



Assessment of the alignment of Kosovo*'s laws, policies and other measures with the standards of the Istanbul Convention

Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence



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Assessment of the alignment of Kosovo*'s laws, policies and other measures with the standards of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)

Secretariat of the monitoring mechanism of the Council of Europe Convention
on Preventing and Combating Violence against Women and Domestic Violence

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Council of Europe Gender Equality Division, Capacity Building and Co-operation Projects Unit

*All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

“Assessment of the alignment of Kosovo’s laws, policies and other measures with the standards of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)”*

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The assessment of the alignment of policies and legislation in the area of violence against women and domestic violence in Kosovo* with the standards of the Istanbul Convention offered in this report was made possible thanks to the support of the Deputy Minister of Justice and National Co-ordinator against Domestic Violence, Dr Nita Shala, as well as other designated officials at the Ministry of Justice.

Executive summary

This report provides an assessment of the alignment of the measures in place in Kosovo* with the standards of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Forming part of the Council of Europe co-operation project “Reinforcing the fight against violence against women and domestic violence - Phase III” (2021-2023), this initiative emerged from the commitment of Kosovo* to reinforce its action to end violence against women and domestic violence, through the adoption of a constitutional amendment, on 25 September 2020, which gave direct effect to the Istanbul Convention.

Applying the methodology of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the independent body monitoring the implementation of the Istanbul Convention, this report is based on information provided by the authorities and civil society at various stages of the assessment. These include the submission of a consolidated report by the National Co-ordinator against Domestic Violence (presenting the measures taken by Kosovo* to address violence against women and domestic violence) as well as a five-day visit to Pristina and Gjakova/ Đakovica. A list of the bodies and entities met during this visit can be found in Appendix II.

This assessment offers a comprehensive overview of progress, promising practices and room for improvement in ensuring the compliance of laws, policies and measures in Kosovo* with the provisions of the Istanbul Convention. Ultimately, its objective is to provide a concrete roadmap for reinforcing the response of Kosovo* to violence against women and domestic violence. In this vein, its authors put forward recommendations to strengthen the implementation of the Istanbul Convention. GREVIO took note of this assessment report during its 27th meeting held from 10 to 13 October 2022. The sole responsibility for the content of this report, however, remains with its authors.

Among the positive developments identified in this report, Kosovo* has made commendable efforts to devise comprehensive laws and policies to tackle violence against women and domestic violence. In 2019, the Criminal Code introduced the offences of sexual harassment and female genital mutilation. In the context of sexual violence, the Criminal Code also defines the term “consent” as well as some non-exhaustive circumstances where consent cannot be said to have been obtained which represent an important step towards adopting a context-based approach to consent. In addition, the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) adopted in January 2022 has a broader scope than its past versions which focused on domestic violence and frames its objectives in the context of implementing gender-sensitive measures aligned with the Istanbul Convention. While the adoption of this strategy is welcomed, its adequate implementation and monitoring will be essential to ensure that it can contribute to improving the response of Kosovo* to violence against women and domestic violence.

Moreover, several mechanisms exist in Kosovo* to promote multi-agency co-operation in making policies to prevent and combat violence against women, with a particular focus on domestic violence. At the central level, the National Co-ordinator against Domestic Violence within the Ministry of Justice is tasked with overseeing the strategy on violence against women. In addition, the Inter-Ministerial Co-ordination Group against Domestic Violence, set up in 2012, promotes inter-ministerial dialogue and co-ordination in this field. While the fact that these bodies operate at a high political level is commendable, their lack of legally defined duties, working methods and dedicated resources reduces their ability to carry out their coordinating function. Thus, it is welcomed that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) foresees to better institutionalise the Office of the National Co-ordinator against Domestic Violence.

In the context of domestic violence, specific legal and policy mechanisms exist in Kosovo*. The Law on the Protection against Domestic Violence adopted in 2010 is the central legislation that sets out the grounds for protective measures for victims, the issuance of emergency barring orders and protection orders, police responsibilities and programmes for perpetrators. A stand-alone domestic violence offence (Article 248 of the Criminal Code) was also introduced in 2019. However, these two legal frameworks exclude some forms

of non-cohabiting intimate partner violence covered by the Istanbul Convention. Promisingly, according to the authorities, a draft law aimed at replacing the Law on the Protection against Domestic violence, sent to parliament in late 2020, would expand its scope to cover other forms of violence against women and domestic violence.

The Standard Operating Procedures (SOPs) for the Protection from Domestic Violence adopted in 2013, serve as an inter-sectoral protocol for multi-sectoral co-operation among public institutions and other entities in contact with victims of domestic violence. The SOPs set out specific actions to be taken by professionals, for the identification and reporting of such violence, the risk assessment and referral of victims to support services, the protection and recovery of victims as well as the treatment of perpetrators of domestic violence. In several municipalities, the SOPs are implemented by municipal co-ordination mechanisms against domestic violence composed of professionals from relevant sectors, to promote cross-sectoral co-operation in victims' assistance and access to justice. While under-resourced, certain of these mechanisms promote a promising coordination approach.

Some measures have also been taken by law enforcement, judicial and prosecutorial services to improve access to justice for victims of domestic violence. The Kosovo Police have set up Domestic Violence Investigation Units, staffed with both women and men police officers who are specifically trained to deal with domestic violence cases. Moreover, several specialised prosecutors dealing with domestic violence cases have been appointed in the basic courts. Similarly, the Kosovo Judicial Council has appointed civil judges specialised in domestic violence cases. Promising practices also consist in fast-tracking measures for domestic violence trials and the installation of special victim-friendly interview rooms in the prosecution offices of some municipalities.

Due to the post-conflict history of Kosovo*, the Government Commission for the Verification and the Recognition of the Status of Victims of Sexual Violence during the War has been operational since 2018 as a mechanism through which victims of war-time sexual violence, mainly women, can apply for individual compensation. This report welcomes the fact that this body has followed procedures to ensure victims' dignity and confidentiality, while approving most applications. It has been stressed, however, that limitations lie in the criteria for application, including its five-year period (from 2018 to 2023).

Notwithstanding the above, this report highlights several issues where improvement is needed to reach a higher level of compliance with the standards of the Istanbul Convention. Firstly, while most existing laws, policies, guidelines, mechanisms and training in Kosovo* focus on domestic violence, no similar comprehensive actions have been taken to tackle other forms of violence against women, such as sexual violence, forced marriage, sexual harassment or violence in the digital sphere. Whilst the wording of the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) targets violence against women as an umbrella term, its ongoing implementation would need to ensure that all forms of such violence are sufficiently addressed.

In practice, a coordinated gender-sensitive and victim-centred approach to support, protection and access to justice is lacking across relevant sectors. In Kosovo*, specialist support services for women are mainly provided by women's rights NGOs, that struggle to ensure sustained service provision, even though these services are central to women's access to recovery and justice. Although annual central budgets have earmarked a budget line for the operation of shelters since 2019, this public funding scheme is insufficient and does not ensure continuous funding. In addition, women exposed to intersectional discrimination face heightened difficulties in accessing information and specialist services, including, among others, women with disabilities, and Roma, Ashkali and Egyptian women.

Furthermore, there are no rape crisis or sexual violence referral centres offering tailored support to victims of sexual violence. The Institute of Forensic Medicine in Pristina, the only institution responsible for forensic examination of victims of sexual violence, does not provide holistic services to victims, such as trauma support or short-term and long-term psychological counselling, or any service, if the victim is not willing to lodge a complaint, as required under Article 25 of the convention. The lack of specialist services for victims of sexual violence and trained professionals to properly support these victims reflects the general absence

of policies dedicated to tackling sexual violence in Kosovo*.

Despite an increase in reporting of domestic violence cases, women still face challenges in doing so, including a lack of confidentiality as well as victim-blaming attitudes of some police officers. Moreover, due to the strong reliance of police and prosecution services on the victim's statement, many cases tend to be dismissed due to the victims' withdrawal of their testimony, which reflect deficiencies in case building. Available data, while scarce, also indicates low levels of convictions, light sentences imposed and high levels of attrition (the process whereby cases drop out of the criminal justice system) in cases of violence against women.

Gaps also persist in protection measures available for women victims. The existing risk assessment tool is applicable only in domestic violence cases and is not always carried out in a systematic and comprehensive manner. The lack of implementation and monitoring of protection orders has also been highlighted. Moreover, the possibility for protection orders to cover only a part of premises shared by the victim and the perpetrator runs against the main purpose of protection orders under Article 53 of the convention, which is to prevent the commission of violence and to protect victims.

In relation to child custody and visitation decisions, a concerning practice of social workers and the judiciary consists of assessing a child's best interest in terms of prioritising the perceived economic well-being over their physical and psychological well-being, resulting in custody of children being given to the abusive parent. In addition, while there are no mandatory alternative dispute resolution processes, high concerns exist regarding the focus on reconciliation in the Law on Family with little guidance on how to screen for and handle cases involving a history of domestic violence. Ongoing concern on the ground indicates that that some judges still generally encourage family reconciliation, which creates an enabling environment for recidivism and secondary victimisation.

Finally, despite legal changes, significant structural gender inequalities remain in Kosovo*, affecting women's socio-economic rights, particularly women's low access to property and inheritance rights, and to child's alimony. As a result, the discriminatory implementation of related laws maintains the barriers preventing women from leaving an abusive relationship when they are economically dependent on their abusive partners, on their in-laws or on their own families. All in all, addressing such socio-economic barriers is essential to promote a sustainable answer to violence against women.

While welcoming the commitment of Kosovo* to advancing the implementation of the Istanbul Convention, this report has identified several issues requiring prompt action by the authorities to:

- address the needs of some groups of women who may face intersectional discrimination in accessing protection and support services (e.g., women with disabilities, Roma, Ashkali and Egyptian women, women living in rural areas, single mothers, LGBTI women);
- increase the stability and the level of funding granted to women's rights NGOs running specialist support services, especially shelters;
- expand the scope of sex-disaggregated data collected by public agencies, including the police, judicial, social and health services to cover all forms of violence against women;
- ensure systematic and mandatory initial and in-service training on the prevention, detection and prosecution of all forms of violence against women;
- fully institutionalise the Office of the National Co-ordinator against Domestic Violence by allocating the necessary human and financial resources dedicated to its work;
- ensure that courts are under the obligation to consider incidents of violence against women when determining child custody and visitation rights;
- issue protocols and training to professionals to respond to forced marriages;
- increase the number of available programmes for perpetrators of domestic violence, both mandatory and voluntary, with an approach prioritising the safety and rights of the victims;
- ensure that emergency barring orders and protection orders are available for immediate protection without undue delay and extend to all forms of violence against women; and
- identify and address any factors which contribute to attrition in the criminal justice system in relation to all cases of violence against women.

Introduction

On 25 September 2020, the Assembly of Kosovo* adopted an amendment to its Constitution that gave direct effect to the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), demonstrating its genuine political interest in taking action to prevent and combat violence against women and domestic violence. In support thereof, and in the framework of the Council of Europe co-operation project “Reinforcing the fight against violence against women and domestic violence - Phase III”, an assessment of the alignment of laws, policies and other measures in place in Kosovo* with the standards of the Istanbul Convention was carried out from July 2021 to June 2022.

The Istanbul Convention, which entered into force on 1 August 2014, is the most far-reaching international treaty to tackle violence against women and domestic violence. Importantly, it recognises violence against women as a violation of human rights and a form of discrimination against women. As a ground-breaking instrument, the Istanbul Convention takes into account the gendered nature of violence against women, considering such violence as both a cause and a result of unequal power relations based on perceived differences between women and men, leading to women’s subordinate status in both the private and public spheres. Therefore, the Istanbul Convention requires the root causes of gender-based violence against women to be addressed, which include gender stereotypes, harmful practices against women and other manifestations of gender inequality.

