



Response to Violence Against Women - Unprotected Survivors

Alternative Report of Nongovernmental
Organizations from the Bosnia and
Herzegovina to GREVIO Group



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Idea for the cover page is inspired by the sign language used by hearing impaired persons, and our cooperation with women with disabilities who have experience of violence. A gesture on the cover page indicates a woman in Bosnian/Croatian/Serbian language.

TITLE

Response to Violence Against Women - Unprotected Survivors

Alternative Report of Nongovernmental Organizations from the
Bosnia and Herzegovina to GREVIO Group

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INTRODUCTION

On 7 November, 2013, the Bosnia and Herzegovina ratified the Convention on Preventing and Combating Violence Against Women and Domestic Violence – the Istanbul Convention – without reservations, and became the sixth country member of the Council of Europe that ratified this legal instrument¹.

This Report presents the perspective of nongovernmental organizations on violence against women and domestic violence in the Bosnia and Herzegovina. With the objective to involve great number of nongovernmental organizations in Bosnia and Herzegovina in the process of monitoring implementation of the Istanbul Convention, to provide them guidelines how to implement the monitoring, and to gather all nongovernmental organizations that wish to contribute in preparation of **the first** Report to the GREVIO Group², the Foundation United Women Banja Luka and the Association Medica Zenica prepared **the Toolkit for Monitoring Implementation of the Istanbul Convention, as the activity of the project “Stop Violence Against Women: Alternative Reporting”, supported by UN Women**. The Toolkit has been used for structuring, data collection, and preparing of this Report. In the process of preparing the Report, we used the data, information, findings, and recommendations of reports that nongovernmental organizations prepared and published recently. First of all, in the part related to material criminal law, we used findings of *the Analytical Report: Analysis of Monitoring of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in Bosnia and Herzegovina*³.

Introductory part of this Report emphasizes that the civil society organizations are working for many years toward support for women and children through providing free and gender sensitive legal and psychosocial assistance, including enabling safe shelter and rehabilitation in periods of acute violence. Experiences of women that are for many years striving to accomplish right on life free from violence, as well as the practice of work of the primary subjects of protection (police, centers for social work, health centers, prosecutor’s offices, courts) are pointing at numerous problems and obstacles in ensuring efficient systemic protection, as well as prevention of repetition of violence. Injured persons, victims of violence, must have ensured and undisturbed access

¹ Text of the Istanbul Convention has been published in the “Official Gazette of the Bosnia and Herzegovina – the International Agreements”, No. 19/13.

² Bosnia and Herzegovina is submitting the Report in February 2020, according to the calendar with the schedule of reporting, available at: <https://www.coe.int/en/web/istanbul-convention/timetable>

³ Petrić Aleksandra and Radončić Dženana (2017), Analytical Report: Analysis of Monitoring of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in Bosnia and Herzegovina, the Foundation United Women Banja Luka and the Center for Legal Assistance for Women, Zenica. The Report is available at the web page, direct link: <http://unitedwomenbl.org/v2/wp-content/uploads/2017/03/Analiticki-izvjestaj-Petric-Radoncic-2017.pdf>



to systemic psychological, social, and health protection and assistance, and access to justice through judicial proceedings, within which they have specific rights and responsibilities defined by the laws on criminal proceedings, as well as laws on protection from domestic violence of the Republika Srpska and the Federation of Bosnia and Herzegovina⁴.

Nongovernmental organizations that are working on local level and are providing support and assistance to women survivors of violence, as well as those that are implementing activities directed on prevention of violence are in position to address concrete issues and propose ways how to address these issues in the practice. Because of that, this Report also contains recommendations that could influence positive changes toward solving the identified problems. We were unable to respond on all questions, and due to that we determined priorities and focused also on implementation of the Convention in the practice. The information we are submitting in the Report represent our opinion on positive developments, but also our concerns – where possible, we presented relevant data and referred to the relevant sources.

When responding on several questions, we made efforts to include voices of women victims of violence, to present their experiences in relation to proceedings of acquiring rights on support, assistance, and protection from violence. For that purpose, we developed special questionnaires, and responses we received are used in preparation of this Report.

We hope that our Report will help GREVIO Group to have clearer overview of the real position and needs of women victims of violence and domestic violence in Bosnia and Herzegovina, and to develop recommendations that are responding to these needs. We considered important to involve larger number of women's nongovernmental organizations that are working with different groups of women survivors of violence, and have specific knowledge in specific areas, into the process of monitoring of implementation of the Convention, and due to that, their testimonies and experiences are integrated in the Report we are submitting to the GREVIO Group.

The Foundation „United Women“ from Banja Luka and the Association „Medica“ from Zenica prepared the Report, and following nongovernmental organizations contributed with data through questionnaire:

1. The Foundation „Lara“ Bijeljina
2. The Women's Association „Most“ Višegrad
3. The Association of Women with Disabilities „Nika“ Banja Luka
4. The Citizens' Association for Promotion of Roma Education „OTAHARIN“ Bijeljina

5. The Association „Romska djevojka - Romani ćej“ Prnjavor
6. The Women's Association „Snop“ Gučevo Rogatica
7. The Association of Active Women „GENDER“ Brčko
8. The Association „Vive žene“ Tuzla,
9. The Association „Amica Educa“ Tuzla
10. The Women's Association „Žene ženama“ Sarajevo
11. The Association of Roma Women „Bolja budućnost“ Tuzla
12. The Association „Zemlja djece“ Tuzla
13. The Women's Association „SEKA“ Goražde
14. The Women's Association „Forma F“ Mostar
15. The Association of Women Citizens Grahovo
16. The Association „Ključ budućnosti“ Ključ
17. The „Center of Women's Rights“ Zenica
18. The „Sarajevo Open Center“ Sarajevo
19. The Foundation „CURE“ Sarajevo

as well as two (2) nongovernmental organizations that decided to use right not to be mentioned as source of information in preparation of this Report, due to what, their names are not listed.



CHAPTER I – PURPOSES, DEFINITIONS, EQUALITY AND NON-DISCRIMINATION, GENERAL OBLIGATIONS (ARTICLES 1-6)

Article 3 – Definitions

Relevant public policies and laws in the Bosnia and Herzegovina at state, entity and Brčko District BiH levels do not include definition of „violence against women“ and „gender based violence against women“. It is not clear from the legal provisions related to violence that women are those who predominantly suffer domestic violence and gender based violence. Applicable laws that provide definitions of domestic violence do not include specific recognition of human rights violations and discrimination against women.

The Law on Gender Equality in the Bosnia and Herzegovina⁵ is the law that promotes and protects gender equality, guarantees equal possibilities and equal treatment of all persons regardless of sex, in public and private spheres of the society, regulates protection from discrimination based on sex, and prohibits violence based on sex. However, it does not contain the definition of violence against women, and does not refer to violence against women.

The Republika Srpska and the Brčko District of BiH

The Law on Protection from Domestic Violence of the Republika Srpska⁶ and the Law on Protection from Domestic Violence of the Brčko District of BiH⁷ do not contain the definition of violence against women. Previously valid the Law on Protection from Domestic Violence of the Republika Srpska contained explicit provision that domestic violence, and especially violence against women and children within family represents serious violation of women’s human rights and rights of a child. This indicates that the previously valid law was explicitly recognizing gender discriminatory character of domestic violence. Effective law contains gender neutral concept of human rights protection, on the way that it regulates that domestic violence violates basic human rights and freedoms guaranteed by the constitution and effective laws, which has lost the specificity of the need for explicit protection of women’s human rights in the context of domestic violence.

⁵ The Official Gazette of the BiH, no. 32/10

⁶ The Official Gazette of the Republika Srpska, no. 102/12, 108/13 and 82/15

⁷ The Official Gazette of the Brčko District BiH, no. 7/18



The Labor Law of the Republika Srpska⁸ contains the definition of violence based on sex, according to which „violence based on sex represents any act that causes physical, psychological, sexual or economic harm or suffering, as well as threats with such acts that seriously prevent persons to enjoy their rights and freedoms on the principle of equality of sexes, in labor and/or in connection to labor“.

In relation to approach of the public policies to gender based violence, the Framework Strategy for Implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence in BiH for the Period 2015 – 2018⁹ explicitly emphasizes that violence against women represents a form of violation of human rights, while the Strategy for Prevention of Domestic Violence in the Republika Srpska (2014–2019)¹⁰ does not provide the definition of gender based violence, but it refers to gender nature of domestic violence, and presents results of the research on prevalence of violence against women in a family. This Document also refers to the Istanbul Convention, and states this Convention is the most important document of the Council of Europe in relation to domestic violence, as it treats violence against women and domestic violence in comprehensive way. Further text of the Strategy emphasizes that the Convention regulates that violence against women represents violation of the basic human rights and form of discrimination of women, and provides comprehensive overview of legislative and other measures that states parties should undertake with the objective of all-encompassing and efficient protection of victims of all forms of violence against women, including domestic violence. The Brčko District of BiH does not have the Strategy/Action Plan.

Definitions of domestic violence, and circle of persons that enjoy protection from violence are mutually harmonized within different laws of the Republika Srpska, but they are not harmonized with the definition provided in the Istanbul Convention. In the period of preparing this Report, intimate partner violence was not recognized in the laws of the Republika Srpska and the Brčko District of BiH¹¹.

The terms gender, gender based violence and a woman are not defined within the legal system of the Republika Srpska and the Brčko District of BiH.

The term „victim“ is not used in majority of the laws in the Republika Srpska and the Brčko District of BiH. Legislation of the Republika Srpska and the Brčko District of BiH, and especially

⁸ The Official Gazette of the Republika Srpska, no. 1/16 and 66/18, Article 24.

⁹ Available at: http://arsbih.gov.ba/wp-content/uploads/2015/10/CAHVIO_Strategija.pdf

¹⁰ Available at: <http://www.djeca.rs.ba/uploaded/Strategija%20za%20suzbijanje%20nasilja%20u%20porodici%202014-2019.pdf>

¹¹ Note: At the end of April 2019, the People's Assembly of the Republika Srpska discussed the Draft Law on Changes and Amendments of the Law on Protection from Domestic Violence of the Republika Srpska, which recognizes as persons that are enjoying protection under this Law the persons that were or still are in emotional or intimate relationship, regardless if a perpetrator shared household with a victim or not. In the period of preparing this Report, proposal of the Law is still not considered.



laws on protection from domestic violence, are not fully harmonized with the standards of the Istanbul Convention in relation to understanding and legal definition of “victim”. Not a single law recognizes and specifies special needs and rights that would be especially related to women victims of domestic violence, although they regulate and guarantee rights related to all victims of violence in general. In the area of criminal and minor offence law, relevant laws explicitly use the term “injured person” and not “victim”. Laws on criminal proceedings (the Law on Criminal Proceedings of the Republika Srpska¹² and the Brčko District of BiH¹³) are operationalizing the term through formulation that in order for some person to be recognized as “injured person” her/his personal or property rights must be injured or endangered. Similar approach is used in the Law on Minor Offences (the Republika Srpska¹⁴ and the Brčko District of BiH¹⁵), which recognizes a person that suffered damage caused by a minor offence as injured person. In relation to this, listed laws do not provide definition of a victim of criminal or minor offence, which indicates that the term “victim” as a part of criminal or minor offence processes is integrated within the term “injured person”.

The Law on Protection from Domestic Violence of the Republika Srpska and the Law on Protection from Domestic Violence of the Brčko District of BiH do not provide definition of “the victim” of domestic violence, although this term is used throughout the text of the laws. These two laws are listing the persons that are considered as members of a family or family community, which refers to persons that can be victims (and perpetrators) of domestic violence. Additionally, the laws are regulating that a child, an older person, a person with disability, and a person under guardianship are enjoying special type of assistance and protection. In the Republika Srpska, a child will be considered as a victim of violence if he/she explicitly witnessed acts of violence. This Law further states that members of a family are persons that are living/or lived in the common household, which implies that the fact of existing current common life between a victim and a perpetrator is irrelevant for acts of violence and treatment of domestic violence. Finally, existing public policies in the area of domestic violence do not contain the definition of “victim”, although they use this term within the texts of the public policies.

The Federation of Bosnia and Herzegovina

Analyzed legal documents and public policies in the Federation of Bosnia and Herzegovina in the area of violence against women and domestic violence do not integrate the definition of “violence against women”.

¹² „Official Gazette of the Republika Srpska”, No. 53/2012, 91/2017 and 66/2018

¹³ “Official Gazette of the Brčko District of BiH”, No. 33/13 – Consolidated Text, and No. 27/14 and 3/19)

¹⁴ “Official Gazette of the Republika Srpska”, No. 63/2014, 110/2016 and 100/2017

¹⁵ “Official Gazette of the Brčko District of BiH”, No. 24/07, 6/12 and 11/12

The Criminal Code of the Federation of Bosnia and Herzegovina is neither defining nor recognizing violence against women as a form of human rights violation or a form of gender based violence and discrimination. This Law incriminates the criminal offences against life and body¹⁶, infringement of the equality of individuals and citizens (Article 177), criminal offences against sexual freedom and morality¹⁷, and criminal offences against marriage, family, and youth¹⁸ using gender neutral language, but they represent a basis for processing acts of violence against women. The only exception from gender neutral language in incriminating these criminal offences is in the Article 171 that regulates Illicit Abortion, as well as the Articles 203, 204 and 207 that are referring specifically on pregnancy of a female person as the consequence of criminal offence.

- The Law on Protection from Domestic Violence of the Federation of Bosnia and Herzegovina does not contain the definition of violence against women, and none of its articles refer to violation of human rights and a form of discrimination against women.
- The Family Law of the Federation of Bosnia and Herzegovina does not recognize or define the term of violence against women. In the Article 4, this Law prohibits violent behavior of any marital partner or other family member.
- The Law on Basis of the Social Care, and Protection of Civil Victims of War and Families with Children of the Federation of BiH does not recognize or define the term of violence against women. Yet, the Article 54 of this Law recognizes persons that survived sexual violence and rape in circumstances of war, and this includes women.
- The Strategy for Prevention and Combating Domestic Violence does not include direct definition of the violence against women. However, the text of the Strategy refers to the Istanbul Convention and its articles.

¹⁶ Chapter Sixteen of the Criminal Code of Federation of BiH – “Criminal Offences against Life and Body” incriminates following offences: Murder (Article 166), Manslaughter (Article 167), Negligent Homicide (Article 168), Infanticide (Article 169), Incitement in Suicide and Assistance in Suicide (Article 170), Illicit Abortion (Article 171), Aggravated Bodily Injury (Article 172), Light Bodily Injury (Article 173), Participation in a Fight (Article 174), Failure to Render Help (Article 175), and Abandonment of a Helpless Person (Article 176).

¹⁷ Chapter Nineteen of the Criminal Code of the Federation of BiH - “Criminal Offences against Sexual Freedom and Morality” incriminates following offences: Rape (Article 203), Sexual Intercourse with a Helpless Person (Article 204), Sexual Intercourse by Abuse of Position (Article 205), Forced Sexual Intercourse (Article 206), Sexual Intercourse with a Child (Article 207), Satisfying Lust in front of a Child or Juvenile (Article 209), Incitement to Prostitution (Article 210), Abuse of a Child or Juvenile for Pornography (Article 211), Introducing Pornography to a Child (Article 212), and Incest (Article 213).

¹⁸ Chapter Twenty “Criminal Offences against Marriage, Family, and Youth” incriminates following offences: Bigamy (Article 214), Facilitating of Unlawful Marriage (Article 215), Common Law Marriage with a Junior Juvenile (Article 216), Abduction of a Child or Juvenile (Article 217), Change of the Family Status (Article 218), Neglect or Maltreatment of a Child or Juvenile (Article 219), Abandonment of a Child (Article 220), Breach of Family Obligations (Article 221), Domestic Violence (Article 222), Avoiding Alimony Payment (Article 223), Preventing and not Applying Measures for Protection of Juveniles (Article 224)



Level of incorporation of the definition of „domestic violence“, harmonized with the definition from the Convention, into the relevant laws/bylaws/strategies/public policies:

- The Article 222 of the Criminal Code of Federation BiH¹⁹ defines domestic violence as criminal offence for which prescribed sentences are fines and imprisonment, depending from the actions of executing the offence and its consequences.
- The Article 7 of the Law on Protection from Domestic Violence of the Federation BiH.²⁰ From the definition provided in this Article, it is evident that the definition of domestic violence is not completely harmonized in this Law with the Istanbul Convention, because it does not directly refer that domestic violence represents violation of the fundamental human rights, and that it can represent the form of discrimination.
- The Article 4 of the Family Law of Federation BiH prohibits violent behavior of any marital partner or other family member.

¹⁹ Article 222 – Domestic Violence

(1) Whoever by violence, insolent or arrogant behavior violates peace, physical integrity or mental health of a member of his family, shall be punished by a fine or imprisonment for a term not exceeding one year.

(2) Whoever perpetrates the criminal offence referred to in paragraph 1 of this Article against a member of his household shall be punished by a fine or imprisonment for a term not exceeding three years.

(3) If in the course of the perpetration of criminal offence referred to in paragraphs 1 and 2 of this Article, a weapon, dangerous object or other instrument suitable to inflict grave bodily injury or impair health has been used; the perpetrator shall be punished by imprisonment for a term between three months and three years. (4) If, by the criminal offence referred to in paragraph 1 through 3 of this Article, a serious bodily injury was inflicted on a family member or his health is severely impaired; or if the criminal offence referred in paragraph 1 through 3 of this Article is perpetrated against a child or juvenile, the perpetrator shall be punished by imprisonment for a term between one and five years.

(5) If, by the criminal offence referred to in paragraphs 1 through 4 of this Article, a death of a family member is caused, the perpetrator shall be punished by imprisonment for a term between two and fifteen years.

(6) Whoever deprives of a life a family member whom he has been previously abusing, shall be punished by imprisonment for a term of no less than ten years or by long-term imprisonment.

²⁰Article 7 – Definition of domestic violence

According to this Law, domestic violence exists if there is a reasonable doubt that a member of a family committed acts of inflicting physical, psychological or sexual harm or suffering, and/or economic damage, as well as the treats that cause fear from physical, psychological, or sexual violence and/or economic damage against another family member.

In relation to the Paragraph 1 of this Article, acts of domestic violence, or threats with such acts are:

1) Any use of physical force to the physical or psychological integrity of a family member,

2) Any behavior of a family member which may result or provoke danger to result with the physical, psychological or financial damage or suffering,

3) Causing fear or personal endangerment or harming dignity of a family member through blackmailing or other coercion,

4) Physical attack of a family member on another family member regardless if physical injury occurred or not,

5) Verbal attack, assaulting, cursing, calling her/him with derogatory names, and other forms of rough harassment of a family member by another family member.

- The Law on the Basis of Social Protection, and Protection of Civil Victims of War and Families with Children of the Federation BiH does not recognize domestic violence and victims of domestic violence are not recognized as beneficiaries of the social protection. However, at the cantonal level, laws on social protection in three out of ten cantons of the Federation of BiH (Zenica-Doboj Canton, Sarajevo Canton, and Tuzla Canton) are recognizing victims of domestic violence as beneficiaries of the social protection.
- The Strategy for Prevention and Combating Domestic Violence calls upon and integrates the definition of domestic violence, as defined by the Article 7 of the Law on Protection from Domestic Violence of the Federation of BiH, as well as definition of the domestic violence developed based on the Law on Gender Equality of the Bosnia and Herzegovina. Additionally, the Strategy integrates the definition of „domestic violence“ stated in the Article 3 of the Istanbul Convention.

Level of incorporation of the definition of „gender“, harmonized with the definition from the Convention, within relevant laws/bylaws/strategies/ public policies.

Analyzed laws in the area of protection from domestic violence (the Criminal Code of Federation BiH, the Law on Protection from Domestic Violence of Federation BiH), do not incorporate definition of gender in their provisions in line with the Istanbul Convention that is based on two sexes (male and female), but which also points there are socially determined roles, behaviors, activities, and attributes that given society recognizes as harmful practice, and contributes that violence against women is becoming acceptable. These laws invoke that grammatical terms used in the laws to denote male or female sex presuppose both sexes, meaning they are gender neutral, although there is still practice that everything is written in masculine gender.

In relation to public policies in the area of protection from domestic violence at the level of Federation of BiH, the Strategy for Prevention and Combating Domestic Violence of Federation BiH does not incorporate the definition of gender. At the cantonal level, in line with the Article 37 of the Law on Protection from Domestic Violence of Federation BiH, governments of all cantons are obliged to adopt a two-year program of measures for prevention, protection, and fighting against domestic violence at the cantonal level. Based on the available documents at the cantonal level, the Program of Measures for Prevention, Protection and Fighting against Domestic Violence of Zenica - Doboj Canton for the Period 2016–2017, integrates the definition of “gender” in line with the Istanbul Convention, while the Action Plan for Prevention and Fighting against Domestic Violence for the Period 2017-2019 of Una-Sana Canton does not contain any definitions. The action plans or programs for other cantons were not available in the period of preparing this Report.

Level of incorporation of the definition of „gender based violence“, harmonized with the definition in the Convention, in relevant laws/bylaws/strategies/public policies.

Laws in the Federation of BiH related to domestic violence (the Criminal Code of Federation BiH, the Law on Protection from Domestic Violence of Federation BiH) do not contain definition of gender based violence. As a part of the public policies, such is the Strategy for Prevention and Combating Domestic Violence of the Federation BiH, the definition of gender based violence or violence based on sex is not explicitly mentioned. However, it states that „domestic violence is a particular form of violence in which women are the most frequent victims”²¹

At the cantonal level, the Program of Measures for Prevention, Protection, and Combating Domestic Violence of Zenica – Dobož Canton for the Period 2016–2017 incorporates the definition of the gender based violence in line with the Istanbul Convention. During implementation of various activities related to prevention of gender based violence, it is noticeable that some cantonal governmental are not even allowing official usage of the terminology of “gender based violence”, which is especially visible in the Canton 10.

Level of incorporation of the definition of „victim”, harmonized with the definition in the Convention, in relevant laws/bylaws/strategies/policies.

The Article 2, Paragraph 2 of the Law on Protection from Domestic Violence of Federation BiH²² states that a victim of domestic violence means any family member exposed to acts of domestic violence defined in details in the Article 7. Additionally, the definition of “a victim of domestic violence” does not clearly refer to particular needs and rights of women victims of violence.

The Article 6 of the Law defines term of a family and who makes a family, therefore who can also be a victim of domestic violence.

The Law on the Basis of Social Protection, and Protection of Civil Victims of War and Families with Children of Federation BiH does not recognize domestic violence, and victims of domestic violence are not recognized as beneficiaries of the social protection. However, at the cantonal level, laws on social protection in three out of ten cantons of the Federation of BiH (Zenica-Dobož Canton, Sarajevo Canton, and Tuzla Canton) are recognizing victims of domestic violence as beneficiaries of the social protection. The same Law in Zenica-Dobož Canton goes step further in relation to the other cantonal laws, and beside the definition of domestic violence, it regulates also the accommodation in the safe house as the right from social protection, and other rights that belong to the social categories.

The Strategy for Prevention and Combating Domestic Violence in Federation of BiH does not define the victim as the term, although the text of the Strategy uses the term “victim” of domestic violence repeatedly.

²¹ The Government of Federation BiH, the Strategy for Prevention and Combating Domestic Violence (2013 – 2017), 2012, page 10

²² For the purpose of this Law, a victim of violence is any family member exposed to acts of domestic violence defined in the Article 7

Level of incorporation of the definition of “a woman”, harmonized with the definition in the Convention, in the relevant laws/bylaws/strategies/policies.

Analyzed laws and public policies do not define the term “woman”.

With application of the mentioned definition, and due to lack of clear definition such are “violence against women”, and “gender based violence”, it is visible that the institutions insufficiently intervene when it comes to a woman victim of violence. This reflects through actions of the institutions, especially the centers for social work that do not hear voice of a woman when she has the need for more adequate protection and assistance for sheltering to the safe house. This is also visible through untimely imposition of the protection measures that should be applied in the interest of protecting a woman, as well as stereotypical beliefs that a woman is guilty for violence. Such approach perpetuates violence and suppression of a woman, not only within a family but also through institutional practices.

RECOMMENDATIONS:

1. To harmonize existing definitions of „domestic violence“ in the Republika Srpska, the Federation of BiH, and Brčko District of BiH with the Istanbul Convention, on the way to explicitly refer that domestic violence represents violation of basic human rights, and that it can represent a form of discrimination.
2. To include definitions of “violence against women”, “gender based violence”, “a victim”, and “a woman” into the existing legislative framework and public policies in the Republika Srpska, the Federation of BiH, and Brčko District of BiH, in line with the Istanbul Convention. With harmonizing the definitions, to create legal framework for efficient prevention of violence against women, assistance and protection for the victims, and especially women that are the most frequent victims of domestic violence.

Article 5 – State Obligations and Due Diligence

At the state and entity levels of the Bosnia and Herzegovina there are no available data sources if and how many women and men public servants were sanctioned for failures in procedures related to cases of domestic violence and violence against women. There is also no information if actions/procedures/measures of the public officials were analyzed with the objective of determining responsibility in cases of domestic violence and/or violence in partnerships that ended with murdering of a woman.

Although there are no available sources that would testify on procedures in front of the governmental institutions (courts and/or administrative bodies) in B&H, which were directed toward determining responsibility of the officials for violating positive obligations in providing protection

from violence against women and/or domestic violence, actions of the authorized bodies in B&H (in accordance with the standard of due diligence) were subject of judgment of the European Court for Human Rights (in the further text, the Court) in the case *Sobota-Gajic against B&H*²³. The Court identified violation of the right on private and family life of the Applicant, and violation of the Article 8 of the European Convention on Protection of Human Rights and Fundamental Freedoms by the state of B&H. In this case, governmental bodies (bodies of local governance in Gradiska) did not act in accordance with positive obligation of the efficient undertaking of necessary legal measures in order to enable enforcement of several legally binding court verdicts that were adopted in favor of the Applicant during longer period of time, in the case related to guardianship of the Applicant over her son that was abducted by a family of her husband.

It is important to emphasize that the state of the Bosnia and Herzegovina failed to ensure equal level of enjoying rights and protection of violence to all women, regardless of their place of residence. The rights are exercised depending from legal regulations effective for the canton and/or the entity in which a woman has place of residence. As the legislative regulations are different, the rights that women exercise are also not equal. Discrimination of women victims of war related sexual violence is visible, and it reflects through the extent to which women victims can exercise their formally guaranteed rights and benefits in the practice.

The Republika Srpska and the Brčko District of BiH

The key laws in the area of protection from domestic violence in the Republika Srpska and the Brčko District BiH are presupposing numerous positive and negative obligations, and are containing obligatory measures for governmental institutions. However, there is no publicly available information on how many officials were sanctioned for failures to perform their duties.

The provisions of relevant criminal laws of the Republika Srpska and the Brčko District of BiH, and the Law on Obligations are enabling reparation. Criminal laws are enabling injured person to claim and acquire reparation as the part of criminal proceedings, or alternately the court can direct injured person to claim it within civil litigation. Acquiring reparation within criminal proceeding or civil litigation relies on the provisions of the Law on Obligations that regulate reparation in the case of physical injury or shattered health (presupposes reparation for costs of medical treatment and other necessary costs related to it, including compensation of salaries lost due to inability to work during medical treatment) and/or material compensation (presupposes compensation for suffered physical pain, psychological pain due to reduced life activity, disfigurement, violation of reputation and honor, freedom or right of a personality, death of a close person, as well as for

²³ The European Court of Human Rights, *Sobota-Gajic against Bosnia and Herzegovina*, the Application No. 27966/06.

fear). In relation to the state body authorized to act with due diligence for providing reparation for suffered domestic violence, authorized courts are those who determine just reparation for suffering of a victim of violence. The Report in relation to reparation is provided with the relevant article of the Convention.

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Since there is no available information on complaints on work of women and men representatives of relevant institutions, the survey was conducted for the purpose of this Report to collect experiences of women victims of violence in proceedings in front of public institutions. Women victims of violence the most frequently contacted the centers for social work (100% surveyed women), police (70%), health centers and centers for free legal assistance (50% each), and 20% of women have experiences of communicating with the courts. Survey identified that women also contacted religious communities, and searched for assistance from the employment bureaus. On the question "Was the service you received adequate, timely provided, and efficient", none of the surveyed women responded positively, 20% of them responded negatively, and 80% of surveyed women said the service they received only partially responded to their needs. Following are the additional explanations provided by nongovernmental organizations that surveyed women whose responses indicated that acquiring support and assistance was impossible or difficult to reach.

Example 1:

„Access to services from social protection was difficult since the centers for social work as a rule did not recognize a woman victim as the real victim, and avoided referrals to the Safe House. Additionally, centers for social work often have rigid attitude toward recognizing specific rights to the victims of gender based violence. The second example related to difficult access to support provided by the Office of Free Legal Assistance of the Republika Srpska Government – according to women beneficiaries and other beneficiaries that tried to access this service, officers are insufficiently devoted to provide assistance, often fail to meet important deadlines, and certain processes.“

Example 2:

„There were complaints on work of the police, and approach used by the police officers in moment of arriving on the place where violence occurred, and taking statements. Officers are not adequately trained for conversation with a victim of violence, and for providing assistance. Their conversation was primarily directed to attempt of reconciliation between a victim and a perpetrator, and negating or covering up violence. This is what was happening before. We do not have recent statements.

There are more cases when victims of violence are giving up from persecution and testifying at the court.

The Sub-Department for Social Protection of the Brčko District of BiH has smaller number of employees comparing to real needs of this service. The women officers often cannot respond timely and adequately on all needs of population. Administrative tasks are taking too much time, and sometimes they do not manage to take field visits which they are also obliged to do. Recently, this service was equipped with special premises for providing psycho-social assistance to victims of domestic violence, but new officers were not hired although there is a need for that. This service still cannot respond on all requests for help. Due to that, and some other reasons, necessary assistance and support is missing, or support is offered but victims do not have enough trust in it. After they fail to receive assistance and support, victims continue to suffer violence, until some new attempt to get help.

Victims of violence complained on cold attitude and lack of understanding and empathy by police officers and employees of the Sub-Department for Social Protection. Also, victims were stating that women officers of the Sub-Department for Social Protection did not inform them about possibility to use services of the Safe House.

Example 3:

„Despite established legal framework and public policies, position of women and their protection within institutional system is far from being satisfactory.

In the work of our Association, especially during providing free legal assistance to women victims of violence and during implementation of monitoring of judicial proceedings for gender based violence, we were facing inadequate, untimely, and inefficient support from public institutions/subjects of protection. During the monitoring of judicial proceedings, we identified failures of all institutions that are coordinating in the process, from receiving report from a victim until the end of the process with court judgment. Due to that, women are losing trust in work of the institutions, and are deciding not to report repeated violence. Here we are emphasizing several specific cases from our practice:

The Case 1: Criminal offence “Sexual Intercourse with Abuse of Position”, the Article 196, Paragraph 2, of the Criminal Code of the Republika Srpska, with prescribed punishment one (1) to eight (8) years of imprisonment:

There was an indictment against a teacher that abused his position, and performed a sexual act against underage female student in his office in the Elementary School. The girl reported the case to the school director, and upon that, all institutions in the chain of protection made omissions in procedures used during their interventions.

The school officials acted unprofessionally during taking the first statement in the office of a school director, with presence of a school secretary, a school pedagogue, and father of a girl victim. The school director tried to persuade a father not to report the case to police, as they live in a small community, and a girl would be exposed to unpleasant situations...in fact, a school director tried to protect the school and its employees.

During the follow up procedure, the girl victim was unnecessary traumatized, as she was questioned five (5) times (she gave statement in the school in front of five (5) persons, than she was questioned in the police, in the hospital...by a psychologist, than by a court expert psychologist, and a court expert neuropsychiatry/court psychiatry) all to a defense of the accused could find inconsistencies in the statements, and blame a girl victim that everything has been staged. The accused perpetrator has two best attorneys in the region, and a girl victim does not have a legal assistance.

