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Toolkit

FOR MONITORING IMPLEMENTATION OF THE COUNCIL OF
EUROPE CONVENTION ON PREVENTING AND COMBATING
VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE
(I S T A N B U L C O N V E N T I O N)

Sc.D. Natalija Petrić, Sc.M. Sabiha Husić, Irma Šiljak

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INTRODUCTION

The Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence (The Istanbul Convention, the Convention) is one of the most important international agreements in the area of violence against women and domestic violence accepted by the Bosnia and Herzegovina. The Committee of the Ministers of the Council of Europe adopted this Convention on 7 April, 2011, as the first legally binding document in this area. It entered into force on 1 August, 2014.

The Bosnia and Herzegovina ratified the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence – the Istanbul Convention on 7 November, 2013, and became 6th country member of the Council of Europe that ratified this legal instrument. The text of the Istanbul Convention was published in the Official Gazette of the Bosnia and Herzegovina - the International Agreements, No. 19/13. By the beginning of June 2018, the Convention was ratified by 30 countries, and signed by additional 16 countries¹.

For the first time in the Europe, the Convention is setting up the legally binding standards for prevention of violence against women and domestic violence, protection of victims, and punishing of the perpetrators of violence. It filled in the gap in protection of women's human rights, and encouraged the countries members to expand protection on all victims of domestic violence.

The Istanbul Convention provides comprehensive approach in prevention, protection, and support to the victims of violence, and regulates processing and punishing the perpetrators of violence. It also sets up the standards related to systemic collection of data, as well as coordination of activities of all actors involved in implementation of the Convention, in order to monitor changes in relation to the violence against women and domestic violence. Each of the areas covered by the Convention includes the specific measures aimed to ensure its implementation in the practice.

In order to ensure efficient implementation in the countries members, the Convention sets up the mechanisms for monitoring of its implementation – The Group of Experts on Action Against Violence Against Women and Domestic Violence (GREVIO) and the Committee of the Members, and develops the procedure and me-

chanisms of communication between the monitoring bodies and the countries members.

The countries members are submitting the report to the General Secretary of the Council of Europe, based on the questionnaire of the GREVIO. The report should provide the information on legislative and other measures conducted by a country member aimed for implementation of the Convention. The countries members are responding to the questionnaire, and are providing responses to all other requests for information sent by the GREVIO.

On 11 March, 2016, GREVIO adopted the first questionnaire for response of the countries members on implementation of the Convention. The questionnaire has been developed with objective *to determine the initial status in relation to the legislative and other measures introduced by the countries members upon accepting the Convention*, in relation to specific and general implementation of the Convention². When preparing the response on the questionnaire, all countries members are obliged to submit the first report on implementation of the Convention. The term “questionnaire” is related to written questions or guidelines for acquiring quantitative and qualitative data on measures taken with objective to implement the

Convention. The countries members are obliged to respond to all requests of GREVIO.

The procedure of follow up assessments that follows upon the first report and assessing the initial status is divided in cycles, and GREVIO *will select the specific provisions to focus the monitoring process*. The objective is for GREVIO to determine provisions that will be in focus of monitoring in the given period, and this process is conducted independently at the beginning of each cycle.

The Convention regulates that GREVIO **can receive information about implementation of the Convention from nongovernmental organizations, civil society organizations**, as well as state institutions authorized to protect human rights, and therefore use all available information as much as possible.

This Toolkit has been developed with the objective to provide guidelines and involve great number of nongovernmental organizations in the process of monitoring implementation of the Istanbul Convention, in order to contribute in preparing **the first report** to GREVIO **due in November 2019**³.

The Toolkit is focusing on the key points, as follows:

- General notes on importance and content of the Istanbul Convention,
- Information on mechanisms for monitoring implementation of the Istanbul Convention – the Group of Experts on Action Against Violence Against Women and Domestic Violence (GREVIO) and the Committee of the Parties,
- The basic notes on role of nongovernmental organizations in monitoring implementation of the Convention.

Special emphasis is given to the **indicators** for monitoring implementation of the Istanbul Convention and reporting that are providing questions that should be answered during assessment of the legal and real position of women victims of all form of violence regulated by the Convention. The Toolkit also provides suggested **methodology (ways and sources) of collecting data**, with objective of **providing plausible answers** on questions per indicators.

Nongovernmental organizations that are working with the women survivors of violence are in position to address concrete issues, and also to **propose measures aimed to solve identified issues**.

The report with recommendations of nongovernmental organizations will help GREVIO to have clearer picture about real position and needs of women in Bosnia and Herzegovina, and to develop recommendations to the countries members that are responding to these needs. These recommendations will be considered by the Committee of the Members, and sent to the country member in order to undertake measures suggested by the GREVIO. Because of that, it is of utmost importance for great number of women's nongovernmental organizations that are working with groups of women survivors of violence, and have specific knowledge in the key areas, to be involved in the process of monitoring, and to integrate their knowledge, testimonies, and experiences in the report that will be submitted to the GREVIO.

„Aide-memoire“⁴ provides legal analysis and explains obligations of the countries members taken over with the ratification of the Convention, namely in terms of recognizing the third sex, same sex marriages, and understanding the term gender. The document has been developed on 18 January, 2018, and was kept secret until the March 2018. Due to pro-tests related to ratification of the Convention in several countries members⁵ because of misinterpretations of these items, it has been decided to make it public.

„Aide-memoire“ is composed of 4 chapters. The first chapter explains the purpose of the Convention and obligations of the countries members taken over with the ratification. The second chapter provides detailed explanation of the term gender, and the obligations of domestic legislation. The third and the fourth chapters are based on explanations that the Istanbul Convention does not impose obligations to the countries members to recognize “the third sex”, or allow same sex marriages.

ABOUT THE ISTANBUL CONVENTION – GENERAL NOTES⁶

Bosnia and Herzegovina is the country member of the United Nations (UN) and the Council of Europe (SE), and the signatory party of the international agreements that are setting up the minimum standards for recognizing, respecting, and protection of human rights, adopted at the level of these organizations, including those related to protection of women from violence and domestic violence. Beside the international legal documents integrated in the Constitution of the Bosnia and Herzegovina-Annex 1 Human Rights, including the Convention on Elimination of All Forms of Discrimination Against Women, B&H also ratified other international and regional agreements. This created obligations for B&H to harmonize legislative framework with the international standards from these documents, but also to create conditions for undisturbed access to enjoyment of these rights in the practice. Bosnia and Herzegovina is striving to become member of the European Union (EU), and during accession process, authorities are obliged to undertake specific measures and activities, and accomplish

results in harmonization of the domestic legislation to the legislation of the European Union.

One of the most important international contracts in the area of violence against women and domestic violence is the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence (the Istanbul Convention, the Convention). The Committee of the Ministers of the Council of Europe adopted this Convention on 7 April, 2011 as the first legally binding document on the level of this organization, and it entered into force on 1 August, 2014⁷. Explanation of the Convention emphasizes that protection and defending human rights is one of the key objectives of the Council of Europe, which represents 47 countries members and its 800 millions of citizens. Violence against women, including domestic violence, violates the fundamental values embodied in the Council of Europe. Due to that, the purpose of this Convention is protection of women from all forms of violence, and prevention, prosecuting, and elimination of violence against women and domestic violence (the Article 1, Paragraph 1). The Article 2 states this Convention shall apply to all forms of violence against women, including domestic violence, which affects women disproportionately (Paragraph 1), and countries parties of the Convention are encouraged to apply it to all victims

of domestic violence (Paragraph 2). The Convention defines violence against women as a violation of human rights and a form of discrimination against women, and emphasizes these are all acts of gender based violence that result in, or are likely to result in physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life (the Article 3, Paragraph a). The Convention defines domestic violence as all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit, or between current or former spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim (Paragraph b).

The Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence – the Istanbul Convention (ETS 210) has been ratified by the Bosnia and Herzegovina on 7 November, 2013, and became the sixth country member of the Council of Europe that ratified this legal instrument⁸. The text of the Istanbul Convention has been published in the “Official Gazette of the Bosnia and Herzegovina – international Agreements”, No. 19/13. Until the beginning of June, 2018, 30 countries ratified, and 16 additional countries signed the Convention.

The Parliamentary Assembly of the Council of Europe declared the Istanbul Convention for the „groundbreaking law because it provides to the countries members new and more detailed international legal framework of what should be done in order to eradicate domestic violence and violence against women“. Istanbul Convention recognizes that gender inequalities and violence against women are interconnected, and defines that violence against women is a manifestation of historically unequal power relations between women and men, and prevention of the full advancement of women (Preamble of the Convention). For the first time in Europe, the Convention sets up the legally binding standards for prevention of violence against women and domestic violence, protects victims, and prosecute perpetrators of violence. It fills significant gap in protection of women’s human rights, and encourages the countries members to expand the protection on victims of domestic violence. The Istanbul Convention sets prevention of violence against women within broader context of reaching real equality of women and men, and therefore significantly improves recognizing violence against women as a form of discrimination. Authors of the Convention wanted to emphasize that violence against women seriously violates, harms, or annuls enjoyment of women’s human rights, especially their fundamental rights on life, safety,

freedom, dignity, physical and emotional integrity, and because of that, it cannot be ignored. They also recognized that violence affects not only women but society as a whole, and therefore urgent action is needed. Finally, they recognized the fact that some groups of women, such as women and girls with disabilities, are often in greater risk from violence, harm, abuse, neglect, negligent treatment, or exploitation, inside and outside their homes. The Convention confirms that violence against women and domestic violence are specific gender phenomena, and recognizes that men and boys can also be victims of domestic violence, and that this violence must also be solved. Where the violence concerns children, the Convention emphasizes that they do not have to be directly exposed to violence in order to be recognized as victims. The witnessing domestic violence also represents trauma, and therefore it victimizes children.

The Istanbul Convention brings all-encompassing approach to prevention, protection, and support to the victims of violence, and regulates prosecution and sanctioning of perpetrators of violence. The Convention also sets up the standards for systemic collection of data, and coordination of activities of all actors involved in implementation of the Convention, in order to monitor changes in relation to violence

against women and domestic violence, and defines special measures for implementation of the each area included in the Convention.

Although the Istanbul Convention was opened for accession in 2011, there is still lack of understanding not only among the public but also among the professionals working in the area of support and protection of women from violence and domestic violence, primarily about the obligations from the Istanbul Convention and responsibilities taken over by the country with ratifying the Convention, what needs to be done to prevent and suppress violence against women and domestic violence.

It is important to emphasize that measures from the Convention do not challenge positive obligations of the countries to protect rights recognized by the European Convention on Protection of Human Rights and Fundamental Freedoms (ECHR). Measures also should take into consideration growing volume of the court practice of the European Court for Human Rights that sets up important standards in the area of violence against women, and which provided guidelines to the authors of the Convention for considering numerous positive obligations and measures that are needed for prevention of such violence.⁹ The Convention consists of 81 articles divided into 12 chapters.¹⁰

MONITORING IMPLEMENTATION OF THE ISTANBUL CONVENTION - THE GROUP OF EXPERTS ON ACTION AGAINST VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (GREVIO) AND COMMITTEE OF THE PARTIES

Chapter IX of the Istanbul Convention is composed of six articles (the Articles 66 - 70) that focus on establishing of the mechanisms for monitoring implementation of the Istanbul Convention in the countries members, arrange procedure of monitoring, and way of communication between mechanisms for monitoring and countries members, with objective of ensuring efficient implementation of the Convention in the countries members.

The Article 66 is **establishing “the Group of Experts on Action Against Violence Against Women and Domestic Violence (GREVIO)”** that represents the expert body, composed of (minimum of 10 and maximum of 15¹¹) independent and highly qualified experts in the area of human rights, gender equality, violence against women and domestic violence, criminal law, and assistance and support to victims of violence against women and domestic violence

that will „monitor how countries members are implementing this Convention“. Members of the GREVIO must be citizens of the countries members of the Convention, taking into account gender and geographical balance, as well as multidisciplinary expertise. Its members shall be elected by the Committee of the Parties from among the candidates nominated by the countries members. Candidates for GREVIO can be also representatives of the nongovernmental organizations, if nominated by their country member of the Convention.

The Article 67 sets up the second pillar of the monitoring mechanism - **„Committee of the Parties“** that represents political body composed by the representatives of the countries members of this Convention. Committee of the Parties is convened by the Secretary General of the Council of Europe. The first meeting of the Committee was held a year following entering into force of this Convention, with objective to appoint members of the GREVIO. This Article regulates that the Committee of the Parties meets whenever one third of the countries members, the President of the Committee of the Parties, or the Secretary General so requests. With establishing of this body, equal participation in decision making for all countries members is ensured, cooperation between them and GREVIO is strengthened, in order to ensure

appropriate and efficient implementation of the Convention.

The Article 68 of the Convention regulates details of the procedure for monitoring and communication between GREVIO and the Committee of the Parties. The countries members are submitting to the Secretary General of the Council of Europe, based on questionnaire prepared by GREVIO, a report on legislative and other measures giving effect to the provisions of the Convention, for consideration by GREVIO. Members of GREVIO are considering the report with representatives of the country member concerned¹². *Objective is to assess the starting position in terms of legislative and other measures established by the countries members, following accession to the Convention, focusing on specific and general implementation of this Convention.* Subsequent evaluation procedures are divided into rounds, the length of which, *including specific provisions in focus for subsequent evaluation are determined by GREVIO.* Objective is for GREVIO to determine independently, at the beginning of each round, *the provisions that will be in focus of monitoring procedure in the given period.* GREVIO is determining appropriate means to carry out evaluation procedure. It may in particular adopt a questionnaire for each evaluation round, or other form of request for submitting the information by the country me-

member. *The term „questionnaire“ refers to questions in written form, or guidelines for acquiring qualitative and quantitative data on measures taken by the country member aimed to implement the Convention.* The country member is obliged to respond on requests of GREVIO.

Paragraph 5 of the Article 68 establishes the important principle - *GREVIO may receive information on implementation of the Convention from nongovernmental organizations, civil society, as well as from national institutions for protection of human rights,* which is additionally reaffirmed with the provisions in the Paragraphs 6, 7, and 8 that state GREVIO should, as much as possible, use all available sources of information. Objective of this principle is to avoid unnecessary duplication of work and activities already in progress.

GREVIO can *subsidiary organize country visits* (Paragraph 9 of the Article 68). Visit to a country member represents additional way for monitoring implementation of the Convention, and can be organized only when necessary, specifically in two cases:

- 1) If the information gained is insufficient, or there is no other feasible way to acquire reliable information, and

2) If GREVIO receives reliable information indicating a situation where problems require immediate attention to prevent or limit the scale or number of serious violations of the Convention.

Visits of GREVIO to the countries members are organized in cooperation with the authorized national bodies, which means they are scheduled in advance, in cooperation with national authorities that are timely informed about the visits.

Paragraphs 10 and 11 of the Article 68 are describing the process of preparing a report and conclusions of GREVIO. These provisions are indicating that *GREVIO has to undertake dialogue with a country member during preparation of report and conclusions*¹³.

GREVIO is publishing its report and conclusions together with comments of a country member, if such comments exist. Reports and conclusions of GREVIO are publicly available following their adoption, and cannot be changed or amended by the Committee of the Parties.

Paragraph 12 of the Article 68 determines role of the Committee of the Parties in the monitoring process. It states that *Committee of the Parties may adopt, on the basis of the report and conclusions of GREVIO recommendations to the co-*

untry member and, if necessary, define a date for submitting information on implementation of recommendations, as well as with the objective to promote cooperation in order to ensure adequate implementation of the Convention. This mechanism should ensure independency of GREVIO in evaluation procedure, but in the same time introducing "political" dimension in dialogue between countries members.