Through a victim-centred and non-discrimination approach, the Istanbul Convention promotes respect and equality for all women and girls who suffer from gender-based violence by offering practical guidance to ensure their safety, their recovery and their long-term empowerment. Building on legal obligations from the European Convention on Human Rights (Article 14 and Protocol No. 12), the Istanbul Convention aims at the protection and support of all women without discrimination, including with respect to their age, disability, marital status, association with a national minority, migrant or refugee status, gender identity or sexual orientation, among other factors.

The Istanbul Convention contains a comprehensive set of provisions spanning far-ranging measures and obligations covering four areas of action, often called its four pillars: 1) the **P**revention of violence against women, 2) the **P**rotection and Support for victims, 3) the **P**rosecution of perpetrators, as well as 4) the implementation of related comprehensive and co-ordinated **P**olicies (i.e. integrated policies). These four pillars encompass various provisions, requiring legal, policy and practical measures aimed at ensuring an adequate response to violence against women and domestic violence by all relevant sectors, including the justice, law enforcement, social, health and education sectors, but also beyond.

This assessment of the alignment of the measures in place in Kosovo* with the standards of the Istanbul Convention applies the methodology of the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), the independent body monitoring the implementation of the Istanbul Convention, and refers to previous findings made by GREVIO in relation to state parties to the convention, where appropriate and useful for context.

Methodology

This report provides an assessment of the alignment of laws, policies and other measures in place in Kosovo* with the standards of the Istanbul Convention, focusing on measures taken in relation to “all forms of violence against women, including domestic violence, which affects women disproportionately”.¹ Forming part of the Council of Europe co-operation project “Reinforcing the fight against violence against women and domestic violence - Phase III” (2021-2023), it sets out recommendations for further action and hence provides practical guidance to strengthen the implementation of the Istanbul Convention in Kosovo*. In making such recommendations, the authors of this report made use of the following verbs underlining their levels of urgency, while recalling that all of them are essential to comprehensively implement the Istanbul Convention. These are, in order of priority, “urgently recommended”, “strongly recommended”, and “recommended”.

In preparing this report, GREVIO’s working methods and tools (e.g. its questionnaire) have been employed, and the various steps in GREVIO’s first baseline evaluation procedure initiated in 2016 and defined in its Rules of Procedure have been followed.² Accordingly, this assessment report covers the Istanbul Convention in its entirety³ and is the result of a process of confidential and constructive dialogue with relevant stakeholders. The assessment was carried out in close co-operation with the Deputy Minister of Justice and National Co-ordinator against Domestic Violence, Dr Nita Shala, as well as other designated officials from the Ministry of Justice.

This report aims to provide a comprehensive overview of progress, promising practices and room for improvement in ensuring the compliance of laws, policies and measures in Kosovo* with the provisions of the Istanbul Convention. Ultimately, its objective is to provide a concrete roadmap for further measures to reinforce the action of Kosovo* against violence against women and domestic violence.

In line with the methodology of GREVIO’s first baseline evaluation procedure, the steps followed for this assessment included the following:

1. The submission of a consolidated report by Kosovo*

On 18 February 2022, the National Co-ordinator against Domestic Violence submitted, to the Council of Europe, a consolidated report presenting the measures taken in the field of violence against women and domestic violence in order to implement the Istanbul Convention. This consolidated report was drawn up on the basis of GREVIO’s baseline questionnaire (GREVIO/Inf(2016)1), a standardised tool to be used by public authorities for preparing their report on legislative and other measures giving effect to the provisions of the Istanbul Convention, and shared with the National Co-ordinator against Domestic Violence of Kosovo*.

2. An on-site assessment visit to Pristina and Gjakova/Đakovica

Following a preliminary examination of the consolidated report and other available information, a Council of Europe delegation visited Pristina and Gjakova/Đakovica from 21 to 25 February 2022 to hold in-depth exchanges with relevant stakeholders in order to deepen its understanding of the level of implementation. The Council of Europe delegation was composed of:

- Aleid van den Brink, member of GREVIO who acted as an adviser during this visit;
- Eileen Skinnider, international legal expert (Canada);
- Virginia Gil Portoles, international social expert (Spain);
- Valentine Josenhans, Project Officer at the Secretariat of the Istanbul Convention monitoring mechanism;
- Ségolène Chesneau, Project Manager at the Capacity Building and Co-operation Projects Unit of the Gender Equality Division.

¹ Istanbul Convention, Article 2, paragraph 1

² GREVIO, Rule of Procedures, GREVIO/Inf(2015)RoP-amdt

³ With the exception of Chapter VIII of the Istanbul Convention.

In addition, the delegation was supported in its tasks by Nitë Bylykbashi-Deliu, Senior Project Officer and Beatrice Sopa-Çitaku, Project Assistant at the Council of Europe Office in Pristina.

During this five-day visit, the delegation met with a wide range of public officials, practitioners and civil society representatives working in the fields of violence against women and domestic violence, to obtain a deeper understanding of the measures in place in Kosovo* to implement the Istanbul Convention. The delegation was welcomed by high-level public figures, including Dr Nita Shala, Deputy Minister of Justice and National Co-ordinator on Domestic Violence; Ms Edi Gusia, Director of the Agency for Gender Equality; Ms Dafina Gexha, Deputy Minister of Health; and Ms Edona Maloku-Bërdyna, Deputy Minister of Education, Science, Technology and Innovation. A list of the public authorities, non-governmental organisations and other actors met by the delegation is set out in Appendix II of this report. The Council of Europe delegation to Pristina and Gjakova/ Đakovica is grateful for the valuable information provided by all of them.

3. Preparation of the assessment report and comments from the authorities

On the basis of the information collected, the authors of this assessment report prepared its draft version, which was transmitted to the authorities for comments. These comments were taken into account by the authors when preparing the final version of this assessment report. Comments made by the authorities on the final report are compiled at the end of this report.

This assessment report of the alignment of measures taken in Kosovo* with the standards of the Istanbul Convention covers the situation as observed by the delegation during its assessment visit to Pristina and Gjakova/ Đakovica. Where available, significant legislative and policy developments up until June 2022 have also been included. GREVIO took note of the assessment provided during its 27th meeting held from 10 to 13 October 2022. The sole responsibility for the content of this report, however, remains with its authors.

Regarding the terminology employed, this report often refers to the Istanbul Convention as the “convention”. The expression “the delegation” used across the report refers to the members of the Council of Europe delegation which carried out the assessment visit to Pristina and Gjakova/ Đakovica from 21 to 25 February 2022, as described above. Moreover, the term “victim” used throughout this report is to be understood as referring to a woman or girl victim.

I. Purposes, definitions, equality and non-discrimination, general obligations

A. General principles of the convention

1. Chapter I of the Istanbul Convention sets out general principles which apply to all the substantive articles contained in Chapters II to VII. These include, among others, that it is a fundamental human right for everyone, particularly women, to live a life free from violence in both the public and the private sphere, that the convention must be implemented without discrimination on any ground and that the potential for, and effects of, multiple forms of discrimination should be borne in mind. They also spell out that a gender perspective must be integrated into the implementation of the convention and the evaluation of its impact.

B. Scope of application of the convention and definitions (Articles 2 and 3)

2. In the light of the scope of the Istanbul Convention set out in its Article 2, paragraph 1, this report focuses on measures taken in relation to all forms of violence against women, including domestic violence, which affects women disproportionately. Article 3 of the Istanbul Convention sets out key definitions of concepts that are fundamental to its implementation. According to paragraph a, the term “violence against women” refers to “all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”, whereas the expression “domestic violence” is to be understood as referring to “all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”. The definition of “gender-based violence against women” offered in paragraph d of Article 3 seeks to ensure more clarity regarding the nature of the violence covered by explaining that this is “violence that is directed against a woman because she is a woman or that affects women disproportionately”.

3. Hence, the violence addressed by the Istanbul Convention differs from other types of violence in that the victim’s gender is the primary motive. It is violence that is perpetrated against a woman that is both the cause and consequence of unequal power relations based on perceived differences between women and men that lead to women’s subordinate status in the public and private spheres. In accordance with the definition given in Article 3, indent b., Chapter V of the convention specifies the forms of violence against women that are to be criminalised (or, where applicable, otherwise sanctioned). These are psychological violence, stalking, physical violence, sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilisation and sexual harassment. Owing to the seriousness of domestic violence, Article 46 of the convention requires ensuring that the circumstances in which the offence was committed against a former or current spouse or partner, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority, may entail a harsher sentence either as an aggravating circumstance or a constituent element of the offence.

4. In Kosovo*, several policies and pieces of legislation have been adopted to address the forms of violence covered by the Istanbul Convention. Following the amendment to the Constitution giving direct effect to the convention on 25 September 2020, the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) was adopted in January 2022 which represents the main policy instrument planning measures to address violence against women as defined under Article 3a of the convention. It is commendable that this strategy has a broader scope than its past versions⁴, as it explicitly states that it covers all offences to be criminalised under Chapter V of the convention and frames its objectives in the context of implementing the measures prescribed by the Istanbul Convention.

⁴ Former policy strategies include the “National Strategy against Domestic Violence (2011-2014)” and then the “National Strategy on the Protection against Domestic Violence (2016-2020)”.

It is also welcomed the above strategy's human-rights based, victim-centred, non-discriminatory and gender-sensitive approach, that acknowledges the need to tackle gender inequalities as the root cause of violence against women. Nonetheless, whilst the wording of the strategy targets violence against women as an umbrella term, it appears that its measures remain more understood in the context of domestic violence than other forms of violence covered by the convention. It is also to be noted that the Criminal Code was amended in 2019 to introduce offences not previously criminalised in Kosovo* such as sexual harassment and female genital mutilation. Additionally, the Law on Gender Equality adopted in 2015 contains definitions of gender-based violence and sexual harassment aligned with the obligations of the convention.

5. In respect of domestic violence, the main legal frameworks are the Law on the Protection against Domestic Violence adopted in 2010, and the Criminal Code. The Law on the Protection against Domestic Violence defines domestic violence as an open-ended list of physical, psychological, sexual and economic violence committed by a relative or a person with whom the victim is or has been engaged, married, in an "extra-marital union";⁵ cohabitating or has a child. In addition, the stand-alone domestic violence offence (Article 248 of the Criminal Code) introduced in 2019 specifies that it defines domestic violence in line with the previous law,⁶ but its wording provides two different definitions of domestic violence which are not fully aligned. One of these covers "physical, psychological or economic violence or mistreatment [against] another person within a domestic relationship". The other covers "physical, psychological, sexual or economic violence or mistreatment against another family member." Hence, Article 248 does not cover domestic sexual violence committed by someone who is not considered as a "family member", such as a former spouse or partner.⁷ Finally, in addition to the lack of harmonisation, both the Law on the Protection against Domestic Violence and Article 248 of the Criminal Code exclude some forms of non-cohabitating intimate partner violence covered by Article 3b of the Convention.⁸ Mindful of the need to cover physical, psychological and sexual violence among non-cohabitating partners and former partners, the drafters of the Istanbul Convention extended the scope of domestic violence to all current and former (informal) intimate relationships irrespective of a shared residence.

