

**SHADOW REPORT TO THE COE'S
CONVENTION FOR PREVENTION AND
PROTECTION AGAINST VAW AND
DOMESTIC VIOLENCE**

March 2022

INTRODUCTION

This general aim of this report is to provide information about the practical implementation of COE's Convention in the country, with special focus on the factual position of women survivors of different forms of VAW, such as women who suffered domestic violence, women victims of human trafficking, sex workers and LGBTI. It is based on the perspective of women survivors themselves, the effectiveness of the protection provided to these vulnerable groups of women, as well as their ability to effectively overcome the related legal problems and enjoy their legally guaranteed human rights. In parallel, the report provides information about the implementation gaps and systemic deficiencies, related to the main pillars of the convention, such as integrated policies, prevention, protection and prosecution, and includes the perspective of practitioners involved in front line for delivering justice to women survivors of VAW and Domestic Violence, such as those from the CSW, police, courts, health institutions.

The report was prepared by national CSO's with extensive experience in provision of direct support and advocacy toward improving the status of different categories of women survivors, and international research support for broader assessment of the implementation of due diligence principle, as listed below.

Association for Emancipation, Solidarity and Equality of Women – ESE is a civil organization, founded in 1994. ESE works locally, nationally and in the region of Central and Southeast Europe in cooperation with partner civil society organizations to improve the implementation of the social and economic rights of vulnerable groups of citizens, by strengthening them, mobilizing and engaging in the planning, implementation, and evaluation of public policies and services; ensuring equal access to justice and promoting fiscal transparency of institutions in the area of social and economic rights. These three strategic priorities reflect ESE's belief that social and economic rights should be the highest priority of the state and that their implementation should be based on the interests and needs of citizens, according to the principle of allocation of maximum available resources, the progressive realization of rights and non-discrimination. One of ESE's strategic orientations is to enhance access to justice for women who suffered domestic violence. In this regard ESE is providing direct support to women who suffered domestic violence for protection against domestic violence and resolution of other related legal problems; and strengthens capacities of practitioners from institutions for improving their response toward domestic violence cases. ESE has significant experience in reporting on the human rights situation in the country envisioned in several UN human rights instruments.

The Coalition Sexual and Health Rights of Marginalized Communities MARGINS was founded in 2007 as a non-formal, joint platform and the result of the joint efforts of several organizations. Since 2011, the Coalition has been registered as an individual legal entity, i.e. as an NGO whose founders include: HOPS – Healthy Options Project Skopje, HERA, IZBOR – Strumica, EGAL and STAR-STAR, and Stronger Together. Since then, MARGINI has been working on equal access and enjoyment of human rights of marginalized communities (sex workers, people living with HIV, people who use drugs, marginalized women, and LGBT people) and better life quality in different social spheres.

Open Gate is a civil society organization in the Republic of Macedonia, acknowledged on both national and international level. It is renowned for its commitment, persistence and professionalism, as well as its focus on the needs and interests of trafficked persons and target groups. The main goal of Open Gate is to invest all their effort and capacity in creating a society freed from inequality, poverty, prejudice and discrimination, violence and trafficking in humans, and to build a place where people's rights are widely respected and all citizens are given equal opportunities for socio-economic independence.

The Edinburgh International Justice Initiative (EIJI) is a student run initiative that seeks to help institutions working to ensure justice for victims of international crimes and strengthen the international justice system by providing *pro-bono* legal research assistance that can make a practical difference. Recognizing the importance of "due diligence principle" for the overall implementation of the COE's Convention, we would like to especially emphasize the importance of the support provided by the Edinburg International Justice Initiative (EIJI), for preparing a separate Report for this purposes. The report incorporates information about the the concept of this principle, and practical application of this principle by the various States signatories to the Convention, as well as what GREVIO considers to be positive practice in relation to the principle itself (according to data from Baseline reports). In this regard, EIJI report provides information about the trends in terms of the challenges faced by countries in applying this principle at the international level, such as Austria, France, and Denmark, Malta and others, which was used for comparison of the situation at the national level. In addition, what is more important is that the EIJI's report provides information about the positive experiences of other countries in terms of implementation of the due diligence principle in correlation with Articles 7, 8, 11, 13, 29, 30, 50, 52 and 53 of the convention, which is used to indicate what is to be done by the State in order to comply its obligations.

ARTICLE 5 State obligations and due diligence

Despite the incorporation of due diligence in the new Law on Prevention and Protection against VAW and Domestic Violence, the State did not create the needed preconditions for implementation of the national legislation in practice; there is an absence of data collection system which will allow determination of trends and creation of evidence based policies in accordance with the specific needs of women survivors; there is a lack of allocation of the needed financial and human resources for improving the situation with prevention, protection and prosecution of cases of VAW and domestic violence; and finally women survivors of GBV and domestic violence. All these systemic deficiencies are elaborated under separate articles within this report.

The data contained under this article of the Convention are based on the findings of a separate Report on due diligence in relation to COE's Convention¹ prepared by the Edinburgh International Justice Initiative EIJI. The general conclusion is that although the implementation of due diligence principle differs between each State and is dependant from the allocated resources and reasonable expectations, there are three main factors that are influencing the failings and improvements in this regard, which is the case for Republic of North Macedonia as well. The following factors were identified in this regard: a definition of violence that is clear and inclusive; Gendered data collection; and increased funding and aid.

Therefore, there is a need of considering the efforts of other member states when working to effectively meet its obligations, as explained in the following part which incorporates the positive examples in terms of implementation of due diligence principle in correlation with the other Articles from the convention as elaborated below.

Article 7: Comprehensive and Coordinated Policies

GREVIO has commended Malta about the transformation of the Commission on Domestic Violence into the Commission on Gender-Based Violence and Domestic Violence ('Commission'), as distinct legal personality as an institutional entity, and the increased access to funding in this regard.²

The positive example from Malta can be applied to the National Coordinative Body in the Republic of North Macedonia³, in direction of strengthening the independence and financial sustainability of the of the body for monitoring the implementation of the Convention on national level.

Article 8: Financial Resources

¹ Available at <http://www.esem.org.mk/index.php/najnovi-publikacii/4190-report-on-due-diligence-in-relation-to-coe-s-convention-on-prevention-and-protection-against-vaw-and-domestic-violence.html>

² Grevio, 'Baseline Evaluation Report Malta' (GREVIO: Council of Europe, 2020) <<https://rm.coe.int/grevio-inf-2020-17-malta-final-report-web/1680a06bd2>> accessed 7 February 2022 7.

³ Law on Prevention and Protection against VAW and domestic violence, Article 15

The positive example from Austria referred to the increased State budget for prevention and protection against VAW and domestic violence for almost 50%, can be applied in Macedonia in order to address the continues lack of budget funds and dependence of foreign donor support. In addition, Austria has a wide range of CSOs that provide support to victims, which are typically wholly or mostly funded by the federal government, which represent a positive example for recognizing the role and supporting CSO's service providers.

Article 11: Data Collection and Research

The Efforts undertaken by Denmark toward improving the disaggregated data collection and research on instances of DV and VAW, can be considered for improving the collection of gender disaggregated data on national level.

Namely, the Danish police reviewed manually 400 cases of violence and threats in order to address the previously neglected data points such as the nature of the perpetrator's relationship to the victim.

INTEGRATED POLICIES AND DATA COLLECTION

ARTICLE 7 Comprehensive and coordinated policies

The process of ratification of the Council of Europe's Convention and its entry into force in 2018 was followed by legislative efforts by the State in order to harmonize national legislation with the provisions of the Convention. In this regard, the Action Plan for implementation of the Council of Europe Convention for the period 2018-2023⁴ was adopted, as well as the new Law on Prevention and Protection from Violence against Women and Domestic Violence⁵.

The improvement of the national legal framework, i.e. the creation of normative preconditions for protection of different categories of women victims of violence who were not previously formally legally protected, as well as the pro-activity demonstrated by the Ministry of Labor and Social Policy (MLSP) regarding the involvement of the civil society sector in these processes, would usually mean demonstration of a strong political will to prioritize this issue, i.e. improving the situation with VAW and domestic violence in the country. However, the general conclusion is that there is an absence of substantial efforts undertaken by the State for effective implementation of Article 7 from the Convention due to the following reasons:

The National Legislation is not harmonized with the Convention

Apart from the adopted legislative measures for harmonization of national legislation within the NAP 2018-2023, the legislation is still not harmonized. Although the Law on Prevention and Protection from Violence against Women and Domestic Violence is in great manner harmonized, yet the Criminal Code is not harmonized with the Convention. In this regard, the National Action Plan for implementation of the convention is not incorporating measures toward "ex officio" prosecution of the criminal act "bodily injury" committed in domestic violence cases, although all the other criminal acts related to domestic violence are prosecuted ex officio. In relation to women sex workers, the national legal framework is incomplete or stipulates provisions unfavourable to marginalized communities.

A significant portion of the activities toward adoption and amendments to the existing laws are still not implemented, although planned for 2018, such as the Law on reparation for victims of crime⁶, which is especially important to the women victims of human trafficking.

Part of the implemented activities were not fully implemented as planned, such as the measures planned within the Law on Free Legal Aid⁷ and Law on Social Protection⁸ in 2019. Namely, the obligation

⁴ The Action Plan for Implementation of the Convention for the Prevention and Combating of Violence against Women and Domestic Violence 2018-2023

⁵ Official Gazette of RSM, No. 24 from 29.01.2021

⁶ Available at https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=54834

to explicitly list the victims of domestic violence as beneficiaries of free legal aid was not fully implemented by the Ministry of Justice, since women victims of domestic violence are granted free legal aid based on their status of victims, only in the civil court procedure for pronouncing the TMP. In addition, no changes were introduced to Article 20 about this procedure for elimination of the eligibility criteria that is referring to the submission of written certificate by the competent institutions, for confirming the status of domestic violence victim⁹, which especially is a barrier for approval of free legal aid to women survivors who have not reported the violence previously. Moreover, part of women survivors who reported the violence previously to CSW and asked for such certificate have expressed their dissatisfaction, since the CSW did not provide them with this document because their “status of victims” has not been confirmed yet. The obligation to improve access to social financial assistance to women who suffered domestic violence, including guaranteed minimum assistance and housing was not met by MLSP, since women who suffered domestic violence are not listed as beneficiaries under these types of financial assistance.

What is especially worrying is the fact that certain activities although planned, will not be implemented as such by the relevant ministries. For instance, despite the planned amendment of Article 28 in the Law on Police, in order for the police officers to be able to take action to remove the abuser from the home in GBV cases, the MOI with the submission of its operational plan for 2019 have informed that this activity will be not implemented at all. Moreover, MOI has stated that they have already informed MLSP in September 2018, when consulted about the NAP about this decision¹⁰. This raises the question whether all the ministries and institutions were adequately informed and consulted in the process of adoption of the NAP 2018 – 2023, since this could seriously affect the implementation of NAP in the future. In addition, the indicators for monitoring the implementation of the NAP are mainly quantitative, which might especially affect the quality of implemented measures. For instance, the indicators related to the establishment of specialized services for women are stated as “four shelters, three referral centers, three crisis centers”.. This indicator cannot be used to assess whether the women survivors are provided with the needed help and support, in accordance with their specific needs.

Another concern is the lack of transparency in the implementation of the NAP. CSO’s are not informed sufficiently, neither included in this process, despite the obligation for their substantial involvement in this regard. In parallel, there is lack of evidence based planning and non inclusion of women survivors in

⁷⁷ Official Gazzete No. 08-2895/1, available at

<https://www.pravda.gov.mk/Upload/Documents/Zakon%20za%20besplatna%20pravna%20pomos.pdf>

⁸ Official Gazzete No.08-524/1, available at

<https://www.mtsp.gov.mk/content/pdf/2021/1a28a922f364401e94935d4d694b9d75.pdf>

⁹⁹ In addition, this legal provision is not clear in terms of specification of the type of certificate needed, although it can be interpreted as confirmation from CSW or police where the violence was previously reported.

¹⁰ The information is incorporated at the first page of MOI’s OP for 2019

<https://mvr.gov.mk/Upload/Editor Upload/%D0%9E%D0%BF%D0%B5%D1%80%D0%B0%D1%82%D0%B8%D0%B2%D0%B5%D0%BD%20%D0%BF%D0%BB%D0%B0%D0%BD-%D1%81%D0%BA%D0%B5%D0%BD%D0%B8%D1%80%D0%B0%D0%BD%D0%BE.pdf>

the processes of planning, adopting, implementing and evaluating State policies for addressing GBV and domestic violence.

The National Legislation is not implemented in practice

There is a long-standing well documented practice of disunity between the processes of adopting national strategies, action plans, laws and bylaws, and their implementation in practice, which has continued after the ratification of the COE's Convention. The NAP 2018 – 2023 lists only the sources of funding for the envisaged activities, i.e. the competent ministries and donations, without specifying the allocated budget funds, which means continuation of this practice by the state. There is no regular practice established on annual level for preparation and publication of operational plans for implementation of NAP by the competent ministries and institutions. The web page of MLSP does not incorporate the annual operational plans of this ministry, and the only publicly available operational plans are those of the Ministry of Interior¹¹ (MOI) and the Ministry of Justice¹² (MJ) for 2019, as well as the Ministry of Education and Science (MES) for 2021¹³ and 2022¹⁴. In addition, despite their obligation, competent ministries do not allocate sufficient funds within their annual budgets for its realization.

As a result, mainly legislative steps were taken, while the prevention of violence and the improvement of the factual situation of women victims were neglected by the State. In addition, there are not publically available evaluation reports about the policies implementation¹⁵, that will show the quality of the measures conducted, the progress made, and the actual impact that it has produced on women survivors. The only one publically available "Annual Report for the activities implemented and progress made toward equal opportunities between women and men in 2019", does not actually incorporate analysis and evaluation of measures undertaken, but rather general and statistical information in this regard.¹⁶ The lack of adequate data collection system severely affects the capacities for monitoring the implementation of policies, and undermines the legislative efforts undertaken by the State in this regard.

¹¹ MOI Operational Plan for 2019, available at https://mvr.gov.mk/Upload/Editor_Upload/%D0%9E%D0%BF%D0%B5%D1%80%D0%B0%D1%82%D0%B8%D0%B2%D0%B5%D0%BD%20%D0%BF%D0%BB%D0%B0%D0%BD-%D1%81%D0%BA%D0%B5%D0%BD%D0%B8%D1%80%D0%B0%D0%BD%D0%BE.pdf

¹² MOJ Operational Plan for 2019, available at https://www.pravda.gov.mk/Upload/Editor_Upload//2018-11-20%20092139_1%20Fina_3.pdf

¹³ MON Operational Plan for 2021 available at <https://mon.gov.mk/stored/document/Operativen%20plan%20-%20Istanbulska%20konvencija.pdf>

¹⁴ MON Operational Plan for 2021 available <https://mon.gov.mk/stored/document/Operativen%20plan%20-%20Istanbulska%20konvencija%202022.pdf>

¹⁵ Including the following: Gender Equality Strategy 2013-2020; National Plan of Action for Gender Equality 2018-2020 and Operational Plan for 2018-2019; National Action Plan for implementation of the COE's Istanbul Convention 2018-2023; National Strategy for Equality and Non-discrimination; National Action Plan for implementation of the Antidiscrimination LAW 2015-2020.

¹⁶ Page 25, 2.6. Access to justice, available at <https://mtsp.gov.mk/dokumenti.nspix>

In addition, the State did not implement substantial efforts for increasing the level of coordination among the institutions involved in the system of protection, such as CSW and police. As a result, women survivors of domestic violence are reporting to CSO's difficulties in their communication with institutions, inadequate and harmful proceeding, and evident lack of coordination between the Centers for Social Welfare, police, Courts and health institutions¹⁷.

The factual position of women survivors in our society and the continuous trend of high prevalence of GBV and domestic violence in the country confirm this statement and emphasize the need for finally changing the existing approach and prioritize this issue at the top of the political agenda.