Paragraphs 13, 14, and 15 of the Article 68 are defining special procedure, according to which GREVIO is authorized to request from a country member to submit report on measures taken to prevent a serious, massive, or persistent pattern of violence. Condition for requesting *the special report* is that GREVIO receives reliable information that "point at problems that require immediate attention in order to prevent or limit the scale or number of serious violations of the Convention". Taking into account acquired information (submitted by the country member or received from other source), GREVIO may designate one or more of its members to conduct an inquiry, and report urgently to GREVIO. In exceptional circumstances, this inquiry may include a visit to the country member. The key role of designated „rapporteur(s)“ is collecting all needed information, and identifying facts in relation to the concrete situation. Rules of Procedure for GREVIO are defining details of this

“inquiry procedure”. However, the key objective is to enable GREVIO to identify precise explanation and understanding of the situation which, according to the reliable information, involves large number of victims of the same type of violence. Findings of the inquiry are sent to the country member and, when appropriate, also to the Committee of the Parties and the Committee of the Ministers of the Council of Europe, together with all comments and recommendations.

The Article 69 of the Istanbul Convention provides the possibility for GREVIO to adopt, where appropriate, **the general recommendations on implementation of this Convention**¹⁴. General recommendations have *common meaning for all countries members* and are related to the articles or topics covered with the Convention. They are *not related only to specific countries members*. Although these general recommendations *are not legally binding, they represent important reference for all countries members as they are enabling deeper understanding of various topics covered by the Convention, and provide clear guidelines that can contribute to more efficient implementation of the Convention. These recommendations should also be integral part of future evaluation rounds*.

The Article 70 defines **role of national parliaments in monitoring implementation of this Convention**. The Paragraphs 1 and 2 are focusing on obligations of the countries members of the Convention to invite national parliaments to participate in monitoring (Paragraph 1), and submitting GREVIO reports to the national parliaments for consultations (Paragraph 2). This Article emphasizes important role of the national parliaments in implementation of this Conventions which, in many cases, requires legislative changes.

Paragraph 3 of the Article 70 emphasizes **participation of the Parliamentary Assembly of the Council of Europe in monitoring** measures that countries members are taking within implementation of this Convention. The first provision of this type in the Council of Europe Convention states that the Parliamentary Assembly of the Council of Europe is invited to regularly monitor implementation of this Convention. This provision points at important role of the Parliamentary Assembly in placing the issue of violence against women at political agenda of the Council of Europe and the Parties. Participation of the Parliamentary Assembly in monitoring of this Convention will significantly improve its results.

PROCESS AND THE CALENDAR OF THE FIRST ROUND OF REPORTING

Evaluation of the implementation of the Istanbul Convention is done for each Party separately. The reporting procedure begins when GREVIO sends the questionnaire to the Party, in line with defined time framework. Evaluation procedure – the process from sending the questionnaire to publishing GREVIO report lasts 17 months.

The procedure consists of 6 steps, as follows:

1st Step – Reporting and Gathering Information

During this phase, GREVIO sends the questionnaire to the Party member, with clearly defined deadline for submitting report. In the same time, GREVIO begins the process of seeking information from nongovernmental organizations and civil society, national institutions for human rights, bodies of the Council of Europe, and others. Upon submitting the report from the Party on implementation of the Istanbul Convention, GREVIO is publishing it at the web page, unless otherwise decided, based on jus-

tified request of the Party member. Reports of nongovernmental organizations and other bodies are treated as confidential, unless GREVIO decides otherwise, based on the request of organization or body that submitted the report.

2nd Step – Considering Report of the Country Member in the Context of the Evaluation Visit

GREVIO is selecting two of its members as rapporteurs. Together with one or two members of the Secretariat, they make delegation that is conducting evaluation visit to the Party. This visit lasts 5 days in average, and the delegation is having meetings with representatives of governmental institutions, relevant professionals, representatives of nongovernmental organizations and civil society and, whenever possible or needed, meetings are organized with relevant institutions, for example, women's shelters, police stations, hospitals, etc.

3rd Step – Preparing Draft GREVIO Report

GREVIO prepares draft report based on collected information, subsequently considering and approving it at the GREVIO session. Upon that, the draft report is sent to the Party that is subject of evaluation in order for it to prepare and submit the comments (usually within two months after sending the draft report by GREVIO).

4th Step – Preparing and Adoption of GREVIO Report

During the process of finalizing the report, GREVIO is also considering comments sent by the Party, and adopts the final version of the report.

5th Step – Publishing and Submitting GREVIO Report

GREVIO evaluation report is sent to the Party subjected to evaluation which has another opportunity to give its comments (as a general rule, within one month from the day of receiving the final report from GREVIO).

6th Step – Following GREVIO Report

Committee of the Parties can adopt recommendations based on the report of GREVIO, and the Party subjected to evaluation adopts measures based on GREVIO report, and implements all recommendations of the Committee of the Parties. The Party also sends its report to the parliament(s) in order to enable them to participate in the monitoring of implementation of the Istanbul Convention.

ROLE OF NGOs IN MONITORING IMPLEMENTATION OF THE CONVENTION

This Chapter of the Toolkit contains information available at the web page of the Council of Europe, and the Istanbul Convention, and they are related to clarifying role of nongovernmental organizations in a form of responses on questions¹⁵.

Nongovernmental organizations active in preventing and combating violence against women are the key actors in implementation of the Istanbul Convention, which is why, under the Convention, the Parties have a legal obligation to recognize, encourage, and support work of the NGOs and civil society at all levels in combating violence against women, and establish efficient cooperation with these organizations (the Article 9).

NGOs are also major partners in monitoring implementation of the Convention. GREVIO, as the independent expert body established by the Convention, recognizes important role which NGOs play in this field, and made it clear in

its Rules of Procedure (Rule no. 35) that NGOs and other members of civil society are vital sources of information, and that all information received from NGOs will be treated as confidential by GREVIO (see Point 4 – Confidentiality). NGOs are therefore encouraged to share their contribution, and concerns with GREVIO at any time.

When it begins the first (basic) evaluation of the Party, based on submitted responses on questionnaire, GREVIO will, whenever possible, invite nongovernmental organizations active in the Party to send relevant information. GREVIO will also pay visits to all Parties in order to thoroughly assess situation on the ground. During these visits, GREVIO will have the meetings with representatives of nongovernmental organizations. Besides that, GREVIO can consider and organize other evaluation methods, for example, organizing meetings for hearing nongovernmental organizations.

Which NGOs Can Report to GREVIO?

Objective of GREVIO is that all nongovernmental organizations active in preventing and combating violence against women can have possibility to contribute in the evaluation procedure. GREVIO is aware of limited resources of nongovernmental organizations, and although they

may be willing to provide input in early stage of the process, they may simply not be in position to do so.

GREVIO strongly encourages NGOs to work through coalitions, networks, and platforms, drawing on the experiences gained from NGO participation in other monitoring mechanisms. Joint work is perceived as one of the most efficient ways of exchanging resources and expertise of nongovernmental organizations, organizing needed flow of information between NGOs, and their effective contribution in work of GREVIO. It may also help GREVIO to establish continuous dialogue with NGO community and civil society. Where appropriate, national human rights institutions or leading nongovernmental organizations in the Party subjected to evaluation may coordinate reporting of nongovernmental organizations to GREVIO.

GREVIO is especially interested for information of women's organizations working on a grassroots level on implementation of the Convention in the practice.

Nongovernmental organizations consulted by authorities, or otherwise involved in preparation of the official country report can and should also be heard as independent voices.

When and How NGOs Can Provide Their Report and Other Inputs to GREVIO?

Nongovernmental organizations can provide GREVIO with information any time, even before GREVIO decides to examine situation in particular the Party of the Istanbul Convention, and prior set the deadline for reporting by authorities. Information should be submitted in one of the official languages of the Council of Europe (English or French).

Input of nongovernmental organizations is particularly useful at the following stages of the evaluation procedure.

The Calendar of GREVIO Evaluation for Bosnia and Herzegovina¹⁶

Party	Bosnia and Herzegovina
Period when GREVIO sends questionnaire to the country	June 2019
Deadline for Sending the Response on GREVIO Questionnaire	November 2019
Evaluation Visit	Third quarter of 2020
Publishing GREVIO Report	-

a. Deadline for Report of the Country Member

It would be particularly useful for NGOs to prepare joint report and share it with GREVIO by the deadline set for reporting of the Party (see GREVIO Calendar with schedule of the dates). The Secretariat may make the contact with non-governmental organizations, and invite them to do so.

b. Publication of the Countries Members Reports

Nongovernmental organizations are also encouraged to support GREVIO in its subsequent evaluation by sharing information, comments, and data they have in reaction to the Party report, as soon as possible after publication of the report and prior to GREVIO completes evaluation process for the country report (see GREVIO provisional schedule of evaluation dates).

c. Prior and During the Evaluation Procedures

Nongovernmental organizations can meet with members of GREVIO delegation, and support them during their visit to the Party, for instance by:

- Participating in meetings/round tables organized by GREVIO delegation for NGOs;
- Providing GREVIO delegation with relevant written information, data, and other evidence which may be of use during their visits to the Party, or for preparing GREVIO reports and conclusions;
- Facilitating organization of in site visits to places of relevance for GREVIO (such are shelters for women victims of violence);
- Assisting in the organization of meetings with independent professionals, and
- Facilitating the meetings with victims or groups of victims.

d. Publication of GREVIO Reports

Nongovernmental organization can also have important role in promoting GREVIO reports, and implementing proposals and suggestions of GREVIO (see GREVIO Calendar with schedule of dates).

e. Publishing Recommendations of the Committee of the Parties

Nongovernmental organizations may have an important role in promoting recommendations adopted by the Committee of the Parties.

f. Follow Up to Evaluations

Nongovernmental organizations are encouraged to ensure information about activities (or lack of activities) of authorities in relation to concerns of GREVIO, and implementation of recommendations of the Committee of the Parties.

Should NGOs Report on All Aspects of the Convention?

Although the questionnaire made by GREVIO may help in structuring reports of nongovernmental organizations, NGOs are not necessarily expected to cover all aspects of the Convention or of GREVIO questionnaire.

(Note: Introductory part of the Questionnaire states “It is requested from the Party to use this questionnaire as a basis for preparing their reports on legislative and other measures for implementation of the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence (hereafter: the Convention), as regulated by the Article 68, Paragraph 1. All legal provisions cited refer to the articles of the Convention unless otherwise specified. For further guidance on the meaning of any of the questions, the drafters of the report are invited to consult the text of the Convention, and its Explanatory Report. Unless oth-

erwise indicated, all requests for data and information apply to the years 2014 and 2015¹⁷ (in case of the Bosnia and Herzegovina, for years 2017 and 2018 – two years prior receiving the Questionnaire.) All financial data should be provided in euros. All available and judicial data requested in the questionnaire should be disaggregated by sex, age, and type of violence, as well as relationship of the perpetrator to the victim, geographical location, and any other factors deemed relevant, for example disability).

Nongovernmental organizations should determine priorities and focus, as much as possible, on practical implementation of the Convention. The information provided in the NGO report should be concise and precise. Reports prepared by NGOs should contain their views on positive developments and concerns in their areas of expertise, supported with relevant data or other evidence (detailed data evidence may be provided in the annex of the report).

Confidentiality of Information Provided by NGOs

Information received from nongovernmental organizations received by GREVIO is treated as confidential, unless otherwise decided by GREVIO on request of the NGOs. The same rule of confidentiality applies to views and information

shared with GREVIO's delegations during country visits.

On that way, GREVIO aims to protect its NGO sources and, as a matter of principle, will not indicate NGO sources in relation to its findings. Should particular NGO requests confidentiality be lifted in relation to the information it provided, GREVIO would be free to refer to that NGO as its source, if needed, for example, during the country visit and dialogue with the authorities of the Party.

Nongovernmental organizations are therefore invited to indicate, when submitting information to GREVIO, or speaking to delegations of GREVIO, whether GREVIO can disclose its sources when using such information.

Nongovernmental organizations are free to publish their own reports and other written information provided to GREVIO or its delegations, preferably in consultations with the Secretariat of the Istanbul Convention.

INDICATORS FOR MONITORING IMPLEMENTATION OF THE ISTANBUL CONVENTION AND REPORTING

With a wish to gather nongovernmental organizations that are interested to contribute in preparation of **the first report of nongovernmental organizations to GREVIO** which is due to be submitted in 2019¹⁸, we prepared this Toolkit that includes indicators for monitoring implementation of the Istanbul Convention, and for the reporting. It asks questions that should be answered during evaluation of the legal and real position of women victims of all forms of violence recognized by the Istanbul Convention. Indicators are systematized according to the articles of the Convention, with using the indicator developed by the nongovernmental organizations from the Bosnia and Herzegovina within the regional project „**Coordinated Efforts – Toward the New European Standards in Protection of Women from Gender Based Violence**”¹⁹ as well as **the Baseline Study on Har-**

monization of Laws and Public Policies with the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence²⁰.

Nongovernmental organizations that are working with women survivors of violence are in position to address concrete problems, but also to propose ways for solving identified problems. Therefore, this Toolkit enables to the NGOs to recommend measures that could influence solving the identified problems.

The report with recommendations of nongovernmental organizations will help GREVIO to have clearer picture about real position and needs of women in the Bosnia and Herzegovina, and to develop recommendations to the Party that are responding to these needs. Because of that, it is of utmost importance for great number of women’s nongovernmental organizations that are working with groups of women survivors of violence, and have specific knowledge in the key areas, to be involved in the process of monitoring, and to integrate their knowledge, testimonies, and experiences in the report that will be submitted to GREVIO.

In order to ensure common approach of the nongovernmental organizations involved in monitoring and reporting on implementation of

the Istanbul Convention, it is important for all to share the same understanding of the key terms used in the Convention. This is the reason why the definitions are provided in the Article 3 of the Convention, and explanation of these definitions prepared by the authors of the Convention, as well as the definitions of forms of violence against women (Articles 33-40).

CHAPTER I

OBJECTIVES, DEFINITIONS, PRINCIPLE OF
EQUALITY AND NON-DISCRIMINATION,
GENERAL OBLIGATIONS
(ARTICLES 1-6)

Article 3 – Definitions

For the purpose of this Convention:

a. “violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;

b. “domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;

c. “gender” shall mean the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men;

d. “gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;

e. “victim” shall mean any natural person who is subject to the conduct specified in points a and b;

f. “women” includes girls under the age of 18.

Explanation of the Article

The Article 3 provides several definitions which are applicable throughout the Convention.

Definition of “violence against women”

The definition of “violence against women” makes clear that, for the purpose of the Convention, violence against women shall be understood to constitute a violation of human rights and a form of discrimination. This is in line with the purpose of the Convention set out in Article 1 (b) and needs to be borne in mind when implementing the Convention. The second part of the definition is the same as contained in the Council of Europe Recommendation Rec(2002) 5 of the Committee of Ministers to the Parties on the protection of women against violence, the CEDAW Committee General Recommendation No. 19 on violence against women (1992), as well as in Article 1 of the United Nations Declaration on the Elimination of All Forms of Violence against Women. The Authors have, however, expanded it to include the notion of “eco-

conomic harm” which can be related to psychological violence.

Definition of “domestic violence”

Article 3 (b) provides a definition of domestic violence that covers acts of physical, sexual, psychological or economic violence between members of the family or domestic unit, irrespective of biological or legal family ties. In line with what is mentioned in paragraph 40, economic violence can be related to psychological violence. Domestic violence includes mainly two types of violence: intimate-partner violence between current or former spouses or partners and inter-generational violence which typically occurs between parents and children. It is a gender neutral definition that encompasses victims and perpetrators of both sexes. Domestic violence as intimate-partner violence includes physical, sexual, psychological or economic violence between current or former spouses as well as current or former partners. It constitutes a form of violence which affects women disproportionately and which is therefore distinctly gendered. Although the term “domestic” may appear to limit the context of where such violence can occur, the Authors recognized that the violence often continues after a relationship has ended and therefore agreed that a joint residence of the victim and perpetrator is

not required. Inter-generational domestic violence includes physical, sexual, psychological and economic violence by a person against her or his child or parent (elderly abuse) or such violence between any other two or more family members of different generations. Again, a joint residence of the victim and perpetrator is not required.

