): 93-110; Vesna Leskošek *et al.*, *Nasilje nad ženskami v Sloveniji* (Maribor: Aristej, 2013).

56 Gerell *et al.*, *Minor COVID-19 Association with Crime in Sweden, a Ten Week Follow Up*.

57 Campbell, *An Increasing Risk of Family Violence During the COVID-19 Pandemic*, 100089; Buttell, Ferreira, *The Hidden Disaster of COVID-19*, 197.

58 The presented findings partly differ from the results of the analysis presented in our paper Katja Filipčič *et al.*, "Intimnopartnersko nasilje v času pandemije COVIDA-19", *Revija za kriminalistiko in kriminologijo* 72, no. 1 (2021): 65-78, which covered only part of the first lockdown period.

4.3 Further Analysis

However, we have taken into account the warnings of some authors⁵⁹ that conclusions about crime trends that are not based on established statistical methods can be premature or misleading. Therefore, we studied the changes in the extent of IPV during COVID-19 more in-depth by using the t-test as an established statistical method and taking into account the six-month average of crime over ten years.

Before embarking on the interpretation of our findings, let us emphasise: the identification of changes in crime during the COVID-19 period with same-length periods of the last three years has its limitation. Only the consideration of a more extended period allows thoroughly reliable conclusions to be drawn about changes in crime. Whether such an approach will confirm the expectations of an increase in IPV against women in many countries cannot be predicted. It is necessary to wait for in-depth analyses of the first data presented in the introductory part of this paper.

The separate t-tests, conducted for all observed criminal offences, misdemeanours and restraining orders, paint an interesting picture. The number of criminal offences of family violence as a criminal offence was not statistically significantly higher in the first lockdown (an increase of 5%), but has gone significantly up in the second lockdown, with an increase of 17%. Next, the number of reported misdemeanours of family violence as a misdemeanour was statistically significantly higher in the first lockdown at 19.8%, but the second lockdown showed a decrease of less than 1%. The number of imposed restraining orders was significantly lower in the first lockdown, by 5.8%, and even more so for the second one, by 11.8%. Similarly, the number of breached restraining orders was statistically significantly lower in the first lockdown with a 7.1% decrease, but was 35% lower for the second one, a statistically significant difference.

The t-tests conducted on the number of reported offences, misdemeanours and imposed restraining orders in the first six months of each year from 2012 to 2021 give us another view. The criminal offences under family violence were almost average in the first six months of 2020 but 17.4% below the average in 2021 (a total of 127 offences less) and the difference was statistically significant. The number of family violence misdemeanours in the first six months of 2020 was almost average with 1,441 criminal offences, whilst 2,021 numbers are by far the lowest in the ten years – 1,104 misdemeanours, with a decrease of 22.2%. The numbers of restraining orders in the first six months of 2020 and 2021 were both close to the averages.

With the t-test approach we, therefore, confirmed most of our findings:

(1) the scope of family violence as a criminal offence increased during both lockdown periods,

(2) the scope of family violence as a misdemeanour increased during the first lockdown, whereas

(3) the number of restraining orders imposed and breached decreased.

On the other hand, t-tests show a slight reduction in family violence as a

59 Matthew P. J. Ashby, "Initial Evidence on the Relationship Between the Coronavirus Pandemic and Crime in the United States", *Crime Science* 9, no. 1 (2020): 6, <https://crimesciencejournal.biomedcentral.com/articles/10.1186/s40163-020-00117-6>.

misdeemeanour during the second lockdown (while simplified calculations showed an increase of family violence misdemeanours during both lockdowns).

However, the interpretation of the findings obtained by more in-depth statistical methods still requires a great deal of caution. The police statistics on which the extent of crime is based (both in the foreign literature and in our paper) reflect only the reported cases. In contrast, the extent of unreported crime is unknown. The gap between the crime reported and the actual extent of crime is particularly large for all forms of domestic violence. According to U.N. estimates,⁶⁰ less than 40% of female victims of intimate partner violence seek any help; among those who seek it, most turn to family and friends for help, and less than 10% seek help from the police.

Therefore, our findings on the extent of the increase in reported intimate partner violence against women during the COVID-19 lockdown periods may well represent only the tip of the iceberg. Experience from other countries shows that during the pandemic, assistance interventions diminished due to the tighter control of perpetrators of violence, the fact that the victims' economic dependence on their abusive partners increased due to job loss and an uncertain future, and the inability of many victims to report violence through the usual channels (such as via telephone call). It is therefore vital that victims are well-informed about where and how they can seek help.⁶¹ Above all, care must ensure that victim support organisations are accessible for extended periods and in innovative post-pandemic ways.⁶²

Last but not least, the frequency of reporting is also influenced by entrenched beliefs that reinforce gender inequality. During the COVID-19 epidemic, the Institute for the Study of Gender Equality⁶³ conducted a small study that did not cover a

60 United Nations Economic and Social Affairs, *The World's Women 2015: Violence Against Women. Chapter 6* (New York: United Nations, 2015), <https://unstats.un.org/unsd/gender/chapter6/chapter6.html>.

61 RTV SLO, for example, made an important contribution to informing victims in Slovenia, producing a special video during the lockdown period, raising public awareness of the increased dangers of domestic violence and providing victims with information on where to seek help. In the period between April 14th 2020 and May 6th 2020, it was broadcast 238 times, on average almost 13 times a day. Information about the broadcast of the video was provided by Ms. Natalija Gorščak, director of Television Slovenia, for which we thank her.

62 For example, the Slovenian Association for Nonviolent Communication, a non-governmental, non-profit and humanitarian organisation working to prevent and reduce violence and its consequences, has extended its telephone counselling to 24 hours a day. (Društvo za nenasilno komunikacijo, *Obvestilo o razširitvi telefonskega svetovanja*, 10th April 2020, <https://www.drustvo-dnk.si/zelite-izvedeti-vec/novice/204-obvestilo-o-raz%C5%A1iritvi-telefonskega-svetovanja.html>). In some countries, police have also sought new ways to make it easier for victims to contact them, e. g. encouraging delivery staff and postal workers to notice signs of violence (U.N. Women, Asia and Pacific, *COVID-19 and Ending Violence against Women and Girls*) or launching codeword schemes (Ivana Kottasova, and Valentina Di Donato, "Women are Using Code Words at Pharmacies to Escape Domestic Violence During Lockdown", *CNN*, 6th April 2020, <https://edition.cnn.com/2020/04/02/europe/domestic-violence-coronavirus-lockdown-intl/index.html>; Manuel Eisner, and Amy Nivette, "Violence and the Pandemic, Urgent Question for Research", *Violence Research Centre, University of Cambridge*, <https://www.vrc.crim.cam.ac.uk/news/violence-pandemic-hfg-research-and-policy-brief>).

63 Pavlič, *Vzdušje v intimno-partnerskih odnosih in družinah v času karantene in povečane*

representative sample.⁶⁴ Nevertheless, its findings colour in the picture provided by official data. We point out that as many as 30% of respondents agreed or strongly agreed, and 24% could not define or clearly (dis)agree with the statement that women in times of crisis (such as COVID-19) need to be particularly patient and need to calm down any tense situations in the family and intimate partnership. It is impossible not to agree with Pavlič, who concluded: “It is necessary to stop at these figures and to state that it is inappropriate for any community to help perpetuate perceptions of women that portray them as part of the population whose opinions and needs must always come second to the care and happiness of others and related perceptions of violence against women that normalise it by placing the responsibility for it on women.”⁶⁵

5 CONCLUSION

We estimate that our data collected so far on IPV in Slovenia in the COVID-19 period, which show the extent of reported family violence, do not necessarily show the whole picture. We believe that the COVID-19 period further widened the gap between reported and actual violence. Therefore, it will be interesting to monitor the trends in reports of domestic violence after the normalisation of the situation, when the control over victims in the family will no longer be so intensive. It is possible that at that time reports of violence that occurred under the stricter public health regime will increase beyond the extent presented in this paper.

Moreover, the coming years will bring additional data regarding the prosecution and judicial decisions on cases of domestic violence. However, better insight into the extent of IPV will need to be gained in other ways than just by studying the data collected by the police and the judiciary. One such option is gathering information on perceived violence from professionals who assist victims in NGOs, safe houses and social work centres. Above all, a more extensive victimological study will have to be carried out, which will also take into account a more significant number of data, with the help of which it will be possible to perform more complex statistical analyses. Therefore, our research findings primarily represent a starting point for further research into IPV during COVID-19. Only a more comprehensive picture of what is happening in this area will give a definitive answer to the question implied in our article’s title.

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Sažetak

NASILJE U INTIMNIM PARTNERSKIM ODNOSIMA TIJEKOM EPIDEMIJE COVID-19 U SLOVENIJI

Mjere poduzete za suzbijanje širenja koronavirusa uvelike su utjecale na dobrobit i ponašanje ljudi, što je dovelo do vjerojatnosti porasta nasilja u obitelji, posebice nasilja nad ženama. U našem članku predstavljamo analizu policijskih podataka o prijavljenim slučajevima obiteljskog nasilja, koju smo proveli s ciljem uočavanja potencijalnih promjena u učestalosti obiteljskog nasilja koje se događalo u tom razdoblju. U usporedbi s desetogodišnjim prosjekom, prijave o 'nasilju u obitelji' kao kaznenom djelu bile su prosječne 2020., ali su bile oko 20 % manje u 2021. Broj prekršaja nasilja u obitelji bio je gotovo prosječan u 2020., dok je 2021. bio manji. Broj izrečenih mjera zabrane približavanja u 2020. i 2021. bio je blizu desetogodišnjeg prosjeka. U razdoblju od 11 tjedana prvog i drugog razdoblja ograničene slobode kretanja broj većine uočenih kaznenih djela i prekršaja bio je veći. Zabrane približavanja su u tim razdobljima izricane i kršene u manjem broju. Ovi su rezultati potvrđeni nizom t-testa. U razdoblju izolacije povećan je broj prijava nasilja u obitelji (kao kaznenog djela i prekršaja), dok je smanjen broj policijskih zabrana prilaska.

Ključne riječi: *Slovenija; nasilje u obitelji; partnersko nasilje; epidemija; COVID-19; kazneno djelo; zabrana približavanja.*

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COVID-19 PANDEMIC AND INTIMATE PARTNER VIOLENCE: EXPERIENCES AND OUTCOMES FOR SHELTERS' STAFF

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Summary

Relatively few studies have addressed the impact of the COVID-19 pandemic on IPV shelters and their staff. In this study, we conducted interviews with IPV shelter staff to examine 1) how shelters changed their work during the pandemic; 2) how staff described the occurrence of and response to vicarious trauma; and 3) what staff learned from their experience with the pandemic crisis. Three main themes emerged from the data. They include the following: 1) changes in organisational working conditions during the pandemic; 2) emotional challenges; and 3) positive effects of the pandemic. As in other countries, the pandemic in Croatia brought numerous challenges but also opportunities. Shelter staff demonstrated their strengths and commitment to supporting IPV victims during the pandemic. Their experiences should be used to develop an effective response to future crises.

Keywords: IPV; shelters; staff; Croatia; COVID-19.

1 INTRODUCTION

At the onset of the pandemic, many victim advocates and experts warned of the potential negative impact of the COVID-19 pandemic on intimate partner violence (IPV), referring to it as the “shadow pandemic”.¹ The primary focus in these

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1 UN Women, *The Shadow Pandemic: Violence Against Women During COVID-19*, Access 10th January 2022, <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19>

discussions was on the negative consequences of home detention orders and social distancing measures. Many experts in the field feared that changes in daily life and living circumstances (e.g., job losses, changes in the organisation of daily life) would change the picture of intimate partner violence in terms of frequency and severity, as would the assistance and support services available to victims since many government services became limited, and many nongovernmental organisations had to adapt their operations to meet the needs of victims. Several studies have been conducted on IPV, and the answers to the questions posed by researchers are inconsistent, in contrast to the statements made by relevant international organisations.² In addition, some studies also identified a lack of victim protection and support.³ Many organisations and agencies emphasized the need to prioritise the needs of IPV victims, especially regarding safe housing as a specialized service for victims. Therefore, it is important to assess the functioning of shelters as one of the specialized services for IPV victims during the pandemic, especially during the lockdown period.

Several authors have recognized the importance of shelter staff experience in working during the pandemic,⁴ but there is a gap in current knowledge on this topic. The impact of the pandemic on personal lives and organisational adjustments could affect shelter staff, which in turn could affect the quality of services provided. The purpose of this article is to address this gap by examining the experiences of shelter staff and the adjustments needed to continue providing services to IPV victims.

2 SHELTERS FOR IPV VICTIMS IN CROATIA

For decades, shelters for IPV victims have been an important resource for victims in need of safe shelter, both internationally and nationally. Shelters, also known as refuges or safe houses, are places of temporary shelter for (usually) women and (often) their children. They are not only places of refuge in the sense of non-violent shelter, but in many countries, they are also places where women are empowered and, provided with psychosocial and legal counselling and other services aimed to help them move on from experiences of violence and make plans for a healthy and non-violent future. In reference to the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence⁵ (hereinafter: the

19-response/violence-against-women-during-covid-19.

2 For example, UN Women, *GREVIO report (2021)*, <https://www.unwomen.org/en/news/in-focus/in-focus-gender-equality-in-covid-19-response/violence-against-women-during-covid-19>, 30.

3 Nicole van Gelder *et al.*, “Professionals’ View on Working in The Field of Domestic Violence and Abuse During the First Wave Of COVID-19: A Qualitative Study in the Netherlands”, *BMC Health Services Research* 21, 624 (2021): 1-14, <https://doi.org/10.1186/s12913-021-06674-z>.

4 Solveig Bergman, Margunn Bjørnholt, and Hannah Helseth, “Norwegian Shelters for Victims of Domestic Violence in the COVID-19 Pandemic – Navigating the New Normal”, *Journal of Family Violence* (2021): 1-11, <https://doi.org/10.1007/s10896-021-00273-6>; Leila Wood *et al.*, “On the Front Lines of the Covid-19 Pandemic: Occupational Experiences of the Intimate Partner Violence and Sexual Assault Workforce”, *Journal of Interpersonal Violence* (2020): 1-22, <https://doi.org/10.1177/0886260520983304>.

5 Act Ratifying the Council of Europe Convention on Preventing and Combating Violence against

Istanbul Convention), they are considered “an essential part of the IC four-pillar framework of protection, prevention, prosecution and policy”.⁶

According to the Global Network of Women’s Shelters,⁷ there are women’s shelters in more than 45 countries. There are some differences in the way these women’s shelters are founded and financed, as well as in the specific organisation of the work of each shelter in terms of rules and staff.

The first women’s shelters in Croatia started their work in the early ‘90s within the feminist movement,⁸ and by 2019 there were 19 women’s shelters in Croatia. In 2019 and 2020, six new shelters were established, so today, there are 25 shelters in Croatia. It is worth mentioning that not all newly established shelters are fully functional yet (they do not accommodate clients). Basic information on services for IPV victims can be found in the directory prepared by the ministry responsible for social welfare.⁹ With the establishment of new shelters, Croatia has come closer to meeting the Istanbul Convention’s requirement (Article 23)¹⁰ for adequate, accessible shelters for survivors and their children. If we calculate the figures using the population from the last census in 2021 (3.88 million inhabitants) and current shelter capacities, we can conclude that Croatia has 334 beds¹¹ and that only 15% of beds are missing to fully meet the required standard. According to the ministry responsible for social welfare,¹² the capacity utilisation in Croatia is up to 55%. This may not reflect the real need for this particular social service, as it reflects the mentality and some shame in using this service, as well as the low transparency of basic information about the conditions for using this service and what to expect in the shelters.¹³ Capacity utilisation should also

- Women and Domestic Violence (the Istanbul Convention), Official Gazette - International Contracts, no. 3/18.
- 6 Elena Floriania, and Léa Dudouet, *WAVE Country Report 2021: Women’s Specialist Support Services in Europe and the Impact of COVID-19 on Their Provision* (Vienna: WAVE Women Against Violence Europe, 2021), 14.
 - 7 *The Global Network of Women’s Shelters*, Access 17th January 2022, <https://gnws.org/>.
 - 8 Maja Mamula, ed., *Organizacije civilnog društva koje pružaju specijalizirane servise ženama žrtvama nasilja kao ključni akteri u procesu demokratizacije društva* (Zagreb: Ženska soba - Centar za seksualna prava, 2010), 6.
 - 9 *Ministry of Demography, Family, Youth and Social Policy*, Access 12th January 2022, <https://mrosp.gov.hr/UserDocsImages/dokumenti/Socijalna%20politika/Adresari/ADRESAR%20USTANOVA,%20ORGANIZACIJA%20I%20OSTALIH%20INSTITUCIJA%20KOJE%20PRUZAJU%20POMOC,%20PODRSKU%20I%20ZASTITU%20ZRTVAMA%20NASILJA%20U%20OBITELJI.pdf>.
 - 10 Art. 23 of the Istanbul Convention: “Shelters: Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children”.
 - 11 The capacity listed for the Autonomous Women’s House in Zagreb is doubled because its data are for families and not for beds. Family places are usually calculated as one woman and average numbers of children per family. As authors couldn’t find reliable data for the last census, a family is calculated as 1 (woman) +1 (child).
 - 12 Željka Barić, “*Učinkovitost psihosocijalnih usluga skloništa za žene žrtve nasilja u obitelji iz perspektive teorije osnaživanja*” (PhD diss.), (Zagreb, Sveučilište u Zagrebu, 2021), 56.
 - 13 As Aujla noted “having more information about what is offered at each shelter can assist a woman in planning her own escape, and it can further allow others to become more

not be an argument to limit the availability of this service. The WAVE country report shows that only nine out of 46 European countries meet the minimum standard of one bed space per 10,000 citizens recommended by the Istanbul Convention.¹⁴

There is a certain differentiation of shelters in Croatia in terms of founders and funding. There are so-called autonomous shelters, “state” shelters, religious organisations’ shelters, and NGOs shelters although the distinction between autonomous and NGO shelters becomes quite blurred.

The term autonomous has been used to describe autonomous financial status and operations, but all NGOs that provide shelters are required to follow some rules set by the government¹⁵ and they all receive some kind of funding from the government or regional and/or local authorities. In this sense, we can distinguish between shelters established and operated by government and regional or local authorities (in cooperation with NGOs) and shelters established and operated by NGOs and religious organisations. According to the Regulations on Minimum Standards for the Provision of Social Services¹⁶ all institutions operating shelters must have a license from the ministry in charge for social welfare. Accommodation is one of the social services defined in the Social Welfare Act.¹⁷ Victims of domestic violence (children and adults) are entitled to so-called temporary accommodation in crisis situations (Art. 112 of the Social Welfare Act), which lasts for six months and can be extended to another six months (one year in total).

Shelters in Croatia are financed through various programs.¹⁸ At the national level, there is one shelter operated as a state institution (the *Ošijek shelter*) and one shelter established and fully funded by the city (*Duga - Zagreb*). All other shelters receive financial support through a three-year tender issued by the ministry responsible for social welfare, through direct contracts with the Ministry (per bed), or through financial support from regional (county) or local (city) authorities (in varying proportions). The accommodation is free of charge for the clients.

There are some differences between shelters in terms of referral procedures. In

knowledgeable of services so that they may also make referrals“. Wendy Auja, “Domestic Violence and Immigrant Women’s Access to Services in Edmonton, Alberta”, *Justice Research* 1, (2010): 72.

14 Floriani, Dudouet, *WAVE Country Report 2021*, 14.

15 Nela Pamuković, and Tanja Ignjatović hold that this jeopardizes the autonomy of the shelters and direct all shelters to operate like state shelters. Preservation of the independence and autonomy of women’s shelters is one of the recommendations in WAVE country report. Floriani, Dudouet, *WAVE Country Report 2021*, 15.

16 Regulation on Minimum Conditions for the Provision of Social Services, Official Gazette, no. 40/14, 66/15, 28/21, 144/21.

17 Social services are defined as “activities, measures and programmes aimed to prevent, recognize and solve problems and adversities of individuals and families and to enhance the quality of their life in the community”. Art. 70 of the Social Welfare Act, Official Gazette, no. 18/22, 46/22.

18 Ministry of Demography, Family, Youth and Social Policy, *National Strategy for Protection against Domestic Violence for the period 2017 - 2022*, Access 2nd January 2022, <https://mrosp.gov.hr/UserDocsImages/dokumenti/MDOMSP%20dokumenti/Nacionalna%20strategija%20zastite%20od%20nasilja%20u%20obitelji%20za%20razdoblje%20do%202017.%20do%202022.%20godine.pdf>.

some shelters, housing is provided on the recommendation of the Centre for Social Welfare or through referral by the police, while in other shelters, housing is provided on the client's own request through an SOS call or through counselling. According to communication with shelter managers, the biggest challenge for most shelters in Croatia is unsteady funding. This situation is not unique to Croatia, as can be seen in the WAVE country report, where one of the recommendations is that "governments must ensure these vital support services receive adequate, long-term funding, so that they have sufficient capacities and provide services free of charge to all women survivors of gender-based violence".¹⁹

It is worth noting that shelters for IPV victims were not of much interest to the Croatian scientific or professional community beyond periodical advocate purposes and as a very important specialised service for IPV victims, they need much more attention, starting with improving data collection on the use of women's shelters at the national level.^{20,21}

3 SHELTERS FOR IPV VICTIMS DURING THE PANDEMIC

Like many other areas in societies around the world, the protection system for IPV victims was affected by the COVID-19 pandemic. Many relevant organisations and experts warned of the limited availability of services for IPV victims during the closure periods in many countries. Shelters were also affected by the implementation of public health requirements in terms of space, additional rooms for isolation (at the beginning of the accommodation and in case of illness), and in terms of staff. Some shelters in Croatia were additionally affected by the earthquakes. The health safety of clients and staff was of paramount importance for shelter operations. The need to take public health measures in shelters has led some national organisations to establish guidelines or protocols on how to provide this particular service while meeting public health requirements.²² In Croatia, the nongovernmental organisation Women's Room, in collaboration with UNICEF, developed recommendations for working with women and children - victims of violence during the COVID-19 pandemic.²³

There is little literature on the impact of a pandemic on the work of shelters. The main reason for this may be that the focus is (understandably) on IPV victims.

19 Floriani, Dudouet, *WAVE country report 2021*, 15.

20 The importance of the appropriate data collection is formulated as one of the recommendations in WAVE reports, and the lack of reliable data in Croatia is recognized in Mamula, ed., *Organizacije civilnog društva koje pružaju specijalizirane servise ženama žrtvama nasilja kao ključni akteri u procesu demokratizacije društva*, 8.

21 Norway can be used as a model in that sense - according to Bergman, Bjornholt, and Helseth, "Norway collects, analyse and publish statistics from shelters every year". Bergman, Bjornholt, Helseth, *Norwegian Shelters for Victims of Domestic Violence in the COVID-19 Pandemic*.