In addition, the State's declaratory approach for dealing with domestic violence which has been legally regulated for almost 20 years, i.e. the absence of positive practices that would be applied today for effective protection of women victims of other forms of VAW, allows us to be critical and conclude that the Government, the competent ministries, institutions and the judiciary have not taken substantial steps to effectively deal with VAW in the country. The main characteristic of the state's approach toward domestic violence in a period of almost 20 years is the subsequent amendment and adoption of laws and policies, without creating the necessary preconditions for their implementation in practice. This fact is confirmed in the concluding observations and recommendations that the CEDAW Committee has sent to our country, starting from the submission of the initial report until today. Namely, the positive aspects that are emphasized mainly refer to the adoption of certain legislation and policies, while the remarks for taking substantial steps to improve the factual situation in this field are being repeated in continuity. No sufficient budget and human resources were allocated by the State for implementation of the national legal and policy framework for addressing domestic violence. Please see more detailed information under Article 8.

In relation to women sex workers, the national legal framework is incomplete or stipulates provisions unfavourable to marginalized communities. Sex work itself is regulated as a misdemeanour within Article 19 of the Law on Misdemeanours against the Public Order. The law bans the provision of sex services and fines sex workers for soliciting.¹⁸ On the other hand, mediation in prostitution is a criminal offence regulated with article 191 of the Criminal Code. The rights of sex workers are not recognized by the State except in the context of public health and HIV/STI prevention issue which was introduced in the discourse through the grant supported by the Global Fund for AIDS, Tuberculosis and Malaria (GFATM).¹⁹ The National strategy for equality and non-discrimination 2016-2020 fails to recognize the sex workers as a vulnerable group for which the state should take specific consideration in order to prevent discrimination and violence. Accordingly, the human right perspective was missing at all levels.

¹⁷ Data Base of Legal Aid Center, ESE 2021

¹⁸ "Official Gazette" no. 66/1997. Law on Misdemeanors against the Public Order. The law prescribes a fine from 600-800 Euros for the sex worker.

¹⁹ Government of the Republic of Macedonia. National Strategy for HIV 2006-2012 and National Strategy for HIV 2012-2016. In the period of the drafting of this report, the Government has not adopted the new National Strategy for HIV.

The research among sex workers demonstrates high prevalence of domestic violence.²⁰ Many researches prove the intersectional discrimination against sex workers and the lack of access to justice as a result of their specific position in the society which makes them more susceptible violence.²¹ It is encouraging that the NAP 2018 – 2023 foresees dismissal of the provision of the Law on misdemeanor against public order and peace based on which women involved in sex work are fined. Until the drafting of this report, the Ministry of justice failed to remove this provision that disproportionately affects women. The adopted National Action Plan for implementation of the Istanbul Convention there are few activities directed toward prevention and protection of violation of women involved in sex industry. Based on the plan, the services for prevention and protection of gender-based violence against women should be inclusive for vulnerable categories of women, including sex workers, lesbians, bisexuals and transgender people.²² North Macedonia has an obligation to repeal legal provisions that discriminate against women, thereby protecting, encouraging, facilitating or justifying any form of gender-based violence. Following the ECHR judgment from 2019, X v. FYROM, the State has failed to fully implement it and secure fast, transparent and accessible legal procedure for gender recognition of the transgender people. Lack of comprehensive legal framework related to legal gender recognition disproportionately affects transgender people and results in discrimination and violence.²³

In relation to victims of human trafficking, despite the legal novelties²⁴, the related legal is mainly gender neutral and needs to be adapted. Moreover, the law for Compensation for Victims of Crimes

²⁰ Бошкова Н., ШтерјоваСимоновиќ Х.

Анализа на ставовите на сексуалните работници за потребата од промена на законската регулатива за сексуална работа во Македонија, 2017, стр. 17.

²¹ Димитриевиќ В., Тошева М., Бошкова Н.

Анализа за потребата од промена на законската регулатива за сексуална работа во Република Македонија, потреби и предизвици. Здружение ХОПС, Опции за здрав живот Скопје, 2016, стр. 8.

²² Владана Република Македонија, Националниот акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и домашното насилство на Република Македонија, 2018.

²³ Coalition sexual and health rights of marginalized communities. Annual report for 2018, 2019 and 2020.

Available at: <http://coalition.org.mk/publikacii/izvestai>

²⁴ The Law on Prevention and Protection from Violence against Women and Domestic Violence defines trafficking in women and girls as a form of gender-based violence, and the services provide for the accommodation of victims of trafficking in the Center for victims of human trafficking. A new Rulebook on the manner, scope, norms and standards for providing social services for temporary residence and space, means, staff and necessary documentation for a Center for temporary residence²⁴ has been adopted in accordance with the Law on Social Protection regarding the Center for Victims of human trafficking.²⁴ Based on this rulebook, a decision was made to determine the prices of social services in the home, out-of-family care, professional assistance and support and temporary residence for 2022, which for the first time provides a cost price. of a service for temporary residence in the Center for Victims of Human Trafficking, in accordance with the methodology for setting the prices of services depending on the norms and standards for providing social services.²⁴ During the year, a cross-sectoral working group, formed within the Ministry of Interior, prepared a gender budget statement for the fight against human trafficking and illegal migration, which shows the political will to promote and include gender equality in the fight against trafficking and illegal migration. The gender budget statement was adopted by the Minister of Interior and was published on the website of the Ministry of Interior.²⁴

should be adopted as soon as possible. In the same time there should be action taken for their active implementation especially on strengthening capacities of law enforcement for conducting financial investigations in all cases of human trafficking. Relevant institutions, especially the PPO and the court, should invest more effort in conducting swift, detailed, and efficient investigations and should adjudicate the proceedings within a reasonable period. In cases of child victims and other vulnerable victims of human trafficking, the PPO should provide special measures for protection of children during the criminal proceedings, prior to taking the victim's statement and the beginning of the criminal proceedings. The court should invest more efforts in enabling the presence of a legal proxy/representative of the victim during the criminal proceedings.

Recommendations f- Article 7

The Government and relevant ministries should conduct a detailed overview of the individual measures within the NAP and upgrade the existing NAP, with direct involvement of each relevant ministry, institution, CSO's and other stakeholders in this process. In addition, special efforts should be put for broadening the list of qualitative indicators, including indicators on victim's satisfaction from the provided services, which allow measuring the effectiveness and quality of measures conducted.

Mechanisms for regular preparation of operational plans, including funding from annual budgets for implementation of the NAP by the relevant ministries and institutions, should be established as well.

The Government and relevant ministries should develop comprehensive monitoring and evaluation framework for assessing the implementation and effectiveness of measures undertaken, with direct involvement of each relevant ministry, institutions, CSO's and other stakeholders in this process. In addition, to establish a regular practice to periodically prepare and made public the narrative reports about the implementation and impact produced.

The Government and relevant ministries should establish mechanisms for mandatory involvement of women survivors in the processes of planning, adopting, implementing and evaluating State policies for addressing GBV and domestic violence.

MLSP should initiate changes to the Law on Social Protection, in order to explicitly guarantee the women who suffered domestic violence right to different social financial assistance, and consecutively provide the needed budget funds for this purpose. MLSP should initiate changes to the Law on Prevention, Protection against VAW and domestic violence, in order to exclude the victims consent as a precondition for initiating the civil court procedure for TMP by the CSW.

The Ministry of Interior should initiate change to Article 130 of Criminal Code, for "ex officio" prosecution of the criminal act "bodily injury" committed in domestic violence cases.

The Ministry of justice should adopt the Law on monetary compensation for victims of crime, and initiate changes to: Article 20 on the Law on Free Legal Aid, in order to dismiss the criteria related to submission

of written certificate as a precondition for approval of free legal aid; Law on Misdemeanor against the Public Order for dismissal of the provision based on which women involved in sex work are fined.

Separate efforts should be undertaken by relevant ministries for adopting comprehensive legal framework related to legal gender recognition.

Article 8 – Financial resources

The continuous non-allocation of the necessary budgetary and human resources on this field reflects the real commitments that the State undertakes in this field, and reveals the marginalization of the issue of gender equality, non-discrimination and VAW in our society. In this regard, there is a well documented negative practice of non unity between the processes of adopting national strategies, action plans, laws and bylaws, and their implementation in practice, which has continued after the ratification of COE's Convention as well. Moreover, there are not mechanisms applied for transparent and participatory budgeting, based on the real needs of women survivors of VAW and domestic violence, which will assure the sustainability of actions undertaken and positive impact on long-term level, neither system for monitoring and evaluation of the measures undertaken and funds spent. The continues lack of funds for implementation of national policies and laws related to gender equality and VAW has been in reiterated by relevant international human rights bodies, such as the UN CEDAW Committee, which in its concluding observations to the State's periodic reporting has repeatedly expressed concern, and recommended the State to "allocate adequate human and financial resources to all national strategies and action plans for the advancement of women, ensure their effective implementation and monitor and regularly evaluate the process"²⁵. Despite this, this practice has continued even after the ratification of COE's Convention.

The Action plan for implementation of the Convention lists only the sources of funding for the envisaged activities, i.e. the competent ministries and donations, without specifying the amount of funds needed and the proportion of the allocated budget funds for implementation of foreseen activities. In fact, most of the implemented activities from the Action plan are funded by the foreign donors. In the process of adoption of the Law on prevention and protection of violence against women and domestic violence the Ministry of labor and social policy presented no fiscal implication in the implementation of the Law,²⁶ although there is a provision that impose obligation for the respective institutions to allocate sufficient amount of money for prevention and protection of victims of violence.²⁷ In addition, there are not publically available financial reports for the conducted activities, which can provide more detailed information about the finances that were spent for implementation of the action plan. The annual financial reports for the implemented activities within the National action

²⁵ CEDAW Committee, Concluding observations on the 4th and 5th periodic report of the former Yugoslav Republic of Macedonia*, from November 14th 2018, available at

²⁶ https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=55577

²⁷ Official Gazette of RNM 6p. 24/2021. Law on prevention and protection of violence against women and domestic violence.

plan for COE's Convention which are published by the MLSP starting from 2019 are incorporating only a tabular presentation of the balance sheet, without any detailed specification of the implemented activities, the funds spent and the source of the funding²⁸. The Financial reports of MLSP about the implemented budget funds do not include separate budget item allocated for dealing with VAW, neither. The last publically available Financial Report of the MLSP for the period 1st January 2021 – 30th September 2021, provides only general spreadsheet information that there were 1.350.000 MKD (less than 22.000 EUR) allocated for gender equality and non-discrimination, yet only 32% of these funds were actually realized²⁹. In terms of budget funding for combating human trafficking, only the Ministry of Interior is included in the state budget with a separate budget item, i.e. there is a funded program for action against it. As the evidence shows, over the years there has been an increase in the funds set aside for this purpose. In other words, the funds set aside in 2019 are close to 11 times bigger than the funds awarded in 2018, or 80 times more than the money provided in 2017 and 2016. Yet, there is no information for the purpose for which these funds are used. Especially, since in the report of the National Commission it is evident that activities implemented and reported are mostly funded by International organization and CSO's through foreign donors.

In addition, CSO's and women survivors of GBV and domestic violence are not participating the planning of State budget in relation to the implementation of the Convention.

In addition, the State did not provide sufficient funding even for provision of support services to women survivors. Although the women CSO's are the "traditional" providers of legal, psychological, health and other services to women survivors of violence, yet this role is not recognized and appreciated, since no sufficient budget funds are allocated by the State for sustainable service delivery and operation of CSO's. Women who suffered domestic violence are not provided with the needed legal protection, financial support, and health protection etc. even 20 years after being formally legally protected by the State. For illustration, in accordance with the Law on games of chance and entertainment games³⁰ (Article 16), the funds realized from the organization of games of chance and entertainment games are used to fund program activities of National disability organizations and their association, the Red Cross of the Republic of Macedonia and CSO's that are working on the field of domestic violence. Despite the increase of the budget for domestic violence over the years, yet annually only 5-6% of these funds in the amount of 65.000 EUR (4.000.000 MKD out of 70.000.000 MKD) are allocated for four CSO's providing services for women who suffered domestic violence³¹. In addition, the criteria for allocating funds are not clear, neither the support provided is sufficient to meet the needs of service providers. Apart from this, The MLSP provides funding to organizations licensed to provide

²⁸ The Financial Reports for the period 2019, 2020 and 2021 are available on the following link [785M9.pdf \(mtsp.gov.mk\)](https://mtsp.gov.mk)

²⁹ Financial Report of MLSP for implemented budget funds the period 01.01.2021 – 30.09.2021 is available at [Finansiski izvestaji za period 01.01-30.09.2021 godina.xls \(live.com\)](https://finansiski-izvestaji-za-period-01.01-30.09.2021-godina.xls)

³⁰ Official Gazette of RSM, No. 90/2017

³¹ DECISION ON DISTRIBUTION OF REVENUE FROM GAMES of chance AND entertainment GAMES IN 2021, available at <https://dejure.mk/zakon/odluka-za-rasporeduvanje-na-prihodite-od-igri-na-srekja-i-od-zabavnite-igri-vo-2021-godina-za-finansiranje-na-programskite-aktivnosti-na-nacionalnite>

services in the field of social protection, including organizations that provide services to women who have suffered domestic violence. However, apart from the register of licensed organizations, there is no publicly available data on the amount of allocated funds or on the applied criteria in this regard. In addition, it is especially important to emphasize that there are CSO providers of specialized legal aid, psychological counseling and other services to women who suffered domestic violence, and are not part of the register of licensed organizations, thus there is not financial support provided to them despite the valuable work they are doing.

NGOs dealing with sex workers implement activities mostly funded by the Ministry of health via the Program on prevention of HIV or foreign donors, but the recent decrease of the funding is especially concerning. No sufficient funds were granted to CSO's for protection of trafficked women and girl as well.

The continues lack of budget resources allocated by the State for addressing GBV and domestic violence is the root cause for the existence of serious systemic deficiencies under all the components within the four main pillars of the COE's Convention, which unfortunately are not addressed by the State in a period of almost 20 years, such as: lack of awareness raising efforts by the State; absence of systemic education of practitioners dealing with cases of VAW and domestic violence; lack of victims centered approach and inadequate proceeding; lack of unified system of data collection; low level of coordination among state institutions; ineffective prosecution and lenient penal policy toward of domestic violence perpetrators.

Recommendations - Article 8

The Government and relevant ministries should establish a mechanism for implementing a process of transparent budgeting, with detailed specification of the funds that need to be adopted within their annual budgets, as integral part of the processes of adoption of national legal and policy framework for addressing GBV and domestic violence. Participation of all relevant stakeholders should be ensured, including direct consultations with women survivors, in order to assess their needs and provide budget funds for addressing them.

The prepared annual budgets of relevant ministries should incorporate separate budget item for financial support of CSO's providers of services for women who suffered domestic violence.

The Government and relevant ministries should establish a regular practice of preparing annual narrative financial reports about the funds spent, and to make them available to the public.

MLSP should increase the portion of funding for women CSO's working on prevention and protection against domestic violence, within the annual program for allocation of the incomes from games of chance and entertainment games, including the support provided to licensed CSO's, in accordance with their needs in terms of operation and service delivery. In parallel, MLSP should promote the criteria for approval of financial support among interested CSO's.

Article 9 – Non-governmental organizations and civil society

The recognition and cooperation with CSO's

Women CSO's are "traditional" providers of direct help and support to women survivors of VAW and domestic violence, and they are compensating for the lack of needed specialized services for different vulnerable groups of women, such as women who suffered domestic violence, women victims of human trafficking, sex workers, LGBTI etc. In terms of domestic violence, there is a practice that different State institutions such as CSW are referring the women survivors of VAW and domestic violence to the CSO's providers of specialized services, such as legal aid, psychological counseling, temporary sheltering etc. For instance, women who suffer domestic violence need specialized legal assistance in order to undertake legal actions to protect themselves from violence and to resolve related legal issues, such as divorce, guardianship, alimony, division of property, etc.

The direct work with sex workers shows high prevalence of domestic violence against sex workers from their partners or other family members,³² but the specifics of their needs and problems are not addressed in the planning of the policies of the state. LGBTI organizations are generally focused on improvement of the situation of LGBTI people and only few of these CSOs³³ jointly with informal groups are devoted to the specifics of lesbian and bisexual women, Lezfem³⁴ and Transforma³⁵ on transgender rights. The new Law recognizes women sex workers, lesbians, bisexuals and transgender people as vulnerable groups whose necessities should be taken into consideration in the preventive and protective measure. The cooperation between CSOs working with marginalized women and state actors is sporadic, inconsistent and happens at the initiative of the CSOs rather than the state actors.