Definition of “gender”

As the Convention places the obligation to prevent and combat violence against women within the wider framework of achieving equality between women and men, the Authors considered it important to define the term “gender”. In the context of this Convention, the term gender, based on the two sexes, male and female, explains that there are also socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men. Research has shown that certain roles or stereotypes reproduce unwanted and harmful practices and contribute to make violence against women acceptable. To overcome such gender roles, the Article 12 (1) frames the eradication of prejudices, customs, traditions and other practices which are based on the idea of the inferiority of women or on stereotyped gender roles as a general obligation to prevent violence. Elsewhere, the Conven-

tion calls for a gendered understanding of violence against women and domestic violence as a basis for all measures to protect and support victims. This means that these forms of violence need to be addressed in the context of the prevailing inequality between women and men, existing stereotypes, gender roles and discrimination against women in order to adequately respond to the complexity of the phenomenon. The term “gender” under this definition is not intended as a replacement for the terms “women” and “men” used in the Convention.

Definition of “gender-based violence against women”

The term “gender-based violence against women” is used throughout the Convention and refers to violence that is directed against a woman because she is a woman or that affects women disproportionately. It differs from other types of violence in that the victim’s gender is the primary motive for the acts of violence described under the Point d. In other words, gender-based violence refers to any harm that is perpetrated against a woman and that is both the cause and the result of unequal power relations based on perceived differences between women and men that lead to women’s subordinate status in both the private and public spheres.

This type of violence is deeply rooted in the social and cultural structures, norms and values that govern society, and is often perpetuated by a culture of denial and silence. The use of the expression “gender-based violence against women” in this Convention is understood as equivalent to the expression “gender-based violence” used in the CEDAW Committee General Recommendation No. 19 on violence against women (1992), the United Nations General Assembly Declaration on the Elimination of Violence against Women (1993) and Recommendation Rec (2002) 5 of the Committee of Ministers of the Council of Europe to member states on the protection of women against violence (2002). This expression is to be understood as aimed at protecting women from violence resulting from gender stereotypes, and specifically encompasses women.

Definition of “victim”

The Convention contains a large number of references to victims. The term “victim” refers to both victims of violence against women, and victims of domestic violence, as defined in Article 3 (a) and Article 3 (b) respectively. While only women, including girls, can be victims of violence against women, victims of domestic violence may include men and women as well as children. In line with other international human

rights treaties, the term “child” shall mean any person under the age of eighteen years. The term “victim” should be understood in accordance with the scope of the Convention.

Definition of “women”

Conscious of the fact that many of the forms of violence covered by the Convention are perpetrated against both women and girls, the drafters did not intend to limit the applicability of the Convention to adult victims only. Point f therefore clearly states that the term “women” includes girls under the age of eighteen years.

This Convention is an agreement between states, which would create obligations only for them. The provisions contained in the Articles 3 and 4 do not create any new rights but clarify existing human rights. Any obligations for individuals would follow from such legislative and other measures which Parties adopt in accordance with the Convention.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of definition "violence against women", in compliance with definition in the Convention.

Answer:

2. The level of incorporation in relevant laws/by-laws/strategies/policies of definition "domestic violence", in compliance with definition in the Convention.

Answer:

3. The level of incorporation in relevant laws/by-laws/strategies/policies of definition "gender", in compliance with definition in the Convention.

Answer:

4. The level of incorporation in relevant laws/by-laws/strategies/policies of definition "gender-based violence against women", in compliance with definition in the Convention.

Answer:

5. The level of incorporation in relevant laws/by-laws/strategies/policies of definition "victim", in compliance with definition in the Convention.

Answer:

6. The level of incorporation in relevant laws/-by-laws/strategies/policies of definition "women", in compliance with definition in the Convention.

Answer:

7. Do legal documents incorporate definition of the violence against women, and if yes, how in relation to the Istanbul Convention?

Answer:

8. Does the definition incorporate specific recognition of human rights violations and discrimination against women, as well as types of violence? Also, in relation to the gender and gender based violence...).

Answer:

9. When you recognize existence of definition, does this also reflect in the practice?

Answer:

Methodology of Data Collection/Sources

- Analysis and comparisons of legislation in the Bosnia and Herzegovina with the definition provided in the Istanbul Convention

Laws:

- The Criminal Law of B&H
- The Law on Gender Equality of B&H
- The Law on Prohibition of Discrimination of B&H
- The Criminal Codes of RS, FB&H, and Brčko District B&H
- The Family Laws of RS, FB&H, and Brčko District B&H
- The Laws on Protection from Domestic Violence of RS, FB&H, and Brčko District B&H
- The Laws on Social Protection of RS, FB&H, and Brčko District B&H

Public Policies:

- The Gender Action Plan of B&H 2013-2017
- The Strategy for Combating Domestic Violence of RS, FB&H, and Brčko District B&H
- Etc.

Article 5 – State Obligations and Due Diligence

1. Parties shall refrain from engaging in any act of violence against women and ensure that state authorities, officials, agents, institutions and other actors acting on behalf of the state act in conformity with this obligation.
2. Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors.

Explanation of the Article

The principle of due diligence does not represent the obligation related to result, but the obligation related to means. The Parties have the obligation to organize their response in relation to all forms of violence recognized by the Convention, in a way that authorized institutions may act with due diligence to prevent, investigate, punish, and provide remedies for such acts of violence. If they fail to do so, the state is responsible for the act of violence which would be exclusive liability of a non-state actor. As such, violence against women committed by a non-state actors exceeds the threshold of hu-

man rights violations, as stated in the Article 2, if the Parties have the obligation to undertake legislative and all other measures needed for implementation of due diligence in prevention, investigation, punishing, and providing remedies for acts of violence recognized by the Convention, as well as to ensure protection for victims. Failing to do so represents violating and annulling of enjoyment of their human rights and fundamental freedoms.

Indicators

1. Researches on professional attitudes, including stereotypes on violence against women, gender based violence, and/or domestic violence;

Please Indicate:

2. Does the state recognize all victims, and do all victims have the possibility to enjoy equal rights?

Answer:

3. The level of incorporation in relevant laws/-public policies of measures that ensure actions in compliance with the standards of due diligence to prevent, investigate, punish, and pro-

vide reparations for all acts of violence covered by the scope of this Convention.

Answer:

4. The percentage of processed complaints against the work of state authorities, officials, agents, institutions, and other actors acting on behalf of the state (police, judiciary, social protection, health protection, education) compared to the total number of complaints submitted to competent authority, for all acts of violence covered by the scope of this Convention, annually.

Please Indicate:

5. The number of sanctioned individuals – state authorities, officials, agents, institutions, and other actors acting on behalf of the state (police, judiciary, social protection, health protection, education) for violation of due diligence standards, compared to the total number of submitted complaints, for all acts of violence covered by the scope of this Convention, annually.

Please Indicate:

Methodology of Data Collection/Sources

- Criminal Laws/Codes, Laws on Criminal Procedure, Laws on Protection from Domestic Violence, Laws on Social Protection, Laws on Health Protection, and other legislation recognized as relevant by members of NGO coalition
- Reports on implementation of public policies, reports on previously implemented NGO projects (Foundation Lara Bijeljina, Citizens' Association Budućnost Modriča, and other NGOs whose activities are identified)

***RECOMMENDATIONS BASED ON THE
RESPONSES, FOLLOWING THE ANALYSIS OF
DATA COLLECTED FROM RELEVANT SOURCES:***

The Article 3 – Definitions:

The Article 4 – Fundamental Rights, Equality,
and Non-Discrimination

The Article 5 – Obligations of the State and Due
Diligence

CHAPTER II

INTEGRATED POLICIES
AND DATA COLLECTION
(ARTICLES 7-11)

The Article 8 – Financial Resources

Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures, and programs to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by non-governmental organizations and civil society.

Explanation of the Article

This Article aims at ensuring the allocation of appropriate financial and human resources for both activities carried out by public authorities, and those of relevant nongovernmental and civil society organizations. Countries members of the Council of Europe have different practice when it comes to government funding for non-governmental organizations (hereinafter NGOs) involved in preventing and combating all forms of violence covered by the scope of this Convention. The obligation placed on the Parties is therefore that of allocating financial and human resources for activities carried out by NGOs and civil society.

In view of the different economic circumstances of the Parties, the Authors of the Convention chose to limit the scope of this obligation to the allocation of appropriate resources. This means

that the resources allocated need to be suitable for the target set or measure to be implemented.

Indicators

1. Allocation of appropriate funds and human resources for adequate implementation of integrated policies, measures, and programs for prevention and combating all forms of violence covered by the scope of this Convention, including those implemented by the nongovernmental organizations and civil society.

Answer:

2. The percentage of allocations from annual budget intended for programs to prevent and combat all forms of violence against women, in comparison to the total program funds in the following sectors: a) health, b) education, c) housing, d) youth, e) research and development.

Please Indicate:

3. The percentage of allocated funds from the annual budget assigned to the relevant women's nongovernmental organizations (possibly in relation to total funds intended for prevention and combating of all forms of violence against women).

Please Indicate:

Methodology of Data Collection/Sources

- Budgets at all levels, ministries of finances of all executive authorities in B&H;
- Implemented researches;
- Published / available publications of NGOs and international organizations (for example, „Medica“ Zenica, „Foundation of Local Democracy“ Sarajevo, UN WOMEN – Study of Costs of Violence Against Women, and other publications, reports, etc.
- Conducting surveys among NGOs

The Article 9 – Nongovernmental Organizations and Civil Society

Parties shall recognize, encourage, and support, at all levels, the work of relevant nongovernmental organizations and civil society active in combating violence against women, and establish effective cooperation with these organizations.

Explanation of the Article

In many Parties to the Convention, the overwhelming majority of services for victims of domestic violence, as well as services for victims of other various forms of violence against women, are run by nongovernmental organizations or civil society organizations. They have a long tradition of providing shelter, legal advices, medical and psychological counseling, as well as running SOS telephones, and other needed services.

The purpose of this Article is to emphasize the important contribution these various organizations make to preventing and combating of all forms of violence covered by the scope of this Convention. It therefore requires from the Parties of the Convention to recognize their work by, for example, using their expertise, and involving them as partners in cooperation bet-

ween agencies, or in the implementation of comprehensive government policies which the Article 7 calls for. Beyond such recognition, this Article requires the Parties to the Convention to actively encourage and support the work of these dedicated NGOs and civil society organizations. This means enabling them to carry out their work in the best possible way. Although the Article 9 refers only to NGOs and civil society active in combating violence against women, this should not prevent the Parties from going further and supporting the work that is carried out by NGOs and civil society focusing on domestic violence in its wider scope.

Indicators

1. Is the NGO community active in this field?

Answer:

2. List (number and name) of the organizations active in the field of prevention and combating violence against women and domestic violence, sexual violence during conflict, and type of activities.

Answer:

3. Existence of the networks of these nongovernmental organizations at the state, regional, and local level, and their role?

Answer:

4. Is there any cooperation between NGOs and state/other actors on protection, prevention, and prosecuting, punishing, and/or easier restitution?

Answer:

5. If there is coordination and cooperation between NGOs and state authorities, is this cooperation and coordination institutionalized within laws or public policies, or it is more of informal?

Answer:

6. Institutional networks for support and referral mechanisms (Protocols of Cooperation)

List of networks and referral mechanisms, tasks, and responsibilities:

7. Is there appropriate recognition, support, and encouragement of work of nongovernmental organizations and civil society in combating violence against women at all levels?

Answer:

8. Is there established efficient cooperation with NGOs?

Answer:

9. Are there laws or bylaws that regulate work of NGOs on prevention and combating violence against women and domestic violence, as well as work with survivors of sexual violence during conflict?

Answer:

10. Are NGOs recognized within legislative framework as active service providers, bearers of public campaigns, or other types of active subjects in this field (for example, have role of monitoring or reporting, etc.)?

Answer:

11. What is the knowledge in the practice?

Answer:

12. Provide list of laws and role related to NGOs.

Answer:

13. The percentage of women's nongovernmental organizations, independent service providers for women survivors of violence, which are funded from the public budget, in comparison to the total number of these organizations, annually.

Answer:

14. The percentage of representatives of women's nongovernmental organizations that actively participate in working groups for developing relevant public policies against all forms of violence covered by the scope of this Convention, in comparison to number of participants of working groups from other sectors.

Answer:

Methodology of Data Collection/Sources

- Surveys among NGOs
- Register of NGOs
- Women's Network of B&H
- Analysis of laws and public policies
- Collecting and analysis of the Protocols

- Analysis of the public budgets
- Surveys among NGOs in relation to the participation in developing relevant public policies

The Article 10 – Coordination Body

1. Parties shall designate or establish one or more official bodies responsible for the coordination, implementation, monitoring, and evaluation of policies and measures for prevention and combating all forms of violence covered by the scope of this Convention. These bodies shall coordinate the collection of data as referred in the Article 11, analyze, and disseminate its results.
2. Parties shall ensure that the bodies designated or established pursuant to this Article receive information of a general nature on measures taken pursuant to the Chapter VIII.
3. Parties shall ensure that the bodies designated or established pursuant to this Article shall have the capacity to communicate directly and foster relations with their counterparts in other countries members.

Explanation of the Article

The Paragraph 1 entails the obligation to entrust one or more official government bodies with four specific tasks: coordinating, implementing, monitoring, and evaluating the policies and measures which respective Party to the Convention has planned to prevent and co-

combat all forms of violence covered by the scope of this Convention. This can be done by setting up new official bodies or mandating already existing bodies with these tasks. The term “official body” is to be understood as any entity or institution within government. It may be a body set up or already existing either at national or at regional level. Size, staffing, and funding are to be decided by the Party, as well as which entity it shall be responsible, and to any reporting responsibility it shall have. Regarding the tasks of implementation, monitoring, and evaluation, this body should exist on the respective level of the structure of Party which is responsible for implementing the measures. This means that within federal structure of a government, it may be necessary for country member to have more than one body.

The four tasks which this body or bodies are mandated to undertake aim at ensuring that the various measures taken by the Parties in implementation of this Convention are well coordinated and lead to a joint effort of all agencies and sectors of the government. Moreover, they aim at ensuring the actual implementation of any new policies and measures. Monitoring task given to these bodies is limited to the monitoring of how and how effectively policies and measures aimed at prevention and combating all forms of violence covered by the

scope of this Convention are being implemented at the national and/or regional and local level. It does not extend to monitoring compliance with the Convention as a whole which is a task performed by the independent, international monitoring mechanisms set up in the Chapter IX of this Convention (see comments on the Chapter IX). Lastly, the evaluation of policies and measures which these bodies are mandated to carry out comprises the scientific evaluation of a particular policy or measure in order to assess whether it meets the needs of victims and fulfills its purpose as well as to uncover unintended consequences. This will require robust administrative and population based data, which the countries members are obliged to collect pursuant to the Article 11 of this Convention. For this reason, bodies created under this Article are also assigned the task of coordinating the collection of necessary data, and to analyze and disseminate its results. Some Parties of the Convention have set up observatories on violence against women which already collect a vast variety of data. While these may serve as examples, the authors of the Convention decided to leave to the countries members the decision on how to ensure coordination, analysis, and dissemination of data by the bodies with responsibilities under the Convention.

The Paragraph 2 of this Article authorizes these bodies to receive information within the framework of this Convention which the Party has taken in compliance with the Chapter VIII (see comments on the Chapter VIII). It is important to emphasize that, for data protection reasons, the authorization is limited to receiving information of a general nature (see comments on the Article 65). The obligation is therefore limited to ensuring that bodies created under this Article are kept informed, in a general manner and without references to individual cases about activities of international cooperation, including mutual legal assistance in civil and criminal matters. The purpose is to enable them to fulfill their role.

The information and knowledge acquired through the exchange of experiences and practice is of great value in preventing and combating all forms of violence covered by the scope of this Convention. The Paragraph 3 therefore equips bodies created under this Article with the ability to seek contact with and set up working relations with its counterparts created in other Parties to the Convention. This will enable important and productive mutual exchange leading to further harmonization of practice.

Indicators

1. Are NGOs familiar with the existence of the coordination body and its work?

Answer:

2. Who are the members of the coordination body?

Answer:

3. The number of state coordinating bodies mandated to collect data, coordinate, implement, monitor, and evaluate policies and measures to prevent and combat all forms of violence covered by the scope of this Convention.

Answer:

4. The percentage of experts from relevant women's nongovernmental organization in comparison to the total number of members in coordinating bodies.

