



Strasbourg, 3 February 2014

GEC (2013) 12 rev

**Compilation of Contributions
from Member States on Key Challenges and Good
Practices on
Access to Justice for Women
Victims of Violence
at National Level**

**Compilation des contributions
des États membres sur Principaux Défis et Bonnes
Pratiques en matière
Accès à la justice pour les femmes
Victimes de Violence
au Niveau National**

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ALBANIA

The Albanian state has undertaken important legal and binding engagements, at the international and national level, in order to fight discrimination and promote and turn gender equality into reality. In this context, the governmental structures, in cooperation with civil society and international organizations have worked particularly as regards the improvement of the legislation of gender sensitive policies. Due to the fact that few years have passed from the approval and the implementation of fundamental laws such as the Gender Equality Law or the Law "On measures against domestic violence", the Law for the Protection against Discrimination or improvements in particular areas of the legislation we can state, based on facts, that the Albanian legislation is *generally* in accordance with the standards of CEDAW, the basic convention for women rights, but also with other international instruments ratified by Albania in the realm of human rights.

Albania was the second to ratify the Istanbul Convention, thus demonstrating commitment for a Europe free from violence against women and domestic violence, particularly in light of our integration process and the recent recommendation of the European Commission on the candidate status for Albania.

The access of women in justice is without any doubt one of the important points which embodies many components, and is very important in achieving a *de facto* implementation of the rights acknowledged by the legislation.

I. One of the components that of the improvement of the legislation and the approximation with international standards and those of the EU, is now a clearly evident fact.

- One of the main achievements in this area is the approval of the Law No. 9970, date 24.07.2008 "On gender equality in society", a law that has in its fundamentals the principles of the Convention "On the elimination of all forms of discrimination against women" CEDAW as well as some of the recommendations of the Council of Europe on gender issues; this law ensures the efficient protection from gender discrimination and any form of behaviour which incites discrimination based on gender.

- Another important achievement in the fulfilment of the legal framework related to the protection of women's rights against violence they submit at the domestic level has been marked with the approval in 2006 of the Law No. 9669, date, 18.12.2006, "On measures against domestic violence", a law that aims "the prevention and reduction of domestic violence in all its forms, through appropriate legal measures, as well as the guaranteeing of protection of family members that are victims of domestic violence through legal measures, and bearing special attention to children, elderly people and people with disabilities". With improvements made to this law in September 2010 was made possible the opening of the National Center for the Rehabilitation of Victims of Domestic Violence, the institution of the Mechanism of Referral of Victims of Domestic Violence, as well as the guaranteeing of free legal assistance for victims of domestic violence.
- The approval from the Assembly of the Republic of the Law No. 10221, date 4.2.2010, "On Protection from Discrimination", in the meantime represents a concrete step in the field of protection of human rights under the spirit of international documents and at the same time is a concrete step for the fulfilment of standards and aspirations of the Albanian Government for the membership in the EU. In the meantime, the implementation of this law and the empowerment of the Office of the Commissioner for the Protection from Discrimination mark another guarantee for the protection of the rights of women and girls as well as all other groups that are discriminated in practice.
- For the support of women and girls that are victims of trafficking, and victims of domestic violence, the Albanian Government has approved some changes in the Law "On economic assistance and social services" which aim in providing social aid to these categories.
- In 2012, for the first was introduced the domestic violence provision as a criminal offense in the Penal Code and sentences were hardened. Other changes were made in May 2013 by the Albanian Penal Code, which toughened sanctions for perpetrators of domestic violence and the inclusion in the criminal code of the marital rape.
- The Government is committed to implement the National Strategy on Gender Equality, Gender-Based and Domestic Violence (2011-2015), particularly the measures and actions targeting eradication of domestic violence.

- The Ministry of Justice has undertaken a series of legal measures to ensure women's access to the legal protection schemes, such as the law for judicial assistance.
- Also, in view of ensuring women's access to protection schemes we should mention the new law for mediation and its related sub-acts.

II – The strengthening of the state mechanism structures for gender equality and the fight against violence on women, the increase of coordination between structures at the central and local level through the increase of the role of gender-focused officials, the increase of the role of the National Council for Gender Equality in the examination and taking of important decisions, the training of professionals on issues of gender equality and violence against women are another important element in the improvement of women and girls' access to justice.

In the framework of the institutional strengthening of specific capacities in response of victims of domestic violence have been undertaken and are still ongoing several training of police officials, judges, prosecutors, coroner's, bailiffs and other specialists in the field of public healthcare, education, social services etc.

To improve support to domestic violence survivors, Albania is progressing with establishment of the National Coordination and Referral Mechanism against Domestic Violence in municipalities across the country. This Mechanism, already operating in some 24 municipalities will be further consolidated and established in more local government units. The Mechanism combines the talents and resources of several professional disciplines, namely the public agencies, civil society organizations, religious communities, media etc. in order to provide support, manage the case and think of longer terms solutions for survivors of domestic violence at the community level.

III – The increase of women's decision-making power within the justice system is another important component. This is an obligation of the Law on Gender Equality but also a demand of the changing times as well as the reaching of standards of gender equality. Many girls are now following the Faculty of Justice, in a ratio almost equal to the male one. Many of these girls also seek to study and fulfil academic achievement further one. The legislation uses a neutral language from the gender perspective, thus women have no legal hurdles to present themselves in trials and courts. Additionally, women can partake in the judicial process as judges, prosecutors, attorneys, experts, etc. while these functions do have limitations or criteria related to the qualification of the individual, these are not related to the individual's gender.

The promotion of the principle of gender equality and the reinforcement of protection legal and institutional instruments, aims to increase women's access in all government levels, especially women's access to justice. It was sanctioned gender neutral quota in the Electoral Code by 30%. Referring to the recent Parliamentary elections, out of total 140 seats in Parliament, 25 MPs are women or 17.1%. The New Government Cabinet, from 19 Ministries, 6 Ministries are headed by women or 31%. On the other hand 8 out of 23 or 34 % are women Deputy Ministers.

During this period, women have held key decision positions such as; Speaker of Parliament, President of the Supreme Court, Prosecutor General, the CEC Chair and Chair of the High Inspectorate of Declaration of Assets etc. The appointment of women in ministries which traditionally have been run by men, as the case of the Ministry of Defence, clearly shows that the change of mentality and masculine stereotypes is already evident. The figures also indicate that women in public administration are not only capable specialists but they hold leading positions such as Heads of Departments which consist 43%, and other high level positions such as the general secretary or director general which consist up to 29%. Recently the new elected government has appointed young women in key positions as the Director General of Customs, Director General of Taxes. Judge women constitute about 43.6 % of the total number of judges.

IV – It is important to mention the role of women that actually deal with the drafting and approving of laws. Many professionals who support the need for Albanian women to reach a higher status in the public and private realm, have provided their contribution in drafting, lobbying and support for important laws that directly influence women and gender equality.

Honoured professors in this field have often been supportive of our programmes for training the public administration in issues of gender equality and legislation. They have supported us with juridical consultancy and have partaken in the drafting of laws and bylaws above mentioned.

ARMENIA

GOOD PRACTICES AND KEY CHALLENGES IN THE FIELD OF GENDER EQUALITY IN THE REPUBLIC OF ARMENIA

GOOD PRACTICES

In **February 2010** the Armenian government adopted **Gender policy concept** which defines the strategy and the main directions of the government towards different aspects of social life for providing equal rights and equal opportunities for the people regardless their gender.

In **May 2011** by the government decrees 2 strategic programs were adopted: **strategic program on Gender policy** and strategic program **Against gender based violence** in the Republic of Armenia for the years 2011-2015. In accordance with above mentioned two strategic programs, each year, starting from 2011 the government adopts **annual action plans** on gender policy and against gender based violence which are supervised by the Ministry of labour and social affairs of RA.

In 2011, the Women Council (WC) at the Prime Minister made changes in the Prime-Minister Decree on WC status and membership in order to ensure a necessary platform for transforming WC into **National mechanism on gender equality**. By the support of UNICEF Armenia Office and Gender Team Group (GTG) consisted of the representatives of the international organizations and local NGOs the appropriate mechanism are elaborated and currently are in the process of discussions.

In 2011 and 2012, the Women Council at the Prime Minister in cooperation with the Ministry of Territorial Administration and the Ministry of Economy of RA announced **Prime Minister's Awards** for the best community leader on solving gender-related issues, and for the best female entrepreneur. In April 2013, the Women Council announced another Prime Minister **Award for the journalists** who at the best way elucidate and cover gender problems as well as combat gender stereotypes in all types of Media, including social networks. The criteria for competitions are adopted by the Women Council and the special jury will select the candidates and winners in March 2014.

In **May 2013** the law of the Republic of Armenia "**On Equal Rights and Equal Opportunities of Women and Men**" was adopted which is yet considered as the most outstanding step towards gender equality in the Armenian society.

CHALLENGES

The main challenge in gender issues is related to the specific perceptions of **gender roles and gender statuses** in the contemporary Armenian society.

Armenian culture has historically stressed a **division of domains among the sexes**. The home/household is considered as a woman's domain. In the domestic sphere, women have no choice when it comes to the chores. It is considered their duty and responsibility to maintain the household.

Despite the noticeable growth during last 10 years, **women representation** in the government and juridical bodies, in political parties and in the top positions of businesses is yet inferior.

The above mentioned issues rise with the misinterpretation and misunderstanding of gender related reforms. The most recent example is the **scandalous battle** of some NGOs and religious organizations against the already adopted Law "On Equal Rights and Equal Opportunities of Women and Men". The social reaction was outrageous because of the misunderstanding of gender terminology of the law, which is identified with homosexuality. The National Assembly of Armenia decided to organize a series of roundtable discussions to be aimed at clarification of law's terms as well as interpretation of its objectives and statements.

The next issue that face the authorities in gender equality field is the **non-equal participation of males and females in the solving of gender related problem**. For instance, gender trainings organized by the NGOs and government authorities are mostly attended by women. Another issue is that the nongovernmental institutes involved in gender affairs are almost managed by women. This naturally leads from gender policy implementation to the women rights' protection and may turn into feminist movement, which is obviously not the point.

Another issue with the gender policy implementation was the failure of the **"Draft law on domestic violence"**. Several NGO's that were involved in the law drafting process are disappointed with the decision of the Government to incorporate the "working" ideas of the draft law into the appropriate national legislation and to drop out those parts, which are considered by the government experts as anti-constitutional.

AUSTRIA

"Protection Against Violence Act"

The "Protection Against Violence Act" Federal Act on the Protection against Domestic Violence (Bundesgesetz zum Schutz vor Gewalt in der Familie) BGBl. No. 759/1996 took effect on 1 May 1997. This act created the statutory prerequisites for fast and efficient protection of victims of domestic violence.

Further improvements followed with the amendment of the Security Police Act (Sicherheitspolizeigesetz), BGBl. I No. 146/1999, effective since 1 January 2000, and the Enforcement Code (Exekutionsordnung / EO), BGBl. I No. 31/2003, effective since 1 January 2004.

A comprehensive revision of the legal prerequisites took place with the Second Protection Against Violence Act (Zweites Gewaltschutzgesetz), BGBl. I No. 40/2009, in force since 1 June 2009, and was taken further with an amendment of the Security Police Act, BGBl. I Nr. 152/2013, effective since 1 September 2013.

The Protection Against Violence Act authorises the police to impose a barring order against an endangering person and to evict him from the domicile of the endangered person in case of refusal to leave. The underlying principle, "Whoever hits must leave", allows the endangered individual to remain in her/his familiar surroundings.

If prolonged protection against the endangering person is required, the endangered person can apply for a court injunction. Depending on the violent or endangering situation, this application can request that the endangering person:

- be banned for a defined period from entering the apartment and its immediate neighbourhood - "Protection against violence in apartments (Schutz vor Gewalt in Wohnungen)", section 382b of the Enforcement Code), and/or
- be banned for a defined period from staying in certain places and from contacting the endangered person - "General protection against violence (Allgemeiner Schutz vor Gewalt)", section 382e of the Enforcement Code), and/or
- refrain from any encroachments on the endangered person's privacy - "Protection against invasion of privacy (Schutz vor Eingriffen in die Privatsphäre)", section 382g of the Enforcement Code).

An interim injunction can also be issued irrespective of a barring order imposed by the police and vice versa.

To ensure comprehensive support of endangered persons, so-called Violence Protection Centres (Intervention Centres against domestic violence) were set up in all federal states - partly with regional offices.

Barring and eviction order imposed by the police

Barring and eviction order regulations are laid down in section 38a of the Security Police Act (SPG).

The police are authorised to forbid an endangering person to enter the domicile of the endangered person and its immediate neighbourhood as well as to evict him if he refuses to leave. If the endangering person doesn't comply, (police) force can be used. Such measures are contingent on the foreseeable risk (e.g. based on previous violent acts) of his committing a dangerous assault on the life, health or freedom of a person who lives in this apartment.

The protection extends to all persons living in the apartment (house) irrespective of kinship and the ownership situation (wife, live-in partner, children, relatives, but also subtenant, co-inhabitants etc.).

It is possible to impose a barring order on any person who is potentially dangerous and evict him in case of refusal to leave, if necessary by police force - i.e. the owner of the apartment as well as an ex-boyfriend who "appears" in the apartment.

In such cases, the police will confiscate the endangering person's keys to the apartment and request him to give an address for the delivery of judicial writs.

The barring order extends to the apartment (house) and its immediate surroundings (e.g. stairway, drive, garden, underground car park). The police will define the protection zone in such a way as to ensure effective protection, and will inform the endangering person about the details.

The barring order is issued for a period of two weeks, with the police supervising compliance with the order within the first three days. If within these two weeks an application for an interim injunction is filed according to section 382b, the validity of the barring order is extended to four weeks. This gives the court time to decide on the application and ensures constant protection for the endangered person.

For the validity period of the barring order, the endangering person is prohibited from entering the apartment (house) and the defined protection zone, not even with the permission of the endangered person. In the event of non-compliance, the endangering person will be fined up to 500 euro for committing a regulatory offence and can be arrested if non-compliance continues. If he threatens or even injures the endangered person, he will be prosecuted under criminal law.

Further protection measures for persons under 14 years

If (also) a person under the age of 14 is endangered, the endangering person is also to be banned from entering an institutional child care facility, the school or school day care centre visited by this child and an area of 50 meters around the relevant building.

Violence Protection Centres/Intervention Centres against Domestic Violence

"Violence Protection Centres and Intervention Centres against Domestic Violence" (Gewaltschutzzentren / Interventionsstellen gegen Gewalt in der Familie) are facilities – provided by law and publicly financed – that specialise in comprehensive support for victims of domestic violence and stalking.

When the police have imposed a barring order, they will forthwith notify the local Violence Protection Centre/Intervention Centre. The Violence Protection Centre/Intervention Centre will then contact the endangered person, offering active help. Offers include preparing a safety plan, providing legal advice (e.g. with regard to applying for an interim injunction), as well as psychosocial support.

Also in cases of stalking the police can notify the Violence Protection Centre/Intervention Centre, which will actively contact the endangered person. Naturally, persons affected by domestic violence or stalking can also directly contact a Violence Protection Centre/Intervention Centre, i.e. without prior police intervention.

Prolonged protection by means of a court injunction

The relevant regulations are laid down in section 382b, section 382e and section 382g of the Enforcement Code (EO).

If the endangered person needs prolonged protection against the endangering person, she can apply for an interim injunction pursuant to section 382b and/or section 382e EO with the District Court (Bezirksgericht) of the place of residence of the endangered person. Such applications can be submitted without a lawyer.

However, legal advice is important for preparing all documents required by the court to make a decision. Documents include "attestations" (Bescheinigungsmittel) to prove the use of violence, such as medical evidence or photos. Further attestations are testimonies made by the affected woman or by witnesses. Legal advice is also provided by workers at the Violence Protection Centres/Intervention Centres, women's shelters or women's advice centres. The endangered person is entitled to attend the questioning in court with a trusted third party.

Interim injunction pursuant to section 382b EO "Protection against violence in apartments"

If the endangered person cannot be expected to tolerate any further cohabitation with the endangering person because the latter has physically assaulted the endangered person or threatened her with such assault, or subjects her to considerable psychological strain, she can apply for an interim injunction for the "Protection against violence in apartments (Schutz vor Gewalt in Wohnungen)". A further requirement is that the apartment must be urgently needed by the endangered person.

In such cases, the court can:

- order the endangering person to leave the apartment and its immediate neighbourhood, and
- ban the endangering person from returning to the apartment and its immediate neighbourhood.

Such injunctions can be issued for a maximum of six months. However, in the event of any of the proceedings listed in the Act being instituted within this period, for example divorce proceedings, it is possible to apply for an injunction to cover the period up to the termination of the proceedings.

Interim injunction pursuant to section 382e EO "General protection against violence"

If the endangered person cannot be expected to tolerate any contact with the endangering person because the latter has physically assaulted the endangered person or threatened her with such assault, or seriously harms her psychological health, she can apply for an interim injunction for the "General protection against violence (Allgemeiner Schutz vor Gewalt)". A further requirement is that this application does not conflict with any significant interests of the endangering person. It is not a requirement for the endangered person ever to have lived with the endangering person.

In such cases, the court can:

- ban the endangering person from being in precisely defined places (e.g. workplace of the endangered person, school or kindergarten of the children), and
- order the endangering person to refrain from meeting or contacting the endangered person.

Such injunctions can be issued for a maximum of one year; in the event of non-compliance by the endangering person, their validity can be extended for up to one more year. In the event of a concurrent application for an interim injunction "Protection against violence in apartments" and the opening of any of the related proceedings provided by law (such as divorce proceedings), the interim injunction for the "General protection against violence" can also cover the period up to the termination of the proceedings.

Regardless of the above, it is possible to bring an action to restrain the endangering person from meeting the plaintiff (the endangered person); this action can also extend the validity of the interim injunction until the court has taken its decision.

Interim injunction pursuant to section 382g EO for the "Protection against invasion of privacy" (stalking injunction)

Another option that may be used under certain conditions is an interim injunction for the Protection against invasion of privacy (Schutz vor Eingriffen in die Privatsphäre), the so-called stalking injunction. However, a barring order cannot be extended to four weeks if it was followed only by an application for a stalking injunction.

Violation of an Interim Injunction

If the endangering person violates an interim injunction "Protection against violence in apartments" he will be fined up to 500 euro for committing a regulatory offence. The same regulations apply if the endangering person violates an order to keep away from specified areas, to avoid an encounter with the endangered person and/or violates an order to refrain from getting into personal contact with that person or to stalk it. In case of persistent violation he can also be arrested.

The criminal offence "Persistent perpetration of violence"

Along with the Second Protection Against Violence Act, the criminal offence "persistent perpetration of violence" ("fortgesetzte Gewaltausübung", section 107b StGB) was introduced. It allows for the examination of acts of violence (e.g. serious threats, maltreatments, physical violence) that took place over a longer period - as they regularly do in cases of domestic abuse - in their entirety and provide for more severe punishment.

The law stipulates imprisonment for up to three years. Cases of aggravating circumstances are subject to (much) higher penalties, e.g. sexual violence, persistent violence against children (up to 14 years), frail persons or handicapped persons and/or especially long duration or severe consequences of the violent acts.

Stalking (psychological terror)

Stalking - originally associated with hunting - has become the established term for acts of persistent persecution that cause its victims psychological strain. They include daily phone calls to victims' homes (also during night-time) or workplaces, "waylaying", bombarding with letters, emails and SMS messages, unwanted gifts, as well as spreading disparaging rumours, psychological harassment, threats, physical violence and sexual assaults.

The so-called "Antistalking Act", 2006 Act Amending Criminal Law (Strafrechtsänderungsgesetz 2006), BGBl. I No. 56/2006, took effect on 1 July 2006. Not only did it make stalking an offence that can be prosecuted under criminal law, but it also created the possibility - irrespective of a complaint - to apply for an interim injunction for the "Protection against invasion of privacy (Schutz vor Eingriffen in die Privatsphäre)". Further legal improvements were affected by the 2007 Act Amending the Law of Criminal Procedure (Strafprozessrechtsänderungsgesetz 2007), BGBl. I No. 93/2007, the Second Protection Against Violence Act (Zweites Gewaltschutzgesetz), BGBl. I No. 40/2009 as well as an amendment of the Security Police Act (Sicherheitspolizeigesetz), BGBl. I Nr. 152/2013.

Stalking victims are entitled to support. As far as required for the victims' protection, the police can call on the local Violence Protection Centre/ Intervention Centre, which will then promptly and actively contact the endangered person. Naturally, persons affected by stalking can also directly - i.e. without prior police intervention - contact the

["Violence Protection Centre/Intervention Centre or any other specialised facility"](#)
(link list in German) (PDF 74 kB).

Criminal law offence pursuant to section 107a StGB "Persistent persecution"

Thanks to the introduction of section 107a StGB (Criminal Code) entitled "Persistent persecution (beharrliche Verfolgung)" it is now possible to counter the psychological terror caused by various forms of persistent persecution by resorting to criminal law.