Specialized CSO's for the provision of help and support to victims of human trafficking are key stakeholders in providing the needed services and supporting the actual needs of victims. They keep meticulous records, and closely follow the regulations pertaining to protection of personal information. A Memorandum of Understanding was signed between MLSP and Open Gate in 2011, and a similar document was signed in 2019 between the two institutions, according to which Open Gate has committed to providing its services at the Centre for Victims of Human Trafficking and Sexual Violence, funded by the MLSP. However the MLSP covers only the cost of the utilities for the for Centre that represent 5% of the total budget of functioning of the Centre. Only once, in 2019 Open Gate received

³² Бошкова Н., Штерјова С.

Х.Анализана ставовите на сексуалните работници за потреба од промена на законската регулатива за сексуалната работа во Македонија, 2017. Достапно на: <https://hops.org.mk/wp-content/uploads/2020/03/Prilog-3-ANALIZA-na-stavovi-1.pdf>

³³ Coalition Margins works in the area of transgender rights through advocacy, strategic litigation of cases, legal empowerment of the transgender people and research. More on: <http://www.coalition.org.mk/>

³⁴ More on: <https://www.instagram.com/lezfem/?hl=en> <https://www.facebook.com/ЛезФем-563098877047782/>

³⁵ More on: <https://www.facebook.com/transformamk/>

grant from MLPS for managing of the shelter with amount that covered no more than 16% of the total budget for the shelter. There is a general impression on the part of CSOs that they have a seat at the table and are included in the system for prevention and support for victims of human trafficking. However, what is missing is financial support from the Government, so they have to rely largely on donors and donations for support. As for the role of the CSOs in any decision-making processes, the annual reports include certain requests made by the COs in terms of the legal and regulatory framework.

Cooperation with CSO's in decision making processes

The general impression is that in the recent years there is increased CSO participation in processes of development and adoption of national legal and policy framework for protection of women survivors of VAW and domestic violence. Yet, despite the improved formal participation of CSO's and practitioners in these processes, their substantial and meaningful involvement is still a challenge, given that despite the provided input by CSO's, the final word on the final text of the prepared policies has the decision makers from the Government and the relevant ministries themselves. For illustration of such practices we will use two recent examples.

In 2019 the Ministry of Labor and Social Policy have established a working group for preparation of the Law on Prevention and Protection against VAW and Domestic violence, which was consisted of practitioners of institutions and CSOs. Although there was a consensus for each Article of the prepared draft Law among the working group members, yet, the final text of the Law was changed by the Minister of Labor and Social Policy before its submission to the Parliament for adoption. One of the changes referred to the establishment of the National Coordinative Body. Although it was agreed that the National Coordinative Body for Implementation of the COE's Istanbul Convention should be chaired by different Ministries, such as Ministry of Interior, Ministry of Justice, Ministry of Labor and Social Policy and Ministry of Health, on rotating level, as shared ownership of the entire process, yet Minister of Labor and Social Policy have decided that only MLSP will chair the Coordinative Body, before they have submitted the law for adoption. This is evident in Article 15, par.8 of the adopted Law³⁶, which stipulates the following "The National Coordinative Body is chaired by the Ministry of Labor and Social Policy". This was done without informing and consultations with the practitioners from the working group. This negative practice raises the question whether we can discuss about meaningful or substantial participation of practitioners from institutions and CSO's in decision making processes, if despite the input provided, it is not respected by the high State officials who have the final word.

In 2021 the Ministry of Justice launched changes to the Criminal code toward its harmonization with the COE's Convention, and draft changes were prepared by a working group established by the Ministry of Justice for this purpose. At the same time, CSO's that are working on prevention and protection against GBV domestic violence were constantly advocating for incorporation of the needed changes in the Criminal Code, including change to Article 130, Par.2, that will allow ex officio prosecution of the criminal act bodily injury in domestic violence cases. Yet, despite the fact that all other criminal acts

³⁶ Official Gazette of RSM, No. 24 from 29.01.2021

related to domestic violence are ex officio since 2004, with the exemption of this one which is the most common in practice, the arguments of CSO's were not taken into account. Thus, apart from the continues advocacy of CSO's, including the arguments provided on the public debate organized on 15 December 2021 in the Parliamentary Committee for Equal Opportunities, the Coordinator of the working group expressed his opinion that this change will be not introduced in the criminal code.

The CEDAW Committee in its latest concluding observations on North Macedonia from 2018 shares the similar concern and therefore issued the recommendation for “[s]strengthen[ing] cooperation with civil society organizations and other stakeholders with the aim of identifying and addressing situations of exclusion, deprivation, poverty and neglect.”³⁷ Also, the process of harmonization of the provisions of the Istanbul Convention with the national legislation and drafting of the bylaws for implementation of the Law on prevention and protection of violence against women and domestic violence is also lacking transparency.

Recommendations – Article 9

Government and relevant ministries should establish mechanisms for regular consultations of CSO's in the decision making processes, encourage their participation, and assure that the input provided by CSO's is recognized as such and incorporated within the final decisions made.

Article 10 – Co-ordinating body

The National Coordinative Body for implementation of COE's Convention was established by the Government in 2021, in accordance with the Law on Prevention and Protection against VAW and Domestic Violence. This is a governmental body consisted of representatives of representative of State Secretary, Ministry of Labor and social Policy, Ministry of Interior, Ministry of Justice, Ministry of Health, Ministry of Education and Science, Judges, Public Prosecutors, Units of Local Self government, three CSO's, trade unions, employers etc. In this regard, it is important to notice that the process of establishment was not transparent, neither the Coordinative Body was promoted in the public.

The Coordinative Body is chaired by the Ministry of Labor and social Policy only and the administrative work is done by this ministry. In this regard, there is no shared ownership over it by the other relevant ministries with legal mandate to provide protection and support to women who suffered VAW and domestic violence, such as the Ministry of Interior, Ministry of Justice and Ministry of Labor and Social Policy, despite the fact that this was the opinion of the working group engaged for preparation of the law (as elaborated under Article 9). One of the barriers for its functions is that there is no budget allocated for the work of this body especially. The mandate of this body is to monitor the implementation of measures and activities toward addressing VAW and Domestic violence, but there is a lack of capacities for collection of data and proposing measures respectively. In addition, there is not a mechanism, neither a practice established for the institutions to consult the body on the measures and

³⁷ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para.12(e).

policies undertaken on the field of combating VAW and domestic violence.

In addition, the coordination of all stakeholders in the fight against human trafficking is done by the the National Commission for Combating Trafficking in Human Beings and Illegal Migration (Commission). The Commission is chaired by the National Coordinator, and two deputies are participating, one of whom is in charge of the situation and activities in the field of human trafficking, and another deputy is in charge of the situation and activities related to illegal migration, secretary and members of the Commission.³⁸ Within the Commission since 2003, there are working bodies: the Secretariat³⁹, responsible for the implementation of the decisions of the Commission and the Subgroup for Combating Child Trafficking (Subgroup)⁴⁰ to monitor the specific needs of child victims, protecting their interests and rights. During the year, the Commission maintained regular contacts with members and associates at national and regional level, where they discussed and proposed solutions and efforts to promote the field of trafficking in human beings (trafficking) and illegal migration (IM). For the fifth time, the National Commission prepared new documents,⁴¹ National Strategy and National Action Plan for Combating Trafficking in Human Beings and Illegal Migration for a Period and National Action Plan for Combating Trafficking in Children 2021-2025. (NAP), which during 2021 were adopted by the Government of the RNM. However, the National Commission officelack human and technical capacity since its operated by one person responsible for assisting the national Commission, preparing annual reports, organizing meetings, preparation of the action plans and monitoring implementation, collecting data etc.

In terms of monitoring the implementation of policies addressing human trafficking, in 2019, a National Anti-Trafficking Reporter was established, i.e. an official person was appointed to perform activities equivalent to the role of a national reporter (two professionals hired: one public advisor and one advisor). The Rulebook for this mechanism is not publicly available on the Ombudsman website (accessed on February 21 2021). The scope of work of the National Reporter are the following: analysis of qualitative and quantitative data collected from various partners, monitoring and evaluation of implemented activities outlined in the National Action Plan, participating in the work of the National Commission for Action Against Human Trafficking and Illegal Migration, drawing conclusions and making recommendations for improving and perfecting the action against human trafficking and illegal migration in terms of implemented laws and policies for a better institutional response, recommendations for revisions of strategic goals, initiating and proposing points and stance regarding issues on curbing human trafficking and illegal migration, and preparation of an annual report. The National Anti-Trafficking Reporter, for instance, has one public report on the country's progress in curbing human trafficking.

Recommendations – Article 10

³⁸

Members of the Commission, representatives of: Mol, MFA, MLSP, MP, MES, MOH, Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, Judge from the Basic Court Skopje 1, MES / Bureau for Development of Education, State Labor Inspectorate and Employment Agency of RSM.

³⁹ Members are representatives of: international organizations, citizens' associations and experts from government institutions:

⁴¹ In 2006-2008 the first was prepared, in 2009 - 2012 the second, in 2013-2016 the third and in 2017-2020 the fourth Strategy and National Action Plan for Combating Human Trafficking and Illegal Migration in RSM.

Government should initiate a process of changing the Article 15 from the Law on Prevention and Protection against VAW and domestic violence, in order to enable the Coordinative Body to be chaired by different Ministries on rotating level.

Government should improve the operation of the National Coordinative Body for implementation of the Convention, by strengthening its institutional capacities and budget funding and establishment of mechanisms for effective communication with relevant ministries, institutions, judiciary, CSO's.

Government should improve the operation of the National Commission for Combating Trafficking in Human Beings and Illegal Migration, as well as the other mechanisms established, by strengthening its institutional capacities and budget funding.

Article 11 – Data collection and research

The lack of unified system for data collection is one of the main systemic deficiencies that severely undermine the opportunity for continuous monitoring and determination of trends and needs, which would have served as basis for planning, implementing and evaluating national policy and legal framework for addressing VAW and domestic violence.

Despite the normative preconditions for establishment of data collection system for domestic violence cases since 2004, yet almost 20 years later, there is not unified system of data collection established by Centers for Social Welfare, police, civil and criminal courts, Public Prosecutors, health institutions. The existing system for data collection is not unified; neither is providing gender disaggregated data by age, type of violence, geographical location, relationship with perpetrator etc. Furthermore, there data that is collected about domestic violence cases is not made public on national level and can be provided only by the interested entities through the request for access to public information. This fact increases the concerns that even after the adoption of the new Law on Prevention and Protection against VAW and Domestic Violence, the establishment of the unified system for data collection and public announcement will be a challenge, taking into account the broadened scope of the data which refers to different forms of VAW. Especially taking into account the continuous reiteration of the CEDAW Committee's recommendations toward the State to enhance the system of systematic data collection about the cases of gender based violence and discrimination, disaggregated by type of violence, and by the relationship of the perpetrator to the victim, and make the collected data available to the public. In addition in its last Concluding observations the Committee has recommended collection and publically available data on the cases for imposing TMP⁴².

Positive step was done as a result of the CSO advocacy, that the establishment of unified data collection system is part of the new National Action Plan for Open Government Partnership (OGP) 2021-2023⁴³, and supported as such by the Ministry of Justice, Ministry of Interior and Ministry of Labor and Social

⁴² Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia, November 2018*

⁴³ Национален акциски план за ОВП 2021-2023, цел.4.3., available on the following link <https://ovp.gov.mk/nar/nacionalen-akciski-plan-za-otvoreno-v/>

Policy. The working group for implementation of this objective was established and launched its work in March 2022.

At the moment, there is not one institution that regularly collects and makes publically available gender disaggregated data on VAW and domestic violence, incorporating the general information about the women survivors (age, gender, place of living, level of education, employment status), relationship between the victim and perpetrator.

The LIRIKUS system for data collection which is used by the Centers for Social Welfare is not functional, since it is not regularly updated by the CSW and the data contained is not harmonized with the data provided directly from CSW on request of the State Department for Social Affairs, which was stated as such in the annual report that this institution is preparing for the work of CSW nationwide. Thus, there is a lack of publically available data on the number of provided legal, psychological, housing and other services to women survivors. There is not functional system for monitoring the implementation of TMP by CSW, and lack of data about the cases in such need and the number of cases with proposed TMP to the courts; there is not data about the type and number of proposed measures compared to those approved by the courts, neither information about the changed, amended, and terminated TMP. The absence of this data is even more alarming, since the missing information is crucial for assessing the effectiveness of this specialized mechanism for urgent protection of women survivors and addresses the identified shortcomings in this regard. There is a practice of regular announcement of general financial reports on the web pages of CSW, without specification of the funds spent for protection of women survivors, but not a practice for announcement of narrative reports as well. Thus there is not available data not about the services provided to different vulnerable groups of women, including women survivors of VAW and domestic violence. There are publically available narrative reports for some of the CSW, but the provided data is not detailed, and there is not specification of the needed data as elaborated above⁴⁴.

The State Statistical Office announce annual data on “Perpetrators of criminal acts”, but it does not incorporate information about the victims of crimes, including women victims of criminal acts related to VAW and domestic violence. There is not separate data collection on women victims involved in civil and criminal court procedures within the electronic court system for data collection (AKMIS). The previous practice of the Ministry of Interior for announcing quartile data on reported domestic violence cases, in terms of criminal acts, misdemeanors and complaints have been abounded, and there are not publically available data about reported cases of VAW and domestic violence in the police. The practitioners from health institutions are not providing this type of data as well.

The request for access to public information remains the only tool used by CSO’s for getting some form of gender disaggregated data on VAW and domestic violence, and often the data collected is not unified, neither all the institutions addressed are willing to share the data in this regard. In addition, there is not national survey on VAW and domestic violence conducted by the State so far, in terms of determining

⁴⁴ Narrative Report from CSW Kavadarci 2020, available at <http://www.jumcsr-kavadarci-mtsp.gov.mk/images/sampledta/IzvestajRabota2020.pdf>

prevalence, nature, consequences, neither the State have provided support to other relevant stakeholders in this regard. There is a lack of publically available information about the survey that is expected to be conducted by the State Statistical Office in this regard.

Related to trafficking cases there is no electronic joint official data base that collects detailed information. Namely, the data is scatter between the institutions and there is lack of precise data for the PPO in term of indictments and there are missing data about the compensation in the court system. Especially concerning is that many of the judgments were not anonymized at all and revealed personal data for the victim, even for the child - a victim, as opposed to international and domestic provisions for the protection of the privacy and identity of the victim and the child victim.⁴⁵

Recommendations – Article 11

MLSP and CSW should improve the existing system of data collection in cases of VAW and domestic violence by providing gender disaggregated data in accordance with the Law, in relation to the type and number of provided general and specialized measures of protection, such as legal, psychological counseling, housing, employment, health etc. To establish a separate system for monitoring the implementation of temporary measures of protection, including information on the number of approved TMP, and of changed, amended or repealed TMP. To regularly make the collected data available to the public, on quarter level, with the incorporation of all the information.

The Ministry of Interior should improve the existing system of data collection in cases of VAW and domestic violence, by providing gender disaggregated data in accordance with the Law in relation to the type and number of criminal acts, misdemeanor and complaints in cases of VAW and domestic violence. Establish a system for monitoring the execution of the TMP “removal of the abuser from home and ban from approaching”, and collect data about the number of respected/violated TMP by the abusers, and the measures undertaken to assure their compliance with TMP. To regularly make the collected data available to the public, on quarter level, with the incorporation of all the information, as elaborated above.

Ministry of Justice, court and public prosecutors should improve the existing system of data collection in cases of VAW and domestic violence by providing gender disaggregated data in accordance with the Law for each of the civil and criminal court proceedings, and advance the existing AKMIS system for these purposes. To regularly make the collected data available to the public, on quarter level, with the incorporation of all the information.