22 *Alberta Council of Women Shelters, COVID-19: Interim Guidelines for Women's Shelters*, Access 5th January 2022, https://acws.ca/wp-content/uploads/2020/04/2020-03-27_COVID19-InterimGuidelinesDV.pdf.

23 *National Strategy for Protection against Domestic Violence for the period 2017 - 2022. Report on the Implementation of Measures in 2019 and 2020* (Zagreb: Ministarstvo rada, mirovinskog sustava, obitelji i socijalne politike, 2021), 50-51.

However, a holistic approach to the problem of IPV also requires an assessment of the impact of the pandemic on the support system.

UN WOMEN²⁴ has issued recommendations for governments, civil society, and international organisations for providing basic services to women and girls survivors of violence with examples of promising practises. The GREVIO report covering the period from June 2019 to December 2020,²⁵ highlights some examples of good practises and good adaptations of specialised services during the pandemic. In terms of shelter, it notes that the pandemic has exacerbated existing gaps and that many CSOs have cited inadequate funding as the main barrier to effective service delivery.

A systematic assessment of the impact of the pandemic on shelter work has not yet been undertaken, so we can rely on existing studies at the national level. Data for shelters are generally embedded in the analysis of general service providers. Nevertheless, there are several studies that shed light on the situation of shelters during a pandemic. The American NASH²⁶ (National Alliance for Safe Housing) examined the needs of shelter practitioners during the pandemic. The analysis found that practitioners' main concerns fell into four categories: (1) managing residential housing programs, (2) obtaining resource materials for survivors, (3) staff safety, and (4) maintaining organisational operations.

Women's Shelters Canada²⁷ conducted a national survey of women's shelters and transition houses regarding the impact of the pandemic and their response to it. The majority of respondents reported changes in shelters and transition houses. In many facilities, capacity (number of beds) has been reduced (due to necessary isolation units and physical distancing measures), and some changes in communal areas have had to be made to meet public health requirements.

Bergman, Bjornholt, and Helseth²⁸ examined the responses and adaptations of Norwegian shelters to the pandemic and its impact on the services they provided to victims. The main findings are as follows: During the lockdown, 60% of the shelters had to change admission conditions due to the public health measures. Almost 70% of the shelters reported staff reductions (quarantine, isolation, sick leave, caregiver leave due to day-care centres and schools' closure), and limited group activities with clients. Several shelters emphasized the extra effort their staff made to maintain quality services for their clients. Almost 2/3 of shelters expressed concern about their financial

24 UN Women, *COVID-19 and Essential Services Provision for Survivors of Violence Against Women and Girls*, Access 5th January 2022, <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Brief-COVID-19-and-essential-services-provision-for-survivors-of-violence-against-women-and-girls-en.pdf>.

25 *Second General Report on GREVIO's Activities*, Access 15th January 2022, <https://rm.coe.int/grevio-s-second-activity-report-2021/1680a2165c>.

26 Nkiru Nnawulezi, and Margaret Hacskeylo, "Identifying and Responding to the Complex Needs of Domestic Violence Housing Practitioners at the Onset of the COVID-19 pandemic", *Journal of Family Violence* (2021), <https://doi.org.10.1007/s10896-020-00231-8>.

27 Women's Shelter Canada, *Shelter Voices: The impact of COVID-19 on VAW Shelters and Transition Houses*, Access 9th January 2022, <http://endvaw.ca/wp-content/uploads/2020/11/Shelter-Voices-2020-2.pdf>.

28 Bergman, Bjornholt, Helseth, *Norwegian Shelters for Victims of Domestic Violence in the COVID-19 Pandemic*.

situation (due to additional costs) as well as their resources (in terms of the suitability of the premises with respect to public health requirements). Several shelters shared concerns for children as a special group (resources for online schooling during the closure). The authors conclude that the Norwegian shelters made efforts to maintain the quality of services they provided to their clients, although they experienced some changes and modifications in their work due to the pandemics and public health requirements. They also noted that the number of requests for shelter decreased during the lock-down, and they acknowledged the importance of future studies that would examine staff experiences and challenges to working during the pandemic. Consistent with the GREVIO report,²⁹ this study also confirmed that the pandemic exacerbated existing challenges to the work of shelters, namely, funding, resourcing, and staffing.

In Croatia, the non-governmental organisation Women's Room (Centre for Victims of Sexual Violence)³⁰ conducted a survey on "Working with women and children - victims of violence during the pandemic COVID-19" with 33 organisations experienced in working with women and children and providing various services (shelters 31%; counselling, helplines etc.). The organisations were asked about their work during the pandemic. The experiences in shelters were related to difficulties in meeting public health requirements and necessary working conditions. Some of the challenges were the following: Organisation of online schooling; higher expenses for hygiene items; limited capacity due to the space needed for isolation (e.g. the shelter has four rooms with four beds, and one room had to be used for isolation); the lack of clear instructions from the relevant authorities on what to do in certain situations; a lack of protective equipment; COVID-19 testing prior to admission was not coordinated well enough; the competent ministry did not have a clear picture of the extent of capacity reduction due to the mandatory room for isolation; the closure of the shelter to new clients (in cases where it was not possible to ensure a room for isolation); the travelling passes (during lockdown) delayed accommodation of new clients, etc. Based on the studies presented, it can be concluded that shelters had comparatively the same experience during the pandemic.

4 AIM

The aim of this study was to explore professionals' perspectives on the impact of the COVID-19 pandemic on shelter practises in Croatia with following research questions: 1) How did shelters change their work during the pandemic? 2) How did participants describe the occurrence of and response to vicarious trauma? and 3) What did participants learn from their experience of the pandemic crisis?

29 *Second General Report on GREVIO's Activities.*

30 *Sažetak istraživanja "Rad sa ženama i djecom žrtvama nasilja u vrijeme pandemije COVID-19",* Access 28th December 2021, <https://tinyurl.com/2tresn5t>.

5 METHODS

5.1 Participants

Ten staff members (all female) of shelters for victims of domestic violence participated in group interviews. Information about the organisations, and the number of participants per interview can be found in Table 1. The participating shelters are located in five different counties. The participants primarily have basic education in so-called “helping professions” (psychologists, social workers, family counsellors) and sociology and have professional experience ranging from 3 to 15 years.

Table 1 Number of Participants in Interviews

ORGANISATION	NO. OF PARTICIPANTS
<i>B.a.B.e. – Sigurna kuća Vukovarsko-srijemske županije (Vukovar)</i> (<i>B.a.B.E. – Safe house of the Vukovar-Syrmia County</i>)	1
<i>Caritas Splitsko-makarske nadbiskupije, Sklonište za žene (Split)</i> (<i>Caritas of the Split Makarska Diocese, Shelter for women and children – victims of family violence</i>)	2
<i>Ženska grupa Karlovac “Korak“ (Womens’ group Korak), Dom za djecu i odrasle – žrtve obiteljskog nasilja “Duga – Zagreb“ (Home for children and adults – victims of family violence Duga – Zagreb)</i>	3
<i>Caritas Zagrebačke nadbiskupije (Zagreb) (House for victims of family violence, Caritas of Zagreb Archdiocese), Dom Duga – Zagreb (Home for children and adults – victims of family violence “Duga – Zagreb”), Centar za žene Adela (Sisak) (Adela Center for women), Udruga “Sigurna kuća Istra“ (Pula) (Safe House Istria)</i>	4

5.2 Data Collection

To conduct this study, we obtained approval from the Institutional Review Board (Ethics Committee) of the Faculty of Education and Rehabilitation Sciences, University of Zagreb. All shelters that were in operation during the lockdown were contacted by e-mail and later by telephone. Basic information was provided about the project and about the ethical principles of interviews. In addition, the questions for the interview were also listed.

Four dates were offered, and shelters were asked to select one that was convenient for them. It was mentioned that multiple professionals from each shelter could participate. A week later, the same email was sent with two more dates to shelters that had not responded to the first call. A total of three group interviews and one individual interview were conducted. All interviews were conducted via the Zoom platform (by the first author) during September and October, recorded, and subsequently transcribed.

5.3 Data Analysis

The data were analysed using a framework analysis³¹ consisting of five main steps: familiarisation, identification of a thematic framework, indexing, charting and mapping, and interpretation. For the purposes of the project report, the defined framework for analysis consisted of four coded themes: 1) Difficulties and challenges of working during a pandemic, 2) facilitating factors 3) impact of the pandemic, and 4) recommendations. Through the analysis of these data, themes were identified that needed additional analyses. Therefore, the data obtained through the basic analysis process were recoded based on the research questions posed. At this higher level of analysis, the data for the three themes presented in this paper were recoded. The first and second levels of analysis were conducted by one author of this paper through discussions on data analysis with another author. This ensured the validity of the data.

6 RESULTS AND DISCUSSION

The results of the analysis show that the experiences of the participants in this study can be described by three themes (shown in Table 2). The description of the themes is presented in the following text through the responses to the research questions.

Table 2 Themes and Related Categories

THEMES	CATEGORIES
Changes in working conditions in organisations during the pandemic	Reorganisation of space and working conditions and increased workload; Fewer requests for shelter during the lockdown and reduced shelter capacity in general; Less professional work, more administration, and focus on maintaining physical health in the first wave; Now more intake requests, high turnover, and more complex needs of clients than before.
Emotional challenges	Increased levels of fear, anxiety, worry, and stress; Isolation, loneliness, and alienation; Neglect of one's own needs and emotions due to the dedicated workload; Frustration with inappropriate epidemiologic measures, ambivalence over compliance; Overworked and overwhelmed professionals.

31 Nicola K. Gale *et al.*, "Using the Framework Method for the Analysis of Qualitative Data in Multi-Disciplinary Health Research", *Medical Research Methodology* 13, (2013): 1-8, <https://bmcmedresmethodol.biomedcentral.com/articles/10.1186/1471-2288-13-117>; Anne Lacey, and Donna Luff, *Qualitative Data Analysis*, Access 5th January 2022, https://www.rds-yh.nihr.ac.uk/wp-content/uploads/2013/05/9_Qualitative_Data_Analysis_Revision_2009.pdf.

Positive effects of the pandemic	<p>Found strategies for the organisation to function despite the crisis;</p> <p>The importance of material and social support in a crisis, cooperation and coordination;</p> <p>The importance of taking care of yourself;</p> <p>Strengthened self-awareness and self-confidence of clients and professionals, and empowerment of professionals;</p> <p>Strengthened social relationships/greater connectedness between clients and professionals;</p> <p>Improved IT skills and digital competence of professionals;</p> <p>Raised awareness of the importance of the existence of strategies and protocols for working in crisis.</p>
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The results of the analysis show that the research question, “How did the shelters change their work during the pandemic?”, corresponds to a theme called “Changes in the working conditions of organisations during the pandemic”. The theme reflects the changes in the working and spatial conditions of the shelter, as well as the changes in the characteristics and number of clients during the pandemic. Accordingly, the theme consists of categories listed in Table 2.

The epidemic and the application of epidemiological measures inevitably led to a restructuring of the spatial and working conditions in the shelters, including an increased workload for the staff. The latter manifested itself in new roles, responsibilities, and increased demands and tasks for professionals. In terms of increased workload, participants described the following: more administrative tasks (e.g., involving daily written reporting to the relevant authorities), and additional tasks related to compliance with the measures in the shelters (e.g., constant cleaning, disinfection, ventilation; writing instructions and protocols for the application of the measures and training beneficiaries and staff on the implementation of the measures; changes in the organisation of work in the shelters, etc.).

In addition, during the lockdown, they focused on providing practical support to women in the shelters, such as: babysitting while mothers were working, transporting mothers to and from work when public transport was not running, organising transport for vulnerable clients, or transporting clients to hospital for therapy; obtaining technology for distance learning for children in the shelters, and shopping for clients.

They reorganised work primarily by working in teams and working from home for a portion of the employees (with 24/7 availability expected for those working from home). They also switched to online and telephone work for some services and clients. Some participants indicated that some of their activities were suspended (e.g., because they could not accommodate new clients due to limited space as they did not have space for self-isolation; some educational activities or some joint activities with clients like cooking and eating together were also suspended).

Besides, new topics emerged in the work with the clients that they had not dealt with before, such as: Education on the use of epidemiological measures and developing protocols for dealing with the pandemic and the earthquake. Also, participants created informational and/or educational materials for newly arrived clients who were in self-

isolation.

Moreover, the negative effects of the pandemic, manifested in the number of clients during the pandemic, were observed in two directions. That is, during the lockdown and at the beginning of the pandemic, there was, a lower number of requests for accommodation. There were generally fewer requests for shelter, and the question is - whether this was reflective of reality? Further, compliance with epidemiological measures inevitably led to a reduction in shelter capacity in all shelters. Given the need to restructure shelter space, some did not even accept new clients during the lockdown because they didn't have space for self-isolation, while others had to convert one of their rooms into a room for self-isolation.

On the other hand, some participants reported that at the time of the study, the number of admission requests had increased and the needs of clients were more complex than before ("We now have more clients with severe psychiatric diagnoses than before"). In addition, some respondents also spoke of a greater turnover of clients, stating that at the beginning of the lockdown, some women left the shelter of their own accord (despite the possibility of continued placement) when measures restricting movement were imposed. Some of the interviewees spoke of high client turnover because some women stay in the shelter for only a short time (which some associate with their complex needs, and severe mental health problems).

When it comes to working directly with clients, there've been changes in the professional work. For example, it is clear from the participants' statements that during the first wave of the pandemic and the lockdown, there was slightly less professional work but more management, administration, and dealing with ensuring the physical safety and health (of both staff and clients). In addition, some professionals also spoke of certain clients not accepting online services.

The answer to the *second research question* is described in a theme titled "Emotional challenges for professionals during the pandemic". When it comes to their experiences with vicarious trauma, while participants mostly did not speak directly about this issue in the context of the pandemic itself, analysis of the data still revealed many participant reports of emotional difficulties and uncomfortable feelings. For example, they mentioned increased levels of fear, anxiety, worry and stress as well as feelings of isolation, loneliness, and alienation in addition to neglect of their own needs and emotions due to the dedicated workload. They also talk about their own frustration with inappropriate epidemiological measures, ambivalence, and internal conflict related to compliance with prescribed measures. Some also spoke about their own feelings of being overworked and overwhelmed at the time of conducting the research (because of the pandemic).

In more detail, during the pandemic, experts faced their own emotional challenges. Both clients and staff were exposed to increased levels of stress - due to fear of the unknown (in terms of the virus, especially at the beginning of the pandemic) and its potential consequences. They spoke of worrying and feeling anxious about the possibility of infecting staff, clients (especially clients who are high-risk patients or babies who were in the shelter with their mothers at the time), or their household and family. They also reported feelings of uncertainty and unpredictability, even chaos

and insecurity, exacerbated by the enormous pressure on shelter staff by the relevant authorities and organisations regarding compliance with prescribed measures, which, as explained earlier, were often inadequate and unworkable in practice. Such measures led to what participants refer to as mistrust in the work of the relevant institutions, and state agencies responsible for the functioning of the state and society during the pandemic. In this sense, the participants reported that they themselves were subjected to constant and prolonged tension and pressure, and some of them mentioned heavy feeling that the pandemic would never end. On the other hand, while participants also reported feeling worried, they also mentioned feeling a great responsibility for their clients (despite being exposed to stress, and pressure). In addition to all this, some spoke of the earthquakes that hit parts of Croatia as an additional burden in an already difficult situation. Regarding the work with clients, they were particularly concerned about how they would accept the measure of mandatory self-isolation if needed, but also about how they would react to living in a state of self-isolation (especially in the case of newly arrived clients and mothers with children who had just been placed in the shelter). In this sense, they worried about further traumatization of their clients (who often faced various perpetrator-enforced restrictions in life before their arrival). They were also concerned about whether mothers with children would be able to endure self-isolation if placed in a shelter due to their psychosocial characteristics, trauma, and complex needs, as self-isolation is psychologically stressful.

These difficult emotions, as well as the implementation of the measures (e.g., shift work, working from home, prohibition of mixing clients and/or employees, etc.), led to a general feeling of loneliness and even alienation for some participants (especially at the beginning of the pandemic and at a time of lockdown, when the measures were extremely restrictive).

The aforementioned distrust of authorities due to inadequate measures and poor communication with staff reinforced the experience of self-alienation for some participants. Professionals were frustrated, and some were even very angry about the inappropriate epidemiological measures. In this context, they also spoke of ambivalences and internal psychological conflicts about compliance with the measures - for example, whether to make exceptions in complying with measures for the benefit and in the interest of clients or whether to strictly follow and implement (illogical) measures. This frustration with the measures has persisted to this day and manifests itself, for example, in the fact that it is mandatory for employees to undergo COVID testing, while clients do not have to do so. Thus, participants note a double standard in that shelter staff are perceived as a source of danger to clients, whereas the threat clients may pose to shelter staff is not given consideration.

Due to the aforementioned sense of responsibility for the clients they work with, some professionals also spoke about the neglect of their own needs, especially emotional ones. Thus, they talked about the suppression and non-processing of their own (difficult) emotions that they had because they were extremely focused on their clients and worked sacrificially. They say that since they were doing so much work, they had no time at all to process what was actually happening (“2020! I remember it as if through a fog!”). Some repressed their fear, anxiety, and sense of uncertainty

(“There was no time for that!”). So, it seems that during the interviews they become aware that they have not managed to process everything that happened.

In addition to the above, some of the interviewees had to worry about the financial sustainability of the shelter, so they had to write project proposals in order to ensure the funding of the shelters in the future. Finally, the pandemic and the difficult working conditions described have led some of the interviewed professionals (albeit a minority) to feel overworked and overwhelmed, especially since the pandemic continues, and there is no end in sight.

In terms of responding to the question of how participants dealt with these emotional challenges, the categories within the third theme give an answer to that, particularly those related to the importance of social support in a crisis and self-care (including through supervision, which they rarely or never have). These categories are described as follows as they are an essential part of the third theme.

Regarding the *third research question*, it is important to note that almost all participants talked about certain positive aspects and lessons learned from the pandemic crisis which are reflected in several aspects. First of all, it is a fact that shelters did not close their doors during the pandemic, meaning that they found strategies to function in crisis situations and adapt to the existing conditions.

One of the most important coping strategy was the flexibility (e.g., maintaining humanity and not blindly following measures) and resourcefulness of professionals at work, a proactive approach and focus on finding solutions to problems (e.g., in implementing measures, fundraising for equipment, using private channels to purchase protective equipment, etc.), as well as self-orientation and focus on one’s own strengths and resources (especially when there was no outside support). In addition, it was important to take care of oneself during the pandemic and to establish a balance between personal and professional life to maintain one’s mental health. In this sense, they mention daily interventions and co-professional support as well as the use of self-help measures (using one’s own knowledge and expertise to help and empower oneself). Some described their daily work as customarily punctuated by times of adversity; thus, COVID-19 was presented as another challenge to the service. A small number of them also mentioned the importance of participating in supervision sessions during the pandemic as well as support from their own family and loved ones. According to participants, the afore mentioned facilitating factors had a direct impact on better efficiency at work. As for work-life balance, they cited the importance of activities, and hobbies in their free time, which they cultivated during the pandemic. They also say that vacations were important to recharge their batteries. For some, volunteering in their free time with the goal of regaining a sense of control over their lives was also an important coping factor and lesson they learned.

In addition, material and social support at different levels, i.e., inside and outside the shelter, was very important in helping them cope and adjust to the new conditions. For example, after a lack of material resources at the beginning of the pandemic, protective equipment, COVID testing, and technology, facilitated their work and functioning in the later stages of the pandemic. Regarding social support, all participants emphasised the great importance of good relationships and open

communication within their organisation, cohesion of the work collective, and co-professional support (through interventions, and informal communication with other colleagues) during the pandemics. They saw this support, from work colleagues as well as from clients, as an extremely important factor in adapting to working conditions.

Participants also discussed the feeling of empowerment, both at the individual level and in social relations. The strengthened social relationships were described by higher levels of cohesion, closeness and connection between professionals and clients than before the pandemic, so it seems that the common adversity brought them closer together. Regarding relationships with clients, most shelter professionals testified that they observed changes in their interactions, which manifested in the form of greater and more intense bonds than usual. They described how they felt supported by the clients and saw the women as very responsible (e.g., they were aware of the seriousness of the COVID situation; were responsible for compliance with the measures; took care of others in solidarity so that they could watch the children for the mothers while they are at work; cooked and carried meals to the clients in self-isolation, etc.). Support of the clients towards the professionals (and other clients) was seen as an important motivator for perseverance and continued work.

In terms of the positive impact of the pandemic at the individual level, they described an increase in self-examination and knowledge of their own skills and/or resources to cope with the crisis. This led to greater self-confidence among professionals, but also among some clients. Participants say they learned a lot about themselves and/or about their organisation. For example, they realised that they are more adaptable than they thought, that they can function in such situations, and that they are strong as an organisation. From professionals' point of view, clients also became aware of certain resources of their own ("that they have strengths and are not just miserable").

In addition, they cited the improvement of their own IT competencies as a gain, as well as awareness of the benefits of digital technology as a useful tool at work (e.g., networking, information flow, online education resources, online counselling).

Finally, regarding the lack of cooperation and coordination among the relevant authorities during the pandemic, professionals were aware of the need to establish a strategy and protocols for working in crisis situations, at the national and regional levels, but also at the level of each shelter, depending on their specifics and characteristics.

To date, research has focused primarily on victims, while professionals responsible for providing support for victims of IPV have rarely been asked about their experiences, especially in the Croatian context. However, this perspective is critical for staff' occupational and mental health and optimising the care of IPV victims, particularly during the pandemic.

The pandemic COVID-19 had an impact on the work of shelters and on professionals. This finding is consistent with those of some of the existing literature.³²

32 Nnawulezi, Haesckaylo, *Identifying and Responding to the Complex Needs of Domestic Violence Housing Practitioners at the Onset of the COVID-19 Pandemic*; Bergman, Bjornholt, Helseth, *Norwegian Shelters for Victims of Domestic Violence in the COVID-19 Pandemic; Summary*

For example, Norwegian women's shelters, like Croatian shelters, struggled to maintain quality services for their clients, although they underwent some modifications in their work due to the pandemics and public health requirements.³³

Professionals' working conditions changed rapidly, and they expressed frustration, uncertainty, and sometimes even loneliness. Our results show that professionals experienced increased workload during the crisis. However, they in general managed a balancing act between implementing public health measures and maintaining shelters availability. In addition, their workload increased while shelter capacity was reduced due to self-isolation measures. This last finding is consistent with the results of studies from Canada³⁴ and Norway.³⁵

Staff noted that they did less direct support for victims and did more administrative work during the first wave and lockdown while focusing on maintaining the physical health of shelter staff and clients.