Answer:

5. The number of publicly available reports on activities from the mandate of the official state coordinating bodies, annually.

Answer:

Methodology of Data Collection/Sources

- Surveys among NGOs in B&H

- A letter to the competent ministries in B&H / Republic of Srpska / Federation of B&H / Brčko District B&H

The Article 11 – Data Collection and Research

1. For the purpose of the implementation of this Convention, the Parties shall conduct following activities:
 - a. Collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention;

 - b. Support field researches of all forms of violence covered by the scope of this Convention in order to study its root causes and effects, frequency and conviction rates, as well as the efficiency of measures taken to implement this Convention;

2. Parties shall make efforts to conduct population based surveys at regular intervals to assess the prevalence and trends in all forms of violence covered by the scope of this Convention.

3. Parties shall provide the group of experts, as referred to in the Article 66 of this Convention, with the information collected pursuant to the Article 66 of this Convention, with the information collected pursuant to this Article in order to stimulate international cooperation, and enable international benchmarking.

4. Parties shall ensure that the information collected pursuant to this Article is available to the public.

Explanation of the Article

Systematic and adequate data collection has been recognized for a long time as the key component of effective policy making in the field of preventing and combating all forms of violence covered by the scope of this Convention. Despite this recognition, examples of systematically collected administrative or population based data in the Parties of the Council of Europe. Furthermore, available data are seldom comparable neither across countries nor over time, resulting in a limited understanding of the extent and the evolution of the problem. Preventing and combating violence against women and domestic violence requires evidence based policy making. This presupposes effective documenting the scope of violence by producing strong comparative data in order to guide policy making, and to enable monitoring the implementation of measures to address the problem. This Chapter focuses on the obligation to address the importance of continuous collecting representative and comparable data for developing and implementing policies aimed for prevention and fighting of all forms of vio-

lence covered by the scope of this Convention. It determines the type of data that needs to be collected, analyzed, and prepared for dissemination by the coordination body or bodies established pursuant to the Article 10, and submitted to the Group of Independent Experts (GREVIO) responsible for the monitoring implementation of the Convention (see the Chapter IX). Furthermore, it emphasizes the need to support research in the field of violence against women and domestic violence.

The nature of the obligation described in the Paragraph 1 is twofold. First, in order to design and implement evidence based public policies, and assess whether they meet the needs of those exposed to violence, the Sub-Paragraph requires the countries members to collect disaggregated relevant statistical data, at regular intervals, on cases of all forms of violence covered by the scope of this Convention. Accurate statistical information specifically designed to target victims and perpetrators of such violence is not only important in efforts to raise awareness among policy makers and the public on the seriousness of the problem, but can also encourage reporting by victims or witnesses of violence. Relevant statistical data may include administrative data collected from statistics compiled by health care services and centers of social work, law enforcement agencies, and

NGOs, as well as judicial data recorded by judicial institutions, including public prosecutors. Appropriately collected statistical administrative and judicial data can contribute to the state response of the Parties to all forms of violence covered by the scope of this Convention by seeking information about actions of governmental institutions as well as information on crimes that authorities are dealing with within the criminal procedure. Service based administrative data are including, for example, the systemic recording of data on how victims of such violence are using services, and how government agencies as well as the public (and private) health sector, in return, are serving them in their need to seek justice, medical care, counseling, housing, and other types of support. The data from the agencies about beneficiaries and services they use are not limited only to addressing effectiveness of policies in use, but can also provide a basis for estimating the administrative costs of such violence. Besides that, judicial data can provide information on the sentences and characteristics of convicted persons, as well as on conviction rates.

Consequently, the public authorities, such as judiciary, police, and centers for social work will need to set up data systems that go beyond the internal recording of the needs of the agency. Again, with objective to show if there has been

and improvement or a decline in effectiveness of the prevention, protection, and prosecution measures and policies, relevant statistical administrative and judicial data should be collected at regular intervals. The usefulness and relevance of such data depends above all on the quality of its recording. Although the authors of the Convention considered the best to leave to the countries members the choice of data categories used, as a minimum requirement, recorded data on victims and perpetrators should be disaggregated by sex, age, type of violence, as well as the relationship of the perpetrator to the victim, geographical location, as well as other factors deemed considered relevant by the countries members, such as disability. Recorded data should also contain information on conviction rates of perpetrators of all forms of violence covered by the scope of this Convention, including the number of issued protection orders. The Council of Europe Study on "Administrative Data Collection on Domestic Violence in the Council of Europe Member States" (EG-VEW-DC(2008)Study) identifies these and other categories, and designs a model approach containing recommendations on the collection of administrative data beyond the current practices.

Secondly, the Sub-Paragraph b creates the obligation for the Parties to support research in the

field of all forms of violence covered by the scope of this Convention. It is of key importance that Parties base their policies and measures to prevent and combat such forms of violence on advanced research and knowledge in this field. Research represents the key element of evidence based policy making and can significantly contribute to improving everyday responses to violence against women and domestic violence by judiciary, support services, and law enforcement agencies. This provision therefore requires the Parties to undertake and support researches in order to pursue further knowledge of the root causes and effects of the problem, incidences, and conviction rates, as well as of the efficiency of measures taken in the implementation of the Convention.

Paragraph 2 contains the obligation of the Parties to conduct population based surveys. This implies collecting statistically representative data of the targeted population so that they can be easily generalized to the larger population. Population based surveys can provide more general sociologically oriented insights into the prevalence, nature, characteristics, and consequences of all forms of violence covered by the scope of this Convention. They can also provide reliable data on experiences of the victims of violence, on the reasons why not reporting violence, on the services received, as well

as opinions and attitudes of the victims about violence. The Parties are additionally obliged to conduct such surveys at regular intervals in order to make relevant and comparative assessment of the prevalence and the trends in all forms of violence covered by the scope of this Convention by tracking developments longitudinally. In this case, the choice of population sample size and the regularity of such studies are left to the Parties. Depending on the country member, the scope of the surveys may be national, regional, or local. However, it is important to emphasize that the combination of these levels can provide a macroscopic view of the phenomenon while also highlighting local or regional specifics. When designing population based surveys, the Parties may refer to the World Health Organization (WHO) Multi-Country Study on Women's Health and Domestic Violence Against Women, as well as to the International Violence Against Women Survey (IVAWS).

The Authors of the Convention considered it important to highlight the distinction between population-based surveys and statistical administrative and judicial data, as they serve different purposes, and answer different questions. While the first can clarify the level of severity and frequency as well as the socio-economic and cultural factors leading to violence against

women and domestic violence, the second can contribute to address capacity issues of government agencies, and evaluate the effectiveness of services provided for victims of such violence. Combining both types of data collection methods can help getting in-depth picture about the problem. Due to a lack of shared definitions and common indicators for evaluating the prevalence and trends of violence against women and domestic violence, available data rarely allow cross country comparison. Because of that, it would be beneficial for the Parties to align the collection of data with standardized indicators and methods that already exist or are currently in development phase. The Parties should consider existing results or initiatives to provide reliable and comparable data, such is the Violence Against Women Survey conducted by the European Union Agency for Fundamental Rights.

As presented in the Article 65, the process of collecting, storing, and transforming collected data should comply with the standards on data protection, as regulated by the Council of Europe Convention on Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108), in order to ensure confidentiality and respect for the privacy of victims, perpetrators, and other persons involved. The standards defined in the Article 65 do not

only apply in cases of transnational data exchange, but to all processes of collecting, storing, and transforming of collected data.

Complementing the Article 68 (7), the third Paragraph of this Article includes the obligation of the Parties to provide to the Independent Group of Experts referred to in the Chapter IX the information collected in order to stimulate the international cooperation and enable the international benchmarking. This not only allows the identification of existing good practice but also contributes to its harmonization across the countries members of the Convention.

Finally, the Paragraph 4 contains the obligation of the Parties to ensure that the information collected in accordance to the Article 11 is available to the public. It is however left to the countries members to determine the form and means as well as the type of information that is to be made available. In making information collected in accordance with the Article 11 available to the public, the Parties shall pay special attention to the privacy rights of persons affected.

Indicators

1. Are there the adequate data bases on violence against women and domestic violence –

statistical administrative and judicial data on all forms of violence covered by the scope of this Convention, obligatory disaggregated by sex, age, disability of a person, relationship between a victim and a perpetrator, geographical location, and other characteristics, available to the public, at least once a year?

Answer:

2. Are there data bases on victims of sexual violence during conflict?

Answer:

3. Are there data bases on trafficking of people?

Answer:

4. Are there data bases on perpetrators of violence against women and domestic violence?

Answer:

5. The number of relevant researches, focused on various forms of violence covered by the scope of this Convention, conducted by: a) state services, b) civil society, annually.

Answer:

Methodology of Data Collection/Sources

- The projects implemented so far in relation to the data bases
- Identifying NGOs that implemented the projects, reports

***RECOMMENDATIONS FROM THE
RESPONSES, UPON THE ANALYSIS OF
DATA COLLECTED FROM RELEVANT SOURCES:***

The Article 8 – Financial Resources

The Article 9 – Nongovernmental Organizations
and Civil Society

The Article 10 – Coordination Body

The Article 11 – Collecting Data and Research

CHAPTER III

PREVENTION (ARTICLES 12-17)

The Article 12 – General Obligations

1. Parties shall take the necessary measures to promote changes in the social and cultural patterns of behavior of women and men with a view to eradicating prejudices, customs, traditions, and all other practices which are based on the idea of inferiority of women or on stereotyped roles for women and men.
2. Parties shall take the necessary legislative and other measures to prevent all form of violence covered by the scope of this Convention by any natural or legal person.
3. Any measures taken in accordance with this Chapter shall take into account and address the specific needs of persons made vulnerable by particular circumstances and shall place the human rights of all victims in their focus and priority.
4. Parties shall take necessary measures to encourage all members of society, especially men and boys, to actively contribute in prevention of all forms of violence covered by the scope of this Convention.
5. Parties shall ensure that culture, custom, religion, tradition, or so called “honor” shall not be

considered as justification for any acts of violence covered by the scope of this Convention.

6. Parties shall take the necessary measures to promote programs and activities for the empowerment of women.

Explanation of the Article

This Article consists of a several general preventive measures which provide grounds, and represent overall principles for more specific obligations contained in the subsequent articles of this Chapter.

The obligations presented in the Paragraph 1 are based on the belief of the Authors that existing patterns of behavior of women and men are often influenced by prejudices, gender stereotypes, and gender biased customs or traditions. The Parties of the Convention are therefore required to take measures that are necessary to promote changes in mentality and attitudes. The purpose of this provision is to reach the hearts and minds of individuals who, through their behavior, contribute to perpetuate the forms of violence covered by the scope of this Convention. As a general obligation, this Paragraph does not go into detail as to propose specific measures to take, living it within the discretion of the Parties.

Paragraph 2 requires the Parties to take necessary legislative and other measures to prevent all forms of violence covered by the scope of this Convention committed by any natural or legal person. Depending on the national legal system, some of these measures may require the passing of a law, while others may not.

In addition to the prohibition of discrimination regulated by the Article 4, Paragraph 3, this Paragraph requires positive action to ensure that any preventive measures specifically address and take into account the needs of vulnerable persons. Perpetrators often choose to target such persons because they know that they are less likely to be able to defend themselves, or seek prosecution of the perpetrator and other forms of reparation because of their situation. For the purpose of this Convention, persons made vulnerable by particular circumstances include pregnant women and women with young children, persons with disabilities, including those with mental and cognitive impairments, persons living in rural or remote areas, substance abusers, prostitutes, persons of national or ethnic minority background, migrants – including undocumented migrants and refugees, gay men, lesbian women, bi-sexual and transgender persons, as well as HIV positive persons, homeless persons, children and the elderly.

The Paragraph 4 emphasizes that all members of society can make an important contribution to the prevention of violence and should be encouraged to do so. As many of the forms of violence covered by the scope of this Convention are perpetrated primarily by men and boys, the Authors considered it important to emphasize their particular role in the prevention of such violence. Bearing in mind the fact that the majority of men and boys are not perpetrators, the Authors wanted to point out that their contribution can take on many forms in particular, as role models, agents of change and advocates for equality between women and men and mutual respect. Men are making important contribution, by speaking out against violence, engaging other men in activities to promote gender equality, and acting as role models by actively taking on a caring role and family responsibilities.

The Paragraph 5 clearly states that culture, custom, religion, tradition, or so called “honor” shall not be invoked to justify any act of violence covered by the scope of this Convention. The Parties are therefore obliged to ensure that their national laws do not contain ambiguities for interpretation inspired by such beliefs. Additionally, this obligation extends to the prevention of any official statements, reports, or proclamations that condone violence on the

basis of culture, custom, religion tradition, or so called “honor”. This provision also establishes the key principle according to which the prohibition of any of the acts of violence set out in the Convention can never be invoked as a restriction of the perpetrator’s cultural or religious rights and freedoms. This principle is important for societies where distinct ethnic and religious communities live together and in which the prevailing attitudes towards the acceptability of gender based violence differ depending on the cultural or religious background.

Rounding off the list of general preventive measures, the Paragraph 6 calls for the promotion of specific programs and activities for the empowerment of women. This includes empowerment in all aspects of life, including political and economic empowerment. This obligation is reflection of the greater objective of achieving gender equality by increasing women’s agency and reducing their vulnerability to violence.

Indicators

1. Are measures responding to the needs of all women, and do they place human rights into the focus?

Answer:

Methodology of Data Collection/Sources

- Prevention measures integrated in the relevant laws that are in focus on the analysis

The Article 13 – Awareness Rising

1. Parties shall promote or conduct, on a regular basis and at all levels, awareness rising campaigns or programs, including in cooperation with national human rights institutions and equality bodies, civil society and nongovernmental organizations, especially women’s organizations, where appropriate, to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of this Convention, their consequences on children and the need to prevent such violence.

2. Parties shall ensure the wide dissemination among the general public of information on measures available to prevent acts of violence covered by the scope of this Convention.

Explanation of the Article

The purpose of this Article is to ensure that the general public is fully informed of the various forms of violence that women experience on a regular basis, as well as of the different manifestations of domestic violence. This would help all members of society to recognize such violence, speak out against it, and support its victims as neighbors, friends, relatives, or colleagues, where possible and appropriate. This ob-

ligation includes the running of public awareness rising campaigns or programs on a regular basis that address and explain these issues in a gender sensitive manner. Awareness rising activities should include the dissemination of information on equality between women and men, non-stereotyped gender roles, and non-violent conflict resolution in interpersonal relationships. Additionally, the Authors of the Convention considered it important that any campaign emphasizes the harmful consequences for children which violence against women and domestic violence may have in its direct or indirect form.

Many NGOs are traditionally carrying out successful awareness rising activities at local, regional, or national level. This provision therefore encourages the cooperation with national human rights institutions and equality bodies, civil society, and NGOs, in particular women’s organizations, where appropriate, in order to reach out to the general public. This, however, is not a final list of actors, which the Authors intended to cover. Furthermore, the inclusion of “where appropriate” in the provision means that the Parties are not obliged to set up such bodies or institutions where they do not exist. Finally, it should be emphasized that the term women’s organizations refers to women’s NGOs working

in the area of protection and support for women victims of violence against women.

The Paragraph 2 extends the obligation to the dissemination of concrete information on available government or non-governmental preventive measures. This means the wide dissemination of information leaflets or posters or on-line information material on services which the police or the local community offers, contact information of local, regional, or national services, such as helplines or shelters, and much more.

Indicators

1. Is the general public completely informed about various forms of violence against women, as well as various manifestations of domestic violence?

Answer:

2. Are awareness raising campaigns or programs regularly implemented at all levels?

Answer:

3. Is there available information about accessible services?

Answer:

Methodology of Data Collection/Sources

- Previous reports and analysis of NGOs
- Observations of NGOs-questionnaire
- Examples of commemorating important dates implemented by nongovernmental organizations, such are 19 June; 16 Days of Activism, etc.

The Article 14 – Education

1. Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women, and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.
2. Parties shall take the necessary steps to promote the principles referred to in the Paragraph 1 in informal education facilities, as well as in sports, cultural, and leisure facilities, and the media.