Ministry of Health should improve the existing system of data collection in cases of VAW and domestic violence by providing gender disaggregated data in accordance with the Law, by number and type of provided health services. To regularly make the collected data available to the public, on quarter level,

⁴⁵<https://rm.coe.int/hf29-research-thb-mkd/16809f035d>

with the incorporation of all the information, as elaborated above.

The government and relevant ministries should improve the system of data collection related to human trafficking by developing an electronic database of cases of victims of human trafficking, which will be managed by relevant institutions and mechanisms involved in curbing this type of crime. Improve the current in record keeping of cases of human trafficking. Upgrade of information system and supervision over the application of the provisions of the Rules of Procedure in the courts order to have records of cases on the basis compensation for damage caused by the crime of Trafficking in Human Beings or Child trafficking.

PREVENTION

ARTICLE 12—general obligations

The general conclusion is that the State neglected the prevention of VAW and domestic violence, since no substantial efforts were undertaken for addressing the existing gender inequalities, prejudices and gender stereotypes, as root causes of discrimination and VAW. In parallel, the trend of adoption of national legislative and policies, without informing the citizens about the legal changes and rights guaranteed continues. As a result, there is a high level of acceptance of the patriarchal traditions imposing subordinated position of women in family and society, among the general and expert public. In addition, women are not informed about the nature of domestic violence and how to recognize it; and about the legal mechanisms for their protection and the legally guaranteed rights, thus they are not able to protect themselves from acts of violence and effectively resolve other legal problems, such as divorce, custody, alimony, property division etc.

The State's existing declaratory approach have been directly contributing for this unfavorable situation of women, since apart from the adoption of the preventive measures within the National Strategies and Action Plans for addressing gender equality and VAW, their implementation in practice is still lacking. The relevant Ministries and institutions did not addressed the specific needs of different vulnerable groups of women, such as the women who suffered domestic violence, women victims of human trafficking, sex workers, women from ethnic minorities (Roma and Albanian), women from rural areas, women with disabilities. There are not effective programs established for legal and economic empowerment of women, which further undermines the efforts undertaken on this field so far.

In addition, no substantial efforts were implemented for assuring substantial involvement of men in decision making processes related to promotion of gender equality and elimination of VAW and domestic violence in the society neither. The attitude of decision makers toward encouraging men to participate in prevention of VAW and domestic violence can be best illustrated trough the work of the Parliamentary Committee on Equal Opportunities between Women and Men, given that more than 95% of the parliamentarians and other attendees at the sessions are women.

Article 13 – Awareness-raising

The awareness raising efforts are mainly implemented by the CSO's and international organizations, and without the comprehensive State support, the impact achieved on national level is very limited. Despite the declarative support to these campaigns by the national authorities, yet in practice the State have neglected the need for prevention, since the Government, relevant ministries, institutions and judiciary did not implemented continuous awareness raising efforts for improving understanding among the general population about the root causes of domestic violence, including promotion of gender equality and elimination of the existing patriarchal norms and prejudices.

Neither separate awareness raising efforts were undertaken for preventing VAW and domestic violence or addressing the specific needs of women survivors from especially vulnerable categories, such as the women from rural areas, ethnic minorities, women with disabilities. This directly contributes for the continuous trend of high prevalence of domestic violence in the country in the last 20 years. As a result, 37% of the women in the country believe that a "good wife obeys her husband even if she disagrees and almost half of the women or 48% considers domestic violence as private matter that should be handled within the family"⁴⁶.

The COVID-19 crisis and the declared State of emergency in 2020 have increased the need for providing adequate information to women how to recognize VAW and domestic violence, and where to approach for help and support. CSO's have alarmed about this emerging need on behalf of their women beneficiaries, and asked from the State to undertake substantial efforts for increasing access to information during the crisis. For illustration, Association ESE has send written recommendations to the Prime Minister, the Government and relevant ministries and demanded urgent measures to be undertaken for addressing the specific needs of women survivors during crisis, including implementation of comprehensive awareness raising efforts on national level for informing the women how to recognize domestic violence and use the available mechanisms for their protection. There were concrete recommendations on how to use alternative channels of communication for this purpose, including: national TV stations; messages trough mobile operators; insert information for women without phones into monthly bills of public water and electricity companies; leaflets trough pharmacies and supermarkets; engagement of local crisis headquarters for reaching the most vulnerable categories who don't have access to phone and TV etc. Unfortunately, these recommendations were not taken into consideration and the MLSP have provided response which was rather declaratory, explaining that the system is functioning, the campaign for informing the public is implemented, and the relevant institutions such as CSW and police are proceeding in urgent and coordinated manner⁴⁷. Unfortunately, the COVID-19 crisis was not recognized as "trigger" point for the State to change its "traditional" declarative approach, and undertake substantial efforts for addressing the long-term systemic deficiencies in the formal system of protection, and adapt the institutional response to the crisis circumstances.

⁴⁶ OSCE-Led Survey on Violence against Women: North Macedonia, 2019, available at <https://www.osce.org/secretariat/419264>

⁴⁷ The Urgent Recommendations for cooperation and coordination of competent institutions during crisis and state of emergency, send by Association ESE, on 10h April 2020, and the response of MLSP are available on the following links [Препораки за итна заштита од семејно насилство.pdf \(esem.org.mk\)](#);

In 2020, the Ministry of Labor and Social Policy in cooperation with UNDP have created the mobile application for women survivors “Be Safe”⁴⁸. The process was participatory and women CSO’s service providers have provided significant input for the creation of the platform. The application provides information about the rights of women survivors, general advices, as well as information about the existing support services, including contacts from CSO’s and CSW. The application is available on Macedonian, Albanian and Roma language, which is a positive step for increasing access to information for vulnerable groups of women. However, it is important to notice the limitation of the application, taking into account that it is only available to women with smart phones and access to internet. Thus, there is a need for implementing broader comprehensive efforts on national level, trough using different alternative channels for communication, especially for reaching the vulnerable groups of women listed above, in order to increase the impact and create a supportive environment which will empower women survivors to report the violence and undertake measures for resolution of legal problems faced.

In addition, with the support from OSCE has prepared short video titled “Inform yourself – Report Domestic violence”, which was not sufficiently promoted, taking into account that from the period of its publishing in May 2020 until February 2022 there was less than 460 views. Moreover, the video incorporated only general information about the different forms of domestic violence, without specifying the manifestations of psychological and economical violence suffered by women during the crisis.

There were no campaigns on any form of violence against sex workers, lesbians, bisexual women or transgender people promoted by the authorities. All promotional activities that target these groups of marginalized women are implemented by CSOs also.⁴⁹

In relation to human trafficking, numerous campaign were implemented in the past 3 years related to awareness raising and particular to different forms of trafficking, rights of victims, prevention of labor exploitation, cyber trafficking, about the risks of human trafficking and abuse of children with disabilities etc. The campaigns were funded by foreign donors and supported by the National Commission by sharing materials, videos, post or participating at events.

Recommendations – Article 11

The government and relevant ministries should allocate sufficient funding trough their annual budgets for implementing comprehensive awareness raising activities toward general public, about the nature of GBV and domestic violence, and available legal mechanisms and support services for the protection of women survivors.

⁴⁸ Available at https://www.mtsp.gov.mk/media-centar-ns_article-bidi-bezbedna.nspix

⁴⁹ Campaigns implemented by STAR-STAR First sex workers collective in the Balkans. More on: <https://starsexwork.org/%d0%ba%d0%b0%d0%bc%d0%b0%d0%bf%d1%9a%d0%b8/> Campaigns implemented by Transforma, informal group of transgender people. More on: <https://www.facebook.com/transformamk/> Campaigns implemented by Lezfem, informal group of lesbians and bisexual women. More on: <https://www.facebook.com/ЛезФем-563098877047782/>

Government and relevant ministries should implement a comprehensive awareness raising campaign on national level and assure access to different vulnerable groups of women, by using alternative channels of communication for this purpose, including: national TV stations; messages through mobile operators; insert information for women without phones into monthly bills of public water and electricity companies; leaflets through pharmacies and supermarkets; engagement of local crisis headquarters for reaching the most vulnerable categories who don't have access to phone and TV etc.

Relevant ministries and institutions should prepare and distribute informative leaflets with useful information about the legal mandate of each institutions and the help and support that they are providing to women survivors of GBV and domestic violence.

Article 14 – Education

The new concept on the education was adopted in March 2021 and its implementation started in the school year of 2021/2022. The gender equality and prevention of discrimination and violence are key principles based on which the concept is developed. The Concept is a significant improvement taking into consideration that many analyses of textbooks and school curricula demonstrate frequent presence of gender stereotypes and discriminatory narratives, as well as an absence of certain social groups such as women, people with disabilities, LGBTI people, and people from different ethnicity. All areas of the concept contain promotion of gender equality as a prevention and protection of gender-based discrimination and violence. In addition, the introduction of comprehensive sexuality education, provided in the Concept, will inform the young people on the concepts of equality, protection of violence and elimination of discrimination.

The concept was not sufficiently promoted in the public, and there is a need for conducting comprehensive campaign on national level in order to promote the benefits to the general and expert public. Especially because part of the population have expressed their dissatisfaction from the introduced concept, and mobilized themselves, such as the Facebook group called „Textbooks and teachings must have” with 80.000 members, consisted of parents who are not approving the concept and calling for boycotting the educational process.

There is a lack of systemic education and capacity building of teachers about the gender equality, VAW and domestic violence, neither the students were addressed by the Ministry and educational institutions in the elementary and secondary education.

Recommendation – Article 14

Ministry of Education should undertake comprehensive awareness raising campaign for promotion of the benefits of the new educational concept. In addition, to organize capacity building for educational staff for this purposes.

Article 15 – Training of professionals

The lack of systemic education is one of the main deficiencies within the existing system of protection, which further contributes for serious implementation gaps and inadequate institutional response toward VAW and domestic violence. The efforts undertaken so far were mainly based on donor support and engagement of national and international organizations. The Government and relevant ministries did not implement systemic education of practitioners from relevant State institutions for dealing with domestic violence cases for almost 20 years. There is not general, neither special trainings organized for practitioners from institutions, dealing with VAW and domestic violence for increasing their sensitivity about the nature of VAW, the characteristics, consequences, the relationships between the victims and perpetrators. The situation is even more unfavorable, since the practitioners of relevant institutions such as the police and CSW are not completely informed with their legal obligations how to proceed in these cases. As a result, there are documented negative practices for inadequate and harmful proceeding of these institutions in these cases. There are examples where apart from the lack of protection services provided, the SCW is calling victims accountable for the situation, and initiating TMP against the women survivors. In addition, wrong methodology is applied for working with women survivors of VAW as stipulated under the Article 20 in this report.

Police representatives, even the inspectors dealing with the cases, are not sufficiently informed about the proceedings, including the manner to conduct risk assessment when executing the urgent measures of protection. Association ESE in cooperation with the MOI has conducted assessment of police proceeding in domestic violence cases, incorporating 48 interviews with police representatives (24 police inspectors) and 12 interviews with women survivors with previous experience in reporting the violence to the police. The data show that more than half of the police representatives did not attend any training or other educational event addressing GBV and domestic violence.

The education of practitioners from judiciary is not incorporated within the initial and continuous education organized by the Academy for Trainings of Judges and Public Prosecutors. The annual Initial Training Program - Practical work for 2022 does not incorporate practical work and monitoring on cases related to VAW and domestic violence by future judges and public prosecutors⁵⁰. The annual program for mandatory continuous training for 2022 for judges and public prosecutors⁵¹ does not incorporate basic and specialized training for dealing with VAW and domestic violence, including the work with women survivors. In general, the Academy is open for cooperation with CSO's and co-organization of trainings proposed by them on topics related to gender equality, non discrimination, domestic violence etc.

In terms of human trafficking, most training carried out in the past 3 years has been geared towards officials from Mol, mobile team's member (CSOs, Police, and CSW), educational professionals. In addition, a number of inspectors from the State Labor Inspectorate (excluding persons employed in the last quarter) have undergone basic training on early detection, identification and treatment of potential victims of trafficking. Some of the inspectors have passed advanced trainings. Moreover the Academy

⁵⁰ The annual Program for Initial Training – Practical work for 2022 is available at https://jpacademy.gov.mk/initial_training/programa-za-praktichna-nastava/

⁵¹ Catalog of Trainings - mandatory continuous training for 2022 for judges and public prosecutors, available at

for Training of Judges and Public prosecutors of the Republic of North Macedonia state that is organizing continuous training in cooperation with other institutions with relevance on the topic. IO's and CSO's organize most of the trainings.

Recommendations – Article 15

The government and relevant ministries should undertake substantial efforts for planning and organizing systemic education for practitioners from institutions and judiciary. In addition, to conduct comprehensive need assessment of practitioners concerned in order to identify the practical challenges faced during work on cases of VAW and domestic violence, in order to incorporate them within the education curricula.

The Academy for Judges and Public Prosecutors should incorporate the education on GBV and domestic violence, the initial and continuous education

Article 16 – Preventive intervention and treatment programmes

Apart from the adoption of by legal acts or standards that are regulating the establishment and operation of treatment programs for abusers in domestic violence cases, there is a lack of practice in this regard, neither publically available data about the implementation of this program, incorporating evaluation of impact achieved. In this regard, this lack should be also interpreted with the lack of adequate proceeding of CSW and inadequate risk assessment, where CSW is referring abusers to visit appropriate counseling with women, in order to keep the family together. Thus, not only those victims are held accountable for situation with domestic violence, but perpetrators are actually “excluded” from visiting the needed treatment programs for changing of their violence behavior, which further undermines all the efforts undertaken so far for implementation of this particle in practice.

Article 17 – Participation of the private sector and the media

Apart from the limited efforts undertaken toward the public sector, the State did not implemented substantial efforts for improving understanding among the private sector on the issues related to gender equality, VAW and domestic violence.

PROTECTION AND SUPPORT

ARTICLE 18 – general obligations

Contrary to the improvement of the normative preconditions for more effective protection to women survivors of different forms of VAW undertaken after the ratification of COE's Convention, in practice there is a lack of effective implementation of legal mandate by institutions, as well as low level of coordination in cases of VAW and domestic violence.

The existing long-term systemic deficiencies, and moreover the factual position of women survivors presented in this report, indicate that the competent ministries, CSW, police, courts and health institutions, are not providing the needed specific information to women survivors . Practitioners from

the competent institutions are insufficiently acquainted with the existing legislation, neither with their specific obligations regarding their proceedings in these cases. The lack of systematic education of practitioners further contributes to their unfamiliarity with the nature of VAW and domestic violence as gender-based violence, and the dynamics and consequences of violence, which directly affects the way of dealing with these cases.

Although the adoption of the Law on prevention and protection against VAW and domestic violence was followed with the development of by-legal acts (Rulebooks) by the Ministry of Interior⁵² and Ministry of Labor and Social Policy⁵³, yet substantial efforts should be put for assuring their implementation in practice, since the implementation gaps of the previous law⁵⁴ and by-legal acts regulating the proceeding of CSW and police are not resolved yet.

In addition, the State did not assured the unified provision of general and specialized services to women survivors of VAW and domestic violence. The situation is even more unfavorable, since almost 20 years after the adoption of the Temporary Measures of Protection (TMP) against domestic violence, this specialized mechanism for immediate protection of women survivors is still not functional and there are not available data about the effectiveness of TMP's implementation in practice. The number of civil court procedures for imposing TMP which suppose to prevent domestic violence remains low, compared to the increased number of criminal procedures for committed criminal acts related to domestic violence. The high prevalence of VAW, including the increased number of killings of women, was one of the major concerns of the CEDAW Committee, expressed in its last Concluding Comments and Observations to the country's last periodic report.⁵⁵

Practitioners from state institutions and judiciary are not sensitized for the nature of gender based violence, the dynamic and consequences, the relationship between the victims and perpetrators are not taken into account, thus the victim's centered approach in their proceeding is not applied. The problem with re-victimization of women who suffered domestic violence by institutions is still not overcome; neither substantial effort was applied to address the needs of vulnerable groups of women survivors, such as women from ethnic minorities, women living in rural areas, women with disabilities, as well as women who are foreigners in the country.

Please see more detailed information under the following Articles.