Most participants experienced difficult emotions and faced many emotional challenges during the pandemic. Working from home, prohibited group activities in the shelters, and prohibited mixing of clients and professionals led to feelings of loneliness and isolation for some of the professionals. They worried about their own well-being and that of their clients. Also, they felt a great responsibility for their clients. Some feared that they might end infect their relatives. In almost all the shelters, there were coordination problems between the shelters and bodies responsible for public health measures, which some described as creating a chaotic environment. They were subjected to enormous pressure from the relevant authorities regarding compliance with the prescribed measures, which in practice were often unworkable. As a result, they distrusted the work of the relevant institutions. All of this led to significant stress and increased mental strain for professionals, especially at the beginning of the pandemic, when they had less opportunity to discuss these difficulties live with colleagues.

Wood *et al.* surveyed staff at IPV and sexual assault agencies about stress, work, and health and safety planning before and during the pandemic. In this study, over 84% of respondents reported experiencing an increase in stress during the pandemic. We also found that participants reported a range of stressors, but also emphasised individual resilience. Our findings are similar to studies by Wood *et al.*³⁶ and Garcia *et*

Report: Impact of COVID-19 on Women and Children Experiencing DFV and Frontline DFV Services, Access 25th January 2022, <https://www.womenssafety.nsw.org.au/impact/publication/summary-report-impact-of-covid-19-on-women-and-children-experiencing-domestic-and-family-violence-and-frontline-domestic-and-family-violence-services/>; Women's Shelter Canada, *Shelter Voices, Special Issue*.

33 Bergman, Bjornholt, Helseth, *Norwegian Shelters for Victims of Domestic Violence in the COVID-19 Pandemic*.

34 Women's Shelter Canada, *Shelter Voices, Special Issue*.

35 Bergman, Bjornholt, Helseth, *Norwegian Shelters for Victims of Domestic Violence in the COVID-19 Pandemic*.

36 Wood *et al.*, *On the Front Lines of the COVID-19 Pandemic*.

al.³⁷ in the USA, but also to the study by the European Institute for Gender Equality,³⁸ which also reported that stress levels among IPV advocates increased during the pandemic.³⁹

Social support from their own families, colleagues, and clients, was a lifeline to relieve this stress. They used coping strategies such as intervision, and communication with colleagues to manage stress to some degree. Creating a healthy work-life balance and maintaining leisure activities were also important strategies (but also something they learned and became aware of). In their view, the professionals' supervision is necessary, especially in crisis situations. Staff faced significant challenges and should take care of themselves psychologically considering their changed work practises to maintain their ability to help their clients. The pandemic can cause secondary trauma for IPV professionals so effective coping strategies are needed. Studies⁴⁰ suggest that self-care, self-confidence, teamwork, and getting together with colleagues are some practical ways to alleviate psychological pressure, work stress, and post-traumatic experiences in the midst of caregiver emergencies, which was consistent with the findings of this study.

Also, the results showed some other positive effects of the pandemic (besides social support), such as increased self-esteem, confidence, and empowerment of professionals, as well as improved digital literacy. Staff were also made aware of the importance of strategies for working in crisis.

7 CONCLUSION

This study highlighted the experiences of the IPV shelter staff during the COVID-19 pandemic. The findings of this study add to the existing literature on the impact of the pandemic on professionals working in the field of IPV, but also on how IPV organisations adapted to the pandemic. As in other countries, the pandemic created multiple challenges but also opportunities at individual and organisation levels. Results describe the strengths of shelter staff and their commitment to provide the best quality service to their clients, despite many obstacles and personal challenges.

37 Rebecca Garcia *et al.*, "The Impact of the COVID-19 Pandemic on Intimate Partner Violence Advocates and Agencies", *Journal of Family Violence* (2021): 1-14, <https://doi.org/10.1007/s10896-021-00337-7>.

38 EIGE, *Gender-Based Violence: The COVID-19 Pandemic and Intimate Partner Violence Against Women in the EU* (Luxembourg: Publication Office of the European Union, 2021), 36.

39 It should be kept in mind that stress increase was observed in general population worldwide, not only among IPV advocates. A study of Croatian general population confirms elevated stress and impaired mental health of Croatian citizens (*Kako smo? Život u Hrvatskoj u doba korone. Preliminarni rezultati istraživačkog projekta*, Access 18th January 2022, https://web2020.ffzg.unizg.hr/covid19/wp-content/uploads/sites/15/2020/06/Kako-smo_Preliminarni-rezultati_brosura.pdf).

40 Laura van Dernoot Lipsky, and Connie Burk, *Trauma Stewardship: An Everyday Guide to Caring for Self While Caring for Others* (San Francisco: Berrett-Koehler Publisher, 2009); Shaharior Rahman Razu *et al.*, "Challenges Faced By Healthcare Professionals During the COVID-19 Pandemic: A Qualitative Inquiry from Bangladesh", *Frontiers in Public Health* 9, (2021): 1-8, <https://doi.org/10.3389/fpubh.2021.647315>.

Listening to shelter staff voices and understanding their experiences during the COVID-19 pandemic should be an integral part of creating effective responses for future crises.

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Sažetak

PANDEMIJA COVID-19 I INTIMNO PARTNERSKO NASILJE: ISKUSTVA I ISHODI ZA STRUČNJAKE U SKLONIŠTIMA

Relativno se malo studija bavilo utjecajem pandemije COVID-19 na skloništa za žrtve intimnog partnerskog nasilja (IPN) i njihovo osoblje. U ovoj smo studiji proveli intervjue sa stručnjacima IPN skloništa kako bismo ispitali: 1.) kako su skloništa promijenila svoj rad tijekom pandemije; 2.) kako je osoblje opisalo pojavu i odgovor na posrednu traumu i 3.) što je osoblje naučilo iz svog iskustva s pandemijskom krizom? Iz podataka su proizašle tri glavne teme. To su: 1.) promjene organizacijskih uvjeta rada tijekom pandemije; 2.) emocionalni izazovi i 3.) pozitivni učinci pandemije. Kao i u drugim zemljama, pandemija je u Hrvatskoj donijela brojne izazove, ali i prilike. Osoblje skloništa pokazalo je svoje snage i predanost pružanju potpore žrtvama IPN-a tijekom pandemije. Njihova iskustva treba iskoristiti za razvoj učinkovitog odgovora na buduće krize.

Ključne riječi: *intimno partnersko nasilje; skloništa; osoblje; Hrvatska; COVID-19.*

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CHANGES IN BODY MASS, DRUG USE AND AGGRESSIVE BEHAVIOUR IN FORENSIC PATIENTS DURING THE COVID-19 PANDEMIC

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Prethodno priopćenje

Summary

The main objective of this study was to assess behavioural changes in forensic patients (those assessed as not guilty by reason of insanity and sent for an involuntary forensic treatment) during the COVID-19 pandemic restrictions. There were 82 patients treated at the Department for Forensic Psychiatry of the University Psychiatric Hospital Vrapče in 2020, 45 of which stayed in the department for the whole year. Data were extracted from their charts and from the nurses' reports about their body masses, additional therapy prescribed and incidents at the ward. During the lock-down due to the COVID-19 pandemic, the body masses of the forensic patients decreased significantly in the first weeks of the lock-down and stayed low during the rest of 2020. Patients used fewer additional antipsychotics, benzodiazepines, hypnotics and pain killers in April 2020 as compared to February 2020. In June 2020, the use of these drugs returned to pre-pandemic levels, with the exception of antipsychotics. In August 2020, painkiller use increased to higher than pre-pandemic levels. The number of incidents during lock-down was lower compared to pre-pandemic levels.

Keywords: COVID-19; forensic psychiatry; body mass; pharmacotherapy.

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1 INTRODUCTION

The COVID-19 pandemic has placed people around the world in unprecedented life conditions: People were banned from freely crossing the border and even from travelling within the country. Shops and services were closed for months, and restrictions to personal contacts were introduced. There have been drastic changes to daily life. COVID-19 is a disease caused by SARS-CoV-2 (severe acute respiratory syndrome Coronavirus-2) and is spread by respiratory droplets that are dispersed when coughing, sneezing or talking. The pandemic status of COVID was declared by the World Health Organization on the 11th of March, 2020. The first case of COVID-19 in Croatia was confirmed on the 25th of February, 2020.¹

After the introduction of anti-epidemic measures, there was a sudden drop in the numbers of visits to emergency units in 2020, similarly to earlier epidemics of SARS in Hong Kong.² The reasons for such decrease were fear of catching the virus in the hospital, a decrease in the number of incidents and traffic accidents due to the lock-down, a decrease in the number of elective surgeries and subsequent iatrogenic complications, better air quality, and a decrease in the number of infectious diseases due to the lock-down of schools and kindergartens. A similar decrease in the number of visits to psychiatric hospitals and outpatient facilities has been noted in connection with the decreased interest in hospital treatment as there was no option to leave the hospital during the weekend, visits were banned and group therapies were dismissed, in addition to other reasons mentioned earlier.³ The decrease in psychiatric emergency departments was between 15 and 52% in different countries.⁴

Life in a forensic facility, similarly to prisons, in some ways resembles the life of the rest of the public during the Corona pandemic. Yet, even more restrictions were implemented to prevent the spread of the disease among inmates and staff. Visits of family members and friends were banned altogether, and visits of lawyers, representatives and other legal staff were limited and restricted (and in some situations even banned for a certain period of time – e.g., if a staff member or an inmate had

- 1 Darko Ropac, Ina Stašević, and Goranka Rafaj, "Neki epidemiološki pokazatelji u pandemiji COVID-19 u Republici Hrvatskoj tijekom 2020", *Acta Medica Croatica* 74, no. 4 (2020): 303.
- 2 Dennis G. Barten, Gideon H. P. Latten, and Frits H. M. van Osch, "Reduced Emergency Department Utilization During the Early Phase of the COVID-19 Pandemic: Viral Fear or Lockdown Effect?", *Disaster Medicine and Public Health Preparedness* 16, no. 1 (2022): 2.
- 3 Dusan Kolar, "Psychiatric Emergency Services and Non-Acute Psychiatric Service Utilisation During the COVID-19 Pandemic", *European Archives of Psychiatry and Clinical Neuroscience* 271, no. 2 (2021): 391-392; Gautam Gulati, and Brendan D. Kelly, "Domestic Violence Against Women and The COVID-19 Pandemic: What is the Role of Psychiatry?", *International Journal of Law and Psychiatry* 71, (2020): 101594; Anita Kurtović Mišić, Lucija Sokanović, and Nina Mišić Radanović, "Kažnjiva ponašanja fizičkih i pravnih osoba za vrijeme pandemije Covid-a 19: između kaznenog, prekršajnog i upravnog prava", *Zbornik radova Pravnog fakulteta u Splitu* 58, no. 2 (2020): 419-439.
- 4 Barten, Latten, van Osch, *Reduced Emergency Department Utilization During the Early Phase of the COVID-19 Pandemic*, 2; Manuel Goncalves-Pinho *et al.*, "The Impact of COVID-19 Pandemic on Psychiatric Emergency Department Visits - A Descriptive Study", *Psychiatric Quarterly* 92, no. 2 (2020): 623; Victoria Brooks, "COVID-19's Effects on Emergency Psychiatry", *Current Psychiatry* 19, no. 7 (2020): 34.

tested positive for the Coronavirus).⁵ Nevertheless, in correctional settings – including forensic psychiatry – due to the specific policies on admissions and releases, it was difficult to implement distancing measures, because spaces for eating, sleeping and living must be shared among the inmates.⁶

Contrary to “civil”, “not-forensic” psychiatry, patients hospitalised in forensic psychiatric settings stay in these facilities for months and years. Decisions on their admissions and discharges depend on legal (judicial) reasons rather than medical reasoning and indications. Even during the pandemic, there was no reduction in admissions to forensic facilities.

To enable legal processes and procedures to continue, forensic psychiatry, shortly after the outbreak of the pandemic, introduced video conferences as well as tele-medical and tele-legal platforms. Legal, procedural and assessment interviews were organised through online systems. Although many studies show that online assessments are comparable to face-to-face assessments, there have been individual cases that proved to be problematic, both in assessment settings as well as court settings. For example, the interviewee can be accompanied by another person in the same room (and that person can be invisible to the interviewer), who can give instructions to the interviewee.⁷ Therefore, French psychiatrists opposed this way of conducting court-sanctioned psychiatric evaluations.⁸ Further restrictions inside the forensic setting were introduced to reduce the possibility of spreading the virus inside the facility. It is well documented that patients with severe mental disorders can have problems in applying protective measures, e.g., by refusing to wear masks or to stay isolated.⁹ Furthermore, in patients who use sedative psychotropic drugs, there is a risk of respiratory sedation in case of the infection. To protect the patients, group activities were stopped. This poses an additional risk of re-offending; research shows that participation in group therapy activities reduces prison recidivism rates.¹⁰ In addition, all temporary therapy leaves (e.g., visits to family members or therapeutic activities outside the hospital) were stopped.¹¹ Patients who were employed while residing at the forensic facility (e.g., going to work in the morning and returning to the facility after work) had to leave their jobs as all departures from the facility were banned.

- 5 Tobias Wasser, Lori Hauser, and Reena Kapoor, “The Management of COVID-19 in Forensic Psychiatric Institutions”, *Psychiatric Services* 71, no. 10 (2020): 1088.
- 6 Gary A. Chaimowitz *et al.*, “Stigmatization of Psychiatric and Justice-Involved Populations During the COVID-19 Pandemic”, *Progress in Neuropsychopharmacology & Biological Psychiatry* 106, (2021): 110150.
- 7 Eric Y. Drogin, “Forensic Mental Telehealth Assessment (FMFTA) in the Context Of COVID-19”, *International Journal of Law and Psychiatry* 71, (2020): 101595.
- 8 Thomas Fovet *et al.*, “French Forensic Mental Health System During the COVID-19 Pandemic”, *Forensic Science International: Mind and Law* 1, (2020): 100034.
- 9 Wasser, Hauser, Kapoor, *The Management of COVID-19 in Forensic Psychiatric Institutions*, 1089.
- 10 Ema Gruber *et al.*, “Terapijska zajednica odjela forenzičke psihijatrija zatvorske bolnice Zagreb”, *Kriminologija & socijalna integracija: časopis za kriminologiju, penologiju i poremećaje u ponašanju* 21, no. 2 (2013): 147.
- 11 Thomas Fovet *et al.*, *French Forensic Mental Health System During The COVID-19 Pandemic*, 100034.

Nevertheless, some patients stated that the social distancing and isolation measures imposed on the general population made their lives more similar to those of the patients.¹²

Forensic psychiatric systems vary by country, and some include prison psychiatry, while others do not. In Croatia, there is a distinction between forensic psychiatry and prison psychiatry. Patients of forensic psychiatry are assessed as not guilty by reason of insanity. They are not considered guilty of a crime and are sent for treatment to one of four forensic facilities in the country. These facilities are part of the health system, and there are no prison staff present (no guards). Patients of prison psychiatry receive psychiatric treatment for mental issues during their stay in prison. There is one such setting in the country, and it is part of the legal/penal system.¹³

1.1 Criminal Responsibility in Croatian Criminal Law

Mental disorders can cause one's criminal responsibility to be diminished or even completely excused due to specific symptoms. A person can have delusional ideas and therefore perceive reality completely differently, strongly believing that someone is going to hurt or even kill them, and they cannot understand the true nature of their surroundings. Similarly, patients with hallucinations have distorted views of their environment.

A diminished ability to understand or control one's behaviour is considered a valid reason to diminish or abolish one's criminal responsibility.¹⁴

Different European countries and legal systems have different levels of diminished responsibility (from one to three, apart from abolished criminal responsibility).¹⁵

In Croatia, there are four levels of criminal responsibility. Every person is considered criminally responsible at the age of 14. There are two levels of diminished responsibility, termed "diminished responsibility, but not severely" and "severely diminished responsibility". In addition, there is also the level of absent responsibility (i.e., criminally irresponsible or not guilty by reason of insanity). To be assessed as not guilty by reason of insanity, the person needs to be unable to understand the true nature of his/her behaviour at the time of the crime or unable to control his/her behaviour due to a mental illness (most often a psychotic disorder).¹⁶ Different mental symptoms, syndromes and disorders (e.g. strong emotional reactions, severe substance dependence etc.) can lead to the assessment of diminished criminal responsibility.

12 Kolar, *Psychiatric Emergency Services and Non-Acute Psychiatric Services Utilization During COVID-19 Pandemic*, 391.

13 Nadica Buzina, Vlado Jukić, and Goran Arbanas, "Kazneno-pravni aspekti forenzičke psihijatrije", u: *Hrvatska psihijatrija početkom 21. stoljeća*, ur. Vlado Jukić (Zagreb: Medicinska naklada, 2018), 335; Goran Arbanas, "Dynamic Group Psychotherapy in Forensic Psychiatry", *Psihoterapija* 34, no. 1 (2020): 34.

14 Criminal Code, Official Gazette, no. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19, 84/21 (hereinafter cited as CC/11).

15 Harold Dressing, Hans Joachin Salize, and Harvey Gordon, "Legal Frameworks and Key Concepts Regulating Diversion and Treatment of Mentally Disordered Offenders in European Union Member States", *European Psychiatry* 22, no. 7 (2007): 427.

16 Art. 24, Para. 2 of the CC/11.

Offenders assessed as not guilty by reason of insanity are not considered guilty and cannot be proscribed any legal sanctions apart from psychiatric treatment (either in a hospital or as outpatients).

Offenders assessed as of diminished responsibility still have to face legal sanctions (because they still have at least some level of criminal responsibility). In addition, they can also be referred to psychiatric treatment or treatment for substance dependence. These treatments can be organised inside a prison (if the person receives a prison sentence) or in a civil health system (if the person receives a suspended sentence/probation).

1.2 Rights of People with Mental Disorders (Including Forensic Patients) in Croatia

The first law protecting persons with mental disabilities in Croatia was issued in September 1997. In the latest version of this law,¹⁷ Article 14 lists the 19 specific rights of persons with mental disabilities, such as: the right to be familiarised with one's rights; the right to know the reasons and aims of the hospitalisation; the right to be treated in the psychiatric hospital nearest to the place of residence etc.

Some of these rights were restricted during the COVID pandemic. One of the rights, the right to educate and advance one's career, was banished during the pandemic due to restrictions from leaving the hospital. In some cases, during the strictest lockdown, it was impossible to meet physicians or lawyers in person (also one of the listed rights). Right number 11 is the right to associate with other people in the facility and to be allowed to have visits from other people. This right was the most dramatically violated due to the health restrictions.

2 RESEARCH METHODOLOGY

2.1 Sample

The sample in this study were people who were hospitalized at the University Psychiatric Hospital Vrapče, Department for Forensic Psychiatry during 2020. This department has 70 beds, which were fully occupied during 2020. There are four forensic facilities in Croatia with 358 beds.¹⁸ We included, in the statistical analysis, only those patients who were hospitalized before the 1st of February 2020 and who were not released before the 1st of January 2021. This inclusion criterion was introduced to have all the data for all of the participants. Therefore, the sample consisted of 45 forensic patients, 41 men and 4 women. There were 82 patients treated at the facility during the same period, but the rest were not hospitalized during the whole period.

All of the patients were assessed as not guilty by reason of insanity (NGRI) with high risk of committing a new crime in the future and therefore sent for an involuntary forensic inpatient treatment.

Patient age was 49.8 ± 12.5 on average (range 23 to 70).

17 Law on Protection of Persons with Mental Difficulties, Official Gazette, no. 76/14.

18 Buzina, Jukić, Arbanas, *Kazneno-pravni aspekti forenzičke psihijatrije*, 330-336.

Diagnoses were reached according to ICD-10¹⁹ and are present in Table 1. 73.3% of the patients have a diagnosis of psychosis (F20-F29).

2.2 Method and Procedure

Data were collected from nurses' reports and chart lists. Patients' weight was regularly measured (monthly), and these data are written in their charts. All the medication given to each patient is written on the chart by a physician.

Nurses working at the ward write a report after each shift, giving details of the patients' behaviour, and every incident (no matter how small) is included in the report. The report is written twice a day (at 7 a.m. and at 7 p.m.).

One of the authors read all the reports and patient charts covering February, April, June, August, October and December of 2020 and transferred all the data.

Data collected included weight, any additional therapy (given to the patient in addition to regular, every-day therapy) and all the incidents that happened on the ward.

The first case of COVID in Croatia was confirmed in February 2020, and the government introduced the first restrictions in March 2020. Therefore, we decided to collect data starting from February 2020 (base line, pre-pandemic).

3 RESULTS AND DISCUSSION

Figure 1 shows the average body mass of our sample during 2020. As can be seen from the graph, the average body mass decreased steadily until October. The biggest drop occurred in April, compared to February ($p < 0.001$).

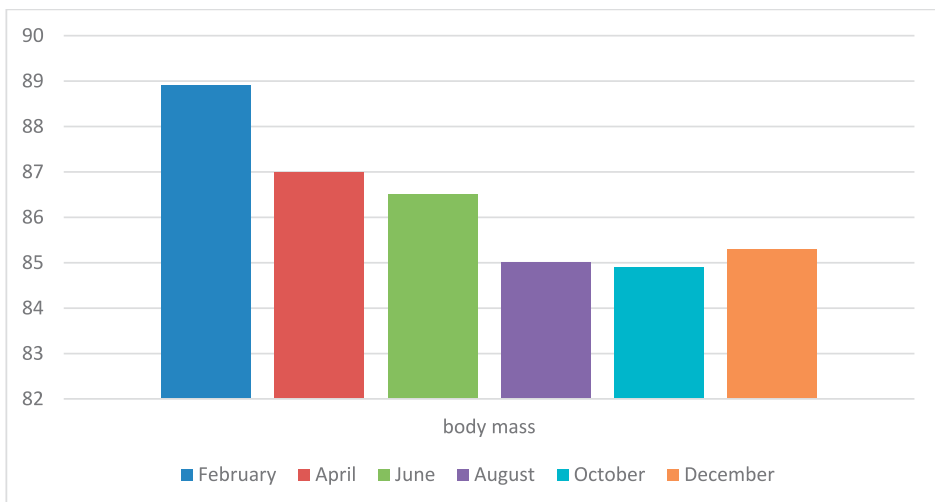


Figure 1 Average Body Mass in 2020 Over Months

19 World Health Organization (WHO), *The ICD-10 Classification of Mental and Behavioural Disorders* (Genève: World Health Organization, 1993).

When lockdown was introduced in Croatia, the Ministry of Health issued a recommendation for all hospitals to reduce contacts between hospitalized patients and visitors but also banned all temporary exits from the hospital.²⁰ Before the lockdown, approximately two-thirds of forensic patients in our facility were allowed to go to the nearest supermarket and shops to buy some necessary sanitary products, cigarettes and food. With the start of the lockdown, patients were banned from leaving the hospital. Even in case of emergencies (e.g., visiting another medical facility for health reasons, attending the funeral of a family member etc.), after their return to the facility, they had to be quarantined for 14 days in their rooms, with no contact with other patients. Previous to the lockdown many of the patients would buy unhealthy food (i.e., snacks, cookies, chocolate etc.) during their visits to local shops. With the reduction of exits from the facility, they were left to eat only the food they were offered in the hospital. Without this additional calorie intake, their body mass was reduced.