Behaviour is deemed persistent if sustained over a longer period. It is liable to punishment if it interferes with the victim's life to an unacceptable degree and can be counted among the following behavioural patterns:

- trying to be close to the victim (e.g. following by car, waylaying at home or in the workplace)
- contacting by telecommunication or any other means of communication or via third parties (e.g. frequent letters, emails or text messages)
- ordering goods or services for the victim by using the latter's personal data (e.g. clothes from a mail-order company)
- inducing third parties to contact the victim by using the latter's personal data (e.g. placing contact ads on behalf of the victim)

The offence can be punished by imprisonment of up to one year. "Persistent persecution" constitutes a criminal offence rendering the accused liable to public prosecution, which means that if the police learn about a stalking case, they are obliged to intervene ex officio.

Interim injunction pursuant to section 382g EO for the "Protection against invasion of privacy"

Irrespective of a criminal complaint with the civil court of their place of residence, stalking victims can apply for an interim injunction for the "Protection against invasion of privacy (Schutz vor Eingriffen in die Privatsphäre)". In such cases, the court can impose the following prohibitions:

- prohibition of personal contact and persecution
- prohibition of contacting via letters, phone calls or other means
- prohibition to stay in precisely identified places
- prohibition to disclose and/or circulate personal data and photographs of the endangered person
- prohibition to order goods or services with third parties by using personal data of the endangered person
- prohibition to induce third parties to contact the endangered person

In principle, such injunctions are issued for a maximum of one year but can be extended if legal proceedings are instituted or if the perpetrator fails to comply with the requirements. If the perpetrator acts against the court order to avoid personal contact with the victim or to persecute the victim or to stay away from specified areas, he can be given a fine of up to 500 Euro. In case of persistent violation he can also be arrested

Assistance in court proceedings

As of 1 January 2006, persons who are victims of violence or serious threat of violence or whose sexual integrity has been violated (e.g. by rape) are, under certain conditions, entitled to claim assistance in court proceedings.

While this statutory right applies in cases of deliberate acts, occurrence of special damage is not a requirement.

Stalking victims are also eligible for assistance in court proceedings.

Besides, family members (parents, spouses, domestic partners, children, grandchildren, siblings) of a person killed as the result of an offence, as well as other kin (nieces/nephews, cousins) who witnessed the offence, are also eligible to claim assistance in court proceedings.

Assistance in court proceedings is one of the essential rights accorded to victims in criminal proceedings.

Generally, assistance in court proceedings is two-part ("dual assistance in court proceedings") - firstly, psychosocial assistance before, during and after police and judicial questioning, and secondly, legal assistance, i.e. legal advice and representation in court by lawyers.

As of 1 June 2009, psychosocial assistance in court proceedings was also made possible in civil proceedings, provided that the latter are related to criminal proceedings. In particular, civil proceedings dealing with claims for damages and/or damages for pain and suffering are concerned with divorces, possibly also with proceedings for custody and visitation rights.

However, there is no right to legal assistance in civil proceedings. Representation by a lawyer is only free of charge if - and to the extent that - affected persons are eligible for legal aid.

Victims entitled to claim assistance in court proceedings must be informed about this right upon their first contact with the police or the court. As a rule, assistance starts when an offence is reported, in exceptional cases even earlier on, e.g. counselling related to the reporting of an offence.

For victims, assistance in court proceedings is invariably free of charge, irrespective of the outcome of the criminal proceedings. In the event of a conviction, the convicted person can be ordered to pay up to EUR 1,000.-- toward court fees. If the defendant is acquitted, the costs will be borne by the state.

Experts at the Violence Protection Centres/Intervention Centres against Violence, women's shelters and women's emergency helplines offer free psychosocial and legal assistance in court proceedings for women.

The Women's Helpline against Violence 0800/222 555 (no call charge within Austria, 24/7, anonymous and free of charge) informs about the nearest facilities that offer assistance in court proceedings.

Measures against trafficking in women

Victims of human trafficking are eligible for a "special protection" residence permit (Aufenthaltsbewilligung - besonderer Schutz) that must be granted ex officio or upon request provided that this is necessary for prosecuting the culprits or for asserting the victim's civil law claims. Such residence permits may also be granted on the grounds of individual circumstances that necessitate special protection for the woman concerned. The statutory basis is laid down in section 69a of the Establishment and Residence Act (Niederlassungs- und Aufenthaltsgesetz).

The Intervention Centre for Women Affected by Trafficking (Interventionsstelle für Betroffene von Frauenhandel, LEFÖ-IBF) provides comprehensive advice and support for women who are forced to prostitution or were lured to Austria through marriage trade or trade in domestic servants, and are now forced to live in conditions of blatant exploitation.

Numerous bilateral agreements on police cooperation also include the combating of human trafficking. Such interdepartmental or even intergovernmental agreements have been concluded in particular with Austria's neighbouring states, the successor states of former Yugoslavia and a number of other East European states, as well as several African, Asian and American states.

On the EU and international level, important legal regulations have been worked out (recommendations, framework resolutions, conventions etc.), among others the Council of Europe Convention on Action against Trafficking in Human Beings that was ratified by Austria in 2006 and the EU-Directive on preventing and combating trafficking in human beings and protecting its victims of 5 April 2011.

The "Human Trafficking Task Force (Task Force Menschenhandel)" - an interministerial working group under the chairmanship of the Foreign Ministry that was appointed by resolution of the Ministerial Council on 9 November 2004 - discusses the topic from various viewpoints of the responsible ministries and jointly with independent experts. Besides, the Task Force strives towards constant development and improvement of the policies against human trafficking.

Meanwhile the Task Force has developed three National Action Plans against Human Trafficking that all have been adopted by the federal government. The Task Force supports and coordinates the implementation of the National Action Plans and has compiled a comprehensive report on each of the two National Action Plans that have already been completed.

Aid facilities, contacts, guidebooks and other publications

Independent of contacting the police, women who are threatened or affected by violence can turn to a large network of facilities offering legal and practical help.

In addition to women experts providing support around the clock on the free women's helpline (telephone: 0800/222 555), counselling centres for sexual violence are available in the event of rape, and Violence Protection Centres/ Intervention Centres have been set up to provide help in violence situations occurring in families and/or the social environment. Women's shelters provide safe accommodation for women and their children who are at risk of or affected by violence.

Women and girls who are threatened or affected by forced marriage are given support and emergency accommodation in a safe place by the counselling agency Orient Express.

Women who are victims of human trafficking or cross-border prostitution trade are given support at the Intervention Centre for Victims of Women Trafficking.

There is a number of counselling centres specialised on migrant women. Also the women's helpline 0800 222 555 offers advice in various languages and refers callers to the nearest specialised facility.

Furthermore, many of the above mentioned aid facilities offer counselling in the victims' native language or will use interpreters where necessary.

The "[Linkliste](#)" (in German) (PDF 74 kB) gives an Austria-wide overview on women specific aid facilities.

The [brochure "Frauen haben Recht\(e\)"](#) (PDF 1388 kB) (in German) lists the options available to women seeking protection and trying to assert their rights, summarises the major procedures and offers an insight into the collaboration between police, judicial authorities and aid facilities.

To enable women to access any kind of help available, the following descriptions give an overview of the aid facilities that focus on the protection of victims.

Women's Helpline against Male Violence

0800/222 555 (free of charge within Austria)

Counselling: 24/7, anonymous and free of charge, 365 days a year.

A team of women experts offer help seekers first advice and crisis counselling and refer them to regional protection and counselling facilities for women. Moreover, they inform about legal and social issues and provide quick help in emergency situations.

Foreign-language counselling is offered in Arabic, English, Bosnian-Croatian-Serbian, Romanian, Spanish and Turkish.

For detailed information please see [Women's Helpline against Male Violence](#)

Counselling centres for sexual violence – Women's Emergency Helplines

Counselling centres for sexual violence (Women's Emergency Helplines) are psychosocial facilities offering specifically targeted assistance for women and adolescent girls who have experienced sexual violence.

The Women's Emergency Helplines provide the following services:

- Crisis intervention
- Psychosocial counselling
- Psychotherapy (referral on request and if required)
- Trauma therapy (referral on request and if required)
- Psychosocial and legal assistance in court proceedings
- Counselling for attachment figures
- Events (for multipliers, attachment figures, interested persons)
- If required, use of interpreters

The federal states of Upper Austria, Salzburg, Styria, Tyrol and Vienna have set up autonomous Women's Emergency Helplines that provide professional assistance during operating hours. Outside these hours, and for affected persons from other

federal states, the Women's Helpline against Male Violence 0800/222 555 (free of charge within Austria), offers first advice and crisis counselling regardless of the caller's residence. If necessary, callers will be referred to the appropriate facility of the respective federal state.

For detailed information please see the joint homepage of [autonomous Women's Emergency Helplines \(in German\)](#)

Operating 24/7, 365 days a year, the 24-hour Women's Emergency Helpline of the City of Vienna (+43 1 71 71 9) is available anonymously and free of charge for women and girls from age 14 who are affected by sexual, physical or mental violence. For more information please see [Women's Emergency Helpline of the City of Vienna](#)

For the full list of the addresses of the Women's Emergency Helplines please see: [Frauennotrufeinrichtungen in Österreich](#)

Violence Protection Centres / Intervention Centres against Domestic Violence

Violence Protection Centres/Intervention Centres offer active help and support for affected persons, free of charge and confidentially – in particular after police interventions in the event of domestic violence and stalking. Their primary task is to protect the victims and enhance their safety.

These victims' aid facilities serve as hubs for all institutions involved (e.g. security authorities, courts, youth welfare authorities, women's shelters).

Violence Protection Centres/Intervention Centres provide a wide range of services:

- Help with improving protection and safety for women and their children
- Information and support especially after an eviction, the filing of a complaint or arrest of a perpetrator, or after a dispute settlement by the police
- Assistance with the phrasing and filing of applications with a court and help with contacting authorities
- Assistance during police questioning and court proceedings
- Psychosocial and legal assistance in court proceedings
- If necessary, referral to other facilities (women's shelters, counselling centres for women and families, child protection facilities, psychotherapists etc.)
- If necessary, counselling in the native language of affected persons or use of interpreters

Each federal state has its own Violence Protection Centre/Intervention Centre. Some federal states also have regional centres.

[Addresses of Violence Protection Centres / Intervention Centres \(in German\)](#)

Women's shelters

Women's shelters offer immediate help, without any red tape, for endangered or abused women and their children, including protection, accommodation/safe living quarters, meals and counselling. Women's shelter workers counsel, accompany and support affected persons in dealings with authorities, alimony and custody matters, divorce issues, finding a job and a place to live. Advice is provided regardless of nationality, religious belief or income.

Women's shelters provide a wide range of services:

- Emergency aid
- Protection and accommodation
- Crisis intervention
- Psychosocial and legal counselling
- Psychosocial and legal assistance in court proceedings
- Help with filing applications
- Follow-up care
- Referral
- On-call service around the clock
- Care and advice for children and adolescents
- If necessary, native-language counselling or interpreting service

Addresses of women's shelters (in German)

Information Centre Against Violence of the Association of Austrian Autonomous Women's Shelters

The Information Centre was created with the goal of preventing domestic violence against women and children and ensuring effective cooperation of all societal institutions. The Information Centre carries out projects for the prevention of violence against women/domestic violence.

The services provided by the Information Centre target the media, police, courts, medical workers, students, educational institutions etc., and include:

- Producing and supplying information material
- Information provided by telephone or in person, referral to aid facilities
- Information for various target groups: media, police, courts, medical workers, students, educational institutions etc.
- Preparing and holding seminars for training/advanced training
- Providing women experts and instructors for events
- Advice and support with the launching of initiatives to combat violence against women

For more information please see Verein Autonome Österreichische Frauenhäuser (in German)

Orient Express – counselling and emergency accommodation for women and girls affected by forced marriage

A team of six female experts offers counselling and support for girls and young women (16-24), who are threatened or affected by forced marriage. Also (anonymous) online-counselling is being offered.

Since August 2013 emergency accommodation is available in cases of imminent danger - whose address is kept secret for safety reasons.

Orient Express offers the following services:

- Counselling for affected girls and their parents
- Crisis intervention in cases of imminent forced marriage
- Support to solve conflicts (with parents, ...)
- Contact to the Youth Welfare Office in charge
- Support in moving out of the parent's apartment
- Temporary emergency accommodation with native-language care and counselling
- Help, if legal steps are necessary in the country of origin (to look for a lawyer specialised on divorce and marriage annulment)

For detailed information please see Orient Express

Intervention Center for Trafficked Women (IBF)

The Intervention Center for Trafficked Women (Interventionsstelle für Betroffene des Frauenhandels) provides comprehensive advice and support for women who have been trafficked into or within Austria, to be exploited in prostitution or marriage, in the household or in other fields of work (e.g. cleaning industry, agriculture, tourism). The IBF closely cooperates with government authorities and private institutions and also maintains contacts with non-governmental organisations abroad, with the aim of informing female migrants in their home countries about violence prevention and coordinating service options for affected women and girls in the countries of origin, transit and destination countries.

IBF offers the following services:

- Temporary emergency accommodation with native-language care and counselling
- Visiting women in custody pending deportation if there is grounds for suspicion that they are victims of women trafficking
- Health advice, psychological and social counselling, psychotherapy and life counselling
- Counselling and intervention related to residence and labour laws
- Assistance during police questioning
- Psychosocial and legal assistance in court proceedings
- Support with obtaining documents
- documents required under aliens' laws, registration form, duplicates of travel documents, certificates for the journey home)
- German language courses and other options for advanced training and promoting integration
- or preparing for return in cooperation with NGOs in the countries of origin as well as other organisations

BOSNIA AND HERZEGOVINA

Bosnia and Herzegovina is a country facing the enormous challenge of post-war reconstruction, economic and social recovery, reform of government structures as well as a delayed transition to a market economy. It has a complex administrative system with several layers of government and numerous institutions and ministries. This complex state structure has led to problems of its effectiveness and efficiency due to weak capacity and an unclear definition of accountability at various levels of government. The conflict had touched almost every sector of the public and social life in the country.

Gender inequality in B&H, widely-held traditional perceptions and practices, discrimination against women and the squandering of 50% of the available human capital, hurt both the economy and the society as a whole. Seventeen years after the war, women's lives in B&H are still shaped by the consequences of the war. The increase of violence in the post-war period towards those who are less powerful – mainly women and children – has become a part of everyday life. It is related to poverty, stress, unemployment and, neoconservative attitudes concerning the role of women in private and public spheres. Long-term public commitment is required to provide a sustainable planning and implementation of gender equality policies at all levels of B&H government. The institutional mechanisms for gender equality in Bosnia and Herzegovina were established as a part of an overall endeavor for the improvement of the equality of women and men in B&H. This action took place at a time when gender issues were not easily recognized as a development priority.

In the recent period, victims of gender based violence became the focus of attention and protection in B&H society due to changes to legislation, capacity building and improvement of work of the responsible institutions. This has resulted in enforcing their capacities for efficient application of the law and improvement cooperation between institutions and NGOs. The victims of domestic violence are increasingly encouraged to report violence to the competent institutions, those who provide protection and to address non-governmental organizations dealing with domestic violence. However, besides the legal and other country efforts up to date, combating family violence in B&H is a very slow process. Gender mainstreaming mechanisms in B&H implemented by now numerous initiatives, programs and activities in cooperation with social, health, juridical institutions and NGO's, that were focused on combating family and gender based violence (safe houses, strategies, action plans, promotions).

The efforts of B&H authorities are focused on the development of an appropriate legal framework for combating domestic violence. In both entities, Republic of Srpska and Federation of Bosnia and Herzegovina adopted laws against domestic violence, but their use is hampered by a lack of efficiency and effectiveness of

protective measures (e.g., lack of laws and procedures, lack of systematic approach and coordination of relevant institutions).

Bosnia and Herzegovina has taken a series of measures to establish the legal, institutional and organizational framework for the prevention and fight against domestic violence, which is one of the commonest and most widespread forms of violence against women. These efforts have resulted in not only the adoption of a special legal framework for preventing and combating domestic violence, but also of new institutional and organizational arrangements that seek to provide a multidisciplinary approach to the victims protection, and effectively punish the perpetrators. This has resulted in a greater degree of spreading public awareness about the problem of violence, and a better understanding of domestic violence as a social, not a private problem. However, relevant studies and research have shown that the extent of violence against women and domestic violence remain high in B&H. According to a survey on the prevalence and characteristics of violence against women in Bosnia, even 47.2 percent of women over the adult life were once exposed to at least one form of violence, while in the 12 months preceding the survey in such a situation were 11.9 percent of women. This study also showed that violence is different, most invisible form that victims themselves do not identify the different types of violence, or yourself as the victim, and that very little knowledge of the mechanisms of protection, much less address them, mostly due to a lack of confidence in subjects protection.

According to relevant laws in B&H, there is an obligation to report criminal acts of violence by those who have knowledge of such acts and obligations ensuring emergency protection measures and emergency actions by the subjects of protection, especially when the victim is a child, elderly person, a person with a disability or a person under guardianship. As for the implementation of emergency protective measures, i.e. removal of the abuser from the home, a house or other dwelling, restraining orders and contacting the abuser to the victim of domestic violence, a ban on harassment and stalking the victim of violence, and temporary detention and retention in charge of the police, police officers are required to perform an assessment of vulnerability of the victim and create a plan for the implementation of protective measures. Legislation on Protection from Domestic Violence prescribed procedure after receipt of the application that has been done of domestic violence, which includes the immediate notification of the Centre for Social Work, and the prosecutor for further action, or the investigation or the initiation of the proceeding (depending on jurisdiction), and filing a motion for imposition of emergency protection measures, which is decided by the court and monitor the implementation of the measures.

The Criminal Procedure Code allows, conducting effective investigations, making available to police and prosecutors instruments for conducting a series of investigations for a decision on prosecution of perpetrators and collecting evidence for prosecution and further proceedings before the court. In addition, the Law on Misdemeanors RS, with the Law on Protection from Domestic Violence, also provides the basis for acting in misdemeanor proceedings. In terms of the organizational framework for conducting criminal proceedings, it should be noted in

particular set a police inspector in cases of domestic violence, establishing additional and targeted capacity to conduct investigations into these cases. Establishment of associations of women police officers in FB&H and RS, contributions are also strengthening the status of women police inspectors and increased sensitivity to the problem of police violence against women.

In terms of ensuring the protection of victims during the procedure, Code of Criminal Procedure require that during the interrogation of the victim, or damaged, be careful to not to have an adverse effect on her mental state, and that the examination is performed with the help of a psychologist, educator or other professional person pursuant to the needs of victims. Law on Protection of Witnesses under Threat and Vulnerable Witnesses are given the opportunity to protect the personal safety of victims of crime to ensure their testimony. This law as witness protection measures ensured a psychological, social and professional assistance, proper order of presentation of evidence at trial, monitoring of questioning witnesses, the removal of the accused from the courtroom during the hearing of witnesses, testimony through technical means for transferring image and sound quality and limit the rights of defendant and his counsel to review the files and documents. Furthermore, the Law on the protection and treatment of children and juveniles in criminal proceedings , in part related to criminal offenses against minors and children , requires that the implementation of process activities especially cautious attitude toward the child or minor who has committed criminal damage offense , bearing in mind his age , his personality traits , education and living circumstances , in order to avoid possible detrimental effects on his future life , education and development . Hearing a child or minor is generally done with the help of educators, psychologists, or other professional. According to these laws, provisions of the Law on Protection of Witnesses in Criminal Proceedings are applied to children and juvenile witnesses and eyewitnesses. The law also prohibits the confrontation, and protection measures in identifying the suspect or accused by child witnesses and juvenile witnesses.

In terms of the availability of legal aid to victims of violence, various levels of government in B&H adopted the relevant legislation on legal aid .Republic of Srpska, Brcko District and some cantons in FB&H have laws on legal aid and institutions to provide free legal aid. With the help of UNDP, a network of providers of free legal assistance in B&H is established. Some of these organizations are dealing with a specific provision of legal assistance to victims of domestic violence and violence against women, including trafficking in women and asylum seekers and persons under temporary protection in B&H.

One important component is to strengthen the capacity of police forces and the judiciary to identify and investigate cases of gender-based violence. Trainings based on pre-assessment of existing capacity and the need for education of the police and judiciary has also been conducted. Training manuals to be used in future trainings were made. Public Institution Centre for judicial and Prosecutorial training (FB&H and RS) created in cooperation special programs for continuing education of judges and prosecutors in the field of gender-based violence with the use of video

recordings of simulated cases and the creation of workshops to raise awareness in the efficient implementation of the law.

CROATIA

1. Legal and strategic framework

Past ten years legal and strategic framework regarding protection of victims of gender based violence has been developed.

Croatian Parliament in 2009 adopted second *Act on the Protection against Domestic Violence* which improves the work of bodies in the area of protection against domestic violence. The *Act* regulates the prevention, sanctioning and suppression of all types of domestic violence, the application of suitable measures against the perpetrator, and the provision of protection and assistance to the victim of violence in order to mitigate the consequences of the violence that has been committed. It extends the definition of domestic violence and introduces the term "economic violence", implying the withdrawal of the right to economic independence. The *Act* explicitly prohibits any physical, psychological, sexual and economic domestic violence. It provides for urgent procedures in cases of the breach of this *Act* for all competent bodies and an increase in the amount of fines and prison sentences.