The final verdict was adopted by the court in 2018, and he has been sentenced on six (6) months of imprisonment, although prescribed sentence in the Criminal Code is from one (1) to eight (8) years of imprisonment. With the sentence of six (6) months of imprisonment, the perpetrator would return to teach again in the school where he sexually abused a girl, after he serves the sentence.

It is assumed that this is not the only case of abuse of position by this teacher, just this time he was discovered incidentally.

The Case 2: A woman that approached to our office, and requested assistance has lived with two underage children in a common law community with a partner, in which she suffered physical and psychological violence. In 2017, the court ordered temporary measure of restraining order for the period of one (1) year. The police and the center for social work are responsible institutions to supervise implementation of the restraining order. The measure was inadequate in the specific case, as her partner had the acquaintances in the police, and his close cousin was the employee of the center for social work, which did not provide adequate assistance to the woman victim. After we intervened and contacted the director of the center for social work, we succeeded to help her to leave violent environment and get custody over her children.

Women are often facing problems in relation to violation of protection orders. As a rule, police do not react, and do not file the report to the court to change existing protection order and/or request another suitable protection order. The police also do not provide feedback information to the case judge in relation to implementation of protection orders in the practice.

The Case 3: Another case of a young mother that was physically and psychologically abused not only by her husband, but also mistreated by the public institutions and the local community where she lived. The family of her husband was renowned and wealthy, and its members used their connections and power in all public institutions that should protect her and her children. Due to continuous physical and psychological violence, the woman left the house in which she lived with her husband, and took their two (2) underage children (10 and 5 years old) with her. They returned to her parents' house, and she filed for divorce. The divorce judgment was adopted by the court in 2017, with which ten (10) years long marriage was divorced, and custody over children was granted to a father. Among other things, justification of the court judgment states that the children were born and raised in a large and luxurious house of the parents of their father, while parents of their mother are living in one-bedroom apartment. The center for social work supported this court judgment. Part of the court judgment provides following justification: "It is impossible that mothers' love for the 5 and 10 years old children can be replaced with the large house full of modern appliances..." Despite report of the expert witness that she is devoted and engaged mother, the court judgment granted custody over children to the father, and he continuously prevents children to see their mother. He does not let children to visit mother that lives in another town, and only occasionally he allows one-hour visitations in his presence and the presence of the officer from the center for social work. Due to separation of children from their mother, they estranged from her, and their meetings became difficult and painful. The judicial proceeding related to this case is still ongoing, but there are small chances that the final judgment would be in favor of the mother.

The above presented cases are indicating that women survivors of some of the forms of gender based violence are not recognized as injured persons that are entitled to special types of protection and support during providing statements/testifying, and they do not have access to legal assistance in the courtroom.

„Victims of violence do not have the assistance even when they meet the financial criteria regulated by the Law on Free Legal Assistance, because the Center for Free Legal Assistance of the Republika Srpska (as the entity administrative institution within the RS Ministry of Justice, with the authority to provide free legal assistance on the territory of the Republika Srpska) does not represents the victims of violence in criminal and minor offence proceedings against perpetrators of violence; this institution can provide legal representation for victims of violence only in civil litigations. The Article 57 of the Istanbul Convention requires availability of the free legal aid; admittedly, it does not provide automatic right to the free legal aid to victims of violence. However, the Convention requires that free legal aid should be provided under conditions regulated by the national legislation. The Law on Protection from Domestic Violence regulates that victims of domestic violence have the right to access all subjects of protection and they are exempted from covering all costs of the procedure (the Article 10, Paragraph 1), and they have the right on free legal assistance in procedures of exercising all rights and protection, in accordance with the regulations that cover the area of free legal assistance (the Article 10, Paragraph 2). Majority of women are not legally literate, and are not familiar with the criminal law procedure. They do not know about the institute of the property claim and the possibility of filing for compensation of material or non-material damage by the perpetrator of violence, and prosecutor's offices are not collecting evidences and do not conduct investigations in that direction. Due to that, women remain with no access to reparation. Furthermore, due to their vulnerability, it is necessary for women survivors of all forms of violence to have access to the institute of the PERSON OF TRUST in order to enable their easier access to justice.

Example 4:

“THE CASE OF M.O. (1992)

During 2018, M.O., a mother of three (3) underage children, was involved in the program of intensive support to a family due to extreme poverty and disturbed family relations. During the work with her, the professional team of the Citizens' Association „Otaharin“ found out that she suffers violence. Beside the fact that she is living in a common law marriage with her older half-brother for a long period, she is also suffering violence. Although M.O. was a beneficiary of the services provided by the Center for Social Work in Bijeljina, professional assessment was not

conducted about the status of relations in this family. During the work with M.O., the professional team of the Citizens' Association "Otaharin" identified that she started to suffer sexual violence when she was only 10 years old. She became pregnant for the first time when she was 15 years old. The victim refused to report violence she suffered. The Center of Social Work of Bijeljina was informed about the facts indicating that M.O. was suffering domestic violence. This case was even presented and discussed at the meeting of the Multi-sectoral Group, but there was no follow up reactions of the public institutions that are subjects of protection from violence. Mobile Team for Interventions consisting of representatives of the public institutions and the Citizens' Association "Otaharin" visited this family on several occasions. Citizens' Association „Otaharin“ used all available mechanisms to intervene. In the meantime, M.O. left the program of support, and became pregnant with the fourth child.

THE CASE OF H.H. (1959)

H.H. (1959) is suffering physical and sexual violence conducted by her son. She was coming often to the Citizens' Association "Otaharin" with visible injuries. Her son is the father of two (2) underage children, and is committing violence when they are present. The Center for Social Work of Bijeljina was informed about this case for the first time in 2015. Representatives of the Center verbally stated that the son of H.H. is good father to his children, and that he will calm down. In the meantime, his mother continued to suffer violence. The perpetrator prohibited to the member of the Mobile Team for Interventions and the field workers of the Citizens' Association "Otaharin" to come to visit, and does not let children to participate in the workshops and activities of the Citizens' Association "Otaharin". Beside visits of the Mobile Team for Interventions, public institutions did not conduct any further action to protect the victim".

The Federation of Bosnia and Herzegovina

To date, there is no comprehensive research on professional attitudes, including stereotypes on violence against women, gender based violence and/or domestic violence that would include representative sample across the Federation of BiH, or at the state level.

Nongovernmental organizations are conducting various research projects and activities. One of the studies implemented by the Citizens' Association "Medica" Zenica relates to the Baseline Study²⁴ to assess current situation related to quality of protection for survivors of sexual and gender based violence in health care services in three cantons (Zenica-Doboj Canton, Una-Sana Canton, and Central Bosnia Canton). Acquired data also indicate that health care professionals believe they are familiar with the legislative provisions and their obligations related to cases of sexual and gender based violence. There are certain "knowledge gaps" – apart from "general" provisions of the law,

²⁴ Baseline Study for Transnational Health Training Project in the Bosnia and Herzegovina, "Medica" Zenica

other provisions on the role of health care professionals are poorly understood. Skills of recognizing cases of sexual and gender based violence, adequate reaction, and knowledge on reasons for certain behaviors of the survivors of sexual and gender based violence are not sufficiently recognized among professionals. They are quite aware about unjustified stigma on survivors of the sexual and gender based violence, and although majority of professionals do not support prejudices related to sexual and gender based violence, there are visible attitudes that justify violence and misperceptions about prevalence of sexual and gender based violence. Visible knowledge gaps and negative attitudes on sexual and gender based violence are combined with lack of supportive working environment of health care professionals, and negatively affect their work with the survivors. Only ¼ of the professionals is testing presence of the sexual and gender based violence, usually conducting only one test. Questions on possibilities of sexual and gender based violence are rarely asked, even if the patients show specific symptoms. Only some professionals are familiar with the existing Protocol for Treatment of Adults Affected by the Sexual and Gender Based Violence in their institution. Even the part of the professionals that stated their health care center is applying trauma sensitive approach toward survivors of sexual and gender based violence are emphasizing that the health care professionals need additional education in this field, and they would like to attend it as well. Majority of the health care professionals highly evaluate usefulness of introducing education on trauma sensitive approach for the health care professionals.

The data received from nongovernmental organizations through the questionnaire for preparation of this Report point that NGOs are conducting research programs and participate in various reporting processes. As the results of some researches, several publications were prepared, as follows: Domestic Violence Experienced by LGBTI Persons: Analysis and Recommendations²⁵, Numbers of Equality 2. Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 – Analysis of Findings²⁶, Pink Report 2018 Annual Report on the State of Human Rights of LGBTI People in the Bosnia and Herzegovina,²⁷ preparation of the cumulative report on situation of violence against children in BiH and situation of domestic violence, and monitoring of judicial institutions in the area of sexual and gender based violence. Within personal capacities and additional professional development for doctoral and master work, some nongovernmental organizations are conducting researches on women survivors of sexual violence in conflict, with objective to look at feminist and cultural influences on models of support for survivors of rape.

²⁵ <http://soc.ba/en/domestic-violence-experienced-by-lgbti-persons-analysis-and-recommendations/>

²⁶ <http://soc.ba/en/numbers-of-equality-2-research-on-problems-and-needs-of-lgbti-persons-in-bosnia-and-herzegovina-in-2017-analysis-of-findings/>

²⁷ <http://soc.ba/en/pink-report-2018-annual-report-on-the-state-of-human-rights-of-lgbti-people-in-bosnia-and-herzegovina/>

The Law on the Basis of Social Protection, and Protection of Civil Victims of War and Families with Children in Federation of BiH does not recognize domestic violence and victims of domestic violence as beneficiaries of social protection.

Victims are recognized as beneficiaries of the social protection only in 3 cantons of Federation BiH, which clearly indicates that the state is not recognizing and enabling access to rights for all victims on equal basis. This also reflects through the practice, when after years of suffering from violence a woman victim is contacting nongovernmental organization, and believes that there is no escape and help for her, as there is no equal protection under the Law. Such situation points at the systemic discrimination and lack of possibilities for acquiring equal rights of victims of domestic violence in the area of social protection. Victims of sexual violence and rape are additionally marginalized, and do not have access to equal rights. Since 2006, the Law on the Basis of Social Protection, and Protection of Civil Victims of War and Families with Children of the Federation of BiH is providing possibilities for persons that survived war related sexual violence and rape to apply for the special category status. In 2015, the changes and amendments of the Law changed these application procedures, and made them complicated, with introducing the Expert Commission for giving an opinion whether the person survived war related sexual violence and rape or not. Opinion of the Expert Commission is only one of the documents/findings to be considered by the first instance authority (center for social work or municipal service for social affairs) when processing the case, and procedure of recognizing of the special category status. However, at the field, in different cantons of the Federation of BiH, different and non-harmonized practices were applied due to insufficiently clear procedures and guidelines by the Ministry of Social Protection of Federation BiH after the changes of the Law, and practice of the Expert Commission for providing opinion. This caused durable procedures, in some cases for more than 2 years, violations of the Law, and failures to recognize the special category rights for women survivors. It also caused that many women survivors lost hope, and some even attempted suicide. Practice of the centers for social work and municipal services for social affairs as the first instance authorities is to exclusively take opinions of the Expert Commission as the basis for (non)recognizing special category status, although the Law prescribes that the opinion of the Expert Commission is non-binding, and should be considered on the same way as the Certificate issued by the accredited organizations issued to a woman survivor. However, the practice shows that priority is always given to the opinion of the Expert Commission.

Example:

Durable processes in the procedure of acquiring status of a civil victim of war – special category, in which women survivors are exposed to long waits from submitting requests for recognizing status of a civil victim of war to decisions of authorized institutions on appeals or lawsuits. As example, we are presenting the cases of two women beneficiaries of "Medica" Zenica that initiated administrative disputes with assistance of "Medica" Zenica. Their lawsuits were accepted, and cases were sent back to the first instance authorities (Annex 14 – Decision of the Cantonal Court in Zenica, no. 04 0 U 010190 18 U, from 26 September 2018, and Annex 15 – Decision of the Cantonal Court in Bihać). However, in the repeated procedure, the institutions again rejected their applications, and did not recognize the special category status to these women. In the period of preparing this Report, the judicial processes are re-initiated and ongoing for both cases.

Apart from stigmatization, marginalization, and discrimination of women survivors of war related sexual violence in relation to procedures of acquiring special category status, they can lose this status if they change place of residence from the Federation of BiH to another BiH entity – the Republika Srpska. On the other hand, with returning to the Republika Srpska, women survivors of war related sexual violence that acquired the status of civil victim of war in the Federation of BiH, and lost it with changing the place of residence to the Republika Srpska, cannot acquire the right as victims of torture in the Republika Srpska. The Article 6 of the Law on Protection of Victims of War Torture of Republika Srpska (the Official Gazette of the Republika Srpska, no. 90/18) excludes persons from the rights and status of victims of torture that on the same factual basis already acquired right based on another law of the Republika Srpska, the Federation of BiH, the Brčko District of BiH, or other neighboring country, regardless of the fact if they use their right or not²⁸. In relation to other categories of marginalized groups of women, majority of nongovernmental organizations that participated in completing the Questionnaire for preparation of the Alternative Report specified they have data base of additionally marginalized women with experiences of violence (N=9 – 69,2%), while four organizations (N=4 - 30,8%) said they do not keep such data base.

Marginalized categories of women for which NGOs within their work keep data base are:

- Women older than 65 years of age
- Women from rural areas

²⁸ Article 6: Status of a victim of torture and the right in accordance to this Law may be acquired if it is not already acquired on the same factual basis based on another law of the Republika Srpska, the Federation of BiH, the Brčko District of BiH, or the other neighboring country, regardless of the fact if the right is used or not.

- Women victims of war related rape
- Women victims of domestic violence (including victims of trafficking of people)
- Women belonging to national minorities (Roma women)
- LGBTI women
- Pregnant women.

Majority of the listed categories of women are not recognized by the state as especially marginalized groups, and there is no adequate legislative and public policy framework.

The Law on Protection from Domestic Violence of Federation BiH integrates due diligence standard through the Articles 8, 37, and 39. With the Article 8, legislator imposes the obligation of institutions, nongovernmental organizations, citizens, and family members to report domestic violence. Failure of reporting domestic violence represents minor offence, except in cases when domestic violence is reported by a victim. Although this represents positive measure of integrating standard of due diligence, there are still no publicly available data on initiated minor offence procedures for failure of reporting domestic violence and their outcomes. The Article 37 prescribes adoption of program measures for prevention, protection, and fighting against domestic violence at cantonal level and the Article 39 regulates obligation of signing protocols of cooperation and providing protection to victims of domestic violence at municipal levels.

Examples from the practice of nongovernmental organizations point that women and men professionals engaged in public institutions are still not applying this provision:

Example 1:

During admission to the Safe House, woman client states she was expelled from home together with a child, and was outside where she saw police officers and approached them for help. She also states they told they will accompany her to the home to take her belongings, and upon that, they directed her to contact the Office for Foreigners. Representatives of the Office referred her with the request to be accommodated to the Safe House, and did not pay attention to report violence. Upon her arrival to the Safe House, we informed the authorized police station about the case of violence. The police did not take any action on the report, and did not contact us to request any information, until we invited them to the meeting together with representatives of the Center for Social Work and the Office for Foreigners. Only after the meeting, the police officers took statement from a woman victim, and sent the report to authorized prosecutor's office.

Example 2:

On 14 April, 2017, the organization took over the case of domestic violence. N.N. approached to us with request for support due to biased work of the Center for Social Work. N.N. was in the process of divorce due to physical violence of her husband against her and their underage child. Her husband was given restraining order not to contact with N.N. Woman professional from the Center for Social Work of the Canton Sarajevo that took over the case was insulting N.N. Every time during meditation meetings, and requested from her to take off the uniform (N.N. is wearing the uniform because of her work). A social worker was also scheduling meetings with N.N. in the same time when her husband was in the premises of the Center for Social Work of the Canton Sarajevo, although this should not happen because of the restraining order. The organization approached the Center for Social Work with the request to be involved in the mediation procedure, and the Center rejected the request with explanation that the public should be excluded from this procedure, based on the provisions of the Family Law of Federation BiH. The organization approached to the institution of Ombudsman, which, based on the Family Law of Federation BiH has the right to be actively involved in the mediation process in front the Center for Social Work. Upon involvement of the Ombudsman Office in Sarajevo, inadequate work of the Center for Social Work stopped.

Example 3:

On 20 November, 2018, a woman client was sheltered to the Safe House (Annex no. 7- Request for shelter by the Center for Social Work no. 02/10-35-32-1336/18 on 21 November, 2018). The protection measures were not imposed until the end of her stay in the Safe House (17 December, 2018), although she had injury list when she reported violence (Annex no. 8 – Medical Report of the Health Center Kakanj – Emergency Care on 18 November, 2018). According to the statement of a woman client, when she was reporting violence to the Police Station in Kakanj, police officers did not offer her sheltering to the Safe House, or any other form of protection. She also stated the police registered reported violence as the incident, and said this was their private family thing, although she had visible injuries. A woman client escaped to another city, to Zenica, where her daughter lives, and contacted the Police Station Crkvice. The police in Zenica referred her to the Safe House for shelter, and consulted the Center for Social Work from Zenica. Since a woman had residence in the area of Zenica, and lived with her husband in Kakanj, the Center for Social Work from Zenica was authorized institution, and they checked what steps have been taken in this case. The Safe House was informed that the first report of violence in Kakanj was recorded as the incident. No measures were taken to protect a woman victim, and a husband confessed to a social worker that he committed violence. After a month of her stay in the Safe House, a woman client left the

Safe House on her own request, and there is no new information about follow up procedures in this case.

RECOMMENDATIONS:

1. To harmonize existing legislative framework on the way to recognize and enable equal rights for all victims of violence regardless of their place of residence in the Bosnia and Herzegovina. Relevant laws must recognize victims of violence as beneficiaries of rights on social care, and determine adequate financial resources for assisting victims of violence, based on their individual needs.
2. To enable equal rights for all women victims of war related sexual violence.
3. To determine public institution at the level of the Republika Srpska, the Federation of BiH, and the Brčko District of BiH that will be responsible for monitoring and evaluation of responses of local public institutions on domestic violence.
4. To strengthen the mechanism for implementing the standard of due diligence through processing complaints on work of women and men representatives of relevant institutions (police, judicial institutions, social and health protection, education).
5. To make publicly available the data on number of the public officials from the relevant services sanctioned for violation of due diligence standards.
6. To ensure adequate and accessible financial resources for researches about prejudices and stereotypical attitudes of the professionals toward victims of domestic violence/gender based violence.

CHAPTER II – INTEGRATING POLICIES AND DATA COLLECTION (ARTICLES 7-11)

Article 8 – Financial Resources

It is possible only partially to talk about the financial resources in the Bosnia and Herzegovina that are allocated by the public institutions for some activities of assistance and support to the victims of domestic violence. It is possible only to talk about financial resources allocated for some activities of assistance and support for victims of domestic violence but not about financial resources for assistance and support to the victims of other forms of violence against women.

Based on the analysis of documentation and experiences of nongovernmental organizations that are involved in data collection, it is clear that authorities at the state and entity level of the Bosnia and Herzegovina are still not planning adequate financial resources for implementation of the integrated policies, measures, and programs for prevention and combating all forms of violence recognized by the Istanbul Convention.

In the **budget of the Republika Srpska**, as well as the periodical reports of the authorized governmental bodies, there are visible amounts of the financial resources allocated only for sheltering victims of domestic violence in the safe houses in the Republika Srpska, as well as the amount allocated by the authorized Ministry for existence of the SOS telephone line (paid directly to the body authorized for communications in B&H – the Regulatory Agency for Communications of the Bosnia and Herzegovina).

In the Strategy for Prevention and Combating Domestic Violence of the Republika Srpska, it is not possible to find the financial framework for its implementation, therefore it is not possible to provide the answer on the question if the Republika Srpska and the Brčko District of BiH are allocating appropriate financial resources and human resources for the activities implemented by the public administration, nongovernmental organizations, and civil society organizations.

In the analysis implemented during the previous period, it is stated that available reports and researches are pointing at difficulties in implementing obligations from the newly adopted laws and public policies, namely in the area of protection from domestic violence. In relation to the officers of the centers for social work, majority of them stated that, due to limitations of financial and human resources, it is difficult to meet all the obligations related to domestic violence. Centers for social work mostly do not have specialized professionals, such as psychologists, and situation is even more complicated with lack of personnel in general. It often happens that the director is the only social worker that has knowledge and experience needed for work with the victims. Some of the centers for social work do not have separate rooms for private conversations with the victims

of violence; some centers do not have a vehicle that would make easier for the professionals to pay field visits to the victims. The analysis also indicate that professionals in a large number of the centers for social work stated their possibility to help victims depends from availability of the financial and human resources within or near their municipality. For example, it depends if there is the safe house near, the NGO that provides services, or the center for mental health, with appropriate and sufficient number of staff that would provide assistance and support to the victims. By the results of the field research, only several centers for social work said they have capacities to provide minimum level of short-term counseling, while majority of the centers for social work said that lack of trained professionals prevents them to provide even minimum help to the victims²⁹. In order to have more comprehensive understanding of the situation, we are referring to the publication „The Analysis of Costs of the Domestic Violence in Bosnia and Herzegovina: Cost Assessment of the Multi-Sectoral Response to Domestic Violence at the Local Level in Bosnia and Herzegovina“ (February 2019), which is result of the research conducted by the United Nations Agency for Gender Equality and Empowerment of Women in Bosnia and Herzegovina (UN Women in B&H).

In relation to the financing of the activities of nongovernmental organizations, out of ten (10) nongovernmental organizations that participated in preparation of this report, six (6) NGOs responded negatively on the question: “Did your NGO received financing or co-financing from the public budget resources for your activities directed toward fighting gender based violence against women and domestic violence?”

Four (4) NGOs that responded positively on this question were additionally asked if these public budget resources were directed to prevention (in line with the Articles 12-17 of the Istanbul Convention) or protection and support (in line with the Articles 18-28), and if there is continuity in allocation of the public budget resources for these purposes?

One (1) of the NGOs that runs the safe house responded, as follows:

„Continuity in allocation of the public budget resources exists, and it is related to the protection and sheltering victims of domestic violence that is financed in ratio 70% from the budget of the Government of the Republika Srpska, and 30% from the public budgets of local communities. Four times a year, the Ministry of Family, Youth, and Sport of the Republika Srpska announces an open competition on which we apply for the financial resources. The local communities are reimbursing

²⁹ Natalija Petrić and Nenad Galić (2015) Baseline Study: Analysis of the Harmonization of Legislation and Public Policies in Bosnia and Herzegovina with the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence (ETS 210), the Foundation United Women, Banja Luka. Available at: <http://unitedwomenbl.org/v2/wp-content/uploads/2015/12/osnovna-studija-2015.pdf>,

their share of the costs after the victims leave the safe house. However, reimbursement of the costs from the local communities is far more complicated comparing to the financial resources we are receiving from the public budget of the Government of the Republika Srpska that goes without difficulties. The local communities have burdened public budgets, and sometimes we are waiting for a long time for their reimbursements."

Another NGO responded, as follows:

„Only sheltering of women and children in the Safe House is financed from the public budgets, in line with the legislative framework in this area in the Republika Srpska. Some of the prevention campaigns are financed from the public budget funds, based on the project support for which we applied on the public call, and these are not in a form of continuous support."

It is important to emphasize that obligation of financing of sheltering of the victims of domestic violence is regulated by the Law on Protection from Domestic Violence of the Republika Srpska, in the way that financial resources for temporary sheltering and accommodation of the victims of domestic violence in the safe houses is secured from the public budget of the Republika Srpska in ratio of 70% of the costs, and from the public budgets of units of local self-governance in ratio of 30% of the costs of predetermined price of accommodation of a victim.

Earlier reports and analysis consulted during preparation of this Report indicate that the financial resources from the public budgets allocated for special support measure of the sheltering victims of domestic violence in the safe houses in the Republika Srpska are not adequate, they are paid retroactively, with delays of several months and more, all costs that NGOs have for implementation of activities in the safe houses are not recognized, etc. This will be presented in details in part of the Report related to the Articles 22-24 of the Istanbul Convention.

When it comes to the NGOs in Brčko District BiH, experiences are, as follows:

„Our association does not have guaranteed financial resources for work, prevention, and combating against gender based violence. We did not receive any financial support from the governmental institutions at the state level. We received financial support from the Brčko District BiH Government for organizing campaigns, street actions, and round tables during the international campaign of the 16 Days of Activism Against Gender Violence. Two times financial resources were allocated for the projects within this theme, and for the last two years, we were receiving financial support for the regular work of our association through the amendments, so we succeeded to implemented some activities related to

prevention and combating gender based violence, and present them as our regular work."

The Federation of Bosnia and Herzegovina

For implementation of the Law on Protection from Domestic Violence of the Federation of BiH, the public budget of the Federation BiH is planning resources that are insufficient and not planned based on needs.

In 2008, for the first time the Federation BiH incorporated the budget code for "Implementation of the Law on Protection from Domestic Violence" in the entity public budget³⁰.

This budget code was used for financing 6 safe houses until 2015, and since then for 5 safe houses in the Federation BiH. Resources are distributed based on the annual calls for proposals announced by the Ministry of Labor and Social Policy of Federation BiH. In the period 2008-2010, the amount was increased to 200.000 BAM, but already in 2011 the amount was decreased for 20.000 BAM, and in 2012 additionally decreased for 18.000 BAM and the distributed resources through this code were 162.000 BAM. This amount was planned within the entity public budget of the Federation BiH each year until the end of 2018. The amount planned in 2019 is 250.000 BAM. It is obvious that resources are planned without any cost analysis, and assessment of real costs for implementation of the Law and sheltering victims of violence in the safe houses in Federation BiH.

Although the Article 35, Paragraph 2³¹ regulates: "Resources for financing of the temporary sheltering of victims of violence in the safe house, other suitable institution or within other family are ensured in accordance with the regulations of the Federation of BiH and cantons in the following percentages:

- a) Budgets of the cantons in ratio of 30%
- b) Budget of the Federation BiH in ratio of 70%"

In relation to this article of the Law, the organizations that responded to the questionnaire speak from their experiences and emphasize this obligation has not been implemented by the authorities since adoption of the Law, as the allocated financial resources were between 5% to 10% of the legally prescribed amount the annual level.

Through their experiences and responses to the questionnaire, the organizations say that allocated resources are minimal and without continuity, and determined for precisely specified purposes (for example „...allocated resources by the Ministry of Labor and Social Policy of Federation BiH cannot

³⁰ Government of the Federation BiH – Budget for 2008

³¹ The Law on Protection from Domestic Violence of Federation BiH (the Official Gazette of the Federation BiH, no. 20/13)

be used for financing of the professionals that are continuously providing assistance and support to the victims. These resources can be used only for various logistical needs of the beneficiaries [clothes, food, hygiene, school supplies, etc.]...”), therefore they cannot be used for the professional/specialized support provided by the professionals that are working with the victims of violence in the safe house. Organizations are also pointing at experiences of late payments justified with changes of governance and lack of sensitivity within governance structures for comprehensive support to victims of violence. Besides that, continuity of financing at the level of Federation BiH exists, based on the public calls advertised every year. In this case, the organization states that allocated amounts are insufficient, and the applied procedure is durable - organization are waiting a long period from approval of the project to allocation of resources to the organizations that run the safe houses.

It is important to emphasize that, when it comes to the time framework, the Ministry of Labor and Social Policy of Federation BiH is usually announce the call for proposals in April, the decision is made until the August, and only after that, in upcoming months, the allocated resources are becoming operational. This way of financing has multiple negative effects on sheltering victims of violence to the safe houses.

Government of the Federation BiH does not take serious approach to the implementation of the Istanbul Convention as it does not plan adequate financial resources for prevention of violence, protection of victims, and sanctioning of the perpetrators. It is still visible that the major financial resources for these purposes are still tried to be fundraised through the projects from the international donors. Nongovernmental organizations have almost no financial support from the authorities in BiH, and resources of the international organizations are less and less available because they are allocated mostly to the projects of the governments (institutions, mechanisms) in the Federation of BiH, and BiH in general.

Having in mind the decentralized administrative structure of Federation BiH (federal level, 10 cantonal governments, and cities and municipalities), as well as the linear budgeting of the public budgets, it is not possible to determine the precise percentage of allocations from the public budgets at annual level that are dedicated to programs for prevention and combating of all forms of violence against women. Protection from violence as well as the violence prevention programs as the part of public budget resources in the Federation BiH is planned within the social protection or current allocations to the nonprofit organizations, and it is very difficult to identify the precise amount of resources that are planned and allocated.

In the public budget of the Federation BiH for 2019, the budget code for implementation of the Law on Protection from Domestic Violence of Federation BiH is placed within the budget line „Current Allocations to the Nonprofit Organizations”, with total amount of 22.010.200 BAM. From this budget code, based on insight into the allocation of resources, 1,13% is allocated for the implementation of the Law on Protection from Domestic Violence of Federation BiH.



There is no available data on how much, which level, and on what basis the financial resources are allocated to women's nongovernmental organizations. The only available data is from the Ministry of Labor and Social Policy of Federation BiH for allocations to women's NGOs that are running the safe houses for women and children victims of violence.

RECOMMENDATIONS:

1. It is necessary for governments of the Federation BiH, the Republika Srpska, and the Brčko District BiH, together with lower levels of governance, to adequately and specifically plan financial resources for programs of prevention and combating of violence against women.
2. To allocate resources for prevention of violence from the public budgets.
3. To allocate resources for all general and specialized services of support to victims of domestic violence from the public budgets.
4. It is necessary for governments in all parts of BiH to introduce responsible and transparent budgeting that would be based on clearly determined analysis of costs, and needs at the field.

Article 9 – Nongovernmental Organizations and Civil Society

Work of the nongovernmental organizations in Bosnia and Herzegovina is regulated by the laws on associations and foundations³². These laws regulate conditions and procedure for establishing, internal organization, registration, and closing of the associations and foundations, as well as other issues of importance for free and voluntarily associations of citizens and legal entities.

There is no special law in the Bosnia and Herzegovina that regulate the work of nongovernmental organizations in relation to prevention and combating violence against women and domestic violence. Nongovernmental organizations that are dedicated to fighting against domestic violence and violence against women since the war until today are working through various programs and projects, independently and within coalitions. Specialized services for women with experiences of various forms of violence were provided by NGOs in the time when the state did not incriminate all forms of violence and no developed and available services of support.

³² The Law on Associations and Foundations of the Bosnia and Herzegovina („Official Gazette of the Bosnia and Heregovina“, no. 32/01, 42/03, 63/08, 76/11 and 94/16), the Law on Associations and Foundations of the Federation BiH („Official Gazette of the Federation B&H“, no. 6/10, 37/10 and 62/10), the Law on Associations and Foundations of the Republika Srpska („Official Gazette of the Republika Srpska“, no. 52/01 and 42/05), the Law on Associations and Foundations of Brčko District („Official Gazette of the Brčko District BiH“, no. 12/02 and 19/07). The laws on associations and foundations almost identically regulate establishing, registration, internal organization, and closing of the associations and foundations.

Informal networks of nongovernmental organizations in the Bosnia and Herzegovina are: the Safe Network, the Women's Network, and the Peace building Network and Ring NGO Network for Fighting Against Trafficking of People.

The Association "Medica" Zenica and the Foundation "United Women" are members of the WAVE Network (Women Against Violence in Europe).