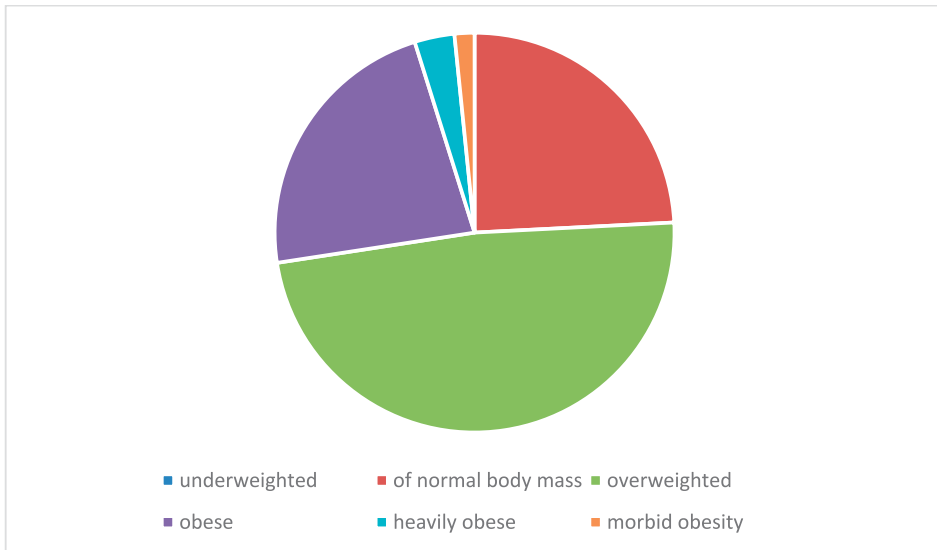


Figure 2 Weight of the Patients in February 2020 Over Months

Before the COVID pandemic, the majority of the patients were overweight (Figure 2). Only one-quarter of patients were of normal body mass (body mass index, BMI 20–25), and three-quarters were overweight or obese. It is known that people with mental disorders frequently have obesity as a comorbidity, and this is more pronounced in patients with schizophrenia and bipolar disorder.²¹ Reasons for

20 Ropac, Stašević, Rafaj, *Neki epidemiološki pokazatelji u pandemiji COVID-19 u Republici Hrvatskoj tijekom 2020*, 301; Wasser, Hauser, Kapoor, *The Management of COVID-19 in Forensic Psychiatric Institutions*, 1089.

21 Manuel Gurpegui *et al.*, “Overweight and Obesity in Patients with Bipolar Disorder or Schizophrenia Compared with a Non-Psychiatric Sample”, *Progress in Neuro-Psychopharmacology & Biological Psychiatry* 37, no. 1 (2012): 170.

obesity in schizophrenic patients include the following: some antipsychotic drugs can increase appetite and body weight; these patients are often inactive and spend the majority of their time sitting and/or laying; there might be a premorbid genetic vulnerability for both obesity and schizophrenia.²² Obesity increases the risks of adult-onset diabetes mellitus and cardiovascular disorders, lower quality of life, and non-adherence with pharmacotherapy; consequently, obesity can be one of the reasons for the higher mortality of these patients. Almost three-quarters of our sample were patients suffering from schizophrenia and related psychotic disorders.

Although our patients reduced their body mass by three kg on average during the eight-month period, they remained overweight in December (Figure 3) Nevertheless, this drop in body mass can have a positive impact on their physical health. Since 71% of the patients are smokers, reduction of body mass is even more important.

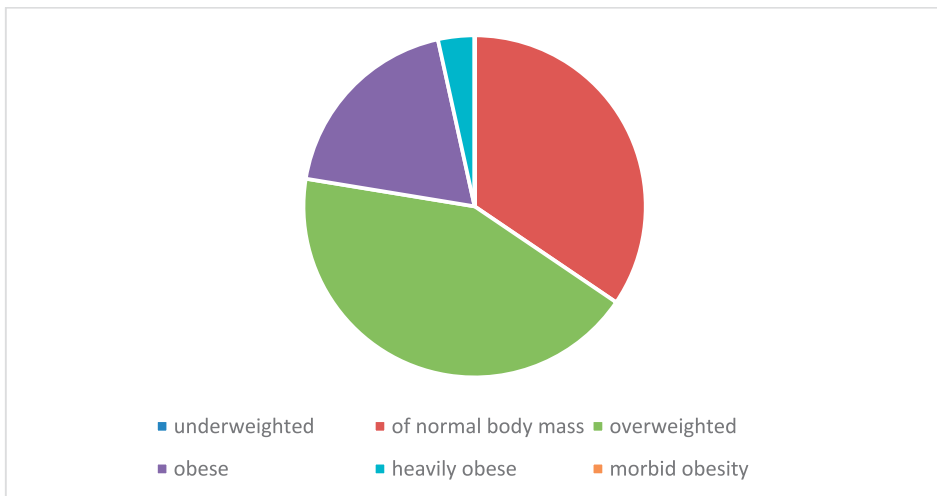


Figure 3 Weight of the Patients in December 2020

All the patients in the ward have pharmacotherapy. They have their usual (everyday) therapy, but sometimes, for different reasons (if they have insomnia, if they feel anxious, nervous, or when they have aches and pains), they can be given additional therapy. For some patients, this additional therapy is written in their chart, and a nurse can give them such therapy when they ask for it. For others, a nurse needs to contact a physician, who is in the hospital to prescribe such therapy. Figure 4 shows the number of tablets that were given additionally and the number of patients that were given such therapy. There is a significant increase ($p = 0.003$) in August, October and December.

22 Peter Manu *et al.*, “Weight Gain and Obesity in Schizophrenia: Epidemiology, Pathobiology, and Management”, *Acta Psychiatrica Scandinavica* 132, no. 2 (2020): 102.

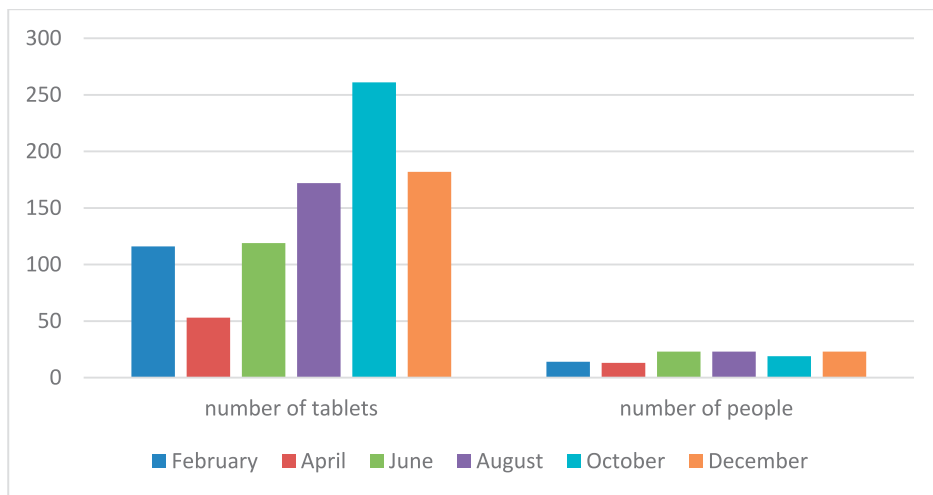


Figure 4 Number of Tablets (Left) and of People (Right) Given Over Months

In April, there was a significant drop of additional therapy needed, and we believe that this is a consequence of the short-term reaction to the pandemic and the lockdown. It is well-known that there has been a decrease in the number of visits to emergency units, psychiatric emergency units, and non-emergency facilities at the beginning of the pandemic.²³ Similar decreases have been noticed in other major incidents, such as Sars pandemics in Hong Kong, earthquakes and military actions.²⁴ In addition, forensic patients might have felt themselves to be more similar to other people; with the lockdown, everybody's movements were reduced, meaning everyone was in some kind of prison as they were confined to their homes, similarly to forensic patients.²⁵

In June, additional therapies rose back to pre-pandemic numbers. From August onwards, these numbers increased two-fold compared to pre-pandemic rates. It seems that prolonged incarceration and the inability to go outside the facility increased not only their anxiety and sleep problems but also pains and aches (Figure 7). If we look at the particular group of drugs, we can see that only the number of analgesics increased to higher levels compared to the pre-pandemic baseline, whereas the level

23 Barten, Latten, van Osch, *Reduced Emergency Department Utilization During the Early Phase of the COVID-19 Pandemic*, 3; Goncalves-Pinho *et al.*, *The Impact of COVID-19 Pandemic on Psychiatric Emergency Department Visits*, 623; Gulati, Kelly, *Domestic Violence Against Women and the COVID-19 Pandemic*, 101594; Carolin Hoyer *et al.*, "Decreased Utilization of Mental Health Emergency Service During The COVID-19 Pandemic", *European Archives of Psychiatry and Clinical Neuroscience* 271, no. 2 (2021): 377-379.

24 Hoyer *et al.*, *Decreased Utilization of Mental Health Emergency Service During the COVID-19 Pandemic*, 377; Ben Beaglehole *et al.*, "Psychiatric Admissions Fall Following the Christchurch Earthquakes: An Audit of Inpatient Data", *Australian & New Zealand Journal of Psychiatry* 49, no. 4 (2015): 347.

25 Kolar, *Psychiatric Emergency Services and Non-Acute Psychiatric Services Utilization During COVID-19 Pandemic*, 392.

of hypnotics and benzodiazepine use stayed at the pre-pandemic levels. Antipsychotic drugs did not show any increase but actually decreased (Figure 5)

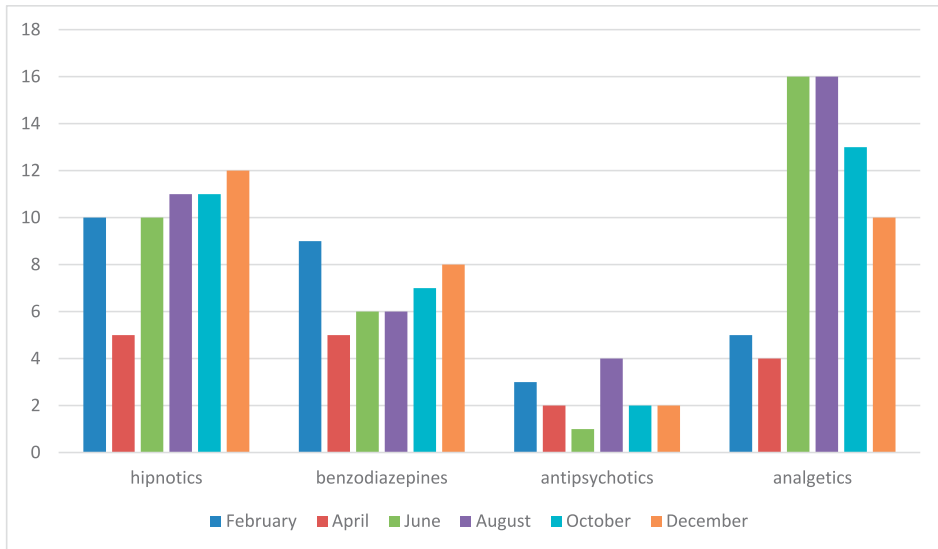


Figure 5 Usage of Additional Therapy Over Several Months

It is possible that this increase in analgesics use is due to the fact that all the physical activities outside the ward were banned as well as the decreased usage of outward facilities, such as going to the dentist or physiotherapist. Chronic musculoskeletal and teeth diseases might have worsened as a consequence, thus increasing painkiller usage.

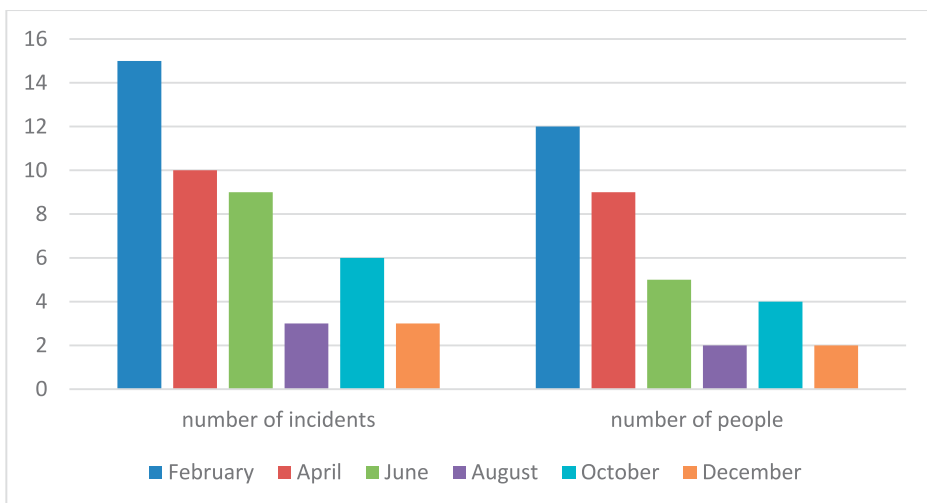


Figure 6 Incident Occurrence Over Several Months

Interestingly, the number of incidents on the ward continually decreased during 2020. This drop in the number of incidents and the number of people included in incidents was significant in August ($\chi^2= 8.36$; $p = 0.004$) and stayed low. This was unexpected, since confining people to an even smaller area (forensic patients were restricted to hospital units and were not allowed to go outside the unit) was expected to increase not only the risk of spreading the virus (because more people were confined to a smaller area) but also tensions, feelings of isolation and aggression.²⁶ One of the reasons for the decrease in incidents could be the aforementioned “equalising” effect of the lockdown. Another reason might be the effect of drugs used to reduce anxiety symptoms, which is seen as an increase in drug use as described earlier, but this does not seem very plausible since only the number of painkillers used increased to over the pre-pandemic levels. Finally, schizophrenic patients often have emotional symptoms (e.g., blunted affect, alogia and asociality), which might have reduced aggressive reactions during 2020.²⁷ This may explain the difference between our results and the increase in domestic violence during the COVID pandemic described in the literature.²⁸

Table 1 Primary (First) Diagnosis of the Patients in the Sample

PRIMARY DIAGNOSIS (ICD-10)	NUMBER OF PATIENTS (PERCENTAGE)
F06 other mental disorders due to brain damage and dysfunctions	4 (8.9%)
F10 mental and behavioural disorders due to use of alcohol	4 (8.9%)
F20 schizophrenia	25 (55.6%)
F21 schizotypal disorder	1 (2.2%)
F22 persistent delusional disorder	4 (8.9%)
F23 acute and transient psychotic disorders	1 (2.2%)
F24 induced delusional disorder	1 (2.2%)
F29 unspecified nonorganic psychosis	1 (2.2%)
F31 bipolar affective disorder	1 (2.2%)
F32 depressive episode	1 (2.2%)
F60 personality disorders	(4.4%)

26 Chaimowitz *et al.*, *Stigmatization of Psychiatric and Justice-Involved Populations During The COVID-19 Pandemic*, 110150.

27 Christoph U. Correll, and Nina R. Schooler, “Negative Symptoms in Schizophrenia: A Review and Clinical Guide for Recognition, Assessment, and Treatment”, *Neuropsychiatric Disease and Treatment* 16, (2020): 525.

28 Kurtović Mišić, Sokanović, Mišić Radanović, *Kažnjiva ponašanja fizičkih i pravnih osoba za vrijeme pandemije COVID-a 19*, 427; Harry G. Kennedy, Damian Mohan, and Mary Davoren, “Forensic Psychiatry and COVID-19: Accelerating Transformation in Forensic Psychiatry”, *Irish Journal of Psychological Medicine* 38, no. 2 (2021): 152.

4 CONCLUSION

To our knowledge, this is the first study to research the behavioural changes of forensic patients during the COVID-19 pandemic.

Contrary to the preconception that there would be only negative consequences of the tough measures that were introduced to fight the spread of the virus, we also noticed some positive effects. First of all, due to a restriction from leaving the hospital and the subsequent lower calorie intake and healthier food habits (since patients could eat only what was prepared by the hospital kitchen personnel and were not able to buy unhealthy carbohydrates), the average body mass decreased by three kilograms.

The number of patients using additional pharmacotherapy and the number of tablets used reduced during the first month of the lockdown and reached the pre-pandemic levels four months later. Nevertheless, usage of painkillers rose above the pre-pandemic levels and stayed high until the end of 2020, probably due to the reduced physical activity as well as dentist and physiotherapy unavailability.

Finally, the number of incidents on the ward dropped significantly and stayed at low levels through 2020, possibly because forensic patients found themselves in a very similar situation to all the other people in the world and possibly because emotional symptoms of flattened affect and asociality reduced possibilities of tensions and aggressive outbursts.

The major limitation of the study is that it was set in a single facility and cannot be generalised to a broader population of all the forensic patients. Furthermore, forensic psychiatry refers to different types of patients in different countries, which should be kept in mind when trying to apply the data from this study to other countries and different legal systems.

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Sažetak

PROMJENE U TJELESNOJ TEŽINI, POTROŠNJI LIJEKOVA I AGRESIVNOM PONAŠANJU U FORENZIČKIH PACIJENTA TIJEKOM COVID-19 PANDEMIJE

Glavni je cilj ovog istraživanja bio procijeniti promjene u ponašanju forenzičkih pacijenata (onih koji su ocijenjeni kao nebrojivi i upućeni na prisilno forenzičko liječenje) tijekom razdoblja COVID-19 epidemioloških mjera. Tijekom 2020. na Zavodu za forenzičku psihijatriju Klinike za psihijatriju Vrapče liječilo se 82 bolesnika, od kojih je 45 boravilo na Zavodu tijekom cijele godine. Podatci su dobiveni iz njihovih kartona i sestričkih lista o njihovoj tjelesnoj težini, dodatno propisanoj terapiji i incidentima na Zavodu. Tijekom *lockdowna* zbog COVID-19 pandemije, tjelesna težina forenzičkih bolesnika uvelike se smanjila u prvim tjednima *lockdowna* i ostala takva do kraja 2020. Usporedno s veljačom u 2020., u travnju iste godine bolesnici su trošili manje dodatnih antipsihotika, benzodijazepina, hipnotika i analgetika. U lipnju 2020. potrošnja tih lijekova se vratila na prepandemijsku razinu, osim antipsihotika. U kolovozu 2020. potrošnja analgetika povećala se iznad prepandemijske potrošnje. Broj je incidenata tijekom *lockdowna*, u odnosu na prethodnu godinu, bio manji.

Ključne riječi: *COVID-19; forenzička psihijatrija; tjelesna težina; farmakoterapija.*

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COVID-19 AND CRIMINAL JUSTICE. EUROPEAN SUGGESTIONS TO PROTECT THE MOST VULNERABLE SUBJECTS

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Prethodno priopćenje

Summary

The current sanitary emergency is not an unexpected event. At the beginning of 2020, COVID took the world by surprise; now, at the end of 2021, it is a problem we have to live with. The pandemic changed the notion of vulnerability, and it is necessary to equip support structures for the weakest subjects. The thesis is also confirmed in the relationship between criminal authority and people who, for various reasons, come into contact with it and who, due to the health measures, are in a situation of particular isolation and potential danger in terms of their own psycho-physical integrity. The concept of vulnerability takes on a new meaning: public authority has to take charge of the claims derived (albeit indirectly) from the health emergency. The inert conduct of states is reprehensible: it causes irreparable damage to individual rights, protected by supranational sources.

Keywords: COVID-19; vulnerability; criminal justice; domestic violence; prison law; European Convention of Human Rights; Istanbul Convention.

1 INTRODUCTION

The endemic vagueness¹ of the term “vulnerability” obliges us to consider, firstly, a vocabulary definition: it is the attribute of the person exposed to the eventuality of

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1 Barbara Fawcett, “Vulnerability: Questioning the Certainties in Social Work and Health”, *International Social Work* 52, no. 4 (2009): 473-484, defines vulnerability as a *notoriously vague term*.

being physically or psychically² attacked. It is impossible to enumerate the potential phenomena that could generate a person's inability to defend themselves from aggressive natural or human factors, from disadvantageous conditions determined by particular individual characteristics, or from the discriminatory application of certain social or legal rules.³ Therefore, it is difficult – if not impossible – to achieve the aim of identifying good solutions to overcome the disadvantages of people found in contexts of weakness.⁴

For this reason, it is necessary to narrow the field of our investigation, to deepen the notion of vulnerability with regard to the relationship between the individual and the criminal justice system, and to examine the repercussions determined by the COVID-19 emergency on people who have had contact with the authority responsible for ascertaining crimes or executing sentences.

The concept of vulnerability imposed itself in European law, with reference to particular weak subjects:⁵ the attribute in question is used on the basis of parameters and criteria that can be obtained, from time to time, from the rules and by reason of the objectives pursued by the European institutions.⁶ The concept is elusive and its amplitude, on the one hand, allows it to be adapted to different areas of social life but, on the other hand, does not permit an easy definition.⁷

A common feature of the various definitions is the reference to the possible risk for vulnerable people:⁸ in other words, it is necessary to consider whether the person is exposed to a danger to himself and whether he has the resources to deal with it.⁹

Another factor deserves attention. Normally, European law applies vulnerability to criminal justice in order to safeguard victims or witnesses;¹⁰ due to the current

2 Jonathan Herring, *Vulnerable Adults and the Law* (Oxford: Oxford Scholarship Online, 2016), 6.

3 Enrico Diciotti, “La percezione e i problemi della vulnerabilità”, *Etica & Politica* 12, no. 1 (2020): 239-252.

4 Enrico Diciotti, “La vulnerabilità nelle sentenze della Corte europea dei diritti dell'uomo”, *Ars interpretandi* no. 2, (2018): 13-31.

5 Weak subjects are not only victims of crime: European Court of Human Rights, 26th March 1996, *Doorson v. Netherlands* requires protecting vulnerable witnesses *in* the trial and *from* the trial.

6 Marco Bouchard, *Sulla vulnerabilità nel processo penale*, www.dirittopenaleuomo.org.

7 See Mike Brodgen, and Preeti Nijhar, *Crime, Abuse and the Elderly* (Milton Park: Willan Publishing, 2013), 44; Catriona Mackenzie, Wendy Rogers, and Susan Dodds, eds., *Vulnerability: New Essays in Ethics and Feminist Philosophy* (Oxford: Oxford Scholarship Online, 2014).

8 Dolores Morondo Taramundi, “Un nuevo paradigma para la igualdad? La vulnerabilidad entre condición humana y situación de indefensión / A New Paradigm for Equality? Vulnerability as Human Condition and a State of Defencelessness”, *Cuadernos Electrónicos de Filosofía del Derecho* 34 (2016): 209.