A new *Gender Equality Act*, adopted in 2008 by Croatian Parliament is aligned with the *Acquis Communautaire*. The *Act* prescribes the general prohibition of discrimination on the grounds of sex, marital or family status and sexual orientation. The *Act* also prescribes prohibition of sexual harassment. Improvements have been introduced, among other, in the area of court protection against discrimination, and in the determination of the burden of proof.

The Anti-Discrimination Act came into force in 2009, creating the prerequisites for the realisation of equal opportunities, and regulating protection against discrimination on different grounds including on the grounds of sex.

The Criminal Procedure Act adopted in 2008 and its amendments among other contain provisions which regulate the rights of victims with the aim of their proper and optimal protection.

Victims of violence are protected also through the *Law on Free Legal Aid* adopted in 2008, in order to ensure their right to access to court as one of the fundamental human rights to a fair trial and the realization of the rule of law. In this regard, the adoption of the new *Law on Free Legal Aid*, which will improve the current system of free legal aid, is currently in the Government's procedure.

According to the *Law on Compensation for Victims of Crime*, which entered into force on 1 July 2013, the victim of the offense with the elements of violence, committed with the intent, on Croatian territory, has under the conditions laid down by the *Law* the right to a compensation.

The Ministry of War Veterans and other stakeholders initiated various activities in order to address needs of victims of sexual violence in Homeland War. One of the important initiatives is drafting of the Proposition of the Act on the Rights of Victims who Survived Sexual Violence in Homeland War, which will be adopted in the first quarter of 2014. The Act will regulate the rights and status of victims and will provide them with compensation under the conditions laid down by Law.

Croatia also developed an effective legislative framework in the field of combating trafficking in human beings, which includes the effective prosecution of perpetrators of the crime of trafficking and provision of assistance and protection to victims as well as prevention of their secondary victimization in the judicial process.

In 2005 the Croatian Government adopted *Rules of Procedure in Cases of Family Violence*, and in 2012 *Rules of Procedure in Cases of Sexual Violence*. These Rules of Procedure prescribe the obligations of the competent professionals, including the ones in judiciary and police, in order to ensure their professionalism, sensitivity, and responsiveness to the needs and realities of victims.

The third *National Strategy of Protection against Family Violence for the period 2011 to 2016*, was adopted in 2011 by Croatian Government. *Strategy* contains a set of goals, measures and activities aimed to eliminate family violence, empower victims, improve mutual cooperation of competent bodies and efficiency of official procedures, and to improve the competencies and responsibilities of officials themselves. An emphasis is put on improving the system of protection of rights of specially vulnerable groups - women with disabilities, senior citizens, girls victims of family violence.

A few strategies aimed at suppressing violence against women have been adopted at local level.

In 2011 the Croatian Parliament adopted the fourth *National Policy for Gender Equality, for the period 2011 to 2015*, in which one of the chapters contains goals and measures aimed to eliminate gender discrimination and all forms of violence against women.

Regarding the position of persons with disabilities, Croatia was one of the first countries to sign the *UN Convention on the Rights of Persons with Disabilities* in June 2007. Its provisions were incorporated in the *National Strategy for Equaling Opportunities for Persons with Disabilities, for the period 2007 to 2015*.

By the end of the 2013 a *National Strategy for Development of Support System to Victims and Witnesses* in Croatia will be made. One of the main tasks of the *Strategy* will be drafting of a Protocol to Conduct towards Victims and Witnesses. In order to improve system of victim protection, an Independent Sector to Support Victims and Witnesses under the Ministry of Justice is established. In seven county courts in Croatia Units for Organization and Provision of Support to Witnesses and Victims were set up. In 2013 Croatian Ministry of Justice, in cooperation with UNDP and the Association for the Support of Victims and Witnesses, established a free of charge National Call Center for Victims of Crime and Misdemeanor.

Following its commitment to eliminate gender based violence, in January 2013 Croatia signed the *Council of Europe Convention for preventing and Eliminating Violence against Women including Domestic Violence*. Activities for reconsideration of its ratification are currently underway. Printing and wide dissemination of Croatian translation of the *Istanbul Convention* will be one of activities under the project „My Voice against Violence“, approved for financing by European Commission under the Call for Proposals „Support for information and communication activities aiming at ending violence against women“ of the Community PROGRESS Programme, and will be conducted by Office for Gender Equality.

2. Legal education and training

Numerous educational programs for relevant professionals are being regularly carried out by competent state bodies, different educational institutions and NGOs. Few national strategic documents prescribe the obligation of continuous education and trainings of the competent professionals (judges, prosecutors, health workers, police officers, social workers, staff in educational institutions). For example, in 2012 Judicial Academy in cooperation with the People's Ombudsman, Office for Human Rights and Rights of National Minorities and Institute for Human Rights from Vienna conducted workshops for judges and state attorneys on the implementation of the *Anti-discrimination Act*. During 2012, Ministry of Justice in cooperation with Judicial Academy conducted several seminars on the „Novelties regarding *Law on Free Legal Aid*“ for chairs of county and municipal courts and for chairs of civil departments in courts. Police Academy in cooperation with Ministry of Interior regularly conducted several trainings and seminars on the issues regarding domestic and other forms of gender based violence for police officers etc.

3. Representation of women in the justice sector

Since 2008, the Constitutional Court has had a female President. In 2010, the share of women at the Constitutional Court was 38.5%, and at the Supreme Court 40%. Women are a majority in all other courts: women make up 70.1% of municipal court judges, 67.4% of commercial court judges, 72.5% of misdemeanour court judges and 57.1% of county court judges. The share of women among the total number of public prosecutors and deputy public prosecutors was 64.5%. The share of female judges in almost all instances of Croatian courts continuously grew up.

4. Gaps in research and data collection

In Croatia, collection and processing of statistical data disaggregated by sex regarding

gender based violence is well developed. For example, Croatian Bureau of Statistics regularly publishes a collection of statistical data on domestic violence, and the last one was publication „Domestic Violence: Legal Framework and Forms of Appearance, 2007-2010“. Also, other competent bodies in Croatia - Ministry of Interior, State Attorney's Office, Ministry of Social Policy and Youth regularly collect

and process important statistical data disaggregated by sex, and the system is continuously being improved.

Various surveys are being regularly carried out, as for example the one conducted in 2010 by the Office for Gender Equality and the NGO Women's Room, "Protection of Rights and providing Support to Victims and Witnesses of Domestic Violence". Ministry of Social Policy and Youth in cooperation with Society for Psychological Assistance in 2011 and 2012 conducted a survey on „Monitoring and Evaluation of Services Provided to Victims of Family Violence Accommodated in Shelters“.

5. Barriers and challenges to women's access to justice

Generally, women are in unequal position in relation to men, often are victims of different forms of discrimination, especially gender based violence. Inequalities of women in labour market are evident, gender pay gap in 2009 was 10,6 % in favour of men, women are at greater risk of poverty, often are a subject of gender stereotypes and violence, and are less on the positions of power than men. Women usually have to take care on the dependent family members and do most of the housing work. Women with disabilities, women national minorities and elderly women very often suffer from multiple discrimination. Women victims of gender based violence as particularly vulnerable group unfortunately face different obstacles, including their access to justice. Statistical data and conducted surveys point to the fact that these women often face fear, shame and are less aware of the official procedures. Sometimes they tend to face secondary discrimination in official procedures. This is especially visible in cases of sexual violence. Professionals who work with victims in certain cases are not optimally gender sensitized. In addition, huge dark number of unreported cases especially of sexual violence exist, mainly because victims are discouraged to report crime, are unaware of their rights, and do not have enough confidence in institutions. Surroundings often stigmatize them. Also, women do not report violence because of fear for their children and because of economic dependency.

6. Examples of good practices and awareness raising activities

In 2004 Croatian Parliament declared the 22nd September – National Day for Combating Violence Against Women. In 2006 Croatia joined CoE Campaign to Combat Violence against Women, including Domestic Violence by conducting a campaign at national level at the same time. Different activities were carried out, and important men, such as Croatian President and other were involved in Campaign activities. In 2007 an international seminar on “Men’s Active Participation in Combating Domestic Violence” was held. A hotline telephone number was established for women with disabilities victims of violence within NGO Croatian Union of Associations of Persons with Disabilities. Different agreements in order to improve cooperation of competent bodies have been signed. Ministry of Social Policy and Youth ensured the continuous co-financing in next three years for NGOs who run shelters. State administration bodies finance the projects and cooperate with the NGOs engaged in combating domestic violence and other forms of violence against

women and in improving the status of victims of violence. Different awareness raising activities of key stakeholders are regularly conducted, including campaigns to eliminate different socio-cultural barriers, marking of relevant days and wide dissemination of relevant documents with practical information on women's legal rights, legal mechanisms and available services. Office for Gender Equality printed and distributed 2000 copies of the Council of Europe's *Recommendation Rec (2002)5 on the Protection of Women against Violence* and 10000 copies of the *UN Declaration on the Elimination of Violence against Women. A Guidelines for Media Reporting on Family Violence* have been developed and distributed.

CZECH REPUBLIC

So far there has not been any analysis undertaken specifically in the field of access of women to justice in the Czech Republic. Generally, the main findings of the Feasibility Study on Equal Access for Women to Justice based on case studies from Austria, Finland, Portugal and Sweden are relevant to the socio-economic and legal context of the Czech Republic.

In cases of domestic violence and other forms of gender based violence the attrition rates remain relatively high and the conviction rates low. While sociological surveys and research suggest that as many as 38% of women have experienced some form of violence from their partner during their life time in the Czech Republic, there is no more than 650 cases of crime of maltreatment of person living in common dwelling each year. In 2012 only 321 persons (11 women) were convicted for the crime maltreatment of person living in common dwelling while 603 cases were reported to the Police of the Czech Republic. The high level of latency of domestic violence latency is confirmed also by the fact that each year restraining orders are used by the police in only about 1 500 cases. Similarly, research suggests that in cases of rape only 3-8% of survivals report the crime. In 2012 there were 669 cases of rape, 485 cases of stalking and 46 cases of sexual assault reported to the Police.

These numbers confirm that there are some major barriers women surviving violence face when asserting their rights. Some of these obstacles limiting women's (as survivals of gender based violence) opportunities to claim their rights in court are addressed in the Act on Victims of Crime, which came into force in August 2013. The Act aims to broaden rights of victims of crime and to provide them with more effective tools for exercise of their rights. The Act on Victims of Crime highlights the obligation of the criminal proceedings authorities and other bodies of public administration to respect the integrity and dignity of victims of crime in order to prevent secondary victimization.

The Act on Victims of Crime broadens the rights of victims of crime in several fields:

- a) Right for expert assistance: subjects (NGOs) listed in the providers of support to victims of crime register are authorized to provide psychological and social counselling, legal advice and restorative programmes. These subjects are accredited and funded by the Ministry of Justice. The assistance is provided free of charge to particularly vulnerable victims (including children, victims of trafficking, victims of sexual assaults and other victims of violent crimes in risk of secondary victimization taking into account his/her age, sex, ethnicity, etc.).
- b) Right for information: the Act specifies a broad spectrum of information which needs to be provided to victims of crime by the police authorities, public prosecutors and other relevant authorities.

- c) Right for protection against secondary victimization: the victim has the right to ask for prevention of any type of contact with the person which has been identified as a perpetrator.
- d) Right for a confidant: the victim has the right to be accompanied by a confidant during the criminal procedure. The role of the confidant should be mainly of psychological assistance.
- e) Victim impact statement: the victim has the right to declare a victim impact statement (orally or in written) within any stage of the criminal procedure.
- f) Right for financial assistance: under defined conditions the State has obligation to provide financial assistance to victims of crimes. Aim of the financial assistance is to provide financial means for overcoming the socially adverse situation.

Some useful initiatives can be identified at the level of Police as well. In the field of domestic violence prevention and elimination there has been set up two specialized police units in some of the major cities (Ostrava and Brno). These units enable police professionals to specialize on domestic violence and undertake series of trainings focused on specifics connected to domestic violence (enabling the police units to use the restraining orders effectively and focus on protection of rights of survivals). Survivals of domestic violence are provided with a sensitive approach (including special interrogation lounges) and are not discouraged from seeking help and asserting their rights. These specialized police units also play a crucial role in raising awareness on rights of survivals of violence against women.

Currently, a debate on broadening such specialization within the Police of the Czech Republic and introducing specialization to public prosecution bodies and courts has been started. The Committee for the Prevention of Domestic Violence (which is the monitoring body of the National Action Plan for the Prevention of Domestic Violence for the Years 2011 – 2014) supports those initiatives and in 2013 recommended to the Ministry of Justice and the Ministry of the Interior to introduce specialization on domestic violence at the level of police and justice authorities.

Judges and public prosecutors are offered a broad scale of training in the field of domestic violence and other forms of gender based violence: in 2012 more than 20 training events were offered by the Justice Academy of the Czech Republic. However, those training are based on voluntary principle and quite often are attended by a relatively small group of judges and public prosecutors interested in gender based violence.

Regarding the representation of women in the judiciary, the majority of judges in the Czech Republic are women (61%). However, significant vertical segregation can be traced as women represent only 37% of chairpersons of district courts and 25% of chairpersons of regional courts. Furthermore, representation of women at the level of the Highest Court drops to 23%.

DENMARK

Regulation:

Until February 2012, provisions regarding restraining orders, exclusion orders and expulsion were regulated by several different acts. In February 2012 new legislation was adopted by the Danish Parliament whereby the provisions were amended and put into a single act (Act No. 112 of 3 February 2012 on restraining orders, exclusion orders and expulsion).

The new piece of legislation came into force on 1 March 2012.

The overall purpose of the act was to strengthen the protection of persons against persecution, harassment and violation of privacy, including stalking. The aim was also to improve the possible measures that can be taken against stalkers. The act also authorizes the police to impose an expulsion against an endangering person and to evict him or her from the domicile of the endangered person in case of refusal to leave.

The act authorizes the police to issue restraining orders, exclusion orders or expulsions.

A restraining order (tilhold) prohibits a person from – for a period of up to 5 years – to seek out, contact physically or with oral or written (electronic) communication or in other ways to follow or pursue another person.

A restraining order can be issued by the police when there is probable course to believe that the person in question has violated the injured party's privacy or has committed a criminal act against the injured party. In both cases there must be probable course to believe that the offender will continue the offensive behavior.

A restraining order can also be issued when there is probable course to believe that the person in question has committed or attempted to commit a serious sexual or violent crime. Such restraining orders are issued when the injured party (either the victim or the victim's relatives) because of severity of the offence shall not endure any contact with the offender.

In these cases it is not a requirement that there is probable course to believe that the perpetrator has previously offended the privacy of the injured party or is likely to do so in the future. The previous legislation did not allow the issuance of restraining orders under these conditions.

An *exclusion order* (opholdsforbud) prohibits the person in question to come within a certain distance of the home, workplace or place of education of another person.

An exclusion order can be issued by the police when a restraining order is not considered sufficient protection for the injured party from persecution, harassment and violation of privacy by the person in question. This might be the case e.g. when the person in question has deliberately violated a re-straining order.

An exclusion order is effective for a period of up to 1 year.

An *expulsion* (bortvisning) implies that an adult person, for a period of 4 weeks, is prohibited to stay in his or her home.

It is a condition for issuing an expulsion that there is probable course to suspect that the person in question has committed violence against, threat-ened or sexually abused a member of the household.

In addition, an expulsion can only be issued if there is reason to believe that the person in question – by remaining in the household – will commit additional offences.

Under the new act, **any** contact is now considered a violation of a restrain-ing order – not just contacts considered to constitute a violation of the vic-tim's peace etc.

Breaches of restraining orders, exclusion orders and expulsions are pun-ishable by fines and imprisonment up to two years.

National Strategy to Combat Violence in Close Relations

In 2010 the Danish Government launched a two-year action plan “National Strategy to Combat Violence in Close Relations” which consisted of 30 in-itiatives comprising inter alia educational campaigns, activities and treat-ment for the violent party, victim support by including for instance schools, doctors and other professionals, focus on children in violent families and legislative initiatives as mentioned above. DKK 35 million was earmarked for the action plan.

All of the 30 initiatives in the strategy have been implemented.

As a part of the Finance Bill 2013 it was agreed to compose a new action plan for 2014-2017. DKK 36 million was set aside for the project.

At present an inter-ministerial working group is in the process of drafting the new action plan.

Guidelines

Following the adoption of the new act the Director of Public Prosecutions has issued revised and instructive guidelines to the police and prosecution service concerning the handling of cases on restraining orders, exclusion orders and expulsion.

Furthermore The Danish National Police has recently updated the guide-lines on victim offender conferences used in these cases.

FRANCE

1°) Le 4^{ème} plan de lutte contre les violences faites aux femmes 2014-2016

Dans la continuité du 3^{ème} plan de lutte contre les violences faites aux femmes (2011-2013), il s'attache, d'une part, à développer la **formation des professionnels** et la **prévention**, et d'autre part, à renforcer l'**accompagnement** et la **protection** des femmes victimes de violences.

Ce 4^{ème} plan s'articule autour de trois axes :

- *L'organisation de l'action publique* autour du principe selon lequel **aucune violence ne doit rester sans réponse** :
 - afin que les femmes victimes de violence puissent être prises en charge le plus rapidement possible, un numéro téléphonique de référence sera mis en place au 1^{er} janvier 2014, pour traiter toutes les formes de violences faites aux femmes, conformément aux orientations de la Convention d'Istanbul ;
 - le nombre de travailleurs sociaux affectés en commissariats et brigades de gendarmerie sera multiplié par deux ;
 - des protocoles encadrant le recueil de plainte seront mis en place ;
 - le parcours de soins pour les femmes victimes sera organisé ;
 - les capacités d'accueil et d'hébergement d'urgence seront renforcées.
- *La protection des femmes victimes de violences avec la mise en œuvre de mesures prévues dans le projet de loi-cadre* :
 - Mise en place des conditions du déploiement du téléphone d'alerte pour les femmes en grand danger ;
 - Organisation de la réponse pénale à l'encontre des auteurs de violence ;
 - Prise en compte de la situation des femmes victimes de violence dans le calcul des droits au revenu de solidarité active.
- *La mobilisation de l'ensemble de la société, avec la mise en œuvre de plans de formation de grande envergure en direction des professionnels qui sont en contact avec les femmes victimes de violences* : magistrats, agents des services publics, professionnels de santé, travailleurs sociaux, enseignants ...).
- *Le développement d'une politique transversale de communication et de prévention des violences faites aux femmes, dans les médias et les espaces de socialisation* (éducatifs, sportifs...).

2°) La mission interministérielle pour la protection des femmes victimes de violence et la lutte contre la traite des êtres humains (MIPROF)

Créée par décret en date du 3 janvier 2013 conformément à la décision prise par le comité interministériel aux droits des femmes du 30 novembre 2012, la mission interministérielle de protection des femmes victimes de violences et de lutte contre la traite des êtres humains (MIPROF), rassemble, analyse et diffuse les informations et données relatives aux violences faites aux femmes. Elle contribue également à l'évaluation des dispositifs nationaux et locaux en matière de violences faites aux femmes ainsi qu'à l'animation des acteurs publics et privés intervenant dans la lutte contre ces violences.

En lien avec les ministères concernés, la mission est chargée de définir un plan de sensibilisation et de formation des professionnels sur les violences faites aux femmes. Elle assure la coordination nationale en matière de lutte contre la traite des êtres humains, conformément à la convention du Conseil de l'Europe sur la lutte contre la traite des êtres humains du 16 mai 2005.

Pour l'exercice de ses attributions, la mission a constitué auprès d'elle un comité d'orientation, composé de représentants : des collectivités territoriales, de l'Etat, de personnalités qualifiées et de représentants de structures locales intervenant en matière de violences faites aux femmes.

3°) Le projet de loi relatif à l'égalité entre les femmes et les hommes adopté en première lecture au Sénat le 18 septembre 2013

Le projet de loi relatif à l'égalité entre les femmes et les hommes développe quatre axes principaux :

S'agissant des dispositions contre les violences faites aux femmes, le projet de loi vise à garantir une meilleure protection de ces femmes notamment en renforçant l'ordonnance de protection créée par la loi du 9 juillet 2010. Cette ordonnance permet de mettre en place, sans attendre le dépôt d'une plainte par la victime, des mesures d'urgence, notamment :

- l'éviction du conjoint violent (sont concernés les couples mariés, mais également les partenaires d'un Pacs et les concubins) ;
- la dissimulation du domicile ou de la résidence de la victime ;
- la prise en compte de la situation des enfants exposés à ces violences au travers de l'adoption de mesures provisoires et urgentes en matière d'exercice de l'autorité parentale, d'attribution de la jouissance du logement conjugal, de contribution aux charges du ménage.