The Republika Srpska and the Brčko District of BiH

Nongovernmental organizations that are working on the issues related to violence against women and domestic violence, with exception of those that are implementing special measure of support in the safe houses³³ in the Republika Srpska are not recognized as collaborators of the state actors and governmental institutions. Beside the safe houses, nongovernmental organizations in the Republika Srpska also manage SOS Telephone for Assistance to Victims of Domestic Violence that is operational since 2005/2008. SOS Telephone on short number 1264 is managed by the nongovernmental organizations specialized for providing assistance to women victims of gender based violence³⁴. Currently there are three (3) NGOs in the Republika Srpska that manage SOS Telephone, as follows: the Foundation „United Women“ Banja Luka, NGO „Budućnost“ Modriča, and the Foundation „Lara“ Bijeljina. These organizations are also providing free legal assistance to women victims of violence. All 10 organizations from the Republika Srpska that are involved in data collection for preparation of this Report are implementing activities with objective of prevention and combating violence against women and domestic violence. Scope and type of activities are not equal in all organizations.

The Foundation "United Women", the Citizens' Association "Budućnost" Modriča, the Foundation "Lara" Bijeljina, "Women's Center" Trebinje, and Women's Association "Most" Višegrad are providing specialized services of support through SOS telephone, free legal assistance, and the safe houses (Foundation "United Women", the Citizens' Association "Budućnost" Modriča, and the Foundation "Lara" Bijeljina). The Citizens' Association "Budućnost" Modriča is also working with perpetrators of violence. "Women's Center" Trebinje and Women's Association "Most" Višegrad are providing free legal and psychosocial assistance. Other organizations are implementing activities related to prevention, awareness rising, and advocacy for improving position of women victims of violence, but they are not providing direct specialized services for women victims of violence.

³³ More details in part of the Report related to articles of the Convention; specialized services of support (Article 22) and the safe houses (Article 23).

³⁴ Nongovernmental organizations were providing this service also before introducing joint SOS telephone in the Republika Srpska, through their own separate telephone numbers, and are still using them to provide support to victims of violence.

Since 2013, in line with the Law on Protection from Domestic Violence, the Council for Combating Domestic Violence has been established in the Republika Srpska³⁵. The Council has nine (9) members that are representatives of the authorized ministries and other governmental institutions, public institutions and professional services, universities, courts, and nongovernmental organizations appointed by the Government of the Republika Srpska, based on proposal of the Ministry of Family, Youth, and Sport³⁶. Tasks of the Council is to monitor and evaluate implementation of policies and measures for prevention and combating domestic violence, and improving coordinated and efficient work in the area of domestic violence in the Republika Srpska. Out of nine (9) members of the Council, only one (1) member is representative of nongovernmental organizations, in the second term.

In the Republika Srpska, the General Protocol on Procedures in Cases of Domestic Violence has been signed³⁷. Signatories of the Protocol are the Ministry of Justice, the Ministry of Interior Affairs, the Ministry of Health and Social Care, the Ministry of Education and Culture, and the Ministry of Family, Youth, and Sport. Nongovernmental organizations are not signatories of this General Protocol, and have no role or tasks in its implementation. The Protocol emphasizes that the first and guiding principle for actions of all signatories of the Protocol is protection of security of the victim through ending violence and prevention of its recurrence, taking into consideration to avoid additional victimization and injuring of the victim. The Protocol focuses on following issues: procedures for actions of subjects of protection that are providing protection, support, and assistance to victims of violence in line with the provisions of the Law on Protection from Domestic Violence, whether criminal or minor offence procedures have been initiated against perpetrator of violence; forms and ways of cooperation and exchange of necessary data and information between subjects of protection; actions of the Ministry of Family, Youth, and Sport as the ministry responsible for supervision and monitoring implementation of the Law on Protection from Domestic Violence, as well as final provisions that regulate actions of the subjects of protection in line with the activities of this Protocol. The Protocol is also binding for the local communities, if they do not have signed separate protocol on the level of specific local community, and can be applied directly.

In majority of cases, women's nongovernmental organizations in the Republika Srpska initiated signing of the protocols on cooperation at the local levels, and have cooperation with governmental and other actors on protection, prevention, prosecuting, punishment and/or light restitution in the area of violence against women and domestic violence. Some institutions have signed direct protocols with nongovernmental organizations.

In some protocols, obligations of the signatories are exceeding legally determined authorities (*In Trebinje, the local protocol defines free day care for children from families affected by violence*).

³⁵ „Official Gazette of the Republika Srpska“, no. 7/13

³⁶ „Official Gazette of the Republika Srpska“, no. 53/17

³⁷ „Official Gazette of the Republika Srpska“, no. 104/13

In the **Brčko District of BiH**, there is no safe house and no separate telephone number for victims of violence. Only one nongovernmental organization is implementing prevention and awareness raising activities on the issue of violence against women, including campaigns, street actions, round tables, mostly during the international campaign of 16 Days of Activism Against Gender Violence. The Protocol on Cooperation and Procedures in Cases of Violence Against Women and Domestic Violence has been signed in the Brčko District of BiH. Signatories of the Protocol are the Prosecutor's Office of the Brčko District BiH; the Police of the Brčko District of BiH; the Department for Health and Other Services of the Brčko District BiH Government; the Department for Education of the Brčko District BiH Government; the Public Health Institution „Health Center Brčko“ of the Brčko District BiH; the Association of Active Women „GENDER“ of the Brčko District BiH, and the Association BiH Journalists, Journalist' Club of Bosanska Posavina in the Brčko District BiH. The Protocol has been signed at the end of April 2018, and beside information provided by the nongovernmental organizations, so far there are no official reports on its effects on the field.

The Federation of Bosnia and Herzegovina

Nongovernmental organizations in the Bosnia and Herzegovina began to deal with the issues of protection of women and girls from gender based violence since beginning of the war in BiH, when the state did not have any programs of support and assistance for victims, and this was not recognized as the priority. In 1993, "Medica" Zenica was founded as the first women's professional organization that is continuously providing comprehensive support and assistance to survivors of war related rape and sexual violence, victims of domestic violence, and victims of trafficking of people. Besides "Medica" Zenica, the Citizen's Association "Vive žene" in Tuzla was founded in 1994 with the same objective, to provide assistance and support to survivors of torture and trauma.

Women's nongovernmental sector emerged from the need for adequate responses and providing assistance to survivors of war related sexual violence and rape in the Bosnia and Herzegovina. With the assistance of the international donors, women's nongovernmental organizations had increasing contacts and started with intense activities of support and assistance to survivors of various forms of gender based violence. Women's NGOs were also conducting advocacy and research programs and activities supported by the expertise and direct work with victims of gender based violence, in order for domestic violence to be recognized as the criminal offence in the Criminal Code of Federation BiH in 2003, and also the Law on Protection from Domestic Violence of Federation BiH in 2005.

Women's NGOs were conducting joint public advocacy activities, campaigns, and lobbied with women parliamentarians of the Federation BiH for adoption of the changes and amendments of the Law on Basis of the Social Protection, and Protection of Civil Victims of War and Families with

Children of Federation BiH in 2006 in order to recognize women survivors of war related sexual violence and rape as the special category of civil victims of war. Even today, nongovernmental organizations are actively participating, and implementing programs and advocacy activities directed to recognizing priority of protecting women's human rights, reaching gender equality, and combating violence and discrimination in all fields of life.

Nongovernmental organizations that are running the safe houses are directly involved in the system of referral mechanisms for support and assistance to survivors of domestic violence and trafficking of people. Some NGOs, such as "Medica" Zenica, are accredited by the Ministry of Labor and Social Policy of Federation BiH to issue certificates on survived war related sexual violence, which is the integral part of the documentation when a survivor is applying for the status of special category of the civil victim of war. Nongovernmental organizations are also active in institutional networks of support to survivors of war related sexual violence and domestic violence that have been established on the initiative and based on methodology developed by nongovernmental organizations, as follows: the Association „Medica“ Zenica, the Association „Vive žene“ Tuzla, and the Foundation "United Women" Banja Luka.

Women representatives of some nongovernmental organizations, such as the Association "Medica" Zenica and the Association „Vive žene“ Tuzla are members of the working groups and coordination bodies on local, cantonal, entity, and state level.

The Article 39 of the Law on Protection from Domestic Violence of Federation BiH is regulating the obligation of signing protocols on cooperation and providing protection to victims of domestic violence at municipal levels. The Law also prescribes the establishment of the cantonal coordination bodies, and development of two-year programs of measures for prevention and protection from domestic violence. However, it is noticeable that coordination bodies are functioning mostly if they are coordinated by the nongovernmental organizations or during the implementation of the projects. Upon ending of the projects, there are rare local communities that truly continue to follow coordination mechanisms signed within the project, due to lack planned and ensured financial resources from the public budgets, among other reasons.

In the area of Federation BiH, based on the initiative of nongovernmental organizations "Medica" from Zenica, and "Vive žene" Tuzla, 9 institutional networks on the cantonal level were established with objective of providing support and assistance to survivors and witnesses in the cases of war crimes, sexual violence, and other criminal offences that are linking all available resources (authorized ministries, institutions, and NGOs) with the objective of providing support and assistance prior, during, and after testifying. Work of the institutional networks is regulated through signing of the protocols on mutual cooperation of all stakeholders.

According to the available data, coordination bodies for prevention and combating violence are established in majority of municipalities of the Federation BiH, however very few of them are

functional and efficient in providing support to victims of violence when they need it. Nine (9) institutional networks are also established with objective of providing assistance and support to survivors and witnesses in the cases of war crimes sexual violence, and other criminal offences in the area of Zenica-Doboj Canton, Central Bosnia Canton, Una-Sana Canton, Herzegovina-Neretva Canton, Bosnia-Podrinje Canton, Canton 10, Tuzla Canton, Posavina Canton, and Canton Sarajevo. Objective of the institutional networks is linking of all responsible stakeholders (judiciary, police, health centers, centers for social work, and nongovernmental organizations) at the cantonal level to network available community resources and provide comprehensive support and assistance to survivors and witnesses prior, during, and after testifying in cases of war crimes, sexual violence, and other criminal offences.

Work of nongovernmental organizations that are providing specialized services through providing safe shelters is recognized by the Article 3, Paragraph 5 of the Law on Protection from Domestic Violence of Federation BiH: Protection to a victim of violence can also be provided interventions by nongovernmental organizations that are registered for providing such services.

As a part of the Strategy for Prevention and Combating Domestic Violence of the Federation BiH, nongovernmental organizations are integrated as actors that will contribute in implementation of the Strategy.

In relation to work of nongovernmental organizations with survivors and victims of conflict related sexual violence and rape, and based on the Law on the Basis of Social Protection, and Protection of Civil Victims of War and Families with Children of Federation BiH and related bylaws, NGOs can apply to the Ministry for Social Policy of the Federation BiH for accreditations in order to be able to actively participate in issuing certificates on survived sexual violence and rape, in the process related to acquiring the status of special category of the civil victim of war.

Work of nongovernmental organizations is formally and verbally recognized, but there are a lot's of inconsistencies when it comes to concrete financial support for work of NGOs. Nongovernmental organizations are pointing at the following issues: there is lack of transparency of the financial resources in relation to the safe houses and the Ministry of Labor and Social Protection of Federation BiH. In 2019, the Ministry for the first time publicly announced the decision on allocation of the financial resources, with clearly visible amounts granted to each organization. However, the criteria for allocation of financial support are still unclear, as there is no transparency in relation to that (if the resources are allocated for the current year based on number of sheltered victims in the period from beginning of the year? Are there some other criteria?)

The Federation of BiH still does not ensure sufficient resources for financing the programs in fighting against violence against women that should be implemented by all actors, including nongovernmental organizations.

For all other activities of the NGOs, there are no public budget resources, and they are still directed to search for financial support from the international donors.

Cooperation with NGOs is established through signing of the protocols on cooperation at cantonal and municipal levels, and partially at the state and entity levels through participation in specific working groups.

Although the Law on Protection from Domestic Violence of the Federation of BiH recognizes NGOs as the providers of specialized services, situation in the practice is quite different. The Ministry of Federation BiH had the obligation to adopt bylaws aimed to regulate standards and procedures for establishing and financing of the safe houses within the deadline of six months after the adoption of the Law in 2013. This bylaw was never adopted, and in 2015 the changes and amendments of the Law were initiated with objective of pre-registration of NGOs that run safe houses into institutions, justified through lack of control over NGOs by the Federation of BiH. Authorities did not pay attention on autonomy of NGOs and that proposed changes are not in line with the Istanbul Convention. Nongovernmental organization, namely the Association "Medica" from Zenica and the "Sarajevo Open Center", numerous activities were organized, such are the public discussions and protests in front of the Federation of BiH Parliament to point that proposed changes are not in line with the Istanbul Convention, and are endangering work of NGOs as well as the access to services for victims of domestic violence. The Ministry requested opinions from the cantonal assemblies in relation to the safe houses run by women's NGOs in order to find adequate solutions and incorporate them in the Law. In the period of preparing this Report, not all cantonal assemblies provided opinions, and all deadlines expired, so the proposed changes and amendments of the Law are not adopted.

Based on the analysis of received questionnaires from the NGOs in the Federation of BiH, financial resources from the state bodies aimed for prevention and combating gender based violence were granted to five organizations (N=5-38,5%). Seven NGOs stated they did not receive support from the state bodies (N=7-53,8%), while one NGO (N=1-7,7%) did not answer.

Nongovernmental organizations are participating in the working groups when they are appointed by the governmental institutions. The number of NGO representatives is limited to one woman representative for all NGOs, which places a lot's of pressure, and one NGO representative can hardly fight for progressive changes.

NGOs from the Federation of BiH showed their strength also through the preparation of this Report, and contributed to its objectivity with their work and experiences. These organizations are, as follows: the Association „Medica“ Zenica, the Association „Vive žene“ Tuzla, the Association

„Amica Educa“ Tuzla, „Žene ženama“ Sarajevo, the Association of Roma Women „Bolja budućnost“ Tuzla, the Association „Zemlja djece“ Tuzla, the Women's Association „SEKA“ Goražde, the Association „Forma F“ Mostar, the Association of Women Citizens Grahovo, the Association „Ključ budućnosti“ Ključ, „Center of Women's Rights“ Zenica, „Sarajevo Open Center“ Sarajevo, and the Foundation „CURE“ Sarajevo.

For the need of preparing the Alternative Report for GREVIO Committee, the Association "Medica" Zenica as the coordinating organization for the Federation of BiH received information from thirteen (13) NGOs that are working on the issues of domestic violence and violence against women, and war related sexual violence.

Beside these NGOs that contributed in data collection for this Report, there are several other NGOs working on these issues, such are the Women's Association "Žene sa Une" Bihać, "Žena BiH" Mostar, "Snaga žene" Tuzla, "Foundation of Local Democracy" Sarajevo, but these were not ready to contribute to the preparation of the Report.

The NGOs that contributed to the Report are working with various categories of women (in accordance with the Article 3, Paragraph f, the term "women" also includes girls below 18 years of age) through specific programs and services. These categories of women are, as follows:

- Women (rights of all women)
- Discriminated and marginalized women (Roma women, women belonging to national minorities, single mothers)
- Women survivors of various forms of trauma during war and postwar period, women refugees and displaced persons
- Women victims of domestic violence, but also women that are in risk of domestic violence
- Women that are economically dependent on third persons (unemployed women, women without education, women from socially endangered families)
- Women victims of human trafficking
- Women from rural areas
- LGBTIQ women
- Girls and young women³⁸

Type of activities:

Special measures of support and assistance for women survivors of gender based and domestic violence

³⁸As a part of target groups of some NGOs that responded to questionnaire have boys, young people, and all other persons that approach them for assistance, support, and protection.

Analysis of the received data shows that majority of the organizations (9 - 69,2%) implements the special measures of support and assistance for victims of gender based and domestic violence. Three organizations (3 - 23,1%) stated they are not implementing special measures of assistance and support, while one organization (7,7%) did not provide data.

The organizations identify following types of special support and assistance as part of their work:

- Safe house
- Psychological counseling (individual and group psychotherapy, counseling work through informing the victim about available services of support in the local community, counseling for children, young people, and family)
- SOS telephone 1265 for reporting violence
- Legal counseling (direct protection of women from all forms of violence through support in front of the judicial and service institutions, preparing petitions and appeals, as well as other submissions, informing the victim about procedures for access their specific rights, support to LGBT persons in relation to their rights and domestic legislation that protects their rights in the practice)
- Children's daycare center
- Economic and psychosocial empowerment of women
- Empowerment of women in public and political life
- Unique free telephone for supporting survivors of war related rape and sexual abuse and support to their family members
- Field work
- Work with survivors of war related rape and sexual violence through various capacities (taking statement from survivors of war related rape and other forms of war trauma needed for acquiring the status of civil victim of war as the special category, support based on individual needs, workshops for survivors of war related rape and sexual abuse, providing emotional support and psychological preparation and support prior, during, and after testifying of survivors of war crimes and sexual violence)
- Educational and supportive workshops with women from informal women's network
- Encouraging political participation of women through various workshops and campaigns
- Support to candidacy and election of women for members of the councils of local communities
- Institutional networks of support to victims/witnesses in cases of war crimes, sexual violence and other criminal offences
- Support and assistance to family members of missing persons through counseling, self-help groups, individual and group psychotherapy
- Multisectoral educations for professionals, work on awareness raising about violence, and increasing sensitivity of professionals involved in work with survivors of domestic violence

- Preventive and information program
- Monitoring judicial institutions in the area of sexual and gender based violence in BiH

Prevention Programs

When it comes to prevention programs for domestic violence, all organizations that responded to a questionnaire (100%) are conducting various prevention programs, as follows:

- Educational programs
- Educational programs for women victims of violence from the marginalized groups, including Roma women and other socially endangered categories that often migrate to the countries of the European Union legally or illegally. Very often, the objective of such migrations is to use social benefits of some country, and women and girls are not aware of potential risks and danger. With objective of increasing awareness, the organizations are working on education and informing the potential migrants, women and girls through establishing info points in the local communities.
- Educational and supportive work with women victims of violence, women from rural areas, and women belonging to marginalized groups - these prevention programs are directed to building of self-confidence and self-respect, economic empowerment of women through various courses: sewing, upholstery, hairdresser, and manicure.
- Educational programs for women and men professionals from governmental institutions and nongovernmental organizations – including educational activities about hate crimes for representatives of courts and police.
- Educational programs for girls and boys students and young people –in preventive work with young people through various workshops, the organizations are covering topics directed to communication, questions of power, gender roles, traditionally based and learned attitudes and values, and types of violence. Various theatre plays are presented with objective of using art to increase understanding about the problems of children and adults, and consequences of violence.
- Educational “mix” workshops – include activities with participation of representatives of institutions and women beneficiaries, to provide space for them to ask questions and present their problems.
- Gender transformative activities with boys teenagers and young men in marginalized communities – objective of such prevention work was development and activism of the group of boys in order to complete specific training for peer educators. Cycle of educations lasted for two years, peers were learning from each other, increased awareness, and changed personal attitudes on gender and health issues.

- Psychosocial work with women victims of violence from rural areas and marginalized groups – within such activities, prevention work is directed to recognition of violent behavior, types of violence, experience of violence, and information where women can report violence.
- Informing and awareness rising on gender based violence through organizing campaigns and commemorating important dates in the area of human rights protection, women's human rights, and gender equality (for example, street performances, public events, distribution of educational and promotional material, regional conferences on human rights and violence against LGBTI persons, press conferences, guest appearances in various media programs)
- Research programs – the organizations state that they have participated in various processes of reporting. The publications have been prepared as the result of the individual researches, for example, Domestic Violence Experienced by LGBTI Persons: Analysis and Recommendations, Numbers of Equality 2. Research on Problems and Needs of LGBTI Persons in Bosnia and Herzegovina in 2017 – Analysis of Findings, Pink Report 2018 Annual Report on the State of Human Rights of LGBTI People in the Bosnia and Herzegovina, preparation of the cumulative report on situation of violence against children in BiH and situation of domestic violence, and monitoring of judicial institutions in the area of sexual and gender based violence.
- Promoting positive examples of successful women
- Development of educational-promotional materials for various target groups, and distribution of materials.

Work of nongovernmental organizations that are providing specialized services through the safe houses is recognized within the Law on Protection from Domestic Violence of Federation BiH, in the Article 3, Paragraph 5: Protection for a victim of domestic violence can be provided also by nongovernmental organizations that are registered for providing these services.

Within the Strategy for Prevention and Combating Domestic Violence of Federation BiH, nongovernmental organizations are incorporated as the actors that would contribute to the implementation of the Strategy.

In relation to the work of nongovernmental organizations with survivors of war related sexual abuse and rape, and based on the Law on the Basis of Social Protection, and Protection of Civil Victims of War and Families with Children of Federation BiH, with accompanying bylaws, nongovernmental organizations can apply to the Ministry of Labor and Social Policy of Federation BiH for accreditation, in order to actively participate through issuing certificates on survived war related sexual violence and rape that is needed for the procedure of acquiring status of civil victim of war as the special category.

However, the work of nongovernmental organizations is formally and verbally recognized, but there are visible inconsistencies in the practice when it comes to the concrete financial support for work of nongovernmental organizations.

Nongovernmental organizations are pointing at the following issues:

Lack of transparency for financial support in relation to the safe houses and the Ministry of Labor and Social Policy of Federation BiH. In 2019, for the first time the Ministry publicly announced at the web page the decision on allocation of the financial support, with the amounts allocated to each organization. However, it remains unclear in relation to this call what were the criteria for allocation of financial support, and this remains non-transparent process (are the resources allocated for current year based on number of victims that received shelter in the period since the beginning of the year until the day of announcing the call for proposals? Are there some other criteria for allocation of financial support?)

However, it is the fact that the Federation BiH and its lower levels of governance still do not ensure sufficient resources for financing programs related to combating violence against women that should be implemented by all actors, including nongovernmental organizations.

For all other activities of nongovernmental organizations, the resources are not ensured from the public budgets, and NGOs are still forced and directed to seek for financial support from the international donors.

Cooperation with the nongovernmental organizations is established through signing of the Protocol on Mutual Cooperation on Cantonal and Municipal Levels, partially at the entity and state level, through participation in some working groups.

Situation in the practice?

Although the Law on Protection from Domestic Violence of the Federation of BiH recognizes NGOs as the providers of specialized services, situation in the practice is quite different. The Ministry of Federation BiH had the obligation to adopt bylaws aimed to regulate standards and procedures for establishing and financing of the safe houses within the deadline of six months after the adoption of the Law in 2013. This bylaw was never adopted, and in 2015 the changes and amendments of the Law were initiated with objective of pre-registration of NGOs that run safe houses into institutions, justified through lack of control over NGOs by the Federation of BiH. Authorities did not pay attention on autonomy of NGOs and that proposed changes are not in line with the Istanbul Convention. Nongovernmental organization, namely the Association "Medica" from Zenica and the "Sarajevo Open Center", numerous activities were organized, such are the public discussions and protests in front of the Federation of BiH Parliament to point that proposed changes are not in line with the Istanbul Convention, and are endangering work of NGOs as well as the access to services for victims of domestic violence. The Ministry requested opinions from the cantonal assemblies in relation to the safe houses run by women's NGOs in order to find adequate solutions and incorporate them in the Law. In the period of preparing this Report, not all cantonal assemblies provided

opinions, and all deadlines expired, so the proposed changes and amendments of the Law are not adopted.

Based on the analysis of received questionnaires from the NGOs in the Federation of BiH, financial resources from the state bodies aimed for prevention and combating gender based violence were granted to five organizations (N=5-38,5%). Seven NGOs stated they did not receive support from the state bodies (N=7-53,8%), while one NGO (N=1-7,7%) did not answer.

Nongovernmental organizations are participating in the working groups when they are appointed by the governmental institutions. The number of NGO representatives is limited to one woman representative for all NGOs, which places a lot's of pressure, and one NGO representative can hardly fight for progressive changes.

RECOMMENDATIONS:

1. To recognize, encourage, and support, at all levels, work of nongovernmental organizations and civil society organizations in combating violence against women;
2. To make the cooperation efficient and continuous, and not based on the international projects implemented by the nongovernmental organizations;
3. Authorized governments, together with lower levels of governance, must plan financial resources that will support work of the nongovernmental organizations that are contributing in the area of prevention and combating violence against women and domestic violence;

Article 10 – Coordination Body

At the proposal of the Ministry for Human Rights and Refugees of the Bosnia and Herzegovina, the Council of Ministers of the Bosnia and Herzegovina adopted the Decision on Establishing of **the Committee for Monitoring Implementation and Reporting on the Istanbul Convention and Femicide in the Bosnia and Herzegovina**³⁹. The decision was adopted on 29 August, 2019 in Sarajevo. The Committee is composed of women and men representatives of the following institutions/organizations: the Ministry of Human Rights and Refugees of BiH, the Agency for Statistics of BiH, the Ministry of Security of BiH, the Ministry of Civil Affairs of BiH, the Ministry of Justice of BiH, the High Judicial and Prosecutorial Council of BiH, the Office for Legislation of the Council of Ministers of BiH, the Government of Brčko District BiH, the Government of Federation BiH, and the Safe Network of nongovernmental organizations in BiH.

³⁹ <http://www.sluzbenilist.ba/page/akt/YJ3YnEDc8FA=>

The Republika Srpska and the Brčko District of BiH

With the objective of implementing obligations from the Istanbul Convention, the Government of the Republika Srpska tasked the **Gender Center of the Republika Srpska** as the coordination body of the Republika Srpska for implementation, monitoring implementation, and reporting of the Government of Republika Srpska on programs and measures related to the Istanbul Convention, including cooperation with the institutions and organizations in the Republika Srpska, Bosnia and Herzegovina, and the Council of Europe in relation to the Convention. At the same time, all ministries, institutions, and organizations of the Republika Srpska are tasked to cooperate with the Gender Center of the Republika Srpska in implementation of the obligations from the Convention. Women representatives of the nongovernmental organizations are not members of the coordination body, and they do not have official information about its work.

There is no coordination body established in the Brčko District of BiH.

The Federation of Bosnia and Herzegovina

The Article 37 of the Law on Protection from Domestic Violence of Federation BiH provides adoption of the program of measures for prevention, protection, and fighting against domestic violence at the cantonal levels, and establishing of the coordination bodies. Obligation of establishing coordination bodies that would coordinate the work of all authorized institutions on implementation of this program of measures, and all measures needed for protection and security of victims of violence in the safe house.

In the Federation of BiH, **nine (9) cantonal coordination bodies** are established in nine (9) out of ten (10) cantons in the Federation of BiH.⁴⁰

Based on the needs identified at the field, and even before the adoption of the Law on Protection from Domestic Violence of Federation BiH in 2013, women's nongovernmental organizations have initiated development of the protocols and referral mechanisms on municipal/city and cantonal level, and establishing of the municipal coordination bodies. Example of such work is the initiative of the Association "Medica" Zenica that in 2010 initiated signing of the Protocol on Mutual Cooperation and Work on Prevention and Protection from Domestic Violence (Protocol). The Protocol was initially signed with the institutions on the city level of Zenica, and after that on the cantonal level, with the representatives of authorized ministries in Zenica Dobož Canton. Established Coordination Body includes stakeholders in the area of prevention and protection from domestic

⁴⁰ Report on the Implementation of Five-Year Strategy for Prevention and Combating Domestic Violence in Federation BiH (2013-2017) („Official Gazette of the Federation BiH“, no. 29/18).

violence. The Association “Medica” Zenica also initiated establishing of the coordination bodies at the level of municipalities of Visoko, Vares, Kakanj, Usora, Doboj-South, Maglaj, Olovo, and Breza. The example of good practice initiated and led by the Association “Medica” Zenica in Zenica Doboj Canton served as the basis for introducing the Article 37 in the Law on Protection from Domestic Violence of Federation BiH, and regulating obligation for establishing cantonal coordination bodies.

The Coordination Body at the level of Zenica Doboj Canton is established, and it coordinates the work of authorized institutions on implementation of two-year Program of Measures for Prevention, Protection, and Combating Domestic Violence for the Area of Zenica Doboj Canton.⁴¹

At the cantonal level, coordination bodies are appointed by the cantonal governments. Majority of women and men members and their deputies are appointed on behalf of the authorized ministry of labor, social policy, and refugees, the ministry of interior affairs, the ministry of justice and administration, the ministry of health, the ministry of education, the cantonal institute for legal assistance, and nongovernmental organizations.

According to the available data, ten (10) ten cantonal protocols were signed, and nine (9) coordination bodies were established until 2017.⁴²

The Gender Center of Federation BiH has the obligation to collect data from authorized public institutions and nongovernmental organizations that are providing assistance and support to victims of domestic violence. However, this is still not completely implemented in the practice. Nongovernmental organizations that are running safe houses started with entering the data, however the authorized ministries and public institutions are still not doing it, so the data base is still not adequate.

The Association “Medica” Zenica has the example of good practice of data collection on provided interventions. Beside keeping its internal data base and documenting work with survivors and beneficiaries of various services and programs, the Association “Medica” Zenica started in 2011 with the process of collecting data on provided interventions to victims of domestic violence by established referral mechanisms in the area of Zenica, and this model has expanded to other municipalities in Zenica Doboj Canton. This preceded the Article 40 of the Law on Protection from Domestic Violence of Federation BiH that all actors are obliged to keep records.⁴³

⁴¹ Government of Zenica Doboj Canton, the Program of Measures for Prevention, Protection, and Combating Domestic Violence of Zenica Doboj Canton for the Period 2016–2017, November 2015

⁴²Report on the Implementation of Five-Year Strategy for Prevention and Combating Domestic Violence (2013-2017) („Official Gazette of the Federation BiH”, no. 29/18).

⁴³ The Article 40 – Data collection

The police department is required to collect data on reported cases of domestic violence, and implementation of protection measures from the Articles 11, 12, and 13 of this Law.

Bylaw on the way of implementation of measures from the Articles 11, 12, and 13 of this Law will contain necessary records and forms for data collection from the Paragraph 1 of this Article.

As one of the organizations runs the safe house, the Association “Medica” Zenica has initiated entering data into an electronic data base in relation to provided interventions through SOS telephone. The “Medica” Zenica also established and coordinates keeping records and preparation of semi-annual and annual reports on provided interventions within six (6) institutional networks for supporting survivors/witnesses in cases of war crimes, sexual violence, and other criminal offences in the area of Zenica Doboј Canton, Central Bosnia Canton, Una Sana Canton, Herzegovina, Neretva Canton, Bosnia Podrinje Canton, and Canton 10.

Other nongovernmental organizations state that the number of women that are requesting support as victims of violence are recorded in accordance with the internal working procedures. Data bases are developed based on specific forms, anamnestic data, during initial conversations, while forms of records differ – reports, excel sheets, and assistance data bases.

RECOMMENDATIONS:

1. To include women representatives of nongovernmental organizations in work of the coordination body, where they have not been included so far.
2. To prepare annual reports on activities from the mandate of the coordination body, and make these reports publicly available.
3. To make the work of coordination bodies efficient and recognized from local to state level, and to enable their continuous work.

Article 11 – Data Collection and Research

Legal and public policy documents in the Republika Srpska, the Federation of BiH, and the Brčko District of BiH are recognizing obligation of data collection, but current practices are not satisfying these requirements. Available statistical data and different methodologies of data collection at the level of entities are confirming the fact that the Bosnia and Herzegovina still does not have unique methodology of data collection on gender based violence in order to present this data for the level of BiH, and to report on implementation of the international obligations that are regulating this field.

The data collected at the level of entities are not comprehensive, and cannot be used as the source of information for planning measures of support and protection for victims of gender based violence.

There is no available data on the level of Bosnia and Herzegovina on number of women killed by their intimate partners.

In relation to trafficking of people, the Office of State Coordinator for Fighting Against Trafficking of People is consolidates data submitted by the representatives of the Ministry of Security of BiH,

the Ministry for Human Rights and Refugees of BiH, authorized institutions of protection, and non-governmental organizations that are providing services of shelter for BiH citizens and foreigners that are victims of trafficking of people. The Office of the State Coordinator for Fighting Against Trafficking of People of BiH is publishing annual report on status of trafficking of people in the Bosnia and Herzegovina.