6. It is noted that the Law on the Protection against Domestic Violence does not identify women among the victims who deserve tailored support and thus promotes a gender-neutral approach to its implementation.⁹ Moreover, under Chapter XXI of the Criminal Code, domestic violence is conceptualised as an "offence against the family and marriage", not against an individual. In its baseline evaluation reports, GREVIO has stressed the limits of such categorisation and recalled the fundamental need to recognise women and girls who experience violence against them in their families to be bearers of individual rights.¹⁰

7. Noting a positive development, the delegation has been informed that a draft law aimed at replacing the Law on the Protection against Domestic Violence was sent to parliament in late 2020. According to the information provided to the delegation, it would expand the scope of the Law on the Protection against Domestic Violence to cover additional forms of violence against women and intimate partner violence as well as adopting a gender-sensitive perspective recognising women's specific victimisation. In this context,

⁵ Under Article 39 of the Law on Family, an extra-marital union is defined as "a factual relationship" [...] characterised by a joint life [characterised by] stability and continuation". Under Article 40 of this law, people are considered to be in an extra-marital union if they are eligible to marry but are not legally married and if they cohabit openly as a couple.

⁶ Article 248 of the Criminal Code provides that "domestic violence, physical, psychological, sexual or economic violence, for purposes of this Code shall be the same as defined in provision of Article 2, 1.2. of the Law on the Protection against Domestic Violence".

⁷ Under Article 113 of the Criminal Code, a "family member" can be the perpetrator's (adoptive) parent, (adoptive) child sibling, spouse, other blood relative with whom he/she live with as well as someone he/she live in an extra-marital union with. Under this same Article, a "domestic relationship" is a relationship between "family members" (as defined above), or people who are or were engaged, married, in extra-marital union or; people who live together or had a child together.

⁸ The Law on the Protection against Domestic Violence and Article 248 of the Criminal Code do not cover violence among couples who never cohabited.

⁹ Article 1 of the Law on the Protection against Domestic violence provides that this law "aims to prevent domestic violence [...] by paying special attention to the children, elders and disabled persons."

¹⁰ See GREVIO's baseline evaluation reports on Albania (paragraph 9) and Poland (paragraph 6)

the delegation notes that, if such draft law was to be adopted, the Criminal Code and other pieces of legislation as well as the existing policy instruments would need to be aligned with it in order to ensure that all definitions of violence against women and domestic violence are aligned with the obligations of the convention.

8. Due to the post-conflict history of Kosovo*, a specific legal framework has been adopted to respond to the long-term harm of widespread war-time sexual violence against civilians, particularly women, with the aim of providing recognition and reparation to these victims. Since the adoption of the Law on the Status and the Rights of Sexual Violence Victims of the War¹¹ in 2014 and subsequent regulations, a reparation mechanism has been created, through the Government Commission for the Verification and the Recognition of the Status of Victims of Sexual Violence during the War, which will be further examined in this report.¹² In this legal context, the term “Sexual violence victim of the war” refers to a “person who survived sexual abuse and rape within the period of 27 February 1998 to 20 June 1999”.

9. **It is strongly recommended that the authorities pursue their efforts to harmonise all legal and policy definitions of violence against women and domestic violence based on those set out in the Istanbul Convention, while ensuring their effective practical implementation. It is further strongly recommended that the authorities take measures to ensure that all definitions of domestic violence in use extend to all current and former intimate partners irrespective of whether the victim is in an informal intimate relationship or shares a residence with the perpetrator.**

C. Fundamental rights, equality and non-discrimination (Article 4)

1. Gender equality and non-discrimination

10. Article 7 of the Constitution recognises gender equality as one of its fundamental values, including equal opportunities for women and men in political, economic, social, cultural and other areas of life. In addition, Article 24 prohibits discrimination on any grounds, including gender. It adds that such principle shall not prevent measures aimed to protect and advance “the rights of individuals and groups who are in unequal positions”. These constitutional provisions are transposed by and further defined in the Law on Gender Equality and the Law on the Protection from Discrimination. Pursuant to the above laws and the Law on Ombudsperson, anyone claiming to be a victim of discrimination based on gender, sex and other grounds may lodge a complaint either before the competent courts or the Ombudsperson Institution, an independent body charged with the protection against discrimination. The Ombudsperson Institution is also mandated to initiate, ex officio, investigations into alleged discrimination by public entities. However, the Ombudsperson Institution itself noted that jurisprudence on gender-based discrimination is yet to be developed since cases are rarely reported either due to victims’ lack of knowledge about their rights or due to their distrust in public institutions.¹³

11. Additionally, it is welcomed that specific institutional and policy mechanisms have been set up in Kosovo* to apply constitutional and legal principles of gender equality. The Agency for Gender Equality was established in 2005 as a public body within the Office of the Prime Minister, mandated to develop laws, policies and initiatives aimed to promote and co-ordinate the implementation of the Law on Gender Equality that foresees measures to promote equal rights between men and women, such as gender mainstreaming and gender budgeting. The Agency for Gender Equality must also prepare and oversee the Kosovo Programme for Gender Equality (2020-2024) that plans actions to promote gender equality across the socio-economic, justice, health, education and media sectors, including the prevention of gender-based violence against women. Moreover, under the Law on Gender Equality, all ministries and

¹¹ The Law on amending and supplementing the Law on the Status and the Rights of the Martyrs, Invalids, Veterans, members of Kosovo Liberation Army, Sexual Violence Victims of the War, Civilian Victims and their Families

¹² See Chapter V, section on Article 30 (Compensation)

¹³ In 2020, the Ombudsperson Institution received 43 claims related to gender-based discrimination out of a total of 1419 received claims. See Ombudsperson Institution. (2021). Annual Report 2020, p.78 and 154

municipalities must appoint gender equality officers to co-ordinate the implementation of this law and the Kosovo Programme for Gender Equality in their sector or location.

12. Notwithstanding the above, high structural gender inequalities remain in Kosovo*, affecting women's socio-economic rights and empowerment, including women's access to employment, property and inheritance rights.¹⁴ By contrast, constitutional, legal and policy frameworks guarantee and promote women's equal access to property and inheritance.¹⁵ For instance, the Administrative Instruction on Special Measures for the Registration of Joint Immovable Property on Behalf of Both Spouses adopted in 2016 states that public officials, notably in municipalities, shall apply temporary special measures to increase the number of women registered as joint owners. Over recent years, the number of people registering joint property has gradually increased, but remains low.¹⁶ Thus, women's practical access to property is hampered by the public authorities' lack of capacity to verify the validity of cadastral data as well as by the strong socio-cultural beliefs based on patrilineal and patrilocal norms stating that only men should own or inherit properties.¹⁷ Research and anecdotal evidence indicate that men do not systematically register joint property under their spouse's name in addition to their own, and that women still renounce claiming property and inheritance due to a lack of knowledge about their rights and pressure from their partners, relatives or in-laws.¹⁸

13. The Law on Family provides that "property acquired through work during the course of the marriage is jointly owned", and that in disputed cases, courts shall consider as a spouse's contribution "not only personal income" but also "children's care, conduct of housework, care and maintenance of property". Nonetheless, according to media and civil society reports, lengthy court procedures and court decisions that overlook or undervalue unpaid childcare and housework prevent women from accessing their right to joint property foreseen under the Law on Family.¹⁹ Other barriers include husbands' alienation and concealment of movable property to prevent their (ex-)wife from claiming property rights in divorce cases. In this context, it is welcomed that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) foresees awareness raising and judicial training on (joint) property rights and child alimony. However, no judicial guidelines and regular monitoring of administrative and court practices seem to exist to address gaps in the implementation of laws related to women's equal access to property, inheritance and child alimony. Such measures would be particularly relevant considering that the discriminatory implementation of such laws maintains socio-economic barriers preventing women from leaving an abusive relationship when they economically depend on their abusive partners, on their in-laws or on their own families. In the same vein, the negative effects of economic violence through which the abuser maintains control over the victim by preventing her from accessing financial resources has been widely discussed in GREVIO's baseline evaluation reports.²⁰

¹⁴ According to Kosovo Agency of Statistics, in 2020, the employment rate of people aged from 15 to 64 was 14.1% for women and 42.8% for men. According to the Kosovo Cadastral Agency, 17.1% of property owners in 2018 were women.

¹⁵ The Constitution (Article 22) gives direct effect to the Convention on the Elimination of All Forms of Discrimination against Women that requires spouses to have the same rights to "ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration". The Law on Inheritance and the Law on Family contain provisions on equal property and inheritance rights. Kosovo Programme for Gender Equality (2020-2024) and National Strategy on Property Rights (2016) set measures promoting women's property rights.

¹⁶ In 2016, 684 properties were registered under both spouses' names, whereas in 2020, 2025 properties were registered as such. Ministry of Local Government. (2020, December). Analysis on the affirmative measure of registration of immovable property in the name of both spouses in the municipalities. Pristina: Kosovo*

¹⁷ In some communities, traditions of dividing riches are still influenced by customs, like Lekë Dukagjini's Kanun. See: Balkan Investigate Report Network. (2016) Women's rights to inherit property.

¹⁸ Information collected during the delegation visit, see USAID. (2019). "Endline National Survey on Property Rights in Kosovo", p.27; Ombudsperson Institution. (2021). Annual Report 2020, p.78

¹⁹ INJECT (2021) Legal research about division of joint property and financial maintenance - Law and case law in Kosovo; Kosovo 2.0.(2020, December) Homeless in their own homes.

²⁰ GREVIO's baseline evaluation reports on France (paragraphs 11-16), Monaco (paragraphs 16-17), and Poland (paragraph 6)

14. It is urgently recommended that the authorities pursue their efforts to implement comprehensive and co-ordinated laws, policies and mechanisms for achieving gender equality, while taking further action to remedy existing gaps in women's equal access to socio-economic rights, particularly property, inheritance and child alimony, as well as to monitor administrative and courts' practices in those fields and to measure progress.

2. Intersectional discrimination

15. Article 4, paragraph 3, of the convention requires the implementation of the convention's measures without any discrimination. This provision provides an open-ended list of grounds of discrimination which draws on that of Article 14 of the European Convention on Human Rights as well as the list contained in its Protocol No. 12²¹ and, in addition, includes the grounds of gender, sexual orientation, gender identity, age, state of health, disability, marital status, and migrant or refugee status or other status. This obligation stems from the realisation that discrimination against certain groups of women, for example at the hands of law-enforcement agencies, the judiciary or service providers, is still widespread.²²

16. Recent efforts have been made in Kosovo* to recognise the specific situation of women at risk of multiple discrimination, by including this notion in laws and policies on anti-discrimination and violence against women.²³ For instance, the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes as part of its key objectives the need to adopt a cross-sectoral approach, to respect diversity and to address linkages between gender-based discrimination and other forms of discrimination, by paying attention to the "most disadvantaged women" including, among others, women with disabilities, Roma, Ashkali and Egyptian²⁴ women, women in rural areas, socio-economically deprived women, single mothers, LGBTI women, older women, migrant and asylum-seeking women. Nonetheless, it can be noted that on the basis of the content of this strategy and indications provided by the authorities during the delegation visit, it is unclear how this intersectional approach is effectively applied. In this regard, some Council of Europe tools exist to support the authorities in taking comprehensive measures to address violence against women at risk of intersectional discrimination, including, among others, by supporting the actions of NGOs representing these women, by ensuring the accessibility of information and services, by training professionals, by conducting research and awareness-raising initiatives in order to reach these women and overturn prejudices against them.²⁵

17. In practice, several groups of women in Kosovo* are likely to face increased and/or specific obstacles in relation to accessing support and protection for the forms of violence covered by the convention due to discrimination on multiple and intersectional grounds.²⁶ Partly due to mobility issues, women living in rural areas have more limited access to information and support services, including legal aid offices.²⁷ Single mothers facing domestic violence, including post-separation abuse, face multiple challenges related both to social stigma and economic hardship, including low access to housing, employment, childcare and difficulties in collecting child alimony.²⁸ Considering women's low access to property and social

²¹ The discrimination grounds in question include sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

²² Explanatory Report to the Istanbul Convention, paragraphs 52-54

²³ The Law on the Protection from Discrimination refers to "multiple discrimination" as a form of unequal treatment, which is defined as "any combination of the grounds [for discrimination]".