Le projet de loi-cadre interdit en outre le recours à la médiation pénale en cas de violence conjugale ; il fait de l'éviction du conjoint violent du domicile la règle et non l'exception ; il harmonise la définition de l'élément matériel de l'infraction de violences psychologiques au sein du couple à celle prévue par la loi n°2012-954 du 6 août 2012 relative au harcèlement sexuel. La prévention des violences supposant d'assurer l'égalité des femmes dans la société, le projet de loi renforce les

compétences du conseil supérieur de l'audiovisuel pour veiller à une juste représentation des femmes dans les programmes et lutter contre les stéréotypes sexistes et les représentations véhiculant une image dégradante de la femme. Il étend également les obligations de la loi n° 2004-575 du 21 juin 2004 pour la confiance dans l'économie numérique à toutes les formes d'incitation à la haine dont celle fondée sur le sexe, l'orientation ou l'identité sexuelle.

Il prévoit, en outre, la généralisation à tout le territoire du dispositif de « téléphone grand danger » (ou TGD) remis aux victimes de violences conjugales et définit en conséquence les conditions dans lesquelles ces victimes pourront se voir remettre un téléphone d'alerte leur permettant d'obtenir une intervention rapide des forces de sécurité en cas de danger. Enfin, il met l'accent sur le suivi des auteurs en introduisant la possibilité de les faire participer, à leurs frais, à un stage de sensibilisation à la prévention et à la lutte contre les violences sexistes.

Le projet de loi relatif à l'égalité entre les femmes et les hommes poursuit trois autres objectifs :

- Assurer l'égalité dans l'entreprise et au sein des ménages ;
- Construire une garantie contre les impayés de pensions alimentaires ;
- Généraliser la parité

GEORGIA

I. LEGAL FRAMEWORK

Government of Georgia (GoG) prioritizes combating violence against women including domestic violence. For that reason, Georgian authorities have developed comprehensive policies and programs aimed at achieving women's equality with men, addressing all types of discrimination and violence against women.

For the implementation of this goal 2013-2015 National Action Plan was approved under the Presidential Order on July 17, 2013.

➤ Combating Domestic Violence

As for the legislation, GoG adopted Law on Elimination of Domestic Violence, Protection and Assistance of the Victims of Domestic Violence (hereinafter – Law) which entered into force on June 9, 2006. The main purpose of the Law is to:

- create effective legislative mechanisms to reveal, suppress and prevent domestic violence;
- ensure access to justice for the victims of domestic violence;
- create grounds for protection, assistance and rehabilitation of the victims of domestic violence;
- ensure cooperation among various institutions in order to prevent and combat domestic violence;
- support rehabilitation of the perpetrators (enters into force from July 1, 2015).

Also, the Law provides the protecting and preventing measures for the victims of domestic violence. The Law presents Crisis Centre which operates in parallel with shelters. It also envisages psycho-social rehabilitation and urgent medical service for the victims. Additionally, Crisis Centre provides legal assistance for the victims of domestic violence.

Furthermore, the Law provides issuing restrictive and protective orders in order to eliminate domestic violence.

Apart from the administrative measures Government of Georgia criminalized domestic violence in June 2012. Two new provisions were introduced to the Criminal Code of Georgia (CCG) - Article 1261, which specifically defined the scope of domestic violence and Article 111 which established the categories of domestic violence.

The new Article 1261 of CCG defines domestic violence as coercion, systematic insult, blackmail, humiliation committed by one family member against another, which has given rise physical pain or suffer and has not produced the consequences referred to in Article 117 (intentional damage to health), Article 118 (less serious damage to health on purpose) or Article 120 (intentional light damage to health) of Criminal Code of Georgia.

The new Article 1261 gave the broad definition of family members, which includes spouse, mother, father, grandfather, grandmother, son/daughter (stepchild), adopted child, adoptive parent, spouse of the adoptive parent, foster child, foster parents (foster family), guardian, grandson/granddaughter, brother, sister, parents of the spouse, brother in law, sister in law, former spouse, individuals who share/shared domestic household.

Article 111 introduces novelty of categorization of domestic violence. Domestic crimes are crimes committed by one family member against another and envisaged by Criminal Code of Georgia under following Articles: 108, 109, 115, 117, 118, 120, 126, 1261, 137–141, 143, 144–1443, 149–151, 160, 171, 253, 255, 2551, 3811, 3812.

➤ Combating Trafficking in Human Beings

Trafficking is also considered as one of the forms of violence against women. Government of Georgia prioritizes combating trafficking, including forced labor. For that reason GoG adopted Law on Combating Trafficking in Human Beings in 2006, which aims to prevent, protect and prosecute trafficking offenders. In addition, the Criminal Code of Georgia criminalizes trafficking in persons.

Criminal Procedure Code envisages certain additional protection measures in relation to victims of trafficking. These include: a right to a closed hearing of a criminal case on trafficking in persons, if a party to a case so requests (Art. 182 para. 3); a victim cannot be interrogated as a witness during a time-period given to him/her as a reflection period (Art.50 para. 1).

➤ Soft Law

Apart from the Law mentioned above in 2010, Police Guiding Manual on Domestic Violence was drafted and approved by the Ministry of Internal Affairs. In 2011, a Concept on Rehabilitation of Perpetrators of Domestic Violence was elaborated and approved by the Government of Georgia.

II. INSTITUTIONAL MECHANISM

➤ Interagency Councils

Permanent Interagency Coordination Council for Prevention of Domestic Violence, set up by Presidential Decree No. 625 on December 26, 2008 is chaired by the Judge

of the Constitutional Court and composed of the representatives from Governmental and non-governmental agencies.

In order to implement its objectives, the Interagency Council established a Group for Granting the Status of Victim of Domestic Violence that has coordinator and experts. The Interagency Council defines composition, competence, and activities of the Victim Identification Group.

The law enforcement agencies ensure the transfer of the victims of domestic violence to the shelter if they wish so. The shelter is an institution of temporary accommodation or lodging for the victims of domestic violence providing them with psycho-social rehabilitation, legal and medical assistance, and measures of protection. There are 3 State based shelters for domestic violence under the State Fund for the Protections and Assistance of the (Statutory) Victims of Trafficking. It should be noted that shelters are equipped with relevant facilities for child victims and victims accompanied persons.

Apart from this Interagency Council on Combating Trafficking in Human Beings, composed of the representatives from governmental and non-governmental institutions, was established in September 2006 under the Decree of President N534, which is chaired by Minister of Justice of Georgia. The Council supports activities of the respective state bodies in the field of prevention of trafficking in persons, fighting against it and protection, assistance and rehabilitation of victims/statutory victims of trafficking. It also develops constructive proposals regarding the issues of trafficking to be submitted to the President of Georgia.

III. SERVICES PROVIDED BY STATE

The State Fund for Protection of and Assistance to (Statutory) Victims of Trafficking in Persons¹ (hereinafter – State Fund) was established in accordance with the Law on Combating Trafficking in Human Beings in June 2006. The State Fund functions under the supervision of the Ministry of Labour, Health and Social Welfare. The State Fund protects the rights and interests of trafficking victims (statutory victims), as well as the victims of domestic violence and sexual violence, who are provided with:

- Shelters;
- Legal aid;
- Physiological and medical assistance;
- Rehabilitation and reintegration measures

There are 3 State based shelters for the victims of domestic violence and 2 State funded shelters for the trafficking victims (statutory victims). They are accessible around-the-clock (24 /7) for all women. The shelters are in sufficiently wide geographical distribution.

¹ <http://www.atipfund.gov.ge>

There is also a state-wide round-the-clock (24/7) telephone helpline free of charge to provide advice to callers confidentially in relation to all forms of violence against women, including domestic violence and trafficking.

Furthermore, children witnesses of violence against their mothers are given protection and assistance to meet their needs, including age-appropriate psychosocial counselling.

The victims of trafficking (statutory victims) as well as victims of domestic violence may stay in shelter for 3 months. The victims of trafficking also enjoy the right of compensation.

IV. AWARENESS RAISING/PROFESSIONAL TRAININGS

The Legal Aid Service of Georgia has specifically trained lawyers with the support of the State Fund in the issues relevant to the convention targeting gender based violence, domestic violence related particular matters, as well as trafficking in persons, particularly women and children. The Legal Aid Service and the State Fund together with Police provide all necessary support to women to be encouraged and empowered to avail themselves of procedures and remedies for violations of their rights. All the above mentioned institutions as well as the educational institutions work actively on the dissemination of information via sustained awareness-raising and legal literacy training campaigns to target women, especially rural women and non-governmental organizations working on women's issues, including at times in very close partnership with UN Women, a variety of non-governmental organizations, particularly in the regions of Georgia. The work shall be maintained, as the task of providing the sustained awareness-raising required constant work in the population at large.

Law enforcements including prosecutors and investigations, as well as the staff of the police are regularly trained on domestic violence and trafficking in persons.

V. CHALLENGES TO WOMEN'S ACCESS TO JUSTICE

In spite of all the activities implemented by Government of Georgia some barriers and challenges still remain in terms of women's access to justice, such as economic dependence, cultural barriers, fear and shame, lack of awareness regarding women's rights and legal safeguards, gender stereotypes, etc.

In some cases women with disabilities, women national minorities and elderly women are the victims of multiple discrimination.

Women victims of gender based violence face different obstacles, including access to justice. In some cases due to the traditions and cultural bases people consider that violence against women including domestic violence is private and "family matter".

In addition, women victims of violence including sexual violence often face to fear and shame to report the crime and sexual violence against them.

GERMANY

Access to Justice for Women Victims of Violence

Issue Paper – Germany

The “**law on protection from violence**” (Law to improve the civil law protection in cases of violence and facilitating the sole use of the matrimonial residence during separation), which entered into force on January 1st, 2002 is a milestone **in legislation** to protect women from violence, especially domestic violence. The main protective feature of the law is granting the victim use of the residence, without having to share with the offender. Besides the **general entitlement of the sole use of the residence** in cases of violence the law also includes **regulations for ban of contact, harassment and getting close to the victims**. Respective restraining and protection orders can already be issued by courts before an act of violence against the victim’s body, health or freedom has occurred, but already in instances of threat of such violence. Equally court orders can be issued in cases of trespassing and unlawful disturbance of the home. Furthermore the law on protection from violence also covers instances of so-called “stalking”. In order to enforce the law and make the offender respect the restraining and protection orders, courts – upon the application of the victim – can impose financial penalties or prison sentences in instances of breach of restraining and protection orders. Finally a breaking a restraining and protection order according to § 4 of the law on protection from violence gives rise to financial penalties or prison sentences up to one year.

The **German legal system** provides a **high level of protection against the various forms of domestic violence and violence against women** as well in the area of penal law as in family and civil law. The existing system of differentiated criminal offences, reaching from offences against the physical integrity to offences against sexual self-determination via coercion, blackmailing, deprivation of liberty, stalking etc., guarantees that all criminal forms of domestic violence can be investigated and prosecuted and the offender can be punished. The typical circumstances of domestic violence, the special degree of injustice of the offence and the special relationship between victim and offender can be taken into account appropriately while determining the sentence. In order to sharpen public awareness regarding the injustice of certain acts inter alia the following criminal offences were passed by legislation:

- Since March 2007 “Stalking” –according to § 238 German Penal Code - gives rise to prison sentences up to three years or fines.
- Since July 2011 coercing a person into a forced marriage – according to § 237 German Penal Code – gives rise to a prison sentence between 6 months and five years.
- Since 28 September 2013, the German Penal Code includes a special criminal offence of Female Genital Mutilation (§226a), giving rise to imprisonment between 1 and 15 years.

According to German law victims of certain crimes have the possibility to join the criminal procedure from the moment of arraignment as joint plaintiff (§ 395 of Criminal Procedural Code). In general the following crimes allow joint plaintiffs: crimes against sexual self-determination (sexual abuse, sexual abuse of children, sexual coercion and rape), intentional physical injury, stalking, coercion into a forced marriage, FGM and qualified offences of deprivation of liberty as well as killing a person (homicide, femicide, 1st degree murder).

If an offender is convicted the offender generally has to bear the costs of the trial (§ 465 Criminal Procedural Code) and the costs of the legal representation of the joint plaintiff.

According to § 397 a Criminal Procedural Code legal representation of the joint plaintiff is free of charge for especially severe crimes (inter alia: severe sexual abuse of children, severe coercion, rape, forced marriage, FGM and trafficking in persons) and in attempted homicides/murders/femicides according to §§ 221, 212 Criminal Procedural Code. Furthermore legal representation is free of charge for other offences and under the following conditions, such as severe physical and psychological damage to the victim as a consequence of the offence or the age of the joint plaintiff is below 18 or the joint plaintiff is not able to represent his or her interests himself/herself.

Also injured parties, who do not want or are not able to become joint plaintiffs, according to § 406 f Criminal Procedural Code have the right to legal representation and/or be accompanied by a person they trust. However, in these cases, the injured party in general has to bear the costs for the legal representation.

In order to ensure that affected persons know the support system for victims, the Criminal Procedural Code has been amended that victims of crime must be informed about the possibility of support and aid by victims support organizations, e.g. counselling or psycho-social support during proceedings (§ 406 h Criminal Procedural Code).

Status quo of the ratification of the “Council of Europe Convention to prevent and combat violence against women and domestic violence, May 11, 2011, CETS 210, Istanbul Convention

The Federal Government has signed the Convention on the day signature was opened. Plans are to ratify the Convention in this legislative period.

German internal rules and regulations foresee that an international treaty must be fully implemented at the day of ratification or accession. The Federal Government thus has started implementing the Convention. In March 2012 the law on the establishment of a telephone helpline for women victims of violence has put the obligation of establishing a telephone helpline according to Article 24 of the Convention on a legal basis. The helpline went operative on March 6, 2013.

Within the framework of ratifying the Convention Germany is investigating whether the existing provisions regulating child custody and child visitation rights in connection with domestic violence and the law on protection from violence are in conformity with the obligations of the Convention. (Article 31 and 53) The same is the case for the criminal offence of rape against the background of highest national jurisdiction. (Article 36). If the result of the investigation is that the provisions do not meet the obligations of the Convention, they need to be altered accordingly before ratification.

GREECE

The principle of equality is established in the Greek judicial system and Constitution from 1975. The article 4, par. 2 of the Constitution stipulates that Greek men and women have equal rights and obligations. Article 5 extends the principle of non-discrimination to all persons within Greek territory. The Constitution, as reviewed in 2001, expanded substantive gender equality and, according to the provisions of the article 116, par. 2, all deviations from the principle of gender equality are abolished. In addition, the State is obliged to take affirmative action to eliminate discrimination against women. In cases that, due to special conditions, women belonging to socially vulnerable groups cannot - or face difficulties - exercising their legal rights, specially-stipulated legislation shall apply (i.e. protection of violence victims from trafficking in human beings and sexual exploitation, entitlement to free legal counselling and support according to the conditions of law 3226/2004, special support and assistance regulations for the victims of domestic violence as stipulated by law 3500/2006).

1. Drafting of a law on combating violence against women to the Ministry of Justice, Transparency and Human Rights

The current legislative framework on access to justice and appeal does not differentiate between men and women. Thanks to the intervention of the Special Legislative Drafting Committee on draft law on combating violence against women to the Ministry of Justice, Transparency and Human Rights in 2012, an arrangement approved by the Greek Parliament (Law 4055/2012, Article 28, Paragraph 2), which stipulates that no examination fee is required for crimes against sexual freedom, economic exploitation of sexual life and crimes of domestic violence. The provision for imposing a special charge to victims of domestic violence, who are in financial difficulty/financially weak, was abolished.

2. Measures and actions taken by the General Secretariat for Gender Equality (GSGE)

- The creation of **Advisory Centres**, as of 2011 GSGE will operate in all regions of the country to provide specialized legal information and counselling to address and combat gender violence issues.
- **Legal counselling** (by phone or by appointment at the GSGE) for women victims of violence (e.g. domestic violence, abuse, life threats, extortion, etc.) and **family law cases** (e.g. gender issues and divorce -consensual or adversarial- assertion of custody of minor children, child support, property disputes/rights, recognition of a child outside of marriage, abduction of minor, civil partnership). It also provided legal advice on labour issues (parental leave, sex discrimination in the workplace, etc.). During the period from 1/1/2011 to 31/5/2012, the Legal Department of the GSGE received **one thousand six hundred and ninety-six (1696) calls for legal advice**. In

addition, the Department responded with **seventy-three (73) letters /complaints in writing, and eighteen (18) women made legal appointments** to receive support/information (victims of domestic violence, child custody claim in case of dual citizenship, trafficking, etc.).

- **Co-operation with the Greek Bar Associations**

The establishment of a network with Bar Associations and independent attorneys across the country provides free legal representation of women victims of violence. In specific, the GSGE has signed **Cooperation Protocols** with the Bar Associations of Athens, Patras, Heraklion, Larisa, Tripoli, Komotini, Ioannina, Mytilene, Ermoupolis, Corfu and Lamia in order to provide legal aid to women victims of violence with funds of the National Strategic Reference Framework. Similar Protocols will be signed with Bar Associations in three more cities (Piraeus, Thessaloniki, Kozani) where more counselling centres will be run under the guidance of the GSGE.

The legal counsellors of Bar Associations were trained through seminars organized by the Research Centre for Gender Equality. These seminars maintained a constant communication with worker unions, in order to secure their active involvement in cases of salary discriminations against women. Two hundred seventy seven young attorneys participated in the six seminars on gender equality that were organized in five cities, namely Athens, Thessaloniki, Heraklion, Volos and Patras.

- **Co-operation with the Greek Ombudsman**, mainly in cases of sexual harassment.

- **GSGE project entitled “Gender Impact Assessment of 100 Laws and Regulations”** was approved for funding by the National Strategic Reference Framework on 08/11/2011. The Project’s object encompasses: a) the emergence and documentation of existing weaknesses in the field of integration of gender equality in of ex-ante evaluation of laws and regulations, and technical assessment results, and b) the development of a model to evaluate the effects on gender (gender impact assessment model) that will be implemented in official policy documents.

- **GSGE project entitled “Codification and Proposals for Simplification of Laws and Regulations in the Field of Gender Equality”** was redesigned and approved for funding by the NSRF on 29/10/2010. The aim of the Project is the systematic recording and study of existing legislation, in the public and private sector and in relevant case law, in order to simplify and improve legislation and regulations in the field of gender equality, so as to be effectively implemented by management and courts.

3. Actions and Measures taken by other governmental bodies

General Secretariat for Youth has been implementing the “Youth Legal Aid” Programme since 1997, in order to provide legal support to minors and young people (male and female) up to the age of 30 among vulnerable groups that cannot afford the financial cost or the capability of their legal representation in and out of Court. This Legal Aid is being offered for criminal and civil cases alike, especially those regarding abuse, domestic violence and trafficking. It is worth noticing that the age limit for these particular cases is raised up to 35 for women.

The “Youth Legal Aid” Programme is being run in a daily, practical basis by the contracting Bar Associations in the following Greek cities and regions: Athens, Thessaloniki, Kalamata, Kos, Serres, Trikala, Chalkis, Volos, Rodopi, Ioannina, Heraklion, Chania, Thesprotia, Patras, Rhodes and Giannitsa. These associations receive requests and forward each case to attorneys that cooperate with the Programme. These attorneys can also participate in seminars organized annually by the General Secretariat for Youth in order to get more familiar with legal issues concerning the target-groups of the Programme.

ICELAND

Information from Iceland regarding

Access to Justice for Women Victims of Violence

All citizens have an equal Access to Justice by law and all reported cases are investigated by Police. The Access to Justice in Iceland has not been researched particularly from a gender perspective; however it is known that it is expensive to bring your case to the courts. When it comes to Women Victims of Violence the situation is no different. The main concern in Iceland is the attrition rate on the way through the judicial system. The number of women seeking help at the Emergency Rape Wards, the Women's Shelter and the Counselling Center for Survivors of Sexual Abuse is far greater than the reported cases to the Police and the number drop again when we look at cases put forward by the Prosecutor and the cases that get a conviction are not many. The impunity is overwhelming and unacceptable.

Best practices:

Cooperation between the Police and Social services on Domestic Violence - "Keeping the window open": This is a Police pilot project between Sudurnes Police district and Sudurnes Social services on Domestic Violence. The project started the 1st of February 2013 and is already considered to be a success. The start of the project was the notion that too few Domestic Violence cases got through the system, not enough investigations were finished and very few perpetrators were convicted. The primary cause was that the victims didn't want assistance from the police. The police concluded that this was due to a lack of support for victims and perpetrators. All changes made to the day to day work of the participants in the project, were made within the frame of the Icelandic law and have not had an additional cost for the participating institutions; it was a matter of priorities.

The pilot project is based on cooperation between police and social services and includes that when police responds to a call where suspicion is about domestic violence, the police always requests additional assistance from social workers from the social services to establish a solid contact and give the victims all the assistance they need. They also provide a lawyer for the victims. With this approach the victims are then more likely to consider leaving the violent relationship. Legal protective measures such as restraining orders and expulsion from home are more frequent and perpetrators are informed of possible therapy options. A special programme "Men for responsibility", supported by the government, has offered perpetrators therapy for years.