As the example of good practice, here we point at the results of the “Study on Prevalence of Violence Against Women in the Bosnia and Herzegovina” that have been published in 2013. The Study represents great contribution in prevention and combating violence against women as the first and the only study of this kind that covered the territory of the whole B&H, and after six years its findings are still relevant. Additionally,

The Republika Srpska and the Brčko District of BiH

In cooperation with the Gender Center of the Republika Srpska, the Statistical Institute of the Republika Srpska is collecting and recording gender desegregated data on domestic violence, violence against women, and general criminality, and publishes them regularly in biennial statistical bulletin “Women and Men in the Republika Srpska”⁴⁴.

In relation to domestic violence, according to the Law on Protection from Domestic Violence, authorized bodies in the Republika Srpska (police, prosecutor’s offices, centers for social work, health centers, and educational institutions) are obliged to keep records on the actions taken, and data on number of initiated and completed procedures and other measures, and prepare and submit reports to the Ministry of the Family, Youth, and Sport of the Republika Srpska. The Ministry is authorized body that collects, processes, records, and publishes data on domestic violence, which is elaborated in the Rulebook on Content of Records and Reports on Domestic Violence⁴⁵. For the purpose of this Rulebook, records represent collecting data on important facts encountered during procedures related to protection, assistance, and support to victims of domestic violence. Besides general data related to formal activities of subjects of protection, (data on number of initiated and implemented procedures and imposed and implemented measures by the subjects of protection, in line with the Law) their obligation is to desegregate data per sex and age of the perpetrator of violence, sex and age of the victim of violence, kinship or other relationship between the perpetrator and victim of violence, underage persons and persons with disabilities. This Rulebook regulates which data are collected by each subjects of protection, based on their authorities; therefore, we can conclude that the Rulebook is harmonized with the minimal

⁴⁴ http://www2.rzs.rs.ba/static/uploads/bilteni/zene_i_muskarci/Zene_i_muskarci_br_9_web.pdf

⁴⁵ The Rulebook on Content of Records and Reports on Domestic Violence („Official Gazette of the Republika Srpska”, no. 71/13 and 93/14).

standards. Beside these data that are common for all subjects of protection, the Rulebook lists which data are to be collected by each subject of protection. Twice a year, the Ministry of Family, Youth, and Sport of the Republika Srpska is publishing on its web page the report with consolidated data, and these are available to the public⁴⁶.

Additionally, nongovernmental organizations in the Republika Srpska that are providing support and assistance to victims of violence are keeping records on beneficiaries of these services, and are reporting to the authorized governmental bodies. Nongovernmental organizations in the Bosnia and Herzegovina are collecting data through recording number of women beneficiaries of free legal and psychosocial assistance, SOS telephone, and safe houses for women and children victims of violence in BiH. There is no common system of collecting and processing data on cases of violence against women established by nongovernmental organizations, except for number of SOS calls and work of the safe houses. NGOs are submitting quarterly reports to the authorized Ministry of Family, Youth, and Sport of the Republika Srpska, including on number of sheltered victims of domestic violence in the safe houses, and monthly reports on number of calls on free SOS telephones for assistance to victims of violence.

However, there are no adequate data bases on other forms of violence against women, namely statistical administrative and judicial data on all forms of violence regulated by the Istanbul Convention. Data can be acquired based on specially addressed and justified request, however, responses on such requests are mostly incomplete and inconsistent, usually do not contain all requested information, since majority of these data are not recorded.

In Brčko District of BiH, the Head of Department for Health and Other Services adopted the Rulebook on Content of Records and Reporting on Domestic Violence.⁴⁷ On specially addressed request for acquiring data to present them in this Report, we received the answer that there is individual written reporting of the subjects of protection, and implementation of the Rulebook (the Department has the procurement plan for 2019 to acquire software for reporting data).

For the purpose of this Report, we conducted the poll on the question "Do you have the records on number of women with experiences of violence that approached you for support?" on which seven (7) organizations responded positively, while three (3) organizations said they do not keep the records. On the question "Do you have the records of additionally marginalized women with experiences of violence or domestic violence (women older than 65 years of age, women from rural communities, women belonging to national minorities, women with disabilities, LGBTIQ women, women victims of war related rape, etc.), five (5) organizations responded positively, four

⁴⁶ <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mpos/oPorodica/Pages/Splash.aspx#collapsible0>

⁴⁷ The Rulebook has been adopted on 20 June, 2018, No. of the document: 05-1148SC-0080/18

(4) organizations responded said they do not keep these records, while one (1) organization did not respond on this question.

The Federation of Bosnia and Herzegovina

The Article 40 of the Law on Protection from Domestic Violence of Federation BiH⁴⁸ prescribes obligation of data collection. However, there is still no unique data base on victims of domestic violence or other forms of violence that meets criteria from the indicator.

The Gender Center of Federation BiH has the obligation to collect data from the authorized public institutions and nongovernmental organizations that are working on providing support and assistance to victims of domestic violence. In 2014, the Gender Center of Federation BiH received support from the UN Women and OSCE Mission in BiH to establish the electronic data base on victims of domestic violence. This activity started in 2014, but has not been fully implemented to date. Nongovernmental organizations that are running the safe houses and SOS telephone started with entering the data, but other authorized ministries and institutions are still not doing the same, so the data base is still inadequate.

The Association "Medica" Zenica has the example of good practice of data collection on provided interventions. Beside keeping its internal data base and documenting work with survivors and beneficiaries of various services and programs, the Association "Medica" Zenica started in 2011 with the process of collecting data on provided interventions to victims of domestic violence by established referral mechanisms in the area of Zenica, and this model has expanded to other

⁴⁸ The Article 40 – Data collection

The police department is required to collect data on reported cases of domestic violence, and implementation of protection measures from the Articles 11, 12, and 13 of this Law.

Bylaw on the way of implementation of measures from the Articles 11, 12, and 13 of this Law will contain necessary records and forms for data collection from the Paragraph 1 of this Article.

The authorized court is obliged to keep data base of submitted requests for imposing protection measures and about protection measures that are imposed.

Content and form of keeping data base from the Paragraph 3 of this Article will be regulated by the Minister of Justice within 60 days from the day of this Law enters into force.

Guardianship authority is obliged to keep data base on imposed protection measures, persons that are under protection, and perpetrators of violence that are imposed protection measures.

Content and form of data base records from the Paragraph 5 of this Article will be regulated by the Minister of Labor and Social Policy of Federation BiH within 60 days from the day this Law enters into force.

Bylaw on methodology of implementation of the measure from the Article 15 of this Law will also contain necessary data bases on imposed measures and the form for keeping these data bases.

All data bases from this Article have to be recorded in accordance with the Article 18 of the Law on Gender Equality of Bosnia and Herzegovina ("Official Gazette of the BiH", no. 16/03 and 102/09).

Data bases from this Article must be submitted to the Gender Center of Federation BiH not later than January 10 for the previous year.

municipalities in Zenica Dobož Canton. This preceded the Article 40 of the Law on Protection from Domestic Violence of Federation BiH that all actors are obliged to keep records.

As one of the organizations runs the safe house, the Association "Medica" Zenica has initiated entering data into an electronic data base in relation to provided interventions through SOS telephone. The "Medica" Zenica also established and coordinates keeping records and preparation of semi-annual and annual reports on provided interventions within six (6) institutional networks for supporting survivors/witnesses in cases of war crimes, sexual violence, and other criminal offences in the area of Zenica Dobož Canton, Central Bosnia Canton, Una Sana Canton, Herzegovina, Neretva Canton, Bosnia Podrinje Canton, and Canton 10.

Other nongovernmental organizations state that the number of women that are requesting support as victims of violence are recorded in accordance with the internal working procedures. Data bases are developed based on specific forms, anamnestic data, during initial conversations, while forms of records differ – reports, excel sheets, and assistance data bases.

Majority of the nongovernmental organizations that responded to the questionnaire for the purpose of this Report state they also have data base of additionally marginalized women with experiences of violence (N=9– 69,2%), while four (4) NGOs (N=4 - 30,8%) state they do not keep such data base.

Marginalized categories of women for which NGOs are keeping data bases as the part of their work are, as follows:

- Women older than 65 years of age
- Women from rural areas
- Women victims of war related rape
- Women belonging to national minorities (Roma women)
- LGBTI women
- Pregnant women.

There is also no unique data base on victims of sexual violence. Estimated numbers of women that were victims of rape and sexual violence during the war in the Bosnia and Herzegovina range between 20.000 and 50.000, based on the international reports. Nongovernmental organizations that are working with survivors of sexual violence and rape are keeping their data bases, while there is no state or entity level unique data bases. Based on the Article 54 of the Law on Basis of Social Protection, and Protection of Civil Victims of War and Families with Children of Federation BiH, entity and cantonal ministries of social protection of Federation BiH are keeping data bases on persons that are beneficiaries of the special category of civil victims of war. However, it is obvious that these data do not include statistics that would provide clear data of how many women requested the status of special category of civil victim of war, and how many women acquired this status.

The ministries are basically keeping the data bases only about current number of persons that are beneficiaries of the special category of civil victim of war, that are, on the basis of this status, receiving monthly compensation from the entity and cantonal public budgets.

According to the available data, there are also no data bases on perpetrators of violence against women and domestic violence. There is a record for all perpetrators of criminal offences with final judgments.

RECOMMENDATIONS:

1. To establish the obligation of keeping data base on all forms of violence against women in the Bosnia and Herzegovina.
2. To make data bases on all forms of violence against women efficient and publicly available, at least once a year, with respecting the protection of personal data and identities.
3. To establish unique data base on number of women that were murdered by their intimate partners.
4. To establish unique data base on victims of war related sexual violence, beneficiaries of the rights of special category of civil victims of war, which will contain the data and records on all persons that are beneficiaries of rights or ceased to be beneficiaries on some of the basis (death, moving to another entity of the Bosnia and Herzegovina, etc.), as well as the number of applications for acquiring rights, and reasons for denying rights.
5. To establish unique and available data base on perpetrators of violence.

CHAPTER III – PREVENTION (ARTICLES 12-17)

Article 12 – General Obligations

According to the Law on Gender Equality of the Bosnia and Herzegovina, authorities should undertake all necessary measures for elimination of prejudices, customs, and all other practices based on idea of inferiority or superiority of any of the sexes, or stereotypical gender roles. Other key laws (criminal codes, laws on protection from domestic violence), do not contain special provisions related to promotion of changes in social and cultural patterns of behavior of women and men.

The Republika Srpska and the Brčko District of BiH

The Laws on Protection from Domestic Violence of the Republika Srpska and the Brčko District of BiH are specifically regulating that special support and protection under these laws is given to a victim that fits into following categories: a child, older person, a person with disability, and a person under guardianship. Experiences of the nongovernmental organizations that are presented in the part of the Report related to the Article 5 are the best illustration of situation at the field, and we believe it is not necessary to re-emphasize them here. As the example, we are presenting experiences of some of the surveyed nongovernmental organizations:

„Women with disabilities that were approaching to the institutions for assistance and protection from domestic violence are testifying that they encountered distrust of professionals that they are experiencing violence, as well as advices to endure violence committed by family members or guardians because "there is no one else to take care about them".

Due to lack of social services and the basic social security, women with disabilities (especially women with higher degree of functional impairment) are completely dependent from family members of guardians. They feel that they do not have a choice but to ensure whatever happens to them because institutional system of support did not anticipate women with disabilities as beneficiaries. Women with hearing impairment said she had no opportunity and way to explain what was happening to her, and the perpetrator was the one who explained his side of the story."

„THE CASE A.I. (2005)

In May 2018, the field workers of the Citizens' Association „Otaharin" from Bijeljina found out that forced marriage of A.I. 13 years old girl is about to happen. They immediately alerted the Center for Social Work in Bijeljina and Police Station in Bijeljina in order to prevent this marriage. Upon receiving the report, social workers and police officers went to the field intervention together with the psychologist and the field worker from the Citizens' Association "Otaharin" from Bijeljina. Although the girl had visible injuries at her face, the social worker from the Center for Social Work in Bijeljina stated that she wants to get married because she is in love. After a while, the Citizens' Association "Otaharin" from Bijeljina found out that the girl has been returned by her "husband" to the house of her parents. The public institutions did nothing to protect her before and after forced marriage. Having in mind the social history of the family and previous experience, there is reasonable doubt that the girl will continue to be exposed to violence. The mother of the girl expressed "remorse" for selling her daughter."

„In the first instance procedure, the center for social work denied custody over the children to a woman with disability that is victim of violence, with justification that due to her disability she is unable to take care about them. With support of the Amnesty International, this woman succeeded to regain custody over her children during the second instance procedure leaded by the Ministry. Today she successfully takes care about her three children.

The police filled misdemeanor charges against a woman with disability for domestic violence against her mother in law. She was the second accused, thus the police renamed the situation of domestic violence into a fight of a mother in law and a daughter in law. Because of the presence of a lawyer from the Foundation "Lara" from Bijeljina at the court session, the court reversed the qualification in the misdemeanor application, and acquitted the woman with invalidity for being a victim, while her mother in law was found guilty and punished. It is also indicative that domestic violence (physical and psychological) was committed against a woman with disability, in the presence of the children, and qualified as the misdemeanor, although there were elements of the criminal offence in the case."

In relation to stereotypes that are affecting professional conduct of the officers in the public institutions, one of the nongovernmental organizations that responded to the questionnaire pointed that these largely affect inadequate response of the institutions:

„Our experience in the work with Roma women and girls that are victims of violence is indicating to us that it is necessary, even the priority, to work on increasing sensitivity of professionals and work on diminishing of deep rooted prejudices that are leading to discriminatory treatment of Roma women and girls. There is no excuse in the 21st century for professionals in the public institutions to consider domestic violence, marriages between underage children and gender based violence the part of tradition of the Roma community. The issue of violence against Roma women is not adequately and sufficiently addressed by the public institutions. It is necessary to work against prejudices and promote equality of Roma women in access to justice, their rights, and the assistance. It is also necessary to emphasize the fact that Roma women are exposed to economic discrimination that makes them additionally vulnerable to violence“.

The Federation of Bosnia and Herzegovina

It is still visible in the practice that some groups of women are additionally marginalized, and the violence is often justified with tradition and customs, and adequate assistance and support is often missing.

Example 1:

In the cases of violence against women belonging to Roma population, timely reaction/intervention of the police and centers for social work is often missing, primarily due to prejudices and stereotypes. Roma women that are victims of violence often do not receive from these institutions comprehensive information about their rights as victims of violence, especially in the area of social and health protection. The key problem with majority of cases of violence is repetition of domestic violence. Public institutions and nongovernmental organizations are following the procedures. However, the adequate reaction of judicial institutions is missing, toward removing the perpetrator of violence from a family, or referring him to medical treatment. The most common reactions in the practice is that police verbally warns the perpetrator, or suggest to a victim of violence to leave her own home with children to protect their own security. If a court issues the restraining order against the perpetrator of violence, it is often impossible to implement it in the practice as the victim and the perpetrator are still sharing the household.

The association that works with Roma women states they are exposed to all forms of violence, especially physical and economic violence. The reason for that is that Roma women are mostly illiterate and uneducated, and are living in rural areas. They have difficulties to get jobs, and often

are dependent from their husbands/partners. The situation is aggravated with the fact that Roma community is traditionally organized, with widespread beliefs that a woman should suffer and be silent about everything.

In their responses on the questionnaire for the purpose of preparing this Report, the nongovernmental organizations emphasize that women from rural areas that are belonging to national minorities have certain level of tolerance on violence because of additional pressure and judgment in their environment if they speak up about violence, or leave violent situation. There are also experiences that women are not allowed to educate themselves and where violence is accepted as standard way of life, and a man has the right to be violent, while a woman has a duty to endure it within a marriage. Women from rural areas have more difficulties to access the information about assistance and support. LGBTIQ women are additionally exposed to violence, because they cannot publicly express their sexual orientation. If they go public, they are rejected, judged, humiliated, and targeted of mockery. In this case, there is inadequate institutional framework and inadequate reactions of authorized institutions (police and judiciary) that are encouraging cases of violence against LGBTIQ women, and are leaving them unprotected. LGBTIQ women are also frequently facing stigma when accessing the health services. By experiences of some nongovernmental organizations, women with reproductive health problems are also part of the marginalized groups of women. They are often stigmatized as „childless and useless“, and are often suffering violence within their family as well as community. Women with disabilities are facing with physical barriers, unadjusted services, humiliations, etc. Elderly women are not recognized by the system in any strategic document, beside their recognition as “pensioners“, and this is why women that did not acquire the right on pension are invisible in the system of social protection.

RECOMMENDATIONS:

1. To facilitate access to rights and services for all women victims of violence, with special focus on specific needs of marginalized groups of women.
2. To multiply previously developed models as examples of good practice in line with the context of local communities. Education of women and men professionals in some public institutions and NGOs, their institutional networking, usage of available resources, and providing information, in order to women victims of violence, especially women belonging to marginalized groups have access to information about whom, when, and where they can turn to, and what assistance they can get on the fastest way possible.

„The issue of protection of women with disabilities from domestic violence has to be the part of wider picture on social status and conditions of life of women with disabilities. Specificity of their position requires additional efforts to identify additional forms of violence that do not affect women from other groups, for example

neglect and social exclusion. By our opinion, neglect of women with disabilities by those who take care about them is frequent form of violence (for example, a woman who cannot move is left all day in bed until someone finishes his her duties and comes to pick her up; they cannot decide on their own when to do personal hygiene, or even when to eat). Also, social isolation or hiding women with disabilities because "they are disgraceful" happens very often. We know for the case of a woman with intellectual disabilities that really liked to socialize and dance, but when someone rings at the door, they would lock her into the room first, and then they would open the door to a visitor. If the visitor is someone from closer family members or friends, the girl would be unlocked, but if it is someone who "should not see her", she would remain locked in the room until the visitor leaves. Neglect and social isolation must be recognized as forms of domestic violence which state allows and supports through lack of any actions aimed for securing services that would enable access to the right to choose for women with disabilities."

Article 13 – Awareness Rising

The Report of the Civil Society Organizations on Implementation of the Concluding Observations and Recommendations of the CEDAW Committee for the Bosnia and Herzegovina 2013-2017 (The Helsinki Citizens Assembly Banja Luka and the Rights for All Sarajevo, November 2016)⁴⁹ states that governmental institutions in the Bosnia and Herzegovina did not ensure mechanisms for continuous, available, and sensitive providing of information on rights and available assistance for women exposed to violence, and implementation of the continuous public information campaigns on causes, consequences and legal measures (penalties) against perpetrators of violence with objective of raising public awareness and general prevention. Women exposed to violence still do not have ensured and undisturbed access to systemic, efficient, and sensitive assistance and support, and are facing various forms of prejudices and discrimination, both in their close environment, and by women and men professionals that are working in public institutions whose obligations and authorities in that direction are specifically⁵⁰ regulated by the laws and bylaws⁵⁰.

It is visible from the official reports and information of authorized ministries and public institutions that awareness rising activities and understanding of the different manifestations of all forms of violence covered by the Convention, and their consequences for children and needs to prevent such forms of violence are considered as the activities they implement or contribute conveniently once a year during 16 Days of Activism Against Violence Against Women. The ministries and public

⁴⁹The Report is available at: <http://hcabl.org/wp-content/uploads/2016/11/CEDaW-WEB-final-novembar-2016.pdf>

⁵⁰ Page 48

institutions are, as a rule, reporting on these activities. Beside these activities, nongovernmental organizations cannot identify other activities that would be directed on raising awareness about violence against women. With the exception of the institutional mechanisms for gender equality, it is noticeable that representatives of majority of the public institutions are avoiding to talk about women as victims of violence, and that awareness rising activities even during 16 Days of Activism are as a rule linked to other important dates, with avoiding 25 November.

Awareness rising campaigns are mostly implemented by the nongovernmental organizations that are initiators of the activities, and they strive to include also the actors from governmental institutions. Campaigns implemented every year are related to commemorating the Campaign of 16 Days of Activism Against Gender Based Violence, 19 June - the International Day of Fighting Sexual Violence in Conflict, 26 June – The International Day of Fighting Torture, Children’s Week, the International Women’s Day, and the International Day of Peace, etc.

Campaign materials are mostly printed, audio and visual, and internet links. Material adaptation is sought to be achieved through writing in simple language, clear and direct instructions and information, and availability of the materials on visible places. When it comes to marginalized groups of women (women older of 16 years of age, women from rural areas, women belonging to national minorities, women with disabilities, LGBTIQ women), materials adjusted to their needs are produced only by those organizations whose focus is directed to these groups of women. Some NGOs are making their materials available to marginalized groups of women by sending the materials to NGOs that directly work with these groups of women in order to present or adjust its content to their needs, as well as to the public institutions.

RECOMMENDATIONS:

1. To promote and implement, on regular basis and at all levels, the campaigns or awareness rising programs, including the cooperation with state institutions for human rights and gender equality, civil society organizations, and nongovernmental organizations, especially women’s human rights NGOs, with the objective of awareness rising and raising understanding of a wider public about different manifestations of all forms of violence recognized by the Istanbul Convention, its consequences for children, and needs to prevention such forms of violence.
2. To ensure dissemination of information to a wider public about available measures for prevention of acts of violence recognized by the Istanbul Convention.

Article 14 – Education

The introductory part of the Report of the Civil Society Organizations on Implementation of the Concluding Comments and Recommendations of the CEDAW Committee for the Bosnia and Herzegovina 2013-2017 (the Helsinki Citizens Assembly Banja Luka and the Rights for All Sarajevo, November 2016)⁵¹, states that the gender stereotypes in the area of education and media are visible and widespread. The Bosnia and Herzegovina failed to systemically point at gender stereotypes and promote gender equality through the strategies for education, educational curricula and plans, as well as training of women and men teachers. The B&H also failed to undertake wider actions directed to eliminating gender stereotypical and discriminative contents in textbooks throughout all levels of education. Nongovernmental organizations are implementing programs of informal education about gender based stereotypes, violence, gender equality, and women's human rights, but without ensured continuity and with limited scope, depending from available support of the international organizations and funds. Although the Law on Gender Equality of the B&H and recommendations of the self-regulatory bodies in the area of media are recognizing obligation and need for eliminating gender stereotypes. Women and topics of interest for women are still underrepresented and invisible in all media, with dominant stereotypical portrayal of their patriarchal social role and position⁵². This Report further states that issue of gender stereotypes and roles that are traditionally attributed to women and men in the B&H society are not in focus of the expert educational public and educational public policies. The strategic documents in the area of education in the B&H are not systemically addressing the issue of gender equality.

In relation to the media, the Report of the Civil Society Organizations on Implementation of the Concluding Comments and Recommendations of the CEDAW Committee for the Bosnia and Herzegovina 2013 - 2017 indicates that stereotypical portrayal of women and men in media is still present, despite educations for women and men journalists on topics of gender equality and upgrading relevant regulations on work of media in B&H. Women are still drastically less represented in news related to politics, economy, and reform processes. The Country Report for the B&H as a part of the Global Media Monitoring Project shows that participation of women in the news (printed media, radio, television and online media) in 2015 was 15,6%, which is significant decline in relation to 2010 when women made 23% of persons in focus of the news. The media monitoring conducted in September 2016 showed that issues of gender equality and women's human rights are not the topic of media contents. Out of 5.908 analyzed media articles and texts, only 0,5% of them focused on these topics. As the body authorized to monitor work of the electronic media in the B&H, the Regulatory Agency for Communications does not have the data on state

⁵¹The Report is available at: <http://hcabl.org/wp-content/uploads/2016/11/CEDaW-WEB-final-novembar-2016.pdf>

⁵² Page 6

level campaigns for promotion of gender equality and combating stereotypes. The Agency also does not have records of reported gender based discrimination in media in the B&H for the period 2010 – 2016. Women in media are still more often than men identified in relation to their family status (someone's wives), and reporting about women victims of gender based violence is positioned in the sections of black chronicles, with often a sensationalistic headlines. Presence of women in media depends solely from how much a woman is active in the public and political life, while gender sensitive language in media is still not professional standard⁵³.

The Republika Srpska and the Brčko District of BiH

In 2016, the Republika Srpska adopted the Strategy of Development of Education for the Period 2016 – 2021, which does not address learning about gender equality or elimination of gender stereotypes from the textbooks⁵⁴. Gender analysis of textbooks and curriculums are conducted rarely, and mostly by the civil society organizations. Gender mechanisms and relevant ministries are not systemically addressing removal of gender stereotypes from the textbooks and introducing continuous training of teachers on gender equality issues. These educations are mostly conducted by the nongovernmental organizations, but only sporadically, and as a part of the projects. As the most important points of resistance in elimination of gender stereotypes, this Report points at following: unadjusted curriculums, textbooks full of gender stereotypes, lack of training for teachers about topics of gender equality and eliminating stereotypes from teaching, unadjusted programs of school subjects of civic education and homeroom classes.

The Federation of Bosnia and Herzegovina

There are two (2) curricula in the Federation of Bosnia and Herzegovina – the Bosnian curricula and the Croatian curricula. Based on experiences of the Association "Medica" Zenica in work with the cantonal ministries of education and high schools in the area of the Central Bosnia Canton and Canton 10, the Croatian curricula includes teaching units related to violence, while the Bosnian curricula still does not have these topics.

Although the curricula are still not harmonized to equally elaborate and give importance to the topics related to violence, nongovernmental organizations are implementing numerous activities aimed to strengthening capacities of teachers and students to be bearers of changes in their classes and communities, to encourage nonviolent behavior and conflict resolution. As a part of the project implemented by the Association "Medica" Zenica in area of the Central Bosnia Canton and Canton 10, eight hundred and seventy nine (879) students of 30 high schools (508 girls and

⁵³ Pages 42-43

⁵⁴ Page 37

371 boys), and four hundred eighty five (485) teachers (316 women and 169 men) were educated on prevention of gender based violence through 165 educational workshops/trainings. In total eight (8) small innovative projects were supported, and these projects were created by joint efforts of boys and girls students and women and men teachers with objective of prevention of gender based violence. Based on its long term work and experience in the area of prevention and combating violence against women, the Association "Medica" Zenica developed and published the Handbook "Innovative Models in Prevention of Violence – Handbook for High Schools", which will be used as part of the materials for follow up activities of prevention of violence in high schools. As the part of this project, the initial study was conducted on sample of 1080 boys and girls students from the targeted cantons, and final study with sample of 1194 boys and girls students on attitudes of students on gender based violence. The results of both studies point that boys and girls students do not have enough information and trust in existing referral mechanisms, in order to contact them in cases of violence.

In relation to the elementary schools, the Ministry of Education and Science of Federation BiH prepared the "Handbook on Prevention of Domestic Violence", and developed didactic kit with the Handbook, to help teachers to introduce the boys and girls students with forms of violence and adequate reactions on violence.⁵⁵

RECOMMENDATIONS⁵⁶:

1. To introduce obligatory gender sensitive education/learning in curriculums at all levels of education, with special focus on establishing a uniform textbook policy based on gender equality.
2. To ensure mechanisms for consistent implementation of regulations on equal portrayal of women and men in media, and identify practical measures for promoting positive and non-stereotypical images of women and men in media that include education of women and men journalists, systemic monitoring of media in this area, and campaigns for promoting gender equality.

Article 15 – Training of Professionals

In relation to training of professionals, by reading of the laws and documents of public policies, it can be concluded this obligation is recognized in the Bosnia and Herzegovina.

⁵⁵The Strategy for Prevention and Combating Domestic Violence of Federation BiH (2013-2017) – ("Official Gazette of the Federation BiH", no. 22/13)

⁵⁶ Recommendations are taken from the Report of the Civil Society Organizations on Implementation of Concluding Comments and Recommendations of the CEDAW Committee for the Bosnia and Herzegovina 2013 - 2017 (Helsinki Citizens Assembly Banja Luka and Rights for All Sarajevo, November 2016), pages 43-44.

The Law on Gender Equality of the B&H regulates that authorized governmental bodies are obligated to undertake appropriate measures to eliminate stereotypes, customs, and all other practices based on ideas of inferiority or superiority of any sex, as well as stereotypical roles of women and men. This includes education and other forms of raising awareness of civil servants and the general public on characteristics of violence against women and gender based violence.

This includes the education and awareness rising about characteristics of violence against women and gender based violence among women and men civil servants, in the public, and by using the other means.

Training of the women and men professionals in the area of domestic violence, and especially trainings that include other forms of gender based violence against women, according to the experiences of NGOs, is predominantly implemented by nongovernmental organizations as the part of their programs and projects. NGOs are implementing educations and trainings for representatives of all subjects of protection from domestic violence, and are cooperating with authorized Centers for Education of Judges and Prosecutors. However, in majority of cases, due to lack of financial support, nongovernmental organizations are not able to incorporate their programs into the official Annual Training Programs of the Centers for Education of Judges and Prosecutors that are, based on the working rules of these Centers, developed on annual basis and beforehand.

Content of Trainings

Some of the topics covered as a part of educations implemented by nongovernmental organizations are, as follows: stress and trauma sensitive approach in work with survivors of sexual and gender based violence, psychosocial approach in work with survivors/witnesses in cases of war crimes, gender based violence – types of violence, basics of nonviolent communication, the first conversation with victims of violence, stereotypes and prejudices, recognizing the victim even when she does not talk about it, importance of multi-sectoral cooperation, legislative framework on domestic violence, trafficking of people, sexual violence, trainings on hate crimes (against LGBTI women, national minorities, etc.)

The Foundation “United Women” created the Manual for Understanding of the Domestic Violence and Violence against Women, with Treatment Guidelines⁵⁷, which is used as the part of educations of women and men professionals. The framework for developing the Manual were the standards regulated by the Istanbul Convention, and due to that, the Manual is applicable in all countries that ratified the Istanbul Convention, regardless of national legislation.

⁵⁷ <http://unitedwomenbl.org/wp-content/uploads/2019/03/Priru%C4%8Dnik-za-razumijevanje-nasilja-u-porodici-i-nasilja-prema-%C5%BEenama.pdf>

The data on total number of women and men professionals that are working with victims and perpetrators of all forms of violence that are trained by nongovernmental organizations and governmental institutions are not available.

The Republika Srpska and the Brčko District BiH

The Laws on Protection from Domestic Violence of the Republika Srpska and the Brčko District of BiH include obligation of continuous professional training on domestic violence only for judges and prosecutors, and not for other officials working in the law enforcement institutions. Some of the previously conducted analysis indicated that these educations are not accredited (Galić and Petrić, 2015.)⁵⁸. Recent analysis of capacities implemented in the Republika Srpska shows that police officers and police cadets have regular training on the topic *protection from domestic violence*, however this training does not include issues of secondary victimization, although there is proven need for knowledge and skills in this field (Babović, 2017.)⁵⁹.

Results of the questionnaire conducted for the purpose of this Report among nongovernmental organizations in the Republika Srpska and the Brčko District BiH show that only one contributing NGO believes that women and men professionals in the public institutions that are providing assistance and support to women victims of violence, including women victims belonging to marginalized groups, are adequately trained and have sensibility for this job, while nine (9) NGOs had different experiences:

„The Law on Protection from Domestic Violence regulates obligation of continuous professional training of judges and prosecutors in the field of violence; also there is a training of police structures within police departments. The problem is that the same persons/officers come at these trainings to represent their institutions. Violence against women and domestic violence requires efficient response of all professionals engaged in the public institutions that are working on this problem and are responsible for recognizing violence within their regular activities. So, for example, a judge, a prosecutor, a police officer, a physician, a social worker, also pedagogues and psychologists that received trainings, and provide adequate support to a victim. However, it happens that only one professional did not receive

⁵⁸ Natalija Petrić and Nenad Galić (2015) *The Baseline Study: Analysis of Harmonization of Legislation and Public Policies in the Bosnia and Herzegovina with the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence (ETS 210)*, Foundation United Women, Banja Luka.