Article 19 – Information

⁵² MOI Rulebook on the manner of conducting a risk assessment of a serious danger to the life and physical and mental integrity of the victim and her family members and the risk of recurrence of violence; and Rulebook on manner of execution of temporary protection measures, Official Gazette No. 240/2021.

⁵³ MLSP Rulebook on the manner of implementation and monitoring of temporary protection measures, Official Gazette No. 248/2021; MLSP Rulebook on the manner of conducting a risk assessment of a serious danger to the life and physical and mental integrity of the victim and her family members and the risk of recurrence of violence, Official Gazette No. 240/2021.

⁵⁴ Law on Prevention, Suppression and Protection against Domestic Violence (out of force)

⁵⁵ CEDAW Committee, Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, from November 14th 2018

There is a low level of information among women survivors about the supporting services, including legal measures available for resolution of VAW and domestic violence. The reasons for this situation are twofold: the Government and competent ministries have not conducted a comprehensive campaign at the national level to promote the available assistance and support for women survivors; and, there is lack of adequate and timely information provided by practitioners from the competent institutions, when proceeding in individual cases, after women report the violence. The situation of vulnerable groups of women, such as women from ethnic minorities, women from rural areas and women with disabilities is even more unfavorable when it comes to access to information.

In addition, women are not sufficiently informed about the specifics of the civil and criminal court procedures for protection against VAW and domestic violence, neither about the procedures for resolution of other related legal problems, such as divorce, custody, alimony, property division etc. In this regard, a specific need which has been neglected by the competent institutions is to inform women survivors about the amount of costs in the proceedings before the competent courts. Namely, the women's decision to undertake a certain procedure for protection from domestic violence and resolving related legal problems, such as divorce, guardianship, alimony, property relations, etc. is directly conditioned by their financial ability to pay the court costs arising from these proceedings. Therefore, the provision of precise information about the amount of court fees and all the other court costs directly influences the effective resolution of women's legal problems through the courts. As equally as important is the information of women about the legal mechanisms for using exemption from paying the court fees, as prescribed in the Law on Free Legal Aid, Law on Litigation Procedure and Law on Court Taxes.

Please note that detailed information about the personal experience of women survivors in relation to their knowledge on court costs and legal mechanisms for exemption of paying court costs, as well as the impact that the costs are producing, under Article 22, within the part about specialized legal counseling.

The COVID-19 crisis and the declared State of emergency in 2020 have increased the need for providing adequate information to women how to recognize VAW and domestic violence, and where to approach for help and support. CSO's have alarmed about this emerging need on behalf of their women beneficiaries, and asked from the State to undertake substantial efforts for increasing access to information during the crisis. For illustration, Association ESE has send written recommendations to the Prime Minister, the Government and relevant ministries and demanded urgent measures to be undertaken for addressing the specific needs of women survivors during crisis, including implementation of comprehensive awareness raising efforts on national level for informing the women how to recognize domestic violence and use the available mechanisms for their protection. There were concrete recommendations on how to use alternative channels of communication for this purpose, including: national TV stations; messages trough mobile operators; insert information for women without phones into monthly bills of public water and electricity companies; leaflets trough pharmacies and supermarkets; engagement of local crisis headquarters for reaching the most vulnerable categories who don't have access to phone and TV etc. Unfortunately, these recommendations were not taken into consideration and the MLSP have provided response which was rather declaratory, explaining that the system is functioning, the campaign for informing the public is implemented, and the relevant

institutions such as CSW and police are proceeding in urgent and coordinated manner⁵⁶. Unfortunately, the COVID-19 crisis was not recognized as “trigger” point for the State to change its “traditional” declarative approach, and undertake substantial efforts for addressing the long-term systemic deficiencies in the formal system of protection, and adapt the institutional response to the crisis circumstances.

In 2020, the Ministry of Labor and Social Policy in cooperation with UNDP have created the mobile application for women survivors “Be Safe”⁵⁷. The process was participatory and women CSO’s service providers have provided significant input for the creation of the platform. The application provides information about the rights of women survivors, general advices, as well as information about the existing support services, including contacts from CSO’s and CSW. The application is available on Macedonian, Albanian and Roma language, which is a positive step for increasing access to information for vulnerable groups of women. However, it is important to notice the limitation of the application, taking into account that it is only available to women with smart phones and access to internet. Thus, there is a need for implementing broader comprehensive efforts on national level, trough using different alternative channels for communication, especially for reaching the vulnerable groups of women listed above, in order to increase the impact and create a supportive environment which will empower women survivors to report the violence and undertake measures for resolution of legal problems faced.

In this regard, it is important to stress those women from ethnic minorities and women from rural areas are less informed about the available support services, as well as the civil and criminal court procedures for protection VAW and against domestic violence. In accordance with the court monitoring on domestic violence cases conducted in the period March 2018-February 2019, 80% of the women involved in criminal procedures for committed criminal acts as a result of domestic violence were from urban areas, compared to only 20% of them from rural areas; in terms of their nationality 78% were Macedonians, compared to 12% Albanians, 5% Roma, and 5% from other ethnic minorities⁵⁸. In addition, women are not informed about other related mechanisms which are legally guaranteed for them, such as the right to be accompanied in front of State institutions and judiciary. Only 17% of women involved in court procedures for their protection were informed about the “right to companion”.

The unfavorable position of women from these vulnerable groups is in continuity confirmed by the CEDAW Committee in its Concluding Comments and Observations to our country, thus there is a need for undertaking substantial efforts for increasing the access to information to women who suffered VAW and domestic violence in general, and especially to vulnerable groups of women.

ARTICLE 20 General support services

The conclusion is that there is not unified provision of support services for women survivors of VAW and domestic violence across the country. Certain vulnerable groups of women, such as the women who

⁵⁶ The Urgent Recommendations for cooperation and coordination of competent institutions during crisis and state of emergency, send by Association ESE, on 10h April 2020, and the response of MLSP are available on the following links [Препораки за итна заштита од семејно насилство.pdf \(esem.org.mk\)](#);

⁵⁷ Available at https://www.mtsp.gov.mk/media-centar-ns_article-bidi-bezbedna.nspix

⁵⁸ Court Monitoring Report on Domestic Violence Civil and Criminal Court Procedures, Association ESE, 2019

suffered domestic violence, sex workers, women from rural areas, women with disabilities are especially vulnerable in this regard.

It is worrying that there is a harmful practice of applying the wrong methodology for working on cases of domestic violence by the CSW, which afterwards results in non provision of the needed support services for women who suffered domestic violence. Moreover, women are called accountable for the situation with domestic violence, which additionally worsens their unfavorable condition. Namely, instead of applying the methodology for working with women survivors of domestic violence, there are documented cases when the CSW are applying the methodology for “improving relationship in marriage and family”, and guiding the victim to visit counseling together with the perpetrator towards keeping the family together. This harmful practice is not an isolated case and it is repeating, since it was identified by different CSO’s providers of services to women survivors⁵⁹. In addition, women are not provided with the needed support services, including effective economic empowerment and inclusion in the labor market.

As a result of these proceedings, women who suffered domestic violence are experiencing stress as a result of the problem, as well as different forms of emotional stress in their communication with the relevant institutions involved in resolution of legal problems faced. For illustration we will use the main findings from summary Cost – benefit analysis that Association ESE has conducted with 100 women who suffered domestic violence in 2021. Namely, 100% of women have experienced stress as a result of the problem with domestic violence, yet significant portion of women have additionally experienced different forms of emotional stress as a result of the process or communication with relevant institutions, such as CSW, police, courts etc. 79% of women experienced hopelessness; 74 disappointment; 71% anger; 69% frustration; and 62% humiliation⁶⁰. It is worrying that this negative impact is been repeatedly demonstrated as such in all the cost benefit analysis with women who suffered domestic violence, since 2017.

In addition, there is not publically available data about the general support services provided to women, apart from some individual reports of CSW. It is worrying that the State did not provided comprehensive system for service delivery on national level for all the women and girls in need, despite the fact that the CEDAW Committee is constantly reiterating its concerns on this issue and recommends that State need to “ensure counseling and rehabilitation services across the State party and ensure that women and girls who are victims of gender-based violence have full and barrier free access to medical and psychological support”⁶¹.

Article 21 – Assistance in individual/collective complaints

⁵⁹ Data provided from women who suffered domestic violence, beneficiaries of the Legal Aid Centre that operates within Association ESE.

⁶⁰ Cost-Benefit Analysis from the provided free legal aid to women who suffered domestic violence, available at <http://www.esem.org.mk/pdf/Publikacii/2022/1/Cost%20and%20benefit%20analysis%20domestic%20violence%202021.pdf>

⁶¹ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

The situation is even more unfavorable regarding the individual or complaint mechanisms on international and regional level. Women are not even informed about the existence of the human right treaties, neither about the complaint mechanisms on international and regional level. The State failed to undertake informative or educational efforts to inform the women about the individual or collective complaint mechanisms for their protection. In addition, neither the practitioners from institutions are not informed about the international and regional mechanisms for victim's protection. This concern was constantly reiterated by the CEDAW Committee, starting from the ratification of the CEDAW, and confirmed in the country's last periodic reporting in the end of 2018 as well.

In relation to the actual access to free legal advices, the free legal aid funded by the state is very limited and it is approved solely for counseling and representing victims of violence on national level. There is no certified, systemic and regular capacity building training on national and international legal standards for protection of victims of gender-based violence for the clerks in the local office of the Ministry of justice (authorized to provide free legal aid) and for the attorneys at law who represent victims of gender-based violence. It results in low number of cases taken to regional and international mechanism for protection of human rights of victims of gender-based violence.

Most of the legal services for the women sex workers, lesbians, bisexual women and transgender people are provided by the CSOs. There are few cases before the ECHR and CEDAW which legal support on national level was provided by CSOs and it continued in course of the proceedings before international and regional mechanism.⁶²

Practice shows that not a single victim of trafficking has received free legal help from the Ministry of Justice. The same applies for awarded compensation for damage inflicted, even though the court has ordered it. Similarly, additional challenge is the length of criminal proceedings, which leads to re-victimization and extending the pain and suffering of victims of human trafficking. An issue for concern is the fact that, in practice, victims do not always receive protection when they act as witnesses during the investigation process and criminal proceedings.

Therefore, the State must undertake substantial efforts to inform women about the content of the human rights treaties and their rights in this regard, including detailed information on how to use the international individual and collective complaint mechanisms when their rights have been violated. This efforts need to be complemented with the provision of assistance and support in order for the women to be able to use this mechanisms for their protection.

ARTICLE 22 and 23, Specialist support services / Shelters,

Please see below the information about specialized services provided to different groups of women survivors.

⁶² X v. FYROM from 2019 (case on legal gender recognition of transgender people before); D.H. and others v. FYROM (pending case of violation against sex workers before ECHR); M.L. and K.S. v. North Macedonia (pending case of violation against transgender sex workers before ECHR); S.B and M.B. (case of discrimination of Roma women in their access to gynecological services CEDAW).

Women who suffered domestic violence

Financial support services

No separate budget funds are budgeted and allocated for supporting women survivors of VAW and domestic violence and their children. The social financial assistance or “Guaranteed Minimum Income” which is approved to unemployed citizens because of their unfavorable economic situation is not sufficient for compensation of living costs of women and their children. In addition, there is an opportunity for the women to be provided with one time financial assistance by the State, but there is not unified practice in providing this type of financial support to all women survivors, and the amount provided is not sufficient for compensation of their increased living costs after leaving the abusive relationship. This is supported with the main findings of OSCE Led Survey on VAW, since the lack of financial support and long-term housing for women is one of the “greatest unmet needs of women”.⁶³

The economic situation of women who have suffered domestic violence affects their ability to take legal action to overcome the problem of violence and related legal problems, but it also directly affects the ability of women to cover the cost of living for themselves and their children after leaving the violent relationship. Moreover, the practice shows that although the care of children is at the expense of women, the former partners do not have equal financial opportunities to support the children, given that women are in significantly higher percentage unemployed, while those who are employed earn lower incomes, compared to their former partners⁶⁴. According to a survey conducted with women who have experience in court proceedings for determining child support, two-thirds of women are unable to cover their monthly expenses and the social assistance they receive from the state does not help them. “More than a third of women need between 6,000 MKD (100 Euros) and 19,250 MKD (310 Euros) to cover the monthly expenses for the children, which are 30% of the total household expenses”⁶⁵. This situation makes even more vulnerable the large percentage of women who have to pay rent for housing for themselves and their children after the divorce, given that in the structure of individual monthly expenses, the highest are the costs for food and rent. Moreover, 15 out of 17 women for whom child support was awarded cover the costs themselves, due to non-payment of support by the other parent or untimely payment of the same in an amount lower than the one awarded by the court.

On the other hand, the experience of women who were involved in alimony proceedings in front of the courts, shows that the judges does not determine child alimony according to the needs of the children, and are determining lower amount of alimony from 16% to 100% compared to the one requested. Additionally, the payment of alimony is not awarded for the period from when it is requested, i.e. on average the requested alimony is reduced by 6 months per child. When determining the amount of child alimony, the additional income that the other parent earns on the basis of another activity, as well as

⁶³ OSCE Led Survey on VAW – North Macedonia, 2019, available at

⁶⁴ Child support: Reasons that affect the setting of this support, Association ESE 2020, available on ENG at <https://esem.org.mk/pdf/Publikacii/2021/1/ESE%20Analiza%20izdrshka%20012021.pdf>

⁶⁵ Child support: Whether the child support meets the needs of children, Association ESE, 2021, available at <https://esem.org.mk/pdf/Publikacii/2021/1/Izdrska%20za%20decata%2011.2021.pdf>

the age and number of children, are not taken into account. Consequently, the majority of women (12 out of 17 women in 2020; 9 out of 16 women in 2021) were dissatisfied with determined child alimony; due to disapproval from the moment they were requested it or inability to meet the monthly needs for education, clothing or recreation of their children.⁶⁶

The health COVID-19 crisis has further worsened the economic situation of women survivors and their ability to pay for living expenses, such as rent, food, education etc. The incomes within the households of women who suffered domestic violence were significantly reduced as a result of the crisis⁶⁷. Yet, despite the CSO's alarming and advocacy, the State did not recognize this need and establish separate budget funds for financial support of women survivors. As a result, part of the women survivors are even not able to leave the abusive household and "forced" to continue suffer violence by leaving with the perpetrators.

Therefore, the issue of child alimony should be given special attention in the context of the general economic situation of women, their recovery from violence and the possibility of performing their duties as parents. Especially because on the one hand there is an inadequate determination of alimony according to the needs of the children by the court, while on the other hand the awarded child alimony is not paid by the perpetrators, which results in women's inability to pay for all the monthly needs for their children and assure their wellbeing.

Legal counseling services

Providing free legal aid to women who have suffered domestic violence is a prerequisite for their protection against violence and capacity to resolve other related legal problems, such as divorce, custody, alimony, division of property, compensation, etc. In doing so, special attention should be paid to the adequate and timely informing of women about the specific aspects of the mentioned court proceedings, which are of particular importance for their decision whether they will initiate a certain court procedure to solve the problems they face. In this regard, it is essential to inform women who have suffered domestic violence about the amount of court fees and costs in all the proceedings, as well as the available legal possibilities for their exemption from paying this type of costs. Especially since, resolving legal issues through court proceedings is directly conditioned by the amount of court costs and the financial ability of women to pay for them. Moreover, women who have suffered domestic violence, on average, need to complete at least two court proceedings to resolve the problems they face.

Starting from 2019, Association ESE is assessing the personal experience of women who suffered domestic violence involved in civil court procedures, in order to determine the availability of civil litigation, i.e. the impact of court costs and women's familiarity with the legal possibilities for exemption from payment of costs in all the procedures, such as: temporary measures for protection; divorce; alimony; custody; division of property; eviction from the family home; etc. The experience of women

⁶⁶ Child support: Whether the child support meets the needs of children, Association ESE, 2021, available at <https://esem.org.mk/pdf/Publikaciji/2021/1/Izdrska%20za%20decata%2011.2021.pdf>

⁶⁷ Impact of COVID_19 crisis on Roma women and other women in Republic of North Macedonia, Association ESE, 2021

who have suffered domestic violence involved in the above-mentioned civil court proceedings shows that women are not familiar with the different types of court fees and other types of costs, as well as with the possibility to seek exemption from paying this type of costs⁶⁸. Please see below detailed description of the factual situation in relation to the two most common court procedures initiated by women who suffered domestic violence, the procedure for pronouncing Temporary Measures of Protection (TMP), and the divorce procedure.