²⁴ "Roma, Ashkali and Egyptians", although named jointly due to historical self-identification as Roma, are different ethnic minority groups living in Kosovo*. The 2011 census found that 8 824 Roma, 15 436 Ashkali and 11 524 Egyptians lived in Kosovo*. However, these figures are likely to be underestimated as the census did not cover 4 northern municipalities.

²⁵ See Council of Europe (2022) Ensuring the non-discriminatory implementation of measures against violence against women and domestic violence: Article 4, paragraph 3 of the Istanbul Convention, A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence.

²⁶ Information collected during the delegation visit; OSCE. (2019). Survey on well-being and safety of women in Kosovo.

²⁷ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. Kosovo Women's Network (KWN); UN Habitat. (2019). Gender analysis in north Kosovo and concerned local authorities.

²⁸ Information collected during the delegation visit; see also Gashi, A. and Gashi, P. (2021). Inclusiveness of the government response to the COVID-19 crisis: Who was left behind? Agency of Gender Equality-Friedrich Ebert Stiftung.

assistance in Kosovo*, single mothers often either live with their parents or must bear the cost of renting a flat. Indications from civil society stress that single mothers abused by the fathers of their children may encounter obstacles in obtaining custody of their children due to stereotypes and economic inequalities. They may also experience lengthy court procedures to claim their right to property and to child alimony.

18. Roma, Ashkali and Egyptian women also face multiple difficulties in accessing tailored information, support and protection due to social exclusion, discrimination and economic hardship.²⁹ Anti-Gypsyism and gender stereotypes often result in cultural relativism, prejudices and insufficient responses from public institutions. For instance, early and forced marriages, which are prevalent among these communities,³⁰ are often perceived to be a cultural practice that does not necessarily entail the state's responsibility to act. Additionally, Roma, Ashkali and Egyptian women suffering from domestic violence often lack trust in public institutions and are reluctant to report it. Thus, except when supported by NGOs, they are unlikely to reach out to police and support services for fear of stigma, retaliation from the abusers or due to financial dependency on their abusers. Considering the post-conflict history of Kosovo*, Roma, Ashkali and Egyptian who were internally displaced or are returnees are more likely to lack personal and property documents, which constitute additional barriers for these women to access social assistance and property rights. Although actions to improve civil and property registrations have been undertaken, important gaps persist.³¹

19. While the Strategy for the Inclusion of Roma, Ashkali, and Egyptian Communities in the Kosovar Society (2017-2021), sought to improve Roma, Ashkali, and Egyptian people's awareness of social services, including the awareness among those offering specialist services supporting victims of domestic violence as well as early and forced marriage, the strategy remained partially implemented, it has now expired and has yet to be renewed. Thus, there is a pressing need to foster prevention and support measures aimed at reaching and building trust with Roma, Ashkali and Egyptian women, while addressing the multiple and intersecting factors contributing to their vulnerability to all forms of gender-based violence. Regarding war-time sexual violence, civil society stressed that Roma, Ashkali and Egyptian women's illiteracy and lack of knowledge about reparation procedures are barriers to their claiming such rights.

20. Despite accessibility laws in Kosovo*, the lack of accessible information and facilities, such as police stations, public services and shelters, prevent women with disabilities from knowing their rights, reporting violence, and accessing support and protection.³² More generally, research shows that women with disabilities are often unaware of generalist services available to them, such as sexual healthcare services, which can be an entry point for identifying and referring victims of violence to specialist support services.³³ In addition, despite the lack of data, anecdotal evidence indicates that barriers to assistance for women with disabilities also include the widespread negative attitudes toward them and their capacity to make autonomous choices, as well as the fact that professionals, including police officers and civil servants, are rarely trained and equipped to reach out to and interact with women with disabilities. This is of particular concern considering that women with disabilities are often marginalised from employment and public services which may increase their dependency on their abusers in cases of domestic violence, and thus reduce their ability to disclose violence. Despite the above, the National Strategy on the Rights of Persons with Disabilities (2013-2023) does not address violence against women with disabilities.

²⁹ Ibid; Kosovar Gender Studies Centre (2021). Economic situation of Roma, Ashkali and Egyptian women. KGSC.

³⁰ According to the Multiple Indicator Cluster Survey (2019 -2020), 31% of women from 20 to 24 belonging to Roma, Ashkali and Egyptian communities in Kosovo* were married or cohabiting before the age of 18. See: Kosovo Agency of Statistics and UNICEF. (2020). 2019– 2020 Roma, Ashkali and Egyptian Communities Multiple Indicator Cluster Survey.

³¹ European Commission (2021, October) Kosovo* 2021 Report, SWD(2021) 292 final/2.

³² Information collected during the delegation visit. For example, it was noted that although the Law for Blind persons which requires "access to information in Braille, relief, enlarge writing and audio for all signage in public facilities [and] public official information", such provision was not properly implemented and monitored.

³³ UNFPA. (2020). Research on Access to Sexual and Reproductive Health Services, including Gender-Based Violence, for People with Disabilities with focus on Women and Girls in Kosovo.

21. Finally, entrenched negative attitudes toward LGBTI people compounded by persisting sexist behaviours toward women, constitute heightened difficulties for LGBTI women to report violence and seek help.³⁴ In this context, civil society pointed out the lack of support services tailored to the needs of LGBTI women. Thus, it is welcomed that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) plans to overcome such gaps. The delegation was also alerted to cases of women in prostitution who, after suffering from physical and sexual violence or harassment, were denied access to protection, including protection orders.

22. It is strongly recommended that the authorities take further measures to tackle the multiple discriminations in accessing protection and support faced by certain groups of women victims of violence, in particular women with disabilities, Roma, Ashkali and Egyptian women, women living in rural areas, single mothers, LGBTI women and women in prostitution, including by developing policies and measures to address their specific needs. To this end, the authorities might wish to draw inspiration from the guidance provided in the collection of papers on the Istanbul Convention in relation to the design and implementation of measures addressing the practical barriers and bias faced by women at risk of intersectional discrimination who suffered from gender-based violence.³⁵

D. Gender-sensitive policies (Article 6)

23. Article 6 of the Istanbul Convention calls for the inclusion of a gender perspective in the implementation and evaluation of the impact of its provisions and to promote and implement policies aimed at achieving equality between women and men and the empowerment of women. This obligation stems from the realisation that in order to put an end to all forms of violence covered by the scope of the convention, it is necessary to promote de jure and de facto equality between women and men. It also reflects the principle that violence against women is a consequence as well as a cause of gender inequality.

24. Current policies addressing violence against women in Kosovo* are based on a gender perspective which links measures to combat such violence with actions to promote gender equality and women's empowerment. The National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) and the Kosovo Programme for Gender Equality (2020-2024) cover violence against women in the context of ending gender-based discrimination, mirroring the premise of the Istanbul Convention. In addition, the Law on Gender Equality provides for the gender mainstreaming of all policies and legislation, which should be co-ordinated by the Agency for Gender Equality. While the Law on the Protection against Domestic Violence and associated protocols³⁶ are based on a gender-neutral approach, advanced steps have been taken to amend them. However, the more general sectoral policy instruments still tend to only refer to domestic violence while not systematically applying a gender lens.³⁷ Thus, it is worth noting that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes as a goal the amendment and the adoption of laws and policies based on "a gendered meaning of violence against women, especially outside the sphere of domestic violence". In the implementation of this goal, policy interventions in all relevant sectors would need to be harmonised to adequately address all the forms of violence against women covered by the convention through an approach that links the eradication of such violence with those of entrenched gender inequalities.

³⁴ Various research highlighted low social acceptance for LGBTI people in Kosovo*, their high exposure to violence or fear of discrimination when reporting violence. See for example: World Bank Group. (2018). *Life on the Margins: Survey Results of the Experiences of LGBTI People in South-eastern Europe*; OSCE and UNFPA. (2018). *A Men's Perspective on Gender Equality in Kosovo. Main Findings from the International Men and Gender Equality Survey (IMAGES)*.

³⁵ See Council of Europe (2022) *Ensuring the non-discriminatory implementation of measures against violence against women and domestic violence: Article 4, paragraph 3 of the Istanbul Convention*, A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence.

³⁶ See the Standard Operating Procedures for the Protection against Domestic Violence described in Chapter IV, section on article 18 (General Obligation)

³⁷ See for example: Kosovo Education Strategic Plan (2017-2021) or Kosovo Judiciary Strategic Plan (2020 -2022)

25. Moreover, while policies on violence against women and domestic violence generally underline its gendered nature, such standards remain unknown to a large part of the general public and negative gender stereotypes remain widespread in society,³⁸ including among some professionals from the law enforcement, justice, social and other (public) sectors.³⁹ Thus, it was reported that more gender-sensitive professional training and guidelines are needed to ensure that the gender lens adopted in policy strategies on violence against women can be mainstreamed and have an impact on the implementation of practices on the ground, including professionals' ability to identify and/or respond to the specific difficulties and needs of women facing the various forms of violence covered by the Istanbul Convention.⁴⁰

26. **It is recommended that the authorities increase their efforts to mainstream a gender-sensitive response to violence against women in all relevant policies, and through the development and implementation of relevant guidelines and training curricula for members of public institutions, adapted to their respective fields.**

³⁸ See data from the Kosovar Gender Studies Centre's report "Public Perceptions on Gender Equality and Gender-based Violence" (2021): "24% of Kosovar citizens did not know that a law on gender equality exists". Other data on social acceptance toward violence against women are discussed under Chapter III, section on Article 12 (General Obligations)

³⁹ Information collected during the delegation visit; Qosaj-Mustafa, A. and Morina, D. (2018). Access to justice for victims of gender-based violence in Kosovo. KIPRED; KGSC. (2021). Sexual harassment in the public administration in Kosovo.

⁴⁰ Information collected during the delegation visit; see also Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

II. Integrated policies and data collection

27. Chapter II of the Istanbul Convention sets out the core requirement for a holistic response to violence against women: the need for state-wide effective, comprehensive and co-ordinated policies sustained by the necessary institutional, financial and organisational structures.

A. Comprehensive and co-ordinated policies (Article 7)

28. Article 7 of the Istanbul Convention requires the development of co-ordinated and comprehensive measures to prevent and combat violence against women address all forms of violence against women.

29. In recent years, various policy strategies, measures and documents have been introduced in Kosovo* to address violence against women and to contribute towards the implementation of the Istanbul Convention. The National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026), adopted in January 2022, is the main policy orientation document in this field which is based on four main objectives: i. the prevention and identification of such violence; ii. the advancement and harmonisation of public policies with international standards; iii. the reinforcement of Institutional mechanisms; iv. the provision of general services and specialised support services to victims. It is commendable that this strategy covers violence against women as defined under Article 3 of the Istanbul Convention and addresses three of the convention's pillars: i. Prevention, ii. Protection and support, iii. Integrated Policies. However, the strategy does not contain a set of comprehensive measures to address the fourth pillar of the convention, which is that of "Prosecution". The delegation has also been alerted to the fact that the one-year interruption between the expiration of the previous strategy at the end of 2020 and the adoption of the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) has negatively impacted the continuity of policies in this field.

30. To a lesser extent, other strategies cover the prosecution of violence against women, like the Kosovo Programme for Gender Equality (2020-2024), which sets out measures aimed at strengthening institutional mechanisms and raising awareness of women's access to justice, including access to reparation for women victims of war-time sexual violence. In addition, the Strategy on the Rule of Law (2022-2026) includes as an objective: the improvement of access to courts and prosecution, including activities targeted at advancing the capacity of judicial institutions and deepening co-operation between judicial and non-judicial institutions in combating gender-based violence. However, this strategy does not detail which specific measures will be taken to this end.