Explanation of the Article

Attitudes, beliefs, and behavioral patterns are shaped very early on in the life. The promotion of gender equality, mutual respect in interpersonal relationships and non-violence must start early as possible, and is primarily responsibility of parents. Educational institutions, however, have an important role to play in enhancing promotion of these values.

The Paragraph 1 of this Article addresses the need to design, where the Parties consider appropriate, teaching material for all levels of education (primary, secondary, and tertiary education) that promotes such values, and enlightens learners with respect to the various forms of violence covered by the scope of this Convention. Where the Parties consider teaching material is appropriate, it needs to be adapted to the capacity of learners, which would, for example, require primary school teaching material to meet the intellectual capacity of the primary school students. Teaching material means any type of formally developed and approved material that forms part of the curriculum and that, where appropriate, all teachers at particular school have access to and are required or requested to use in class. As the words “where appropriate” indicate, the Authors did not want to impose specific model to the Parties. Instead of that, this provision leaves it to the Parties to decide which age group of learners they consider such teaching material to be appropriate for.

The Authors decided on this wording to allow a maximum of flexibility in the implementation of this provision also taking into account different possibilities between the Parties in determining teaching materials. Some countries, for example, determine the teaching objectives in their

formal curriculum, while leaving it to the schools to decide on proper working methods and teaching materials to be used to reach these objectives. The term “formal curriculum” refers to the planned program of objectives, content, learning experiences, resources, and assessment offered by a school where appropriate. It does not refer to incidental lessons which can be learned at school because of particular school policies.

The Paragraph 2 extends the obligation to promote the principles of equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships in all informal educational facilities as well as any sports, cultural and leisure facilities as well as the media. Across the Council of Europe member states, many different forms of informal education exist and are often referred to in many different ways. Generally, the term “informal educational facilities” refers to organized education activity outside formal systems, such as community or religious education facilities, activities, projects and institutions based on social pedagogy, and any other type of educational activity offered by community groups and other organizations (such as boy scouts or girl scouts, summer camps, after school activities, etc.). Sports, cultural and leisure facilities refer to facilities which

offer leisure activities in the areas of sports, music, arts or any other field and which contribute to the lifelong process of learning from everyday experience. This Paragraph also requires the Parties to the Convention to include the media in their measures to promote the above principles. It is important to note that the Authors clearly indicated that any measures taken in this regard shall have due regard to the fundamental principle of the independence of the media and the freedom of the press.

Indicators

1. Are existing curricula and educational programs includes topics of violence?

Answer:

Methodology of Data Collection/Sources

- NGO studies and analysis (for example, initial and final study of Medica Zenica)
- CEDAW report and recommendations
- Eventually, inquiries toward selected institutions and organizations, if relevant (for example, the centers for education of judges and prosecutors, etc.)

The Article 15 – Training of Professionals

1. Parties shall provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this Convention, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimization.
2. Parties shall encourage that the training referred to in paragraph 1 includes training on coordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this Convention.

Explanation of the Article

The training and sensitization of professionals to the many causes, manifestations and consequences of all forms of violence covered by the scope of this Convention provides an effective means of preventing such violence. Training not only allows raising awareness among professionals on violence against women and domestic violence, but contributes to changing the outlooks and the conduct of these professionals with regard to the victims. Furthermore, it

significantly improves the nature and quality of the support provided to the victims.

It is vital that professionals in regular contact with victims or perpetrators have appropriate knowledge of the issues related to these types of violence. For this reason, the Paragraph 1 places an obligation on the Parties to provide or strengthen appropriate training for the relevant professionals working with the victims or perpetrators of all acts of violence covered by the scope of this Convention on issues such as the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimization. Initial vocational training and in-service training should enable the relevant professionals to acquire the appropriate tools for identifying and managing cases of violence, at an early stage, and to take preventive measures accordingly, by fostering the sensitivity and skills required to respond appropriately and effectively on the job. The Authors felt it best to leave to the countries members how to organize the training of relevant professionals.

However, it is important to ensure that relevant training be on-going and sustainable, with appropriate follow-up to ensure that newly acquired skills are adequately applied. Finally, it is

important that relevant training should be supported and reinforced by clear protocols and guidelines that set the standards professionals are expected to follow in their respective fields. The effectiveness of these protocols where relevant, should be regularly monitored, reviewed and, where necessary, improved.

The relevant professionals may include professionals in the judiciary, legal practice, law enforcement agencies and in the fields of health care, social work and education. When providing training for professionals involved in judicial proceedings (in particular judges, prosecutors and lawyers), the countries members must take account of requirements stemming from the independence of the judicial professions and the autonomy they enjoy in respect of the organization of training for their members. The Authors wished to stress that this provision does not contravene the rules governing the autonomy of legal professions but that it requires the countries members to ensure that training is made available to professionals wishing to receive it.

The content of the Paragraph 2 is linked to the greater objective of the Convention to establish a comprehensive approach to prevent and combat all forms of violence covered by its scope. This provision requires the Parties to encour-

age that the training referred to in the Paragraph 1 also includes training on coordinated multi-agency cooperation, complementing in this way the obligations laid down in Article 7 of this Convention. Consequently, professionals should also be taught skills in multi-agency working, equipping them to work in co-operation with other professionals from a wide range of fields.

Indicators

1. Are there enough professionals that completed trainings?

Answer:

2. What is the content of the trainings?

Answer:

3. Who is conducting trainings of professionals?

Answer:

4. The number of trained professionals dealing with victims and perpetrators of all forms of violence covered by the scope of this Convention, annually, in following areas:

- the prevention and detection of violence;

- the equality between women and men;
- the needs and rights of victims;
- prevention of secondary victimisation;
- the appropriate and effective response from relevant authorities/services;
- the significance of co-ordinated multi-agency co-operation.

Answer:

5. The percentage of trainings for professionals dealing with victims and perpetrators of all forms of violence covered by the scope of this Convention supported by the state, in comparison to the total number of trainings designed and implemented by women's non-governmental organizations, annually.

Answer:

Methodology of Data Collection/Sources

- Inquiries toward relevant institutions/organizations (for example, centers for education of judges and prosecutors, and other institutions/organizations that provide educations);
- NGO reports

The Article 16 – Preventive Intervention and Treatment Programs for Work with Perpetrators of Violence

1. Parties shall take the necessary legislative or other measures to set up or support programs aimed at teaching perpetrators of domestic violence to adopt non-violent behavior in interpersonal relationships with a view to preventing further violence and changing violent behavioral patterns.

2. Parties shall take the necessary legislative or other measures to set up or support treatment programs aimed at preventing perpetrators, in particular sex offenders, from re-offending.

3. In taking the measures referred to in the Paragraphs 1 and 2, the Parties shall ensure that the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programs are set up and implemented in close co-ordination with specialist support services for victims.

Explanation of the Article

Preventive intervention and treatment programs have been developed to help perpetrators change their attitudes and behavior in

order to prevent further acts of domestic violence and sexual violence.

The Paragraph 1 requires the countries members to the Convention to establish or support the establishment of programs, where they do not exist, or support any existing programs, for perpetrators of domestic violence. Many different models for working with perpetrators exist and the decision on how they should be run rests with the countries members or service providers. However, the following core elements should be respected in all models:

Domestic violence intervention programs should be based on best practice and what research reveals about the most effective ways of working with perpetrators. Programs should encourage perpetrators to take responsibility for their actions and examine their attitudes and beliefs towards women. This type of intervention requires skilled and trained facilitators. Beyond training in psychology and the nature of domestic violence, they need to possess the necessary cultural and linguistic skills to enable them to work with a wide diversity of men attending such programs. Moreover, it is essential that these programs are not set up in isolation but closely co-operate with women's support services, law enforcement agencies, the judiciary, probation services and child protection or

child welfare offices where appropriate. Participation in these programs may be court-ordered or voluntary. In either case, it may influence a victim's decision to stay with or leave the perpetrator or provide the victim with a false sense of security. As a result, priority consideration must be given to the needs and safety of victims, including their human rights.

The Paragraph 2 of this Article contains the obligation to set up or support treatment programs for perpetrators of sexual assault and rape. These are programs specifically designed to treat convicted sex offenders, in and outside prison, with a view to minimizing recidivism. Across the Council of Europe member states, many different models and approaches exist. Again, the Authors of the Convention felt it best to leave to the countries members and/or service providers how to run such programs. Their ultimate objective must be preventing re-offending and successfully reintegrating perpetrators into the community.

Indicators

1. The number of programs on the state level aimed at working with perpetrators of domestic violence to master and adopt non-violent behaviour in interpersonal relationships in order to prevent further violence and change violent be-

havioural patterns, organized and implemented in close cooperation with specialist support services for victims, annually.

Answer:

2. The percentage of perpetrators that attended programmes aimed at adopting non-violent behaviour in interpersonal relationships, in comparison to the total number of perpetrators, on annual level.

Answer:

3. The number of convicted sex-offenders attending programmes for the work with perpetrators with the aim to prevent further violence, in comparison to the total number of convicted perpetrators, annually.

Answer:

4. The percentage of attendees of programmes for perpetrators that re-offended in the monitoring period of 1, 3, 10 years, in comparison to the total number of attendees.

Answer:

Methodology of Data Collection/Sources

- Reports of NGOs that are working on this topic for several years (for example, report of the NGO „Budučnost“ Modriča)

***RECOMMENDATIONS FROM THE
RESPONSES, UPON THE ANALYSIS OF
DATA COLLECTED FROM RELEVANT SOURCES:***

The Article 12 – General Obligations

The Article 13 – Awareness Rising

The Article 14 – Education

The Article 15 – Training of Professionals

The Article 16 – Preventive Intervention and
Treatment Programs for Work with Perpetra-
tors of Violence

CHAPTER IV

PROTECTION AND SUPPORT
(ARTICLES 18-28)

The Article 19 – Information

Parties shall take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.

Explanation of the Article

In the immediate aftermath of violence, victims are not always in a position to take fully informed and empowered decisions, and many lack a supportive environment. This provision lays particular emphasis on the need to ensure that victims are provided with information on the different types of support services and legal measures available to them. This requires providing information on where to get what type of help, if necessary in a language other than the national language(s), and in a timely manner, meaning at a time when it is useful for victims. This, however, does not oblige the Parties of the Convention to offer information in any language but to concentrate on the languages most widely spoken in their country and in accessible form. The term “adequate information” refers to information that sufficiently fills the victim’s need for information. This could include, for example, providing not just the name of a support service organization, but handing out a leaf-

let that contains its contact details, working hours, and specific information on the services it offers.

Indicators

1. Did the state implemented comprehensive information campaign?

Answer:

2. The number of legal and institutional mechanisms that ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.

Answer:

3. The number and type of informative materials on available services for victims of all forms of violence covered by the scope of this Convention, prepared by the competent state and regional authorities, annually.

Answer:

4. The percentage of informative material prepared in minority languages, adapted for people with sensory disability, migrants and asylum seekers, in comparison to the informative ma-

terial on available services for victims of all forms of violence covered by the scope of this Convention, prepared by the competent state and regional authorities, on annual level.

Answer:

Methodology of Data Collection/Sources

- Your knowledge – do you have the information that the state implemented such campaign or campaigns?
- Inquiry/letter to the coordination body/bodies

The Article 20 – General Support Services

1. Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counseling, financial assistance, housing, education, training and assistance in finding employment.
2. Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced and professionals are trained to assist victims and refer them to the appropriate services.

Explanation of the Article

In the provision of services for victims, a distinction is made between general and specialist support services. General support services refer to help offered by the public authorities such as social services, health services, employment services, which provide long-term help and are not exclusively designed for the benefit of victims only but serve the public at large. By contrast, specialist support services have specialized in providing support and assistance tailored to the – often immediate – needs of

victims of specific forms of violence against women or domestic violence and is not open to the general public. While these may be services run or funded by government authorities, the large majority of specialist services are offered by NGOs.

The obligation presented in the Article 20, the Paragraph 1, requires public welfare services such as housing services, employment or unemployment services, public education and training services, public psychological and legal counseling services, but also financial support services to address, when necessary, the specific needs of victims of the forms of violence covered by the scope of this Convention. While many victims can already be found among the clients of such services, their particularly difficult situation and trauma is not necessarily sufficiently or systematically addressed or taken into account. Countries members to the Convention are thus required to ensure victims are granted access to such services, treated in a supportive manner and that their needs are properly addressed.

Health and social services are often the first to come in contact with victims. The Paragraph 2 seeks to ensure that these services are adequately resourced to respond to their long-term needs. Furthermore, it places an emphasis on

the importance of training staff members on the different forms of violence, the specific needs of victims and how to respond to them in a supportive manner.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of legal measures and measures of social and health protection that regulate provision of appropriate services of support to the victims (psychological and legal counselling, financial assistance, housing, education, training and assistance in finding employment, health and social protection), to ensure recovery from all forms of violence covered by the scope of this Convention.

Answer:

2. The type and number of existing services of general support to the victims (psychological and legal counselling, financial assistance, housing, education, training and assistance in finding employment, health and social protection), to ensure recovery from all forms of violence covered by the scope of this Convention, annually, disaggregated by: a) region/town and b) type of service provider.

Answer:

3. Do victims of violence against women and domestic violence have the right on the services, and are these services accessible to them, as follows:

- Legal and psychological counseling,
- Financial assistance,
- Housing,
- Education, training, and assistance in finding employment,
- Economic empowerment.

Answer:

4. List the institutions and type of approved services.

Answer:

5. Are there additional services that are available?

List of the additional services:

Are these services free of charge?

Answer:

6. Are victims of violence against women and domestic violence, victims of sexual violence during conflict, and victims of trafficking of peo-

ple, specifically recognized within laws, internal procedural documents, protocols or guidelines, as categories that require special attention or priority, with objective to ensure them efficient access to such services?

Answer:

7. Is there concrete rule or recommendation that victims of violence against women and domestic violence and victims of sexual violence during conflict should be treated on supportive way, and that there should be adequate response on their needs?

Answer:

8. If answer on the previous question is affirmative, please list the documents.

List of documents:

9. Is there a rule on maximum number of services, or some time limit for providing such assistance, or other regulation that would have negative influence on support and protection of victims?

Answer:

10. If such rules and regulations exist, please elaborate.

Explanation:

11. Are there legislative or other measures (procedure) that would ensure access to health and social services for victims of violence against women and domestic violence?

Answer:

12. Are these victims specifically recognized by the laws, internal, and other documents?

Answer:

13. Are professionals from the health and social services trained how to work with victims of violence against women and domestic violence, and victims of sexual violence during conflict, and especially:

(a) What are the needs and rights of victims, and

(b) How to use referral mechanism with objective to ensure adequate support? Are they implementing acquired knowledge? Do they need to refer victims to the police, prosecutor's offices, or other adequate agencies?

Answer:

14. Are professionals from judicial sector trained, and are they implementing the practice to refer victims on health and social services? Are health and social services adequately equipped (with appropriate financial and human resources) to ensure long term assistance, such as counseling, health, and financial support?

Answer:

15. Is there a rule about maximum number of visits to these services or restricted time for providing such assistance? If there are such rules, please explain.

Answer:

Methodology of Data Collection/Sources

- Questionnaires

- Interviews

- Studies and researches of NGOs (such as the initial study of Medica Zenica, and the study about health services of Medica Zenica)

The Article 21 – Assistance in Individual/Collective Complaints

Parties shall ensure that victims have information on and access to applicable regional and international individual/collective complaints mechanisms.

Parties shall promote the provision of sensitive and knowledgeable assistance to victims in presenting any such complaints.

Explanation of the Article

This provision sets out the obligation of the Parties to ensure that victims have information on and access to applicable regional and international complaints mechanisms. The term "applicable" refers only to those regional and international complaints mechanisms that have been ratified by the countries members to this Convention. Council of Europe member states are state parties to a significant number of regional and international human rights treaties, and most have accepted the jurisdiction of the corresponding treaty bodies and complaints mechanisms.

Upon exhausting national remedies, victims of all forms of violence covered by the scope of this Convention therefore have recourse to a

number of existing regional and international complaints mechanisms. These can be open to individuals, who can, for example, turn to the European Court of Human Rights or the CEDAW Committee for further legal redress. They can also be of a collective nature, meaning that they are available to groups of victims – an example would be the collective complaints mechanism under the European Social Charter.