As a result of the advocacy efforts of CSO's, positive change for facilitating access to justice was done with the adoption of the new Law on Free Legal Aid⁶⁹, which incorporates legal provision that explicitly guarantees the urgent approval of the right to free legal aid, including attorney representation in the civil court procedures for temporary measures of protection against domestic violence, without determination of applicant's financial status⁷⁰. Yet, the approval of free legal aid is conditioned with the submission of a certificate that the applicant is registered as victim of domestic violence, which represents an obstacle for the women who have not reported the violence previously to CSW or police. This restrictive legal criterion was adopted as such, despite the fact that the CEDAW Committee in its Concluding Comments and Recommendations to the 6th Periodic Report of the country have expressed this concern as "barriers for women to claim their rights and obtain redress, owing to the eligibility requirements, such as previous registration of victims with the Ministry of Interior and the Centers for Social Welfare, preventing access to free legal aid, and the delays in confirming legal representation by legal aid providers"⁷¹.

It is important to notify that the experience of women involved in the civil court procedures for TMP, shows that neither one of the women who suffered domestic violence were informed about the opportunity to be granted with free legal aid by the Ministry of Justice in 2020⁷², and 73% of the women involved in these procedures in 2021. In addition, 60% of the women were not informed about the possibility for submitting proposals for TMP directly to the courts. Only 30% of women with this type of civil procedure were informed about the 'right to poor' or to ask for exemption of paying the court fees to the Basic Courts. In addition, only one in four women was aware about the amount of court fees that need to be paid. Although their lack of information is partly due to the fact that most of them initiated the procedure through the CSW, it is especially worrying that half of the women give up the already

⁶⁸ Exemption from payment of court costs for women who suffered domestic violence: Knowledge and Practices, Association ESE 2019, available on ENG at <https://esem.org.mk/pdf/Publikacii/2020/Exemption%20from%20payment%20of%20court%20fees%20for%20women%20who%20suffered%20%20DV.pdf>

⁶⁹ Official Gazettes No. 08-2895/1, from 16th May 2019

⁷⁰ Law on Free Legal Aid, Article 20

⁷¹ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

⁷² The impact of court fees and costs and information about the exemption of payment as an obstacle or opportunity in respect of court protection of women who have suffered domestic violence, Association ESE, May 2021, available at <https://esem.org.mk/pdf/Publikacii/2022/1/The%20Impact%20od%20Court%20fees%20and%20costs.pdf>

initiated procedures for their protection, due to the “slow handling of domestic violence reports, because they were not consulted on both the proposal and the withdrawal of measures, and due to the lack of follow-up actions after subsequent reports of repeated domestic violence.

The situation is even more alarming, since there is not functional system for monitoring the implementation of the TMP by the CSW, thus the quality of the provided services by CSW in the procedures of pronouncing TMP is not guaranteed. Unfortunately, the MLSP did not implement the needed measures for improving the situation on this field, despite the continues advocacy of national CSO’s and reiteration of this concern by the CEDAW Committee to the last periodic report, which stressed the “delay in holding TMP, the lack of gender-sensitive approach during proceedings and the lack of mechanisms to monitor their implementation”⁷³.

Therefore, MLSP need to urgently conduct a detailed assessment of the quality of work of the CSW in the procedure for pronouncing TPM, based on the experiences of women who have suffered domestic violence, and devise measures to increase the efficiency and quality of assistance and support in cases of this type⁷⁴. Separate aspect which should be taken into account in this assessment is that there is evident discrepancy between the number of women who need urgent protection by using the TMP, and the actual number of women who were supported by CSW in this type of procedure, recognizing that one of the main reasons for this is the demand for signing written consent by the women in order for CSW to initiate such procedure. In addition, MLSP should strengthen the capacities of the employed in the CSW for provision of legal aid in other procedures affecting women who suffered domestic violence, recognizing that the procedure for TMP is the only court procedure in which CSW are providing comprehensive legal aid to women who suffered domestic violence, including legal advices, written submissions, representations in front of the courts and exemption from payment of court fees.

In relation to the divorce procedures, women are not informed about the opportunity to use the “right of poor” trough the Basic Courts, neither about the free legal aid that can be granted trough the Ministry of Justice. Two out of three women were not informed that they can use apply for free legal aid trough the Ministry of Justice for the divorce procedures. In addition, 42% of women with divorce procedures were not aware about the amount of court fees that need to be paid. The situation is even more alarming, since more that 80% of women with initiated court procedures were not informed about the overall court costs, including the costs for the attorney of the opposite party in the procedures⁷⁵.

⁷³ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

⁷⁴ The impact of court fees and costs and information about the exemption of payment as an obstacle or opportunity in respect of court protection of women who have suffered domestic violence, Association ESE, November 2021, available at <https://esem.org.mk/pdf/Publikacii/2022/1/The%20Impact%20od%20Court%20fees%20and%20costs.pdf>

⁷⁵ The impact of court fees and costs and information about the exemption of payment as an obstacle or opportunity in respect of court protection of women who have suffered domestic violence, Association ESE, November 2021, available at <https://esem.org.mk/pdf/Publikacii/2022/1/The%20Impact%20od%20Court%20fees%20and%20costs.pdf>

This type of costs which are completely neglected by the State, are seriously affecting women's financial capacities and their ability to undertake or complete the civil court procedures for resolution of their problems. There are documented cases where victims who have lost a lawsuit have to pay significant financial resources due to the absence of perpetrators in these proceedings, which sometimes amount to more than two average salaries in the country⁷⁶.

In addition, the quality of the provided free legal aid is not on satisfactory level, since more than 55% of the women who used legal aid through the CSW and Ministry of Justice are not satisfied with the provided professional legal help, as a result of the following reasons: slow proceeding by practitioners from institutions; lack of information about their rights; and inadequate protection of their interests.

The legal framework for free legal aid is still not harmonized, since the free legal aid guaranteed by the Free Legal Aid Law includes all the costs in the procedure, including attorney representation, and the use of the right to be exempted from paying the court fees from the courts is referring to the court fees only. In this regard, women who are using the "right to poor" are in less favorable position, since they need to pay for additional costs within these procedures, which might severely affect their economic situation and ability to complete the procedures as such. For illustration, more than 60% of the women involved in court procedure were not able to pay for the attorney representation.

Please see the available analyzes of Association ESE for more detailed information about the other civil court procedures, such as custody, child alimony, eviction from home, property division and others.

The perspective of women who suffered domestic violence should be taken into account for planning and implementing measures for enhancing access to justice. In this regard, women have expressed that the State must inform them in details about the court fees and other costs in each of the procedures; to enable initiation of procedures for all women survivors in need, without conditioning it with the payment of court fees.

Positive change was the significant decrease of the amount of court fees for civil court disputes in 2020, yet the other court costs, such as the costs for collecting evidence and others are significantly burdening women's opportunities for resolution of their civil legal problems through the courts. This concern was expressed by the CEDAW Committee in its Concluding observations on the sixth periodic report of the country in November 2018, which stated that women are facing barriers to claim their rights because of the "unaffordable court and forensic fees". In addition the CEDAW Committee recommended that free legal aid should be provided to women, "irrespective of their income, ethnic background or social status, and ensure the presence of appropriate, sufficient and qualified providers of legal aid across the State party, paying attention to the situation at the State level and in local self-government units".⁷⁷

Therefore, the Ministry of Justice should undertake systemic measures for enhancing access to justice

⁷⁶ Data provided from women who suffered domestic violence, beneficiaries of the Legal Aid Centre that operates within Association ESE.

⁷⁷ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

for women, who suffered domestic violence, by providing complete exemption from payment of all costs included in the court procedures initiated by women survivors of VAW and domestic violence.

Sheltering

Since December 2019, North Macedonia increased the number of specialized services for GBV/DV victims/survivors to 11: eight shelters and three crisis centers. Out of the 11, three are run by women's CSOs and the rest by the Ministry of Labor and Social Policy (MLSP) through the Centers of Social Welfare.⁷⁸ The range and quality of services available seem to vary significantly. The increase in the number of services has not been followed by the increase of their financial sustainability; therefore their limited capacities leave the needs of victims of gender-based violence unmet.

Women sex workers LGBT

The lack of intersectional approach in the design and the implementation of specialized services affect women who are traditionally excluded, such as women sex workers, women who use drugs, trans-women, etc. Due to the widespread stigma and discrimination against women sex workers they face limited access to shelters and crisis centers even in cases of emergency and serious threat to the victim.⁷⁹ Also transgender women victims of domestic violence are not admitted to the shelters for victims of domestic violence.⁸⁰ The Law on prevention and protection of violence against women and domestic violence foresees services for temporary accommodation for victims of violence based on their sexual orientation and gender identity.⁸¹ In 2017 the Helsinki Committee for Human Rights with donor support established a Safe House for LGBTI people victims of domestic violence. During Covid-19 pandemic the financial support of the Ministry of labor and social support was postponed which made the shelter service uncertain for number of LGBTI victims of domestic violence, especially during the long curfews when they were forced to stay in violent environment.⁸² In January 2022 the Safe House

⁷⁸ Kvinna till Kvinna, Women's Rights in the Western Balkans, 2020 http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf.

⁷⁹ Information provided by HOPS Healthy Options Project Skopje, CSO working with sex workers and people who use drugs. <https://hops.org.mk/en/home/>

⁸⁰ Information provided by Coalition sexual and health rights of marginalized communities MARGINS, CSO working with sex workers, people who use drugs, people living with HIV, LGBTI people and marginalized women. <http://www.coalition.org.mk/>

⁸¹ Official

⁸² Boshkova N. and others. Human rights of marginalized communities during Covid-19: Report from the research on the impact of the measures for tackling Covid-19 on the human rights of marginalized communities, 2021 http://coalition.org.mk/wp-content/uploads/2021/06/MKD_COVID_CIP_WEB_kor.pdf

was issued a license by the Ministry of labor and social policy for implementing social services in the community- temporary accommodation for victims of gender-based violence.⁸³

Women victims of human trafficking

In relation to human trafficking, there are multiple challenges and obstacles which victims face. For one, a serious obstacle is the inability to secure free medical exams for all victims of HT, especially those Macedonian citizens who have not been registered in the Birth Registry, and foreign nationals who do not have a residence permit. Access to education, i.e. helping underage victims resume regular and compulsory education, is limited and non-functional. There are no special programs or measures to help victims join the labor market, and thus secure their economic empowerment. Victims of human trafficking are not beneficiaries of the active measures provided through the National Employment Agency, simply because the Agency does not have a specialized system which can guarantee protection of victims' personal details and their status as victims of human trafficking. Reintegration of victims into their communities once they leave the shelter remains a critical issue. This is due to the fact that there is a shortage of sustainable long-term programs. This has a very negative effect on the victims and increases their opportunity to become part of the human trafficking chain again.⁸⁴

The shelter, also known as Center for Victims of Human Trafficking and Sexual Violence, is part of the system for social protection. It provides temporary accommodation, and psychological and social help and support. It aims to support victims in the process of rehabilitation and in overcoming the trauma inflicted, and to facilitate victims' reintegration in their respective communities. It accommodates women and girls above 12 years old.

The first shelter for protection of victims of human trafficking in the Republic of Macedonia was established in 2005 by the CSO Open Gate. Up until 2011, it operated as an independent center for victims of human trafficking and was supported by international donors. In 2011, the shelter was transformed into a state center for victims of human trafficking, and since then has been operating under the authority of the MLSP, and run by Open Gate. The Ministry covers the running costs, while the program activities, which run 24/7, are provided by Open Gate staff. The shelter receives financial support from various state and international funds. The only time that MLSP awarded grant for functioning of the Center was in 2019. Since 2018, aside from helping victims of human trafficking, the shelter has been offering help and support to victims of sexual violence, too. This institution is of a semi-open type and its location is classified information with capacity of 7 beds. It is run by team of 7 professional's social workers, psychologists and child counselors, all of whom have vast experience in working with HT cases.

The program for immediate help and support at the Center consists of counseling, individual and group therapy, educational and pastime activities, as well as meeting victims' basic needs. The victims who are

⁸³ [https://www.facebook.com/safehousesk/?_cft__\[0\]=AZVQpH0Wgcln_t-t6PegTv2waxP4VJiOsGEC3iuWNU30i9FetmLCjJV3K4Ere2k8UyKVxTJIE5wkwGT6g-QyWh-LlyXRIwi3eQAUnNGE3qT7tGcVmUBc8EhniJ7S8RxtmBVW7a8H5kkDLS3UyyN3EKg7&tn=-UC%2CP-R](https://www.facebook.com/safehousesk/?_cft__[0]=AZVQpH0Wgcln_t-t6PegTv2waxP4VJiOsGEC3iuWNU30i9FetmLCjJV3K4Ere2k8UyKVxTJIE5wkwGT6g-QyWh-LlyXRIwi3eQAUnNGE3qT7tGcVmUBc8EhniJ7S8RxtmBVW7a8H5kkDLS3UyyN3EKg7&tn=-UC%2CP-R)

⁸⁴ <https://drive.google.com/file/d/1U1LB0DADHztZO-lgF5oNBKRjYFcQj90K/view>

part of the program at CSO Open Gate receive legal help, psychological counseling, education and training, medical help and assistance, and humanitarian aid. Furthermore, the program for accompanying work with vulnerable categories provides support to persons who are either at high risk of being trafficked or are not placed at the shelter. In order to facilitate the process of reintegration and resuming a normal life, the program is also offered to victims who have already left the shelter. Aside from the immediate help and support, victims who are beneficiaries of the program receive additional support, such as family and individual counseling, access to local services, and long-term emotional support.⁸⁵

Upon admitting the victim at the shelter, there is a standardized protocol which provides adequate accommodation and protection of the victim. The victim is required to sign a number of documents: a statement confirming they are beneficiary of the services offered at the shelter, an accommodation agreement, a non-disclosure agreement, an inventory of items in possession upon arrival (a mobile phone, money and valuables, etc.). Upon leaving the shelter, the victim is required to sign a statement, certifying they are no longer placed at the shelter.⁸⁶ Underage victims who are placed at the shelter have to sign the same documents, with the difference that these papers are signed by their appointed legal guardian. Once the victim is officially admitted at the shelter, a comprehensive assessment of the victim's need is conducted. The information from this assessment is subsequently used to design a detailed individual plan for the provision of help and support to said victim. Each victim's case is carefully detailed in a file. Only staff who work with the victims have access to these files. It is worth noting that all staff are required to sign a non-disclosure agreement, protecting the personal details of the victims. Prior to leaving the shelter, the staff prepare a detailed assessment and a reintegration plan for the victim.⁸⁷

The shelter accepts home victims and foreign nationals who have a residence permit. Foreign victims who are staying in the country illegally are placed by the MoI at the Reception Center for Foreign Nationals, until their stay is legalized. Analogous to this, practice shows that the Reception Center is not an adequate facility for the provision of help and support of victims of HT. This is mostly due to the fact that the Centre lacks professional staff who are trained to work with victims of HT.

Women's CSOs have expressed their concerns on the quality of services provided by state-run shelters and crisis centers, doubting the qualifications and knowledge of the engaged staff to provide adequate support for the victims/ survivors.⁸⁸ The main issue remains a geographical distribution of shelter centres and provision of other services (such as free legal aid and psychosocial support) as most of the shelters are located in a few, larger cities and out of reach for women from remote areas.⁸⁹ This concern was reiterated by the CEDAW Committee in several occasions, including in the Concluding Comments

⁸⁵ <http://lastrada.org.mk/programa-socijalna-asistencija/>

⁸⁶ Association for Action Against Violence and Trafficking in Human Beings – Open Gate. (2012). From Safe Shelter to Social Integration of Victims of Human Trafficking.

⁸⁷ Ibid.

⁸⁸ Idem.