9 It is possible to distinguish between the internal and external dimensions of the concept: on the one hand, there is the ability to deal with the risk; on the other, there is the individual exposition to the danger. See, Cristina Churruca Muguruza, “Vulnerabilidad y protección en la acción humanitaria”, in: *Vulnerabilidad y protección de los derechos humanos*, eds. Cristina Churruca Muguruza, and Maria del Carmen Barranco Avilés (Valencia: Tirant lo Blanch, 2014), 45-70.

10 See Hervé Belluta, *Il processo penale di fronte alla vittima particolarmente vulnerabile*:

pandemic, we need to expand our horizons in order to give voice and protection to those who, in contact with the criminal authority, are in a more marked position of fragility because of the effects of the measures connected to the health emergency.

This will be the approach to the theme: the objective – *i.e.*, the protection of vulnerable peoples – requires we frame the risk factors and, from their identification, to understand the possible solutions to safeguard the weakest subjects: it is the *finalistic method*, used by the European judges.¹¹

It is correct to say that the more serious the danger to someone's integrity (not just physical), the more urgently and effectively protection must be accorded to them. Therefore, it becomes a priority to understand who can be defined as a vulnerable subject: looking at our investigation topic, the perimeter of the analysis will be limited to contacts with criminal justice in the COVID-19 era; thus, it will be possible to give concrete solutions for the best protection of the weakest people during the pandemic emergency.

2 SUGGESTIONS FROM THE ECHR AND ISTANBUL CONVENTION

Always with a view to set our approach to the research subject, it is useful to identify the regulatory parameters from which derives the obligation for national authorities to protect the weakest people.

Different sources concur to safeguard the fundamental rights: the protection of the vulnerable is an objective of common interest, pursued by international, European and domestic law. Not all supranational sources define the content of the rights with precision, but they require respect for them and refer to other (national or international) sources that describe them in a more specific way.¹²

For example, European Union law demands respect for fundamental rights and refers to prescriptions found in the European Convention of Human Rights, the Charter of Nice and national constitutions.¹³ In turn, these norms have to be implemented with the domestic or supranational rules or, better, with the interpretation of the national or international law offered by internal or European courts.¹⁴

aspirazioni (comunitarie) e aporie nazionali, www.la legislazione penale.eu.

11 For example, this method was recently followed by the European Court of Human Rights, 27th May 2021, *J.L. v. Italy*.

12 Daniel Augenstein, "Engaging the Fundamentals: On the Autonomous Substance of EU Fundamental Rights Law", *German Law Journal* 14, no. 10 (2013): 1917-1938.

13 For example, with reference to the framework decision on European Arrest Warrant (Article 1, paragraph 3). See Nina M. Schallmoser, "The European Arrest Warrant and Fundamental Rights: Risks of Violation of Fundamental Rights Through the EU Framework Decision in Light of the ECHR", *European Journal of Crime, Criminal Law and Criminal Justice* 22, no. 2 (2014): 135-165. More generally, Michele Caianiello, "To Sanction (or not to Sanction) Procedural Flaws at EU Level? A Step Forward in the Creation of an EU Criminal Process", *European Journal of Crime, Criminal Law and Criminal Justice* 22, no. 4 (2014): 317-329; Marcello Daniele, "La triangolazione delle garanzie processuali fra diritto dell'Unione europea, Cedu e sistemi nazionali", *Diritto penale contemporaneo* 6, no. 4 (2016): 48-60.

14 Ruti Teitel, "Transnational Justice Globalized", *The International Journal of Transnational*

Thus, a set of normative and jurisprudential sources safeguard the individual rights: the standard of protection to be ensured must be the highest possible on the basis of concurring sources;¹⁵ at the European level, this is confirmed both by Article 53 of the Nice Charter and by Article 53 of the ECHR.¹⁶ Thus, we refer to the Istanbul Convention and ECHR as promoters of the highest standard of protection, also referred by the European Union law.

For greater detail, we suggest a combined reading of Article 3 ECHR – from which derives the obligation for states parties to protect the psycho-physical integrity of the population and to avoid dangerous situations – and Article 51 of the Istanbul Convention, providing for a risk evaluation made by the internal authority to safeguard the victims of gender-based crimes.

It is well-known that the obligation imposed by Article 3 ECHR shall be triggered provided a dangerous situation is *predictable*¹⁷ and the risk to a person's integrity is *concrete*.¹⁸ For the correct application of this conventional principle, state parties have to draft rules that are able to ensure the adequate protection of the population, especially those individuals most exposed to risks for their safety. At the jurisdictional level, the national authority must safeguard victims of attacks on psycho-physical integrity during investigations and trials: in particular, full investigations must be warranted,¹⁹ the police must act immediately,²⁰ victims must have easy access to the police or aid structures,²¹ internal courts must ensure procedural fairness to protect the defendant²² and the injured;²³ and lastly, national authorities have to adapt their systems to protection standards established by international rules in the defense of fundamental rights.²⁴

On the other hand, Article 51 of the Istanbul Convention requires state parties to identify potential risk factors for victims of gender-based violence, to assess the

Justice 1, no. 2 (2008): 1-4.

15 It is possible to talk about a European public order, expressing the common values on which European culture and identity are built: for some considerations on contiguous topics, see Robert Spano, "Universality or Diversity of Human Rights? Strasbourg in the Age of Subsidiarity", *Human Rights Law Review* 14, no. 3 (2014): 487-502; Giuseppe Martinico, "Is the European Convention Going to Be "Supreme"? A Comparative-Constitutional Overview of ECHR and EU Law before National Courts", *European Journal of International Law* 23, no. 2 (2012): 401-424.

16 One can speak of the *best protection clause*. See Nina Louisa Arold Lorenz, Xavier Groussot, and Gunnar Thor Petursson, eds., *The European Rights Culture. A Paradox of Human Rights Protection in Europe?* (Leiden-Boston: Martinus Nijhoff Publisher, 2013). According to Jonas Bering Liisberg, "Does the EU Charter of Fundamental Rights Threaten the Supremacy of Community Law?", *Common Market Law Review* 38, no. 5 (2001): 1171, the significance of the Article 53 of the Charter of Nice is identical to that of the Article 53 ECHR.

17 Recently, European Court of Human Rights, 5th November 2020, *Ćwik v. Poland*.

18 See European Court of Human Rights, 14th January 2021, *Kargakis v. Greece*.

19 European Court of Human Rights, 2nd March 2017, *Talpis v. Italy*.

20 European Court of Human Rights, 18th October 1998, *Osman v. United Kingdom*.

21 European Court of Human Rights, 27th May 2014, *Rumor v. Italy*.

22 European Court of Human Rights, 27th October 2020, *Ayetullah A.Y. v. Turkey*.

23 European Court of Human Rights, 13th October 2020, *Zakharov e Varzhabytan v. Russia*.

24 European Court of Human Rights, 16th July 2013, *Mudrić v. Moldavia*.

possible lack of protection with reference to each risk factor and to prepare adequate measures to prevent dangerous situations for the victims.²⁵ In other words, the Convention obliges state parties to take any necessary legislative or other steps to ensure that an evaluation of risk is carried out by all internal authorities in order to manage the risk and provide coordinated safety and support if necessary.²⁶

In short, the obligation of risk assessment to protect victims of gender-based crimes derives from Article 51 of the Istanbul Convention; this evaluation must foresee legislative measures aimed at safeguarding the most vulnerable subjects, including during investigations or trials for violent crimes; the inertia of national authorities must be sanctioned on the basis of Article 3 ECHR.

The link between these two international rules requires the application of the scheme outlined by Article 51 of Istanbul Convention outside the category of gender-based crimes. The risk assessment²⁷ is a useful tool to implement the concrete execution of the obligations derived by Article 3 ECHR.

The thesis will be demonstrated with reference to three exemplary sectors:

- the situation of victims of domestic violence during the lockdown or other restrictions due to COVID-19;
- the daily life of prisoners during the pandemic period;
- the condition of private parties in criminal trials postponed because of the health emergency.

In all three cases, it is worth considering that nowadays, COVID-19 is not an unexpected event as it was during the spring of 2020: rather, it is a concrete and predictable dangerous situation for a lot of people; following the reasoning set forth by European courts, the national inertia in the face of such a danger is punishable on the basis of Article 3 ECHR, and whoever suffers the violation of their integrity deserves protection according to the paradigm described by Article 51 of the Istanbul Convention, applied as a general rule even beyond cases of gender-based violence.

3 VICTIMS OF DOMESTIC VIOLENCE

In the wave of the first outbreaks of COVID-19, a lot of European countries imposed the lockdown and, with it, isolation, social distancing and the possibility to leave home only for work reasons, groceries or special needs. The measure was effective on certain aspects: in a few months, infections, hospitalizations and deaths due to the virus decreased; however, some suffered negative repercussions in terms

25 See Urszula Nowakowska, "Ocena ryzyka w sprawach o przemoc w rodzinie", in: *Jak skutecznie chronić ofiary przemocy w rodzinie*, ed. Lidia Mazowiecka (Alphen aan den Rijn: Wolters Kluwer, 2013), 259-276.

26 See Ronagh J.A. McQuigg, *The Istanbul Convention, Domestic Violence and Human Rights* (Milton Park: Routledge, 2017).

27 Giuseppe Battarino, *Note sull'attuazione in ambito penale e processuale penale della Convenzione di Istanbul sulla prevenzione e la lotta contro la violenza nei confronti delle donne e la violenza domestica*, www.penalecontemporaneo.it (2013), notes that the expression *risk assessment* is more suited to the corporate economic sector than to that of the criminal trial.

of unemployment, poverty or psychological disorders.²⁸ Between 2020 and 2021, along with the new waves of the contagion, similar restrictions of citizens' freedom of movement were imposed by many European governments. The facts are well known and do not deserve further attention; it only needs to be emphasized that the closures have been – and still are, where imposed – a risk factor for the victims of domestic violence, forced to stay at home with their attackers.²⁹ Economic stress, instability or reduced options for support have exacerbated family violence during the pandemic, often creating unsustainable situations within the most fragile households.³⁰

This situation created many problems, such as communication difficulties for victims, difficulty for the police in protecting them, or, again, high rates of family crimes.³¹ Among possible solutions, European governments could have invested in serious information on assistance tools during the lockdown,³² in safe-house projects (with physical and psychological assistance and support team for victims, composed by medicals, lawyers, cultural mediators, educators, etc.) or, later, in anti-violence centers for first aid for the injured to inform victims of the possibility to be helped with a access to police, lawyers, hospitals, safe houses, etc.

The COVID-19 emergency amplified social disadvantage and exalted the contexts of vulnerability,³³ which imposed on states the obligation to prepare and respond to the social crisis. In other words, the greater the risk for the individual, the greater the degree of vulnerability – and the greater effort is required for national authorities to support the weakest subjects. As we have seen, this is the rule derived from Article 3 ECHR and from Article 51 of the Istanbul Convention.

The link between the severity of the COVID-19 restriction measures and the importance of the protection that the internal authority should guarantee to the most vulnerable people can be demonstrated through the analysis of the data on family crimes committed in Italy during the pandemic period. An overall reading indicates that during the full lockdown, the number of reported crimes was lower than the corresponding periods of the years without the COVID-19 emergency; however, this does not mean that no crimes committed, but rather that victims did not report the violence they suffered.

28 Dalida Rittossa, "The Institute of Vulnerability in the Time of the COVID-19 Pandemic. All Shades of the Human Rights Spectrum", *ECLIC* 5 (2020): 820-852 explores the impact of the pandemic emergency on the most vulnerable subjects.

29 Kim Usher *et al.*, "Family Violence and COVID-19: Increased Vulnerability and Reduced Options for Support", *International Journal of Mental Health Nursing* 29, no. 4 (2020): 549-552.

30 Amber Peterman *et al.*, "Pandemics and Violence against Women and Children", *Center for Global Development Working Paper* 528 (2020): 1-43.

31 Nicole van Gelder *et al.*, "COVID-19: Reducing the Risk of Infection Might Increase the Risk of Intimate Partner Violence", *EClinicalMedicine* 21, no. 2 (2020): 1-2.

32 In a similar way to what happened during previous episodes of social isolation associated with health emergencies: see Jennifer Boddy, Amy Young, and Patrick O'Leary, *Cabin fever. Australia Must Prepare for the Social and Psychological Impacts of a Coronavirus Lockdown*, www.theconversation.com.

33 Erin N. Biggs *et al.*, "The Relationship Between Social Vulnerability and COVID-19 Incidence Among Louisiana Census Tracts", *Frontiers in Public Health* 8, (2021): 1-7.

With reference to the ECHR, from Article 3 comes the obligation for national authorities to put in place a legislative and administrative framework designed to provide effective deterrence against threats to the rights to life and integrity.³⁴ States must apply rules able to safeguard people's safety in the context of any activity – public or not – in which the rights of the individual may be at risk,³⁵ including family life. Internal legislators must draft rules able to ensure the adequate protection for victims of domestic violence. Indeed, the national authority must be aware of the existence of a general problem and its possible complications deriving from particular situations:³⁶ in the interests of our study, domestic violence certainly qualifies as such a problem, and the COVID-19 pandemic is a factor able to complicate it.

We can define this level of protection as *primary, early* and *general* with respect to violations of conventional parameters. It is possible to distinguish between the obligation of social protection – implying State knowledge of a problem or, rather, of a general risk to the people – and the obligation to take specific protective measures, implicating the knowledge of a specific type of risk: real and immediate.³⁷ Thus, a second level of protection is highlighted in the face of a singular violation on which the internal authority must take action – the protection offered by the judicial or investigating authority.

The need to make this type of safeguard effective requires consideration of some parameters of correctness in ascertaining any violations of the conventional principles. Criminal law becomes an instrument for the protection of victims' rights;³⁸ precisely in this sense, the first obligation of internal authority is to conduct *full and effective investigations*,³⁹ able to frame the facts and identify the potential perpetrators, with

34 European Court of Human Rights, 20th March 2008, *Budayeva v. Russia*. See also, Vladislava Stoyanova, "The Disjunctive Structure of Positive Rights under the European Convention on Human Rights", *Nordic Journal of International Law* 87, no. 3 (2018): 344-392.

35 European Court of Human Rights, 30th November 2004, *Öneryildiz v. Turkey*.

36 European Court of Human Rights, 24th October 2002, *Mastromatteo v. Italy*.

37 Vladislava Stoyanova, "Fault, Knowledge and Risk Within the Framework of Positive Obligations under the European Convention on Human Rights", *Leiden Journal of International Law* 33, (2020): 601-620.

38 The interpreting work put in place by the Strasbourg Court has transformed the traditional concept of criminal law: it once was intended as an instrument aimed at defending society through the action of authority, capable of prejudicing the rights of the recipients of the incriminating norm; nowadays, it is an instrument able to protect the fundamental rights of the individual in concrete contexts in which the public authority remains inert. See Francesco Viganò, "Obblighi convenzionali di tutela penale?", in: *La Convenzione europea dei diritti dell'uomo nell'ordinamento penale italiano*, eds. Vittorio Manes, and Vladimiro Zagrebelsky (Milano: Giuffrè, 2011), 243-298; Laurens Lavrysen, "Protection by the Law: The Positive Obligation to Develop a Legal Framework to Adequately Protect the ECHR Rights", in: *Human Rights and Civil Rights in the 21st Century*, eds. Eva Brems, and Yves Haeck (Dordrecht: Springer, 2014), 69-129.

39 Juliet Chevalier-Watts, "Effective Investigations under Article 2 of the European Convention on Human Rights: Securing the Right to Life or an Onerous Burden on a State?", *European Journal of International Law* 21, no. 3 (2010): 701-721; Eva Brems, "Procedural Protection: An Examination of Procedural Safeguards Read into the Substantive Convention Rights", in: *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining*

reference to the risk of a real and immediate threat to victims.⁴⁰ In this reasoning, the reference to the Istanbul Convention is evident.⁴¹ Article 49 provides that states shall take necessary measures to ensure that investigations and judicial proceedings on all forms of violence are carried out without undue delay while taking into consideration the rights of victims during all states of criminal proceedings.

The ECHR calls national authorities to conduct investigations with due diligence, but also quickly, with an immediate activation of the police:⁴² the delay in collecting the elements of the investigation can be fatal for the successful outcome of the ascertainment and for the full protection of crime victims.⁴³ Precisely for this reason, the police must be easily accessible to the complainant, who must have the possibility to expose the facts immediately and to benefit from an equally immediate activation of the police.⁴⁴

In fact, national investigators and judges must ensure compliance with international standards for protecting victims.⁴⁵ The goal is ensuring the standard of procedural fairness during criminal proceedings, both to protect the defendant⁴⁶ and to safeguard victims' rights;⁴⁷ it is impossible to assure the injured persons of the answers to their questions without a process preceded by effective and rapid investigations⁴⁸ that is fully respectful of the exploratory function assigned to this segment of the criminal procedure.⁴⁹

The legislative production of the European Union confirms these reflections:⁵⁰ the catalogue of rights recognized to crime victims, firstly with the Framework Decision 2001/220/JHA and then with the Directive 2012/29/EU, must be implemented by an

the Scope of Human Rights, eds. Eva Brems, and Gerards Janneke (Cambridge: Cambridge University Press, 2014), 137-161; David Harris *et al.*, *Law of the European Convention on Human Rights* (Oxford: Oxford University Press, 2018).

40 See European Court of Human Rights, 2nd March 2017, *Talpis v. Italy*.

41 Sara De Vido, "The ECtHR *Talpis v. Italy* Judgment. Challenging the Osman Test through the Council of Europe Istanbul Convention?", *Ricerche giuridiche* 6, no. 2 (2017): 7-15.

42 See European Court of Human Rights, 18th October 1998, *Osman v. United Kingdom*.

43 Cristiana Valentini, "La completezza delle indagini, tra obbligo costituzionale e (costanti) elusioni della prassi", *Archivio penale* 3 (2019): 1-23.

44 See European Court of Human Rights, 27th May 2014, *Rumor v. Italy*.

45 On this topic, Ronagh J.A. McQuigg, "Domestic Violence as a Human Rights Issue: *Rumor v. Italy*", *European Journal of International Law* 26, no. 4 (2016): 1009-1025; Ignacio José Subijana Zunzunegui, *El principio de protección de las víctimas en el orden jurídico-penal: del olvido al reconocimiento* (Granada: Editorial Comares, 2006).

46 European Court of Human Rights, 27th October 2020, *Ayetullah A.Y. v. Turkey*.

47 European Court of Human Rights, 13th October 2020, *Zakharov v. Varzhabeytan v. Russia*.

48 *Mutatis mutandis*, European Court of Human Rights, 23rd February 2016, *Nasr and Ghali v. Italy*.

49 Mariangela Montagna, "Obblighi convenzionali, tutela della vittima e completezza delle indagini", *Archivio penale* 3 (2019): 1-18.

50 See again Daniel Augenstein, "Engaging the Fundamentals: On the Autonomous Substance of EU Fundamental Rights Law", *German Law Journal* 14, no. 10 (2013): 1917-1938 or Marco Venturoli, *La tutela della vittima nelle fonti europee*, www.penalecontemporaneo.it. See Marie Laure Lanthiez, "La clarification des fondements européens des droits des victimes", in: *La victim sur la scène pénale en Europe*, eds. Geneviève Giudicelli-Delage, and Christine Lazerges (Paris: Presses Universitaires de France, 2008), 143-158.

action of judges and investigators able to give substance to the set of instruments coined at a regulatory level. In other words, both Strasbourg jurisprudence and European Union Law indicate the relationship between the two levels of protection of fundamental individual rights: the legislator is obliged to establish general and abstract rules to protect the weakest people, but the operators of criminal proceedings must concretely apply those rules and prevent specific violations.

If the first obligation deriving from Article 3 ECHR - but also from Article 51 of the Istanbul Convention - for states parties is to adopt rules aimed at ensuring adequate standards of victim protection from a predictable and concrete dangerous situation, during the COVID-19 period, the first interest of national authority must be to identify a meeting point between public health protection and the safeguarding of the psycho-physical integrity of potential victims of domestic violence, forced to stay at home with their attackers. In order to achieve this aim, it is necessary for states to invest more in the protection of the most vulnerable people: for example, it would be good for governments to create programs to implement care facilities for abused women or, more generally, for victims of family crimes. During the pandemic, a good solution to facilitate contacts between the police and people asking for help was the development of apps, able to warn authorities of a danger without making a phone call. For the future, an investment in this direction would be appropriate, perhaps creating a network of relations between the police, citizens and other support structures.

Ad hoc rules and economic investments provide the only way to allow the true protection of domestic violence victims. Otherwise, people suffering from family crimes will not report the violence perpetrated within the walls of their homes due to the forced cohabitation with the offender: such a state of affairs would make the investigation of brutal episodes impossible. For a real, full and effective investigation, an essential factor is to give voice to victims; but, during the lockdown, it is impossible – or, at least, very difficult – if the physical (the cohabitation) and mental (the sense of fear) bond between the injured person and the attacker is not broken.

Ultimately, the COVID-19 emergency demonstrated a relationship between the obligation deriving from Article 3 ECHR, such that, if the internal authority does not adopt an effective regulatory framework to provide general protection for victims, it is impossible for the police to carry out full and effective investigations and for the judge to uphold fair trials of violent crimes. On the other hand, the Istanbul Convention imposes on states to assess the risk for victims of gender-based or domestic violence (Article 51) and to prepare rules of protection (Article 49).

Therefore, it can be assessed that future condemnation is possible for states that will not adapt their rules for the protection of domestic violence victims in the eventuality of new restrictions due to a health emergency. Such a decision would be justified on the basis of Article 3 ECHR, interpreted according to the Strasbourg case law already examined and read in connection with the Istanbul Convention as well as all international law aimed at protecting the weakest people.

4 THE DAILY LIFE OF THE PRISONERS

The definition of vulnerability may be applied to prisoners at the time of COVID-19. Each prison is a potentially dangerous place as overcrowding conditions facilitate the development of outbreaks;⁵¹ it's very difficult - or, rather, it is impossible, given the feature of the prison as a *total institution*⁵² - to avoid gatherings and respect the safety distance between inmates living in cells full of people.⁵³ The less than optimal hygienic conditions hinder the prevention of the contagion; another risk factor is constituted by those working in the prison (correctional officers, nurses, chaplains, wardens, etc.): they have the potential to carry the virus into facilities and back out into their communities.

Many people held behind prison walls face ongoing health problems, including tuberculosis, HIV or respiratory diseases (asthma, emphysema, respiratory insufficiencies, pulmonary fibrosis, etc.). The risk associated with the COVID-19 pandemic is much more real for prisoners afflicted by one or more pathologies: the virus moves silently, many COVID patients are asymptomatic, the evolution of the disease is not always clear and the symptoms may vary from person to person. These characteristics, combined with the particularity of the prison context, increase the danger of the current pandemic period for prisoners.