By ensuring that victims have "information on and access to" these mechanisms, the Authors wished to stress that victims should be provided with information on the admissibility rules and procedural requirements relating to the applicable regional and international complaint mechanisms, and that, upon exhaustion of national remedies, Parties should not impede in any way access to these mechanisms.

The provision also aims at promoting the availability of sensitive and knowledgeable assistance to victims in presenting such complaints, which may be provided by the state, bar associations, relevant NGOs or other possible actors. "Assistance" may consist of the provision of information and legal advice. The assistance provided should be well informed and adapted to the needs of the victim, so as to facilitate the access to applicable complaint mechanisms by the victim.

Indicators

1. The number of individual/collective complaints (to the European Court of Human Rights and/or to the CEDAW Committee) and the number of relevant institutions providing free legal aid to women victims of violence that want to submit such complaints, annually, disaggregated by: a) region/town and b) type of service provider.

Answer:

2. The percentage of women victims of violence that obtained assistance in submitting individual/collective complaints (to the European Court of Human Rights and/or CEDAW Committee) in comparison to the total number of persons obtaining such aid, disaggregated by: a) region/town and b) type of service provider.

Answer:

Methodology of Data Collection/Sources

-Search of database of the European Court of Human Rights and CEDAW base of the individual complaints

-Inquiry to the centers for free legal assistance

- Inquiry to the NGOs in B&H that are providing free legal assistance

The Article 22 – Specialist Support Services

1. Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.
2. Parties shall provide or arrange for specialist women’s support services to all women victims of violence and their children.

Explanation of the Article

Complementing the obligation contained in the Article 20, this and the following provisions require the Parties to the Convention to set up or arrange for a well-resourced specialist support sector. The aim of such specialized support is to ensure the complex task of empowering victims through optimal support and assistance catered to their specific needs. Much of this is best ensured by women’s organizations and by support services provided, for example, by local authorities with specialized and experienced staff with in-depth knowledge of gender-based violence. It is important to ensure these services are sufficiently spread throughout the country and accessible for all victims. Moreover, these services and their staff need to be able to

address the different types of violence covered by the scope of this Convention and provide support to all groups of victims, including hard-to-reach groups.

The types of support that such dedicated services need to offer include providing shelter and safe accommodation, immediate medical support, the collection of forensic medical evidence in cases of rape and sexual assault, short and long-term psychological counseling, trauma care, legal counseling, advocacy and outreach services, telephone helplines to direct victims to the right type of service and specific services for children as victims or witnesses.

Indicators

1. The level of incorporation in relevant laws-/by-laws/strategies and policies of measures-/provisions that define providing of immediate, short-term and long-term specialist support services to victims subjected to any of the acts of violence covered by the scope of this Convention.

Answer:

2. List each of the mentioned services that exist in your country.

Answer:

3. Please provide concise information about geographical distribution of each service (organized at the state, entity, cantonal/regional, local level).

Answer:

4. Who is providing such services: state institutions (list them), local institutions, NGOs, someone else (please elaborate)?

5. Are these services free of charge?

Answer:

6. Who is monitoring and evaluating these services, and on which way?

Answer:

7. Explain availability of these services to all victims of violence against women and domestic violence, sexual violence during conflict, and trafficking of people.

List with explanation:

8. Who is financing these services?

Answer:

9. Who accredits these services, and on what way?

Answer:

Methodology of Data collection/Sources

-Collecting and analyzing relevant laws/by-laws/strategies and policies

The Article 23 – Shelters

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.

Explanation of the Article

This article requires the Parties to the Convention to provide for the setting up of appropriate, easily accessible shelters in sufficient numbers as an important means of fulfilling the obligation to provide protection and support. The purpose of shelters is to ensure immediate, preferably around the-clock, access to safe accommodation for victims, especially women and children, when they are no longer safe at home. Temporary housing alone or general shelters such as those for the homeless, are not sufficient and will not provide the necessary support or empowerment. Victims face multiple, interlocking problems related to their health, safety, financial situation and the well-being of their children.

Specialized women's shelters are best equipped to address these problems, because their functions go beyond providing a safe place to stay.

They provide women and their children with support, enable them to cope with their traumatic experiences, leave violent relationships, regain their self-esteem and lay the foundations for an independent life of their own choosing. Furthermore, women's shelters play a central role in networking, multi-agency co-operation and awareness-raising in their respective communities.

To fulfill their primary task of ensuring safety and security for women and children, it is crucial that all shelters apply a set of standards. To this end, the security situation of each victim should be assessed and an individual security plan should be drawn up on the basis of that assessment. The technical security of the building is another key issue for shelters as violent attacks by the perpetrators are a threat not only to the women and their children, but also to the staff and other people in the surrounding area. Moreover, effective co-operation with the police on security issues is indispensable.

This provision calls for shelters to be set up in sufficient numbers to provide appropriate temporary accommodation for all victims. Each type of violence requires a different kind of support and protection, and staff needs to be trained to provide these. The term "sufficient nu-

members" is intended to ensure that the needs of all victims are met, both in terms of shelter places and specialized support. The Final Activity Report of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EG-TFV (2008)6) recommends safe accommodation in specialized women's shelters, available in every region, with one family place per 10 000 head of population. However, the number of shelter places should depend on the actual need. For shelters on other forms of violence, the number of places to be offered will again depend on the actual need.

Indicators

1. The level of compliance of policies and standards of providers of this specialist service to the victims of violence with the standards set within the Convention.

Answer:

2. The number and geographical distribution of specialized, easily accessible and safe shelters for women victims of violence and their children, disaggregated by: a) region/town and b) type of service provider (number of places/-beds in comparison to the number of inhabitants).

Answer:

3. The percentage of victims of violence and their children in shelters, in comparison to the identified need for accommodation in shelters, disaggregated by all forms of violence covered by the scope of this Convention, annually.

Answer:

4. The percentage of allocation from the annual budget intended for the undisturbed functioning of shelters and accommodation for victims, especially women and their children, in comparison to the total budget for the services in this area, annually.

Answer:

Methodology of Data Collection/Sources

- Reports of NGOs (Medica Zenica and the Sarajevo Open Center) on status and financing of the shelters; Report of the Foundation for Local Democracy Sarajevo on activities of NGOs toward providing assistance, support, and protection of victims, etc.)

The Article 24 – Telephone Helplines

Parties of the Convention shall take the necessary legislative or other measures to set up state-wide round-the clock (24/7) telephone helplines free of charge to provide advice to callers, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of this Convention.

Explanation of the Article

Helplines are one of the most important ways of enabling victims to find help and support. A helpline with a widely advertised public number that provides support and crisis counseling and refers to face-to-face services, such as shelters, counseling centers or the police, forms the cornerstone of any support and advice service in relation to all the forms of violence covered by the scope of this Convention. This Article therefore contains the obligation to set up state-wide telephone helplines which are available around the clock and which are free of charge. Many victims find themselves without documentation and resources and would find it difficult to buy a telephone card or find the necessary change to pay for a phone call.

Having to pay even a very small amount of money can present a burden to many seeking

help, hence the requirement to offer the call to a helpline free of charge. Furthermore, in many telephone systems non-toll free calls can be traced via the telephone bill, thus indicating to the perpetrator that the victim is seeking help and therefore possibly endangering the victim further. The Final Activity Report of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence (EGTFV (2008)6) recommends the establishment of at least one free national helpline covering all forms of violence against women operating 24 hours a day 7 days a week and providing crisis support in all relevant languages.

Many victims find it difficult to actively seek help and the threshold for making a call and sharing intimate and personal details is high. It is therefore important that callers may remain anonymous, are counseled by persons who are trained in dealing with such situations and that helplines provide information and support confidentially if callers so wish. In some countries, it is equally important to provide assistance in several languages to ease the language barrier that some callers might face.

Indicators

1. The level of compliance of policies and standards of providers of this specialist service to

the victims of violence with the standards set within the Convention.

Answer:

2. The number of the round-the-clock (24/7) telephone helplines on a state/regional/local level that provide counselling to victims, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of this Convention and the number of beneficiaries of this service, annually.

Answer:

3. The percentage of calls addressed to telephone helplines, disaggregated by all forms of violence covered by the scope of this Convention, annually.

Answer:

4. The percentage of allocation from the annual budget intended for the functioning the round-the-clock (24/7) telephone helplines that provide free advice to callers, in relation to all forms of violence covered by the scope of this Convention, in comparison to the total budget for the services in this area, on annual level.

Answer:

Methodology of Data Collection/Sources

- Reports of NGOs (Medica Zenica and the Sarajevo Open Center) on status and financing of SOS helplines, the Foundation of Local Democracy Sarajevo report on activities of NGOs providing assistance, support, and protection of victims, etc.)

***RECOMMENDATIONS FROM THE
RESPONSES, UPON THE ANALYSIS OF
DATA COLLECTED FROM RELEVANT SOURCES:***

The Article 19 – Information

The Article 20 – General Support Services

The Article 21 – Assistance in Individual/Collective Complaints

The Article 22 – Specialist Support Services

The Article 23 – Shelters

The Article 24 –Telephone Helplines

CHAPTER V

SUBSTANTIVE LAW
(ARTICLES 29-48)

The Article 30 – Compensation

1. Parties shall take the necessary legislative or other measures to ensure that victims have the right to claim compensation from perpetrators for any of the offences established in accordance with this Convention.

2. Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions. This does not preclude the countries members to the Convention from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety.

3. Measures taken pursuant to the Paragraph 2 shall ensure the granting of compensation within a reasonable time.

Explanation of the Article

This Article sets out the right to compensation for damages suffered as a result of any of the offences established by this Convention. The Paragraph 1 establishes the principle that it is primarily the perpetrator who is liable for damages and restitution.

Compensation can also be sought from insurance companies or from state-funded health and social security schemes. The Paragraph 2 establishes a subsidiary obligation for the state to compensate. The conditions relating to the application for compensation may be established by internal law such as the requirement that the victim has first and foremost sought compensation from the perpetrator. The Authors emphasized that state compensation should be awarded in situations where the victim has sustained serious bodily injury or impairment of health. It should be noted that the term "bodily injury" includes injuries which have caused the death of the victim, and that "impairment of health" encompasses serious psychological damages caused by acts of psychological violence, as referred to in the Article 33.

Although the scope of the state compensation is limited to "serious" injury and impairment of health, this does not preclude Parties from providing for more generous compensation arrangements, nor from setting higher and/or lower limits for any or all elements of compensation to be paid by the state. In particular, this provision is without prejudice to the obligations of the Parties to the European Convention on the

Compensation of Victims of Violent Crimes (ETS No. 116).

The subsidiary obligation for the state to compensate does not preclude the countries members from claiming regress for compensation awarded from the perpetrator as long as due regard is paid to the victim's safety. The reference to the "victim's safety" requires the countries members to ensure that any measures taken to claim regress for compensation from the perpetrator give due consideration to the consequences of these measures for the safety of the victim. This covers in particular situations where the perpetrator may want to avenge her or himself against the victim for having to pay compensation to the state.

This provision does not preclude an interim state contribution to the compensation of the victim. A victim urgently needing help may not be able to await the outcome of often complicated proceedings. In such cases, the Parties can provide that the state or the competent authority may subrogate in the rights of the person compensated for the amount of the compensation paid or, if later the person compensated obtains reparation from any other source, may reclaim totally or partially the amount of money awarded.

In the event that state compensation is paid to the victim because the perpetrator is unwilling or unable although court-ordered to do so, the state shall have recourse against the perpetrator.

To ensure compensation by the state, the Parties may set up state compensation schemes as specified in Articles 5 and 6 of the European Convention on the Compensation of Victims of Violent Crimes.

It should be noted that the Paragraph 2 of this Article is open to reservations, pursuant to Article 78 (2) of this Convention. This possibility of reservations is without prejudice to the obligations of the Parties pursuant to other international instruments in this field, such as the aforementioned European Convention on the Compensation of Victims of Violent Crimes.

As many victims of the forms of violence covered by this Convention may not have the nationality of the Party in whose territory the crime was committed, subsidiary state compensation should extend to nationals and non-nationals.

The Paragraph 3 aims to ensure that compensation be granted within reasonable time, meaning within an appropriate time-scale. It is important to note that compensation may not

only be awarded under civil or administrative law but also under criminal law as part of a criminal law sanction.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions based on which victims are provided with the right to seek compensation from perpetrator for damages (both pecuniary and non-pecuniary damages) suffered as a result of any of the offences established by this Convention.

Answer:

2. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions based on which victims are provided with adequate compensation by the state in situations where the victim has sustained serious bodily injury or impairment of health to such extent that level of bodily injury is not covered from other sources (perpetrator, insurance, and state-funded health and social security schemes).

Answer:

3. The percentage of victims that were, by final court decision/res judicata, granted the right to

compensation from the perpetrator (in criminal or civil law proceedings), in comparison to the total number of victims of such offenses and the number of victims that claimed that right during court proceedings, annually.

Answer:

4. The percentage of victims that have initiated proceedings for compulsory execution of court decision on compensation from perpetrators or were granted subsidiary right to compensate from the state, in comparison to the total number of victims that were granted such right within court proceedings, annually.

Answer:

5. Did your country ratify the European Convention on Compensation for Victims of Violent Crimes?

Answer:

6. Can the victim submit the complaint to the insurance company?

Answer:

7. Can the victim receive compensation from the obligatory state health insurance?

Answer:

8. Is there a special state fund for compensation for victims of violent crimes, including victims of violence against women?

Answer:

Methodology of Data Collection/Sources

- Relevant laws (law on obligations, laws on criminal procedure, and laws on civil proceedings);
- Previous studies (NGO Foundation Lara Bijeljina, etc.);
- Baseline Study (NGO Foundation United Women Banja Luka)

The Article 31 – Custody, Visitation Rights, and Safety

1. Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account.
2. Parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardize the rights and safety of the victim or children.

Explanation of the Article

This provision aims at ensuring that judicial authorities do not issue contact orders without taking into account incidents of violence covered by the scope of this Convention. It concerns judicial orders governing the contact between children and their parents and other persons having family ties with children. In addition to other factors, incidents of violence against the non-abusive guardian as much as against the child itself must be taken into account when decisions on custody and the extent of visitation rights or contact are taken.

The Paragraph 2 addresses the complex issue of guaranteeing the rights and safety of victims and witnesses while taking into account the parental rights of the perpetrator. In particular in cases of domestic violence, issues regarding common children are often the only ties that remain between victim and perpetrator. For many victims and their children, complying with contact orders can present a serious safety risk because it often means meeting the perpetrator face-to-face. Hence, this paragraph lays out the obligation to ensure that victims and their children remain safe from any further harm.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions that ensure that in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account.

Answer:

2. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.

Answer:

3. The percentage of proceedings where perpetrator is ordered with court order (temporary or final) supervised visitations with child in controlled conditions/under supervision of professionals, and percentage of proceedings where perpetrator is denied any visitation rights, in comparison to the total number of court proceedings when court decides on visitation rights, annually.

Answer:

4. Is history of violence taken into account?

Answer:

Methodology of Data Collection/Sources

- Collecting and analysis of relevant laws and other legal documents (family laws, laws on protection from domestic violence);

- Previously implemented analysis and reports of NGOs

The Article 45 – Sanctions and Measures

1. Parties shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include, where appropriate, sentences involving the deprivation of liberty which can give rise to extradition.

2. Parties may adopt other measures in relation to perpetrators, such as:

- Monitoring or supervision of convicted persons;
- Withdrawal of parental rights, if the best interests of the child which may include the safety of the victim, cannot be guaranteed in any other way.

Explanation of the Article

This Article is closely linked to Articles 33 to 41 which define the various offences that should be made punishable under criminal law. However, it applies to all types of sanctions, regardless of whether they are of a criminal nature or not. In accordance with these obligations imposed by those articles, the Article 45 requires the Parties to match their action with the serious-

ness of the offences and lay down sanctions which are “effective, proportionate and dissuasive”. This includes providing for prison sentences that can give rise to extradition where this is appropriate. The Authors decided to leave it to the Parties to decide on the type of offence established in accordance with the Convention that merits a prison sentence. It should be noted that, under the Article 2 of the European Convention on Extradition (ETS No. 24), extradition is to be granted in respect of offences punishable under the laws of the requesting and requested Parties by deprivation of liberty or under a detention order for a maximum period of at least one year or by a more severe sanction.