⁵⁹ Babović, Marija (2017) *Report on Assessment of Capacities for Implementation of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, in the Sectors of Police, Education, and Free Legal Assistance in the Republika Srpska*. The Gender Center of the Republika Srpska Government, Banja Luka.

training within this coordinated response, women victims of violence will not receive full and adequate assistance. To a great extent, the issue of processing violence depends from with whom a woman will talk in a moment when she decides to report violence, if she would come across trained and sensible person. Additionally, there is a lack of interconnection between subjects of protection through coordination, share of information, and applying adequate measures that would enable efficient protection and suppression of violence against women. Additional education for recognizing psychological, economic, and sexual violence is needed for professionals in public institutions that are providing assistance and support to women victims of violence. These types of violence often have no physical traces and are not easily visible, but doubt can be formed based on indicators – especially in health centers. In the court practice, we did not have any processed case of physiological and economic violence, which indicates that these types of violence are not recognized, although they happen more frequently than physical violence. Psychological and economic violence are the most frequently connected with physical violence, but they are simply not recognized by the subjects of protection."

In relation to experiences of women with disabilities, the following answer sums up experiences related to lack of sensitive approach by professionals in the public institutions, and other issues that additionally influence limited accessibility to assistance, support, and protection:

„Experience of women with disabilities shows that professionals in police and centers for social work have very high level of prejudices toward women with disabilities (and toward persons with disabilities in general). Also, professionals do not have enough knowledge how to communicate with persons with hearing impairments. They do not have possibility to provide any written instructions or explanations, or documents that should be signed on braille in order to be accessible to women with visual impairments.

There are architectural barriers in the centers for social work, offices for free legal aid, and police stations.

When we asked officers of the centers for social work if they have ways to provide services of protection from violence to women with disabilities, they often respond that "they treat equally all women" and that is completely justified not to have special procedures for women belonging to marginalized groups. This indicates that there is no awareness on need to have "tailor made services" and that institutional mechanisms are developed in relation to an average woman. Therefore,

there is no awareness this represents direct discrimination masked under veil of "equality".

The Federation of Bosnia and Herzegovina

Nine (9) (N=9-69,2%) out of thirteen (13) nongovernmental organizations that participated in collecting information for preparation of the Alternative Report believe that women and men professionals in public institutions that are providing support and assistance to victims of violence are not adequately trained for that job, while four (4) (N=4-30,8%) organizations believe that women and men professionals are adequately trained to work with victims.

The organizations that believe women and men professionals are adequately trained mostly state that professionals received many educations and trainings in this area, although there are problems in implementation of that knowledge and re-distribution of duties of the professionals from one department to another. The organizations also state that educations for professionals are not adjusted to the needs of the personnel of institutions, have no continuity, and are not conceptualized based on adequate research of situation and needs. One of the organizations state that although educations and trainings are being held, there is a big resistance from „ordinary police officers“, where lower-level officials believe that violence is “uninteresting and irrelevant for police work“. According to the experiences of some organizations, some of the topics covered by educations and trainings are, as follows: approach in working with victims of violence, basics of nonviolent communication, the first conversation with victims of violence, stereotypes and prejudices, recognizing the victim even if she does not talk about it, legislative framework about domestic violence, trainings on hate crimes (against LGBTI women, national minorities, and other minority groups).

The organizations that point that women and men professionals are not adequately trained for work with victims of violence believe this training is necessary for women and men professionals from police departments, criminal departments, prosecutor’s officers and courts, especially centers for social work and health centers, in order to improve protection of survivors of violence and prevention of violence. As some of the reasons for inadequate approach of women and men professionals are strong patriarchal and traditional patterns, prejudices and stereotypes that are leading to additional stigmatization of women victims of violence by the professionals. From their experiences, the organizations are also pointing that women and men professionals that are conducting field visits and making the first contacts with victims of violence, are not sensitive enough in their approach, and do not recognize indicators of other forms of violence, beside visible consequences of physical violence. It also happens they are acting as mediators and are convincing women to stay with their partners.

In order for services for women victims of violence to be more adequate, the organizations believe it is necessary to conduct following activities:

- ✓ Continuous education and increasing sensibility of women and men professionals on gender based violence, causes, consequences, profile of a victim, profile of a perpetrator, providing adequate assistance, steps for a victim to exit violent situation, etc.
- ✓ Education on applying stress and trauma sensitive approach toward survivors of gender based violence.
- ✓ Training on the treatment of women victims of violence, establishing of trust and safe space for victims of violence, as well as the work with perpetrators not to repeat violence.
- ✓ Education of women and men officers in some institutions and nongovernmental organizations, their institutional networking, using available resources and providing information, in order for women victims of violence, especially women belonging to marginalized groups to be informed to whom, when, and where they can turn for help, and what kind of assistance they can get on the fastest way possible.
- ✓ Training should include wide knowledge of the context and concepts of violence, willingness and commitments of persons to work on these issues.
- ✓ Advisory-informational trainings on situation in this area, existing legislation, and possibilities for implementation and improvement of legislation.
- ✓ Initial workshops for more efficient work and establishing coordination bodies for fighting against violence, and developing protocols on activities in cases of violence, at the level of local communities.
- ✓ More educations – discussions on the topic of creating concrete conditions and mechanisms for more adequate assistance and support to victims of violence.
- ✓ More informational-advisory events and possibilities, for potential and current victims of violence: more prevention oriented activities oriented toward sharing information and advices, more info materials (booklets, leaflets, media clips), from this area.
- ✓ To assess needs of women and men professionals and officers about form and topics of trainings/educations, in order to create more adequate and good quality programs of educations, with objective of improving response of the professionals and officers in concrete cases of violence against women.

Nongovernmental organizations are providing examples from the practice:

- ✓ Based on experiences of working with victims of violence, NGOs identified unprofessional and discriminatory approach toward victims of violence by the police: After experiencing violence, a woman beneficiary run out of the house, and went to another part of a village to call the police. After the police came at the filed intervention, she told them that children

stayed in the house with a father that is intoxicated (the house is at the end of a village, close to the woods with inaccessible access). According to the statement of a woman beneficiary, police officers said they cannot approach to the house. Next day, she reported the case to the authorized center for social work, and children were exempted from their father, and together with their mother sheltered to a safe house.

- ✓ Women beneficiaries primarily emphasize that police officers did not react immediately upon reports of violence, especially if the cases of violence have been reported several times. Women victims say there is a long period between the call to the police and their field intervention. The police often do not come, justifying it with lack of vehicles, human resources, etc. Additionally, women beneficiaries say they felt that police officers do not trust them, minimize the issue of violence, do not have adequate approach, etc. Women also feel very often that police officers are keeping a side of a perpetrator.
- ✓ Women victims of violence often avoid reporting violence to the police. It is noticeable that they are lacking courage for reporting violence, and fear of reactions from police officers, if they would be judged for what happened, and persuaded to go back home. Often women victims of violence fear of possible consequences upon reporting the perpetrator of violence to the police, especially if they do not have where to go, and if they must return home.
- ✓ Women victims of violence state that centers for social work rarely approve sheltering women to the safe house, even when a woman victim requests this type of support. The centers for social work usually assess that it is better for a victim to be sheltered with a family or a friend.

RECOMMENDATIONS:

1. To examine application of knowledge and skills acquired so far, as well as established coordination, in order to map available resources and needs of women and men professionals and officers, and to create adequate and good quality content of educations and trainings aimed to improve response and applied procedures in concrete cases of violence.
2. Continuous education and increasing sensibility of women and men professionals on gender based violence, causes and consequences of violence, profile of a victim profile of a perpetrator, providing adequate assistance based on stress and trauma sensitive approach and steps of exiting victims from violent situation, etc.
3. Education on approach of working with women victims of violence, establishing trust and safe space for victims of violence, and work with perpetrators of violence in order to prevent repetition of violence.
4. Education should include wide knowledge about the context and concept of violence, willingness, and commitments of persons to work on these issues.

Recommendation of a victim of violence with experience of communication with the public institutions:

„To be more sensitive when they work with a victim of domestic violence, to be patient, to recognize signs of violence and depression of a person, and to provide her health or psychological assistance. To do a better job with keeping records when a victim of violence comes to report violence, to consider that a victim might be in difficult position, and needs to be heard. A professional or an officer should be kind and write everything down from a statement of a victim of violence. If a victim belongs to a marginalized group of women, to be more sensitive in approach to her, and listening her statement.“

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

Recent analysis that are related specifically to implementation of the psychosocial treatment for perpetrators of violence in the area of gender based violence and domestic violence⁶⁰ (Mapping of the Needs and Possibilities of the Local Institutions for Establishing and Developing Programs for Work with Perpetrators of Violence), indicate that the Bosnia and Herzegovina harmonized its legislation, and created preconditions for more efficient support to victims of violence, and work with the perpetrators of violence through imposing of safeguard measure of psychosocial work with perpetrators of violence. The analysis also point that although local institutions have responsibility for urgent reaction in cases of violence, they are still not adequately developed and networked on the way that each case of domestic violence is adequately addressed. This contributes to inadequate protection and treatment of victims of violence, and often contributes to additional victimization of a victim, which violates her basic human rights. A victim continues to be a victim in the community as a perpetrator of violence is not forced to change his awareness and behavior (Vidović, 2018).

Experiences of nongovernmental organizations are showing that the system has insufficient capacities to provide comprehensive, continuous and efficient prevention programs, and programs of work with perpetrators of violence. Within their capacities, and with support of the donor resources, nongovernmental organizations are implementing psychosocial treatments of perpetrators of violence and prevention programs.

⁶⁰Gordana Vidović (2018) *Analysis of the Capacity Assesment for Prevention and Combating Violence against Women and Domestic Violence, with Emphasis on Implementation of Treatment for Perpetrators of Domestic Violence for the Area of Municipalities Višegrad, Sokolac and Rogatica (East Sarajevo region), and municipalities of Bratunac, Milići and Srebrenica (Bijeljina region). The Citizens Association „Budućnost“, Modriča.*

The Republika Srpska and the Brčko District of BiH

The Laws on Protection from Domestic Violence in the Republika Srpska and the Brčko District BiH are regulating possibility of imposing safeguarding measure of the mandatory psychosocial treatment to the perpetrator of violence, issued by the court in cases of domestic violence. Methodology of implementing this safeguarding measure is elaborated in detail by *the Rulebook on Methodology and Place of Implementation of the Safeguarding Measure of Mandatory Psychosocial Treatment* („Official Gazette of the Republika Srpska, No. 111/14), and *the Rulebook on Methodology and Place of Implementation of the Safeguarding Measure of Mandatory Psychosocial Treatment of the Brčko District BiH*⁶¹.

According to provisions of this Rulebook, psychosocial treatment should stop and prevent further violence through: 1) gaining insight and accepting responsibility for personal violent behavior, 2) adopting self-control of behavior, 3) learning social skills and changing beliefs that contribute to violent behavior, 4) removing causes of violent behavior, and 5) accomplishing positive changes in behavior of the perpetrator of domestic violence. Objective of implementing psychosocial treatment is reducing and removing danger of repeating violence. Psychosocial treatment can be implemented in a form of individual and group treatment, and it is conducted by the health professionals and health associates in the center for mental health of authorized health center, and in cooperation with the center for social work.

As the part of program of measures for support and assistance to victims of violence, the Strategy for Combating Domestic Violence of the Republika Srpska also contains measures for perpetrators of domestic violence. These measures focus on developing standards for work with perpetrators of domestic violence based on voluntary and mandatory principle; development of training programs and training of professionals for work with perpetrators of domestic violence. During the past period, several manuals were prepared for the needs of authorized institutions in the Republika Srpska, with objective to support work of professionals also with the perpetrators of violence, among which is *the Unified Resource Package for Response of Providers of the Health and Psychosocial Services on Gender Based Violence*.

The only publicly available data on number of perpetrators of (domestic) violence who were ordered to undertake the safeguard measure of mandatory psychosocial treatment are the data published at the web site of the Ministry of Family, Youth, and Sport of the Republika Srpska⁶², and

⁶¹Head of Department for Health and Other Services of the Brčko District BiH Government adopted this Rulebook on 4 July, 2018. Document no: 05-1148SC-0086/18

⁶² Data and reports are available at: <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mpos/oPorodica/Pages/Splash.aspx#collapsible0>



are also included in the Information on Implementation of *the General Protocol on Procedures in Cases of Domestic Violence in the Republika Srpska*, in the part related to data collected, consolidated, and reported by the health institutions in the Republika Srpska. According to the Law on Protection from Domestic Violence, health institutions are authorized to implement these safeguarding measures. Perpetrator of domestic violence that received safeguarding measures – mandatory psychosocial treatment or mandatory treatment of addiction – imposed by the court is obliged to participate in their implementation. Health centers that are implementing these measures are keeping data base on persons that received court orders, course of implementation, and results of implementation of the safeguarding measures. According to these data from 2018, 36 male and 2 female perpetrators of domestic violence were ordered by the court to undertake mandatory psychosocial treatment (in 2017, 15 perpetrators of violence), and 17 male perpetrators of domestic violence were ordered by the court to undertake mandatory treatment of addiction (in 2017, 11 perpetrators of violence). We sent the request to the authorized governmental department of the Brčko District BiH, and received answer that there were no procedures based on the *on Methodology and Place of Implementation of the Safeguarding Measure of Mandatory Psychosocial Treatment Rulebook*, as there were no court orders for mandatory psychosocial treatment to date⁶³.

Nongovernmental organizations in the Republika Srpska⁶⁴ are also implementing psychosocial work through treatment with perpetrators of violence – the basic purpose of these treatments is taking over responsibility of the perpetrator for his behavior. This is the initial spot from which each man should start in his process of change. The assessment phase lasts for 3 to 4 session. If there is no contraindications, the contract is signed in which a perpetrator of violence is introduced with the rules and obligation to participate at 16 sessions. During the 2017, forty-three (43) perpetrators of violence applied on voluntary basis to the Center for Men in (Modriča they received referrals from the public institutions, safe house, or were talked into that by their wives and/or other family members):

- 5 perpetrators of violence were not enrolled in the program upon assessment due to contraindications
- Implemented group psychosocial treatments (with total 20 men)
- Implemented comprehensive individual treatment for 10 perpetrators of violence
- 24 women victims of violence whose husbands are involved in psychosocial treatment have participated in assessment of successfulness of the psychosocial program

⁶³ Until 24 June, 2019.

⁶⁴ Men's Center Modriča, as the part of the Citizens' Association „Budućnost“ Modriča.

- 31 visit and monitoring of 13 men that successfully completed psychosocial program was conducted as a part of aftercare program

Results:

- 30 men successfully completed psychosocial treatment of perpetrators of violence
- Developed assertiveness for conflicts in the communication – 80%
- Adopted positive patterns of behavior – 80%

During 2018, 36 men perpetrators of some of forms of domestic violence were referred to the treatment. Upon initial assessment, 32 men were involved in the treatment

- 3 group and 8 individual treatments were implemented
- 28 men successfully completed the programs (2 men gave up from the treatment, and 2 men continued the treatment in 2019).
- As the part of the impact assessment of the treatments, 43 after care visits were conducted (19 visits during the treatment, and 24 visits upon ending of the treatment).

Results:

- 28 men successfully completed the treatment program (over 90% of them stopped with the physical violence and significantly reduced other forms of violent behavior. These data are provided by members of their families, mostly victims that are in contact with the institutions or personnel of the Safe House).
- Successfulness of 70% in comparison to the initial position has been identified based on the indicators.

The Federation of Bosnia and Herzegovina

The Article 9 of the Law on Protection from Domestic Violence of Federation BiH regulates mandatory psychosocial treatment as one of the protection measures. Furthermore, following bylaws have been adopted and harmonized with the Law: the Bylaw on the Method of Implementation of Protection Measures within the Authority of Police, the Bylaw on the Method and Place of Implementation of the Mandatory Psychosocial Treatment of Perpetrators of Domestic Violence, and the Bylaw on the Method and Place of Implementation of Protection Measure of Obligatory Treatment of Dependency from Alcohol, Drugs, or Other Psychotropic Substances of Perpetrators of Domestic Violence.

It is visible from the practice that the system has insufficient capacities to respond on needs for psychosocial treatment. As the part of their services, such is psychosocial counseling ("Medica" Zenica), the Center for Protection and Counseling for Victims of Violence (the Association "Vive žene"

Tuzla)⁶⁵ nongovernmental organizations are working with perpetrators of violence, and offer one type of rehabilitation treatment based on voluntarily acceptance of perpetrators of violence to be involved in the process.

RECOMMENDATIONS:

1. To also enable to other legal entities (centers for social work, nongovernmental organizations...) possibilities to implement the measure if they have capacities to do it and if they engage persons trained for work with the perpetrators of violence.
2. To multiply multi-disciplinary programs and improve preventive interventions and programs for work with perpetrators of violence, following the principles of good partnerships, and based on previous experiences in work with victims of violence and representatives of authorized institutions and nongovernmental organizations.

⁶⁵ Natalija Petrić and Nenad Galić, the Baseline Study of Harmonization of Legislation and Public Policies in the Bosnia and Herzegovina with the Council of Europe Convention on Prevention and Combating Violence Against Women and Domestic Violence (ETS 210). The Second Revised Edition. Banja Luka, 2015

CHAPTER IV – PROTECTION AND SUPPORT (ARTICLES 18-28)

Article 19 – Information

The most important laws related to violence against women in the Bosnia and Herzegovina do not regulate obligation of ensuring information about available services of support, and legislative measures, using the language they understand. The laws do not regulate an institution, and/or a body that would be obliged to provide such tope of information. Nongovernmental organizations that are providing assistance and support to victims of violence are witnessing that, on rare occasions, reception offices in institutions have some info materials and posters, such are those against domestic violence that also feature number of SOS telephone, however NGOs are warning that these materials are completely unadjusted to the needs of all women. Certain information on authorities of specific institutions can be found at the internet pages of these institutions, but these are available to limited number of women.

Furthermore, nongovernmental organizations are warning that beside lack of all needed information, it is happening that women victims of violence are not receiving requested assistance if they are not previously informed which institution and to what extent is authorized to provide it.

The Republika Srpska and the Brčko District of BiH

Response to the questionnaire provided by a nongovernmental organization:

„Experience of a woman M. N. that participated in the self-help group, which she shared with the group: a woman left violent marriage relationship, and on one occasion, she needed written consent of her former husband for her child to attend school excursion. As she could not find him, and there was no possibility for a child to attend school excursion without consent of other parent, she approached to the center for social work, and she was not provided with any assistance. Her agony lasted for a while until she did not receive the information from other sources that the center for social work is obliged to sign the consent in the name of other parent in such circumstances. When she came for the second time to the center for social work, "armed" with such information, she solved the problem, and received the permit from the center."

Experiences of other nongovernmental organizations are confirming that women with disabilities not only do not receive necessary information, but also that officials are not able to provide such information to them:

„Experience of women with disabilities shows that the police officers and professionals from the centers for social work have very high level of prejudices toward women with disabilities (toward persons with disabilities in general). Additionally, they do not have sufficient knowledge how to communicate with persons with hearing impairment. Officers and professionals do not have possibilities to provide any written instructions, explanations, documents that can be signed using braille, in order to be accessible to women with visual impairment.“

Opinion of the nongovernmental organizations is that women victims of violence are mostly requesting and receiving information just from nongovernmental organizations. On the question: “Do you have information materials that provide instructions for women victims of violence to acquire their rights in the practice”, out of ten (10) nongovernmental organizations that responded on the questionnaire, only one (1) NGO said it does not have such materials, while others confirmed they have it. Nongovernmental organizations explained they made effort to adjust these materials to the needs of their women beneficiaries, in order to satisfy their needs.

„Materials are adjusted and are enabling informing of the marginalized groups of women. Information is related to acquiring the basic citizens’ rights and procedures of protection and support in cases of gender based violence. The significant number of materials is also focusing on prevention of deviant social issues“.

„The Protocol on Prevention and Procedures in Cases of Domestic Violence was recently signed, and distributed to citizens of the Brčko District BiH. We also organized the radio program on this topic. Previously we were informing citizens about ways of reporting domestic violence and authorized public institutions, through radio and TV programs, and information leaflets that we distributed. We are conducting these activities since inception of our work. Information was related to whom citizens can report violence, which institutions are conducting field interventions, and what is the further procedure. We were also informing citizens to whom they can turn to for advice in cases of domestic violence, and how to acquire free legal assistance. They were clearly informed what the authorities of each institution are, and what kind assistance and support they can expect.“

„For majority of our materials, we are trying to design and translate them on Roma language, in order to achieve full effect in informing Roma women and girls. Also, our field workers and employees at the info spot are speaking Roma

language, and are able to present information related to protection from violence to Roma women and girls on Roma language. They can also contribute as translators if women that are requesting assistance are in need for such support."

„We have information booklets with the information about types of violence, to whom victims of violence can turn for help, which public institutions are authorized to provide assistance, and what they can do if a victim reports violence, contact telephones, free telephone number, and contacts of the association. Also, our association has cooperation with the free legal assistance and a lawyer that comes to our association, and helps a victim to acquire her rights. We are organizing meetings of the inter-sectoral commission and a victim of domestic violence, with participation of a police officer, and professionals from the center for social work, center for mental health, and health center, and they are explaining mechanisms and procedures, etc."

„During the campaigns, it is common that we are distributing great amount of information materials, however, it is always an open question if those women who are in need receive these information. It is difficult to reach all women in rural areas. We never know which woman suffers some form of violence, and how much she needs information."

„Yes, materials are adjusted and are enabling information to marginalized groups of women. They are written in a way to be understandable to everyone. Since our organization has the most contact with women from the rural areas, most of the materials are targeting them."

The Federation of Bosnia and Herzegovina

The practice shows that women and men professionals that are working directly with victims of domestic violence are not informing the victims on their rights and possibilities of protection based on the Law on Protection from Domestic Violence of Federation BiH.

Example 1:

A woman beneficiary, a victim of psychological violence, the center for social work did not recognize the need to refer her to the safe house for treatment: Upon hospitalization at the Psychiatry Clinic, and based on the recommendation of a female psychiatrist, a woman beneficiary was referred to the Citizen's Association "Vive Žene" from Tuzla for a counseling. A woman suffered from psychological violence, accusations, constant quarrels, threats, etc. Upon counseling, a woman victim was informed that she can be sheltered to the Safe House, but she was also referred to the local Center for Social Work, in order for them to be informed about the case, and to prepare the



request for sheltering a woman victim in the Safe House. After several days, a woman victim returned for counseling to the Citizen's Association "Vive Žene" from Tuzla, because she did not feel safe. She has lived with her son upon leaving the hospital, and her son's house is next door to the perpetrator of violence. She contacted the local Center for Social Work and was told there by an officer that there are no indications for sheltering her to the Safe House. Despite such assessment of an official from the local Center for Social Work, a woman victim was sheltered in the Safe House where she stayed for three months. She recovered and was empowered to manage to persist in submitting the report for domestic violence. Additionally, she has submitted request for alimony and faced the perpetrator at the court session for divorce, regardless of his continuous threats and attempts to persuade her to give up from reporting violence.

Nongovernmental organizations also state that women victims are approaching them to request information on procedures and how to claim protection, and testify that victims feel safer if they have company of the women representatives of nongovernmental organizations when they go to police to report violence.

Example 2:

Women victims of violence are mostly contacting our association for advice "what to do". We are providing advices to them to contact the police or center for social work. In most of the cases, women do not have the courage to report the violence to police. When the violence happens again, women victims are asking for help from us to accompany them to the police to report violence, to support them. Women victims of violence testify that police officers are acting differently if someone from the association is accompanying them when they report violence. When we go with women victims to the police, a police officer takes the report correctly, but only if we from NGO or someone from the center for social work is present. However, if a woman goes alone to report violence they face different treatment, women often wait in police 3-4 hours, and then they are told to come back tomorrow, or to come on Monday if the violence happened during the weekend.

RECOMMENDATIONS:

1. To regulate legal obligation for all institutions and organizations that are participating in procedures of providing assistance and support to inform the victim in a comprehensible way about all rights she has in accordance with these and other laws, and inform her about public institutions, bodies, legal entities⁶⁶, and organizations that are providing assistance and support⁶⁶.

⁶⁶ In the period of preparing this Report, the Draft Law on Changes and Amendments of the Law on Protection from Domestic Violence of the Republika Srpska has been adopted, and it determines obligation of all subjects of protection

2. Authorized entity and local level bodies of governance should prepare and distribute information materials about available services for victims of all forms of violence regulated by the Istanbul Convention, taking into consideration that these information materials should be also prepared at minority languages and adjusted to the needs of persons with sensory disabilities, migrants, and assailants.
3. To improve mechanisms for implementation and monitoring of the legal obligations of women and men officers to adequately and timely inform survivors/victims of violence on available mechanisms of assistance and protection.

Article 20 – General Support Services

Nongovernmental organizations will provide their comments about situation in the Republika Srpska and the Brčko District BiH after the Bosnia and Herzegovina submits its State Report.

Article 21 – Assistance in Individual/Collective Complaints

The Law on Free Legal Assistance of the Bosnia and Herzegovina⁶⁷ determines that, in accordance with the provisions of this Law, beneficiaries of the free legal assistance, including victims of domestic violence and victims of gender based violence⁶⁸ are exercising the right to make complaints and submit them to the international bodies for protection of human rights as well as in the procedures in front of the European Court for Human Rights, where it is possible to establish the link with the obligation from the standard regulated by the Istanbul Convention⁶⁹. Unfortunately it was not possible to find the report on previous work of the Office for Free Legal Assistance of the Ministry of Justice of B&H, in order to find out more information about exercising this right in the practice.

It is important to mention that, according to the Law on Prohibition of Discrimination of B&H, the Ombudsman for Human Rights of BiH, as the central institution authorized to provide protection from discrimination is providing assistance to persons or groups of persons that are approaching to the international bodies for protection from discrimination, through providing instructions, information, advices, consultations during procedures, proposals, and recommendations⁷⁰. Additionally, the Ombudsman for Human Rights of BiH is providing necessary information to individuals and

to inform a victim about their rights, on the way understandable to a victim. It remains to be seen whether this provision will remain in the Proposal Law, and what effects it will have.

⁶⁷ ("Official Gazette of the Bosnia and Herzegovina", no. 83/16)

⁶⁸ Article 15, Paragraph 1, Point f of the Law on Providing Free Legal Assistance

⁶⁹ Article 12, Paragraph 3.

⁷⁰ Article 7, Paragraph 4 of the Law on Prohibition of Discrimination of BiH („Official Gazette of the BiH", no. 59/09 and 66/16).

legal entities that submitted complaints related to discrimination, about their rights and obligations, and possibilities of judicial and other types of protection since the violence represents a form of discrimination of women, the Ombudsman for Human Rights of BiH would have the obligation to provide assistance and necessary information to women victims of violence. In order to make easier for individuals and legal entities to access information on procedures of submitting complaints to the international bodies, the Ombudsman for Human Rights of BiH published the short guide with the title "Submitting Complaints to the European Court for Human Rights". The Guide contains information on rules of admissibility and procedural requests related to submitting complaints, which represents the example of good practice that satisfies the European standards⁷¹. The institution is providing information to beneficiaries free of charge. During 2017 and 2018, the Ombudsman for Human Rights of the BiH did not have the case in which a woman victim of violence received assistance to submit complaints to some of the international bodies – the European Court for Human Rights or the CEDAW Committee⁷².

In relation to the number of cases that are considered in front of the international bodies, by looking at the data base of the CEDAW Committee we identified only one case against the Bosnia and Herzegovina⁷³, while we could not determine the number of cases in front of the European Court for Human Rights.

It is important to emphasize that *the Laws on Protection from Domestic Violence of the Republika Srpska and the Brčko District of BiH, as well as the Law on Gender Equality of BiH, as the most relevant laws dealing with prevention and combating violence against women, do not regulate which body/institution would be responsible to ensure that victims have information and access to effective regional and international mechanisms for individual/collective complaints.*

RECOMMENDATIONS:

1. To ensure that victims have information and access to applicable regional and international mechanisms for individual/collective complaints.
2. To promote providing sensitive and informed assistance to victims during submission of such complaints.

⁷¹ The Guide consists of following information: when the complaint can be submitted to the court, conditions for submitting complaints (conditions that must be previously met at the domestic courts, deadines for submitting complaints, conditions related personally to the applicant, against whom the complaint can be submitted), way of submitting complaint and its content, and link for downloading optional form for application/complaint.

The Guide is available at the official web page of the Ombudsman for Human Rights of BiH at:

https://www.ombudsmen.gov.ba/documents/obmudsmen_doc2013041706404126ser.pdf

⁷² Information provided by the Ombudsman for Human Rights of BiH on the Request, no.: Z-BL-06-480119 from 18 July 2019.

⁷³ 116/2017, Bosnia and Herzegovina, Articles 1; 2(a-f); 3; 12; 13 (a) and (b) and 15, Sexual violence during the war

Article 23 – Safe Houses

There is the comprehensive legal framework that prescribes and establishes rights, obligations, and responsibilities in the area of support and assistance of victims of domestic violence in the Bosnia and Herzegovina. Yet, victims are still facing numerous obstacles in relation to undisturbed and adequate access to a large number of support and protection measures, including, among others, the access to safe houses and SOS telephones, as the specialized services of support that are in the Bosnia and Herzegovina ensured by the nongovernmental organizations.

Nongovernmental organizations that are providing specialized support to women victims of violence are emphasizing that they are facing with problems of financial insecurity, and due to that, they are spending great part of capacities and human resources on fundraising, instead of directing it on assistance and support to victims of violence, professional development of staff, improving their knowledge and skills, and team development on long term basis.

In total eight (8) safe houses is working on the territory of the Bosnia and Herzegovina, with capacity of hundred and seventy one (171) beds. All safe houses are operated by the nongovernmental organizations. Following is the detailed overview of situation and status of the safe houses, presented at entity levels.

The Republika Srpska and the Brčko District BiH

In the Republika Srpska, the safe house represents special measure of support that provides safe shelter and assistance to victims of domestic violence, and can be implemented by a legal entity. The law also regulates procedure for sheltering victims of domestic violence. Due to suffered violence, fear, and anxiety, and with the objective of ensuring physical protection and accessing her rights and interests, and prevention of repetition of violence, a victim of domestic violence has the right to submit request to the authorized center for social work, or a service of social protection for using special support measure – temporary shelter in the safe house. With the assistance of police, the center for social work, or a service of social protection can make the decision on temporary shelter for a victim of violence in the safe house, with the prior consent of a victim, and with objective of ensuring physical protection of a victim, and enabling her access to her rights and interests. Duration of special support measure through shelter in the safe house can be ordered for a period necessary for accomplishing objective of the measure, and in cannot exceed six months. In justified cases, duration of this special support measure can be extended for another six months, or until the end of proceedings, and implementing court order for protection measure against perpetrator of violence. It is legally regulated that the safe house must meet the standards related to premises, equipment, and personnel, and the Commission appointed by the Ministry of Family, Youth, and Sport of the Republika Srpska is determining fulfillment of these standards. On

the proposal of the Commission, the Minister adopts the decision on meeting the standards, as well as the Bylaw on the Standards for Realization of the Safe House. This Bylaw („Official Gazette of the Republika Srpska“, no. 25/13) regulates the standards that the safe house must meet in terms of premises, equipment, and personnel, and these are determined based on construction-technical, spatial, material, personnel, and security criteria that must be met to enable implementation of the special support measure in the safe houses on whole territory of the Republika Srpska.