Rights Protection Officers: In 2011 the government passed a law on the protection of the Rights of disabled persons. This law also applies to the protection of the rights of individuals who, as a result of chronic illness or accidents, need support in preparing to take an informed decision on their personal affairs, or assistance in securing their rights, whether this is vis-à-vis public service providers, other government agencies or private entities. The aim of this Act is to ensure disabled persons appropriate support in the defence of their rights and to ensure that disabled persons' right of self-determination is respected and that in cases where it becomes a matter of urgent necessity to intervene in their affairs, this will be done in full compliance with their security under law.

Rights protection officers shall monitor the circumstances of disabled persons in their regions and be available to assist them in securing their rights of any type, whether these concern the handling of their personal finances, the services to which they are entitled, or other personal rights or personal affairs. All persons shall be obliged to notify a rights protection officer if they have reason to believe that a disabled individual's rights are being violated. Disabled individuals' relatives or persons responsible for them, personal spokesmen, service providers, disabled persons' organisations and others who, through their position, connections or work, become aware that the disabled individuals' rights are not being respected, shall report this to a rights protection officer. A disabled individual who considers that his/hers rights are not being respected may report this to the rights protection officer in the region in question. The rights protection officer shall give the disabled individual the support necessary in order to investigate the matter in consultation with him/her. The rights protection officer may also, at any time, take a matter up at his/her own initiative. If a rights protection officer comes to the conclusion that a disabled individual's rights has not been respected, he/she shall help the disabled individual to pursue his/her rights, taking into account the circumstances in each particular case and the disabled individual's wishes.

The Rights Protection Officers are key actors for the Access to Justice for disabled Women Victims of Violence.

A link to the law: http://eng.velferdarraduneyti.is/media/acrobat-enskar_sidur/Act-on-the-protection-of-the-rights-of-disabled-persons-No-88-2011.pdf

Independent Legal Representation: Based on Chapter 41 and 42 of the Act on Civil Procedure all victims of rape have a right to Independent Legal Representation that is free of charge and provided by the state. Victims of domestic violence can also get an Independent Legal Representative if the Police think it is necessary.

Legal Aid: The legal Aid scheme in Iceland is based on Chapter 20 of the Act on Civil Procedure and the Regulation on legal aid issued by the Ministry. Individuals who intend to start proceedings before an Icelandic court may apply for legal aid to the Ministry of the Interior in Iceland. The Ministry then submits the application to the Committee on Legal Aid which decides whether to grant legal aid or deny the application. Legal aid is only granted if the applicant has sufficient reason to initiate proceedings or defend himself in civil proceedings in court in Iceland and one of the following conditions are fulfilled: 1. The applicant's financial situation is such that he could not afford defending his interests and the case is of such a nature that it would be considered appropriate that legal aid in the case would be financed by public funds. 2. The outcome of the case would have great general significance or matter greatly to the employment, social status or other personal status of the applicant.

IRELAND

- There is a Constitutional guarantee of access to justice for all in Ireland
- Sexual violence and domestic violence offences are investigated regardless of resident status or marital status.
- Cosc-the National Office for the prevention of Domestic, Sexual and Gender based Violence, the Health Service Executive (HSE), An Garda Síochána (the Irish Police Force), the Legal Aid Board, the Office of the Director of Public Prosecutions and the Courts Service have comprehensive information on their websites relating to state-wide supports and services on issues of domestic and sexual violence.
- ‘Domestic Violence’ is not a criminal act in Ireland in and of itself. Incidences of domestic violence are recorded by An Garda Síochána as offences motivated by domestic violence. As such, domestic violence incidents are not recorded as an offence because they are dealt with under the criminal offence which has occurred e.g. assault. For Information – Under the rules applied to the counting of crime only the most serious incident is counted for statistical purposes though a number of offences may have occurred and been investigated and subsequently prosecuted (primary offence rule).
- Legal advice and representation in domestic violence cases is provided as a priority service by the Legal Aid Board. A small charge may be applied subject to means but such charges may be waived.
- The Legal Aid Board provides legal advice in all serious sexual violence cases free of charge. It also provides free of charge legal representation for the victim in any voir dire in a case seeking to introduce the victims sexual history as evidence.
- In 2011 the Legal Aid Board provided court representation in 425 domestic violence cases, in addition the Legal Aid Board provided legal advice only to 134 domestic violence cases.
- In 2011 there were 1992 sexual offences recorded by the Central Statistics Office (CSO). The CSO have responsibility for the publication of the recorded crime statistics from An Garda Síochána’s database (PULSE).

- In 2011, 80 rape cases were received by the Central Criminal Court, 753 sexual offences by the Circuit Court and 1903 by the District Court. Rape cases are heard by the Central Criminal Court (or High Court) as it deals with the most serious sexual cases. The Office of the Director of Public Prosecution directs all prosecutions of serious sexual violence.
- In 2012, 83 rape cases were received by the Central Criminal Court, 488 sexual offences by the Circuit Court and 2199 by the District Court.
- In 2011, the District Court made 1043 Barring orders, 569 Interim Barring orders, 1513 Safety orders and 3085 protection orders in relation to domestic violence.
- In 2012, the District Court made 1165 Barring orders, 520 Interim Barring orders, 2255 Safety orders and 3849 Protection orders in relation to domestic violence.
- However, please note that there can be no direct year on year comparison in domestic violence orders between these years due to a change in legislation (Civil Law Misc. Provisions Act 2011) which introduced new protections for persons not previously covered under the legislation.
- The first dedicated Sexual Assault Treatment Unit (SATU) in Europe for men and women who had been subjected to sexual crime was set up at the Rotunda Hospital, Dublin in 1985. There are currently 6 SATUs situated in hospital settings around the country which exist within a dedicated suite of rooms and are not used for any purposes other than the SATU. The SATU's are funded by the Health Service Executive.
- The Dolphin House Support and Referral Service is a free and confidential drop-in service for those experiencing domestic violence. The service for women is managed by Women's Aid and staffed by domestic violence support workers from Women's Aid, Dublin 12 Domestic Violence Service and the Inchicore Outreach Centre in co-operation with The Courts Service. The service is housed at the Dublin district court offices. It is an innovative project which demonstrates how the state sector can work in tandem with the voluntary sector in providing appropriate services to victims of domestic abuse in a cooperative and coordinated manner. A domestic violence Support Service similar to the Dolphin House project has been opened by Courts Service in Dundalk on court sitting-days. Discussions on-going for development of a service in Limerick; work is on-going on the development of a service in Wexford for mid 2014.

ITALY

Law No 119 of 15 October 2013 converting Decree Law No 93 of 14 August 2013 establishing “Urgent provisions on safety and for the fight against gender-based violence, as well as on civil protection and compulsory administration of provinces” (*Disposizioni urgenti in materia di sicurezza e per il contrasto alla violenza di genere nonché in tema di protezione civile e di commissariamento delle province*) was published in the Official Journal of 15 October 2013. The law addresses both stalking and gender-based violence, which had been already regulated, through three conceptual pillars based on prevention, punishment and protection and by taking into consideration the references to the Istanbul Convention ratified by Italy by Law No 77 of 19 June 2013.

As for prevention, the law strengthens the so-called “warning” (*ammonimento*), namely the already in force administrative measure which can be requested by the victim to the *Questore*², by providing for the mandatory removal of the violent man from the family house, as well as the gun ban and driving disqualification and the possibility to use electronic tools for the surveillance of perpetrators (e.g. electronic tagging).

With a view to developing, on the basis of robust evidences, concrete instruments for the prevention of violence against women and putting special emphasis on such crimes, the crime analysis on which the Ministry of the Interior annually reports to the Parliament will have to include a special section on gender-based violence.

Concerning the punishment of perpetrators, the law introduced new aggravating circumstances. In particular, penalty is increased if children under 18 years of age witness violence as well as if the victim is in a particularly vulnerable situation (if pregnant). Moreover, the idea of femicide is further strengthened by the introduction of the particularly close relationship between the victim and the perpetrator as an aggravating circumstance (e.g. if the perpetrator is the victim’s spouse or partner, also non-cohabiting partner).

In line with the guiding principles established by the Istanbul Convention, the Italian law is aimed at ensuring greater protection for victims both in relation to hearings (which will be protected for vulnerable people) and through a system guaranteeing transparency during ongoing investigations and legal proceedings and envisaging the obligation to inform victims about support services existing at the local level. The special social implications of this crime explain the granting of legal aid also for victims whose income exceeds the income limits fixed by the national legislation.

² In the Italian legal system, an officer in charge of police force, public order and related administrative services.

Furthermore, in compliance with the Istanbul Convention, protection is extended also to foreign victims, for whom the law provides for the possibility to obtain a humanitarian residence permit, established by Legislative Decree No 286/1998 consolidating the provisions regulating immigration and the rules relating to the status of foreign national, which can be converted into a work permit with no time-limit.

Among the special preventive measures adopted by the Italian Government, article 5 of the afore mentioned Decree Law No 93/2013 provides for the adoption of an *Extraordinary Action Plan against Sexual and Gender-Based Violence* by the Italian Minister in charge of Equal Opportunities.

This measure is also in line with the *Conclusions on Combating Violence Against Women, and the Provision of Support Services for Victims of Domestic Violence*, adopted by the Council of the European Union on 6 December 2012. In this document, the Council called on the Member States and the European Commission to develop and implement, and improve where they already exist, comprehensive, multidisciplinary and multi-agency coordinated action plans, programmes or strategies to combat all forms of violence against women and girls, involving all relevant stakeholders and combining legislative and non-legislative measures aimed at the prevention and elimination of violence, the provision of protection and support to victims, and the prosecution of perpetrators; and to ensure appropriate and sustainable funding for the implementation of these policies and the operation of services.

In line with the EU guidance, the abovementioned *Extraordinary Plan* – which will be drafted in relation to the new European Union programming period 2014-2020 – will have to pursue the goals related to the prevention of violence against women through the implementation of *several measures* in different sectors: public information and awareness-raising campaigns; promotion of respectful relationships between women and men within schools and of the anti-violence and anti-discrimination issues in textbooks; strengthening of shelters and services for the assistance and protection of victims of gender-based violence and stalking; specialised training for operators; cooperation between different institutions; collection and processing of data; implementation of specific positive actions; creation of a governance system among the different governmental levels.

The Action Plan will be developed with the contribution of shelters and civil society associations working on the fight against gender-based violence.

For the development and implementation of the National Plan against violence, the Italian Government has already allocated financial resources totally amounting to 10 million Euros for this year.

Further significant resources (10 million Euros for 2013; 7 million Euros for 2014 and 10 million Euros from 2015) will be allocated to strengthen the already existing forms of assistance and support for women victims of violence and their children through the homogeneous strengthening of the local services network, shelters and assistance services for women victims of violence.

The public body responsible for the implementation of the Plan is the Inter-ministerial Task Force on Violence against Women, established on 22 July 2013 at the Presidency of the Council of Ministers. The Task Force is a technical panel aimed at identifying institutional strategies and concrete measures to combat this phenomenon.

With a view to accelerating the development of the Plan, it was deemed necessary to organize the work of the Task Force into 7 thematic subgroups reflecting the Plan's aims.

LATVIA

1. Statistical background

Population: 2 023 825

Female population: 1 097 245

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) ratified: 1992

CEDAW Option Protocol ratified: No

Council of Europe Convention on preventing and combating violence against women and domestic violence: not signed

Cases on violation of women's rights in the European Court of Human Rights: 0

Eurobarometer Domestic Violence against Women Report (2010): only 66% of people in Latvia think that violence against women is unacceptable and should always be punishable by law.

Domestic violence against women (and children) is the issue that is currently predominating in policy planning documents and discussions in Latvia, as compared to other forms of violence against women. This is due to the fact that approximately 80% of all officially fixed cases of violence against children and 40% of all violence cases against women take place in a family environment. According to the court statistics, during the last three years at least 16 women were killed and at least 60 were severely injured due to domestic violence. According to the annual report on domestic violence prepared by the Ministry of Welfare of the Republic of Latvia, police gets approximately 13 calls per day on the cases of "family conflicts", but 97% of these cases do not end up with criminal proceedings. This means that a lot of reported cases are classified as non-crimes by police; response mechanisms to such cases are quite weak yet. Due to different reasons, a lot of criminal cases are terminated some time after being initiated.

Traditionally, domestic violence and violence against women in Latvia is directly and indirectly covered under national criminal law. The Criminal Code presents some provisions in numerous sections that may be applied to domestic violence and other crimes against women. There are no specific laws on violence against women. Conciliation in criminal cases is voluntary, but the fact of an agreed conciliation means that the criminal proceedings may be terminated in cases of misdemeanours.

Assistance to women victims of violence may differ depending on the nature of violence. Thus, complex assistance to victims of human trafficking is well organized. (A large number of women – victims of trafficking are involved in fictive (brokered) marriages in Western Europe, particularly Ireland, and thus are vulnerable to domestic servitude and sex trafficking. In 2012, among 25 identified victims of human trafficking there were 3 men). In other cases of violence response and assistance will most probably be child-centred, not that much women-centred. In practice this means that protection and assistance in cases of domestic violence to children and their mothers will be provided primarily considering the needs of children.

2. Recent changes and initiatives

Istanbul convention has become a roadmap for Latvia to determine the areas where changes, improvements and legal amendments should be made. Since 2011 profound legal amendments have been initiated in Latvia to make gender neutral legislation friendlier towards women victims of violence. Traditional gender neutral language is preserved in the Latvian laws, but legislative changes are made to address those situations where women find themselves in much more often than men. Practical implementation of these legal amendments will be followed by regular gender impact assessment.

Changes in the criminal law

Since 2011, any violent crime against a relative, partner or a former partner is an aggravating circumstance. Since 2013, violence against a close relative of a child in the presence of the child is legally defined as emotional violence towards the child himself/ herself.

Law on forensic examination has been amended to clearly state that forensic examination of victims of sexual violence can be made only by an expert of the same gender (with exceptions of cases when sexual violence perpetrator was the same sex as the victim).

Legislation on rape that traditionally focused on proving the use of force for a conviction for rape will soon be changed to focus on the lack of consent, irrespective of the means employed (the amendments are currently discussed by the Parliament).

Besides, Ministry of Justice and Ministry of Health have started working on legal amendments to criminalize emotional violence.

Changes in the civil and family law

Since 2013, emotional, physical, sexual and economic violence are clearly mentioned in the Civil law as the reason to request a divorce without observing a mandatory reconciliation period for spouses. Before the amendments, the language of the law was quite vague in this respect and there was a lot of room for interpretations.

In 2014, Latvia plans to introduce new legal instruments to guarantee protection orders in cases of domestic violence (the amendments are currently discussed by the Parliament). These amendments will provide a right of a person suffering from violence or stalking to ask a court on her/his own initiative, or with the intermediation of Police, to take appropriate protection measures against the perpetrator within civil proceeding. Protection measures will aim to safeguard personal rights on life, freedom, integrity of an individual, health, sexual integrity, and integrity of personal life, housing and correspondence. Such measure, for example, can be prohibition for the perpetrator to approach or communicate with the victim, as well as order for the perpetrator to be removed from the housing, and a prohibition to approach, return to, or stay in a housing which is permanent residence of the perpetrator or victim. Such protection measures shall be imposed by Court.

Besides, amendments to the Civil law have been initiated to address those cases where custody decisions after spousal abuse should be made. When deciding on the right to contact and on the right to exercise parental responsibilities, the court will have to consider all the credible information about cases of violence against the child or against child's parent.

Changes in prevention mechanisms

Currently any preventive measures imposing certain prohibitions on a suspect or on an accused person can be taken only under criminal proceedings. As it was mentioned above, protection measures will be soon available within civil proceedings. In addition to this, work has been started to develop prevention measures that would be imposed outside criminal and civil proceedings. The Steering Group under the Ministry of Justice drafts a new law on coercive preventive measures. The aim is to change the focus from consequences of violence to the prevention of causes and acts of violence and to develop adequate responses to situations of possible violence in cases when violence has not happened yet.

3. Problems and challenges

Due to peculiarities of the Latvian society, currently it would be very difficult to pass legislation that clearly addresses situations of violence against women only. Therefore for the government and legislators it is a challenge to preserve gender-neutral language of the legislation, but at the same time to ensure that legal acts are effective enough to address cases of violence against women in practice.

By now, several areas have been identified where changes are needed in order to better ensure access to justice for women victims of violence.

First of all, Latvia should introduce a more gender - sensitive approach to ensure that eligibility criteria for legal aid are formulated on the basis of gender consideration. Currently, legal aid as any other kind of social assistance is awarded on the basis of family (household) income. Such requirement does not take into account that not all women have access to family resources or have independent income.

Within the sphere of the criminal law a discussion on the notion of “torture” and „regular beating having the nature of torture” has been initiated. It seems that the current definition of torture is not applicable to cases of domestic violence, particularly to cases when a victim does not have any bodily injuries that can be proved by forensic examination. In practice this means that the criminal law does not fully capture the nature of domestic violence and within criminal proceedings it is possible to address mostly those cases that resulted in some kind of a bodily injury.

The practical impact of recent changed on the notion of emotional violence against a child should also be evaluated to prevent those possible situations where women would be afraid to report cases of domestic violence.

These are just some examples that show that regular gender-sensitive review of legislation is necessary.

LITHUANIA

On 26 May 2011 the Seimas of the Republic of Lithuania adopted the Law on Protection against Domestic Violence³. The Law defines the concept of domestic violence, establishes the rights and liability of subjects of domestic violence, implementation of prevention measures, provision of assistance in the event of domestic violence and application of protection measures to victims of violence.

The Law on Protection against Domestic Violence provides main principles of protection against Domestic Violence:

“Article 3. Principles of Protection against Domestic Violence

Protection against domestic violence shall be implemented in compliance with the following principles: co-operation, participation, comprehensiveness, accessibility and quality, solidarity, appropriateness, co-ordination, legality, protection of human rights and freedoms, proportionality, humanity, justice, effectiveness, impartiality and efficiency.”

The Law on Protection against Domestic Violence provides protection measures, including legal protection of a victim of violence:

“Article 5. Measures Ensuring the Protection of a Victim of Violence

1. Where the fact of an incident of domestic violence is established, the following measures of protection of a victim of violence shall be imposed:

- 1) the obligation for the perpetrator of violence to temporarily move out of the place of residence, if he resides together with the victim of violence;
- 2) the obligation for the perpetrator of violence not to approach the victim of violence, not to communicate and not to seek contact therewith.

2. The measures specified in subparagraphs 1 and 2 of this Article shall be applied until completion of examination of a case, unless a pre-trial investigation judge imposes the pre-trial supervision measures specified in the Code of Criminal Procedure of the Republic of Lithuania, namely, detention or the obligation to reside separately from the victim. These measures shall be imposed by a ruling of the pre-trial investigation judge not later than within 48 hours.

3. The measures specified in subparagraphs 1 and 2 of paragraph 1 of this Article shall be imposed in combination with the punishment, with the exception of the cases when the convict is subject to arrest or imprisonment.

³ http://www3.lrs.lt/pls/inter3/dokpaieska.showdoc_l?p_id=410975

4. The measures referred to in subparagraphs 1 and 2 of paragraph 1 of this Article shall not be imposed if the perpetrator of violence is a minor.

5. In imposing the measures referred to in subparagraphs 1 and 2 of paragraph 1 of this Article, where a victim of violence or perpetrator of violence cannot be deprived of care due to their physical or mental defects or properties, the issue of care of these persons shall be resolved in accordance with the procedure laid down by legal acts of the Republic of Lithuania.

Article 6. Application of Measures Ensuring the Protection of a Victim of Violence

1. Upon recording an incidence of domestic violence, a police officer shall immediately take measures to protect a victim of violence and, taking account of the circumstances, initiate a pre-trial investigation and notify the prosecutor if the prosecutor's order is necessary to initiate the pre-trial investigation.

2. Procedural actions shall be subject to accelerated proceedings where the circumstances of an incident of domestic violence are clear, and a criminal case concerning the commission of this act must be heard by a district court.

Article 7. Functions of Police Officers

1. On receipt of a notice of an incident of domestic violence and on arrival to the place of the incident or being witnesses to the incident, police officers shall record the fact of occurrence of the incident of domestic violence and initiate pre-trial investigation. A victim of violence shall not file a complaint.

2. Police officers shall organise provision of assistance in accordance with the procedure established in paragraphs 1 and 3 of Article 9 of this Law.

3. Where an obligation is imposed on the perpetrator of violence to temporarily move out of the place of residence, if he resides together with the victim of violence, police offices shall immediately ensure the moving out of the perpetrator of violence. The procedure for evicting the perpetrator of violence shall be laid down by an institution authorised by the Government.

4. Police officers shall notify a specialised assistance centre of an obligation imposed by court on the perpetrator of violence to temporarily move out of the place of residence immediately, and in no case later than the next working day following adoption of the decision. Where, upon imposing on the perpetrator of violence the obligation to move out, a minor is left without care, the police officers shall notify thereof a children's rights protection division.