31. In Kosovo*, various mechanisms have been set up at central and municipal level to promote multi-agency co-operation in designing and implementing policies aimed at preventing and combating violence against women, with a particular focus on domestic violence. At central level, the Inter-Ministerial Co-ordination Group against Domestic Violence was set up in 2012, as an inter-ministerial political body aimed to co-ordinate policies on domestic violence. Under the Decision no.04/83, this Inter-Ministerial Co-ordination Group shall be chaired by the National Co-ordinator against Domestic Violence, vice-chaired by the Agency for Gender Equality; and shall be composed of representatives from ministries and public bodies in charge of the justice, law enforcement, health, education, social, cultural and statistical sectors.⁴¹ In addition, the Office of the State Prosecutor, the Kosovo Judicial Council, the Academy of Justice and the Shelter Coalition can serve as observers. In previous years, the Inter-Ministerial Co-ordination Group has held meetings to co-ordinate the drafting, implementation, and monitoring of the National Strategy on Protection against Domestic Violence (2016-2020) and the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026).

⁴¹ Pursuant to the Prime Minister decision (Nr. 03/83) of 2012, this Inter-Ministerial Co-ordination Group against Domestic Violence shall be composed of representatives from the Ministry of Justice; the Ministry of Internal Affairs; the Ministry of Health; the Ministry of Education, Science, Technology and Innovation; the Ministry of Finance, Labour and Transfers; the Ministry of Culture, Youth and Sports; Kosovo Police and Kosovo Agency of Statistics.

32. However, the functioning of the Inter-Ministerial Co-ordination Group - although a permanent working group - is dependent on the political mandate of the National Co-ordinator against Domestic Violence which has been vacant multiple times due to early elections. Consequently, the functioning of the Inter-Ministerial Co-ordination Group has not been continuous, hampering progress in implementing and monitoring the National Strategy on the Protection against Domestic Violence (2016-2020).⁴² According to the National Co-ordinator against Domestic Violence, following a decision taken by the Inter-Ministerial Co-ordination Group on 21 April 2021, the meetings of this Inter-Ministerial Co-ordination Group have taken place on a monthly basis and have involved high-level public representatives with decision-making competences coming from more institutions than the one foreseen under the Decision No. 04/83. Although the above decision limits its scope of action to domestic violence, in practice, the Inter-Ministerial Co-ordination Group has covered violence against women beyond domestic violence particularly in the context of the preparation of the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026). However, the fact that the Inter-Ministerial Co-ordination Group does not have clearly defined duties and working methods nor resources assigned reduces its ability to carry out continuous and co-ordinated policy-making on all of the forms of violence covered by the convention.

33. Municipal co-ordination mechanisms against domestic violence have also been established in certain municipalities to co-ordinate policy-making and case-management related to domestic violence. Such mechanisms involve professionals from the various sectors active in responding to domestic violence at municipal level, including, among others, representatives from municipalities, law enforcement agencies, judicial institutions, social services, healthcare services, education institutions and NGOs. In the few municipalities where these mechanisms are operational, certain municipal co-ordination mechanisms have drafted, implemented and monitored their own municipal strategy aimed at co-ordinating their action to prevent and combat domestic violence. Since the adoption of the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026), some municipal co-ordination mechanisms have undertaken steps to expand the scope of their municipal strategy to cover violence against women beyond domestic violence.

34. **It is recommended that the authorities enhance long-term co-ordination in developing, implementing and monitoring policies giving due importance to preventing and combating all forms of violence against women, including by strengthening the continuous and efficient functioning of existing co-ordination mechanism at central and municipal level.**

B. Financial resources (Article 8)

35. In Kosovo*, the main public budget dedicated to measures to prevent and combat violence against women is allocated to the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026). The action plan for the implementation of the above strategy for the first three-year period (2022-2024) foresees a total of €5 745 570 financed through the central budget and international donors. However, it is concerning that the above strategy still includes a funding gap.⁴³ The Kosovo Programme for Gender Equality (2020-2024) also foresees a budget line (€250 000) aimed at implementing measures in the field of women's access to justice. Other policy documents do not include any specific budget line dedicated to preventing and combating violence against women and domestic violence.

36. In a recent positive development, since 2019 each annual central budget has earmarked a specific budget line for "the basic operation of shelters".⁴⁴ Despite its label, this budget line includes both funding for shelters and day care services supporting women victims of domestic violence and their children, as

⁴² Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN. p. 68-67

⁴³ The National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) indicates that its related three-year Action Plan (2022-2024), has an estimated total cost of €5 745 570, while the budget identified for this purpose is of only €4 932 195.

⁴⁴ see the "Law on The Budget Appropriations for The Budget of the Republic of Kosovo" for 2019, 2020, 2021 and 2022

well as victims of human trafficking, abused children and foster children. In 2021, €900 000 was allocated to licenced NGOs offering those services, among which €445 000 was granted to ten shelters, including eight domestic violence shelters. Every year, the Ministry of Finance, Labour and Transfer launches a public call for this outsourcing of NGO-run services. However, the delegation has been alerted to systematic deficiencies in the timely allocation of this funding scheme. According to multiple indications from civil society, the late adoption of central annual budgets, the late publication of calls for funding and other administrative issues have delayed the distribution of this funding on an annual basis. Consequently, shelters have not received such funds for the first few months of the year, which significantly jeopardises the daily provision of essential support to women and their children. While the authorities indicated that such payment was made retroactively in 2021, the delegation was informed that this had not been done systematically in previous years. In late February 2022, the delegation's attention was drawn to the fact that shelters had not received the funding for January and February 2022, and its retroactive allocation had not been announced.

37. Moreover, the current central funding scheme is not tailored to specialist support services, especially shelters. Indeed, the level of funding allocated by the Ministry of Finance, Labour and Transfer is insufficient, and its annual tendering procedure does not provide for long-term funding for specialist support services, which face administrative burdens and uncertainty.⁴⁵ Hence, the functioning of shelters depends on ad hoc small municipal subsidies, international donors, or shelters' income-generating projects.⁴⁶ The underfunding of shelters' basic costs is particularly alarming, since the amount of small municipal grants for shelters vary across Kosovo*, and international donors have moved to financing prevention and capacity-building activities rather than the running costs of shelters daily operations. Thus, there is a pressing need to increase and sustain the central budget dedicated to shelters' operational costs. In this regard, the delegation was informed that shelters have advocated for a three-year funding cycle tied to the licencing period. A recent study launched by the Agency for Gender Equality estimated the operational costs of shelters which may constitute the basis for budgeting and allocating sufficient funding for shelters.⁴⁷ The National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes a measure aimed at "Supporting shelters with continuous funding" with an earmarked annual budget of €320 000 from 2023 to 2026, but it is unclear how this measure will be implemented in practice.

38. While the readiness of the authorities at central level to co-operate with the international community is recognised, Article 8 of the Istanbul Convention requires public institutions to allocate adequate public funding for the implementation of measures addressing violence against women and domestic violence. To this end, the authorities should consider gradually reducing their dependency on international donors for activities to combat violence against women, particularly for the provision of specialised support services, and ensure a wider share of funding from the central budget for this purpose. This point has been made on several occasions by GREVIO.⁴⁸

39. Moreover, no funding appears to be dedicated to the municipal co-ordination mechanisms against domestic violence operating in some municipalities. Their members carry out their tasks without further resources, as part of their professional duties or – as in the case of NGOs – voluntarily. Thus, these municipal co-ordination mechanisms are reliant on the commitment of their members to carry out their tasks in addition to their usual workload. While the National Strategy on the Protection against Domestic Violence and Violence against Women foresees a total of €6 115 between 2022 and 2024 for strengthening these municipal co-ordination mechanisms, a cost assessment and budgeting of planned actions carried

⁴⁵ Information collected during the delegation visit, see also: Logar, R. and Qosaj-Mustafa, A. (2021) Quality guidelines for shelters for victims of Violence against Women and Domestic Violence: Enhancing services for victims in Kosovo*. Council of Europe, p. 11-13; Ombudsperson Institution. (2022). Annual report 2021. p.71.

⁴⁶ For instance, regarding self-generating income projects, the delegation visited the women's shelter in Gjakova/ Đakovica which covers some of its expenses with the selling of their own bakery and honey production projects.

⁴⁷ Idrizi, B. (2021). "Kosovo Shelter Operational Budgeting and Design Guidelines". Agency for Gender Equality-GIZ.

⁴⁸ See GREVIO's baseline evaluation reports on Albania (paragraph 31), Montenegro (paragraphs 34-35) and Serbia (paragraphs 31-32)

out by such municipal co-ordination mechanisms would be necessary to ensure their effective and timely functioning.

40. Little information was made available to the delegation regarding the budget earmarked by each ministry or public body for actions aimed at preventing and combating violence against women and domestic violence. The Budget Law for 2021 and 2022 only mentions “gender equality” in the budget lines of the Agency for Gender Equality and municipal gender equality officers.⁴⁹ Moreover, the Agency for Gender Equality provided to the delegation data on its financial resources allocated to preventing violence against women, including small NGO-grants, the organisation of professional training on domestic violence and other activities. Under the Law on Gender Equality (Article 5), public institutions must apply the principles of gender budgeting in the collection and allocation of resources. Moreover, the Better Regulation Strategy 2.0 for Kosovo (2017-2021) has called for the conduct of gender impact assessments to evaluate and analyse how policies and programmes address the actual needs of women and men. The Ministry of Finance, Labour and Transfer has also issued budget circulars to encourage public bodies at central and municipal level to submit gender responsive financial data as part of their budget.⁵⁰ However, research shows that not all public institutions consistently submit information on gender budgeting.⁵¹

41. It is urgently recommended that the authorities increase the stability and the level of funding granted to specialist NGOs to remedy gaps in the provision of specialist support services, especially shelters for victims of violence against women, by considering replacing the annual tendering procedure by a stable multi-annual funding scheme.

42. It is also recommended that the authorities ensure appropriate human and financial resources for all institutions and entities mandated to implement measures aimed at preventing and combating violence against women, including the municipal co-ordination mechanisms against domestic violence. To this end, it is further recommended that the authorities pursue their efforts to implement gender budgeting tools and gender impact assessments in all relevant ministries and institutions as a way of allocating sufficient funding to respond to violence against women as well as to monitor the implementation of gender budgeting tools with a view to documenting an increase over time in the budgets earmarked and spent in this field.

C. Non-governmental organisations and civil society (Article 9)

43. In Kosovo*, women’s rights organisations/NGOs and those working with women at risk of intersectional discrimination play a central role in operating specialist support services for women victims of violence, as well as conducting preventive interventions and producing regular research assessing the situation on the ground in this field. Based on a victim-centred and gender-sensitive approach, NGOs are the only entities offering essential specialist support services, such as shelters for women, legal and psycho-social counselling. Through their consolidated networks and interventions on the ground, NGOs are also central to reaching out to women victims, informing them about their rights, promoting their socio-economic empowerment, as well as supporting them in navigating the judicial and administrative systems, when seeking assistance, protection, and justice.