The Law on Protection from Domestic Violence of the Republika Srpska also regulates financing and procedure of reimbursement of costs for sheltering victims of domestic violence in the safe houses. In the Republika Srpska, 70% of financial means for temporary shelter and accommodation of victims of domestic violence in the safe houses is ensured through the entity public budget of the Republika Srpska, while 30% of financial means is ensured from the public budgets of local communities/municipalities, in accordance with the predetermined price of accommodation of a victim. To exercise right on reimbursement of costs of sheltering victims of domestic violence that are ensured from the entity public budget of the Republika Srpska, the Ministry of Family, Youth, and Sport of the Republika Srpska is announcing the call. The Minister adopts the Bylaw on Procedure of Awarding the Financial Support to the Safe Houses, as well as the Decision on Price of Sheltering Victims of Domestic Violence in the Safe House. The Bylaw on Procedure of Awarding the Financial Support to the Safe Houses of the Republika Srpska („Official Gazette of the Republika Srpska“, no. 62/13 and 11/17) regulates procedure of awarding financial means to the safe houses, with the objective of implementing special support measure for victims of domestic violence. Only legal entities that are meeting the standards based on the Decision of the Minister, and which, upon receiving this Decision submitted request for entering into the Register of the Safe Houses maintained by the Ministry of Family, Youth, and Sport of the Republika Srpska, can apply on the call for acquiring the right on reimbursement of costs that occurred in relation to sheltering victims of domestic violence from the entity public budget of the Republika Srpska. Detailed procedures for entering into this Register are regulated by the Bylaw on Content and Procedure for Keeping the Register of the Safe Houses („Official Gazette of the Republika Srpska“, no. 25/13). Legal entity which, upon the public call, received approval of reimbursement of costs for sheltering victims of domestic violence in the safe house from the entity public budget of the Republika Srpska, is signing the contract with the Ministry of Family, Youth, and Sport of the Republika Srpska, and this contract regulates mutual rights and obligations. The Ministry is performing supervision over purposeful use of funds, and a legal entity that received approval for sheltering of a victim of domestic violence in the safe house is obliged, based on request of the Ministry, to submit all data related to number of victims and documentation on manner of spending funds from the entity public budget of the Republika Srpska, within the deadline of 30 days. A legal entity that implements the special support measure contrary to this obligation shall be punished with the fine in the range from 3.000 BAM to 7.000 BAM.

There are three (3) safe houses that operate in the territory of the Republika Srpska – in Banja Luka, Modriča, and Bijeljina, and these are registered in the Register of the Safe Houses maintained by the Ministry of Family, Youth, and Sport of the Republika Srpska. Capacities of these three (3) safe houses is in total 55 beds (24 beds in Banja Luka, 16 beds in Modriča, and 15 beds in Bijeljina), which is far less than the real needs but also of the standard.

THE CITIZENS' ASSOCIATION „BUDUĆNOST“ MODRIČA

The Citizens' Association „Budućnost“ from Modriča established the safe house for sheltering victims of violence on 19 September, 2000. After obtaining the written consent of the Ministry of Health and Social Protection of the Republika Srpska, the Municipality of Modriča determined that the material, technical, and other conditions regulated by the Law were met, and gave approval for work of the Safe House in Modriča. During the first half of the 2013, in line with the current Law on Protection From Domestic Violence of the Republika Srpska and its bylaws, the process of meeting the standards and criteria, and the Safe House of the Citizens' Association „ćnost“ from Modriča was registered in the Register of the Safe Houses maintained by the Ministry of Family, Youth, and Sport of the Republika Srpska. The Citizens' Association „Budućnost“ from Modriča bought and reconstructed the facility of the Safe House with contribution of donors, and the Association owns this facility.

FOUNDATION „UNITED WOMEN“ BANJA LUKA

On 14 March, 2007, the Association „United Women“ from Banja Luka (now the Foundation „United Women“) received approval for the work of the Safe House from the Administrative Service of Banja Luka, based on previously acquired written consent of the Ministry of Health and Social Service of the Republika Srpska. The Decision that approves work of the Safe House in Banja Luka determines that conditions related to facilities, equipment, and personnel are met for the opening of the Safe House in Banja Luka. In 2013, in line with the new Law on Protection from Domestic Violence of the Republika Srpska, the Foundation “United Women” received the Decision on Meeting the Standards from the Ministry of Family, Youth, and Sport of the Republika Srpska. Facility of the Safe House is owned by the Foundation “United Women”, and resources for buying the Safe House were provided by the Government of the Republika Srpska and donors. The Safe House Banja Luka has been reconstructed through support of the donors.



FOUNDATION „LARA“ BIJELJINA

The Foundation „Lara“ from Bijeljina is implementing the program of the Safe House since the beginning of the 2012. The first Decision on Meeting the Conditions for Opening the Safe House was issued by the Administrative Service of Bijeljina Municipality, in line with previous Bylaw on Standards for Work of the Safe Houses, adopted by the Ministry of Health and Social Care of the Republika Srpska. In 2013, this Decision was renewed/confirmed by the Ministry of Family, Youth, and Sport of the Republika Srpska. In line with the current Law on Protection from Domestic Violence of the Republika Srpska and related bylaws, the Safe House in Bijeljina has been registered in the Register of the Safe Houses maintained by the Ministry. Facility of the Safe House in Bijeljina is owned by the Foundation „Lara“ from Bijeljina and City of Bijeljina (1/2), and handed over for complete management by the Foundation „Lara“ from Bijeljina, based on the Agreement with the City Administration of Bijeljina.

In the period from 1 January until 31 December, 2018 in total eighty-two (82) persons were sheltered in the Safe Houses in the Republika Srpska, out of which twenty-two (22) women and sixty (60) children (hundred and seventeen victims of violence sheltered in the safe houses in 2017). During this period, victims were sheltered in the Safe Houses for in total 10.122 days (7.812 days in 2017).

There is no safe house established or functional on the territory of the Brčko District of BiH. However, the Law on Protection from Domestic Violence of Brčko District BiH regulates the procedure and duration of sheltering the victims of domestic violence in the Safe House, and financing of the sheltering victims of domestic violence in the safe house. This Law determines that, the Sub-department for Social Protection can, with the assistance of police and with previous consent of a victim of domestic violence, to temporary shelter a victim to the safe house, with objective of ensuring physical protection and acquiring the rights and interests of a victim of domestic violence. Head of Department for Health and Other Services of the Brčko District BiH adopts the Decision on sheltering of a victim of domestic violence in the safe house. Due to suffered violence, fear, and anxiety, and with the objective of ensuring physical protection and accessing her rights and interests, and prevention of repetition of violence, a victim of domestic violence has the right to submit request to the Sub-department for Social Protection of the Brčko District of BiH for using the special support measure that ensures shelter in the safe house. The safe house represents special support measure for ensuring safe shelter and assistance to victims of domestic violence, and it can be implemented by a legal entity. In order to ensure protection and security of a victim of domestic violence, the police is obliged to accompany a victim to the house, apartment or other housing facility, so she can take her personal belongings necessary for her everyday needs, and belongings of other persons that left this facility together with her. Duration of special support

measure through shelter in the safe house can be ordered for a period necessary for accomplishing objective of the measure, and in cannot exceed six months. In justified cases, duration of this special support measure can be extended for another six months, or until the end of proceedings, and implementing court order for protection measure against perpetrator of violence. The Law determines that financial means for temporary accommodation and sheltering victims of domestic violence in the safe houses shall be ensured from the public budget of the Brčko District of BiH. Contrary to the laws in the Republika Srpska, this Law does not regulate obligation or authority for adoption of separate bylaw that would regulate standards and conditions for establishing and work of the safe houses, or bylaw that would precisely regulate financing of the safe house. The implementation of this Law in practice remains to show how victims of domestic violence in the Brčko District of BiH would exercise their rights to specialized support in the safe house. In the context of sheltering victims of domestic violence in the safe house, the Brčko District of BiH ensured financial means through the grant of the Department for Health and Other Services, Sub-department for Social Protection, on economic code – accommodation in institution (not separately and specifically, but generally for accommodation, therefore it was impossible to acquire data of which amount is dedicated only for sheltering victims of domestic violence in the safe houses).

Nongovernmental organizations that are operating the safe houses in the Republika Srpska are emphasizing that the safe houses are not easily accessible to the victims, although the Law on Protection from Domestic Violence of the Republika Srpska regulates that a victim has the right to submit the request to the authorized center for social work or social protection service for using the special support measure of temporary shelter in the safe house.

The centers for social work are adopting decisions for sheltering victims of domestic violence in the safe houses very restrictively and/or with restricted number of days (sometimes only for 3 or 7 days) of how long a victim can stay in the safe house, which is completely inappropriate, as this period in the practice is sufficient only for emergency sheltering of a victim. Reasons why the centers for social work are adopting such decisions are closely related to financial costs of the sheltering, as these are covered from the public budgets of local communities/municipalities.

Safe houses are emphasizing that they have a serious problem of financing the costs of sheltering victims due to provisions of current Bylaw,⁷⁴ which regulates unique price of sheltering. Determined basic price of sheltering of a victim of violence include all costs, both fixed and variable costs. Costs are calculated retroactively, based on number of days that victims of domestic violence were accommodated in the safe house. Function of the safe house is to be available to the victims 24/7, which requires permanently employed and engaged personnel whose salaries are

⁷⁴ The Bylaw on Procedure of Awarding Financial Support to the Safe Houses („Official Gazette of the Republika Srpska“, no. 62/13 and 11/17)

completely insecure and dependent from the assessment of the centers for social work/services of social care about needs for sheltering victims. Due to that, persons that should provide assistance in protection of human rights are also disenfranchised, and their work is underestimated and subjected to questioning, which does not exist in any other sector. Apart from that, there are also other material costs that must be paid regardless of number of women that are using the services of the safe house.

The Federation of Bosnia and Herzegovina

Although the Article 35 of the Law on Protection from Domestic Violence of Federation BiH regulates the obligation of setting up criteria and standards for establishing, work, and financing of the safe houses in the Federation BiH, until 2019 the Ministry of Labor and Social Policy of Federation BiH did not adopt this Bylaw, despite the deadline of 6 months upon the Law entered into force. The Law on Protection from Domestic Violence of Federation BiH entered into force in March 2013. The official standards for the safe houses adopted by the Ministry of Labor and Social Policy of Federation BiH do not exist. However, nongovernmental organizations developed their own standards and procedures based on the long term work, experiences, and expertise.

There are five (5) currently active safe houses in the area of Federation BiH:

NAME OF THE ORGANIZATION THAT OPERATES THE SAFE HOUSE	CAPACITY⁷⁵
Žena BiH, Mostar	28
Medica, Zenica	25
Foundation of Local Democracy, Sarajevo	25
Vive žene, Tuzla	22
Žene sa Une, Bihać	16
TOTAL	116

Currently available capacity of the safe houses in the Federation BiH is hundred and sixteen (116) beds and number of inhabitants according to the latest census is 2.219.220 persons. According to the standards from the Istanbul Convention, the Federation of BiH should have 222 beds, which is for 106 beds more than current number of available places. However, it should be considered what represents “sufficient” number of available capacities.

⁷⁵ Husić Sabiha, Irma Šiljak “Establishing and Financing of the Safe Houses in Federation BiH – Toward Better Solutions”, December 2015

In 2017, two hundred and nineteen (219) persons (women and children) were accommodated in the safe houses in Federation of BiH, while there are no available data for the period of 2018⁷⁶.

Having in mind decentralized administrative structure of the Federation BiH (entity level, 10 cantonal governments, and municipalities and cities) as well as linear budgeting of the public budgets, it is not possible to precisely determine the percentage of allocations from the annual budgets directed to prevention and combating of all forms of violence against women. Programs of prevention and protection from violence in the Federation BiH within public budgets are planned as a part of social protection or current transfers to nonprofit organizations. In relation to that, it is very difficult to identify the precise amount of resources that are planned and allocated.

Within the entity public budget of Federation BiH for 2019, the budget code for implementation of the Law on Protection from Domestic Violence of Federation of BiH is located within budget line Current Transfers to Nonprofit Organizations, with planned amount of 22.010.200 BAM. Out of this amount, 5.100.000 BAM is from the earmarked funds (funds collected from the Lottery of BiH), and rest of 16.910.200 BAM are the budgetary funds. Through the analysis of these budget codes, it is visible that transfers to nonprofit organizations include also the transfer of 3.800.000 BAM for political parties or coalitions, or 17,26% of total funds for transfers to nonprofit organizations. Beside political parties, significant amount under the budget line of nonprofit organizations goes on science institutions of importance in BiH - 1.650.000 BAM, than Current Transfers to Nonprofit Organizations – transfer for the area of science of importance for the Federation BiH 1.577.000 BAM. Also, part of the funds within these transfers goes for co-financing institutions of social protection in the Federation BiH (700.000 BAM), while part of the funds is distributed for demobilized soldiers and war veterans with disabilities, financing and subsidize of housing social care, work of the associations, and other costs. Budget code for implementation of the Law on Protection from Domestic Violence of Federation BiH represents 1,13% of total resources planned within the budget line Current Transfers to the Nonprofit Organizations.

Example 4:

Although sheltering to the safe house is regulated by the Law on Protection from Domestic Violence of Federation BiH as the measure of protection for victims of violence, only victims that come from municipalities that signed the Protocol on Co-financing of Sheltering (Zenica-Doboj Canton) are receiving shelter, or victims of violence from the other cantons for which authorized ministry of labor and social policy approves financial resources to cover the costs of accommodation in the safe house. In the period covered by this Report, three (3) municipalities of Zenica-

⁷⁶ Report on Implementation of Five-Year Strategy for Prevention and Combating Domestic Violence of Federation BiH (2013-2017) („Official Gazette of the Federation BiH“, no. 29/18).

Doboj Canton did not sign the Protocol (Žepče, Zavidovići and Tešanj), so victims of domestic violence from these municipalities do not have possibility to receive shelter in the safe house, or this requires special procedures that require additional funds to be covered by the authorized center for social work or municipality. Out of that, victims of domestic violence are not provided the possibility to receive shelter in the safe houses, as this is not requested by authorized institutions to which they report violence. As example for that, we are presenting the example of one victim from the area of Tesanj that was sheltered to the Safe House, but only for a month, because the Association "Medica" Zenica approved sheltering without financial costs for Municipality of Tesanj, as a woman victim was the victim was in a visibly poor psychophysical situation. The agreement was that costs of a remaining period of stay would be covered by authorized institutions. However, after a month of her stay in the Safe House, the Center for Social Work from Tesanj informed the Association "Medica" Zenica that they do not have financial resources to cover the costs for extended sheltering of a victim in the Safe House, and that she should be released from the Safe House (Annex no. 11- Memo of the Association "Medica" Zenica no. 01-0362-2018, from 29 June, 2018)

RECOMMENDATIONS:

1. To enable undisturbed and free access to the safe houses for all women victims of domestic violence and gender based violence.
2. To ensure adequate financial resources for work of nongovernmental organizations that are providing specialized services and to develop unique criteria and standards for providing specialized services for victims of violence on the whole territory of the Bosnia and Herzegovina.
3. To determine fixed costs at the annual level that would be awarded to the safe houses regardless of number of temporary sheltered victims of violence, and also to determine variable costs equal to costs of one average net salary in the Bosnia and Herzegovina for December of a previous year, in line with the data of a governmental institution authorized for business statistics.
4. To evaluate on what way the victims of domestic violence in the Brčko District of BiH were accessing their right on specialized support in the safe house, in line with the Article 13 of the Law on Protection from Domestic Violence of Brčko District of BiH that entered into force in 2018.



Article 24 – Telephone Helplines

Over two decades (since 1998), nongovernmental organizations in the Bosnia and Herzegovina are providing support and assistance to victims of violence through telephone helplines. Laws in the Bosnia and Herzegovina do not recognize and regulate telephone helplines.

There are two (2) short numbers for telephone helplines through which victims of violence can receive assistance and support, 1264 for the Republika Srpska and 1265 for the Federation of BiH. There is no established and functional SOS telephone line in the Brčko District of BiH, and calls are redirected to the operators from the entity closer to the location of the call. The part related to mutual obligations and developing mechanisms for integrated and coordinated response to domestic violence of the Protocol on Cooperation and Procedures in Cases of Domestic Violence in Brčko District BiH regulates that nongovernmental organization – the Association of Active Women “Gender” from the Brčko District BiH will “also establish other mechanism of assistance to the victims, such as the telephone helplines and providing psychosocial assistance to the victims”.

Currently eight (8) nongovernmental organizations and the Center for Social Work in Jajce in the Bosnia and Herzegovina are leading the telephone helplines, and they are specialized for providing assistance and support to victims of violence. Nongovernmental organizations that are contributing to this service are, as follows: the Foundation “United Women” from Banja Luka, the Citizens’ Association “Budućnost” from Modriča, the Foundation “Lara” from Bijeljina, the Citizens’ Association “Medica” from Zenica, the Citizens’ Association “Vive Žene” from Tuzla, “Žene sa Une” from Bihać, “Žena BiH” from Mostar, and “Foundation of Local Democracy” from Sarajevo. Until 2015, “Women’s Center” from Trebinje was also the part of telephone helplines network.

Calls on telephone helplines are free and available 24/7, except on the territory of Central Bosnia Canton covered by the Center for Social Work Jajce, where the telephone helpline is not active during afternoon and evening hours, as well as during weekends and holidays.

Nongovernmental organizations are ensuring fees for work of women operators at the telephone helplines through donations, and women operators are providing services on voluntary basis when donor support is not available. Women operators are trained to provide services, and are providing psychological support and information through telephone helplines. Confidentiality is guaranteed to the persons that are seeking for help through calling telephone helplines, and they do not need to reveal their personal data in order to receive help and support.

Based on the above presented information, it can be concluded that practices in the Bosnia and Herzegovina are partially harmonized with the standards from the Article 24 of the Convention, since telephone helpline is operational 24 hours per day on the greater part of the territory of Bosnia and Herzegovina. With exception of costs related to telephone number (connection), telephone helplines are financed through donor contribution or at voluntary basis, which we believe is not in line with the Article 8 of the Istanbul Convention that regulates parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies,



measures and programs to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by non-governmental organizations and civil society.

Back in 1998, nongovernmental organizations recognized the need for providing these services, and they mobilized and trained professional staff, and established telephone helplines in the areas they work. It is important to emphasize that telephone helpline is operational to this day solely thanks to the enthusiasm and commitment of nongovernmental organizations. There are almost no donor projects for this type of services, so **women operators on telephone helplines in the Bosnia and Herzegovina are mostly providing services of support and assistance for free.**

Nongovernmental organizations are collecting data based on unique methodology, and are preparing and submitting monthly and annual reports to the Ministry of Family, Youth and Sport of the Republika Srpska and the Gender Center in the Federation BiH.

Support by the authorized Ministry of Family, Youth, and Sport of the Republika Srpska is provided through covering the costs of the connection for the short number to the Regulatory Agency for Communications, and unifying statistical data submitted by the nongovernmental organizations on monthly basis. However, the Ministry did not develop criteria for operators of telephone helplines, and did not develop way of financing for this service.

Gender Center of the Federation BiH signed the Memorandum on Mutual Cooperation with five (5) nongovernmental organizations – the Citizens' Association "Medica" from Zenica, the Citizens' Association "Vive Žene" from Tuzla, "Žene sa Une" from Bihać, "Žena BiH" from Mostar, and "Foundation of Local Democracy" from Sarajevo – as well as the Center for Social Work Jajce that are providing services through telephone helplines.

In the period from 1 January to 31 December, 2018, there were 3.474 telephone helpline calls in the Republika Srpska (3.693 calls in 2017) out of which 99% of calls in 2018 were related to providing assistance to women survivors. Data for 2017 in the Federation BiH show there were 453 telephone helpline calls, while there were 226 calls in 2018.

There is also unique telephone helpline for survivors of war related sexual violence and rape, and members of their families in the Bosnia and Herzegovina on the number 080 02 23 34. This telephone helpline covers the whole territory of the Bosnia and Herzegovina and it is operated by the Citizens' Association "Medica" from Zenica. The telephone helpline is active 24/7, free of charge for all calls, and operators are trained professionals. Functioning and work of unique telephone helpline for survivors of war related sexual violence and rape and members of their families are not supported by any public budgets in the Bosnia and Herzegovina. There were 110 calls on this telephone helpline during 2017 and 2018.

RECOMMENDATIONS:

1. To develop bylaws on providing support through telephone helplines in the Bosnia and Herzegovina, which would arrange standards and criteria for their work, financing of costs, including the work of operators.
2. To enable to the victims of violence from the area of Brčko District BiH special telephone helpline.

CHAPTER V – SUBSTANTIVE LAW (ARTICLES 29-48) AND CHAPTER VI – INVESTIGATION, PROSECUTION, PROCEDURAL LAW AND PROTECTIVE MEASURES (ARTICLES 49-58)

Findings and recommendations of the Analytical Report: Analysis of the Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina⁷⁷ will be used in part of the Report related to these chapters. Introductory part of this Analytical Report emphasizes that, regardless of the fact during past two decades, state and entity institutions of the Bosnia and Herzegovina and the institutions of Brčko District of BiH made significant efforts to improve legislative and public policy framework toward prevention and combating this type of violence, it still persists and represents continuous threat, not only to the individual security and health of women and children that are exposed to gender based violence on daily basis and suffer their consequences, but also to the protection of public health and sustainable social development. Ensuring availability and implementation of the systemic measures of support and protection for women and children survivors of various forms of gender based violence, including judicial protection, and their access to justice, remains continuous task of the institutions at all levels in the Bosnia and Herzegovina. Focus of the monitoring were criminal offences against life and body, criminal offences against sexual integrity, and criminal offences against marriage and family, as well as the minor offence proceedings for domestic violence and imposing protective measures in proceedings in which victims/injured parties were women and children of both sexes⁷⁸.

⁷⁷ Petrić Aleksandra and Radončić Dženana (2017), Analytical Report: Analysis of the Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, the Foundation „United Women“ Banja Luka and the „Center for Legal Assistance for Women“ from Zenica. The Report is available at the web page: <http://unitedwomenbl.org/v2/wp-content/uploads/2017/03/Analiticki-izvjestaj-Petric-Radonic-2017.pdf>, in the further text, reference to: Analytical Report

Beside that, we believe it is important to mention and call you to review also the Report of Civil Society Organizations on Implementation of Concluding Comments and Recommendations of CEDAW Committee for the Bosnia and Herzegovina for the period 2013 – 2017, which in part related to the Violence Against Women largely relies on the above mentioned Analytical Report (pages 52-54). Preparation of this report to the CEDAW Committee was coordinated by the „Helsinki Citizens' Assembly“ from Banja Luka and „Prava za Sve“ from Sarajevo, and seventeen (17) nongovernmental organizations and civil society organizations from the Bosnia and Herzegovina contributed to this report, which is available at the web page: <http://hcabl.org/wp-content/uploads/2016/11/CEDaW-WEB-final-novembar-2016.pdf>

⁷⁸Analytical Report, Page 14.

Article 30 – Compensation

In relation to support to a woman victim in claiming compensation in the criminal cases for gender based violence, findings of the monitoring of judicial proceedings published in the Analytical Report: Analysis of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina⁷⁹ are pointing that judges are using the main trials on which victims were invited to testify to inform them with their rights, and possibilities to claim compensation, and there were no proceedings in which judges failed to do that. Only in one criminal case, the monitors identified that prior to the criminal proceeding a prosecutor informed a woman victim about possibility to claim compensation, which she did through her legal representative during the criminal proceeding. There were no criminal cases identified during the monitoring in which the courts awarded compensation to a woman victim within criminal proceedings⁸⁰.

Practice of the courts and prosecutor's office in relation to initiating and acquiring compensation of a woman victim of violence during criminal proceedings identified during the monitoring indicates that women survivors of gender based violence are in largely disadvantaged position in relation to the accused, especially in relation to the criminal proceedings for domestic violence, as the most prevalent criminal offence in this field. Research conducted by the nongovernmental organizations that are providing assistance and support to women⁸¹ are pointing that indicate that majority of women survivors of domestic violence are unemployed, without personal and regular income that would enable them to sustain themselves and their children. Due to that, they are economically vulnerable, in a situation of economic dependence from the perpetrators, extended family members, or limited social assistance payments. Referring women victims to claim compensation in the litigation proceedings for domestic violence they survived could lead to postponement in acquiring this right, and placing burden on victims to have unnecessary costs related to initiating and leading such procedures. It is necessary to have this in mind during the criminal proceedings for domestic violence, and requires an active role of prosecutors that could provide support to the women victims to claim compensation, especially during preparations for the criminal proceedings, when they are conducting investigations, collecting evidences, and preparing indictments. This

⁷⁹ Petrić Aleksandra and Radončić Dženana (2017), Analytical Report: Analysis of Monitoring of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, the Foundation „United Women“ from Banja Luka and the „Center for Legal Assistance for Women“ from Zenica. The Report is available at the web page: <http://unitedwomenbl.org/v2/wp-content/uploads/2017/03/Analiticki-izvjestaj-Petric-Radoncic-2017.pdf>, in the further text reference at: Analytical Report

⁸⁰ Analytical Report, Page 42.

⁸¹ Available at: http://www.rightsforall.ba/publikacije-bs/docs-bs/Analiza_politika_socijalnog_ukljucivanja_zena_zrtava_nasilja_u_porodici.pdf

would help women victims to prepare and submit compensation request on time, so the court could decide about it during the criminal proceeding.

The monitors identified only two criminal cases (*War Crime against Civilians and Avoiding Alimony Payment*) within which women victims submitted compensation claims. However, the court did not decide about the claims during the criminal proceedings but directed women victims to initiate litigation procedure. During the previous monitoring period in 2013/2014, women victims submitted ten compensation claims during the criminal proceedings. In twelve criminal cases for the criminal offences of domestic Violence and Sexual Intercourse by Abuse of a Position, the women victims and a legal representative of a minor victims stated during the main trial that they do not want to submit compensation claim. In one criminal case for domestic violence at the *Basic Court of Banja Luka*, a prosecutor withdrew indictment with justification that, among other things, a woman victim refused to testify, and she did not submit compensation claim. Monitoring also indicated existence of sporadic cases in which the fact that a woman victim did not submit compensation claim was stated in the verdicts as mitigating circumstances, and reasons for reducing sentence against a perpetrator⁸². In relation to protection of women witnesses during the criminal proceedings for gender based violence, monitoring findings are pointing out that adult women survivors of gender based violence are not recognized as victims that have the right to special types of protection and support during testifying, especially in terms of exercising the right on free legal assistance, and timely information on rights to claim compensation within a minor offence. The monitors identified example of good practice in all minor offence proceedings of domestic Violence at the *Basic Court of Višegrad*, in which representatives of the center of social work directly participated, and provided active support to a woman victim, while this was not the case in the proceedings that were actively monitored at the other courts that kept written communication with the authorized centers for social work, without active support to the victims of violence in the courtroom⁸³.

RECOMMENDATIONS⁸⁴:

1. In relation to the right and possibilities of a woman victim to set, specify, and acquire compensation within the criminal proceedings, it is necessary for prosecutors to enable women survivors of gender based violence to acquire information on possibilities to claim compensation in early phases of the criminal proceedings, in order for them to precise the

⁸² Pages 28-30.

⁸³ Analytical Report, Page 43.

⁸⁴ Taken from the Analytical Report, Pages 44-46.

compensation request on time, and to ensure consistent and adequate support and assistance to women in terms of collecting evidences to support their claims.

2. To establish the Fund for Compensation to the Victims of Violent Crimes, including the victims of violence against women.

Article 31 – Custody, Visitation Rights, and Safety

Experiences of nongovernmental organizations that are providing support to women victims of domestic violence in the **Republika Srpska**, related to custody, visitation rights/visiting children by parents that does not have a custody and safety is that social workers, but also representatives of judiciary, are insisting on the right of other parent to visit a child, instead of right of a child to visit a parent with whom she/he does not live. Officials are insisting on „right of a child on contacts with other parent“, even in those cases when a child was direct victim of domestic violence and sexual violence, as well as in the cases when a child is refusing to visit that parent. Officials are neglecting that, according to the Law on Protection from Domestic Violence of the Republika Srpska, a child is always a victim, even in the cases when acts of violence were not performed directly against him/her, and they do not make the connection between violence against women and abuse of children. In the Republika Srpska, advantage is given to the right of a parent that committed violence to keep contacts with children, and the right of children and their mothers to be safe is neglected.

In the Federation of Bosnia and Herzegovina, the Article 4 of the Family Law of Federation BiH⁸⁵ prohibits violent behavior.

- (1) Violent behavior of a marital partner or any other member is prohibited in the family.
- (2) Violent behavior represents any impairment of physical or mental integrity in relation to the Article 4 of the Law on Gender Equality of the Bosnia and Herzegovina.

The same Law regulates the procedure of mediation in the divorcing marital partners if they have children over whom they exercise parental care or during pregnancy of a woman⁸⁶.

⁸⁵ The Family Law of Federation BiH („Official Gazette of the Federation BiH“, no. 35/05 and 31/14)

⁸⁶ Article 45

(1) Prior to initiating the procedure of divorce, a marital partner or both marital partners that have children over whom they have parental care, as well as during the pregnancy of a woman, are obliged to file a request for mediation to a person or a legal entity authorized to mediate.

(2) Within 30 days from entering into force of this Law, the Minister of Labor and Social Policy of Federation BiH will prescribe conditions to be fulfilled by the person referred to in the Paragraph 1 of this Article. Selection of a person or a legal entity that meets the conditions will be conducted by the Minister of Labor and Social Care of Federation BiH, based on the public call announced through daily newspapers. The list of a chosen persons and legal entities for mediation procedure will be submitted to the Ministry of Justice of Federation BiH.

The Article 49 of the Family Law of Federation BiH furthermore regulates that the process of mediation may be interrupted if both marital partners that are dully invited do not respond on invitation to participate in the process of mediation, and do not provide justification for their absence. Paragraph 2 of this Article regulates that "this process would not be suspended in case of absence of an abusive marital partner."⁸⁷ Although the Article 50 of the Family Law of Federation BiH ⁸⁸ explicitly does not recognize violent behavior as a condition for withdrawing custody of a violent marital partner, it emphasizes the interest of a child on the basis of which the guardianship authority can decide with which parent a child will continue to live. The Article 150 of the Family Law of Federation BiH⁸⁹ defines protection of rights and interests of a child, and obligation of the

(3) Request for mediation may be submitted also by the marital partners that do not have children over whom they have parental care.

(4) Marital partner is not obliged to submit request for mediation if a residence of other marital partner is unknown at least six months, and if other marital partner is deprived of legal capacity .

⁸⁷ Article 49

(1) The mediation procedure will be suspended if the both marital partners that are dully invited fail to respond on the invitation to participate in the mediation procedure, and do not justify their absence.

(2) Exceptionally, the mediation procedure will not be suspended in case of absence of marital partner who acts violently toward other marital partner.

(3) If after the suspension of the procedure from the Paragraph 1 of this Article, a party submits lawsuit or request for consensual divorce, the court will reject such petition.

⁸⁸ Article 50

(1) If the marital partners do not reconcile during the mediation process, an authorized person will endeavor to reach the agreement about whom their minor child or the child undergoing parental care after adulthood will live with, his or her personal relationship with the parent with whom he or she will not live, his or her support and other details of parental care.

(2) The marital partners do not reach the agreement from the Paragraph 1 of this Article, or the agreement they reached does not correspond to the interests of a child, the guardianship authority shall, at the request of the authorized person or ex officio, decide on the issues referred to in paragraph 1 of this Article.

(3) Decision from the Paragraph 2 of this Article is into force until the effective date of court decision on divorce.

(4) An appeal against the decision from the Paragraph 2 of this Article shall not delay its execution.

⁸⁹ Article 150

(1) Obligation of the guardianship authority is to take necessary measures ex officio to protect rights and best interests of a child, based on direct knowledge or notification.

(2) Obligation of all institutions, organizations, or persons is to inform guardianship authority about violation of rights of a child, and in particular about violence, abuse, sexual abuse, and neglect of a child.