5. Police officers shall control execution of a court's decision. Control shall be exercised in accordance with the procedure laid down by an institution authorised by the Government."

MOLDOVA

Preventing and combating violence against women and domestic violence in Republic of Moldova

Strengthening legislation and policy in the field of DV

- Republic of Moldova recognizes the phenomenon of domestic violence and violence against women as a social problem of criminal nature, a serious breach of basic human rights;
- *Law no. 45-XVI on preventing and combating domestic violence* of 1 March 2007 sets out key provisions with respect to domestic violence and its forms, establishing an institutional framework with detailed responsibilities for the relevant authorities, provides for the creation of centres of assistance for the victims of violence and an effective mechanism for solving cases of violence by filing complaints, requesting protection orders, and isolating abusers; Following of adoption was approved in 2010 new amendments that have improved the mechanism for solving process of violence acts and institutional framework.
- At the same time, in September 2012 there was created an interministerial working group that focuses on the amendment of relevant legislation for improving the implementation mechanism of *Law no. 45* and its harmonization with European standards (including the Council of Europe Convention on preventing and combating violence against women and domestic violence- CAHVIO). Members of the working group are also representatives of civil society organizations working in this field. The amendments are being formulated with the participation of the civil society and expertise of international partners. At the moment the draft law that makes amendments to the domestic violence legislation that will enable ratification of CAHVIO is being finalized by the MLSPF. Accordingly, the first version of the draft law provides the introduction of a new mechanism of intervention – the emergency protection orders issued by the police, and the exclusion from the current legislation of provisions related to mediation and conciliation, as inadmissible procedures in the settlement of cases of domestic violence, according to international standards.

- *Joint Guidelines regarding the intervention of the social assistance, law enforcement and medical care bodies in the cases of domestic violence* have been approved in 2012 through ministerial orders – the Order of the Minister of Labour, Social Protection and Family, the Order of Minister of Health, and the Order of the Minister of Internal Affairs. These guidelines represent the implementing tool of the *Law no.45*, integrating a joint, but at the same time clearly-defined response and intervention on domestic violence cases. *The mentioned Guidelines contributed to the multi-disciplinary coordination in preventing, recording and monitoring the enforcement* of the protection measures in cases of domestic violence. The Guidelines help to streamline and standardize the working procedures, to achieve the objectives of the National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking (NRS) *and will contribute to the creation of the necessary legal framework to implement the Strategy on NRS*. The National Referral Strategy (NRS) for the protection and assistance of victims and potential victims of human trafficking established in 2006 in the country was extended in 2010 to assist victims of domestic violence too.

- The social infrastructure of physical, psychological and social assistance services provided to subjects of domestic violence within a series of rehabilitation centres, with the support of both Government financial resources and those initiated by non-governmental organizations, make remedies more accessible and closer to the victim. These centres operate according to the *Framework Regulation of organization and operation of rehabilitation centres for victims of domestic violence* approved by *Government Decision no. 129 from 22 February 2010* and the minimum quality standards for social services provided to victims of domestic violence and approved by the *Government Decision nr.1200 from 23 December 2010*.

Institutional and capacity building in the field of DV

- To support development of infrastructure of social services for the subjects of domestic violence, the Council of the district Drochia, created the public institution "Support services for the subjects of domestic violence" with two divisions (Decision no. 12/9 of 04.10.2011): The Maternal Centre "Ariadna" and the Centre for support and counselling of perpetrators of domestic violence (hereinafter "Centre for perpetrators"). In this context, besides the rehabilitation centres that facilitate access to services for victims of domestic violence, the Ministry of Labor, Social Protection and Family in cooperation with the UNFPA has developed a Concept for the creation of rehabilitation services for perpetrators (approved by Order No.109 of 10 august 2012 of the MLSPF), the Centre for perpetrators in Drochia being the first centre of its kind inaugurated on the 1st of December 2012 in the country.

- At the moment, there are 8 centres that receive funding from the state budget, with the purpose of ensuring territorial coverage and sustainability for programs of medium and long- term reintegration of victims of domestic violence, victims of human trafficking:

1. "Ariadna"- Center for victims of domestic violence from Drochia;
2. "Artemida" Center for perpetrators from Drochia;
3. Maternal Center from Căușeni;
4. Center for Assistance and Protection for Victims and Potential Victims of Human Trafficking from Căușeni;
5. Center of family crisis SOTIS from Bălți;
6. Maternal Center from Cahul;
7. Maternal Center from Hâncești;
8. Center for Assistance and Protection for Victims and Potential Victims of Human Trafficking from Chișinău.

- In order to consolidate the police in the fight against domestic violence, the Ministry of Internal Affairs, with the support of the US Department of State, United Nations Population Fund in partnership with the Women's Law Center, have initiated the specialized training sessions at the Institute of Continuous Professional Education and Applied Scientific Research within the Academy "Stefan cel Mare" on effective police response to cases of domestic violence. To this end, a ToT for a group of police officers, lecturers of the Police Academy and civil society representatives was conducted by the Advocates for Human Rights in partnership with the Women's Law Center in December 2012. The national trainers will train based on a special curriculum developed by the Women's Law Center at least 500 police officers from all over Moldova during 2013-2014. At this moment, more than 100 police officers have benefited from such training. These training are part of multidisciplinary efforts, 3 TOT's being organized during October-November 2012 for health workers. At the same time a project funded by the US Department of State and implemented by the IOM focuses at training all multidisciplinary teams at local level from all over Moldova. As part of the project, at least 1400 professionals from 455 multidisciplinary teams from 21 regions will be trained during 2014.

Prevention and awareness raising in the field of DV

- National authorities also focus on the **prevention mechanisms with a view to combating domestic violence**. The Republic of Moldova strongly supports the scope of the international campaign "*16 Days of Activism against gender violence*", organized annually in our country, and believes that such a strategy should be applied at all levels: regional, national and local, so that in the end it reaches potential women-victims of domestic violence. The campaign features a number of activities, including press-conferences, round tables, public debates, conferences, TV and radio programs on human rights, gender-based violence and domestic violence. Separate events on the „Application of the protection orders”, with the participation of the representatives of police, medical staff, social assistants, prosecutors, coordinators of

multidisciplinary teams, were organized in 2011. In 2012, the 10th edition of the Campaign was organized under the slogan „From peace in the home to peace in the world” using innovative instruments, such as social theatre, the involvement of Olympic champions to promote the message of zero violence towards women etc. In 2012 there was also launched the public service announcement “Athletes against violence” – an innovative idea to involve Moldovan athletes in promoting the message of zero tolerance towards violence against women. Additionally, the campaign “Sports against violence”, which attempts to use the platform offered by sports to involve men in advancing role models and to mobilize the society in condemning this grave human rights violation, started recently with the involvement of line ministries, Moldovan Football Federation and with the support of OSCE Mission to Moldova. In this context, the Orange Moldova Cup finalists promoted the slogan “Real men don’t beat women” during the final match (26 May 2013) through a series of targeted activities.

During May-June 2013, a public awareness campaign on the “Protection order” was organized by a civil society organization in partnership with the General Police Inspectorate. The campaign provided information on the measures of protection order and its enforcement.

In 2013 the Government of Moldova will continue to support the international campaign “16 Days of Activism against gender violence” at national level and ensures a common platform for coordination of activities between Ministries, local authorities, international organizations and civil society.

- In accordance with the UN General Assembly Resolution 47/237 of 20 September 1993, Republic of Moldova is celebrating the International Family Day. Since 2009, the “Family” Festival has been annually organized in the country. Only in 2010, the events brought together around 70,000 participants, covering 10 regions, and raised the public awareness on such issues as family values, zero tolerance for domestic violence, a more active involvement of men in childcare and household responsibilities, etc. In 2011, the event was of a larger scale; about 20 local public administrations organized this festival and celebrated the International Family Day on the 15th of May. In 2012, the Festival covered 21 regions, which shows the growing interest of local authorities to promote family values and prevent domestic violence.

NETHERLANDS

Introduction

In the Netherlands, women victims of violence have access to justice and can apply for legal aid subject to the existing rules. There are no specific rules for women victims of violence.

Position of victims

The Dutch government is working to improve the position of victims. To this end the Victims'

Status (Legal Proceedings) Act came into force on 1 January 2011. It lays down the rights of victims of crime in criminal proceedings, such as the right to obtain and provide information, the right to a lawyer or an interpreter, and the right to an advance if the defendant is sentenced to pay damages. The new law also increases the options for the victim to file a civil claim in the criminal proceedings. Victims can determine for themselves the rights and services they wish to avail themselves of, and receive free support in doing so (in legal, practical, social and psychological terms) from Victim Support Netherlands.

Victim Support Netherlands

Victim Support Netherlands helps victims of a crime, traffic incident or disaster in a legal and practical sense. This includes crimes as domestic violence, rape and sexual assault. Victims can call with questions about reporting incidents, recovering damage or for support during the criminal proceedings. Victim Support Netherlands staff members can provide information on reporting incidents and give victims emotional and practical support. The support is free of charge.

See: <http://www.slachtofferhulp.nl/aeweld/Delicten/Huiselijk-geweld/>

Victim support centres

In 2011 a national network of victim support centres was set up to advise victims at different points in the criminal proceedings, involving the police, the Public Prosecution Service and Victim Support Netherlands. The objective is to ensure that the victims can go to a single agency for free assistance and information on the criminal proceedings and the enforcement of the sentence.

Legal aid

The Netherlands already had a system of subsidised legal aid in place for people on a low income (who have to pay a proportionate means-tested contribution). However, since 1 April 2006 all victims of sex offences or other violent crimes – including victims of domestic violence – may apply for free legal assistance from specialist lawyers irrespective of their financial capacity. The only condition is that the violence resulted in severe physical and/or mental injuries. The criteria for determining whether this condition is met are the same as those applying under the Criminal Injuries Compensation Fund Act. Legal aid applies to both criminal proceedings and civil proceedings to obtain compensation.

Severe injuries

If the sexual or other violence suffered by a (women) victim of violence has resulted in severe physical and/or psychological injuries, the victim is eligible for free legal assistance, regardless of financial capacity, under the terms of the Criminal Injuries Compensation Fund Act.

Temporary exclusion order

In addition, since 1 March 2011 Victim Support Netherlands has provided free legal assistance for the person who remains in the home in the event of a temporary exclusion order. Although they are not party to the proceedings, and therefore have no right to free legal aid, they may require legal assistance. This measure addresses victims' need for legal support, which was not previously available through social services. The support offered by Victim Support Netherlands includes information about the court proceedings and accompanying victims, if they wish so, to the hearing or helping them set out in writing their view of the domestic exclusion order.

This improves the legal position of victims of domestic violence, as promised in the coalition agreement.

Legal Aid and Advice Centre

For simple legal questions, a victim of domestic violence may of course consult the Legal Aid and Advice Centre. Its advice is free.

NORWAY

- The Norwegian government's view is clear. Domestic violence is unacceptable. It must be prevented, combated and alleviated through measures to help and protect the victims and through treatment and prosecution of the perpetrators.
- In Norway we are using the term violence in close relationships to describe many different forms of violence; intimate partner violence, forced marriages, female genital mutilation (FGM) and other honour related crime, violence against elderly (people) and sexual and physical abuse of children. These forms of violence have common characteristics – the victims are mainly women and the violence is perpetrated by a person or persons known to the victim.
- A White paper on violence against women and domestic violence was presented in March 2013. The White paper was followed by a new national action plan for the period 2014-2017. The White paper and the action plan emphasizes the need to see the work against such violence in an integrated, cross-sectorial perspective.
- The government has established a national resource center on violence and traumatic stress (NKVTS). The objective is to integrate and strengthen expertise in violence, family violence and sexual abuse. The center is engaged in research, development work, training, guidance and counseling. Five Regional Resource Centers for the field of violence and trauma have also been established, which assists the service apparatus with information, guidelines and expertise development, and create networks between all relevant partners in the region.

Legal framework

- In 1988, unconditional prosecution was introduced in cases of domestic violence. A criminal case may be brought before the court, even if the woman withdraws the formal report.
- A special penal sanction for violence in intimate relationships entered into force on 1 January 2006. This also covers mental abuse. The relevant provisions in the Penal Code 2005 take, to a far greater degree than previously, the violence that goes on behind closed doors seriously. The punishment for abuse in intimate relationships is increased from three to four years, and for aggravated abuse the punishment is up to six years. A considerable increase in penalty levels within the sentencing frameworks has also been decided for all forms of domestic abuse. In the new Penal Code, that has not yet entered into force, the levels will be raised further to a maximum of six years for domestic abuse and 15 years for gross domestic abuse.

- In May 2009, the Norwegian Ministry of Justice proposed a legal amendment that authorizes the use of electronic monitoring of a ban on contact or visit. At this point we have only proposed to allow for the use of electronic monitoring of offenders as part of a sentence. The measure is in line with the perspective that insists that the abuser must take responsibility for his acts and that it is the abuser – and not the victim – who must bear the consequences, in that his freedom of movement is restricted. The project was completed in February 2013.
- The Government has tightened and strengthened the duty of prevention provided in section 139 of the Penal Code. This provision involves a duty to contact the police or otherwise attempt to prevent a serious criminal act if one regards it as most probable that such an act will be committed. It is also now a criminal offence to be an accessory to a breach of the duty of prevention. In addition, the duty of prevention has been extended to include a number of serious offences, such as domestic violence as well as several types of sexual offence against children.
- Norway passed a law prohibiting female genital mutilation (FGM) in 1995, amended in 2004. This prohibition also applies when the procedure is carried out outside Norway. For certain groups of professional practitioners and employees, it is a punishable offence not to attempt to prevent FGM.
- On 4 July 2003, the Norwegian Penal Code was amended to include a provision on forced marriage. The penalty for causing forced marriage is imprisonment for a term not exceeding six years.
- Human trafficking is a criminal offence in Norway. An act prohibiting the purchase of sexual services in Norway entered into force on 1. January 2009, This is a measure aimed partly at preventing human trafficking.
- In the spring 2009 the parliament passed a new act that imposes upon the municipality a legal obligation to provide shelter services and coordinated assistance for victims of violence in close relationships. The law emphasizes that it is a public responsibility to make sure that victims of domestic violence receive protection and assistance.

Victim support and protection

- Through amendments to the Criminal Procedure Act, in force 1 July 2008, the rights of victims in the criminal procedure have been strengthened, in particular for victims of sexual abuse. More victims are given free legal counsel to assist them during the police investigation and trial. Imposing on the police and prosecuting authorities a duty to report regularly to the victims about the progress and development of the case also strengthens the victims' right to information. During trial, victims are granted some procedural rights equal to

that of the defendant – like the right to examine witnesses in court and the right to comment on evidence presented in court.

Crime victims are rendered compensation through general state funded compensation schemes, such as sick pay and national insurance benefits, public and private insurance schemes etc. In addition, the following compensation schemes exist:

Act on Compensation from the State for Personal Injury caused by a Criminal Act (Criminal Injuries Compensation Act) gives persons who have endured personal injury caused by an intentional bodily harm or other criminal act marked by violence or force, or his or her surviving relatives, a right to criminal injuries compensation from the state. The criminal injuries compensation scheme is funded by the state through the Ministry of Justice and Public Security's budget.

The Counselling Offices for Crime Victims, consisting of 14 offices throughout the country, is a supplement to the public services. The management is financed by the Ministry of Justice and Public Security. These offices give advice and render practical help, they inform and assist the victim in contacting other public services. They also inform on the pending of a criminal case, from the bringing of charge to the court's judgment, and the rights of victims, and they assist with preparing applications for criminal injuries compensation and ex-gratia payment.

POLAND

The process to achieve actual equality between women and men in Poland is a relatively young one compared to other European countries. Most of the Polish legal framework in this respect has been developed within the last 20 years, with additional emphasis on the issue being put in connection with Poland becoming one of the Member States of the EU. Although the protection of victims of violence has been high on the government's agenda in the recent years, the focus has been placed mostly on the issues of domestic violence. However, a gender-based violence perspective has increasingly begun to emerge, especially with the ongoing efforts towards finalizing the Istanbul Convention ratification process.

It is important to note that - as a rule - both procedural and material rules of civil, criminal and administrative codes are gender neutral in Poland. As such, and in view of the general decree of equal status of women and men guaranteed in the Polish Constitution, the ability for women and men to access justice is also equal, as the same rules apply to everyone. However as practice shows women violence victims' ability to gain access to justice may be, and quite often is, hindered by reasons outside the strictly legal scope. Lack of empowerment, legal knowledge or financial means are frequently to blame. Such is the case in instances of women victims of domestic violence who are often forced to vacate their place of residence in order to escape violence.

While there are several different preventive measures available to victims of violence in Poland's Penal Code, they may be only applied to perpetrators who have had charges pressed against them. The fact that these measures are not independent of ongoing procedures makes Poland unable, at this time, to meet the standard set up by the Istanbul Convention. Although work on creating an immediately effective protection order, issued on an *ex parte* basis, available irrespective of, or in addition to, other legal proceedings is ongoing, another procedure available to the victims of domestic violence should be taken into account. The procedure in question is set up by article 11c of the act *on counteracting domestic violence* (originally passed in 2005 and amended in 2010).

According to article 11a, if a family member co-residing in a shared domestic unit hinders the co-habitation due to their use of violence, the victim of violence may ask the civil court to order them to vacate the residence. The court is obliged to review the case within 30 days. The decision of the court is executable immediately. The court costs of activating this procedure is relatively low – 40 Polish zloty which equals roughly 10 euro. The victim bears no costs if the procedure is activated by a prosecutor, who may do so acting to safeguard the public interest.

As the article has only been in effect since the 2010 amendment there are only two years of statistics available but they are already quite promising. In 2011, which was

the first full year of the provision being in effect, there were 197 cases in district courts, 105 where finalized and 49 orders to vacate the premises issued. The case load more than tripled in 2012 (730 cases where registered), with 620 cases finalized. In just over 43% of the cases orders to vacate were issued and executed. While the statistics do not segregate the orders issued based on the sex of the victim, taking into account the fact that according to Police statistics in 2012 65 % of victims of domestic violence in Poland were women (with 9% men and 26 % children of both sexes) as well as from information gathered from practitioners, a conclusion that this legal instrument is predominantly used by women may be made.

SERBIA

Access to justice is one of the biggest challenges for the human rights of women. The legislation on VAW in Serbia is currently very different than in the period prior to 2000. Changes in the law started in March 2002, when a new criminal offence was introduced, domestic violence (Art. 118a of the Criminal Code of the Republic of Serbia), and further developed in the 2005 Criminal Code. In this Criminal Code, domestic violence is prescribed as a criminal offence in Article 194, which was amended in 2009, introducing more severe sanctions, as follows:

(1) Whoever by use of violence, threat of attacks against life or body, insolent or ruthless behaviour endangers the tranquillity, physical integrity or mental condition of a member of his family, shall be punished with imprisonment from three months to three years.

(2) If in committing the offence specified in paragraph 1 of this Article weapons, dangerous implements or other means suitable to inflict serious injury to body or seriously impair health are used, the offender shall be punished with imprisonment from six months to five years.

(3) If the offence specified in paragraphs 1 and 2 of this Article results in grievous bodily harm or serious health impairment, or if committed against a minor, the offender shall be punished with imprisonment from two to ten years.

(4) If the offence specified in paragraphs 1, 2 and 3 of this Article results in the death of a family member, the offender shall be punished with imprisonment from three to fifteen years,

(5) Whoever violates a protection order for domestic violence that was imposed on him/her by the court in accordance with the law shall be punished with imprisonment from three months to three years and fine.

Domestic violence is therefore a separate criminal offence, prosecuted *ex officio*, and includes punishment for the emotional and physical abuse of a family member. There are five forms of domestic violence for which different penalties are prescribed. According to the Serbian Criminal Code, the definition of a family member includes the following persons: spouses and cohabitating partners and their common children; parents and grandparents of spouses; adopted children and parents; foster children and parents; siblings, their spouses and children; former spouses and their children and parents, if they live in same household; and persons who, although they had never lived together, share a common child or an unborn child. It does not therefore include violence between intimate partners and former intimate partners who do not live together, nor violence between same sex partners. This is different than the Family Code, which defines a family member more

extensively, also including former spouses, their children and parents, regardless of whether they live together or not.

The criminal offence of domestic violence includes several forms of violence. The punishment is proportional to its consequences on the victim; the most severe form of violence is that resulting in the death of the victim, and the least severe form consists in breaching protection orders.

According to the 2005 Family Code, a range of protection orders can be issued in civil procedure, while their violation is punishable as the most lenient form of the criminal offence of domestic violence. This is a good example of the interaction between criminal and civil norms; the Criminal Code supports the protective measures provided by the Family Code. The Family Code contains the provisions on the following protection orders, which can be issued in civil procedure: injunction for an abuser to move out of a flat or house disregarding his/her property or rental rights on the real estate; injunction for moving a victim into a flat or house disregarding property or rental rights on the real estate; prohibition of approaching the family member at a certain distance; prohibition of access to the area around the workplace and home of the family member; and prohibition of further harassment of the family member (non-molestation order). These protection orders may be valid up to one year, and if need be, extended until the violence stops; the procedure for issuing these orders should be urgent.