Given these premises, it is necessary to study the Strasbourg case law in the matter of prisoners' health.

In the case of *Kargakis vs. Greece*⁵⁴ the European Court expressed some criteria for the judge called to decide on issues related to inmates' daily life. More specifically, the Strasbourg judges explained the rights of prisoners in order to have a quick answer to address their health problems. The national judge didn't take a position on the prison life of the applicant but released him on the sole premise that was no danger of the crime's repetition. The person concerned didn't have the opportunity to assert his poor imprisonment conditions, in relation to his state of health, before the domestic authority: this is enough to censure the conduct of the internal judge for the violation of Article 3 ECHR.⁵⁵

Not every violation of the psycho-physical integrity of the prisoners infringes on Article 3 ECHR: it is necessary that a *minimum level of severity*⁵⁶ must be reached in view of the duration of the conduct, the characteristics of the victim and the

51 Justin T. Okano, and Sally Blower, "Preventing Major Outbreaks of COVID-19 in Jails", *Lancet* 395, (2020): 1542-1543.

52 Erving Goffman, *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates* (New Jersey: Penguin Books, 1968).

53 Brenda Vose, Francis T. Cullen, and Heejin Lee, "Targeted Release in the COVID-19 Correctional Crisis: Using the RNR Model to Save Lives", *American Journal of Criminal Justice* 45, no. 4 (2020): 769-779.

54 European Court of Human Rights, 14th January 2021, *Kargakis v. Greece*.

55 See also European Court of Human Rights, 11th October 2011, *Khatayev v. Russia*; European Court of Human Rights, 9th September 2010, *Xiros v. Greece*; European Court of Human Rights, 10th February 2004, *Gennadiy Naoumenko v. Ukraine*; European Court of Human Rights, 27th June 2000, *Ilhan v. Turkey*.

56 European Court of Human Rights, 18th January 1978, *Ireland v. United Kingdom*.

consequences of the event.⁵⁷

By definition, staying in prison brings suffering to inmates: treatment causing abnormal pain violates Article 3 of the ECHR. The Strasbourg Court explained some factors to identify what does not qualify as normal suffering in prison:⁵⁸ such an atmosphere of tension and emotion to condition the work of the authorities,⁵⁹ the systematic nature of violence inflicted on inmates,⁶⁰ the special vulnerability of victims,⁶¹ the (not) justified prolonged application of particular restrictions to prisoners⁶² or the delay in taking the person subjected to violence to facilities with adequate sanitation.⁶³ The criterion of the minimum level of severity allows to distinguish between punishment and torture or inhuman or degrading treatment.⁶⁴

The analysis of the *Kargakis* case forces us to consider a new concept of vulnerability applicable to inmates coerced to live in conditions exceeding the normal level of severity of the prison environment.

During the COVID-19 emergency, the detainees are individuals at risk of contagion, much more than other categories: in many states, there have been considerable efforts to safeguard, for example, students in schools and universities; the debate of the opportunity of online teaching rages throughout Europe; passing to another sector, the simple consultation of the institutional websites of the judicial offices of various European countries show that preventive measures are applied to protect the health of magistrates, lawyers and people who frequent the courts; similar considerations apply to transport, bars, restaurants, places of worship and, of course, hospitals and treatment centers.

This massive effort demonstrates that, nowadays, internal authorities identified the groups most at risk and prepared safety measures: after all, it is the European Convention of Human Rights that imposes the obligation for national authorities to put in place legislative and administrative frameworks able to protect the right to a life of integrity.

An identical effort must be made to safeguard the prison population.

The current pandemic emergency is not compatible with the traditional characteristics of prison life; thus, it is accurate to say that each prison is a potentially dangerous place, and this historic moment could be the occasion to finally review the features of the criminal sanction.

57 See Michael K. Addo, and Nicholas Grief, "Does Article 3 of The European Convention on Human Rights Enshrine Absolute Rights?", *European Journal of International Law* 9, no. 3 (1998): 510-524.

58 Francesco Cecchini, *La tutela del diritto alla salute in carcere nella giurisprudenza della Corte europea dei diritti dell'uomo*, www.penalecontemporaneo.it.

59 European Court of Human Rights, 1st June 2010, *Gäfgen v. Germany*.

60 European Court of Human Rights, 28th July 1999, *Selmouni v. France*.

61 European Court of Human Rights, 21st January 2011, *M.S.S. v. Belgium and Greece*.

62 European Court of Human Rights, 28th June 2005, *Gallico v. Italy*.

63 European Court of Human Rights, 27th June 2000, *Ilhan v. Turkey*.

64 Grazia Mannozi, "Diritti dichiarati e diritti violati: teoria e prassi della sanzione penale al cospetto della convenzione europea dei diritti dell'uomo", in: *La Convenzione europea dei diritti dell'uomo nell'ordinamento penale italiano*, eds. Vittorio Manes, and Vladimiro Zagrebelsky (Milano: Giuffrè, 2011), 299-376.

Traditionally, the prison experience is associated with the deprivation or the frustration of social acceptance, material possession, heterosexual relationships, personal autonomy and personal security.⁶⁵

The current pandemic emergency emphasized these aspects due to the isolation, the lack of information and the uncertain link between the contradictory news about the virus and the evolution of the contagion.⁶⁶

To avoid the “no time” reaction⁶⁷ and to limit the inmates’ suffering, it would probably have helped – and it will help, in the event of new closures – to explain the evolution of the pandemic to detainees, offering them qualified psychological support, maintaining or even increasing their contact with family and friends, and using new technologies, as has been the case for other areas of life. Then, the control of the health state of prisoners must be widespread, meaning the inmates must be equipped with prevention tools. The international scientific community defined the measures to avoid or limit the contagion, and they must also be applied in prisons.

The two combined elements of the predictability of the COVID-19 emergency and the vulnerability of detainees oblige national authorities to protect the physical (but also the psychological) health of prisoners: the failure to prepare regulatory measures and jurisprudential responses to protect inmates at risk of COVID violates Articles 2 and 3 of the ECHR, depending on whether the situation endangers the lives or the integrity of prisoners.⁶⁸ The current pandemic cannot be an excuse to worsen prison standards; this emergency must be an opportunity to implement the rights of detainees as well as those recognized to free individuals, a goal imposed by humanitarian international law and European law first and foremost.

5 THE DELAYS IN CRIMINAL JUSTICE DUE TO THE COVID-19 EMERGENCY

The situation of justice offices bears mentioning. It is known that the national authorities must take action, according to correctly interpreted and applied criminal law; thus, they must carry out official, thorough and impartial investigations and, in the case of ascertained guilt, at the end of a fair trial, they must apply proportionate sanctions for any such infringement.⁶⁹ In particular, they must complete investigations

65 Gresham M. Sykes, *The Society of Captives: A Study of a Maximum Security Prison* (Princeton: Princeton University Press, 1958).

66 Matthew Maycock, “COVID-19 has Caused a Dramatic Change to Prison Life’. Analyzing the Impacts of the COVID-19 Pandemic on the Pains of Imprisonment in the Scottish Prison Estate”, *The British Journal of Criminology* 62, no. 1 (2022): 218-233.

67 Nina Cope, “‘It’s No Time or High Time’: Young Offenders’ Experiences of Time and Drug Use in Prison”, *The Howard Journal of Crime and Justice* 42, no. 2 (2003): 158-175.

68 With reference to the protection of the mental health see e.g. European Court of Human Rights, 17th November 2015, *Bamouhammad v. Belgium*; European Court of Human Rights, 1st October 2013, *Ticu v. Romania*; European Court of Human Rights, 10th January 2013, *Claes v. Belgium*; European Court of Human Rights, 20th January 2009, *Stawomir Musial v. Poland*; European Court of Human Rights, 18th December 2007, *Dybeku v. Albania*.

69 Mariangela Montagna, “Obblighi convenzionali, tutela della vittima e completezza delle indagini”, *Archivio penale* 3 (2019): 1-18.

and maintain efficient judicial activity, able to identify the culprits and adequately punish them as the Strasbourg Court determines in its jurisprudence regarding the violations of Articles 2 and 3 ECHR.⁷⁰ In short, *procedural obligations* are considered in light of those obligations, imposed on states when a violation of Articles 2 and 3 ECHR has already occurred.⁷¹

Due to the health emergency, the activity of investigators and judges has slowed down: this caused prejudice both on the level of due process and on that of the protection of the lives and integrity of the victims of crime.

The demonstration of our thesis can be obtained from official data on the duration of criminal proceedings.

A good source of information about the efficiency of the criminal justice is the CEPEJ⁷² database: the latest available data refer to 2018 (see *2020 Evaluation cycle*),⁷³ two years before the pandemic. For this very reason, the best approach to test the impact of the COVID-19 emergency on the efficiency of judicial offices is to look at national data.

As an example, we will talk about the situation in Italy.

The statistical office of the Italian ministry uses the *disposition time* to calculate the duration of criminal proceedings: it measures the foreseeable average time for defining judgments and compares the amount pending at the end of the year with the flow of defined procedures in the same time frame. In short, it is a prospective analysis of duration, based on the thesis - unreal, in the pandemic year - that the justice system always maintains the same disposal capacity without any fluctuations; it is not valid for 2020 given the significant reduction in definition capacity due to the health emergency.⁷⁴

A comparison between the defined procedures in 2018, 2019 and 2020 will clarify the context. In 2018, Italian judicial offices (prosecutors, courts of first instance and appellate courts) closed 1.215.519 proceedings; in 2019, 1.184.380; in 2020, only 918.133. In the same years, the open files were 1.243.832 in 2018, 1.226.350 in 2019 and 1.014.611 in 2020; the difference between closed and open procedures was, therefore, equal to 28.313 proceedings in 2018, 41.520, in 2019 and 96.498 in 2020 with an increase of 132,41% compared to the previous year.⁷⁵ The accumulation of

70 See, e.g., European Court of Human Rights, 1st June 2010, Gafgen v. United Kingdom; European Court of Human Rights, 15th December 2009, Maiorano v. Italy; European Court of Human Rights, 14th March 2002, Paul and Audrey Edwards v. United Kingdom.

71 European Court of Human Rights, 15th June 2009, Branko Tomasic and others v. Croatia; European Court of Human Rights, 17th January 2002, Calvelli and Ciglio v. Italy; European Court of Human Rights, 14th March 2002, Paul and Audrey Edwards v. United Kingdom; European Court of Human Rights, 28th October 1998, Assenov and others v. Bulgaria; European Court of Human Rights, 22nd September 1995, McCann and others v. United Kingdom.

72 European Commission for the Efficiency of Justice.

73 *European judicial systems CEPEJ Evaluation Report, 2020 Evaluation cycle (2018 data)* (Strasbourg Cedex: Council of Europe, 2020), <https://rm.coe.int/evaluation-report-part-1-english/16809fc058>.

74 This is what the first president of the Italian Court of Cassation, Pietro Curzio, exposed during the inauguration of the judicial year 2021 (Rome, 29th January 2021).

75 *DG-Stat data*, Access 21st January 2022, www.dgstat.giustizia.it.

arrears and the increase of pending procedures imply the lengthening of the time to proceed and serious difficulties in giving answers to crime victims; at the same time, these delays make it impossible to guarantee a fair trial for those who have to be tried.

A possible solution has been identified in the use of telematic resources for the management of criminal proceedings. This is a very good idea if it is applied to the handling of bureaucratic formalities: it is not clear why the accused or victims would be denied the possibility of filing a motion or a document by means of a certified e-mail. The solution, however, does not hold up if applied to the concrete conduct of the hearings: in the case of *Dan vs. Moldavia (2)*⁷⁶ the Strasbourg judges pointed out that the observation made by the court about the demeanor and credibility of a witness may have important consequences for the accused; they highlighted the same regarding the possibility for the accused to be confronted with a witness in the presence of the judge who will ultimately decide the case.⁷⁷

In short, the European Court exalted the principle of immediacy, understood as the need to celebrate a trial in the direct contact between the witnesses, the judge and the parties, and in space-time continuity between the debate and the final decision.

A telematic criminal trial risks violating the due process paradigm and the fundamental rights of the defendant and the victim. For this reason, the only solution is to rethink the offices' organization: it is necessary to implement the use of computer tools in the consultation of procedural files, in the documents' deposit, and in the interviews with administrative staff or, more generally, in the handling of bureaucracy. In this way, the queues at the offices will be reduced and the gatherings will be eliminated, with an evident advantage for both public health and offices' efficiency.

The hearings must be organized in person, possibly according to a precise calendar of times and obligations: the goal must be to exploit the times in the best possible way so as to guarantee answers to those who ask for justice. In one word, the COVID-19 emergency requires rethinking criminal justice, and it could be a good opportunity to solve some old problems.⁷⁸ The important thing is to do so with extreme attention to the rights of the people in contact with criminal authorities.

6 CONCLUSIONS

The COVID-19 emergency impacted criminal justice and, therefore, one of the most suitable instruments for giving protection to the rights enshrined in the European Convention. Examining the issues covered in this study led to understanding how the criminal procedure is a means of giving voice to fundamental rights and how, at the same time, the human dimension and individual dignity must be guaranteed in the relationships with the authorities. Given the premise, the current pandemic has negatively impacted the effectiveness of the protection of the rights of the people

76 European Court of Human Rights, 10th November 2020, *Dan v. Moldavia (2)*.

77 European Court of Human Rights, 10th November 2020, *Dan v. Moldavia (2)*, Para. 51.

78 For example, before the pandemic emergency, Italian Supreme Court prevented the defense to deposit documents and motions by means of certified e-mail (e.g. Italian Cassation, 1st Criminal Section, 19th September 2019, no. 38665): the current situation allowed to overcome this inexplicable and anachronistic orientation.

relating to the authorities in charge of investigation, trial or criminal execution. For this reason, these subjects must be assigned the attribute of the vulnerable: they are disadvantaged people given the endemic superiority of the authority with which they relate and given their difficulty in asserting their rights due to COVID-19.

Our analysis made some proposals: increased investments in facilities for domestic violence victims; greater diffusion of individual protection measures in prison - or, more generally, increased investments in prison health or in better daily life of inmates; and better organization of judicial offices, with the implementation of computer resources for the handling of bureaucratic procedures. The pattern to follow derives from Article 51 of the Istanbul Convention, to be applied in general, beyond the restricted sector of gender-based violence.

States are required to carry out a risk assessment to avoid a serious and foreseeable dangerous situation, such as during today's pandemic. The lack in preparing legislative and jurisdictional measures to protect the population against the risk must be sanctioned; to this end, reference to Articles 2 and 3 ECHR is useful because the obligation for the internal authority to safeguard the population - and the weakest, in particular - from concrete and predictable dangers derives from the European Convention. This is the sense of the Strasbourg case law addressing positive obligations for national authorities: they must take measures appropriate⁷⁹ to the danger and proportionate to the objective to be achieved.⁸⁰

The analysis of the concrete context follows the in-depth study of all the elements available to the authority: it is possible to highlight the existence of a risk for the integrity of the people only after gathering all the information on the specific situation and examining it, perhaps with reference to similar situations that already occurred and were resolved in the past. Thus, the working method indicated by the European judges to the national authorities is identified. In other words, the interpreting work put in place by the Strasbourg Court has transformed the traditional concept of criminal law: whereas it once was intended as an instrument aimed at defending society through the action of authority, capable of prejudicing the rights of the recipients of the incriminating norm, nowadays, it is an instrument able to safeguard the rights of the individuals in situations in which the public authority remains inert.⁸¹ This new vision makes it possible to adapt criminal protection to the needs of the most vulnerable, understood as those who are most exposed to (predictable and concrete) risks for their safety that are not only physical.

On the basis of the examined case law, COVID-19 is a predictable and concrete danger not only for the public health but also for various areas of associated life such as the relationship between the individual and the criminal authority. States

79 Jan Kratochvil, "The Inflation of the Margin of Appreciation by the European Court of Human Rights", *Netherlands Quarterly of Human Rights* 29, no. 3 (2011): 324-357.

80 Vladislava Stoyanova, "Fault, Knowledge and Risk Within the Framework of Positive Obligations Under the European Convention on Human Rights", *Leiden Journal of International Law* 33, no. 3 (2020): 601-620.

81 See Laurens Lavrysen, "Protection by the Law: The Positive Obligation to Develop a Legal Framework to Adequately Protect the ECHR Rights", in: *Human Rights and Civil Rights in the 21st Century*, eds. Eva Brems, and Yves Haeck (Dordrecht: Springer, 2014), 94-115.

cannot afford to stand still in the face of this situation. Any inertia must be sanctioned, and in this way, the control of European justice must operate as the last bastion of fundamental human rights.

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Sažetak

COVID-19 BOLEST I KAZNENO PRAVOSUĐE. EUROPSKI PRIJEDLOZI ZA ZAŠTITU NAJBRANJIVIJIH

Trenutačno zdravstveno izvanredno stanje nije neočekivani događaj. Početkom 2020. svijet je zadesila bolest COVID-19, no danas, na kraju 2021., to je problem s kojim moramo živjeti. Pandemija je promijenila poimanje ranjivosti i postalo je očito da treba ojačati sustave zaštite za najranjivije. Ovaj je zahtjev postavljen i u odnosu na kaznenopravni sustav te posebice u situacijama u kojima u doticaj s tim sustavom, iz različitih razloga, dolaze osobe koje se zbog epidemioloških mjera nalaze u posebnoj izolaciji i u potencijalnoj opasnosti po vlastiti psihofizički integritet. Koncept ranjivosti tako dobiva novo značenje: javna vlast mora preuzeti odgovornost i odgovoriti na zahtjeve koji su proizašli (pa makar i neizravno) iz hitnoga zdravstvenog stanja. Interno postupanje državnih tijela je nedopustivo: njime se, naime, nanosi nepopravljiva šteta pravima pojedinaca koja su proklamirana i zaštićena u naddržavnim izvorima prava.

Ključne riječi: COVID-19; ranjivost; kazneno pravosuđe; nasilje u obitelji; kazneno izvršno pravo; Europska konvencija za zaštitu ljudskih prava i temeljnih sloboda; Istambulska konvencija.

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MAPPING THE CONSTITUTIONAL TERRAIN OF VULNERABILITY IN THE COVID PANDEMIC: THE CROATIAN CASE

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Summary

In this paper, we explore the underlying theory of the Croatian constitution in the response to the COVID outbreak. We argue that the operative issue imposed by the pandemic, at least in Croatian constitutionalist circles, was how facts should be related to constitutional values, structures, and norms. Although at first blush a replica of our general inability to get some bearing on a terrain of uncertainty in an unforeseen outbreak, we will explore the matter as a specific problem of constitutional theory, aiming to explore its implications for constitutional dimensions of vulnerability. To do so, we draw from the literature to describe the different ways constitutions may be imagined in relation to facts and then apply this insight to the measures enacted by the Croatian state during the COVID pandemic. The result is a treacherous terrain, where the exercise of state power and its restriction stand on thin constitutional grounds, excluding a spectrum of more substantive interpretations of the Constitution. In conclusion, we argue that this map reveals a narrowed basis for identifying and vindicating vulnerability.

Keywords: *vulnerability; constitution; constitutionalism; COVID-19; constitutional theory.*

1 INTRODUCTION

At the outset, we go down a well-trodden path: constitutions provide shape. By performing their role, they “constitute”. By relying on the law in the process, they draw a line between the “outside” and the “inside” of a constitutional order,

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between the constitutional and unconstitutional, legal and the illegal, empowered and powerless. In this, they both exclude and contain, creating “a circumscribed space in which likeness dwells, the likeness of natives, of an autochthonous people, or of a nationality, or of citizens with equal rights”.¹ In writing about the constitution as a “crucial boundary” in terms of democracy, Wolin argues, “the modern State as the guardian of boundaries has been rendered paradoxical, if not anachronistic”, both because it is faced by boundary-transcending challenges and because it is no stranger to breaching boundaries in exercising its power.² The COVID pandemic has provided examples of both, as it moved beyond boundaries in more than one respect and encouraged governments to exercise power in ways that transcended the ordinary.

On this well-trodden path, it is unsurprising that there were attempts to invoke a constitution in the name of the vulnerable. This was certainly the case in Croatian constitutionalism. The larger decision on whether the pandemic should be qualified as a state of exception apparently dominated the enforcement of the Croatian constitution.³ The issue, however, was inextricably bound to rights guaranteed by the Constitution, as the constitutional boundary between the “ordinary” and the “exceptional”, most relevant to the pandemic, hinges on the difference between regular and extraordinary limitations of fundamental rights.⁴ Hence, the apparent choice between the legally “ordinary” and the “exceptional” also involves the significance of constitutionally guaranteed rights. In Croatia, this choice was framed by the need to protect those identified as most vulnerable to the new virus.⁵ Nonetheless, the oft-declared imperative has led to an expansion of the executive power that may be difficult to square with a constitutionally limited government, creating a possible disparity between the legitimate need to protect the vulnerable and the use of the idea of vulnerability to extend power beyond its necessary measure.

In this paper, we will take a closer look at the use of the Croatian constitution in the pandemic. The literature has so far charted with sufficient precision the failures

1 Sheldon S. Wolin, “Fugitive Democracy”, in: *Fugitive Democracy and Other Essays*, ed. Nicholas Xenos (Princeton: Princeton University Press, 2016), 101, <https://doi.org/https://doi.org/10.1515/9781400883424-007>.

2 Wolin, *Fugitive Democracy*, 102, 104-105.

3 Đorđe Gardašević, “Pandemija kao stanje ‘velike prirodne nepogode’ i Ustav Republike Hrvatske”, in: *Primjena prava za vrijeme pandemije COVID-19*, ed. Jakša Barbić (Zagreb: Hrvatska akademija znanosti i umjetnosti, 2021), 23-45; Đorđe Gardašević, “‘Business as Unusual’: Pandemic Concentration of Executive Powers in Croatia”, *Pravni zapisi* 12, no. 1 (2021): 91-122, <https://doi.org/10.5937/pravzap0-32129>.

4 The Constitution of the Republic of Croatia, Official Gazette, no. 56/90, 135/97, 8/98 [consolidated text], 113/00, 124/00 [consolidated text], 28/01, 41/01 [consolidated text], 55/01 [correction], 76/10, 85/10 [consolidated text]) and the Amendment to the Constitution of the Republic of Croatia (ballot initiative), Official Gazette, no. 5/14, Decision of the Constitutional Court of the Republic of Croatia no. SuP-O-1/2014 (hereinafter: the Croatian Constitution), Arts. 16 and 17.