In addition, the Paragraph 2 provides for other measures which may be taken in relation to perpetrators. The provision lists two examples: the monitoring or supervision of convicted persons and the withdrawal of parental rights, if the best interests of the child, which may include the safety of the victim, cannot be guaranteed in any other way. The reference to the “best interest of the child” in the latter example is in line with the ruling of the European Court of Human Rights in the *Zaunegger v. Germany* judgment of 3 December 2009, which stated that in the majority of member states, “decisions regarding the attribution of custody are

to be based on the child's best interest" (§60). In particular, measures taken in relation to parental rights should never lead to endangering or causing harm to the child.

Although the granting of parental rights and contact with the child are often related issues, the drafters bore in mind that some countries members may distinguish these issues in their internal law, and thus allow a parent to have contact with the child without granting her or him parental rights. In particular in cases of domestic violence against one parent and witnessed by a child, it may not be in the best interest of the child to continue contact with the abusive parent. Ensuring contact with the abusive parent may not only have a negative impact on the child, but may also pose a serious risk to the safety of the abuser's victim, because it often gives the perpetrator a reason to contact or see the victim and may not be in line with a restraining or barring order in place. It is important to ensure that all legal measures taken to protect victims are consistent and are not thwarted by legal measures taken in other contexts.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/-

provisions that ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness.

Answer:

2. The ratio between legally prescribed and the number of sanctions imposed by court/prosecution for any act of violence covered by the scope of this Convention, annually.

Answer:

3. The number of measures/provisions that prescribe monitoring of convicted perpetrators, that are embedded in relevant laws/by-laws/strategies and policies.

Answer:

4. What are the sanctions prescribed, and what are the sanctions sentenced by the courts: especially if they are effective, proportionate, and whether they are distracting from violence?

Answer:

Methodology of Data Collection/Sources

- Report on monitoring of judicial proceedings in Bosnia and Herzegovina

The Article 46 - Aggravating Circumstances

Parties shall take the necessary legislative or other measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:

- a. the offence was committed against a former or current spouse or partner as recognized by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority;
- b. the offence, or related offences, were committed repeatedly;
- c. the offence was committed against a person made vulnerable by particular circumstances;
- d. the offence was committed against or in the presence of a child;
- e. the offence was committed by two or more people acting together;
- f. the offence was preceded or accompanied by extreme levels of violence;
- g. the offence was committed with the use or threat of a weapon;

- h. the offence resulted in severe physical or psychological harm for the victim;
- i. the perpetrator had previously been convicted of offences of a similar nature.

Explanation of the Article

The Article 46 requires the Parties to ensure that the circumstances mentioned in the Sub-paragraphs a – i may be taken into consideration as aggravating circumstances in the determination of the penalty for offences established in the Convention. These circumstances must not already form part of the constituent elements of the offence. This principle applies to cases where the aggravating circumstances already form part of the constituent elements of the offence in the national law of the country member.

By the use of the phrase “may be taken into consideration”, the Authors wished to highlight that the Convention places an obligation on the Parties to ensure that these aggravating circumstances are available for judges to consider when sentencing perpetrators although there is no obligation on judges to apply them. In addition, the reference to “in conformity with the relevant provisions of internal law” is intended to reflect the fact that the various legal systems in Europe have different approaches to aggra-

vating circumstances and therefore permits countries members to retain some of their legal concepts. This gives flexibility to the countries members in implementing this provision without notably obliging them to modify their principles related to the application of sanctions in the criminal law systems.

The first of the aggravating circumstances, lit.a, is where the offence was committed against a former or current spouse or partner as recognized by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority. This would cover various situations where the offence was committed by the former or current marital partner or non-marital partner as recognized by internal law. It would also include members of the victim’s family, such as parents and grand-parents and children or persons having a family related dependent relationship with the victim. Any person cohabiting with the victim refers to persons living within the same household other than family members. A person having authority refers to anyone who is in a position of superiority over the victim, including for example a teacher or employer. The common element of these cases is the position of trust which is normally connected with such a relationship and the specific emotional harm which may emerge from the misuse of this

trust when committing an offence within such a relationship. In this Paragraph the reference to "partners as recognized by internal law" means that, as a minimum, former or current partners shall be covered in accordance with the conditions set out in internal law, bearing in mind that it is the intimacy and trust connected with the relationship that makes it an aggravating circumstance.

The second aggravating circumstance, lit.b, concerns offences that are committed repeatedly. This refers to any of the offences established by this Convention as well as any related offence which are committed by the same perpetrator more than once during a certain period of time. The drafters thereby decided to emphasize the particularly devastating effect on a victim who is repeatedly subjected to the same type of criminal act. This is often the case in situations of domestic violence, which inspired the drafters to require the possibility of increased court sentences. It is important to note that the facts of an offence of a similar nature which led to a conviction of the same perpetrator may not be considered as a repeated act referred to under lit.b but constitute an aggravating circumstance of their own under lit.i.

The third aggravating circumstance, lit. c, refers to offences committed against a person made

vulnerable by particular circumstances (see paragraph 87 for the indicative list of possible vulnerable persons).

The fourth aggravating circumstance, lit.d, covers offences committed against a child or in the presence of a child, which constitutes a form of victimization of the child in itself. The Authors wished to highlight the particularly culpable behavior if any of the offences established by this Convention are committed against a child.

The fifth aggravating circumstance, lit.e, is where the offence was committed by two or more people acting together. This indicates a collective act committed by two or more people.

The sixth aggravating circumstance, lit.f, refers to offences preceded or accompanied by extreme levels of violence. This refers to acts of physical violence that are particularly high in intensity and present a serious risk to the life of the victim.

The seventh aggravating circumstance, lit.g, concerns the use or threat of a weapon. By including this, the Authors emphasize the particularly culpable behavior of employing a weapon,

as it may cause serious violence, including the death of the victim.

The eighth aggravating circumstance, lit.h, is where the offence resulted in severe physical or psychological harm for the victim. This indicates offences which cause particularly serious physical or psychological suffering, in particular long-term health consequences for the victim.

The last aggravating circumstance, lit.i, is where the perpetrator has previously been convicted of offences of a similar nature. By including this, the Authors draw attention to the particular risk of recidivism for many of the offences covered by the Convention, in particular domestic violence.

Indicators

The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions that ensure that circumstances described in Article 46 are taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention.

Answer:

The percentage of court decisions where some of the circumstances described in Article 46 are taken as aggravating circumstances in the determination of the criminal or misdemeanour sentence, in comparison to the total number of court decision, disaggregated by all forms of violence covered by the scope of this Convention, annually.

Answer:

Methodology of Data Collection/Sources

- Report on monitoring of judicial proceedings in Bosnia and Herzegovina

***RECOMMENDATIONS FROM THE
RESPONSES, UPON THE ANALYSIS OF
DATA COLLECTED FROM RELEVANT SOURCES:***

The Article 30 – Compensation

The Article 31 – Custody, Visitation Rights, and
Safety

The Article 45 – Sanctions and Measures

The Article 46 – Aggravating Circumstances

CHAPTER VI

INVESTIGATION, PROSECUTION,
PROCEDURAL LAW, AND
PROTECTIVE MEASURES
(ARTICLES 49-58)

The Article 51 – Risk Assessment and Risk Management

1. Parties shall take the necessary legislative or other measures to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide coordinated safety and support.
2. Parties shall take the necessary legislative or other measures to ensure that the assessment referred to in the Paragraph 1 duly takes into account, at all stages of the investigation and application of protective measures, the fact that perpetrators of acts of violence covered by the scope of this Convention possess or have access to firearms.

Explanation of the Article

Concerns for the victim's safety must lie at the heart of any intervention in cases of all forms of violence covered by the scope of this Convention. This Article therefore establishes the obligation to ensure that all relevant authorities, not limited to the police, effectively assess and devise a plan to manage the safety risks a particular victim faces on a case-by-case basis, according to standardized procedure and in co-

operation and co-ordination with each other. Many perpetrators threaten their victims with serious violence, including death, and have subjected their victims to serious violence in the past. It is therefore essential that any risk assessment and risk management consider the probability of repeated violence, notably deadly violence, and adequately assess the seriousness of the situation.

The purpose of this provision is to ensure that an effective multi-agency network of professionals is set up to protect high-risk victims. The risk assessment must therefore be carried out with a view to managing the identified risk by devising a safety plan for the victim in question in order to provide co-ordinated safety and support if necessary.

However, it is important to ensure that any measures taken to assess and manage the risk of further violence allow for the rights of the accused to be respected at all times. At the same time, it is of paramount importance that such measures do not aggravate any harm experienced by victims and that investigation and judicial proceedings do not lead to secondary victimization.

The Paragraph 2 extends the obligation to ensure that the risk assessment referred to in the

first paragraph of this article duly takes into account reliable information on the possession of firearms by perpetrators. The possession of firearms by perpetrators not only constitutes a powerful means to exert control over victims, but also increases the risk of homicide. This is particularly the case in post-conflict situations or in countries with a tradition of firearms ownership, which can provide perpetrators with greater access to these weapons. However, very serious cases of violence against women and domestic violence are committed with the use of firearms in all other countries as well. For this reason, the drafters felt it essential to place on the countries members the obligation to ensure that any assessment of the risks faced by a victim should systematically take into consideration, at all stages of the investigation and application of protective measures, whether the perpetrator legally or illegally possesses or has access to firearms in order to guarantee the safety of victims. For example, in issuing emergency barring orders, restraining or protection orders, and when sentencing following criminal convictions for any of the forms of violence covered by the scope of this Convention, the countries members may adopt, within their domestic legal systems, such measures as may be necessary to enable immediate confiscation of firearms and ammunition. Additionally, in order to cover all weapons that could be used in

serious cases of violence, notably combat-type knives, the Parties are encouraged to take into account, as far as possible, the possession of or access to such weapons.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide co-ordinated safety and support.

Answer:

2. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that the assessment referred to in paragraph 1 is taken into account at all stages of the investigation and application of protective measures.

Answer:

3. The percentage of cases where risk management plan was created (the protection plan according to the assessed risk), disaggregated by all forms of violence covered by the scope of

this Convention, in comparison to the total number of such reported cases, annually.

Answer:

Methodology of Data Collection/Sources

- Collecting and analyzing relevant laws and other legal documents (for example, the laws on protection from domestic violence)
- Previously implemented researches and data from NGOs

The Article 52 – Emergency Barring Orders

Parties shall take the necessary legislative or other measures to ensure that the competent authorities are granted the power to order, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Measures taken pursuant to this Article shall give priority to the safety of victims or persons at risk.

Explanation of the Article

In situations of immediate danger, the most effective way of guaranteeing the safety of a domestic violence victim is by achieving physical distance between the victim and the perpetrator. In many cases, this requires one of the two to leave, for a certain period of time, the joint residence or the perpetrator to leave the victim's residence. Rather than placing the burden of hurriedly seeking safety in a shelter or elsewhere on the victim, who is often accompanied by dependent children, often with very few personal affairs and for an indefinite period of time, the drafters considered it important to ensure the removal of the perpetrator to allow the victim to remain in the home. Therefore,

this provision establishes the obligation of equipping the competent authorities, with the power to order, a perpetrator of domestic violence to leave the residence of the victim and to bar him or her from returning or contacting the victim. The immediate danger must be assessed by the relevant authorities. The Authors decided to leave to the Parties to decide on the length of period for such an order, but the period should be sufficient to provide effective protection to the victim. Existing examples of such orders in the Council of Europe member states range between 10 days and four weeks, with or without the possibility of renewal. Equally, the drafters decided to leave to the countries members to identify and empower, in accordance with their national legal and constitutional systems, the authority competent to issue such orders and the applicable procedure.

The term “immediate danger” refers to any situations of domestic violence in which harm is imminent or has already materialized and is likely to happen again.

Lastly, this provision requires the Parties to ensure that any measures taken in its implementation give due consideration to the safety of the victim or person at risk. This shows the protective nature of this measure.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that the competent authorities are granted the power to order the perpetrator of domestic violence, immediately or with 24 hours deadline, in situations of immediate danger, to vacate the residence of the victim or person at risk for a sufficient period of time.

Answer:

2. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that the competent authorities are granted the power to prohibit the perpetrator, immediately or with 24 hours deadline, in situations of immediate danger, from entering the residence of or contacting the victim or person at risk.

Answer:

3. The percentage of cases in which competent authorities issued immediate order to perpetrators of domestic violence to vacate the residence of the victim or person at risk for a sufficient period of time, in comparison to the total

number of reports of domestic violence annually.

Answer:

4. The percentage of cases in which competent authorities issued immediate order to perpetrators of domestic violence prohibiting perpetrators from entering the residence of or contacting the victim or person at risk, in comparison to the total number of reports of domestic violence annually.

Answer:

5. How many emergency barring orders were issued in the past two years; provide, if possible, the data on annual level?

Answer:

6. Are emergency barring orders achieving the objective?

Answer:

Methodology of Data collection/Sources

- Collecting and analyzing relevant legal documents (for example, the laws on protection from domestic violence, the criminal codes)

- Results of the monitoring of judicial proceedings in Bosnia and Herzegovina

The Article 53 – Restraining or Protection Orders

1. Parties shall take the necessary legislative or other measures to ensure that appropriate restraining or protection orders are available to victims of all forms of violence covered by the scope of this Convention.

2. Parties shall take the necessary legislative or other measures to ensure that the restraining or protection orders referred to in the Paragraph 1 are:

- Available for immediate protection and without undue financial or administrative burdens placed on the victim;
- Issued for a specified period or until modified or discharged;
- Where necessary, issued on an ex parte basis which has immediate effect;
- Available irrespective of, or in addition to, other legal proceedings;
- Allowed to be introduced in subsequent legal proceedings.

3. Parties shall take the necessary legislative or other measures to ensure that breaches of restraining or protection orders issued pursuant to the Paragraph 1 shall be subject to effective,

proportionate and dissuasive criminal or other legal sanctions.

Explanation of the Article

This provision sets out the obligation to ensure that national legislation provides for restraining and/or protection orders for victims of all forms of violence covered by the scope of this Convention. Furthermore, it establishes a number of criteria for such orders to ensure that they serve the purpose of offering protection from further acts of violence.

Although this provision refers to restraining "or" protection orders, the Authors had in mind that the national legislation of certain countries members may provide for the combined use of restraining and protection orders. A restraining or protection order may be considered complementary to a short-term emergency barring order. Its purpose is to offer a fast legal remedy to protect persons at risk of any of the forms of violence covered by the scope of this Convention by prohibiting, restraining or prescribing a certain behavior by the perpetrator.

This wide range of measures covered by such orders means that they exist under various names such as restraining order, barring order, eviction order, protection order or injunction.

Despite these differences, they serve the same purpose: preventing the acts of violence and protecting the victim. For the purpose of this Convention, the Authors decided to use the term restraining or protection order as an umbrella category.

The Authors decided to leave to the Parties to choose the appropriate legal regime under which such orders may be issued. Whether restraining or protection orders are based in civil law, criminal procedure law or administrative law or in all of them will depend on the national legal system and above all on the necessity for effective protection of victims.

The Paragraph 2 contains a number of specifications for restraining and protection orders. The first indent requires these orders to offer immediate protection and to be available without unnecessary financial or administrative burdens placed on the victim. This means that any order should take effect immediately after it has been issued, and shall be available without lengthy court proceedings. Any court fees imposed against the applicant, most likely the victim, shall not constitute an undue financial burden which would prevent the victim from applying. At the same time, any procedures set up to apply for a restraining or protection order

shall not present insurmountable difficulties for victims.

The second indent calls for the order to be issued for a specified or a determined period or until modified or discharged. This follows from the principle of legal certainty that requires the duration of a legal measure to be spelt out clearly. Furthermore, it shall cease to be in effect if changed or discharged by a judge or other competent official.