⁸⁹ HERA, 2020 Annual Report - Supporting the Vulnerable in Times of Crisis, Protecting the Social and Reproductive Rights! HERA, 2020, https://hera.org.mk/wp-content/uploads/2021/06/Godishen-izveshtaj-za-2020-godina_en-web.pdf, 21.

and Observations to the last 6th State report. In this regard, the CEDAW Committee has reiterated its recommendations for increasing the number of State shelters and “ensure that access for women who are victims of gender-based violence is within a reasonable distance”.⁹⁰

Article 24 – Telephone helplines

The Ministry of Labor and Social Policy, through the adoption of decision about the annual programs for distribution of the revenues from the games of chance, allocates funds for financing the program activities of 4 civil society organizations, including organizations within which there are telephone lines for women who have suffered domestic violence. In addition, the national SOS lines for women victims of domestic violence provide basic information and referral of victims to the competent institutions.

Regarding the functioning and effectiveness of the national help-lines for assistance to women who have suffered domestic violence, there are two things that need special attention. The allocated funds from the MLSP are insufficient for the implementation of the program activities and achieving sustainability of such services within the civil society organizations. To illustrate, the total annual funding allocated in 2021 for four CSO’s working on domestic violence was MKD 4,000,000 (EUR 65,000), representing only 5.7% of the total funds allocated through the annual revenues of games of chance program, which amounted to 70,000,000 MKD (1,138,000 Euros)⁹¹. The rest goes to the National Disability Organizations and the Red Cross. Additionally, the criteria on the basis of which all organizations that are users of these funds are selected are not known, nor the criteria regarding the proportional distribution of funds. Hence, it is necessary to revise the criteria and the procedure for selection of CSOs beneficiaries of this MLSP program, including CSOs that provide assistance and support to women who have suffered domestic violence, as well as to revise the proportional allocation of funds for this purpose. Especially, taking into account that the Red Cross in addition to the funds approved by MLSP, is receiving significant funds from other state sources, including the Government itself.

The second issue that should be paid special attention to is the effective protection of women after contacting the national SOS lines, i.e. the actions taken by the competent institutions after the referral by the CSOs. The existence of national SOS lines and the provision of information on rights, as well as referral to the competent institutions, should be accompanied by appropriate action by the institutions themselves, such as the SWC and the police. The previously elaborated shortcomings in the level of proceeding of these institutions emphasize the need to take systemic actions for effective connection and functioning of the overall protection system, after the "entry" of women who have suffered domestic violence through national SOS lines.

⁹⁰ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

⁹¹ Annual program for allocation of incomes from the revenues from games of chance for funding program activities of national organizations of disabled persons and their associations, CSO’s combating domestic violence and Red Cross of Republic of North Macedonia, Government of R.N. Macedonia, 2021, available at <https://dejure.mk/zakon/odluka-za-rasporeduvanje-na-prihodite-od-igri-na-srekja-i-od-zabavnite-igri-vo-2021-godina-za-finansiranje-na-programskite-aktivnosti-na-nacionalnite>

Article 26 – Protection and support for child witnesses

The lack of systemic training of practitioners on the nature of VAW and domestic violence, the relationship between the survivors and perpetrators, and consequences that the violence is producing to the women and their children, continues to seriously undermine the efforts undertaken to improve the institutional proceedings in these cases, including the protection of rights and needs of child witnesses or even children who were victims of domestic violence themselves.

A negative practice has been identified in the proceedings of the SWC in a case where the child himself was a victim of domestic violence, for which the father was criminally convicted by the Basic Criminal Court. In this case, the competent SWC not only did not take actions to protect the rights and interests of the child, but also directly took harmful actions that contributed to the deterioration of the child's health. For such harmful actions, criminal proceedings are already being conducted against the employees of the SWC, due to abuse of official position and authority.

In this case, despite the existence of a criminal conviction of the father of the child, as well as an initiated procedure for deprivation of parental rights, the SWC took action to call the mother and child to account, by consecutively sending them to three different counseling centers together with the abuser, in order to “improve family relationships”. At the same time, the SWC put a lot of pressure on the mother and child, for organizing personal meetings between the child and the abusive parent at first, and later between the child and father's relatives, which resulted in a serious deterioration in the mental health of the 10-year-old child and use of medication as a result. This practice continued despite the direct indication from the Institute of Mental Health, where the mother was referred by CSW together with the child and the abusive father for visiting counseling. Namely, in its reports, the Institute for Mental Health alerted the SWC to stop putting pressure on the child, because it directly deteriorates his health condition. What is particularly worrying is that although complaints have been submitted to the MLSP and the Office for Social Activities about the operation of the SWC in this case, no actions have been taken to change the proceeding of CSW. This negative practice of the SWC continued for a period of 5 years and stopped only after the ruling for deprivation of parental rights by the Basic Civil Court. Subsequently, in 2021, criminal proceedings were initiated against the employees of the SWC by the mother, and the case is currently in proceeding by Public Prosecutor's Office, from where there is still no data on the actions taken so far.

It is important to notice that this case is not isolated practice when it comes to the proceeding of CSW in domestic violence cases, and there is an urgent need for eliminating this negative practice of institution involved. Hence, there is an urgent need for the MLSP to establish a system for monitoring the work of the SWC in cases of violence against women and domestic violence, based on the experience of women and children and their satisfaction with the SWC's proceedings and service delivery. An integral part of this system should be calling to account the practitioners who will be found to have acted inappropriately or harmful in cases of this kind. At the same time, there is an urgent need for systematic education of SWC staff for work on cases of violence against women and domestic violence, with special attention to be paid to certain aspects of practical action in providing assistance and support to women and children victims of violence. The Ministry of Justice and Republic Judicial Council should organize

systematic education of judges and public prosecutors for dealing with cases of violence against women and domestic violence, as well as provide the necessary preconditions for enabling urgent processing of cases that affect the interests of women and children survivors or witnesses.

Chapter V – Substantive law

Compliance of Criminal Code with the Convention

Regarding the basic term victim, it can be said that it is regulated in the Macedonian legislation and Criminal Code with the amendments from 2013. Article 122 defines the term "victim" as "any person who has suffered loss or damage, including physical or mental injury, emotional suffering, material loss, and any other threat or threat to his or her rights and freedoms resulting from the crime ". This makes the Criminal Code differentiate between victims and injured parties. Victims in the proceedings have their own rights, such as: the right to information, protection, assistance, care and support, compensation and mediation. Additionally, Article 53 of the Law on Criminal Procedure establishes the basic rights of victims, including the right of the injured party to participate in the proceedings in which he is allowed to participate in the prosecution or in the claim for compensation, special care and protection from the court, the right to psychological and other professional assistance, as well as support from relevant institutions, etc. According to paragraph 2, it is important for victims to enjoy their rights, while the police, the prosecution and the court have a legal obligation to inform the victim of their rights, as well as to act in their interest in deciding to prosecute the accused. This action begins as soon as the victim makes the first contact with the legal and judicial system, which are usually the police, and then the centers for social work.

However, the Criminal Code is completely blind to the term gender. Apart from defining gender as a ground for discrimination, gender is not regulated at all by the Criminal Code.

As stated in Article 1 of the Istanbul Convention, it aims to protect women and eliminate all forms of violence and discrimination, to promote equality between men and women and to strengthen the capacity of women. Therefore, criminal legislation should address the issue of discrimination and inequality together with the issue of VAW. To prevent violence against women, a coordinated and comprehensive intervention is needed to prevent discrimination and criminalize all types of violence against women. Therefore, it is equally important for the Criminal Code to define all forms of violence against women as a crime, but at the same time to define the term gender, to revise the language from gender neutral to gender responsible and to recognize women as subjects, but also as victims of violent behavior.

Hence, it is necessary to harmonize the Criminal Code with the Istanbul Convention. The definition of "violence against women" in the Criminal Code should include economic violence to denote any act of gender-based violence that causes or is likely to result in physical, sexual, psychological or economic harm or suffering to women, including threats of such violence, acts, extortion or arbitrary deprivation

of liberty, whether occurring in public or private life in accordance with Article 3 of the COE's Convention. These provisions are intended to provide greater protection to victims at all levels of action. It is necessary to include the definition of gender, as well as to supplement the definition of a victim in order to recognize a woman as a victim of gender-based violence. This is especially important for raising awareness, building the capacity that will enable the implementation of the Istanbul Convention. Finally, in terms of harmonization with the basic terms used in the Convention, the Criminal Code requires the appropriate application of the term "violence against women" as an additional factor for the needs of punishment if it occurred at the same time as another crime, such as murder (Article 123); momentary murder (Article 125); bodily injury (Article 130); severe bodily injury (Article 131); coercion (Article 139); unlawful deprivation of liberty (Article 140); endangering security (Article 144); sexual assault on a minor under the age of 14 (Article 188) and mediation in prostitution (Article 191).

VARIOUS FORMS OF GBV

As well as being a comprehensive document, the Istanbul Convention is an effective tool because it requires signatory countries to ensure adequate criminal justice for all forms of violence against women and because it seeks to address the root causes of violence against women (gender stereotypes, violent traditions on women and all general manifestations of gender inequality). Currently, the Criminal Code of the Republic of North Macedonia⁹² criminalizes only rape. Other forms of violence against women regulated by Articles 33, 34, 35, 36, 37, 38 and 39 of the Istanbul Convention are not explicitly regulated by the Criminal Code. Some of these forms of violence are regulated in part by violations of other laws, such as the Family Law (forced marriage), the Law on Protection and Prevention of Discrimination, the Labor Law (sexual harassment in the workplace), and the Law on Termination of pregnancy (forced abortion and sterilization) etc. Please see below the status and recommendations related to different forms of GBV:

Articles 33 Psychological violence

The Macedonian Criminal Code does not recognize the crime of psychological violence as separate. It mentions it only in the definition of domestic violence in Article 122. The Convention defines violation of mental integrity it as the use of coercion or threat. Given the fact that practice shows that physical violence is always preceded by psychological violence, by clearly defining and criminalizing it, the State will finally reduce the trend of physical violence and femicides in the country.

⁹² ("Official Gazette" No. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008 ; 139/2008, 114/2009, 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013; 82/2013; 14,27,28, 115, 132, 160,190 / 2014 ; 196/2015

Hence, the regulation of the crime of Coercion in Article 139 is not sufficient. The object of protection in the crime of coercion is the freedom to form a will for a certain action, while the COE's Convention requires protection of the psychological integrity of the person. Unlike the basic form of the crime, when the prosecution is undertaken on a private lawsuit, a qualified form exists when committing domestic violence and is prosecuted ex officio. Also, the regulation of the threat in part by Article 144 of the CC - Endangering security is not enough. This provision sanctions the induction of a feeling of insecurity, threat or fear with a serious threat of attacking the life and body of a person or a person close to him.

If the crime was committed while committing domestic violence, it is considered as a qualifying circumstance and the envisaged punishment for the perpetrator is more severe, and the prosecution is undertaken ex officio. However, linking the threat to its outcome - violation of mental integrity is not done. Compliance with the Istanbul Convention is required, it is necessary to prescribe a new crime in the Criminal Code, "psychological violence", in accordance with the provisions of the Convention.

Article 34 – Stalking

The Law on Prevention and Protection against VAW and domestic violence is defining stalking in accordance with the Convention, but it is not treated as criminal act under the Criminal code. In this regard, pursuant to Article 78, the Convention gives ratifying countries the right to retain the right to introduce non-criminal measures, such as a ban on approaching and restricting the perpetrator. However, the State's decision to introduce non-criminal measures is different from the actions of all other countries in the region, with the exception of Bulgaria. For example, Bosnia and Herzegovina in 2015 amended the Criminal Code and criminalized stalking, as did Montenegro, Serbia and Croatia. Hence, it can be concluded that the Macedonian legal framework treats stalking mainly through the prism of domestic violence, in order to provide protection for the victims and to prevent further violence against them. However, due to the seriousness of this form of gender-based violence, given that it causes fear and anxiety among victims, the Criminal Code is obliged to resolve this issue and punish this act.

Accordingly, further steps need to be taken to ensure that stalking is treated as a form of gender-based violence. The regulation of the elements of stalking with Article 144 of the Criminal Code of RSM is not enough. Endangering security as a crime does not recognize the gender dimension nor does the genesis of the crime that arise from gender stereotypes and gender inequality between men and women. The provision of Article 144 also refers to physical fear, while the provision of the COE's Convention refers to the psychological state of fear. Therefore, the Criminal Code should either regulate this crime to be gender-responsive, or criminalize stalking as a new crime with provisions that will provide sanctions for perpetrators, and at the same time provide protection for victims.

Article 35 – Physical violence

Article 35 of the Istanbul Convention regulates: "Parties shall take the necessary legislative or other measures to ensure that the intentional commission of acts of physical violence against another person is criminalized." The Criminal Code does not regulate physical violence as a separate crime but includes

it in the definitions of domestic violence in Article 122 paragraph 2 only. In the Criminal Code an object of protection when regulating the criminal acts "bodily injury" and "severe bodily injury"⁹³, are the life and bodily integrity. However, there are two reasons why this regulation of domestic violence as a qualifying factor for crimes is not sufficient. First, it does not indicate the genesis of violence, i.e. gender inequality, gender roles and stereotypes that led to crime against the victims. Second, the regulating domestic violence as a qualifying factor of the crime, not the crime itself, does not allow the collection of data on the crime which is a serious obstacle to the implementation of the COE's Convention, especially Article 11, which deals with data collection and reporting of all forms of violence.

Article 36 – Sexual violence, including rape

Although in the national legal system, different forms of sexual offenses are punished by different laws, yet it must be noted that the terminology used is slightly different from that in the COE's Convention, where the term sexual violence is used. The national legislation uses the term "sexual violence", which comes from the word "sex" (biological characteristics that define someone as a woman or a man).

The act of sexual violence is not based on the concept of lack of consent from the victim, but on the concept of the use of force. So, in cases where the use of physical force is not present, it is difficult to present it as a crime, as an act of sexual violence. Otherwise, the absence of consent gives a clearer perception of whether the offense can be characterized as a sexual assault, at least by the victim. The police and prosecution prosecute cases where the victims resisted the offender, where at the same time they unsuccessfully protected the victims who were not able to oppose the offender. In this case, it is best to focus on the victim's consent, analyze the situation, and hear the witnesses. Rape in marriage is punishable but requires the use of force or serious threats.

Another important aspect in prosecuting sexual assault offenses is to ensure that court rulings, are not influenced by gender stereotypes or existing myths about female and /or male sexuality.

It is worth noting that the provisions governing sexual violence in the national legal framework use a gender-neutral vocabulary. This means that sexual assault can be committed against both men and women. In addition, Article 186 of the Criminal Code does not explicitly define the elements of rape. Instead, the term "adultery" is used, which is a very general term does not explicitly mean sexual violence.

Therefore, the legislator should make additional efforts to better define the term "rape" and to comply with the requirements set out in the COE's Convention regarding the elements of the act. It is also advisable in its definition process to cover all forms of unconsensual penetration, including body parts or objects.

The redefinition of this crime must take into account the practice of the European Court of Human Rights, especially the decision in the case *MS v. Bulgaria*, where the court found that "rape is a violation

⁹³ Article 130 and 131, Paragraph 2

of a person's sexual integrity and self-determination and that rape legislation should focus on non-consent rather than the use of force as an integral part of the crime of rape".

Finally, in practice Ministry of Interior collects data on rape and reports on this crime on a regular basis, but without providing gender-disaggregated data on rape victims and perpetrators. Hence, it is necessary to harmonize in terms of data collection and reporting of rape with Art. 11 of the Convention.

Article 37 – Forced marriage

Child marriage is not autonomously regulated by the Criminal Code. One aspect of the crime criminalized by Article 37 of the Istanbul Convention is that forced marriages are part of human trafficking and child trafficking, as well as the consequences of marriages from that offense. These acts are criminalized under Article 418-a of the Criminal Code, and the Law provides for imprisonment of at least 4 years for perpetrators and at least 8 years for perpetrators of child trafficking. In addition, although the nature of the offense is regulated, its limited scope only in the case of trafficking in human beings and child trafficking makes compliance with the Istanbul Convention partial. At the same time Art. 6 of the Criminal Code partially criminalize underage marriage by enabling the application of the Convention to minors as well. However, what the criminal code does not allow is to criminalize the intentional lure of an adult or child in the territory of the country or in another country in order to force an adult or child to marry.