The new Serbian Law on Misdemeanors also contains a provision on a protection order: the prohibition of access to the victim (the injured party), property or a place where the misdemeanor was committed. This protection order is aimed at preventing contact between the offender and the victim in the situation where the victim feels that he/she is endangered. However, unlike protection orders in the Family Code, which can be issued only to the perpetrator of domestic violence, this protection order is applicable to all misdemeanours.

Moreover, the newly introduced security measure, i.e. the prohibition of approaching and communicating with the victim (2009), can be issued to convicted perpetrators of domestic violence, as well as to perpetrators of other forms of violence. It includes: a prohibition of approaching the victim within a certain distance; prohibition of access to the area around the workplace or home of the victim; and a prohibition of further harassment of the victim or communication with her/him; these measures can be imposed for three years.

The Serbian Criminal Procedure Code has important provisions for the protection of victims from physical abuse and threats in the courtroom, as well as important provisions for the protection of particularly vulnerable victims from secondary victimization. However, it does not explicitly mention victims of domestic or gender-based violence as vulnerable victims.

The amendments to Serbian legislation to date have rendered it highly compliant with the requirements of the most important international documents. However,

there are still significant gaps in the legislation, particularly in the implementation of laws and other practical solutions.

The most significant gaps in domestic violence legislation are as follows:

- There is a lack of legislation on stalking.
- There are differences in the definition of persons that are to be considered family members by the Criminal and Family Code.
- Intimate partners who do not live together are not considered family members.
- There is no urgent criminal procedure required for domestic violence cases.
- Serbian legislation does not recognize programmes for abusive men; however, training of professionals and several pilot programmes have recently been initiated.
- There are no specific provisions taking into account the influence of VAW when women commit a crime.
- In the cases of VAW, there is no efficient protection mechanism for victims when a state official fails to report the case or to take the appropriate measures

The Serbian Statistics Bureau keeps records of persons reported, indicted and convicted for criminal offences. These records include four groups of data: on offenders, victims, criminal procedure and decisions. Data on reported and indicted persons are obtained from the public prosecutor and are less detailed than data on convicted persons, which are obtained from the courts. Data on reported and indicted persons only include their age and sex, the legal name of the criminal offence that they committed and the time it was committed, as well as several data on procedure, pre-trial detention and decisions. On the other hand, information on convicted persons include more details about the offender (e.g. occupation, employment status, nationality, marital status, education, prior convictions), data on the age and sex of the victim, as well as data on the criminal offence, the criminal procedure, pre-trial detention, sentence and type of punishment. However, only some of these data are accessible to the public, but are not presented in their connection with specific criminal offences, the sex of the offender and other variables.

Previous research findings (Konstantinovic-Vilic, Petrusic, 2007) and results of the Victimology Society of Serbia's monitoring of court trials provide information on the problems in applying domestic violence legislation. The most important problems identified include the following:

- Prosecution is carried out only for cases involving serious injuries.
- There are long criminal procedures.
- There is a lack of free legal, psychological and medical aid for victims.

- There is a lack of coordination in carrying out the different procedures with respect to the same domestic violence case.

- Domestic violence is considered an isolated event, unrelated to previous behaviour or to the wider context of violence; thus, the procedures against the abuser and against the victim who defends himself/herself from violence are followed separately.

- Protection orders are issued rarely, are generally ineffective and not properly monitored.

- Victims are not protected when they report domestic violence cases and during criminal procedures.

2 When imposing a conditional sentence, the Court shall determine a punishment for a criminal offender. The Court shall also order that such punishment shall not be carried out provided that the convicted person does not commit another criminal offence for a period of time determined by the Court, which cannot be less than one year and longer than five years (the probation period) (Art. 65 of the Criminal Code).

- Although prosecution is *ex officio*, public prosecutors require that the victim support or join the prosecution.

- Public prosecutors rely predominantly on the victim's statement as a source of evidence while neglecting other evidence.

- Most of the sanctions are fines and conditional sentences, most of which are ineffective.

- Court practice mostly depends on individual judges since there is no mechanism for harmonizing the application of laws.

- Prejudices and lack of knowledge about domestic violence among the police, prosecutors and judges are still widespread.

- There is a lack of, or an inadequate establishment by the courts of a causal relationship between domestic violence and crimes committed by women victims of violence, which consequently results in an inappropriate punishment.

- Judges and expert witnesses lack knowledge about the battered women syndrome.

Nevertheless, despite a clearly increasing trend in the prosecution and conviction of women, as well as gaps in the application of the identified laws, to date, surveys have not explored the influence of the offender's gender on the application of domestic violence laws, nor developed reliable methodology and indicators for comprehensive, sustainable and comparable monitoring.

The National Strategy for Preventing and Combating Domestic and Partner Relationship Violence against Women was adopted at the session of the Government

of the Republic of Serbia on April 1, 2011. The text of the Strategy was prepared by the Work Group consisting of representatives and experts from women's non-governmental organizations, networks, organizations, bodies and institutions. The Strategy preparation work was coordinated by the Gender Equality Directorate of the Ministry of Labor and Social Policy within the Project "Combating Sexual and Gender Based Violence". The strategic fields and objectives of the Strategy are defined in accordance with the international recommendations and analysis of the status in Serbia.

General Protocol on the Procedure and Cooperation of Institutions, Entities and Organizations in the Situations of Violence against Women in the Family and in Intimate Partner Relations was adopted at the session of the Government of Serbia on November 24, 2011 and represents realization of the first activity of the Government of the Republic of Serbia on implementation of the general objective of "Improvement of Multi-sectoral Cooperation and Institutional Capacity Building" within the framework of the third strategic area of the National Strategy for Preventing and Combating Domestic and Partner Relationship Violence against Women. The purpose of the General Protocol is to ensure unified actions of all institutions in accordance with their legal authorizations and obligations and in an effective and comprehensive manner, in order to provide long-term protection to victims of domestic violence and conditions for adequate sanctioning offender, that is, to ensure other measures which should assist offender's return to socially acceptable behavior through changed system of values.

On November 21, 2013 National Assembly of the Republic of Serbia ratified CAHVIO Convention of the Council of Europe - Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), thus becoming the eighth country member of the Council of Europe that has ratified it. The Convention needs 10 ratifications to enter into force.

SLOVENIA

DEFINITION OF FAMILY VIOLENCE

Prevention of violence against women in Slovenia is incorporated in Family Violence Prevention Act of 2008. The Act denotes any form of physical, sexual, psychological or economic violence exerted by one family member against the other, or disregard of any family member as found regardless of the age, sex or any other personal circumstance of the victim or perpetrator of violence. Physical violence denotes any use of physical force that causes pain, fear or shame to the family member regardless of the fact whether injuries were inflicted. Sexual violence pertains to handling with sexual content that is opposed by one family member, or if he or she is forced into acting them out or because of his or her stage of development they do not understand their meaning. Psychological violence denotes such actions with which the perpetrator of violence exerting it against a family member induces fear, shame, feelings of inferiority, endangerment and other anguish. Economic violence is undue control or setting of restrictions of any family member concerning disposing with one's income or in other words managing the financial assets with which the family member disposes or manages and it can also mean undue restricting of disposing or managing the common financial assets of family members. Disregard falls under those forms of violence in which a person does not provide due care for the family member who is in need of it due to illness, disability, old age, developmental or any other personal circumstances.

Authorities and organizations as well as non-government organizations, which in their work find out the circumstances on basis of which it is possible to assume that violence is being inflicted, are obliged to immediately inform the Social Work Centre, except in cases when the victims themselves oppose expressly and there is no suspicion of criminal offence that should be persecuted under compulsory powers. Anyone and in particular social workers or health care workers together with the personnel working in educational and care institutions as well as educational institutions, have to – regardless of the provisions on protection of business secrecy – immediately inform Social Work Centre, the police or the State Prosecutor's Office when there exists a suspicion that the child is a victim of violence.

Victims of violence can by themselves choose a person who can represent them in all violence-related proceedings. It suffices for the assistant to be present in the proceedings mentioned in the above paragraph that the victim declares prior to the beginning of the proceedings or at the proceedings itself that he or she wants that a specific person accompanies him or her and that he or she wants that they are present in the proceedings.

The victim of violence has the right to a legal representative who shall, in accordance with the special regulations, protect the victim's benefits in proceedings and any activities concerning them.

MEASURES FOR PROVIDING SAFETY TO VICTIM

The police protect lives and provide personal safety of the victim in accordance with the regulations governing the performance of the police. At the request of the victim the police ensure safety for them when entering accommodation premises where they live so that they can take their belongings required for ensuring their basic vital needs as well as the basic vital needs of their children.

The victim proposes to the court to determine the measures for averting further damage. The court can prohibit on request of the victim by issuing of an order to the perpetrator of violence who physically harmed the victim or inflicted damage to their health or has in any other way interfered in their dignity or any other personal rights, in particular the following:

- entering to the accommodation premises where the victim lives;
- to come at a specified distance within the proximity of the accommodation where the victim lives;
- to come near to places which the victim frequents regularly (workplace, school, preschool facility, etc.).
- to establish contact with the victim in any way whatsoever, including by way of the means for distance communication;
- to establish any kind of meeting with the victim.

The above measures can also be issued if the perpetrator of violence threatened that they shall hurt or in any other illegal way offend their dignity or other personal rights; if the perpetrator of violence has illegally entered the accommodation where the victim lives or trespassed the property in any other way; if the perpetrator of violence illegally harasses the victim against their will for example by way of stalking or by using the means for distance communication; if the perpetrator of violence harasses the victim illegally against their will by using or rather by publishing the victim's personal information, that is, judicial and personal records on the World Wide Web. The court shall put a time restriction on duration of actions to a maximum of six months. The victim can propose a prolonging of the action for the maximum of another six months.

The victim can propose to the court to pass a decision on transfer of accommodation which is in common use. The court can upon the victim's proposal by issuing the decision charge the perpetrator of violence who lives in common household with the victim, whom he or she physically harmed or injured her in any way or in any other way offended their dignity or other personal rights, to transfer the accommodation to exclusive use by the victim in the extent they used.

FREE LEGAL ASSISTANCE

As far as it is not determined otherwise by Family Violence Prevention Act (hereinafter: the Act) the free legal assistance is offered to the victim of violence according to the act governing legal assistance.

The person for whom it was assessed that they are being endangered shall be eligible to free legal assistance according to the Act and regardless of the provisions of the act governing free legal assistance. The statement on endangerment of the person is issued by the competent Social Work Centre. The authority competent for free legal assistance takes into considerations on a primary basis requests submitted according to the Act.

DATABASE

Information on victim and perpetrator of violence as well as information on the type of treatment of violence shall be recorded in the existing databases as defined by the Act governing social security. The entry of data into databases from the above paragraph can be executed when the assessment is adopted on creation of aid plan.

NATIONAL SURVEY ON VIOLENCE IN PRIVATE LIFE AND PARTNERSHIPS (SUMMARY OF THE RESULTS)

The survey from 2010 reflects the experience and views of women with better education who are employed, more frequently with secure rather than precarious jobs, or old-age pensioners. They have their own income which they mostly dispose of, too. Most often they live in a shared household with their partner (64.1%), mostly a spouse (51.9%) of the respondent, and their children. This is the prevalent form of household in Slovenia in general. Quite a considerable number of respondents live in a shared household with their parents (20.2%). Both correspond to the data on housing conditions. Most of respondents are co-owners of an apartment or house with their partners, while a slightly smaller share live in an apartment owned by another person, most frequently their parents. Only slightly less than 10% rent their apartment. Most of respondents are citizens of Slovenia. The share of foreign citizens in our sample is almost seven times smaller than their share in the population of Slovenia. Half of the respondents are religious, mostly Roman Catholic. The comparative data in the general population of women show that there are fewer religious and more non-religious and undetermined women in the surveyed population. Most respondents are aged from 21 to 60, with a slightly larger share in the age group from 51 to 60. Most come from larger towns or villages close to larger towns where the availability and diversity of help is greater. The share of respondents from urban environments is much larger than that in the population structure according to types of settlements in Slovenia. Most respondents in this survey come from northern and north-eastern Slovenia.

The data on violence was collected by the research on a representative sample of the general population prepared by the Statistical Office of the Republic of Slovenia in April 2009. The sample consisted of the names, surnames and addresses of 3000

women aged from 18 to 80, proportionally stratified as to the age, region and type of settlement. Its objective was to research the prevalence of violence and the response to violence in the private sphere and in partner relationships. The population between 18 and 80 years of age was set according to the recommendations of different international surveys. The lower limit enables most women to complete the questionnaire independently. With girls under 18 there is a higher probability that another person will be present influencing the completion of the questionnaire or even completing it.

Key findings

Every second woman (56.6%) has experienced one of the forms of violence since she turned 15. They most frequently experienced psychological violence (49.3%) followed by physical (23%) and property-related violence (14.1%), limitation of movement (13.9%) and sexual violence (6.5%).

Every second woman has experienced violence within the previous 12 months, most frequently psychological violence. Physical (5.9%), sexual (1.5%), property-related violence (7%) and limitation of freedom (6.1%) are less common. If we exclude psychological violence and consider only the latter four kinds of violence, it would have been experienced by every fifth woman within the previous year.

Four percent of women experience violence by several persons in several intimate relationships.

The data reveal that violence can start any time in life, from early childhood to very old age. Some women experience it throughout their lives.

A total of 5.5% of women also experienced violence during pregnancy; 4.5% of women reported that the perpetrator had been violent towards children, too, most often mentally followed by physically and sexually.

Women experiencing violence are less healthy than women in the general population: 44.6% of victims of violence assessed their health condition as poor and very poor in comparison to 6.9% from the general population. They more frequently suffer from stress, anxiety, indigestion, loss of appetite, stomach problems, headache, constant pain in certain bodily parts, fatigue, vertigo, shaky hands, sleep disorders, poor concentration, insomnia, fear, depression and suicidal thoughts.

Men are the perpetrators of violence in 90.8% of cases. They are mostly well educated, as most have completed secondary school. The education level below and above secondary education is almost as common. They become violent early, as the youngest of them was only 14, and remain violent until very old age, as the oldest was 84. They mostly work full time; they are permanently employed less frequently; 16.9% have this status. Only 1.4% are unemployed.

A total of 90.3% of those who are religious are Roman Catholic, the rest are Orthodox

or Muslim. Those practising their religion, i.e. attending religious ceremonies and services, are fewer: 15.7%.

A fifth consumes alcohol regularly, others rarely, 16.7% never. The data reveal that the share of excessive drinkers among the perpetrators of violence is considerably higher than in the general population.

Share of women who experienced violence within the previous 12 months and who are still in a violent relationship

6.9% of all respondents are currently in a violent relationship. This means that approximately every 14th woman in Slovenia was in a violent relationship in a certain period of 2009 when the survey took place.

Reasons to stay in a violent relationship

The reasons that women stay in violent relationships are numerous; they are complex, personal as well as generally typical and predictable:

- The most common reason reported by respondents (who selected one answer) was that leaving a perpetrator is a long process (1.3%). The following three reasons listed by importance are related to children and family (1.1%). The respondents who still experience violence are thus afraid to lose their children (0.4%), feel guilt about breaking up the family by leaving (0.4%), or fear that children would lose their father (0.3%).
- 3.4% of respondents circled two or more answers, which indicates different combinations of life situations of respondents.
- The most common essential complication that can be deduced from multiple answers is that the partner was not violent from the start, that violence slowly pervaded the relationship, that a respondent got attached to her partner, that she loves him, and that he is still a good person when not violent. Respondents see the departure as a long-term process. Different emphases arise from the basic pattern (by frequency: guilt about broken family and children without a father, financial and housing problem, fear of partner and his revenge, fear of loneliness).
- The sum of the reasons indicated by all respondents (regardless of whether they circled one or several answers) yields the following order of frequency: the most common reason is still the finding that departure is a long-term process (16.1% of indicated reasons). This is followed by: fear of children losing their father (8.4%), partner is a good person when not violent (6.7%), they have no place to go (6.7%), and partner was not violent from the start, violence slowly pervaded the relationship (5.9%).
- None of respondents, however, identified with the following options: being prevented by religion, not leaving because of the dependence on partner's assistance in daily care and tasks, being prevented by partner or being without any support.
- We can see that the prevalent answers indicate different psychological, emotional or relationship-related aspects of the decision to stay in a violent

relationship (32.5%).

- These are followed by the reasons testifying to respondents' concern about the consequences for children and family (16.7%) and the material side of the problem and the lack of personal resources (15.9%).

Reasons to break up a violent relationship

As established by the respondents experiencing violence, leaving a relationship is indeed a long-term process.

- The most prevalent reason to leave a relationship is the awareness that the violent partner has not changed (6.6%), which indicates a certain period of preceding duration and repetition of violence in which such realization could evolve.
- The escalation of violence was the reason for 3.6% of women.
- The decisive fact for almost 3% of women was that they had found their own dwelling. That a possibility of a lasting retreat or even a lasting solution of the housing problem may be an important trigger to leave is also evident from the answers listed by respondents under Other (they mentioned moving to different safe accommodations).
- 1.3% of respondents left the relationship because their partners were also violent towards children.

Strategies of victims for the prevention of violence

Women experiencing long-term violence – contrary to popular belief – do a lot to prevent violent outbursts against themselves and their children:

- Respondents most frequently described the types of behavior that can be defined as avoidance strategies and usually prominent at the time of growing tension, before a violent outburst ("I avoid him", "I make myself invisible", "I make sure that nothing sets him off", "I do what he asks") (10.4% of all respondents).
- Most of these try to prevent violence by trying to avoid their partners (5.2%), which is also the most frequently reported behavior.
- A smaller share consists of behaviors, which may be called protective strategies and probably refer to the period of a violent attack ("I run from the apartment", "I run from the room and lock myself into another room", "we call the police", "I run from the apartment with children", "I scream") (3.5%).
- The most common among protective strategies is running from the apartment (1.2%).
- None of respondents has reported to have hit back.

Assessment of damage caused by violence

- The prevalent type is the damage caused by committed violence to the mental health of women (constant fear, distrust, nightmares, psychiatric problems) (18.7%).
- Most respondents stated that they could not get rid of fear (6%).

- 4.1% of respondents stated that they had psychiatric problems because of violence.
- This is followed by damaged physical health (loss of health, lasting bodily injuries) (7.3%)
- Lasting bodily injuries caused by violence are suffered by 1.6% of women.
- Personal problems in relationships with people or in entering a new relationship are mentioned by 4.5% of respondents.
- Financial and property-related problems as the results of violence (they left their property to the perpetrator or lost their job) are faced by 3.4% of respondents.
- 0.5% of women have lost contact with their children because of violence.
- 0.4% cannot have children.

SPAIN

Beyond the specific actions taken to eliminate this form of violence, all the policies on equality and combating gender-based discrimination, as provided in articles 9.2 and 14 of the Spanish Constitution, the Treaty and the Charter of Fundamental Rights of the European Union, constitute the fundamental basis for bringing about change in the cultural model, attitudes and values; the elimination of stereotypes; social development; and the achievement of freedom, equality, the full enjoyment of the fundamental rights by women and the eradication of all forms of violence against women.

For this purpose, the “National Strategy for the Eradication of Violence against Women 2013-2016” is the backbone of the actions taken by the public authorities to put an end to the violence suffered by women simply because they are women. It is one of the fundamental cornerstones of the Government’s political project to combat this social scourge and a stable action plan stretching to 2016.

The second general objective of the Strategy is to improve the institutional response provided by the different Administrations and public and private bodies in their respective areas of competence. This second general objective unfolds two specific objectives. First one is improve the response of the Justice System and the Security Forces in the exercise of their functions, offering maximum quality in judicial assistance and in the security and protection mechanisms.

FACTS AND FIGURES

Between January 2007 and 31 December 2012, a total of 800,542 complaints were filed. Of these, 126,293 were filed in 2007, 142,125 in 2008, 135,540 in 2009, 134,105 in 2010, 134,002 in 2011 and 128,477 in 2012.

Of the total number of complaints registered to 31 December 2012 (800,542), 586,949 were filed directly by the victim in court or the security forces, making up 73.3% of the total number of complaints filed; whilst 111,810 complaints (14%) were filed through police reports as a result of intervention by the police, assistance services or third parties. A total of 90,644 complaints (11.3%) were filed through injury reports and 11,139 complaints (1.4%) by relatives of the victim in court or the security forces.

From these figures we must conclude that the complaints filed directly by the victims in court or the security forces make up the highest percentage and this has remained stable over the years. On the other hand, the number of police reports resulting from complaints filed by relatives of the victims is significantly low.

Although the vast majority of the women know where they should go to file a complaint (82.6%), only one fourth of the women who said they felt abused had done so (27.4 %), according to the 2011 Macro-survey on Gender-based Violence.

Nearly 100,000 women have active police assistance, i.e. they appear in the GbV System with police risk assessment (none, low, medium, high or extreme). These women numbered 95,601 on 31 December 2010, 97,320 on 31 December 2011 and 99,021 on 31 December 2012.