The third indent requires the Parties to ensure that in certain cases these orders may be issued, where necessary, on an *ex parte* basis with immediate effect. This means a judge or other competent official would have the authority to issue a temporary restraining or protection order based on the request of one party only. It should be noted that, in accordance with the general obligations provided for under Article 49 (2) of this Convention, the issuing of such orders must not be prejudicial to the rights of the defense and the requirements of a fair and impartial trial, in conformity with Article 6 ECHR. This means notably that the person against whom such an order has been issued should have the right to appeal it before the competent authorities and according to the appropriate internal procedures.

The fourth indent seeks to ensure the possibility for victims to obtain a restraining or protection order whether or not they choose to set in motion any other legal proceedings. For example, where such orders exist, research has shown that many victims who want to apply for a restraining or protection order may not be prepared to press criminal charges (that would lead to a criminal investigation and possibly criminal proceedings) against the perpetrator. Standing to apply for a restraining or protection order shall therefore not be made dependent on the institution of criminal proceedings against the same perpetrator. Similarly, they should not be made dependent on the institution of divorce proceedings, etc. At the same time, the fact that criminal or civil proceedings concerning the same set of facts are underway against the same perpetrator shall not prevent a restraining or protection order from being issued. This, however, does not exclude the right of the countries members to provide in national legislation that after receiving a motion to issue a restraining or protective order, criminal proceedings may be instituted.

The fifth indent requires the Parties to take measures to ensure that the existence of a restraining or protection order may be introduced in any other legal proceedings against the same perpetrator. The aim of this provision is to

allow for the fact that such an order has been issued against the perpetrator to be known to any other judge presiding over legal proceedings against the same person.

The Paragraph 3 aims at ensuring respect for restraining and protection orders by requiring “effective, proportionate and dissuasive” sanctions for any breach of such orders. These sanctions may be of a criminal law or other legal nature and may include prison sentences, fines or any other legal sanction that is effective, proportionate and dissuasive.

Lastly, since establishing the truth in domestic violence cases may, at times, be difficult, the Parties may consider limiting the possibility of the adversary/the perpetrator to obstruct attempts of the victim to seek protection by taking the necessary measures to ensure that, in cases of domestic violence, restraining and protection orders as referred to in the Paragraph 1 may not be issued against the victim and perpetrator mutually. Also, the countries members should consider banning from their national legislation any notions of provocative behavior in relation to the right to apply for restraining or protection orders. Such concepts allow for abusive interpretations that aim at discrediting the victim and should be removed from domestic violence legislation.

Finally, the Parties may also consider taking measures to ensure that standing to apply for restraining or protection orders referred to in the Paragraph 1 is not limited to victims. These measures are of particular relevance in relation to legally incapable victims, as well as regarding vulnerable victims who may be unwilling to apply for restraining or protection orders for reasons of fear or emotional turmoil and attachment.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that appropriate restraining or protection orders are available to victims of all forms of violence covered by the scope of this Convention.

Answer:

2. The percentage of issued restraining or protection orders in comparison to the total number of requested orders, disaggregated by all forms of violence covered by the scope of this Convention, annually.

Answer:

3. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that breaches of restraining or protection orders issued pursuant to the Paragraph 1, of the Article 53 shall be subject to effective, proportionate and dissuasive criminal or other legal sanctions.

Answer:

4. The percentage of ordered sanctions for breaches of restraining or protection orders, in comparison to the total number of such orders, disaggregated by all forms of violence covered by the scope of this Convention, annually.

Answer:

5. Are the courts imposing restraining or protection orders and to what extent?

Answer:

6. Are restraining or protection orders reaching their objective?

Answer:

Methodology of Data Collection/Sources

- Collecting and analyzing relevant legal documents (for example, the laws on protection from domestic violence, the criminal codes)
- Results of the monitoring of judicial proceedings in Bosnia and Herzegovina

The Article 57 – Legal Aid

Parties shall provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law.

Explanation of the Article

In the immediate aftermath of violence many victims of violence against women and domestic violence may be forced to leave all their belongings or jobs behind on a moment's notice. Judicial and administrative procedures are often highly complex and victims need the assistance of legal counsel to be able to assert their rights satisfactorily. In these cases, it might be difficult for victims to effectively access legal remedies because of the high costs which can be involved in seeking justice. For this reason the Authors believed it essential to place an obligation on the countries members to provide for the right to legal assistance and free legal aid for victims under the conditions provided by their internal law.

This provision is inspired by the Article 15, Paragraph 2, of the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No.197). The Article 57 does not give the victim an automatic right to free legal aid. It is for each country members to decide the requi-

rements for obtaining such aid. In addition to this provision, the countries members must take account of the Article 6 ECHR. Even though the Article 6, the Paragraph 3 (c) ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, the European Court of Human Rights case-law (*Airey v. Ireland* judgment, 9 October 1979) also recognizes, in some circumstances, the right to free legal assistance in a civil matter on the basis of the Article 6, the Paragraph 1 ECHR, interpreted as establishing the right to a court for determination of civil rights and obligations (see *Golder v. the United Kingdom*, judgment of 21 February 1975). The Court's view is that effective access to a court may necessitate free legal assistance. Its position is that it must be ascertained whether appearance before a court without the assistance of a lawyer would be effective in the sense that the person concerned would be able to present their case properly and satisfactorily. Here the Court has taken into account the complexity of procedures and the emotional character of a situation - which might be scarcely compatible with the degree of objectivity required by advocacy in court - in deciding whether someone was in a position to present her or his own case effectively. If not, he or she must be given free legal assistance. Thus, even in the absence of legislation granting free legal assistance in civil matters, it must

be assessed whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

Indicators

1. The level of incorporation in relevant laws/by-laws/strategies and policies of measures/provisions to ensure that victims of all forms of violence covered by the scope of this Convention are provided with the right to legal assistance and to free legal aid under the conditions provided by the internal law.

Answer:

2. The number of offices/organizations that provide free legal aid to victims of all forms of violence covered by the scope of this Convention, disaggregated by: a) region/town, b) type of provided legal aid, c) type of provider (lawyers, public sector, non-governmental organizations).

Answer:

3. The percentage of relevant women's non-governmental organizations that receive state funds for providing free legal aid to victims of all forms of violence covered by the scope of

this Convention, in comparison to the total number of women's non-governmental organizations that provide such aid, annually.

Answer:

Methodology of Data Collection/Sources

- Collecting and analysis of the relevant legal documents (for example, the laws on protection from domestic violence, the laws on free legal aid)
- Previously implemented researches and reports of NGOs (for example, the publications of the Sarajevo Open Center and the Foundation for Local Democracy)

RECOMMENDATIONS FROM THE RESPONSES, UPON THE ANALYSIS OF DATA COLLECTED FROM RELEVANT SOURCES:

The Article 51 – Risk Assessment and Risk Management

The Article 52 – Emergency Barring Orders

The Article 53 – Restraining or Protection Orders

The Article 57 – Legal Aid

CHAPTER VII

CHAPTER VII – MIGRATION AND ASYLUM
(ARTICLES 59-61)

The Article 59 – Residence Status

1. Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognized by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by the internal law.

2. Parties shall take the necessary legislative or other measures to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to a residence status dependent on that of the spouse or partner as recognized by internal law to enable them to apply for an autonomous residence permit.

3. Parties shall issue a renewable residence permit to victims in one of the two following situations, or in both:

a. Where the competent authority considers that their stay is necessary owing to their personal situation;

b. Where the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.

4. Parties shall take the necessary legislative or other measures to ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status.

Explanation of the Article

Research has shown that fear of deportation or loss of residence status is a very powerful tool used by perpetrators to prevent victims of violence against women and domestic violence from seeking help from authorities or from separating from the perpetrator. Most of the Council of Europe member states require spouses or partners to remain married or in a relationship for a period ranging from one to three years for the spouse or partner to be granted an autonomous residence status. As a result, many victims whose residence status is dependent on that of the perpetrator stay in relationships where they are forced to endure situations of abuse and violence for long periods of time.

The Paragraph 3 is inspired by Article 14 (1) of the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No.197). The Paragraph places the obligation on the Parties to issue victims of domestic violence with renewable residence permits under the conditions established by internal law. It lays down two requirements for issuing a residence permit. Firstly, it covers situations where the victim's personal circumstances are such that it would be unreasonable to compel them to leave the national territory (lit.a). Whether the victim meets the personal situation requirement is to be decided on account of factors such as the victim's safety, state of health, family situation, or the situation in their country of origin among others. Secondly, it establishes the requirement of the co-operation with the competent authorities in cases where investigation or criminal proceedings have been initiated against the perpetrator (lit.b). This means that a residence permit may be granted to the victim if the co-operation and testimony of the victim are necessary in investigation and criminal proceedings.

Indicators

1. The percentage of women whose expulsion proceedings were suspended due to their

status of victim of violence, in comparison to the total number of such cases annually.

Answer:

2. The number of (re)issued residence permits to women that were granted such right based on the fact that they were victims of some type of violence covered by the scope of this Convention, in comparison to the total number of residence permits issued to women (whose status has expired), annually.

Answer:

Methodology of Data Collection/Sources

- Inquiry to NGOs that provide assistance and support, as well as legal aid

- Inquiry to authorized Ministry of Security and asylum center

The Article 60 – Gender Based Asylum Claims

1. Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognized as a form of persecution within the meaning of the Article 1, A (2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection.
2. Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.
3. Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.

Explanation of the Article

Asylum law has long failed to address the difference between women and men in terms of

why and how they experience persecution. This gender blindness in the establishment of refugee status and of international protection has resulted in situations where claims of women fleeing from gender-based violence have gone unrecognized.

Regarding persecution on the grounds of race or on the grounds of nationality, women may face certain types of persecution that specifically affect them. Examples are sexual violence and control of reproduction in cases of racial and ethnic “cleansing”. Concerning persecution on the grounds of religion, women may be persecuted for not conforming to religious norms and customs of acceptable behavior. Persecution on the grounds of membership of a particular social group has increasingly been put forward in gender-related claims and has gradually acquired international support. In considering women fleeing from gender-related persecution such as female genital mutilation, forced marriage and even serious domestic violence as forming a “particular social group”, women may be granted asylum. Finally, persecution on the ground of political opinion can include persecution on the grounds of opinions regarding gender roles.

Indicators

1. The number of gender sensitive guidelines and procedures for asylum on state, regional and local level.

Answer:

2. The percentage of women granted asylum based on the fact that they are the victims of gender based violence.

Answer:

3. The number of providers of support services for asylum seekers, disaggregated by: a) region/town and b) type of service provider (public, private, civil sector).

Answer:

Methodology of Data Collection/Sources

- Collecting and analyzing relevant laws
- Inquiry to NGOs that provide assistance and support, as well as legal aid
- Inquiry to authorized Ministry of Security and asylum center

RECOMMENDATIONS FROM THE RESPONSES, UPON THE ANALYSIS OF DATA COLLECTED FROM RELEVANT SOURCES:

The Article 59 – Residence Status

The Article 60 – Gender Based Asylum Claims

ANNEXES:**ANNEX 1: the Istanbul Convention**

The text of the Convention available at the official web page of the Council of Europe at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046246e>

ANNEX 2: Aide-memoire DLAPIL1/2018 JP/DG

The Text available at:

<https://www.hkv.hr/images/stories/Documents02/Istanbulska-konvencija-pravno-tumacenje.pdf>

¹ Updated list of the countries that signed, and signed and ratified the Convention is available at:

<https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures>

² The text of the Questionnaire is available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805c95b0>

³ The Calendar with the Reporting Schedule is available at: <https://www.coe.int/en/web/istanbul-convention/timetable>

⁴ DLAPIL1/2018 JP/DG, For more about „Aide-memoire“ see the link:

<https://www.hkv.hr/images/stories/Documents02/Istanbulska-konvencija-pravno-tumacenje.pdf>

⁵ See, for example: <https://faktor.ba/vijest/zagreb-masovni-protesti-protiv-ratifikacije-istanbulske-konvencije-289327>,

<https://www.euractiv.com/section/future-eu/news/after-bulgaria-slovakia-too-fails-to-ratify-the-istanbul-convention/>,

<https://www.reuters.com/article/us-bulgaria-church-treaty/treaty-opposing-violence-against-women-will-lead-to-moral-decay-bulgarian-church-says-idUSKBN1FB2LS>,

<https://www.baltictimes.com/latvia-bristles-against-the-istanbul-convention-combating-violence-against-women/>

⁶ The chapter related to indicators for monitoring implementation of the Istanbul Convention and reporting is providing specific articles of the Convention, as well as explanations of relevant articles.

⁷ The Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence, is the regional instrument opened for ratification and accession also to the countries that are not members of the Council of Europe. It complements and extends the standards set by the other human rights organizations in this area. The Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women, adopted by the Organization of American States in 1994, as well as the Protocol of the African Charter on Human and People's Rights on Rights of Women in Africa, adopted by the African Union in 2003, are dealing with the issue of violence against women. The Council of Europe Convention is more comprehensive, and it places greater focus on the activities of prevention and combating violence against women and domestic violence at the global level.

⁸ The Convention was opened for signing at 121st session of the Council of Ministers of the Council of Europe, held in Istanbul on 11 May, 2011.

⁹ From the Explanation of the Istanbul Convention, Point 29.

¹⁰ Text of the Convention is available at the following link:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168046246e>

¹¹ The first ten members of GREVIO were elected on 4 May, 2015. Composition of GREVIO is available at:

<https://www.coe.int/en/web/istanbul-convention/members>

¹² Text of the Questionnaire is available at:

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805c95b0>.

¹³ GREVIO is preparing the draft report containing its analysis concerning the implementation of the provisions on which evaluation is based, as well as its suggestions and proposals concerning the way in which the country member may deal with the problems which have been identified. The draft report is sent for comments to the country member that undergoes evaluation, and its comments shall be taken into account by GREVIO when adopting its report. (Paragraph 10). On the basis of all information received and the comments by the country member, GREVIO is adopting its report and conclusions concerning the measures taken by the country member with objective of implementing provisions of the Convention. This report and

conclusions are sent to the country member and to the Committee of the Parties. The report and conclusions of GREVIO are made public following the adoption, together with subsequent comments of the country member (Paragraph 11).

¹⁴ Similarly to the Article 21, Paragraph 1 of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW), as well as, for example, General Recommendations 19 and 35 of the Committee that monitors and evaluates implementation of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW).

¹⁵ Information available at the following link: [https://www.coe.int/en/web/istanbul-convention/ngo#{%2221672146%22:\[0\]}](https://www.coe.int/en/web/istanbul-convention/ngo#{%2221672146%22:[0]})

¹⁶ Revised Temporary Schedule for the First (Basic) Evaluation Procedure: 2016-2020, <https://rm.coe.int/ic-inf-2016-2-rev4-eng/pdfa/16808af633>, Detailed revised schedule for all countries members can be accessed at the following link: <https://rm.coe.int/ic-inf-2016-2-rev4-eng/pdfa/16808af633>

¹⁷ Requests for data and information will always relate on the two whole calendar years before receiving the Questionnaire!

¹⁸ Calendar of Reporting (when preparing this Toolkit) available at the following link: <https://www.coe.int/en/web/istanbul-convention/timetable> i <https://rm.coe.int/ic-inf-2016-2-rev4-eng/pdfa/16808af633>

¹⁹ Ignjatović, Kuka, Indicators for Monitoring Implementation of the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence, Banja Luka, 2014, available at: <http://www.potpisujem.org/bih/indikatori/clan/3/2016>

²⁰ Petrić N, Galić, Analysis of Harmonization of the Legislation and Public Policies in B&H with the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence. United Women, Banja Luka, 2015.

TITLE

Toolkit for Monitoring Implementation of the
Council of Europe Convention on Preventing
and Combating Violence Against Women and
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AUTHORS

Sc.D. Natalija Petrić, Sc.M. Sabiha Husić, Irma Šiljak

TRANSLATION

Sc.D. Minja Golubović

PUBLISHER

Foundation United Women Banja Luka

FOR THE PUBLISHER

Nada Golubović

EDITOR

Nada Golubović

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