Therefore, forced marriages and marriages with children in North Macedonia should be regulated by separate provisions of the Criminal Code, as required by the Istanbul Convention and its Article 37, which provides for this. To this end, there are different approaches in the world on how to deal with this issue. Good practice that can be followed is the Norwegian Criminal Code, which defines the crime of forced marriage as "any person who, by force, deprivation of liberty, inappropriate pressure or other unlawful conduct or threats of such conduct, compels anyone to enter into marriage." he will be guilty of causing a forced marriage. " Another option for dealing with a forced marriage is to criminalize any act in which force is used or threats are used that cause fear and suffering to another person and are effected by concluding a marriage or a complete ban on the marriage of minors or minors. This is the case with German criminal law, which treats forced marriage as a serious crime.

Article 38 – Female genital mutilation

The female genital mutilation is not regulated by the Criminal Code, as provided by Article 38 of the COE's Convention. One aspect covered by the Criminal Code is the provisions of Articles 130 and 131, which penalize bodily injury and grievous bodily injury. As can be seen from the Criminal Code, in none of the paragraphs of the two articles that regulate bodily injury is explicitly mentioned any female body part that would give it a dimension based on the native crime. However, given the seriousness of the

act, which could have potential health damage to the lives of women and girls, it should be explicitly defined as a crime. Female genital mutilation is part of the traditional circumcision procedure in some parts of the world. Although such traditions are not nurtured in the country, due to globalization and migration (movement of people), such a procedure can also take place on the territory of the country. It is therefore necessary to criminalize the offense on the territory of all signatory countries in order to contribute to the eradication of this practice. In addition, Macedonia should introduce measures to cover the specific aggravating circumstances of this behavior, which could be used for effective prosecution under the crime of physical violence, as well as criminalization of the aspect of coercion determined by paragraph 38 of the Article.

Article 40 – Sexual harassment

Although sexual harassment is treated in different laws⁹⁴, the, taking into account that sexual harassment can occur in many places, such as schools, workplaces, hospitals, public spaces, etc., this requires legal instruments that go beyond the Labor Law. However, it is based more on discrimination than in the form of gender-based violence. In this respect, sexual harassment is not criminalized, so it is not in line with the COE's Convention. So far, sanctions include fines for perpetrators and employers if they fail to prevent or protect employees from offenders. However, criminal legislation on sexual harassment should not exclude existing sanctions, but supplement them. Macedonia should introduce sexual harassment as a crime in the Criminal Code and define appropriate sanctions for perpetrators. Criminal liability for sexual harassment should take on a new quality by defining violence against women.

Article 42 – Unacceptable justifications for crimes, including crimes committed in the name of so-called "honour"

According to the provisions of the Macedonian Criminal Code, culture, customs, traditions or honor do not provide a solid basis for justifying crimes. In addition, Article 6 of the Criminal Code exempts juveniles from liability, but the second paragraph of the article allows the application of the Convention to minors as well. In addition, the State should introduce measures to cover specific aggravating circumstances of this behavior, which could be used for effective prosecution under the crime of physical violence.

Article 46 – Aggravating circumstances

Article 39 of the Criminal Code contains general rules for sentencing. The Law does not differentiate the mitigating circumstances from the aggravating circumstances, but leaves such an assessment to the court. and aggravating circumstances). Also, when sentencing, the repeated crimes of same type are taken into account by the court, whether the acts were committed for the same motives and how much

⁹⁴ Law for prevention and protection against discrimination, Law on Labor Relations, Law on protection against psychological violence at the workplace

time has passed since the previous conviction, i.e. the served or forgiven sentence, whether the crime was committed against a person or a group of persons or property, directly or indirectly, because of his or her national and social origin, political and religious beliefs, property and social status, gender, race or skin color; the property status of the perpetrator, taking into account his other income, his property and his family liabilities. Although these provisions implicitly correspond to those of the Convention, it is still necessary to consider their possibility of full incorporation and harmonization of the legislation of the Republic of Northern Macedonia with the Convention.

Article 58 of the Istanbul Convention regulates the obligation of the signatory countries to determine, long enough and commensurate with the gravity of the crime, a period of obsolescence of the acts. Macedonian criminal law recognizes the statute of limitations for prosecution and the statute of limitations for the execution of a criminal sanction. The deadlines for statute of limitations, the course and termination of the statute of limitations and the statute of limitations are regulated by Articles 107, 108 and 112 of the Criminal Code. Absolute statute of limitations for the prosecution of all crimes for which statute of limitations is allowed exists after "twice as much time as is required by law for the statute of limitations for criminal prosecution" (Article 107, paragraph 6 of the Criminal Code). "The statute of limitations does not guarantee that after the age of 18, children who have been victims of sexual violence will be prosecuted for any of the crimes." Additionally, Article 112 of the Criminal Code provides for the possibility of non-obsolescence of criminal prosecution, if it is provided by an international agreement that has been ratified.

Article 50 – Immediate response, prevention and protection

In accordance with the Law on Prevention and Protection against VAW and domestic violence, the police representatives can enter the place of living after victim have reported the violence, in order to remove the "immediate and serious danger to the life and physical and psychological integrity of the victims and

members of the family”⁹⁵. Consecutively, risk assessment is conducted by the police representatives and if there is a imminent risk, the perpetrators can be deprived of liberty. In parallel within 12 hours the police representative will inform the Public Prosecutors Office, and prepare police report and submit the proposal to the Basic Civil Court for pronouncing the urgent measure of protection “removal of the abuser from home and ban to approach the home”.

However, there is a non unified practice in the implementation of this legal provision by the police. Police representatives are not trained to proceed in these cases and how to adequately conduct the risk assessment. The assessment about the police proceeding in domestic violence cases, which incorporated 48 interviews with police representatives (out of which 24 police inspectors), shows that more than half of them (52%) have not visited any training, roundtable or workshop related to VAW and domestic violence, while 22% of them have visited basic training, and only 12% specialized training. In addition, the collected data from 12 women with previously experience with reporting the violence to the police, shows that there is different practice on the part of police officers after the violence was reported by phone, in terms of the information they seek and the decision itself whether to enter the scene where the violence occurred. There is unified practice that police officers always go to the scene if the victim reports that the perpetrator posses a weapon; but if there is different practice in this regard if a weapon was not reported during the call. There are not unified questions that the police representatives is asking the women that are reporting the violence trough phone, and from the possession of weapon is not clear what are the actual criteria applied for the police to decide whether to go to the place of the living or ask the victim to report the violence directly to the police. On another side, there are cases where police representatives are going to the scene, yet only to warn the perpetrator not to commit violence, without having him removed out of the place of living and conduct adequate risk assessment in this regard.

The lack of education of police representatives proceeding in domestic violence cases directly influences the manner in which they proceed in this cases and the protection that is provided to women who suffered domestic violence. In addition, there is not obligatory practice for the women police representatives to be involved when proceeding in cases of VAW and domestic violence, which further affects the position of women who suffered domestic violence. Thus, there is a need for organization of obligatory basic education for working with women survivors for all the police representatives that have contact with victims, and specialized trainings for those who are directly proceeding and making decisions in these cases.

There is not publically available data on the number of criminal acts, misdemeanor or complaints related to domestic violence cases. However, there is a practice that reported cases of domestic violence that are actually criminal acts to be registered as misdemeanor or complaints.

During 2021 Coalition Margins documented 54 cases of gender-based violence and domestic violence of marginalized women and transgender people, out of which 22 were women sex workers. In most of the cases the perpetrator is the partner of the victim, and in the cases where sex workers are the victims the

⁹⁵ Article 49, Law on Prevention and Protection against VAW and domestic violence

perpetrator is also the clients or third party. LGBTI people are victims of domestic violence by their parents or other close relatives. Most of these women who report the cases to CSOs are not motivated to pursue the case due to the previous incompetent and unprofessional treatment by the competent institutions.⁹⁶ In the Polog region, specifically in Gostivar, the victims of gender-based violence do not report to the police based on their previous experience and they do not trust that they will get the necessary assistance.⁹⁷

In year 2020 seven victims of trafficking are identified, out of which six female children (girls) and one adult male (five victims for sexual exploitation, one forced begging and one labour exploitation). In 2019 were six identified victims of trafficking, all are females and four are children (two victims of forced marriage, one of sexual exploitation, one of forced labour, one victim of sexual exploitation combined with forced marriage, one labour exploitation combined with begging). The vast majority of victims in North Macedonia are children from dysfunctional families with a plethora of risk factors, including domestic violence and poor social and economic circumstances, is another concern. Initial identification of victims in 2019 remains a challenge, indicated by the low number of officially identified persons compared to the actual number of trafficked persons in the country. This poor identification is due mostly to the lack of human and technical resources, poor education, and poor application of the existing indicators for identification of victims by the relevant institutions.

Another issue worth noting is the difference in the gap between reporting of the crime and raise criminal charges. This period ranges between two months in one case and two years in another. In three other cases, the average period is around four to six months, and in one of the cases charges were filed a year and nine months after the crime was disclosed.⁹⁸

There is a lack of an established system which will facilitate a precise identification of cases (even in cases when authorities make a mistake which needs correcting). In other words, the 2018 SOP does not contain a provision which will allow a person who has not been identified a victim to submit an appeal or any other legal remedy in order to have their status recognized.⁹⁹

⁹⁶ Report on the violation of the human rights of marginalized communities from the documented cases in the period August-November 2021 <https://bit.ly/3MQ4LJc>

⁹⁷ Drndarveska D., Senih A., Ananievska A. Sexual and health rights of marginalized communities. Annual report 2018, 2019.

⁹⁸ <https://drive.google.com/file/d/14h9Fd8c8sHTqNu7kjY6tNSQ8EGiqDF3i/view>

⁹⁹ The recovery and reflection period might be terminated in cases when the victim's status has been acquired illegally. The domestic or foreign national may appeal against the decision to terminate the recovery and reflection period, and are entitled to administrative dispute (p. 36 of the SOP). Consequently, once the persons loses their victim status, they also lose their right to temporary residence.

Article 51 – Risk assessment and risk management

In accordance with the Law, the CSW and police in a period of 12 hours after the reporting are obliged to make a risk assessment to the life and physical and mental integrity of the victim and members of her family, and undertake measures for protection of the victim¹⁰⁰.

In addition, in 2021 MLSP and MOI has adopted by legal acts for conducting risk assessment of the victims and her family members' wellbeing and safety within the execution of the urgent measures of protection. The Ministry of Interior has adopted two by-laws regulating the manner in which the risk assessment is conducted by the police within the execution of the temporary measures of protection, and the TMP "removal of the perpetrator from home and ban to approach the home"¹⁰¹

In terms of implementation of par.2, through recent legislative and policy developments, institutions have made significant efforts to address gendered dimension of small arms at legislative and policy level. This is primarily reflected in increasing legislative efforts to prevent and combat the misuse firearms in the context of domestic violence, and to a lesser degree policy effort to address other gender concerns related to small arms ([Report on the Gender Analysis of Small Arms Control legal and policy frameworks in the Republic of North Macedonia, SEESAC 2021](#)). The Law on Weapons considers "domestic violence" and "severe disruption of family relationships" as grounds for posing danger to public order and consequently as a ground for rejection of the application for permit to acquire weapons. This is also reflected in the procedure for the renewal of firearms license. The storage of the weapons and ammunition for both natural persons and by the legal entities is regulated. The legislation regulates the procedure of the relevant institutions, Center for Social Work and the police in cases when weapons was use or was threatened to be used, as well as when weapons is possessed by the perpetrator or the perpetrator has authorization to carry and use weapons as part of their authorization. Legislation regulates that the possession of a weapon, the use of a weapon or the threat of a civilian in domestic violence based on a risk assessment, the weapon is temporarily confiscated by the police and if there are justifiable reasons it is confiscated. Consequently, the license is temporarily revoked until a final court decision is made, when the license is permanently revoked. The legislation has regulated domestic violence incidence occurrence as a basis for weapons temporary seizure for a large group of security personnel till the court's decision in criminal, misdemeanor and temporary protection order for domestic violence becomes final, including a mandatory psychiatric and psychological examination or counseling with a psychologist for assessing the ability of the perpetrator to carry out with his/her position of carrying and using a weapon.

However following recommendations can be put forward:

- Prevent and appropriately respond to firearms misuse in cases of domestic violence by amendment and addenda of the Law on Weapons trough: definition of a domestic violence, as contained in the Criminal Code and in the Law on Prevention, Suppression, and Protection from Domestic Violence; specific provision ie an obligation for notification to the spouse (current and former from the last two

¹⁰⁰ Article 50, Law on Prevention and Protection against VAW and domestic violence

¹⁰¹ Official Gazette No. 210/21

years) or close family member by the responsible state institution during the process of obtaining the license; provision for consultation with Center for Social Work, obtaining data on history of domestic violence, including stalking when it is legally introduced; preparation of a Rulebook for security vetting of domestic violence to be developed and adopted by the Ministry of Interior; to amend the requirement "legally convicted for a criminal act committed with intent, which is prosecuted ex officio" to "legally convicted for a criminal act committed with intent, which is prosecuted ex officio with a previously given proposal of the victim of domestic violence" for the cases of DV and "the person has been issued with a temporary protection order for domestic violence"; and to explicitly regulate the court decision for imposing temporary protection orders as a ground of revocation of the license.

- Regulate a procedure for all security personnel authorized to carry and use weapons and align these procedures to have one uniform state policy approach, including foreseeing "all forms of domestic violence" as a condition for security vetting in employment and regulating carrying and use of a weapon out of their working positions.
- Reassess and uniform the approach in provisioning the risk assessment and risk management in accordance to the Istanbul Convention and consequently accept the possession and access to firearms, regardless of whether the firearms were used or threatened in domestic violence incident as a risk.
- Ensure effective and timely implementation with preparation and adoption of a Guide on Law on Weapons demonstrating the linkages between these SALW and domestic violence, and envisage clear guidelines for proceeding what has to be done when domestic violence is committed.

Article 52 – Emergency barring orders

It is important to notice that the proceeding of CSW and police in domestic violence cases in this regard was previously regulated with similar by legal acts, yet there was no factual implementation in practice. In this regard, apart from the repeated adoption of by legal acts, no substantial efforts were undertaken by relevant ministries and institutions concerned for addressing these implementation gaps. The CSW has not established functional system for monitoring TMP, even though this was their legal obligation since 2004, when the TMP were first introduced in the Family law as specialized mechanisms for prevention of domestic violence and provision of immediate protection to women survivors. The conducted risk assessment is inadequate and not addresses the need for immediate victim's protection. There are number of women beneficiaries of CSO's that experienced inadequate proceeding by CSW, which are not taking into account victims concerns about their safety and providing the urgent protection in this regard. The police is facing challenges to adequately conduct the risk assessment as well, which presents a barrier for the court to promptly pronounce the TMP as legally prescribed, and as a result, women are facing increased jeopardy for their life and lives of their family members. In one of the cases of this type, as a result of the non adequate risk assessment and urgent protection provided by the CSW and police in this regard, the perpetrator killed three family members of the victims of domestic violence, which was noted in the criminal judgment of the Basic Court as an epilogue to this case. Thus there is a need for undertaking the needed preconditions for implementation of the by legal acts related to risk assessment in practice, and improve the effectiveness of the immediate protection provided to women and their family members.

Reccomendations to Article 51 / 52

MLSP and CSW should establish comprehensive system for monitoring the execution of TMP, and collect data on the proposed, changed, and terminated TMP on regular periodic level.

MLSP organize training for all CSW representatives proceeding in domestic violence cases, and inform them about the specifics of the procedure for TMP, including how to conduct proper risk assessment. .

MOI and police should establish comprehensive system for monitoring the execution of TMP, and collect data on the proposed, changed, and terminated TMP on regular periodic level.

MOI organize training for all CSW representatives proceeding in domestic violence cases, and inform them about all the specifics of the criminal procedure and procedure for TMP, including how to conduct proper risk assessment.