44. The expertise of NGOs is recognised by public institutions that generally seek to officially involve women’s rights NGOs running specialist support services and preventive measures through public consultations and multi-agency co-operation mechanisms. For instance, the Shelter Coalition, a formal network of NGOs running shelters for victims of domestic violence, human trafficking and children, has observer status at the Inter-Ministerial Co-ordination Group against Domestic Violence and was part of the working group drafting the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026). In addition, public consultations, including meetings, were held during the drafting of the above strategy to include input from civil society. In addition, pursuant to the Law

⁴⁹ See the “Law on The Budget Appropriations for The Budget of the Republic of Kosovo” for 2021 and 2022

⁵⁰ Farnsworth, N. et al. (2021). “The Pandemic Knows No Gender”? A Gender Fiscal Budget Analysis: The Government of Kosovo’s Response to the COVID-19 Pandemic from a Gender Perspective. Kosovo Women’s Network. p. 34

⁵¹ Ibid, p.35

on Gender Equality, the Agency for Gender Equality is responsible for co-operating with civil society in the field of gender equality, including gender-based violence, and organises regular meetings with civil society organisations.

45. Notwithstanding the above, it was indicated to the delegation that more effort from the authorities at central level is needed to tap into the expertise of NGOs and grassroots organisations. Indeed, more systematic co-operation with women's rights NGOs would be crucial to bring forward the actual needs of women victims of all forms of gender-based violence, to expand promising practices, to avoid duplication between NGO-led programmes and public policies, as well as to better target the allocation of public resources.

46. Despite the essential role of NGOs in preventing violence against women and supporting victims, very little public funding is earmarked to support their awareness-raising, service provision, and monitoring roles, other than the limited annual budget allocated to NGO-run shelters. The Agency for Gender Equality and municipalities allocate small project grants to NGOs conducting prevention, awareness-raising and support activities in the field of gender equality and violence against women, but these are limited and project-based. On a more positive note, the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) plans an annual modest budget for "Advancing inter-institutional co-ordination and co-operation between the central and local level and civil society organisations", including by holding regular consultations. Although the strong reliance on dedicated and specialist women's rights NGOs running support services and awareness-raising ensures quality assistance for victims and tailored preventive interventions, the dependency of NGOs on international donors raises concerns regarding their sustainability. Such dependency should be eased by gradually developing more long-term public funding schemes for specialist women's rights NGOs.

47. **It is urgently recommended that the authorities ensure suitable funding opportunities for women's rights NGOs that run specialist support services and lead grassroots prevention efforts in relation to all forms of violence against women. It is also strongly recommended that the authorities ensure a more systematic consultative dialogue with specialist women's rights NGOs and grassroots organisations to bring forward their priority concerns, their promising interventions and incorporate their experiences into the design of policies to prevent and combat all forms of gender-based violence against women.**

D. Co-ordinating body (Article 10)

48. According to the authorities, the National Co-ordinator against Domestic Violence within the Ministry of Justice serves as the co-ordinating body, fulfilling the functions set out under Article 10 of the Istanbul Convention. Based on the 2012 Decision No. 04/83, the Deputy Minister of Justice is automatically appointed as the National Co-ordinator against Domestic Violence. Although the mandate of this co-ordinator is not defined in any legal instrument, the National Strategy on the Protection against Domestic Violence (2016-2020) was the first document to define the co-ordinator's role by underlining that it the co-ordinator oversees the preparation, implementation and monitoring of the strategy, and co-ordinates the meetings and actions of the Inter-Ministerial Co-ordination Group on Domestic Violence. The National Co-ordinator against Domestic Violence must also prepare monitoring reports for the above strategy. The National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) recalls the above responsibilities and adds that the National Co-ordinator against Domestic Violence is also in charge of measures to oversee a cross-sectoral database on domestic violence cases.⁵² The authorities have informed the delegation that the above Strategy has expanded the mandate of the National Co-ordinator against Domestic Violence to cover violence against women beyond domestic violence, although its name remains unchanged.

49. Whilst commending the fact that the co-ordinating role of the National Co-ordinator against Domestic Violence is tied in at a high political level, its lack of institutionalisation is noted with concern.

⁵² See Chapter II, section on article 11 (Administrative data)

Firstly, its competences, status and resources are not defined under any law or administrative order. Secondly, the function of the National Co-ordinator against Domestic Violence depends on the political mandate of the Deputy Minister of Justice, while an insufficient budget is dedicated to this body. Only the Deputy Minister of Justice, her/his personal assistant and an advisor in the Cabinet of the Ministry of Justice are officially tasked with managing the activities of this body. While some civil servants of the Ministry of Justice also contribute intermittently to the work of the National Co-ordinator against Domestic Violence, this is in addition to their workload without adjusting their work assignments and budgets. Thus, the low administrative capacity of the National Co-ordinator against Domestic Violence hinders the efficiency and sustainability of its co-ordinating role. As noted above, due to early elections, the position of the National Co-ordinator against Domestic Violence has been vacant several times. Such interruptions have negatively impacted the implementation and monitoring of the National Strategy on the Protection against Domestic Violence (2016-2020) and have prevented the preparation of policies related to tackling violence against women.⁵³ Therefore, it is welcomed that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) foresees measures to institutionalise an Office of the National Co-ordinator against Domestic Violence, including by recruiting staff and enshrining its competences in law.

50. Finally, according to the authorities, the National Co-ordinator against Domestic Violence is the sole body co-ordinating, monitoring and evaluating the implementation of measures on violence against women. The authors of this report recall that the evaluation function defined under Article 10 of the Istanbul Convention is to be understood as implying an independent and scientific assessment, based on robust data, of measures taken in its implementation. In its baseline evaluation reports, GREVIO has pointed out the added value of having a body responsible for the evaluation of policies to prevent and combat violence against women that is institutionally independent from the body tasked with coordinating the implementation of such policies. In this regard, the fact that the National Co-ordinator against Domestic Violence bears the responsibility for co-ordinating and monitoring the design and the implementation of the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026), and other relevant measures falling under the scope of the Istanbul Convention, as well as for the evaluation of the implementation of this strategy and these measures, might not ensure the necessary objectivity required for independent evaluation.

51. It is strongly recommended that the authorities fully institutionalise the Office of the National Co-ordinator against Domestic Violence by allocating the necessary human and financial resources dedicated to its work. It is further recommended that the authorities ensure, on the one hand, the co-ordination and implementation of measures to prevent and combat all forms of violence against women, and, on the other hand, their independent evaluation, in order to ensure objectivity in the evaluation of policies. Regular monitoring and evaluation should be based on sound data, comparable indicators and cover the entire territory.

E. Data collection and research (Article 11)

52. Preventing and combating violence against women and domestic violence requires evidence-based policy making. The collection of systematic and comparable data from all relevant administrative sources is crucial in this regard, as is information on the prevalence of all forms of violence against women.⁵⁴

1. Administrative data collection

53. In 2019, the National Co-ordinator against Domestic Violence, with the technical support of UN Women, launched an integrated database on cases of domestic violence to be used by relevant institutions

⁵³ Banjska, E. et al. (2021). "From Laws to Action: Monitoring the Institutional Response to Gender-based Violence in Kosovo". KWN, p. 68-67

⁵⁴ While this section discusses the main considerations related to data collection, Chapters V and VI also offer reflection on data related to specific criminal offences.

from various sectors. To that end, a memorandum of understanding was signed between the involved ministries and institutions: the Ministry of Justice, the Ministry of Finance, Labour and Transfer (formerly the Ministry of Labour and Social Welfare), the Kosovo Judicial Council, the Kosovo Prosecutorial Council and the Kosovo Police. According to the authorities, several meetings, trainings and workshops have been held with all these institutions. The system is designed to function as an integrated database for many of the institutions that provide support or assistance to victims of domestic violence. Six institutions use the integrated database, namely the police, social services (i.e. Centres for Social Work), the Victims Advocacy and Assistance Office,⁵⁵ shelters, the Office of the State Prosecutor and courts. Currently the database is available in Albanian and Serbian. Its translation into English is also foreseen.

54. This database aims at generating anonymised statistics tracking a victim's path throughout the judicial system and support services. According to the methodology indicated by the National Co-ordinator against Domestic Violence, institutions follow the following steps. Firstly, the Kosovo Police open the case in the database, by completing information on victims and perpetrators (including their sex, age, "municipality of residence", "disability status", and "association to the LGBTQ community"). Secondly, entities providing support services to victims should upload information on the assistance provided. Thirdly, the police, the Office of the State Prosecutor and the courts should complete the criminal offences related to the case. Finally, the court should specify the outcome of the case. According to the National Co-ordinator against Domestic Violence, while police officers fill in the data in a satisfactory manner, some challenges persist, as judges do not always compile the data in real time. Although the delegation acknowledges the use of the above system of data collection, the delegation was only provided with overall data of the total number of cases of domestic violence registered in the database. Although the data was disaggregated by age and sex, no sub-data was made available regarding victim's access to support services and justice, making it difficult to draw conclusions as to crucial elements of the system. Thus, the level of implementation of this data collection system across sectors and whether the National Co-ordinator against Domestic Violence regularly extracts comprehensive statistics from this database is unclear.

a. Law-enforcement agencies and the justice sector

55. Through its internal database, the Kosovo Police Information system (KIPS), the Kosovo Police collects data on all reported criminal offences, including, among others, domestic violence (Article 248 of the Criminal Code), harassment (Article 182 of the Criminal Code), forced marriage (Article 239 of the Criminal Code) and rape (Article 227 of the Criminal Code). According to the Kosovo Police, all data on reported criminal offences collected by the police can be easily extracted and are disaggregated by sex, age and ethnicity. The Kosovo Police also collect data on the number of temporary emergency protection orders⁵⁶ issued by police officers.

56. To ensure better data harmonisation, the Case Management Information System (CMIS) of the Kosovo Judicial Council and the Kosovo Prosecutorial Council, as a common digital platform is used by courts and prosecutors to ensure the availability of electronic data on prosecution and to improve case-management. According to the Kosovo Judicial Council, this data covers all offences and is disaggregated by gender, ethnicity and type of offences. However, in practice, judicial institutions seem to extract only partial data in a non-harmonised manner and on an ad hoc basis. In this regard, no comprehensive sex-disaggregated data on the number of prosecutions, convictions, and the type of sentences in relation to all offences related to violence against women has been provided by judicial and prosecutorial services to the delegation. On the one hand, the Office of the State Prosecutor provided annual data on domestic violence cases, including the number of processed and dismissed cases, as well as the number of indictments, that are broken down by the sex of the victim. On the other hand, the Kosovo Judicial Council and the basic courts collect data on the number of convictions broken down by type of criminal offence, some of which is published in consolidated reports by the Kosovo Agency of Statistics.⁵⁷ Such data is broken down by the

⁵⁵ For more information on the Victims Advocacy and Assistance Office see Chapter VI, section on Article 55 (Victim support in legal proceedings)

⁵⁶ See Chapter VI, section on Article 52 (Emergency Barring Orders)

⁵⁷ Kosovo Agency for Statistics. (2020). Statistics of Jurisprudence for Adult Persons 2019.

sex and the nationality of the offender as well as the type of sentence (fine, imprisonment, conditional sentence, mandatory treatment for perpetrators).