5 Goran Arbanas, and Sunčana Roksandić, “Ni med cvetjem ni pravice: sličnosti i razlike Zakona o zaštiti osoba s duševnim smetnjama i Zakona o zaštiti pučanstva od zaraznih bolesti - Treba li nam Zakon o zaštiti osoba sa zaraznim bolestima?”, *Liječnički vjesnik* 143, no. 11-12 (2021): 479, <https://doi.org/10.26800/LV-143-11-12-10>.

of the government to abide by the fundamental act of the Croatian legal order.⁶ We will add to these findings by mapping the constitutional terrain of vulnerability. More specifically, it is our claim that the way the Croatian constitution is related to facts impacted the pandemic vulnerabilities that may be identified with the constitutional language and vindicated through constitutional adjudication. This argument builds on the existing scholarship on vulnerability. As noted in the literature, institutions should enable resources to address the different forms of human vulnerability.⁷ We take the language enabled by the Constitution, in particular that of fundamental rights, as one such resource. To claim that we have a right and that this right has been violated allows us to articulate our own vulnerability and challenge power.⁸ In this paper, we argue that the underlying theory of the Croatian constitution adopted by the Constitutional Court in its pandemic case law reshapes the potential of the constitutional language to address vulnerability. In particular, it excludes a more substantive reading of the Constitution and allows that a range of vulnerabilities be ignored by the dominant executive power.

In the next part of the paper, we will show that the key challenge standing before Croatian constitutionalism in the pandemic was the interaction of facts and constitutional norms. We then draw from constitutional theory to describe how facts and constitutions may interact. We use this framework to explore the different measures enacted in the pandemic. Finally, we conclude by describing the Croatian constitutional terrain of the pandemic as an uneven, sometimes even treacherous ground, whose features are only in part directly related to the pandemic. They, in any case, narrow the potential of the constitutional language to vindicate vulnerability.

2 EVALUATING FACTS AGAINST CONSTITUTIONAL LIGHTS: THE PROBLEM

There is a sense in which any thinking about the pandemic and the constitution involves the interplay between facts and law. Much as any crisis that may require extraordinary governmental action, known to constitutional theory as a state of exception,⁹ the pandemic is something out of the ordinary, something that is not necessarily foreseen by laws intended to govern us outside its virus-ridden context.

6 Gardašević, *Business as Unusual*; Gardašević, *Pandemija kao stanje 'velike prirodne nepogode' i Ustav Republike Hrvatske*; Đorđe Gardašević, "Pandemija i Ustav Republike Hrvatske", *Novi informator* 6623 (2020): 1-4; Đorđe Gardašević, "Izvanredna stanja, „velike prirodne nepogode“ i promjene Ustava Republike Hrvatske", in: *Ustavne promjene i političke nagodbe. Republika Hrvatska između ustavne demokracije i populizma*, ed. Arsen Bačić (Zagreb: Hrvatska akademija znanosti i umjetnosti, 2021), 249-275.

7 Martha Albertson Fineman, and Anna Grear, "Introduction", in: *Vulnerability. Reflections on a New Ethical Foundation for Law and Politics*, eds. Martha Albertson Fineman, and Anna Grear (Surrey: Ashgate, 2013), 2-3.

8 Michael Goodhart, "Human Rights and the Politics of Contestation", in: *Human Rights at the Crossroads*, ed. Mark Goodale (Oxford: Oxford University Press, 2013), 32.

9 Đorđe Gardašević, *Ograničenja ljudskih prava i temeljnih sloboda u izvanrednim stanjima* (Zagreb: Hrvatska udruga za ustavno pravo, 2014).

We should then not be surprised that a constitution outlines the challenges such as the pandemic as discrete and somewhat fuzzy factual scenarios that should nonetheless be tamed by the law once they occur. The Croatian Constitution warns us of “great natural disasters”, “wars” or a “clear and present danger to the independence and unity of the Republic of Croatia”.¹⁰ How the law should respond to these scenarios and, in particular, how the powers of the state should be regulated in the process, is a larger debate that we shall not engage in here.¹¹ We use the Croatian discussion on whether the pandemic is a “great natural disaster” provided for in the Constitution to argue that, beyond the apparently crude dichotomy between extra-legal facts and legal norms relied upon by some commentators,¹² the law draws upon and provides normative significance to some facts over others. This is the mechanism at the core of the state’s response to the pandemic and is explored throughout the rest of the paper.

The COVID-19 pandemic almost immediately called forth the “new normal” as far as government-imposed restrictions are concerned.¹³ The Croatian authorities were no exception to this. A variety of measures introduced required the citizenry to assume individual responsibility for counteracting the spread of the virus. The measures were supported by the concern for the health sector, in particular doctors and nurses, who were seen as protagonists of a “hero discourse”.¹⁴ The same heroic aura originally accompanied the publicly engaged members of the National Civil Protection Headquarters, a body of the executive power entrusted with defining the applicable pandemic measures, as well as the then-new Minister of Health.¹⁵ The range of measures that ushered in the “new normal” also revealed a staging ground for a range of vulnerabilities: those attributable to anyone who may get infected by the virus, those affecting individuals particularly vulnerable to more serious forms of disease and, finally, vulnerabilities of individual social formations. The latter included the healthcare, educational and social care systems, themselves catering to the needs of the vulnerable.

The original support for the push against the pandemic was eroded as it became evident that principled adherence to medicine did not have an unfettered reign over the measures enforced. The selective application of individual measures and the

10 The Croatian Constitution, Art. 17(1).

11 For a broader exploration of these challenges, see Alan Greene, *Emergency Powers in a Time of Pandemic* (Bristol: Bristol University Press, 2020); Alan Greene, *Permanent States of Emergency and the Rule of Law: Constitutions in an Age of Crisis* (New York: Hart Publishing, 2020).

12 Marinko Jurašić, “Omejec: ‘Na izvanredno stanje ne treba ni misliti, a kamo li ga zazivati!’”, *Večernji list*, 27th March 2020, <https://www.vecernji.hr/vijesti/omejec-na-izvanredno-stanje-ne-treba-ni-misliti-a-kamo-li-ga-zazivati-1389637>.

13 Jeff Clyde G. Corpuz, “Adapting to the Culture of ‘New Normal’: An Emerging Response to COVID-19”, *Journal of Public Health* 43, no. 2 (2021): 344-345, <https://doi.org/10.1093/pubmed/fdab057>.

14 See more on the “hero discourse” in Shan Mohammed *et al.*, “The ‘Nurse as Hero’ Discourse in the COVID-19 Pandemic: A Poststructural Discourse Analysis”, *International Journal of Nursing Studies* 117 (2021): 103887, <https://doi.org/10.1016/j.ijnurstu.2021.103887>.

15 Mirela Holy, “Media Framing of the Coronavirus in Croatia”, *In Medias Res* 10, no. 18 (2021): 2825, <https://doi.org/10.46640/imr.10.18.3>.

apparent arbitrariness of their introduction led to public outcries, including attempts to reign in the National Civil Protection Headquarters and, by extension, the whole of the executive branch of power that had taken the lead in the pandemic. This also involved an effort to reimagine the role of the state through the language of the Croatian constitution, as the way the executive power handled the pandemic had been characterised as unconstitutional from the outset.

It is in this context that the interplay of facts and law took place, as is evident from the decision of the Constitutional Court of the Republic of Croatia on whether the pandemic is a “great natural disaster”, one of the exceptional states outlined in the Constitution. Measures involving obligatory facemasks, restrictions of working hours of shops and the outright prohibition of some activities amount to limitations of constitutionally guaranteed rights.¹⁶ What turned out to be much more problematic in Croatia was whether those restrictions were a regular exercise of state power or part of a state of exception. More specifically, the Croatian constitution provides that rights guaranteed by it may be limited only on a legal basis for achieving a legitimate aim and in a proportionate fashion.¹⁷ In addition to this “regular” framework for limiting rights, the Constitution provides that in *inter alia*, “any natural disaster” rights enshrined in the Constitution may be “curtailed” by a two-thirds majority of all representatives in the Croatian Parliament. Such restrictions must be “adequate to the nature of the threat”.¹⁸ This second, exceptional framework for limiting fundamental rights remains unused in Croatia’s pandemic response. Instead, the legislature and the executive applied the regular route,¹⁹ acting as if the pandemic did not involve a state of exception of any kind. The approach chosen meant that the exceptionality of human rights restrictions required by the pandemic measures continued to be a matter of dispute.

Several petitioners addressed the Croatian Constitutional Court, challenging the idea that limitations of constitutional rights motivated by the pandemic do not require a two-thirds majority of all representatives. In a controversial decision, the Court found that the Constitution vested the legislature with the power to choose between “regular” and “exceptional” requirements for limiting constitutional rights.²⁰ The decision was not controversial only because it turns a constitutional requirement into a matter of political choice, thus mischaracterising a restriction of political power as a matter of political convenience.²¹ The finding of the Court also contravenes the text of the Constitution that obligates the parliament to decide with qualified majorities

16 Terkuma Chia, and Oluwatosin Imoleayo Oyeniran, “Human Health versus Human Rights: An Emerging Ethical Dilemma Arising from Coronavirus Disease Pandemic”, *Ethics, Medicine and Public Health* 14 (2020): 100511, <https://doi.org/10.1016/j.jemep.2020.100511>.

17 The Croatian Constitution, Art. 16.

18 The Croatian Constitution, Art. 17.

19 According to Gardašević, this meant that Croatia had opted for a “legislative” rather than a “constitutional” approach to the pandemic. Gardašević, *Business as Unusual*, 100-104.

20 Decision of the Constitutional Court of the Republic of Croatia in case no. U-I-1372/2020 and ors., 14th September 2020, Official Gazette, no. 105/20 (hereinafter: CCC state of exception & self-isolation decision), Paras 27-28.

21 See, in this respect, the joint dissent of judges Selanec, Kušan, and Abramović, to the CCC state of exception and self-isolation decision.

required by the Constitution.²²

Rather than being clearly based in the structure or content of the constitutional document, the Court's finding is founded on a construction of relevant facts that preceded it. The Court prefigures its finding with two summaries, one apparently more factual in nature while the other is more concerned with legal developments abroad. In both cases, however, the Court creates a factual context for its own decision, arguably relying on it, at least in part, to bypass the clear requirements of the constitutional document.

In its first summary, the Court reflects on the worldwide spread of the Coronavirus, noting that the Croatian executive had to act swiftly and efficiently to react to the threat, embodied in a "rapid and exponential rise in the number of those infected".²³ The Court depicted the reaction of the executive as both a responsive and necessary act that was at the same time guided and restricted by scientific knowledge.²⁴ Besides couching the existence and the decisions of the National Civil Protection Headquarters in this fashion, the Court included a second factual summary, exploring how a range of Member States of the Council of Europe responded to the Coronavirus. Two salient features emerge from this portion of the decision. The Court describes other jurisdictions as lacking a consensus on whether pandemic measures should be introduced through regular or exceptional channels.²⁵ Secondly, the Court noted that a number of member states derogated from their obligations under the European Convention on Human Rights but that Croatia is not one of them.²⁶ As with the first factual overview, the Court provides background factors that apparently make the decision of Croatian authorities more palatable, while identifying the alternative, the two-thirds majority required by Article 17 of the Constitution, as equivalent to a facultative state of emergency that may be avoided through legally framed political action.²⁷

The Court's depiction of facts downplayed the impact the virus has had on the citizenry as well as the disruptive effect and the problematic legal quality of the measures enacted in response. For Croatian scholars criticising the finding of the Court, the facts of the case should have been evaluated differently. Đorđe Gardašević, a Croatian constitutional law scholar whose main topic of interest is the interplay of human rights and states of emergency, consistently argued that a pandemic causing huge

22 "Unless otherwise specified by the Constitution, the Croatian Parliament shall adopt decisions by a majority vote, provided that a majority of its deputies are present at the session." (Art. 82 of the Croatian Constitution.) Again, Article 17 explicitly provides that a two-thirds majority of all representatives, thus clearly obligating the Parliament in light of Article 82, should adopt restrictions of constitutional rights in a state of exception.

23 CCC state of exception & self-isolation decision, Para 17.

24 CCC state of exception & self-isolation decision, Para 18.

25 CCC state of exception & self-isolation decision, Para 19.

26 CCC state of exception & self-isolation decision, Paras 21-23. On derogation under Article 15 of the ECHR, see Alan Greene, "Separating Normalcy from Emergency: The Jurisprudence of Article 15 of the European Convention on Human Rights", *German Law Journal* 12, no. 10 (2011): 1764-1785, <https://doi.org/10.1017/S2071832200017557>.

27 See, in this respect, the concurrence of judge Mlinarić in CCC state of exception and self-isolation decision, Para 10.2.

waves of fatalities and hospitalizations, motivating at the same time unprecedented curtailments of fundamental rights, must be recognised as a state of emergency.²⁸ In his view, the failure of the Croatian Parliament to enact the pandemic legislation by a two-thirds majority led to a disproportionate strengthening of the executive, with a concomitant lack of transparency, accountability and legitimacy.²⁹ Judges of Croatia's Constitutional Court that dissented from the Court's decision have reasoned similarly, criticising the Court for its failure to acknowledge the exceptionality of the pandemic in legal terms. This failure has led to measures enacted without sufficient oversight and with troubling constitutional defects.³⁰

When seen against the background of comparative experience, the interpretation of facts adopted by the Croatia's Constitutional Court has not taken the country towards a Madisonian interpretation of the state of emergency. As argued by Ginsburg and Versteeg, a majority of the democratic countries have not responded to the pandemic by appealing to a Schmittian sovereign, an executive with the power to govern unilaterally in an emergency. Such jurisdictions have instead adhered to a Madisonian interpretation of limited government, with prominent roles for courts, legislatures and even subnational governmental units. All three actors have regularly responded to the actions of the executive, counteracting and controlling its power.³¹ In Croatia, such an interaction largely remained a theory. Although some local officials have protested against specific measures and their enforcement, particularly the so-called "COVID certificates",³² the reasoning of the Croatian Constitutional Court sanctioned a dominant role for the executive power. The executive largely overshadowed the Parliament, leading to two referendums that unsuccessfully aimed at restoring some of the legislature's power.³³ Hence, in comparative terms, even though the Court's finding did not formally renounce any possibility of oversight over the executive's action, it did take out the bite out of such a control, both in terms of constitutional adjudication and parliamentary oversight.

Notwithstanding the Madisonian failures of the Croatian approach to the pandemic, here we do not want to argue that a Schmittian interpretation of the state of emergency was what gained a foothold in Croatia. Instead, we want to suggest that the Croatian dilemma between "regular" states and those in some way "exceptional" is not a clash between clearly differentiated "law" and "facts". It is more accurately seen as a disagreement over how the law co-opts facts and provides them with normative significance. Factual narratives that ground the legal qualification play a key normative

28 Gardašević, *Pandemija kao stanje 'velike prirodne nepogode' i Ustav Republike Hrvatske*, 24, 41-42; Gardašević, *Pandemija i Ustav Republike Hrvatske*.

29 Gardašević, *Business as Unusual*.

30 Andrej Abramović, "Ustavnost u doba virusa", *IusInfo* (2020).

31 Tom Ginsburg, and Mila Versteeg, "The Bound Executive: Emergency Powers during the Pandemic", *International Journal of Constitutional Law* 19, no. 5 (2021): 1500, <https://doi.org/10.1093/icon/moab059>.

32 "Gradonačelnik Čabra: Nećemo tražiti COVID potvrde, život nastavljamo normalno i bez ograničenja", *Novi list*, 16th November 2021, <https://www.novilist.hr/rijeka-regija/gradonacelnik-cabra/>.

33 Matija Miloš, "Susprezanje autonomije političkog predstavništva građanskim inicijativama", *Zbornik Pravnog fakulteta Sveučilišta u Rijeci* 43, no. 1 (2022): 21-41.

role. This is important for our topic because a different evaluation of facts may include a different evaluation of vulnerabilities. How facts are positioned in relation to the law thus has an impact on which vulnerabilities will be normatively significant. To explore this further in the Croatian response to the pandemic, we first need to look at how constitutional law interacts with facts and the different interpretations of the law this involves. We turn to this task in the next part of the paper.

3 MAKING FACTS CONSTITUTIONALLY RELEVANT: LESSONS FROM THEORY

In the previous part of the paper, we have argued that the Croatian Constitutional Court's finding that the legislature may choose between "regular" and "exceptional" modes of restricting fundamental rights was not only a doctrinal operation. Embedded in the troubling notion that the institutions of government may choose between constitutional requirements is an evaluation of facts. The decision to prioritise the uncertainty brought about by the virus and the heterogeneity of responses to it beyond Croatian borders has led to a downplaying of the impact the restrictive measures have had on citizens and their rights. Furthermore, the claim that the pandemic was not necessarily a state of exception allowed the executive and the legislature to concoct a new category, "special circumstances", inaugurated through ordinary legislation. In this regime, the executive was able to declare the pandemic a "special circumstance" and introduce new human rights restrictions without any substantial legislative oversight.³⁴ Paradoxically, the facts of the pandemic became exceptional without being exceptional.

As recently argued, particular theoretical claims about constitutions are not intellectual stratagems developed and contested in a vacuum, but, at their core, claims about relevant facts.³⁵ Of course, constitutional courts, despite being forums of principle,³⁶ do not have as their primary vocation the development of persuasive constitutional theories. Nonetheless, they cannot avoid engaging with theory. Constitutional courts are, as institutions of government, devoted to ascertaining the meaning of sources of constitutional law and bringing this meaning to bear on facts of individual controversies.³⁷ In the process, "an issue of fact becomes an issue of law".³⁸ The constitutional fora do not formulate theories directly, but their work in interpreting the law and attributing normative significance to facts from a current case

34 Gardašević, *Pandemija kao stanje 'velike prirodne nepogode' i Ustav Republike Hrvatske*, 38.

35 TT Arvind, and Lindsay Stirton, "Slaying the Misshapen Monster: The Case for Constitutional Heuristics", in: *The Methodology of Constitutional Theory*, eds. Dimitrios Kyritsis, and Stuart Lakin (New York: Hart Publishing, 2022), 104.

36 Cristina Lafont, *Democracy without Shortcuts. A Participatory Conception of Deliberative Democracy* (Oxford: Oxford University Press, 2020), 235.

37 András Sajó, and Uitz Renáta, *The Constitution of Freedom. An Introduction to Legal Constitutionalism* (Oxford: Oxford University Press, 2017), 342, <https://doi.org/https://doi.org/10.1093/oso/9780198732174.001.0001>.

38 Aharon Barak, *The Judge in a Democracy* (Princeton: Princeton University Press, 2006), 157.

or a precedent³⁹ does require at least implicit theoretical work.⁴⁰ Just like theorists, constitutional courts “provide a framework that can integrate new developments into the constitutional order and chart a path for that constitutional order in a still-unfolding future”.⁴¹ In so doing, they draw on some form of constitutional theorizing, as piecemeal and fragmentary as it may be.

In their recent contribution to constitutional heuristics, Arvind and Stirton have argued that theorizing about constitutions involves a twofold approach to facts. We first select the facts that we find of some constitutional significance. We then tease out the implications of the facts selected for the problem the theory is addressing.⁴² There can be disagreements on both the scope of relevant facts and their significance, leading to different theoretical outcomes and calls for action⁴³ Similar processes occur in constitutional adjudication, even though a (constitutional) court is restricted in what it can draw on by rules of legal reasoning as a form of practical discourse.⁴⁴ Insofar as the interpretative work done by constitutional fora reaches into its context to establish precepts for “future action”, it resembles the construction of a tradition that, according to Arvind and Stirton, is comparable to constitutional theories.⁴⁵

According to Arvind and Stirton, the choice of relevant facts and their constitutional weight ultimately hinge on a “constitutional worldview”, i.e. an image of the constitution and its role that is adopted as the foundation of the interpretative enterprise.⁴⁶ For instance, one of us has argued elsewhere that the Croatian Constitution was frequently read as a representation of the mandates of liberal constitutionalism. It is because of this underlying constitutional image that Croatia’s Constitutional Court was able to set aside attempts to counteract representative democracy with referendums, prioritising the decisions of the political branches of power over the referendum. A less thick reading of the Constitution would not justify such an interpretation.⁴⁷ Similarly, Arvind and Stirton distinguish four different constitutional worldviews, based on two axes. One draws a spectrum between a “formal” constitution, a structure that only empowers and restrains constitutional actors, and

39 On precedent, see Barak, *The Judge in a Democracy*, 159.

40 “When one writes a literary work, he or she must consciously or unconsciously trade on the linguistic forms that make its construction and intelligibility possible. The activity of such writing itself invokes these constitutive rules. Similarly, when one engages in politics, he or she invokes the standards and methods of what it means to be political. But because politics in general is so infused with linguistic qualities, the political actor also invokes the forms that make words compelling (in both senses of the term).” William F. Harris II, *The Interpretable Constitution* (Baltimore: The Johns Hopkins University Press, 1993), 47. Similarly, a theory of the constitution shadows a constitutional interpretation.

41 Arvind, Stirton, *Slaying the Misshapen Monster*, 123.

42 Arvind, Stirton, *Slaying the Misshapen Monster*, 107.

43 Arvind, Stirton, *Slaying the Misshapen Monster*, 108.

44 Renáta Uitz, *Constitutions, Courts and History* (Budapest: CEU Press, 2005), 79-93.

45 Arvind, Stirton, *Slaying the Misshapen Monster*, 109.

46 Arvind, Stirton, *Slaying the Misshapen Monster*, 114.

47 Matija Miloš, “Reading the Constitution as an Integrated Whole: An Exploration of an Interpretative Instrument”, in: *Exploring the Social Dimension of Europe. Essays in Honour of Nada Bodiroga-Vukobrat*, eds. Gerald G. Sander, Ana Pošćić, and Adrijana Martinović (Hamburg: Verlag Dr. Kovač, 2021), 572–573.

a “substantive” one, that aims at achieving particular constitutional imperatives. The other axis differentiates between constitutions intended for a polity oriented by “the common good sustained and realised through the constitutional order” and those for a polity “characterised by “conflict, bargaining and agreement””.⁴⁸ The combination of the two axes allows Arvind and Stirton to identify four different constitutional worldviews: the constitution as a truce, the constitution as a rulebook, the constitution as a shield and the constitution as a cornerstone.⁴⁹ The four worldviews have different implications for how a constitution relates to facts.

