

Croatian courts failed to deal appropriately with a case involving repeated sexual violence in the workplace

In today's **Chamber judgment**¹ in the case of [Vučković v. Croatia](#) (application no. 15798/20) the European Court of Human Rights held, unanimously, that there had been:

a violation of Articles 3 (prohibition of inhuman and degrading treatment) and 8 (right to respect for private and family life) of the European Convention on Human Rights.

The case concerned the sexual assaults that Ms Vučković, a nurse, suffered at the hands of an ambulance driver colleague while working shifts together. Her assailant was sentenced to 10 months' imprisonment, but that sentence was commuted to community service on appeal.

The Court found it concerning that the appellate court had chosen to replace the prison sentence with community service without giving adequate reasons or considering in any way the interests of the victim. Such an approach suggested that the Croatian courts were lenient in punishing violence against women.

A legal summary of this case will be available in the Court's database HUDOC ([link](#))

Principal facts

The applicant, Maja Vučković, is a Croatian national who was born in 1978 and lives in Rijeka (Croatia).

In June 2015 Ms Vučković, a nurse, lodged a criminal complaint against her ambulance driver colleague. She accused him of sexually assaulting her while working shifts together between April and June 2015, including touching and grabbing various parts of her body and trying to force her to perform oral sex. The assaults had been accompanied by inappropriate language and threats that she would be fired if she ever told anyone.

Her assailant was convicted at first instance of two counts of lewd acts and sentenced to 10 months' imprisonment. The court noted in particular as aggravating factors the fact that the sexual offences had been committed repeatedly and over a short space of time.

The sentence was, however, commuted to community service on appeal and, according to the Government, duly served by the perpetrator. The second-instance court found that commuting the sentence would serve the purpose of punishment, bearing in mind that four years had passed since the assaults without the perpetrator's having committed any further crimes.

The assaults resulted in the applicant having to go on sick leave because of an injury to her arm, and later because of post-traumatic stress disorder.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution.

Complaints, procedure and composition of the Court

Relying on Article 3 (prohibition of inhuman and degrading treatment) and Article 8 (right to respect for private and family life) of the European Convention on Human Rights, Ms Vučković complained of the commuting of the sentence of her co-worker, arguing that it had been disproportionately lenient given the seriousness of the offences committed.

The application was lodged with the European Court of Human Rights on 19 March 2020.

Judgment was given by a Chamber of seven judges, composed as follows:

Arnfinn Bårdsen (Norway), *President*,
Jovan Ilievski (North Macedonia),
Egidijus Kūris (Lithuania),
Pauliine Koskelo (Finland),
Frédéric Krenç (Belgium),
Diana Sârcu (the Republic of Moldova),
Davor Derenčinović (Croatia),

and also Dorothee von Arnim, *Deputy Section Registrar*.

Decision of the Court

Firstly, the Court emphasised, and endorsed, the growing importance of community service in modern penal policy in the member States, but also noted the need to stand firm on sexual abuse and violence against women.

It was not for the Court to question the national courts' finding that the assaults against the applicant had only qualified as "lewd acts" instead of attempted rape. It did find, however, that the violence of the acts – as established by the domestic courts – would clearly be relevant for sentencing.

It was therefore striking that the appellate court, when commuting the sentence, had not even mentioned the perpetrator's high degree of criminal liability or his strong intent in committing the sexual offences, despite having agreed with the first-instance court's assessment of the aggravating factors. Nor had it explained why the mere passage of time had outweighed such serious aggravating factors.

Moreover, the Court noted that the domestic courts had not taken into consideration a number of factors which had been relevant under the domestic law in the sentencing process, such as the consequences of the offence on the applicant (her diagnosis and sick leave) and her assailant's behaviour after the assaults, including the alleged threats and his apparent lack of remorse.

The Court therefore found that the appellate court had not exercised the requisite careful scrutiny of all the case's circumstances when commuting the sentence.

Indeed, the Court found it concerning that the appellate court chose to replace the prison sentence with community service without giving adequate reasons or considering in any way the interests of the victim. Such an approach suggested that the domestic courts were lenient in punishing violence against women, a fact further confirmed by the Council of Europe's Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) and its [Baseline evaluation report on Croatia](#). Leniency could in turn discourage victims from reporting such acts, whereas on the statistics violence against women was worryingly common and seriously underreported.

The Court concluded that the State had not dealt appropriately with the repeated sexual violence that the applicant had been subjected to in her workplace, in violation of Articles 3 and 8.

Just satisfaction (Article 41)

The Court held that Croatia was to pay the applicant 10,000 euros (EUR) in respect of non-pecuniary damage and EUR 3,050 in respect of costs and expenses.

The judgment is available only in English.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.