

# PETITION

## Addressed to the President of the European Parliament Committee on Petitions

### I. Introduction

We, the undersigned, udruga RODA – Roditelji u akciji (RODA - Parents in Action, Croatia) **and the Croatian Association for the Promotion of Midwifery (*Hrvatska udruga za promicanje primaljstva*)** hereby submitted a complaint based on the non-compliance of Croatian law with the Section 6, Article 42(2)b) of the Directive 2005/36/EC of the European Parliament and the Council.

### II. EU obligations

Articles 40 and 42 of Directive 2005/36/EC of the European Parliament and the Council on the recognition of professional qualifications bear on the profession of midwifery. Article 4 of the Directive prescribes the requirement related to the training of midwives, while Article 42 contains a description of their professional activities.

In connection with the latter, the Directive stipulates that Member States shall ensure that midwives are able to gain access to an pursue at least the following activities, including:

- diagnosis of pregnancies and monitoring normal pregnancies, carrying out the examination necessary for the monitoring of the development of normal pregnancies;
- caring for and assisting the mother during and monitoring the condition of the foetus in-utero by the appropriate clinical and technical means;
- conducting spontaneous deliveries including where required episiotomies and in emergency cases breech deliveries;
- examining and caring for the newborn infant; taking all initiatives which are necessary in case of need and carrying out where necessary immediate resuscitation;
- caring for and monitoring the progress of the mother in the post-natal period and giving all necessary advice to the mother on infant care to enable her to ensure the optimum progress of the newborn infant;

Thus, under Article 42 of the Directive, midwives enjoy full competence and autonomy in providing care during pregnancy, birth and post-partum, all of which is of course to be carried out in close collaboration with health-care professionals and physicians.

### III. Croatian legislation and practise

Croatian legislation and practise do not comply with the above Directive in several aspects. Concerning the legislative framework, the Croatian government has failed to pass implementing legislation, which has resulted in the inability to establish independent midwifery with professionals who would run their private practices. Furthermore, in practice midwives are not permitted to provide care for women during pregnancy, birth and post-partum and they continue to work exclusively in hospitals as assistants or nurses.

During the process of adapting its domestic legislation to comply with EU legislation, the Republic of Croatia passed the Midwifery Act (National Gazette 120/08), as well as its necessary changes and supplements (National Gazette 145/10). This Act defines the work of midwives, the level and type of education required to work as a midwife, a midwife's competences, quality control and professional practice monitoring procedures to ensure that midwives in the Republic of Croatia are providing quality, high-standard care.

In passing this Act all that was achieved was the placing of the text of the directive in a Croatian national legal text. The nature of the Act itself as a general legal act is such that, in order to be implemented in practice, numerous implementation regulations have to also be passed; however, this has not yet happened. In these conditions, the state of midwifery in Croatia has remained, in practice, unchanged, and as such the laws of the Republic of Croatia regarding midwifery are not in compliance with European directives.

Since there are no implementation regulations by which the independent work and practice of a midwife would be defined in detail, the administrative and institutional preconditions for implementing the passed legislation do not exist in practice. Firstly, it is necessary to set out the conditions for opening independent private practice and to foresee the reorganisation of the work of midwives within the framework of the current healthcare system.

Furthermore, the Midwifery Act foresees that within their scope of practice and competences midwives will confirm pregnancy, monitor physiological pregnancies and births at all levels of the healthcare system and will confirm any pathological changes in pregnancy or birth about which they must consult with an obstetrician/gynaecologist. Midwives can conduct the first care a newborn receives as well as monitor a healthy newborn and its mother after a birth.

Unfortunately, the implementation of this Act has remained on paper only, and as a consequence the Republic of Croatia is not in compliance with the stipulations of Directive 2005/36/EC which regulates midwifery.

More specifically, under current legislation in force, midwives cannot provide care services during pregnancy. Contrary to Article 42(2)b of the Directive, midwives are not permitted to diagnose pregnancies, nor to monitor normal pregnancies (using their independent professional competence), nor can they perform or order tests required for the monitoring of normal pregnancies. All of these tasks remain exclusive domain of obstetrician/gynaecologists. Furthermore, postnatal care of both mother and her newborn baby are exclusively provided by general nurses, gynaecologists and paediatricians.

It is also important to note that positive legislation does not include any legislations that would regulate out of hospital births (midwifery centres, birth centres / birth houses, home births) and in this way the professional work of midwives within their scope of midwifery competencies is further denied. To this effect it is important to note that the Republic of Croatia remains not only in non-compliance with the requirements of secondary EU laws, but is also breaching human rights as stated in the European Convention on Human Rights (furthermore, see also *per analogiam*, the ECHR decision in the case of Ternovsky v. Hungary, 2010).

Since 01 July 2013 within the free movement of labour offered by EU membership, midwives have direct access to the EU labour market. Here, unfortunately the problems become more severe because Croatia is required to offer equivalent conditions for employment for all midwives from the EU, including midwives from Croatia and midwives from other EU member states, whose qualifications are in compliance with the Directive. At the same time the state is in practice hindering midwives from practicing in the scope stated in the Directive in the Republic of Croatia. The Ministry of Health (formerly the Ministry of Health and Social Services) has been informed of these problems a number of times by the Croatian Chamber of Midwives, but unfortunately to date no official response in answer to the majority of these questions has been received.

The current factual situation directly results from the lack of implementing rules and traditional practices: the Croatian medical establishment holds a complete monopoly over birth and ante-natal care. In Croatia, an obstetrician / gynaecologist can work in a public hospital and at the same time can have a private business. It is common in Croatia that the same doctor in public hospital refers the pregnant patient to his own private clinic where she has to pay for the same treatment she is entitled to receive for free under social security scheme. Furthermore, since it is not possible to choose birth attending staff, women often pay gratitude money and/or provide gifts or services to doctors in exchange for their presence during labour and/or elective caesarean sections.

It is this situation and the significant profits generated by it that make it in the interests of the medical establishment to maintain the *status quo* – an aim that is achieved through the current legislative framework.

Therefore, we find it crucial that you should recognize the importance of this cross cutting issue and urge the Croatian authorities to act in order to eliminate all the irregularities that currently have adverse effect on Croatian pregnant women and new mothers who are unable to benefit from modern midwifery set up by EU standards.

**Given all of the foregoing, we hereby request that the Commission conduct a review of this issue.**

Signed in Zagreb, 20 March 2014