57. At the same time, it is unclear if the data-collection systems of the police and judicial institutions make it possible to track cases of violence against women across the various stages of the criminal justice system (law-enforcement agencies – prosecution – courts) and to identify the outcomes. In this context, one of the main requirements of Article 11 of the convention is to design data-collection models in a manner that allows an assessment of conviction rates and attrition rates (the process whereby cases drop out of the criminal justice system) in order to analyse the efficiency of institutional and judicial response to all forms of violence against women. Moreover, data collected by the police and judicial institutions is not broken down by all categories as set out in the Explanatory Report to the Convention, including the sex and age of both the victim and the perpetrator, the relationship between them, type of violence and geographical location.⁵⁸

58. It is urgently recommended that the authorities expand the scope of the data collected by law-enforcement agencies and the judiciary to cover all forms of violence against women, and to ensure that such data is disaggregated by sex, age and the relationship between the victim and the perpetrator. It is strongly recommended that the authorities take measures, including through the rolling out of the Case Management Information System, to harmonise the collection of the above data between law-enforcement agencies and the judiciary with the ultimate aim of assessing attrition rates.

b. Health-care sector

59. For several years, the Health Information System (HIS) has been developed with a view to making it operational throughout Kosovo* as a tool to be used by all registered health institutions to collect and report medical data to the Ministry of Health. Noting the low implementation of the HIS, the Kosovo Programme for Gender Equality (2020-2024) foresees the improvement of the collection of health data on women and children's health in the HIS, including health issues resulting from experiences of gender-based violence. However, the delegation was informed by the authorities that HIS was not fully functional and does not allow all health professionals to register data on domestic violence. The Ministry of Health indicated to the delegation that it was working towards ensuring the functioning of the HIS but that currently it was only operating in one hospital. No information was provided on any type of data collected by healthcare services on the number of women seeking medical help for experiences of violence. In addition, the Ministry of Health is not included in the integrated database run by the National Co-ordinator against Domestic Violence.

60. Thus, holistic healthcare statistics on contacts with women victims of the forms of violence covered by the convention are currently missing in Kosovo*, which would be essential to design evidence-based and gender-sensitive policies on medical treatment and counselling for women victims of gender-based violence, a policy area that remains insufficiently developed.

61. It is strongly recommended that the authorities take measures to ensure the collection of harmonised data in relation to healthcare providers' contacts with patients for reasons related to experiences of gender-based violence. Such data should be disaggregated, at a minimum, by sex, age and relationship of the perpetrator to the victim.

c. Social services

62. According to the authorities, the Centres for Social Work, the general social services in Kosovo*, collect data on the number of victims of domestic violence who receive social support and assistance. The above data is broken down into three categories of victims: women, men and children. Shelters run by NGOs also collect their own data on the number of women and children residing in their facilities and the

⁵⁸ Explanatory Report to the Istanbul Convention, paragraph 76

duration of their stay, which are disaggregated by sex and age. The Centres for Social Work and shelters are among the institutions filling in the integrated database run by the National Co-ordinator against Domestic Violence. However, it is unclear if this data provides information on the type of social assistance provided to victims of domestic violence, such as financial assistance, psycho-social support, employment support or social housing. Besides, data on victims covered by social assistance is not broken down by the type of violence, nor on the relationship between the victim and the perpetrator. Another limitation is that the data collected only covers domestic violence and does not include victims of other forms of violence covered by the convention, who may also be receiving assistance from social services.

63. **It is strongly recommended that the authorities expand the scope of the data collected by social services and shelters to ensure that it addresses all forms of violence covered by the Istanbul Convention and is disaggregated by sex, age and relationship of the perpetrator to the victim and other relevant categories such as disability status.**

2. Population-based surveys

64. In relation to violence against children, in 2020 the Kosovo Agency of Statistics launched the Multiple Indicator Cluster Survey (MICS) and the MICS for the Roma, Ashkali and Egyptian Communities, with the technical support of the United Nations Children's Fund (UNICEF). This survey documents the prevalence of child marriage and domestic violence against children, as well as children's perception of domestic violence, based on a representative sample of children in Kosovo* and a sub-sample of Roma, Ashkali and Egyptian children. The delegation was not made aware of any other survey on the prevalence of the different forms of violence against women conducted by the authorities. It is therefore encouraging to note that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) foresees the launch of regular population-based surveys on the prevalence and the public perception of violence against women.

65. In 2019, the Organisation for Security and Co-operation in Europe (OSCE) published the "Survey on well-being and safety of women in Kosovo",⁵⁹ which is part of the first comparable representative survey conducted in South-East Europe and Eastern Europe and is based on the methodology used by the Violence against Women survey conducted in 2014 by the European Union Agency for Fundamental Rights. It covers the exposure to different forms of violence by women in Kosovo* and attitudes towards gender-based violence. It found that 54% of ever-partnered women aged 18-74 have suffered from physical, psychological or sexual violence by an intimate partner since the age of 15, even though this number is likely to be underestimated considering the stigma around domestic violence in Kosovo*. In relation to sexual harassment, 29% of women aged 18-74 say they have experienced it since the age of 15, making it a widespread form of gender-based violence in Kosovo*.

66. **It is strongly recommended that the authorities carry out regular prevalence surveys on all forms of violence against women covered by the Istanbul Convention, including violence experienced by women at risk of intersectional discrimination.**

3. Research

67. Article 11, paragraph 1b, of the convention creates the obligation to support research as it is essential to base policies and measures to prevent and combat all forms of violence covered by the convention on state-of-the-art research and knowledge in this field. As a key element of evidence-based policy making, research can contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law-enforcement agencies.⁶⁰

⁵⁹ OSCE. (2019). Survey on Well-being and Safety of Women in Kosovo.

⁶⁰ Explanatory Report to the Istanbul Convention, paragraph 77.

68. Some studies on violence against women and associated gender equality matters were carried out or supported by public institutions, particularly the Agency for Gender Equality, with the support of international funding. The research ranges from assessing the efficacy of multi-agency responses to domestic violence and analysing newspaper coverage of violence against women.⁶¹ In addition, NGOs specialised in legal matters and women's rights, supported by international donors and to a lesser extent by public institutions, play a crucial role in conducting wide-ranging research into the manifestation of the different forms of violence against women, public attitudes toward such violence, the responses of law enforcement and judicial institutions, as well as economic violence in the context of women's unequal access to property rights. While most research initiatives focus on intimate partner violence, some also cover sexual violence or sexual harassment. As a promising practice, the Kosovo Women's Network, with the financial support of the Austria Development Agency, launched in 2017 and 2021 two comprehensive research reports evaluating the response of all relevant institutions and services to gender-based violence against women in Kosovo*, and in the 2021 study used the standards set in the Istanbul Convention.

69. However, most research projects on violence against women in Kosovo* are funded by foreign donors and carried out by NGOs or international organisations with little direction and support from the authorities. Moreover, research on certain forms of violence against women is still rare, such as forced marriage, stalking or violence in the digital sphere. There is also little research that explores the reasons for the low reporting rates of sexual violence or forced marriage, as well as the low conviction rates for all forms of violence against women. In addition, there is no comprehensive research on help-seeking barriers faced by women who are or might be at risk of intersectional discrimination, including, but not limited to, Roma, Ashkali and Egyptian women, women with disabilities and LGBTI women.

70. It is recommended that the authorities step up efforts to support research into manifestations of violence against women that remain unexplored, including by setting research priorities and offering funding opportunities. It is further recommended that the authorities continue to evaluate existing policies and legislative measures to assess their level of implementation, efficacy and victim satisfaction with support and protection services.

⁶¹ Agency for Gender Equality (AGE). (2019). Assessment of the level of implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo; AGE (2021) Women representation in the print media.

III. Prevention

71. This chapter contains a number of general and more specific obligations in the area of prevention. These include early preventive measures such as changing social and cultural patterns of behaviour of women and men, eradicating prejudices and gender stereotypes, and measures to involve all of society, including men and boys, in achieving gender equality and the prevention of violence against women. It also includes more specific preventive measures such as awareness raising and campaigning, ensuring the adequate training of all professionals, education in schools and other settings, and, last but not least, measures such as perpetrator programmes to prevent further victimisation.

A. General obligations (Article 12)

72. Article 12 delineates the fundamental foundations of the duty to prevent violence against women. These include the determination to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men. Moreover, flowing from the premise that violence against women is a cause as much as a consequence of gender inequality, Article 12 requires the adoption of specific measures to empower women and to achieve greater gender equality in order to reduce women's vulnerability to violence.

73. It is noted with satisfaction that the recent National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) is the third consecutive strategy addressing domestic and gender-based violence, which contains a specific strategic objective on the prevention and the identification of violence. Measures aimed at education institutions, civil society organisations but also the media and private sectors are envisaged, focussing both on preventing violence and on identifying cases. Likewise, under this strategic objective several measures are comprised to develop treatment programmes for perpetrators of violence. The strategy also aims to engage boys and men in the prevention of violence as allies of girls and women in the fight against violence against women, and to that end it includes specific measures targeting men and boys. Additionally, the Kosovo Programme for Gender Equality (2020-2024) also includes measures to prevent gender-based violence against women and girls, as well as to address gender stereotypes through education institutions and awareness-raising campaigns, among others.

74. Despite the above preventive measures, public attitudes and perceptions toward violence against women remain largely shaped by patriarchal norms regarding the expected roles and responsibilities of women and men in both public and private spheres. As previously discussed, negative stereotypes portraying women as inferior to men are reinforcing and perpetuating structural gender inequalities in Kosovo*, including socio-economic inequalities such as limited access to the labour market, as well as limited property and inheritance rights, which increases the risk of women being financially dependent on their perpetrators.⁶²

75. Research has shown that public acceptance of violence against women persists in Kosovo*. For instance, results from the 2021 survey on "Public perceptions of Gender Equality and Violence against Women"⁶³ showed that almost 30% of respondents believed that men "are violent by nature" and that 13% considered that a woman should accept violence to keep the family united. In relation to sexual violence, almost 10% of respondents declared that women or girl victims of sexual harassment or abuse "have provoked it", while 8% believed that for a case to be considered as a rape, women would have to physically fight back. In addition, the 2019 OSCE "Survey on well-being and safety of women in Kosovo" showed that 48% of women believed that domestic violence is a private matter that should be kept within the family. Such findings point to the need to step up general measures to promote changes in mentalities and eradicate gender-biased beliefs and prejudices that normalise, silence and perpetuate violence against women. In this respect, the Recommendation CM/Rec(2019) of the Committee of Ministers to member states on preventing and combating sexism may provide guidance to pursue sustained measures to

⁶² See Chapter I, the section on Article 4 (Gender equality and non-discrimination).

⁶³ Kosovar Gender Studies Centre (2021). Public perceptions on gender equality and gender-based violence, p. 27.

promote changes in patterns of behaviours and to reduce sexist beliefs that exist in some segments of the society.

76. It is recommended that the authorities foster measures aimed at eradicating stereotypes, prejudices and all practices based on the idea of women's inferiority to men, which contribute to justifying and perpetuating violence against women.

B. Awareness raising (Article 13)

77. According to information from the authorities, the main awareness-raising activities are mostly organised during the annual 16 Days of Activism against Gender-Based Violence. Information materials have been distributed and TV spots broadcast to inform women and society at large about victim's rights and available remedies. It is welcomed that these prior campaigns have focused on domestic violence but have also addressed war-time sexual violence, sexual harassment or early marriages. However, it is unclear whether these short-term campaigns have been supported by longer-term awareness-raising initiatives aimed to promote sustainable changes in mentalities. Most of the above initiatives are led by the Ministry of Justice through the National Co-ordinator against Domestic Violence and the Agency of Gender Equality. In this context, except for the Kosovo Police which undertakes various communication activities to prevent domestic violence, other ministries and public bodies, operating in other sectors, appear to be rarely involved in the conduct of prevention measures. It is also noted that no particular measures have been taken to assess the impact of existing awareness-raising measures undertaken, and it is unclear to what extent such campaigns have reached the population across Kosovo*.

78. Some municipalities also conduct prevention and awareness-raising activities mainly led by municipal gender equality officers and municipal human rights units. The number and the extent of these initiatives appears to vary across municipalities, as well as their level of co-operation with civil society involved in community-based prevention of violence against women. Considering the experience and knowledge of women's rights NGOs working with women victims and women exposed to intersectional discrimination, Article 13 encourages the involvement of civil society organisations in the design and implementation of awareness-raising activities run by public authorities. As a promising example, an NGO-led⁶⁴ door-to-door campaign aimed at preventing early and forced marriages within the Roma, Ashkali and Egyptian communities was run by the Network of Roma, Ashkali and Egyptian Women's Organisations of Kosovo, in five municipalities, in 2021. As a positive outcome, research found a large number of Roma, Ashkali and Egyptian women and men to be familiar with this campaign⁶⁵, making this an interesting practice of intersectional intervention and engagement of boys and men in preventing forced marriage.