Thus, when we conceptualise the constitution as a shield, we intend it to “protect individuals against aggression by others and against intrusions by the state”.⁵⁰ The conception places an emphasis on readings of fact that sustain the constitution as an instrument protecting specific substantive aims, e.g., a particular conception of natural rights, which are placed at the core of an order and take precedence over a more expansive understanding of the good.⁵¹ While this conception limits the scope of the substantive achievements it aims to achieve given that these are defences against unavoidable conflicts, interpreting the constitution as a cornerstone is more ambitious. The constitution is a purposeful instrument meant to move beyond establishing institutions of government and fostering a broader social transformation.⁵² By contrast, the conceptions of the constitution as a rulebook and the constitution as a truce place an emphasis on formal structures. The difference between them is that the former imagines the constitution as the framework for institutional action that resolves disputes on substantive issues. The divide between political and legal constitutionalists, with a difference in the emphasis they place on legislatures and courts, serves as an example of the constitution as a rulebook.⁵³ Constitutions as truces are the means of staving off inevitable conflict and are as such incapable of fostering a lasting agreement or furthering some substantive good.⁵⁴

In ultimate synthesis, each of these four conceptions are risky as each narrows one’s vision in selecting facts and attributing them with constitutional significance. They allow an exclusion of some facts and a different evaluation of those that remain under consideration, narrowing the “constitutional world”.⁵⁵ In academic quarters, this may well lead to intractable theoretical divides and conflicting accounts of a constitutional order. When a (constitutional) court is the one selecting between these different accounts, even if only by implication, an additional threat stems from its institutional position. Robert Cover has famously established that courts, when they assume the role of an authorised interpreter in a controversy, act in a jurispathic fashion. The decisions they reach are selected among different meanings that are attributable to a constitutional provision and provide it with a legal sanction. This destroys

48 Arvind, Stirton, *Slaying the Misshapen Monster*, 114-115.

49 Arvind, Stirton, *Slaying the Misshapen Monster*, 114.

50 Arvind, Stirton, *Slaying the Misshapen Monster*, 116.

51 Arvind, Stirton, *Slaying the Misshapen Monster*, 116-117.

52 Arvind, Stirton, *Slaying the Misshapen Monster*, 118.

53 Arvind, Stirton, *Slaying the Misshapen Monster*, 119.

54 Arvind, Stirton, *Slaying the Misshapen Monster*, 121.

55 Arvind, Stirton, *Slaying the Misshapen Monster*, 125-126.

competing meanings or, at the very least, leaves them without visibility and strength of state law.⁵⁶ In terms of this paper, if a constitutional court grants one meaning of vulnerability with the strength of the law, other interpretations of the concept may not be able to invoke the Constitution and may thus leave powerless those who are vulnerable. It is thus of some importance to study the underlying structures that animate a constitutional court's engagement with facts. Bringing these to light should also help us establish a court's jurisprudential stance towards vulnerability. With this in mind, we now return to Croatia's response to the pandemic.

4 FACTS, NORMS, VULNERABILITY: EVALUATING THE CROATIAN RESPONSE TO THE PANDEMIC

In a report on human rights in the Coronavirus outbreak, a civil society organisation usefully collated some of the most prominent forms of vulnerability brought about by the pandemic. In addition to vulnerabilities attached to rights limited by measures later found constitutional,⁵⁷ the Report reveals a range of difficulties with enforcing the rights to privacy, free access to information, the access to justice, and the rights to housing, work, health and education. The report also documents a problematic rise in family violence, issues concerning discrimination and stigmatisation of those (possibly) infected as well as difficulties specific to some of the most vulnerable groups, such as the elderly, individuals with disabilities, the homeless, inmates, international protection seekers and the Roma.⁵⁸ An additional difficulty was a lack of responsiveness. The unchallenged executive did not call for a dialogue with civil society organisations that might have alleviated some of the concerns.⁵⁹ As we will argue here, the serious weaknesses in the Croatian approach to vulnerability can at least in part be traced to the underlying meaning of the Constitution adopted by the Constitutional Court. With its concomitant approach to facts, this meaning has made the constitutional language less receptive to addressing some forms of vulnerability.

The Court has had many opportunities to address the constitutionality of the pandemic measures. In its first significant decision on the pandemic, in which the Court found that the parliament is not obligated to introduce pandemic restrictions of fundamental rights by a two-thirds majority, the Court also decided that self-isolation is a constitutional limitation of the freedom of movement.⁶⁰ The Court's case law would later include an array of other measures. Some were applicable to commercial activities. For instance, the executive imposed restrictions on the hospitality industry⁶¹

56 Robert Cover, "Foreword: Nomos and Narrative", *Harvard Law Review* 97, no. 4 (1983): 4-68.

57 See, for instance, the part of the Report on freedom of movement and voting rights. Ivan Buljan *et al.*, *Utjecaj epidemije COVID-19 na ljudska prava u Hrvatskoj. Ožujak-listopad 2020* (Zagreb: Kuća ljudskih prava Zagreb, 2020), 5-9, 13-14, https://www.kucaljudskihprava.hr/wp-content/uploads/2020/12/TI-Utjecaj-epidemije-Covid19-na-ljudska-prava-u-Hrvatskoj_web.pdf.

58 Buljan *et al.*, *Utjecaj epidemije COVID-19 na ljudska prava u Hrvatskoj*, 15-69.

59 Buljan *et al.*, *Utjecaj epidemije COVID-19 na ljudska prava u Hrvatskoj*, 4.

60 CCC state of exception and self-isolation decision, Paras 38-39.4.

61 Decision of the Constitutional Court of the Republic of Croatia in case no. U-I-2162/2020, 14th

and limited working hours for stores on Sundays.⁶² In other cases, the Court dealt with limitations imposed on the enjoyment of social rights, most pertinently the organisation of primary healthcare in the pandemic.⁶³ Other decisions tackled limitations more related to the political life of the country, most notably the restrictive interpretation of voting rights of those presumed to be infected by the virus.⁶⁴ Some of the Court's decisions examined the constitutionality of restrictions that straddle the commercial and the political, the private and the public. These include decisions on the obligation to wear facemasks and the organisation of public transport,⁶⁵ the obligatory testing and obligatory possession of COVID certificates⁶⁶ and restrictions on public gatherings.⁶⁷ In some of these cases, the Court has refused to decide on the merits of some cases, specifically when the measures under scrutiny were rescinded before the Court decided to assess their constitutionality.⁶⁸ Here we focused only on those decisions that included a reasoning on the merits of the case, allowing us to explore in more detail the implications of the Court's approach to vulnerability. Having said this, the fact that the Court had refused the opportunity to address the possible unconstitutional impact some measures have had before their rescindment indicates a more profound problem with its interpretative approach, to which we will now turn.

To begin with, it may be useful to provide a brief overview of the instruments the Croatian Constitution provides to articulate and address vulnerabilities. The first one is the value-based orientation of the Constitution. Similar to its German counterpart,⁶⁹ the Croatian Constitution incorporates a range of "highest values" that are the basis for interpreting the law. These are "[f]reedom, equal rights, national and gender equality, peace-making, social justice, respect for human rights, inviolability of ownership, conservation of nature and the environment, the rule of law and a democratic multiparty system".⁷⁰ It takes but a superficial reading of these values to find that human rights

September 2020, Official Gazette, no. 105/20.

62 Decision of the Constitutional Court of the Republic of Croatia in case no. U-II-2379/2020, 14th September 2019, Official Gazette, no. 105/20.

63 Decision of the Constitutional Court of the Republic of Croatia in case no. U-II-6278/2021, 12th April 2022,

64 The Constitutional Court of the Republic of Croatia, notice and warning no. U-VII-2980/2020, 3rd July 2020.

65 Decision of the Constitutional Court of the Republic of Croatia in case no. U-II-3170/2020, 14th September 2020.

66 Decisions of the Constitutional Court of the Republic of Croatia in case nos. U-II-5571/2021 and U-II-5417/2021, 21st December 2021, and decision of the Court in case U-II-7149/2021 and ors., 15th February 2022, Official Gazette, no. 25/22. With respect to the EU digital COVID certificate in particular, see the Court's decision in case no. U-II-6004/2021, 21st December 2021.

67 Decision of the Constitutional Court of the Republic of Croatia in case no. U-II-6267/2021 and others, 12th April 2022, Official Gazette, no. 49/22.

68 See, for instance, the decision of the Court related to restrictions on state borders. (Decision of the Constitutional Court of the Republic of Croatia in case no. U-II-2027/2020, 14th September 2020).

69 Arsen Bačić, "Ustav Republike Hrvatske i najviše vrednote ustavnog poretka", *Zbornik radova Pravnog fakulteta u Splitu* 49, no. 1 (2012): 14.

70 The Croatian Constitution, Art. 3.

are not only one of the values included in the Constitution, but that the constitutional text also enshrines a particular disposition towards human rights as one of its highest normative priorities. Rights must not only be guaranteed in an equal fashion, but “respect for” them must be maintained. Furthermore, it is evident that human rights are in some ways bound to each of the values enumerated in the constitutional text, as all those normative priorities can ultimately be traced to human rights, and, more specifically, dignity as a “mother-virtue” of sorts.⁷¹ According to Bačić, this “projects the image of an aspirational constitutionalism”,⁷² i.e. a constitution as a cornerstone rather than a shield for existing freedom or a mere structure for ongoing political processes.

The Constitution does not only facilitate articulating vulnerabilities through constitutional language by the substance of this language, but also by the procedures in place for limiting fundamental rights. The principle of proportionality is their keystone. It mandates that all restrictions imposed on human rights be tailored narrowly in each individual case.⁷³ The emphasis placed on individual situations does not in itself guarantee that institutions limiting fundamental rights or reviewing the constitutionality of those restrictions will pay due regard to all circumstances of the case, but it offers an opportunity to do so. In an exploration of the interplay of proportionality and vulnerability, Clérico and Aldao argue that proportionality may both stage vulnerabilities in a legally relevant form but may also gloss over them. In a fascinating reading of a case before the European Court of Human Rights, they analyze the approach taken by the majority. The reasoning of the Court was based on the well-known doctrine of the margin of appreciation to apply proportionality in an abstract key. Consequently, when examining the claims raised by the applicant, the Court does not pay regard to “the situation of vulnerability of the woman and her two children, living in poverty”.⁷⁴ By contrast, the dissenting judges insisted on a more concrete reading of proportionality, where the state is called to account because of its failure to ensure a social security minimum to those negatively affected by gentrifying policies.⁷⁵ Thus, much depends on how the facts of a case are reconstructed in a legal

71 Bačić, *Ustav Republike Hrvatske i najviše vrednote ustavnog poretka*. For a discussion on the fundamental meanings of dignity, see Aharon Barak, *Human Dignity. The Constitutional Value and the Constitutional Right* (Cambridge: Cambridge University Press, 2015), 12-15. Even social justice and the inviolability of property are relevant for dignity given that “[a] taining human dignity in a democratic state (...) presupposes a citizens’ sufficient economic and social security that empowers them to truly be informed and involved participants of a democratic process”. Valentino Kuzelj, “Apologija socijalne države nasuprot institucionalizaciji nejednakosti u neoliberalnom poretku”, *Paragraf* 3, no. 1 (2019): 77-78.

72 Bačić, *Ustav Republike Hrvatske i najviše vrednote ustavnog poretka*.

73 See Art. 16(1) of the Croatian Constitution. Snježana Bagić, *Načelo razmjernosti u praksi europskih sudova i hrvatskog Ustavnog suda* (Zagreb: Pravni fakultet Sveučilišta u Zagrebu, 2016), 2.

74 Laura Clérico, and Martin Aldao, “An Argument for the Test of Proportionality in Concreto: Silenced Voiced from the Margins to the Center”, in: *Proportionality, Balancing, and Rights. Robert Alexy’s Theory of Constitutional Rights*, ed. Jan-R. Sieckmann (Cham: Springer, 2021), 226.

75 Clérico, Aldao, *An Argument for the Test of Proportionality in Concreto*.

form and proportionality offers a space for this enterprise.

When we examine the pandemic case law of the Croatian Constitutional Court against this background, one can note a disconcerting crosscutting feature. Once the Court found that the Parliament has the power to define the pandemic as a regular state of affairs, it continued to exercise judicial review with a reduced level of scrutiny. Thus, despite the claim that all restrictions of fundamental rights must be proportionate in each case as if there was no state of emergency, almost every restriction introduced because of the pandemic was found to be constitutional with a lack of any thorough scrutiny. Even in a single significant finding of unconstitutionality, the Court approached its task with a complete disregard for the standards of proportionality and the facts of the case. While it did find that prohibiting the stores from working on Sundays did not amount to a necessary restriction of fundamental rights, it provided no substantial reasoning on the matter. The Court merely found that the measure “appears to be” unnecessary.⁷⁶ The dissenters have warned that the Court is unduly relaxing its scrutiny, providing no proper supervision of the apparently increasingly more arbitrary National Civil Protection Headquarters.⁷⁷

In 2021, a trio of judges penned a dissent that expressed consternation over the Court’s ignorance of “dramatic facts” when it refused to reconsider the power its earlier interpretation granted to the executive. In particular, the dissenters warned that the Court demonstrates a “serious disconnect from the social reality inhabited by the large majority of citizens. We must emphasise that the Constitution cannot be an abstract laundry list of ideals existing in someone’s empire of self-contained formulations and transcendental legal concepts. The Constitution must be and is a living document that relies on the instruments of the legal order to protect some of the most fundamental interests of each individual, exerting a very active influence on social relations and the living reality”.⁷⁸ The words used by the judges reveal a constitution whose meaning became detached from the vulnerabilities brought about by the pandemic. Instead, the constellation of its provisions and their impact have been closely tied to the vision of reality advanced by the political branches of power, in particular the executive.

That the dissenting judges are correct in their assessment becomes clear once we take a closer look at some of the cases in which the Court was expected to examine the claims of unconstitutionality of the Croatian response to the pandemic. In its decision on the power of the parliament to declare a state of emergency, the Court also examined the constitutionality of self-isolation as a restriction on the freedom of movement as well as the reforms of the National Civil Protection Headquarters, whose powers were redefined with a retroactive effect. In both cases, the Court found that the Constitution was not violated despite the serious objections to the contrary voiced by dissenting

76 Decision of the Constitutional Court of the Republic of Croatia in case no. U-II-2379/2020, 14th September 2020, Official Gazette, no. 105/20, Para 13.

77 See the dissent of judges Selanec, Kušan and Abramović in case no. U-II-2379/2020, 14th September 2020, Official Gazette, no. 105/20.

78 See the dissent of judges Kušan, Abramović and Selanec in case no. U-I-5918/2020 and ors., 3rd February 2021, 21.

judges.⁷⁹ When the Court decided that facemasks may be introduced even though the decision is not supported by a coherent rationale, it again deferred to the executive without insisting on a proper proportionality analysis.⁸⁰ In a decision of the Court on the epidemic measures that may be taken with respect to the hospitality industry, the Court found that an enormous transfer of power to the National Civil Protection Headquarters was constitutional without any sustained scrutiny of this transfer.⁸¹ The Court's deferential approach arguably reached its zenith in its decision on the constitutionality of COVID certificates and obligatory testing measures in the public sector. Having affirmed the constitutionality of both measures, the president of the Court, Šeparović, along with one other judge, notes in a concurrence that responding to emergency situations is "inherent in the executive power".⁸² This means that the Constitution was effectively transformed into a rubber stamp for the large majority of measures that can be approved by the need for the effective action in the pandemic.

When we juxtapose this case law to the framework of the constitutional world-views we have outlined in the previous part of the paper, we find that the Court's approach to the matters of constitutionality effectively rends the thicker, value-based interpretations of the Constitution asunder. The Court never disavows its earlier, substantive conceptualisations of the Constitution as a whole animated by foundational values. Nevertheless, its Coronavirus cases do not employ this reading in any significant measure. It is thus difficult to recognise the vision of the Constitution as a shield, dedicated to protecting the fundamental sphere of an individual's liberty, and there is no indication that the Constitution reads as a cornerstone, directed to a more ambitious socially transformative project. Granted, cases dedicated to a pandemic can hardly be a site for a sustained interpretation along such lines. It is still worrying that the Court has made little to no effort to protect the core of these thicker readings of the Constitution, all the while allowing the executive to proceed as if the pandemic is an ordinary state of affairs.

The Court's pandemic jurisprudence conceptualises the Croatian constitution as a procedural structure, most similar to the paradigm of the constitution as a rulebook. The Court reduces the meaning of the Constitution to institutional interactions, placing an emphasis on expertise, expediency, effectiveness and political prudence. The reasoning employed vests these values with the executive. The result is a constitution eviscerated of an autonomous existence that would be required by constitutionalism.⁸³ The fundamental act of the Croatian legal order is instead transformed into a framework

79 See, for instance, the dissent of judge Abramović in CCC state of exception and self-isolation decision.

80 Decision of the Constitutional Court of the Republic of Croatia in case no. U-II-3170/2020, 14th September 2020.

81 Decision of the Constitutional Court of the Republic of Croatia in case no. U-I-2162/2020, 14th September 2020, Official Gazette, no. 105/20.

82 Concurrence of judges Šeparović and Mlinarić in case no. U-II-7149/2021 and ors., 15th February 2022, Official Gazette, no. 25/22, Para 1.

83 Loughlin has argued that constitutionalism as an ideology requires that the constitution develop some degree of autonomy from those to whom it applies. Martin Loughlin, *Against Constitutionalism* (Cambridge: Harvard University Press, 2022), 11.

for effective governance, an administrative constitution.⁸⁴ While in part expected in the circumstances of a global pandemic, this interpretation bears consequences for addressing vulnerability.

According to Arvind and Stirton, the constitutional worldview that is adopted influences how facts are related to a constitutional order's continuity, core and canon. Specifically, they shape which facts are relevant to maintaining the existence of a constitutional order in time, which facts form a part of a constitutional order's core, or its identity, and which textual sources can be considered a part of a constitutional order's canon.⁸⁵ As we had noted earlier, Croatia's Constitution may be interpreted as a cornerstone or at least as a shield, particularly given the prominent position of the highest values it enshrines as a part of its core. However, given that the Court's pandemic jurisprudence does not take advantage of this potential, the resulting treatment of facts differs from this potential. The Court's decisions do not directly alter the value-laden core of the Constitution, but this core is not brought to bear on the problems raised in its cases. Once the constitution becomes a rulebook, our attention is directed to ascertaining the institutions that are tasked with resolving disputes, rather than the values animating such work.⁸⁶ By consequence, the legislation regulating pandemic measures and even individual measures themselves become a competing part of the constitutional canon, with little significant distinction between those sources of law and the constitutional document itself. The wisdom of the executive is seen as particularly well suited for protecting the core of the constitutional order in the circumstances of the pandemic. Finally, the continuity of the constitutional order draws from the continuing existence of the parliament and its power to exert political control over the executive. The circumstances of the pandemic and the comparable responses of other states to it are used to normalise the significant shift of power to the executive. For as long as the legislature has the formal power to resist the shift, aberrations in interpreting the highest values of the Constitution remain irrelevant.

We hasten to add the Court has not become inaccessible to claims of human rights violations, but that its jurisprudence has established a substantially narrowed basis for articulating and vindicating vulnerabilities brought about by the pandemic. By isolating the core of the constitutional order from its interpretation of constitutionality, the Court has relativized the weight of the Constitution's substantive bases for vindicating vulnerability. Furthermore, by not seriously engaging with the procedure imposed by proportionality, the Court offered little critical counterweight to the executive and no guidance on how governing the pandemic should proceed so that the Constitution does not become a collateral victim in the process. The consequences of this process are especially serious given that the Court is seen as an ultimate interpreter of the Constitution. While the Court's approach to the pandemic approach can in part be explained by the self-restraint it demonstrated earlier,⁸⁷ the

84 Martin Loughlin, "The Silences of Constitutions", *International Journal of Constitutional Law* 16, no. 3 (2018): 932-934, <https://doi.org/10.1093/icon/moy064>.

85 Arvind, Stirton, *Slaying the Misshapen Monster*, 109.

86 Arvind, Stirton, *Slaying the Misshapen Monster*, 119.

87 See, for instance, Siniša Rodin, "Temeljna prava i dopuštenost ustavne tužbe", in: *Ustavni sud u zaštiti ljudskih prava*, eds. Jadranko Crnić, and Nikola Filipović (Zagreb: Organizator, 2000), 221.

recent strengthening of its deferential attitude means that procedural and substantive instruments for vindicating vulnerability substantially lose their power. They may still be used as arguments beyond the Court's halls and may as such be deployed in political life, but their success will remain uncertain without institutional support. The argument from vulnerability may thus turn out to be overly vulnerable itself.

5 CONCLUSION: SIGHTS WITHIN AND BEYOND THE PANDEMIC

One of the key features of the Croatian Constitution that well predates the pandemic is its emphasis on the rights it guarantees. Human rights are one of the values at the putative core of the Croatian constitutional order. In addition, they form a large majority of the constitutional document and may be restricted only exceptionally and for justified reasons. The pandemic has introduced a breaking point. The strengthened structures of the executive power and the measures they have introduced have gained domination not only in daily politics but before Croatia's Constitutional Court. Imagined as the guardian of the Constitution, the Court has consistently responded to the pandemic by assuming that the Constitution is a rulebook that provides only very thin guidance to the political institutions of the state. As a result, the more substantive visions of constitutional content have been jettisoned, providing a terrain that only partially vindicates the vulnerabilities attached to the pandemic.

In part, the dominant interpretation of the Constitution can be read as a continuation of the executive dominance that preceded the pandemic. Nonetheless, the Court's insistence that the dominance of this branch is not an exceptional state of affairs but the regular functioning of the state has led to a silent rewriting of the constitutional canon. Under the guise of the pandemic, the substantive core of the Constitution has been relativised and its political potential narrowed. The capacity of its language to provide a voice for the vulnerable is not threatened only within the bounds of the Coronavirus crisis but might have troubling repercussions in its aftermath. If the constitutional structures, values and norms are to vindicate their promise as to the full protection of fundamental rights, all actors involved in its interpretation, including the citizenry, will need to address this problem. Furthermore, the vulnerability perspective may be a useful instrument in the toolkit used to explore the impact, the structure and the content of human rights restrictions in the pandemic.

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Sažetak

MAPIRANJE USTAVNOG TERENA RANJIVOSTI U PANDEMIJI KORONAVIRUSA: HRVATSKI SLUČAJ

U radu se istražuje implicitna teorija Ustava Republike Hrvatske koja je oblikovala pristup hrvatske države pandemiji koronavirusa. Tvrdi se kako je pandemija kao središnje pitanje, barem u hrvatskim konstitucionalističkim krugovima, nametnula problem odnosa činjenica i ustavnih vrednota, struktura i normi. Iako je na prvi pogled tek preslika naše opće nesposobnosti snalaziti se na nesigurnom terenu nepredviđene zaraze, problem se istražuje kao specifično pitanje ustavne teorije. Cilj je rada ispitati njegove implikacije na ustavnu dimenziju ranjivosti. Kako bi se u tome uspjelo, iz postojeće se literature preuzima prikaz načina na koje se ustave može dovesti u vezu s činjenicama. Te se uvide primjenjuje na ustavnost pandemijskih mjera koje je uvela hrvatska država. Time se stvara prikaz nesigurnog terena, na kojem vršenje državne vlasti i njezina ograničenja stoje na tankom ustavnom temelju. On isključuje čitav raspon supstantivnijih tumačenja Ustava. Zaključno se utvrđuje da takva interpretacija pokazuje da je u pandemiji uvelike sužena ustavna osnova za prepoznavanje i otklanjanje ranjivosti.

Ključne riječi: *ranjivost; ustav; konstitucionalizam; COVID-19; ustavna teorija.*

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