(3)The court that leads the minor offence or criminal offence procedure in relation to violation of rights of a child is obliged to inform about the process the guardianship authority and the court authorized to impose measures for protection of rights and interests of a child, and to send them the final decision imposed in this procedure.

(4) The local police departments are ex officio providing the assistance to the guardianship authority in conducting measures from the Paragraph 1 of this Article.

(5) Prior to the conducting measures for the Paragraph 1 of this Article, the guardianship authority will hear a child, if he or she is able to understand the situation. Opinion of a child shall be especially respected and valued in case of imposing the measures that lead to separation of a child from a parent.

guardianship authority to take necessary measures ex officio to protect rights and best interests of a child, based on direct knowledge or notification. The Paragraph 2 explicitly states the obligation of all institutions, organizations, or persons to inform guardianship authority about violation of rights of a child, and in particular about violence, abuse, sexual abuse, and neglect of a child. A court adopts the final decision about custody over a child, taking into consideration the agreement reached by parents, if exists, but also the best interest of a child.

The Article 145 of the Family Law of Federation BiH defines following:

(1) In the decision about the custody over a child from the Paragraph 2 of the Article 142, and the Articles 143 and 144 of this Law, the court shall determine the way of managing personal relations and direct contacts of a child with a parent with he or she does not live with.

(2) In adopting the decision from the Paragraph 1 of this Article, the court shall take into consideration the agreement of the parents, if such agreement is in the best interests of a child.

(3) Managing personal relations and direct contacts of a child with a parent can be restricted or prohibited only for protection of the best interests of a child.

(4) The court shall, at the request of the parent or guardian, decide to terminate the restriction or prohibition of maintaining the personal relations and direct contact of a child with a parent, if it is in the best interests of a child.

(5) If the best interests of a child so requires, the court shall make decision in non-litigation procedure, based on proposal of parent, child, or guardianship authority, and prohibit to a parent with whom a child does not live with to have unauthorized contacts and harass a child. The court shall submit the decision on restraining communication of a parent with a child to the guardianship authority and authorized police department that is obliged to intervene and provide assistance if necessary.

There are no available data on percentage of procedures in which the perpetrator of violence was ordered by the court (temporary or final) to have specific model of visitation rights with a child, within controlled conditions/under supervision of professionals, and percentage of court decisions by which the perpetrator of violence was deprived the visitation rights with a child, in relation to a total number of judicial proceedings about visitation rights with a child on annual basis, but experiences from the practice are pointing on following:

Example:

There are also several cases of violence that are happening during procedure of divorce or after divorce, when children are living with a father that does not allow contacts with a mother, and the institutions cannot do anything, even if there is the final court decision on divorce, and custody rights over children were given to a mother.

RECOMMENDATIONS:

1. The cases of violence against non-violent parent, and against a child must be taken into consideration when deciding upon custody, visitation rights, and contacts.
2. To protect victims of violence and their children from further injuries and violation of their rights.
3. To ensure adequate implementation of custody rights.

Article 45 – Sanctions and Measures

Sanctions and measures in the Bosnia and Herzegovina are regulated by the criminal codes and laws on protection from domestic violence of the Republika Srpska, the Brčko District BiH, and the Federation of BiH.

Findings of the active and passive monitoring of criminal cases for domestic violence⁹⁰ indicate that this form of violence is still considered as criminal offence of a lower social danger for which the courts, as a rule, are imposing warning sanctions.

The Republika Srpska and the Brčko District BiH

The most frequent criminal sanctions for the Domestic Violence at the courts that were targeted in monitoring in the Republika Srpska were suspended prison sentences in range from 2 to 6 months, with a probation period in range from 1 to 3 years, as well as the fines in range from 300 BAM to 800 BAM. These findings are showing that the penalty policy for the criminal offence of Domestic Violence remained unchanged (in relation to the previous results of active and passive judicial monitoring for criminal offences of gender based violence from 2011 which showed that in majority of criminal cases for Domestic Violence the courts imposed fines in range from 500 BAM to 1500 BAM, and suspended sentences in range from 1 to 4 months, while in the period 2013/2014 the courts mostly imposed suspended prison sentences in range from 30 days to 8

⁹⁰ Analytical Report, Pages 20-21.

months, and fines in range from 500 BAM to 5000 BAM). Only in one criminal case for the *Domestic Violence, qualified with a severe consequence* (Article 208, Paragraph 2 of the Criminal Code of the Republika Srpska), committed in conjunction with the other criminal offence (*Unlawful Production and Trade of Weapons or Explosive Materials* from the Article 399, Paragraph 1 of the Criminal Code of the Republika Srpska) at the *Basic Court of Banja Luka* the joint prison sentence of 4 months was issued to the multiple criminal offence recidivist.

The courts were issuing suspended sentences for the criminal offence of Domestic Violence also to *the multiple recidivists in committing the same or other criminal offences*, as well as to the perpetrators of domestic violence that were once or multiple times sentenced with a fine in the minor offence procedure, based on the *Law on Protection from Domestic Violence of the Republika Srpska*. Analysis of the verdicts and sentences shows that the courts did not apply more severe sentences also in cases of the qualified forms of the criminal offences of Domestic Violence. They were using suspended sentences as the warning sanctions even in the cases when violence was committed using a weapon, dangerous tool, or other means suitable to make heavy injuries or impair health (Article 208, Paragraph 2 of the Criminal Code of the Republika Srpska), when the violence occurred against a minor, or in presence of a minor (Article 208, Paragraph 3 of the Criminal Code of the Republika Srpska), as well as in the cases when description of the elements of the criminal offence, as presented in the indictment or discovered evidently during investigation procedure, clearly points that the violence occurred over a longer period (several months or years), which points at exceptional persistence and brutality of a perpetrator when committing violence, and these should be considered as aggravating circumstances by the courts, which did not occur in any of the criminal cases of the Domestic Violence. In almost two thirds of the criminal proceedings for the Domestic Violence that ended within the monitoring period, a perpetrator was exempt from paying the costs of the criminal proceedings (The Article 99, Paragraph 4 of the Criminal Proceedings Code of the Republika Srpska). In the decision that settles the issue of costs the court may release a perpetrator of the duty to reimburse all or part of the costs of the criminal proceeding, if their payment would jeopardize subsistence of a perpetrator or persons whom he is obliged to support. However, the monitors identified inconsistency in opinion of the courts in terms of applying this possibility, as they identified several verdicts in which the court considered poor financial situation of a perpetrator as the mitigating circumstance, but in the same time, he was obliged to pay the costs of the criminal proceeding.

The monitoring findings are pointing at the light penalty policy and different practice of the courts in terms of sanctioning Domestic Violence in a minor offence procedure⁹¹. The most common sanctions that were imposed by the targeted courts during the monitored period were *the protection measure of Prohibiting Harassment and Stalking of a Victim of Domestic Violence* in a period of 6 months (Article 26), at the *Basic Court of Bijeljina*, and a fine in range from 300 BAM to 1000

⁹¹ Analytical Report

BAM. The highest fines were imposed in minor offence cases of domestic violence committed in presence of children, or against children, at the *Basic Court of Prnjavor*, which points at existence of a certain degree of sensibility of the judges for consequences of domestic violence against children. The courts were also imposing suspended fines, and, to a less extent, suspended protection measures, while the *Basic Court of Sokolac* imposed one admonition in a minor offence procedure for domestic violence. During the monitoring period, the targeted courts did not imposed prison sentences for a minor offence of domestic violence, also regulated by the *Law on Protection from Domestic Violence of the RS*.

The courts most frequently imposed protection measures for the period from 3 to 6 months, and only in exceptional cases for the period of 1 year, which is the maximum period regulated by the Law. Two protection measures were imposed as suspended sentences in the minor offence proceedings at the *Basic Court of Prnjavor*. In one minor offence case at the *Basic Court of Prnjavor*, the protection measure of *Obligatory Psychiatric Treatment* was imposed based on the Law on Minor Offences of the RS (Article 65). In one minor offence case at the *Basic Court of Bijeljina*, a perpetrator violated the protection measure of *Prohibiting Harassment and Stalking of a Victim of Domestic Violence (Article 26)* imposed on the period of 3 months., Based on the request of the police as the authorized subject of protection from domestic violence the court imposed the new protection measure of *Removal from the House, Apartment, or other Housing Facility (Article 24)* on the period of one month. Since the imposed minor offence sanction was violated in this case, the court could consider more strict sanction against the perpetrator, based on the Criminal Code of the Republika Srpska, which regulates imposing the fine and the prison sentence in range from 3 months to 3 years, in case of violating the protection measure imposed by the court based on the law Non-implementation of the measure that points at the intention of the legislators to encourage more strict sanctions for domestic violence, but imposing another protection measure with a shorter period by the court, contributes to perception of the domestic violence as the offence of a lower social danger, and diminishes importance of protection measures in the context of efficient protection of women and children survivors of violence. Monitoring findings are pointing at significant differences in actions of the targeted courts in terms of type of the minor offence sanctions. For example, the *Basic Court of Banja Luka* and the *Basic Court of Trebinje* the most frequently imposed the fines and warning sanctions, while the *Basic Court of Višegrad* imposed only protection measures as sanctions. Other targeted courts equally imposed fines, suspended fines, and protection measures. In six minor offence cases, at the *basic courts of Višegrad, Bijeljina, Sokolac and Prnjavor*, the judges imposed two sanctions against perpetrators, both fines and protection measures, or two different protection measures.⁹² The monitoring findings are pointing at the very frequent practice of the prosecutors in relation to the criminal cases of Domestic Violence and other crimes of gender based violence (for which the prescribed

⁹² Analytical Report, Pages 33-35

main sanction is up to 5 years of imprisonment or a monetary fine), to request *issuing of the punitive order*, which, as a special procedure has the objective to shorten the criminal procedure and passing verdict without the main trial. This practice has been identified at all of the monitored courts in the Republika Srpska, and significantly influenced shortening the criminal proceedings in this field.

However, despite short and economic proceedings, as the main argument for using this type of procedure, the practice indicates that this significantly influenced the penalty policy in processing the criminal cases of domestic violence, as the most prevalent form of gender based violence, toward the determining suspended sentences as the warning sanctions, and the monetary fines. Besides that, short procedures are limiting possibilities for women survivors of domestic violence to acquire compensation as injured persons in the criminal proceedings.⁹³

It is necessary to especially emphasize that In relation to differentiating actions of domestic violence between existence of characteristics of the criminal offence and the minor offence, the monitoring findings are pointing that, out of 76 monitored minor offence cases, in 27 cases (or 36%) actions of violence had characteristics of actions of the criminal offence, and not the minor offence, as they contained physical violence that resulted with injuries. Taking into account that 45 criminal cases of domestic violence were observed during the monitoring of the targeted courts in the RS, and that number of minor offence cases processed at these courts in the same period was significantly higher, inconsistent assessment of the prosecutors about existence of the characteristics of criminal offence or minor offence of the domestic violence also points at observing domestic violence as the offence of a lower social danger, which does not result with more severe consequences, both for women and children survivors, and society in general, and therefore requires lower sanctioning within the minor offence procedure⁹⁴.

The Federation of Bosnia and Herzegovina

Example:

From the past experiences in work with victims of violence, if a victim of violence does not wish to testify in court and file a lawsuit, the case is not further processed unless there are other witnesses to testify. Medical and other documents are not considered. Past experience has shown that most of the women beneficiaries who refused to testify or file a lawsuit and returned to their husbands or their common laws partners, the cases of violence were not prosecuted further and there was no punishment of the perpetrator for the domestic violence. In relation to the case of a mother with children that is suspected victim of domestic violence, and children victims of neglect,

⁹³ Analytical Report, Page 41.

⁹⁴ Analytical Report, Page 42.

the Association "Medica" from Zenica sent the request to the authorized center for social work and reported violence (Annex no. 12- Letter of the Association "Medica" from Zenica no. 01-0459-2018 from 11 September 2018). The response of the authorized center for social work (Annex no. 13- Letter from the Center for Social Work Zenica no. 02/10-35-32 – 1095 from 21 December 2018) emphasize they had taken some interventions but the woman said she does not want the institutions to interfere with their family life, and that the center for social work cannot take any further actions of support and assistance.

According to the available data from the Report on Implementation of the Strategy on Prevention of Domestic Violence of Federation BiH, there were in total 1487 of reported cases of domestic violence during 2017⁹⁵ while there were 697 submitted reports on criminal offence of domestic violence in the same period⁹⁶. The data for 2918 are not available.

According to the available Analytical Report on Monitoring of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina⁹⁷, it is visible that the courts mainly imposed suspended sentences in monitored cases of Domestic Violence in the Federation of BiH. "In majority of the cases in which the courts imposed suspended sentences, they also imposed the shortest probation period in duration of up to 12 months (in as many as 50% of cases), following with the probation period in range from 18 to 24 months (in 28,29% of cases), and the probation period in range from 12 to 18 months (in 15,79% of cases). Rest of the percentage of 5,92% goes on probation period longer than 24 months. Understanding of the criminal offence of domestic violence as the offence of lower social importance and danger is leading to lower penalty policy against the perpetrators of violence. This penalty policy is also influenced by the already emphasized circumstance that children are left out as injured persons from legal qualifications of criminal offences. The courts are automatically imposing suspended sentences or fines, although these showed to be unsuccessful sanctions that did not deter the perpetrators of violence from committing the same or similar offences"⁹⁸.

⁹⁵The number of reported cases during 2017, without data of the Ministry of Interior Affairs of the Herzegovina Neretva Canton.

⁹⁶ The number of submitted reports on committed criminal offence during 2017, without data of the Ministry of Interior Affairs of the Herzegovina Neretva Canton.

⁹⁷ Aleksandra Petrić and Dženana Radončić, Analytical Report: Analysis of the Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, Banja Luka and Zenica, 2017

⁹⁸ Aleksandra Petrić and Dženana Radončić, Analytical Report: Analysis of the Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, Banja Luka and Zenica, 2017

RECOMMENDATIONS⁹⁹:

1. To tighten penalty policies in the area of gender based violence in the context of general and special prevention, in line with the legislative tendencies of tightening sanctions for these offences, and increasing social danger of violence against women;
2. In relation to actions of the prosecutors toward initiating criminal proceedings for cases of gender based violence, it is necessary to ensure that investigations are conducted and indictments submitted within shortest possible time following the acts of violence, or knowledge about the criminal offence, with paying attention especially on the situations where victims of violence are minors, as well as the need to protect safety of both adult and minor victims in the period after acts of violence.
3. To ensure consistent implementation of the legislative framework for prosecuting criminal offence of domestic violence ex officio, regardless of the fact if a victim is ready to testify or not.

Article 46 – Aggravating Circumstances

The Analytical Report: Analysis of Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina.¹⁰⁰ The monitors identified that, when considering mitigating and aggravating circumstances in determining sentences for the criminal offences of Domestic Violence, the courts considered a perpetrator as a family man with the obligation to provide for underage children as the mitigating circumstance to a lesser extent, comparing to the previous monitoring periods¹⁰¹, when this was identified as the consistent court practice in relation to the criminal offence committed directly against a family. Considering circumstances of having a family and obligations of providing for underage children as the mitigating factor when determining the sentence for the criminal offence committed not only against a woman as the primary victim, but also against the children that are directly or indirectly affected with consequences of violence directly points at lack of the sensibility among judges for the consequences of violence, as well as the fact that domestic violence is directed against a family life and its values. The most frequently used mitigating circumstances when considering sentences for the criminal cases of domestic violence are poor financial situation, poor health, flow of time since committing of the criminal offence to adjudication, no previous convictions, guilty plea, correct behavior during the criminal proceeding, but also statement of an injured person that

⁹⁹ Taken from the Analytical Report, Pages 44-46 and 93.

¹⁰⁰ Petrić Aleksandra and Radončić Dženana (2017), the Foundation United Women Banja Luka and the Center for Legal Assistance for Women Zenica. The Report is available at the web page: <http://unitedwomenbl.org/v2/wp-content/uploads/2017/03/Analiticki-izvjestaj-Petric-Radoncic-2017.pdf>

¹⁰¹ 2011 and 2014

she does not seek prosecution or compensation of damage, while there was almost no criminal cases in which the court stated aggravating circumstances when determining sanctions for domestic violence¹⁰².

The Republika Srpska and the Brčko District of BiH

In terms of the applying mitigating and/or aggravating circumstances recognized by the Law on Minor Offences of the Republika Srpska, in the minor offence procedures for Domestic Violence, the courts predominantly applied mitigating circumstances, and in a very few minor offence cases they also applied aggravating circumstances. The most commonly used mitigating circumstances were guilty plea, acceptance of responsibility, remorse, no previous convictions, poor financial situation, unemployment, while the aggravating circumstances used sporadically in the first degree decisions were gravity of violence and persistence in committing minor offence of domestic violence. Similarly as in the verdicts for the criminal offence of Domestic Violence, the monitors identified using care for family/having a family as the mitigating circumstance in several decisions for minor offence of domestic violence at the Basic Court of Bijeljina and the Basic Court of Sokolac. This circumstance is in conflict with the nature of the minor offence committed against family members, and should not be used as the basis for mitigating the sanctions. For example, in the minor offence case for Domestic Violence at the Basic Court of Sokolac, the court stated care for family/having a family as the mitigating circumstance in the decision for determining sanction against recidivist in committing minor offence of Domestic Violence.

The monitors identified differences in the court practice in terms of assessment of circumstances of recidivism in minor offence (and/or criminal offence) of Domestic Violence (so called special recidivists), as well as recidivism in committing other types of minor offences in the context of imposing sanctions. For example, at the Basic Court of Bijeljina, the court did not impose sanction against a perpetrator that is special recidivist, but applied the urgent protection measure of Restraining from Approaching and Communication with a Victim of Domestic Violence for 30 days, while in another minor offence case at the same court, in which a perpetrator is also special recidivist, the court imposed the minimum prescribed sentence – the fine of 1500 BAM (violence against parents and an underage sister).

In a minor offence case for Domestic Violence at the Basic Court of Banja Luka, a perpetrator special recidivist was sentenced with suspended fine of 800 BAM, with probation period of 1 year. In 6 minor offence cases of Domestic Violence at the Basic Court of Bijeljina and the Basic Court of Sokolac, the violence has been committed in front of a child. The courts did not consider this fact in the process of determining sanctions, but they imposed protection measures and suspended fines. The court practice identified during the monitoring points at unawareness of the special

¹⁰² Analytical Report, Page 21.

protection of rights and wellbeing of a child emphasized in the Law on Protection from Domestic Violence of the RS that regulates high fines for this type of domestic violence. The Law especially states that children enjoy the right on special assistance and protection from violence, and should always be considered as the victims if they are present during acts of violence against other family member, although acts of violence are not committed against him/her¹⁰³.

In the Federation of Bosnia and Herzegovina, the Criminal Code of Federation BiH defines sentencing of punishments for perpetrators of criminal offences, including determining aggravating and mitigating circumstances, as follows:

Article 49 – General Principles for Sentencing of Punishments

1) The court shall sentence the punishment for the perpetrator of a criminal offence within the limits prescribed by law for that criminal offence, having in mind the purpose of punishment and taking into account all the circumstances bearing on the magnitude of punishment (extenuating and aggravating circumstances), and in particular: the degree of criminal responsibility, the motives for perpetrating the offence, the degree of danger or injury to the protected object, the circumstances in which the offence was perpetrated, the personal history of the perpetrator prior to the perpetration, his personal situation and his conduct after the perpetration of the criminal offence, as well as other circumstances related to the person of the perpetrator.

(2) In sentencing out the punishment for the perpetrator of a criminal offence perpetrated in recidivism, the court shall take into special consideration whether the most recent offence is of the same type as the previous one, whether both acts were perpetrated from the same motive, and the period of time which has elapsed since the previous conviction or served or pardoned punishment.

(3) In sentencing out a fine, the court shall take into consideration also the situation of the perpetrator in terms of property, taking into account the amount of his salary, his other income, his assets and his family obligations¹⁰⁴.

Findings of the analysis of monitoring criminal and minor offence proceedings conducted by the nongovernmental organizations in the Federation of BiH and the Republika Srpska indicate that "when deciding about type and amount of criminal sanctions, the courts are more often identifying mitigating than aggravating factors. Thus, mitigating factors are identified in 68,00% of cases while aggravating factors were identified in 31,11% of the cases in relation to the total number of completed cases of gender based violence during the period of monitoring."¹⁰⁵

¹⁰³ Analytical Report, Pages 35-36.

¹⁰⁴ The Criminal Code of Federation BiH ("Official Gazette of the Federation BiH", no. 36/2003, 21/2004 - correction, 69/2004, 18/2005, 42/2010,42/2011, 59/2014, 76/2014, 46/2016 and 75/2017

¹⁰⁵ Aleksandra Petrić and Dženana Radončić, Analytical Report: Analysis of the Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, Banja Luka and Zenica, 2017

RECOMMENDATIONS¹⁰⁶:

1. In relation to penalty policy for criminal offences of gender based violence and minor offences for domestic violence, it is necessary for the courts to recognize that circumstances of family life and providing for children, as well as circumstances of kinship with a woman victim cannot be observed and considered as mitigating circumstances and reasons for alleviation of sanctions.
2. To consider aggravating circumstances during prosecuting of the criminal offence of domestic violence.

Article 51 – Risk Assessment and Risk Management

In the Republika Srpska and the Brčko District BiH, obligation of the risk assessment and risk management is not regulated by the law¹⁰⁷.

Police officers in the Republika Srpska and the Brčko District of BiH have the obligation regulated by the bylaws, namely the Rulebook on the Method of Implementation of Urgent and Protection Measures¹⁰⁸, to conduct risk assessment for a victim of domestic violence, as the part of implementing protection measures imposed by the authorized court. In the Republika Srpska, the Rulebook requires from the authorized persons when applying protection measures to take into consideration the fact that perpetrators of violence possess firearms, or have the access to firearms. For all other authorized public institutions and bodies, namely prosecutor's offices and courts, there is no obligation for risk assessment and risk management. This omission is partially corrected through the *General Protocol on Procedures in All Cases of Domestic Violence in the Republika Srpska* („Official Gazette of the Republika Srpska“, no. 104/13), signed by the authorized ministries in the Government of the Republika Srpska (the Ministry of Family, Youth, and Sport, the Ministry of Justice, the Ministry of Interior Affairs, the Ministry of Health and Social Protection, and the Ministry of Education and Culture). The Protocol consists of methodology of procedures for all authorized subjects of protection, bodies, and organizations that are providing protection, support, and assistance to victims of domestic violence, as well as forms and ways of cooperation and exchange of necessary information between subjects of protection. Authorities of

¹⁰⁶ Taken from the Analytical Report, Page 46.

¹⁰⁷ In the period of preparing this Report, the People's Assembly of the Republika Srpska adopted the Draft Law on Changes and Amendments of the Law on Protection from Domestic Violence, which introduces obligatory risk assessment by the police officers. It remains to be seen whether this norm will remain in the Proposal of the Law.

¹⁰⁸ The Rulebook on Methodology of Implementation of Urgent Measures and Protection Measures in Authority of Police of the Brčko District BiH, Document Number: 14.05-02-67409/18 from 12 September 2018; The Rulebook on Methodology of Implementation of Urgent Measures and Protection Measures in Authority of the Ministry of Interior Affairs („Official Gazette of the Republika Srpska“, no.73/14)

the subjects of protection in line with the Protocol include descriptions of measures and activities they are obliged to conduct with objective of risk assessment and risk management to provide adequate assistance to a victim of violence. General Protocol regulates that the first and guiding principle for actions of all signatories of the Protocol is to protect security of a victim through ending violence and prevention of its repetition, taking into consideration to avoid additional victimization and injuries of a victim. This principle is also integrated in the Protocol on Cooperation and Procedures in Cases of Violence Against Women and Domestic Violence in the Brčko District of BiH.

Nongovernmental organizations that are providing assistance and support to victims of violence are warning that one of the causes of extremely low number of imposed emergency barring orders and protection measures in the Republika Srpska is directly related to the inadequate risk assessment. In the period of preparing this Report, the data for the Brčko District of BiH were not known.

In the Federation of Bosnia and Herzegovina, the Articles 9 and 10 of the Law on Protection from Domestic Violence of Federation BiH are regulating type and purpose of protection measures imposed against perpetrators of domestic violence.

Article 9

„Types of Protection Measures

Following protection measures shall be taken against perpetrators of domestic violence:

- 1) Removal from the apartment, house, or some other dwelling, and being banned from returning to that apartment, house or other dwelling,
- 2) Restraining order,
- 3) Prohibition from harassment and stalking of a person exposed to violence,
- 4) Mandatory psychosocial treatment,
- 5) Mandatory treatment of addiction,
- 6) Temporary deprivation of liberty and detention.”

Article 10

„Purpose of Protection Measures

Purpose of protection measures shall be ensuring necessary protection of health and safety of persons exposed to violence, prevention of domestic violence, and undertaking efficient measures of re-education and treatment of violent persons.”

Article 18 of the Law on Protection from Domestic Violence regulates obligation of the police department to submit the request to the authorized court for imposing protection measures, within 12 hours of finding out that violence occurred. Together with the request from the Paragraph 1 of

this Article, the police are obliged to submit collected evidence, with obligation to include excerpt from the official records if that person has been previously reported for cases of domestic violence¹⁰⁹.

Article 19 of the Law on Protection from Domestic Violence defines deadlines for imposing the protection measure, methodology of imposing, and legal remedies, as follows:

„Within 12 hours from receiving the request for imposing the protection measure from the Article 9, Points 1), 2) and 3) of this Law, the authorized court is obliged to act on request, and adopt decision.

Within 7 days from receiving the request for imposing the protection measures from the Article 9, Point 4) and 5), the authorized court is obliged to ensure opinion of expert witness, if necessary, and act upon the request, and adopt decision.

If the authorized court demands for a perpetrator of violence to be brought to the court, the perpetrator of violence shall be invited through authorized police department.

When imposing the protection measure, the authorized court is not limited by special formal rules of evidence or consequences that occurred to establish the facts about acts of violence from the Article 7 of this Law.

Decision on imposing the protection measure is determining the duration of protection measure imposed against perpetrator of violence, which is effective from the date of the decision.”

The authorized court may impose more than one protection measure against the perpetrator of domestic violence.

RECOMMENDATIONS:

1. To legally regulate obligation of all authorized subjects, not just the police, to act upon every report of violence, and conduct risk assessment from repetition of violence, and in accordance to this assessment, to plan undertaking of all necessary actions and measures toward prevention of a perpetrator to repeat violence, and to protect a victim.
2. To develop guidelines for improving security of victims of domestic violence, with risk assessment and risk management, for all institutions, bodies, and organizations that are providing assistance, support, and protection from domestic violence.

¹⁰⁹ The Law on Protection from Domestic Violence of Federation BiH (“Official Gazette of the Federation BiH”, no. 20/13)

Article 52 – Emergency Barring Orders

There is significant difference in number of emergency barring orders imposed in cases of violence in the Federation of BiH and the Republika Srpska, while the data for the Brčko District BiH are not available in the period of preparing this Report.

Particular concern of nongovernmental organizations is related to small number of emergency barring orders imposed in the Republika Srpska, and impossibility of monitoring of implementation of these measures by the authorized institutions on the whole territory of the Bosnia and Herzegovina.

The Republika Srpska and the Brčko District of BiH

The Law on Protection from Domestic Violence of the Republika Srpska regulates possibility of imposing two different emergency barring orders that may be imposed cumulatively: Removal from the apartment, house, or some other dwelling, and being banned from returning to that apartment, house or other dwelling, and/or banning the perpetrator of violence to approach and contact victim of domestic violence (Article 13). Identical emergency barring orders are regulated by the Law on Protection from Domestic Violence of Brčko District BiH. By interpretation of the provision of this Article, these orders can be imposed alternatively (Article 11). Laws are regulating that these orders may be imposed with objective of removing direct threat to a physical and psychological integrity, prevention of repetition of violence, and guaranteeing security of a victim, and may be imposed before or during the procedure. These orders may be imposed by the authorized court within 24 hours since receiving the request, or bringing the perpetrator of domestic violence to the court, and their duration cannot be less than 30 days.

The decision on imposed emergency barring order may be appealed within 3 days from imposing the order, while this appeal is not delaying its implementation. Decision on appeal related to imposing the emergency barring order is of urgent nature, and must be adopted within 48 hours (72 hours in the Brčko District of BiH) since receiving the appeal.

When leaving the apartment, house or other dwelling, the perpetrator of violence has the right to take his personal belongings needed for everyday life, and is obliged to hand over the keys. The court that imposed the emergency barring order is submitting decision to the police for implementation, and is authorized to monitor its implementation, and assess justification of its duration. In the case of violation of the emergency barring orders in the Republika Srpska, the law regulates penalties in line with the provisions of the laws that regulate criminal offences (a fine and imprisonment).

Procedure for implementation of emergency barring orders (as well as protection measures) in the Republika Srpska is regulated by the Rulebook on Implementation of Emergency Barring Orders

and Protection Measures that is within the authority of the Ministry of Interior Affairs¹¹⁰. In line with the Rulebook, upon receiving decision of the authorized court on imposed emergency barring order/protection measure, authorized police station is appointing public official responsible for preparation, planning, and implementation of the protection measure. This person is also responsible to assess security of a victim, and collect information if a perpetrator of violence is acting upon imposed emergency barring order/protection measure. Responsible public official is obliged to develop implementation plan for actions when a victim has direct threat from the perpetrator, which must be conducted with approval of a victim. Additionally, responsible public official must assess vulnerability of a victim, seriousness of a situation, and plan of implementation of the emergency barring order/protection measure, based on information collected from various sources, such are police data base, statements of a victim and witnesses, environment, and weapons register, etc. Implementation of the emergency barring orders in the Brčko District is also within authority of the police. Procedure for implementation is also regulated by the Rulebook¹¹¹. Unfortunately, the data on number of imposed emergency barring orders in the Republika Srpska are indicating that these measures of protection for victims of domestic violence are insufficiently used in the practice. According to the data from the Ministry of Interior Affairs, presented in the reports published at the web page of the Ministry of Family, Youth, and Sport¹¹², in total 48 emergency barring orders were implemented during the past 2 years in the Republika Srpska (23 emergency barring orders in 2017, and 25 emergency barring orders in 2018).

The Analytical Report: Analysis of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina¹¹³ is indicating that, in 4 criminal cases for domestic violence in front of the Basic Court in Višegrad, emergency barring orders were imposed following the urgent procedure, based on the request of the police, as regulated by the Law on Protection from Domestic Violence of the Republika Srpska, which can be emphasized as the good practice in the context of protection of women and children survivors of violence. However, in other cases for the same criminal offence that were monitored at other targeted courts in the Republika Srpska and the Brčko District, there were no imposed emergency barring orders or protection measures that preceded the criminal proceedings. Findings of the monitoring are indicating that the subjects of protection from domestic violence hardly even use the existing

¹¹⁰ „Official Gazette of the Republika Srpska“, no. 73/14

¹¹¹ The Rulebook on Methodology of Implementation of the Emergency Barring Orders and Protection Measures in Authority of the Police of Brčko District BiH, Document Number: 14.05-02-67409/18 from 12 September 2018

¹¹² <http://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/mpos/oPorodica/Pages/Splash.aspx#collapsible0>

¹¹³ Petrić Aleksandra and Radončić Dženana (2017), Analytical Report: Analysis of Monitoring of the Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, Foundation United Women Banja Luka and the Center for Legal Assistance for Women from Zenica. The Report is available at the web page: <http://unitedwomenbl.org/v2/wp-content/uploads/2017/03/Analiticki-izvjestaj-Petric-Radoncic-2017.pdf>

safeguarding measures from the Criminal Code of the Republika Srpska and emergency barring orders from the Law on Protection from Domestic Violence of the Republika Srpska for the purpose of protection of women and children survivors of domestic violence¹¹⁴.