Among the judicial measures to provide protection and security to victims, article 64.3 of Organic Law 1/2004 includes the measure consisting in prohibiting the accused from making contact with the person being protected and the possibility of using adequate technological instruments to monitor the fulfilment of this restraining measure by the accused. The data on the Electronic Monitoring of Restraining Measures System in the area of Gender-based Violence shows a gradual increase in the number of electronic devices since the introduction of the system in 2009, and a certain tendency to level off in the past year. Between the date the system was introduced and 31 December 2012, a total of 1,772 devices were installed and 1,016 uninstalled, therefore on 31 December 2012 the number of active electronic monitoring devices in the area of gender-based violence was 756.

The number of inmates serving prison sentences for gender-based violence offences has increased from 2009 to the present date. On 31 December 2012, there were 6,120 inmates serving sentences for gender-based violence and other offences; 2,435 serving sentences for gender-based violence offences only; and 202 serving sentences for main offences of homicide or murder.

In 2012, the Legal Advice Department of the 016 Helpline answered 10,109 calls concerning cases of gender-based violence, representing 18.11% of the total number of pertinent calls.

THE RESPONSE OF THE JUSTICE SYSTEM

Specialised Courts:

Since the entry into force of Organic Law 1/2004 of 28 December, on comprehensive protection measures against gender-based violence, all the judicial districts have at least one court specialised in violence against women. At present, there are 461 courts with competence in gender-based violence, of which 106 have exclusive competence and 355 are compatible.

Protection Orders:

The Protection Order for victims of domestic violence brings together different mechanisms for the protection and tutorship of those who are victims of such crimes and infractions. Its purpose is that of obtaining an all-encompassing protection that combines and coordinates precautionary measures of both a civil and criminal law nature, through quick and simple court proceedings brought before the courts of first instance. 61.5% of the protection orders assessed (34.556) are granted.

The current protection Order application form, which gives preference over any other relevant information the guarantee that the victims of this specific violence are informed that they have the right to legal assistance.

Free legal Aid:

Recently, the Royal Decree-Law 3/2013 of 22 February, amending the fees system in the area of the Justice Administration and the legal aid system, which recognises the right to legal aid, irrespective of economic means, to all victims of gender-based violence and human trafficking.

Two are the essential characteristics of the legal assistance which must be provided to a woman victim of gender violence: immediacy and specialisation according to Protocol of action and coordination of the security forces and bodies of the state and lawyers concerning the gender violence regulated in the organic law 1/2004, on comprehensive protection measures against gender violence.

SPECIFIC ACTIONS INCLUDED IN THE NATIONAL STRATEGY FOR THE ERADICATION OF VIOLENCE AGAINST WOMEN 2013-2016

On Legal Aid:

- Guarantee the right to legal aid to victims of gender-based violence and human trafficking from the moment immediately prior to filing the complaint.
- Promote the improvement of the information given in police stations on the content and scope of the right of victims of gender-based violence to receive legal aid.

On Training of legal professionals

Aimed to intensify the capacity and quality of the response of the legal players involved in the eradication of gender-based violence.

- Carry out training and awareness-raising actions on gender-based violence aimed at the justice administration personnel.
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- Carry out training and awareness-raising actions on gender-based violence aimed at members of the Judiciary and the Crown Prosecution Service.
- Promote training and awareness-raising for the legal professionals working on the Specialised Gender-based Violence Shift, in collaboration with the General Bar Association.

SWITZERLAND

Défis principaux relatifs à l'accès des femmes à la justice en Suisse

A. Progrès accomplis

Depuis avril 2004, la violence dans les relations de couple est **poursuivie d'office**. Pour certaines infractions, la procédure peut être provisoirement suspendue sur demande de la victime.

Avec l'introduction de **normes policières** prévoyant des **mesures de protection de durée limitée** comme l'expulsion du domicile, l'interdiction de contacter ou de pénétrer dans le domicile, qui ont été adoptées dans la plupart des cantons, des lacunes dans la protection des victimes à court terme ont été comblées. Depuis 2007, la **norme de droit civil** de protection contre la violence (art. 28b CC), qui prévoit des **mesures de protection durables**, améliore sensiblement la protection des victimes à moyen terme.

B. Appréciation

Les nouveautés normatives aux niveaux fédéral et cantonal expriment un changement paradigmatique de l'approche de la violence dans les relations de couple et sont accueillies favorablement par la majorité des cantons et des expert-e-s.

Toutefois, la manière dont les cantons utilisent leur marge de manœuvre dans l'application des normes est vue comme décisive. Les dispositions sur la **suspension provisoire** de la procédure lors d'infractions poursuivies d'office semblent problématiques puisque la suspension de la procédure dépend uniquement de la victime, et qu'aucune contrainte n'est imposée à l'auteur-e de violence. Les nouvelles sanctions pénales remplaçant de courtes peines privatives de liberté conditionnelles ou inconditionnelles par des **peines pécuniaires** conditionnelles ou inconditionnelles sont jugées de façon ambivalente. Concernant la réglementation des **cas de rigueur relevant du droit des étrangers** pour les migrant-e-s victimes de violence, des mesures s'imposent, surtout au niveau de l'application.

C. Principales recommandations d'expert·e·s⁴ concernant l'examen et l'application rigoureuse des bases légales :

- les actrices et acteurs au niveau fédéral et au niveau cantonal doivent faire leur possible pour appliquer les dispositions légales rigoureusement et conformément aux objectifs fondamentaux (éviter la violence, prendre en charge les victimes, imputer la responsabilité juridique aux auteur·e·s de violence) ;
- en rapport avec les objectifs fondamentaux, il serait indiqué de débattre en profondeur des **effets des dispositions pénales relatives à la suspension provisoire** de la procédure en cas de poursuite d'office des actes de violence conjugale et des **effets du nouveau droit des sanctions** ;
- il serait indiqué d'analyser l'influence d'éventuelles contraintes procédurales sur la portée de la **norme de droit civil de protection contre la violence** (art. 28b CC) et d'**évaluer** sa mise en œuvre dans les cantons. Des mesures d'accompagnement pourraient être nécessaires ;
- il serait bon d'**examiner l'application des règles du droit des étrangers** concernant les cas de rigueur dans les situations de violence domestique, et d'évaluer la mesure dans laquelle les autorités fédérales et cantonales exploitent la marge d'appréciation qui leur est laissée pour protéger les victimes ;
- conjointement aux interventions policières, il serait judicieux de **transmettre systématiquement les données des victimes aux centres de consultation** en utilisant les canaux existants tout en garantissant que les centres de consultation disposent des ressources nécessaires pour assurer la prise de contact avec les victimes. En outre, des modèles proactifs (**transmission automatique des données des victimes et des auteur·e·s de violence, mandat de conseil**) devraient être examinés en profondeur et évalués dans chaque contexte considéré, sur le plan de leur potentiel et de leurs limites.

D. Mise en œuvre des recommandations

Le 13 mai 2009, le Conseil fédéral a adopté le « rapport sur la violence dans les relations de couple. Ses causes et les mesures prises en Suisse ». Celui-ci présente les résultats d'une étude scientifique⁵ mandatée par le Bureau fédéral de l'égalité entre femmes et hommes (BFEG). Il expose la position du Conseil fédéral et énonce 20 mesures prévues l'échelon fédéral.

⁴ Theres Egger et Marianne Schär Moser : La violence dans les relations de couple. Ses causes et les mesures prises en Suisse, Berne 2008.

⁵ Theres Egger et Marianne Schär Moser : La violence dans les relations de couple. Ses causes et les mesures prises en Suisse, Berne 2008.

En 2002, un **rapport intermédiaire** décrit l'état d'avancement des mesures prévues (http://www.ebg.admin.ch/dokumentation/00012/00196/index.html?lang=fr&download=NHzLpZeg7t,lnp6I0NTU04212Z6ln1ae2IZn4Z2qZpnO2Yuq2Z6gpJCDdYN_fmy_m162epYbg2c_JjKbNoKSn6A--).

Le rapport dresse un **bilan intermédiaire**. Il aborde chaque mesure décrite dans le rapport du Conseil fédéral, répertorie les activités et les résultats correspondants et expose brièvement les perspectives.

A titre d'exemple, il est possible de mentionner :

- l'**évaluation** de l'application de la **norme de droit civil de protection** contre la violence (art. 28b CC) ;
- l'**évaluation** de l'application de la **norme de droit pénal sur la suspension de la procédure** (art. 55a CP) ;
- dans le cadre de l'évaluation de la loi fédérale sur l'aide aux victimes d'infractions (LAVI), l'examen de l'**adéquation des offres LAVI aux besoins des groupes victimes** ainsi que
- l'**évaluation** de l'application des **dispositions régissant le droit de séjour des migrantes** victimes de violence.

I. Bonnes pratiques

A. Le domaine Violence domestique au sein du Bureau fédéral de l'égalité entre femmes et hommes

Le domaine Violence domestique du Bureau fédéral de l'égalité entre femmes et hommes BFEG met ses connaissances à la disposition des services publics, des organisations privées, des médias et des spécialistes. Il fait réaliser et publie des études, des rapports et des évaluations. Il contribue ainsi à l'élaboration de mesures et d'instruments efficaces pour la prévention et l'intervention contre la violence domestique

(<http://www.ebg.admin.ch/dokumentation/00012/00196/index.html?lang=fr>).

Le domaine Violence domestique met à la disposition du public, via son site internet (<http://www.ebg.admin.ch/themen/00466/index.html?lang=fr>), des **feuilles d'information** qui exposent de manière synthétique différents aspects de la problématique de la violence domestique

(<http://www.ebg.admin.ch/dokumentation/00012/00442/index.html?lang=fr>).

Voir par exemple les feuilles d'informations suivantes :

- La violence domestique dans la législation suisse

(http://www.ebg.admin.ch/dokumentation/00012/00442/index.html?lang=fr&download=NHZLpZeg7t,lnp6I0NTU042l2Z6ln1ae2IZn4Z2qZpnO2YUq2Z6gpJCDdH93gGym162epYbg2c_JjKbNoKSn6A--).

- Conseil juridiques et représentation en cas de violence domestique - conformément au code de procédure pénal suisse. Ce document donne une vue d'ensemble concernant la situation en suisse

(http://www.ebg.admin.ch/dokumentation/00012/00442/index.html?lang=fr&download=NHZLpZeg7t,lnp6I0NTU042l2Z6ln1ae2IZn4Z2qZpnO2YUq2Z6gpJCDdX59gmym162epYbg2c_JjKbNoKSn6A--).

- La violence domestique en chiffres. Cette feuille d'information propose un aperçu détaillé de certaines données nationales et internationales

(http://www.ebg.admin.ch/dokumentation/00012/00442/index.html?lang=fr&download=NHZLpZeg7t,lnp6I0NTU042l2Z6ln1ae2IZn4Z2qZpnO2YUq2Z6gpJCDdH93f2ym162epYbg2c_JjKbNoKSn6A--).

B. Organisation d'ateliers concernant la mise en œuvre des dispositions relatives aux cas de rigueur concernant la violence domestique

A titre de bonnes pratiques, il est possible de mentionner les **ateliers régionaux concernant la mise en œuvre de l'art. 50 al. 2 de la loi fédérale sur les étrangers (LEtr)**.

Le domaine Violence domestique du Bureau fédéral de l'égalité entre femmes et hommes BFEG, en collaboration avec l'Office fédéral des migrations ODM, a organisé quatre ateliers régionaux. Le but de ces ateliers était l'optimisation de la coopération entre les offices cantonaux de migration et les services spécialisés dans le cadre de l'examen des cas de rigueur concernant la violence conjugale.

Lors de ces rencontres, l'ODM a précisé les critères d'application des art. 50 al. 2 LEtr et 77 OASA⁶. De plus, les questions concernant l'établissement et la prise en compte des indices apportés par les services spécialisés (tels que les maisons d'accueil et les centres de consultation pour victime) et la soumission du dossier à l'ODM ont été discutées et clarifiées.

⁶ Ordonnance relative à l'admission, au séjour et à l'exercice d'une activité lucrative.

C. Formation continue pour le milieu juridique

Parmi les bonnes pratiques, il faut aussi mentionner les **offres de perfectionnement pour les juges**.

Répondant à la demande de l'Office fédéral de la Justice OFJ et du BFEG, l'Académie suisse de la magistrature a introduit, depuis septembre 2011, dans le cursus pour l'obtention du «Certificat d'études approfondies en magistrature» un cours en français et en allemand sur la violence domestique.

Par ailleurs, le *Kompetenzzentrum für Rechtspsychologie des Instituts für Rechtswissenschaften und Rechtspraxis IRP der Universität St. Gallen* (centre de compétences en psychologie légale de l'Institut de la doctrine et de la pratique juridique de l'Université de St-Gall) a mis sur pied à la demande des deux offices susmentionnés, un séminaire de perfectionnement pour les juges et les avocats. Il dispense les connaissances requises sur les effets et le traitement des expériences de la violence chez les adultes et les enfants. Le premier séminaire a eu lieu, en français et en allemand, le 12 septembre 2012. L'OFJ et le BFEG supportent les coûts de développement de cette nouvelle offre de perfectionnement.

D. La collecte de données

Les données en lien avec la violence domestique font l'objet de différentes statistiques.

La **statistique policière de la criminalité SPC** expose des informations statistiques détaillées sur les infractions enregistrées par la police et sur les personnes prévenues ou lésées dans le contexte domestique

(http://www.ebg.admin.ch/themen/00466/00483/index.html?lang=fr&download=NH_zLpZeg7t,lnp6I0NTU042I2Z6ln1ae2IZn4Z2qZpnO2Yuq2Z6gpJCDdnt,gWym162epYbg2c_JjKbNoKSn6A--).

Depuis 2010, les données de la SPC font l'objet d'exploitations dont les résultats sont publiés chaque année sur le site internet de l'Office fédéral de la statistique OFS (<http://www.bfs.admin.ch/bfs/portal/fr/index.html>).

E. Modèle proactif – Transmission des données et consultation proactive

Quelques cantons disposent, selon le modèle proactif, de centres de consultation spécialisés qui ont le mandat de contacter directement et de recevoir les victimes et les auteur-e-s pour des entretiens avec les conseillères et les conseillers. Dans certains cantons, il est même possible d'obliger les personnes expulsées à venir au centre de consultation pour un certain nombre d'heures d'entretien-conseil. Les expériences sont positives dans les deux cas.

TURKEY

One of the fundamental human rights and an integral component of the rule of law, judicial access is more of an issue for women victims of violence. In view of the fact that women might face discrimination in many aspects including the education, health and employment opportunities in particular; discrimination could bring along difficulties in access to justice when they suffer from violence. Therefore, a great many measures are essential in legal, structural, socio-economic and cultural terms for them to enjoy their right to equal access to justice.

Accordingly, special attention has been paid to women victims' access to justice as a part of the efforts which has gained momentum recently in Turkey in its campaign against violence targeting women. Below is presented a summary of the relevant legal and practical work in our country.

The issue of "Legal Aid" is addressed in the Civil Courts Law Nr.6100, which sets forth that those who cannot afford to the court expenses totally or partially shall be entitled to legal redress, the beneficiaries shall be exempted from the litigation costs and further, a lawyer shall be designated to the beneficiaries by the bar association upon a court demand or their own request. The women victims of violence shall also be entitled to legal redress within scope of the law concerned.

After our country ratified the Istanbul Convention without any reservations in an effort to combat violence against women, the legal work gained impetus for alignment of the Convention's provisions, and The Law Nr.6284 on Protection of Family and Prevention of Violence against Women was made effective on March 20, 2012. With its substantial provisions as to combating violence against women, the Law stands out as an advanced legal arrangement as far as the judicial access for women victims of violence is concerned. The Law stipulates that in case of violence or any risk of violence, any one may report it to the public agencies or authorities. Once they are reported, the public officials concerned shall obey the Law as they fulfil their obligations without delay and inform the authorities about the other necessary measures. Another arrangement introduced by the Law Nr.6284 and fairly significant in terms of the victimized women's access to justice concerns no reliance on any proof or documents for a protective injunction order to be made. Hence, loss of time is avoided until the injunctions are issued for protecting the women victims. Likewise, the Law also provides for ruling of the protective injunctions without delay and timely application of the injunctions ruled and notifying the decisions about the rejected requests of injunction only to the person under protection.

It is envisaged in the Law Nr.6284 that The Violence Prevention and Monitoring Centers shall be set up to run the support and surveillance services aimed at violence prevention, effective implementation of the preventive and protective injunctions. The Centres, which are operable on a 24/7 basis and one-step system, have been set

up in 14 provinces and they are going to be extended nationwide, where needed. These centres play a significant role in securing women victims' access to justice. Accordingly, the coordination and surveillance of the legal support services for victims of violence is also undertaken by these centres in pursuant to the provision of the Law, regarding coordination of services offered to the persons protected. Furthermore, it is also one of the duties of the centres to make official request for ruling and application of the injunctions, if necessary.

One of the most vital services in access of women victims of violence to justice is availability and functionality of the hotlines serviceable 24/7 free of charge. In this scope, the ALO 183 hotline is available in our country for women victims of violence to contact easily and help them to the quickest access to the psychological, judicial, economic advice and guidance services as well as the relevant social utilities and the type of service they need. This hotline is capable of answering the calls from 81 provinces thanks to its 24/7 service principle and 4 teams in shift, each comprised of 3 personnel members. In cases where emergency response is needed, the Emergency Response Team official deployed at the Provincial Directorates of Security, Gendarmerie and Family and Social Policies in that province is contacted.

Women's Law Commission (TBB) working under Turkey Union of Bar Association (TÜBAKKOM) is among the sample of good practices on women victims of violence access to justice. The Commission aims to launch trainings to inform women about their rights and enable them to enjoy from these rights, provide voluntary counselling services to women victim of violence. "Women's Law Commission" was established in many of the provinces to achieve this aim. Bars, which provide important services in women's access to justice, deliver various services women victim of violence through these commissions and provide support to victims. Among the services provided by the Bars are ; assigning free of charge lawyers, services offered by Legal Assistance Boards, services of Women's Law Commissions, services by Women Solidarity Centres.

Free of charge lawyers are provided to victims of violence, lawyers are assigned to inform the victims about their legal rights and legal procedures are followed by these lawyers on behalf of the victims by Legal Assistance Boards which enable victims to get free of charge legal assistance if they need. Victims of violence can not only apply to the Bars in the province they reside, they can also demand lawyers through the police station and gendarmerie stations. Activities are launched about the basic laws, achievement of gender equality, free of charge counselling are provided on where and how to apply in the legal process to raise the awareness of women and especially those who are victims of violence about their rights in the women solidarity centres affiliated to Bars and women rights commissions.

“Domestic Violence Bureau” established by the Chief Public Prosecutor’s Office of Ankara in order to enable women’s access to justice is a significant sample of good practice. Domestic Violence Bureau was established on June 6, 2011 in order to provide a single central service during investigation of the complaint by the victim, victim’s protection order request and execution of the protection orders and efficient implementation of international conventions. A prosecution unit which only follows the investigation process of violence against women incidences and do not deal with other crimes was set up, excluding from other forms of crimes. This practice brought in remarkable expertise and efficiency for the investigation process of violence against women cases.

Launched in May, 2011 by the Ankara Bar, “Gelincik Project” is a significant sample of good practice in which every forms of legal and accommodation assistance, vocational services; social and psychological support are provided to the victims of violence and the children. The Gelincik project was formed under the Legal Assistance Centers of Bars. Women victims of violence who need legal assistance can apply to Gelincik through 7/24 accessible telephone line and they are directly responded by lawyers who are expert on violence against women. If the woman victim of violence is residing in Ankara and does not have the suitable conditions to come on her own, they are picked up by the car of the Bar’s from her home. There are 152 voluntary lawyers within the scope of the project, all of whom have been provided 2-3 day training on violence against women. The process proceed like the following way; firstly a legal situation assessment is done by the guiding lawyer who opened the phone, then a lawyer is called on from the list of voluntary lawyers. The voluntary lawyer embraces the case form the beginning to the end of the process. The voluntary Lawyer who took over the responsibility of the case is assigned within the scope of legal assistance. Afterward, the woman is (after the necessary measures are taken) accommodated to her home or a shelter securely or to a place she wants to go and the process about the legal procedure is followed by the assigned voluntary lawyer. The Project also contributes to women victims of violence efficient and active access to justice and increasing the awareness and sensitiveness of public officials on the issue.

Public officials providing investigation, prosecution and legal procedures services to women victims of violence need to be trained on the rights of women victim of violence and their human rights. 71.000 police officers, 65.000 health personnel, 336

judges and prosecutors and 17.000 religious officers have been trained within the scope of the protocols signed by the Ministry of Family and Social Policies and it is planned to launch activities in order to enable the sustainability of the trainings. 2.470 Gendarmerie personnel participated to the seminars organized within the scope of the cooperation built between the Ministry of Family and Social Policies and the Gendarmerie. Furthermore, a number of trainings are delivered for the Gendarmerie personnel on violence against women.