The Federation of Bosnia and Herzegovina

The Article 11 of the Law on Protection from Domestic Violence of Federation BiH defines and explains the protection measure of Removal from the Apartment, House, or Other Dwelling, and Barring Return to the Apartment, House, or Other Dwelling.

Article 11 defines following:

Protection measure of removal from the apartment, house, or other dwelling, and barring return to the apartment, house, or other dwelling may be ordered for a person who has abused a family member with whom he/she resides in apartment, house or other dwelling, if the authorized court assess there is a risk that the perpetrator of violence might repeat violence if this measure is not imposed.

The person against whom the measure from the Paragraph 1 of this Article has been imposed is obliged to immediately leave the apartment, house, or other dwelling, in the presence of a police officer, when necessary.

The measure from the Paragraph 1 of this Article shall be imposed for a period of time of no less than one month and not longer than two years.

Regulation for methodology of implementation of the measure from the Paragraph 1 of this Article shall be enacted by the Minister of Interior Affairs of Federation BiH.

Article 12 of the Law on Protection from Domestic Violence of Federation BiH regulates “the Restraining Order”. A person who committed domestic violence may be put under a restraining order if there is a risk that he/she might repeat the violence. In decision that imposes the restraining order, the authorized court shall define places and areas and the distance which the perpetrator of violence must not come near a victim of domestic violence.

The measure set forth in Paragraph 1 of this Article shall be imposed for a period of time not less than one month, and not longer than two years, except if the court decides to impose the measure for a longer period in favor of the victim of violence. Regulation on the implementation of the measure from the Paragraph 1 of this Article will be adopted by the Minister of Interior Affairs of the Federation BiH.

Based on the data from the Action Plan for the Implementation of the Strategy for Prevention of Violence in Federation BiH (2018-2020), in total 417 protection measures were imposed in 2017,

¹¹⁴ Analytical Report, Page 19.



out of which 7% goes on the protection measure of Removal from the Apartment, House, or Some Other Dwelling, and Prohibition of Returning to the Apartment, House, or Some Other Dwelling.¹¹⁵ Data for 2018 are not available.

Based on the data from the Action Plan for Implementation of the Strategy for Prevention of Violence in Federation of BiH (2018-2020), in total 417 protection measure were imposed in 2017, out of which 36% goes on the protection measure Restraining Order, and 27% goes on the protection measure of Prohibition of Harassment and Stalking of a Person Exposed to Violence.¹¹⁶ Data for 2018 are not available.

Efficiency of the Measures in the Practice

Example:

Inadequate sanctioning of violations of protection measures in relation to legislative provisions. We have examples of experiences of women beneficiaries that the courts imposed restraining orders against the perpetrators of violence, and regardless to that, they are still approaching victims of violence, harassing and stalking them, and are repeating violence while the measure is still in force. (Annex no. 9 – Official Records of the Association “Medica” from Zenica from 5 September, 2018, and Injury Sheet of the Emergency Health Service Zenica no. 19150 from 5 September, 2018) and (Annex no. 10 – Records on Hearing the Client from the Center for Social Work Zenica no. 02/10-35-32-930 from 29 October 2018).

RECOMMENDATIONS:

1. To examine reasons why the courts use emergency barring orders and protection measures in small number of cases.
2. In relation to initiating minor offence proceedings for domestic violence, it is necessary that police officers recognize and use authorities in terms of requesting of emergency barring orders and protection measures to be imposed by the courts, with the purpose of protection of women and children survivors of violence, and submitting these requests without delays,

¹¹⁵ Action Plan for the Implementation of the Strategy for Prevention of Violence in Federation of Bosnia and Herzegovina (2018-2020) („Official Gazette of the Federation BiH”, no. 102/18).

¹¹⁶ The Action Plan for Implementation of the Strategy for Prevention of Violence in the Federation of Bosnia and Herzegovina (2018-2020) („Official Gazette of the Federation BiH”, no. 102/18).

paying attention to protection of safety of victims, and removing danger from repetition of violence.

Article 53 – Restraining or Protection Orders

In the Republika Srpska and the Brčko District BiH, restraining orders are regulated by the criminal codes and the laws on protection from domestic violence. For the Federation BiH, see responses under the Article 52.

The Republika Srpska and the Brčko District BiH

Contrary to the emergency barring orders that can be imposed by the Law on Protection from Domestic Violence of the Republika Srpska and the Law on Protection from Domestic Violence of the Brčko District BiH before and during the proceedings against the perpetrator of domestic violence, and as such, are directed on protection of the victim of violence, and not on sanctioning of the perpetrator of violence for committed violence, protection measures/orders are imposed after the minor offence proceeding, and according to the laws, represent sanctions for committed domestic violence.

Protection orders/measures are, as follows:

- a) Removal from the Apartment, House, or Other Dwelling,
- b) Restraining Order,
- v) Prohibition of Harassment or Stalking of a Victim of Domestic Violence, but also
- g) Mandatory Psychosocial Treatment, and
- d) Mandatory Treatment of Addiction.

According to the data from the Ministry of Interior Affairs of the Republika Srpska, published on the web page of the Ministry of Family, Youth, and Sport of the Republika Srpska, during 2018, police in the Republika Srpska implemented 58 protection orders/measures whose implementation is within the authority of the Ministry of Interior Affairs of RS, as follows: 4 protection orders/measures of the Removal from the Apartment, House, or Other Dwelling, 19 protection orders/measures of the Restraining Order, and 35 protection orders/measures of the Prohibition of Harassment and Stalking of a Victim of Domestic Violence. During 2017, significantly higher number of protection orders/measures were implemented, as follows: 84 protection orders/measures in the authority of police - 10 protection orders/measures of Removal from the Apartment, House, or Other Dwelling, 9 protection orders/measures of Restraining Order, and 65 protection orders/measures of Prohibition of Harassment or Stalking of a Victim of Violence. The data for the region of the Brčko District BiH were not available during preparation of this Report.

The Analytical Report: Analysis of Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina presents the case in front of the Basic Court in Modriča in which the prosecutor in the indictment for the criminal offence of Domestic Violence requested issuing of the safety measure of Restraining Access and Communication with a Particular Person (Article 62a, Paragraph 1 of the Criminal Code of the Republika Srpska that was in force during the monitoring period), with justification that it can be reasonably expected that further violence by the indicted person can be dangerous for the injured person. this was the only security measure requested by the prosecutor in the criminal cases of domestic violence during monitoring, which points that this measure is insufficiently used in the context of protecting security of an injured person from repetition of violence, having in mind that indicted or accused persons have the possibility of undisturbed communication with the injured person during the criminal proceedings, as they are not in the custody and can make pressure on injured persons not to testify against them, as well as to continue with violence after the verdict.¹¹⁷

The monitors also identified that safety measures were not issued by the monitored courts with the criminal sanctions for domestic violence, except in one criminal case, in which the court issued the safety measure Forfeiture of Items (a gun) (Article 62 of the Criminal Code of the Republika Srpska that was in force during the monitoring period), while safety measures of Restraining Access and Communication with a Certain Person and Removal from the Common Household, which can be issued by the court to a perpetrator of the criminal offence with the elements of violence were not recognized by the courts in the context of influencing prevention of repeated violence, especially having in mind the frequency of repetition of violence and safety of women and children survivors of violence, in order to prevent contacts with the perpetrators¹¹⁸.

RECOMMENDATIONS:

1. In relation to use of the protection mechanisms for women and children survivors of gender based violence, it is necessary for prosecutors to recognize the need and request from the court to impose safety measures regulated by the Criminal Code of the Republika Srpska.
2. To analyze the reasons why the courts use the protection orders/measures regulated by the Law on Protection from Domestic Violence in small number of cases.

¹¹⁷ Petrić Aleksandra and Radončić Dženana (2017), Analytical Report: Analysis of the Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence in the Bosnia and Herzegovina, the Foundation United Women, Banja Luka and the Center for Legal Assistance for Women, Zenica. The Report is available at the web page: <http://unitedwomenbl.org/v2/wp-content/uploads/2017/03/Analiticki-izvjestaj-Petric-Radonic-2017.pdf> Page 19

¹¹⁸ Analytical Report, Pages 21-22

Article 57 – Legal Aid

In the Bosnia and Herzegovina, there are specialized nongovernmental organizations that are providing free legal aid solely to their beneficiaries – women victims of violence, such are the organizations members of the „Safe Network in the Bosnia and Herzegovina“, and the organizations members of the „Women’s Network of BiH“ that are providing legal aid. The key objectives of the “Safe Network in BiH” are public advocacy on the issue of domestic violence, especially from the aspect of human rights protection, strengthening capacities of nongovernmental organizations to become equal partners to systemic institutions, as well as the advocacy for common approach at the local, national, regional, and global level. Relevant women’s nongovernmental organizations that are providing free legal aid to the women victims of all forms of violence covered by the Istanbul Convention, with the exception of partial financing of the organizations that operate the safe houses (in a part of legal aid for women beneficiaries of the safe house), do not have financial support from the public budgets.

The Republika Srpska and the Brčko District of BiH

The Law on Protection from Domestic Violence of the Republika Srpska regulates that victims have the right on free legal aid in proceedings related to access to their rights and protection, in line with the laws that are regulating the area of free legal aid (Article 10). Providing free legal aid in the Republika Srpska is within the authority of the Center for Free Legal Aid of the Republika Srpska, as the entity administrative organization within the Ministry of Justice of the Republika Srpska. Headquarters of the Center is in Banja Luka, and regional officers are located in headquarters of the District Courts in Banja Luka, East Sarajevo, Trebinje, Bijeljina, and Doboje. Establishing and scope of work of the Center for Free Legal Aid is regulated by the Law on Free Legal Aid of the Republika Srpska. Contrary to the Law on Protection from Domestic Violence of the Republika Srpska, the Law on Free Legal Aid of the Republika Srpska determines that victims of domestic violence explicitly enjoy status of beneficiary of the right on free legal aid if they meet the financial criteria (Article 17). Minimum social status for the right on free legal aid cannot be higher than average net salary in the Republika Srpska during the previous fiscal year, which was 857,00 BAM in 2018, and for five or more members of a household not more than two average net salaries during the previous fiscal year in the Republika Srpska, or 1.714,00 BAM.

The Report on Implementation of the Strategy for Prevention of Domestic Violence in the Republika Srpska for 2018 presents that the Center for Free Legal Aid of the RS Government does not have the right of legal representation in the minor offence proceedings and criminal proceedings, and that the Center provides legal representation to victims of violence in front of the authorized courts in in litigation, enforcement, and non-litigation proceedings, as well as admini-

strative proceedings. The most common legal aid provided by the Center to the victims of domestic violence are in litigation and enforcement procedures, such as divorce, establishing and contesting paternity, determination of marital heritage, amendments to the court decisions regarding custody and maintenance of children, spousal support, etc. In 2018, according to the above mentioned Report, the Center for Providing Free Legal Aid of the RS Government recorded in total 49 persons that requested assistance due to domestic violence, and they received 49 oral legal advices. After receiving legal advices, some persons with the status of a victim of domestic violence submitted request for receiving free legal aid through representation in proceedings in front of the authorized courts. The Center approved free legal aid in 29 cases related to divorce. In 2017, the Center for Free Legal Aid of the RS Government recorded in total 33 persons that requested assistance due to domestic violence, out of which 31 persons received oral legal advice, and 2 persons received written legal advice. As result of requests of these persons, proceedings were initiated and legal aid provided through representation in front of the authorized courts, as follows: divorce in 28 cases, and determination and partition of marital property in 1 case.

For the purpose of example and comparison, during 2018, free legal aid to women was provided in total 295 times in the legal counseling center of the Foundation "United Women" Banja Luka, while 45 victims of domestic violence received free legal aid in the Citizens' Association "Budućnost" Modriča. In the Foundation "Lara" Bijeljina 228 women victims of violence received legal aid, and Women's Association "Most" Višegrad provided legal advices to 19 women from Višegrad and 8 women from the Višegrad – Sokolac region, and legal aid to 46 women. This indicates that nongovernmental organizations were available to a greater extent to women victims of violence than the Center for Providing Free Legal Aid of RS Government. It should be re-emphasized that these activities of nongovernmental organizations are largely financially supported through foreign donations, and legal aid for only small number of women that are beneficiaries of the safe houses is partially covered by the public budgets. Work of nongovernmental organizations in this segment is not recognized and valued.

Nongovernmental organizations that are providing assistance and support to women victims of violence are emphasizing following:

„Women survivors of some forms of gender based violence are not recognized as victims that have the right on special forms of protection and support during providing testimonies in the criminal proceedings for gender based violence, and they do not have access to free legal aid in the courtroom. Victims of domestic violence have no access to legal aid, even if they meet the financial criteria regulated by the Law on Providing Free Legal Aid of the Republika Srpska, because the Center for Legal Aid of RS Government, as entity administrative organization

within the Ministry of Justice of the Republika Srpska, whose authority is to provide free legal assistance on the territory of the Republika Srpska, does not provide legal representation in the criminal proceedings and minor offence proceedings against perpetrators of violence; this Center can only provide legal representation in civil litigations.

The Article 57 of the Istanbul Convention requires availability of the free legal aid, although does not give automatic right to the victims of violence to access free legal aid, but regulate that free legal aid should be provided under conditions prescribed by the national legislation.

The Law on Protection from Domestic Violence regulates that victims of domestic violence have the right to access all subjects of protection, and they are exempted from all costs of proceedings (Article 10, Paragraph 1), as well as that they have the right on free legal aid in proceedings related to accessing their rights and protection, in accordance with the laws that regulate the area of free legal aid (Article 10, Paragraph 2).

Majority of women are not legally literate, and have no knowledge of criminal proceedings. Women are not familiar with the institute of request for compensation of material or non-material damage by the perpetrator of violence, and prosecutor's offices are not collecting evidences, and do not lead investigations in that direction. This is the reason why women remain without access to compensation.

Since the domestic violence represents criminal offence or minor offence, the Center for Free Legal Aid of RS Government does not have the authority to legally represent victims of violence in criminal proceedings and minor offence proceedings against perpetrators of violence, but the Center can represent victims of domestic violence in civil litigations. For example, the Center can provide legal aid and represent victims of domestic violence in civil litigations for compensation of material or non-material damage, based on final criminal verdicts, and court decisions in minor offence proceedings for domestic violence."

The Article 8 of the Law on Protection from Domestic Violence of the Brčko District BiH regulates the right on free legal aid for victims of domestic violence in proceedings related to acquiring their rights and protection, in accordance with the laws that regulate the area of free legal aid. This Law entered into force on 15 March 2018, and current Law that regulates free legal aid in the Brčko District BiH is not harmonized with this Law, and it does not explicitly recognize victims of domestic violence as special category of persons.¹¹⁹ However, the Article 16 of this Law regulates

¹¹⁹ Article 13 of the Law on the Office for Legal Aid of Brčko District BiH (Conditions for acquiring legal aid) A citizen of the District has the right on legal aid if he/she does not have enough means to pay attorney and costs of representation, and meets the financial criteria for legal representation. Article 14 (Financial criteria) The right on legal aid based

that legal aid shall be provided to persons based on the international conventions that are obligatory for the Bosnia and Herzegovina. The Article 7 of the Law on Protection from Domestic Violence of Brčko District BiH regulates subjects of protection, and sets their obligation to provide protection, assistance, and support to victims of domestic violence. One of the subjects of protection recognized by this Law is the Office for Legal Aid of the Brčko District BiH, which leads to conclusion that victims of domestic violence from the Brčko District BiH have access to the right on free legal aid. This Office is responsible for providing legal advices and legal representation of the citizens of the Brčko District BiH that are in poor financial status, and undertakes all actions in front of the Basic Court of Brčko District BiH, the Court of Appeal of Brčko District BiH, and the Prosecutor's Office of Brčko District BiH. As a person of "poor financial status" this Law considers a person that does not own enough property, has no possibility of taking loan or has no other means to pay for attorney and all other costs of legal representation, not to deprive himself/herself or other dependent person of food, clothes, or housing, as well as the person that did not deprive himself/herself from possessing any property upon committing the act with intention or with the purpose of acquiring legal aid.¹²⁰

It is necessary to especially emphasize that the results of Analytical Report: Analysis of Monitoring of Criminal and Minor Offence Proceedings in the Area of Protection from Gender Based Violence of the Bosnia and Herzegovina indicate that, out of total 42 criminal cases that were actively monitored in front of the 6 courts in the Republika Srpska and the Brčko District BiH, only in 2 criminal cases, for the criminal offence of War Crime Against Civilians (Article 142, Paragraph 1 of the Criminal Code of Yugoslavia), in front of the District Court of Banja Luka, and the criminal offence of Avoiding Alimony Payment (Article 210, Paragraph 1 of the Criminal Code of Republika Srpska), women as injured parties had legal representative of their choice. In the first case, a woman injured party used legal representative to request compensation of non-material damage, which was not considered as a part of this criminal proceeding, while in the second case, a woman injured party participated in the court session and testified in the presence of her legal represen-

on the financial criteria is available to the citizens that meet following criteria: - a person that is receiving social welfare assistance; - unemployed, without other regular income; -a person of poor financial status; -children without parental care; - persons of poor health status without income. Article 15 (Financial status) (1) The basis for determining the right of citizens of the District on legal aid based on poor financial status are all incomes and assets not considered as incomes on which the applicants and members of their household do not pay taxes. (2) When determining the right on legal aid based on the financial criteria, incomes and asseets of those family members that are counterparty of the applicant shall not be considered. (3) A person that lives in common household with adult family member in financial status that provides him/her the possibility to cover the costs of attorney for the applicant for legal aid, shall not be considered as a person in poor financial status. Article 16 (Manatory legal representation based on the international conventions) Legal aid shall be provided to persons based on the international conventions that are obligatory for the Bosnia and Herzegovina.

¹²⁰ <http://www.kppbd.ba/>

tative, and claimed compensation of non-material damage at the main trial, which was also not considered by the court as a part of the criminal proceeding. In both cases, the court used the verdict to direct women injured parties to claim their requests for compensation of non-material damage in civil litigations. These were the only two cases within entire monitoring in which women injured parties requested compensations of non-material damage during criminal proceedings¹²¹.

The Federation of Bosnia and Herzegovina

The right on free legal aid is regulated by the Article 15 of the Law on Providing Free Legal Aid of the Bosnia and Herzegovina (the Official Gazette of BiH, no. 83/16). The right on free legal assistance also for victims of domestic violence, gender based violence, and victims of trafficking of people.¹²² The Law defines that providers of free legal aid are public officials of the Department, attorneys that are on the list of providers of free legal aid, and authorized employees in the associations and foundations registered for providing free legal aid.

According to the available data on the territory of Federation of BiH, there are 9 cantonal institutes for providing legal aid, as follows:

The Cantonal Institute for Legal Aid of Zenica Dobož Canton
The Cantonal Institute for Legal Aid of Canton Sarajevo
The Cantonal Institute for Legal Aid of Tuzla Canton
The Cantonal Institute for Legal Aid of Bosnia Podrinje Canton
The Cantonal Institute for Legal Aid of Canton 10
The Cantonal Institute for Legal Aid of Una Sana Canton
The Cantonal Institute for Legal Aid of Herzegovina Neretva Canton
The Cantonal Institute for Legal Aid of West Herzegovina Canton

¹²¹ Analytical Report, page 27.

¹²² Article 15

Following persons are entitled to free legal aid on the basis of their status:

- a) a person receiving social assistance;
- b) a child in accordance with the Convention on the Rights of the Child;
- c) a person who has been deprived of legal capacity and mentally ill person;
- d) a pensioner whose pension is lower than the average salary at the level of the Bosnia and Herzegovina;
- e) an unemployed person that does not have other regular income;
- f) a victim of domestic violence or gender based violence;
- g) asylum seeker, a person under subsidiary or temporary protection, a person in the process of expulsion, stateless person, and a victim of trafficking of people.

(2) A person of poor financial situation also has the right on free legal aid, based on decision of an authorized body for providing free legal aid.

RECOMMENDATIONS:

1. To ensure equal rights on access to legal aid for all women victims of violence in the Bosnia and Herzegovina, regardless of part of the country in which they live.
2. To enable the access to free and sensitive legal aid for women survivors of violence that are witnesses in proceedings in front of the all courts in the Bosnia and Herzegovina, without applying of existing property census (the Republika Srpska), which currently prevents women from accessing legal aid in judicial proceedings, especially in terms of efficient implementation of request for compensation of non-material damage¹²³;
3. Support provided by specialized nongovernmental organizations that are providing legal aid to women victims of violence must be recognized and valued through allocation of financial resources for NGOs from the public budgets.

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

Article 59 – Residence Status

The percentage of women whose procedure of expulsion was suspended based on their status of a victim of violence, in relation to total number of these proceedings at the annual level.

“Observing the total number of issued residence permits, 6.578 or 57,84% are temporary residence permits issued to men, and 4.794 or 42,16% are temporary residence permits issued to women. In 2017, temporary residence status on other grounds in the Bosnia and Herzegovina was granted to foreigners based on ownership on real estates (412), humanitarian grounds, including medical treatment (132), and other reasonable grounds (39).¹²⁴

“During 2016, in total 418 decisions on expulsion of foreigners from the Bosnia and Herzegovina were adopted, while 927 decisions on expulsion were adopted in 2017, which represents increase of 121,77%. Additionally, in 2017 in total 38 decisions were adopted on suspension of non-visa or temporary residence, including the expulsion orders, while in total 31 decisions were adopted in 2016, which represents increase 22,58%. There are no gender disaggregated data in relation to the residence status.”¹²⁵

RECOMMENDATION:

To improve data base and transparency in relation to gender disaggregated data.

Article 60 – Gender Based Asylum Claims

Number of gender sensitive guidelines and procedures for asylum on state, regional, and local level.

The Law on Foreigners of the Bosnia and Herzegovina (Official Gazette of the Bosnia and Herzegovina, no. 88/15) regulates residence of foreigners in the Bosnia and Herzegovina, including the foreigners that are victims of trafficking of people¹²⁶.

(1) For the purpose of this Law, residence of foreigners in the Bosnia and Herzegovina is considered as follows:

¹²⁴ The Ministry of Security of the Bosnia and Herzegovina – Sector for Immigration, “Migration Profile of the Bosnia and Herzegovina” for 2017, April 2018

¹²⁵ Ibid

¹²⁶ The Law on Foreigners of the Bosnia and Herzegovina (Official Gazette of the Bosnia and Herzegovina, no. 88/15)

- a) Residence based on visa,
- b) Non-visa residence,
- c) Temporary residence, and
- d) Permanent residence.

(2) Residence based on visa for foreigners in the Bosnia and Herzegovina is residence during the period stated on visa.

(3) Non-visa residence of foreigners in the Bosnia and Herzegovina is residence of foreigners coming from the country of non-visa regime in duration regulated by the Article 21 (Exemption from Visa Requirement), Paragraph 2 of this Law.

(4) Temporary residence is the residence of foreigners in the Bosnia and Herzegovina in duration up to 1 year, if the residence permit does not state otherwise.

(5) Permanent residence is the residence of foreigners in the Bosnia and Herzegovina for an unlimited duration.

Article 48 (Grounds for Issuance of Temporary Residence Permit)¹²⁷

(1) Temporary residence permit may be granted to a foreigner who intends to stay or is already staying in BiH for the following reasons:

- a) Family reunification,
- b) Education,
- c) Humanitarian reasons,
- d) Employment with a work permit,
- e) Employment without a work permit, or
- f) Other justified reasons.

(2) Temporary residence permit may exceptionally be issued on grounds of real-estate ownership provided that the foreigner's effective connection to BiH has been established.

(3) Temporary residence permit may be granted for a period not exceeding one year, unless otherwise stipulated under this Law.

(4) Temporary residence on humanitarian grounds provided by Article 58 (Temporary residence on humanitarian grounds) paragraph (2) indent a) herein shall be granted for a period not exceeding six months.

(5) Extension of the temporary residence may be granted upon the foreigner's request, but solely on the grounds applied for approval of that temporary residence the renewal of which is now requested.

¹²⁷ The Law on Foreigners of the Bosnia and Herzegovina (Official Gazette of the Bosnia and Herzegovina, no. 88/15)

Article 58 (Temporary Residence on Humanitarian Grounds)¹²⁸

(1) Temporary residence on humanitarian grounds for a purpose of a medical treatment, rehabilitation and stay in a nursing home may be granted to an foreigner who meets the requirements of Article 49 (General requirements for granting temporary residence) of this Law, and provides the evidence on being admitted to a BiH institution for medical treatment, rehabilitation or stay in a nursing home.

(2) Temporary residence on humanitarian grounds may also be granted to a person who fails to meet the general requirements for granting temporary residence under Article 49 (General requirements for granting temporary residence) of this Law, in the following cases: a) foreigner who has been a victim of human trafficking for the purpose of: 1) proving him/her with protection and assistance for rehabilitation and repatriation into the country of his/her origin, habitual residence, or a country to admit him/her; 2) providing him/her with protection and assistance when necessary for the purpose of cooperation with competent authorities in investigating and processing criminal case of trafficking in human beings;

b) Minor child of an foreigner, if abandoned or a victim of organized crime or without parental protection or custody or if left unaccompanied for any other reason whatsoever; c) stateless person; d) for other justified humanitarian reasons to be stipulated by the Council of Ministers' bylaws issued upon the Ministry's proposal.

(3) Temporary humanitarian residence may also be granted to an foreigner who fails to meet the requirements for granting temporary residence under Article 49 (General requirements for granting temporary residence) of this Law, in cases where the foreigner cooperates with authorities for the purposes of revealing criminal offenses and their offenders, or if he/she has been a victim of organized crime and his/her presence in BiH is essential for conducting of court proceedings.

(5) Foreigner granted temporary residence on humanitarian grounds referred to in paragraph (2), indent a) herein, is entitled to: adequate and safe accommodation, access to emergency medical care, psychological assistance, information on his/her legal status, legal assistance during criminal and other proceedings in which he/she is granted other rights, access to labor market under the same conditions applying to the foreigners, as well as access to professional training and education. A child granted temporary residence for being a victim of trafficking in human beings shall have the access to education.

(6) Foreigner granted humanitarian temporary residence under paragraph (2) indent c) herein shall be entitled to work under the same conditions applying to foreigners and shall have the access to primary education under the same conditions applying to BiH citizens. (7) Temporary residence on humanitarian grounds determined by the Council of Ministers' regulation from paragraph (2) indent d) herein shall not in any case be granted contrary to the requirements of Article

¹²⁸ The Law on Foreigners of the Bosnia and Herzegovina (Official Gazette of the Bosnia and Herzegovina, no. 88/15)

84 (Rejection of applications for approval and extension of residence permits) paragraph (1) indents f) and h) of this Law.

(8) Temporary residence from paragraphs (1) and (2) indents b), c), and d) herein shall be granted for a period not exceeding one year and may be extended under the same conditions applied for approval of residence.

(9) Temporary residence from paragraph (2) indent a) herein shall be granted for a period not exceeding six months and may be extended under the same conditions applied for approval of residence.

Article 60 (Protection of Victims of Trafficking of People)¹²⁹

(1) Ministry is responsible for provision of a special protection and assistance to victims of trafficking in human beings during their admission and residence in the shelters for victims of trafficking of people.

(2) Foreigner suspected of being a victim of trafficking of people shall acquire a status of a protected person from the day of his/her admission to the shelter for victims of trafficking in human beings for 30 days, which is considered as a period of recovery and consideration if he/she would cooperate with the BiH competent authorities for investigation and processing of the crime of trafficking in human beings.

According to the Law on Asylum, the foreigners are protected with the principle of prohibition of returning "non-refoulement" from returning to a country where there is real risk that he/she will be subjected to death penalty or execution, torture, inhuman or humiliating treatment or punishment. Procedures related to requests for asylum are primarily examining validity of reasons for granting refugee status in the Bosnia and Herzegovina to the applicant for which there are serious grounds for believing that returning him/her to the country of origin or the country of usual residence will lead to real risk of death penalty or execution, torture, inhuman or humiliating treatment or punishment on the grounds of race, religion, nationality, political opinion, or belonging to the some social group. Furthermore, the asylum procedure in the Bosnia Herzegovina pays special emphasis on examining existence of reasons for respecting principle of prohibition of returning in the contact of granting additional protection, subsidiary protection. Conditions for granting subsidiary protection to a foreigner are to be determined by the Ministry of Security of the Bosnia and Herzegovina – Sector for Asylum, during asylum procedure, after identifying that a foreigner does not meet the conditions for granting refugee status. Subsidiary protection is granted to a foreigner that does not meet the conditions for a refugee status, if there are serious grounds for believing that with returning to the country of origin or the country of usual place of residence will cause

¹²⁹ The Law on Foreigners of the Bosnia and Herzegovina (Official Gazette of the Bosnia and Herzegovina, no. 88/15)

him/her facing real risk from severe violation of human rights and fundamental freedoms. If a foreigner is not granted with refugee status or subsidiary protection due to application of the clause of exclusion, but asylum procedure identifies there is a serious risk that with returning or forced deportation to another country he/she would face death penalty or execution, torture or other inhuman or humiliating treatment or punishment, the foreigner shall be granted residence permit in the Bosnia and Herzegovina, in accordance with the Law on Foreigners of the Bosnia and Herzegovina, which regulates the area of movement and stay of foreigners.¹³⁰

During 2017, 381 person requested asylum in the Bosnia and Herzegovina, while 79 persons requested the asylum in 2016. In the period from 2008 to 2017 in total 980 persons requested asylum in the Bosnia and Herzegovina¹³¹

RECOMMENDATION:

To improve data bases and transparency of gender disaggregated data.

¹³⁰The Ministry of Security of the Bosnia and Herzegovina – Sector for Immigration. “Migration Profile for the Bosnia and Herzegovina” for 2017, April 2018

¹³¹ Ministry of Security of the Bosnia and Herzegovina – Sector for Immigration. “Migration Profile of the Bosnia and Herzegovina” for 2017, April 2018

INSTEAD OF A CONCLUSION

AN ACCOUNT OF A MURDER CASE OF A WOMAN AS THE EXAMPLE OF REAL IMPLEMENTATION OF THE STANDARDS FROM THE ISTANBUL CONVENTION

A murder case of a woman that we present at the end of this Report reflects real situation related to protection of victims of gender based violence, as well as gender basis and traditional believes on preservation of a family that are dominant in the society of Bosnia and Herzegovina.

On 26 March, 2017, a woman reported the violence to the police, when her husband physically and psychologically abused her and their underage son. The same day, a woman left a common household together with her two sons, and decided to start new life without violence.

On 23 May, 2017, an authorized prosecutor's office raised an indictment against the perpetrator for qualified form of criminal offence of Domestic Violence.

To our knowledge, the first court hearing was scheduled by an authorized court on 22 July 2019. In the meantime, the court did not impose any emergency barring order or protection measure that would be directed toward prevention of repetition of violence and protection of victims.

Two months after a woman reported violence, she was murdered together with her new partner by horrific act of slaughter and stabs all over their bodies, including their genitals. In the period from reporting violence to the police until murder, the perpetrator continuously harassed a woman victim with telephone calls, stalking, and spying her with driving around her house.

Through analysis of the verdict that an authorized district court imposed for the criminal offence of Aggravated Murder, it is obvious that violence was continuous and long lasting. The impression is that victims were not reporting violence, which speaks about lack of trust in institutions of the system, and lack of recognizing the system as instance where victims can turn to for the assistance and protection.

The perpetrator was sentenced on 35 years of prison, however, there are no data if any steps were taken toward taking over the responsibility of the institutions that failed to protect a victim, as well as to prevent and suppress violence.

(Copies of the verdict for the criminal offence of Murder and indictment for the criminal offence of Domestic Violence are in archive of the Foundation „United Women“ Banja Luka).



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