79. With regard to the post-conflict history of Kosovo*, efforts have been made to raise awareness of war-time sexual violence and to inform victims of their rights to recognition and reparation.⁶⁶ Initiatives like billboards and regional conferences held by the Government Commission for the Recognition and the Verification of the Status of Victims of Sexual Violence during the War to communicate about existing reparation procedures have contributed, to some extent, to lift the veil of shame for many victims, especially women. Further information measures are necessary to ensure that all victims of sexual violence during the war, particularly in rural areas and hard-to-reach communities, are aware of their rights and support services available. Furthermore, it is concerning that sexual violence, including rape, occurring outside the war context, remains overlooked. While the authors of this report note that some information materials on sexual violence are disseminated by public bodies like the Forensic Institute of Medicine, those are not part of a co-ordinated preventive effort of all relevant institutions. Thus, the scope of such awareness-raising initiatives is focused on sharing practical information on how to secure the collection of forensic evidence,

⁶⁴ See the project led in 2021 by the Network of Roma, Ashkali and Egyptian Women's Organisations of Kosovo under the EU-UN Women regional programme on ending violence against women, "Implementing Norms, Changing Minds".

⁶⁵ According to the 2021 survey on Public Perception of Gender Equality and Violence Against Women conducted by Kosovo Women's Network about 64% of the Roma, Ashkali, Egyptian respondents have heard about this campaign. All respondents from Roma, Ashkali and Egyptian communities agreed that early marriages should be banned.

⁶⁶ See Chapter V, section on Article 30 (compensation)

rather than addressing social stigma and victim blaming attitudes affecting victims of sexual violence. It appears crucial to bridge such gaps by stepping up the level of societal awareness of sexual violence in the context of efforts to increase gender equality, including the respect for women's consent to sexual acts, as a means of preventing further violence as well as of ensuring that women feel sufficiently safe and empowered to report violence and seek help.

80. In addition, few or no public awareness-raising initiatives seem to exist in relation to other forms of violence covered by the Istanbul Convention such as psychological violence, economic violence or stalking, especially when perpetrated in the digital sphere. This gap is particularly problematic considering the low societal awareness of such forms of violence⁶⁷ and indications of the prevalence of such violence in Kosovo⁶⁸. Similarly, no activities appear to have been conducted to sensitise the general public on the harm caused to children who witness domestic violence. The obligation contained in Article 13 explicitly foresees the promotion and the conduct of regular campaigns and programmes to increase public understanding of all forms of violence covered by the convention, including their consequences on children exposed to such violence. In this respect, Guidelines for Awareness Raising on Violence Against Women and Domestic Violence in Kosovo* have been launched by the Council of Europe in 2021.⁶⁹ In addition, GREVIO's General Recommendation No.1 on the digital dimension of violence against women explicitly calls for the implementation of awareness-raising campaigns on the different forms of violence against women perpetrated in the digital sphere as well as on support available to victims.

81. **It is recommended that the authorities further diversify and sustain their awareness-raising efforts to address all forms of violence covered by the Istanbul Convention, including through the resourcing of campaigns and by engaging in partnerships with women's rights NGOs and community-based organisations working with women at risk of intersectional discrimination and the media.**

C. Education (Article 14)

82. Attitudes, convictions and behavioural patterns are shaped very early in life. Educational establishments therefore have an important role to play in promoting equality between women and men, and human rights. Article 14 therefore requires the design of teaching material that promotes equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, the right to personal integrity, and that informs learners of the different forms of gender-based violence against women.

83. Promisingly, gender mainstreaming in education curricula and materials is required under the Law on Gender Equality.⁷⁰ Thus, Article 21 provides that education institutions are obliged to incorporate gender equality education in school curricula at all levels, notably by including learning activities to sensitise youth about gender equality. The law also requires the inclusion of a gender perspective and the elimination of gender stereotypes, prejudices and practices contrary to gender equality in education programmes, textbooks and other materials.

⁶⁷ According to a 2021 survey from the Kosovar Gender Studies Centre, only 65% of the respondent believed that stalking is punishable by law, and 54% believed so as regard to economic violence. Jusifi, N. (2021). Public Perceptions on Gender Equality and Gender-based Violence. Kosovar Gender Studies Centre,

⁶⁸ Information collected during the delegation visit; OSCE. (2019). Survey on well-being and safety of women in Kosovo.

⁶⁹ Henry, N. and Berisha, A. (2021) Guidelines for Awareness Raising on Violence Against Women and Domestic Violence, Council of Europe: 'Reinforcing the Fight Against Violence against Women and Domestic Violence in Kosovo *

⁷⁰ Law on Gender Equality, Article 21.

84. In addition, equality and non-discrimination principles are enshrined in the Curriculum Framework for Pre-university Education, the primary⁷¹ and secondary core curricula⁷² drafted by the Ministry of Education, Science, Technology and Innovation, which sets forth gender equality and human rights as cross-curricular issues to be addressed through different subjects. The Kosovo Education Strategic Plan (2017-2021) also foresaw gender mainstreaming in the curricula at all levels of education, although no concrete measure to this end was included. The Ministry of Education has informed the delegation that a review of the Curriculum Framework for Pre-university Education and the primary and secondary core curricula has been finalised and that issues on gender equality and non-violent conflict resolution have been incorporated within its goals, principles, competencies and descriptions of curricular areas. Likewise, according to the Ministry of Education, these issues are addressed by different compulsory subjects at all education levels (i.e. “Society and Environment” in primary education, “Civic Education” in secondary education) as well as through cross-curricular topics such as “Peace Education”. Additionally, an elective subject entitled “Skills for Life” has been introduced in secondary schools which also cover gender equality issues.

85. The National Strategy on the Protection Against Domestic Violence (2016-2020) foresaw the review of the Curriculum Framework for Pre-university Education to include standardised information on domestic violence. In practice, it appears that while some teaching materials on domestic violence have been included in the curricula, education materials addressing other forms of violence against women are lacking.⁷³ Generally, research shows that most teenagers report a lack of school activities aimed to prevent and combat violence.⁷⁴ This is particularly concerning considering that even though younger generations are more aware of the harm caused by domestic violence than older generations,⁷⁵ a large share of young people still accepts violence or does not oppose it.⁷⁶

86. The Law on the Publication of School Textbooks also prohibits school textbooks and teaching materials containing information that goes against human rights and gender equality principles. In addition, the delegation notes with interest that the Ministry of Education, Science, Technology and Innovation has drafted the Standards for Textbooks⁷⁷ including a standard on gender equality, that aims to ensure that textbooks and pedagogic materials contribute to educating children on gender equality and eliminating gender-based discrimination and gender stereotypes, while providing indicators to measure whether each material fulfils such standards. Despite the existence of these standards, research and anecdotal evidence suggests that gender-biased language, among others, continues to exist in school textbooks⁷⁸. Interestingly, in 2019, the Agency for Gender Equality launched the manual “Prevention of Gender Stereotypes in textbooks”, which serves as a non-binding tool to remove gender-based discrimination in textbooks but no indication was made available on the practical use of this manual by textbook editors. In December 2021, the Kosovo Women’s Network, the main women’s rights NGO network in Kosovo*, signed a memorandum of understanding with the Ministry of Education, Science, Technology and Innovation to review school textbooks from a gender perspective.

⁷¹ Ministry of Education, Science and Technology. (2012). Core curriculum for pre-primary grade and primary education in Kosovo.

⁷² Ministry of Education, Science and Technology. (2012). Core curriculum for lower secondary education in Kosovo (Grades VI, VII, VIII and IX) and Core curriculum for upper secondary education in Kosovo (Grades X, XI, XII).

⁷³ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

⁷⁴ Kosovar Centre for Gender Studies. (2012). “Prevalence of violence in adolescents’ relationships”. Results from this report shows that 46% of males and 40% of females reported acceptance of violence when a boyfriend hits his girlfriend because she cheated on him; or 27% respondents do not think that slapping would be defined as an act of violence.

⁷⁵ Kosovar Gender Studies Centre. (2021). “2021 Public Perception of Gender Equality and Violence against Women”.

⁷⁶ Kosovar Gender Studies Centre. (2012). “Prevalence of violence in adolescents’ relationships”.

⁷⁷ Ministry of Education, Science and Technology (2011) “Standards for School Textbooks”.

⁷⁸ Information collected during the delegation visit; See YIHR. (2017). Discriminatory language in textbooks-Analysis of high school textbooks (in Albanian), cited in OSCE. (2019). Survey on well-being and safety of women in Kosovo. p. 24.

87. In the education sector, municipal co-ordination mechanisms aimed to prevent school dropouts have been set up, namely the Prevention and Response Teams towards the Abandonment and Non-Registration in Compulsory Education (PRTANs). These involve school representatives, parents, students, as well as municipal social and health departments in charge of identifying and supporting children at risk of dropout. In the recent years, progress has been made to reduce school dropout rates, particularly among the Roma, Ashkali and Egyptian communities.⁷⁹ Considering the link between school dropouts and early marriages, the delegation has received indications that the PRTANs may identify cases of girls at risk of early marriage and take preventive action. However, it is unclear how the risk of early and forced marriage is assessed by these mechanisms in a consistent manner. When addressing early and forced marriage affecting Roma, Ashkali and Egyptian girls, careful attention should be paid to avoid stigmatising practices and secondary victimisation. To this end, civil society organisations have highlighted the need to foster community-based interventions. In its baseline evaluation reports in respect of several state parties to the Istanbul Convention,⁸⁰ GREVIO has identified as promising practices the introduction of Roma mediators in schools and other relevant services as recommended Council of Europe Recommendation CM/Rec(2012)9 of the Committee of Ministers to member states on mediation as an effective tool for promoting respect for human rights and social inclusion of Roma.

88. In 2013, the Agency of Gender Equality launched a protocol for the identification and reporting of cases of violence in schools.⁸¹ The Ministry of Education, Science, Technology and Innovation informed the delegation that a manual has been drafted for its implementation and informative sessions in schools have been conducted, as well as training sessions for teachers on the reporting module. Despite these measures, the level of reported cases in schools is relatively low, ranging from 20 to 40 annually, according to the Ministry of Education, Science and Technology. These low figures, coupled with research indicating that teachers lack knowledge of the reporting procedures and the different forms of violence covered by the convention⁸² indicate that more training for teachers and education staff is needed to improve the detection and the referral of children at risk of sexual harassment, sexual violence, forced marriage, violence in the digital sphere or domestic violence, including children who witness domestic violence.

89. It is strongly recommended that the authorities pursue their efforts to incorporate teaching materials on equality between women and men, all forms of gender-based violence against women and girls, non-stereotyped gender roles, mutual respect, non-violent interpersonal conflict resolution and the right to personal integrity into the formal curriculum, adapted to the evolving capacity of learners. It is also strongly recommended that the authorities take further measures to ensure early intervention by education staff where children, particularly girls, are at risk of any of the forms of violence covered by the Istanbul Convention.

D. Training of professionals (Article 15)

90. The standard set by the convention in its Article 15 is that of systematic initial and in-service training of the relevant professionals who deal with victims or perpetrators of all acts of violence. The training that is required must cover the prevention and detection of such violence, equality between women and men, the needs and rights of victims and the prevention of secondary victimisation.

91. Different initiatives exist in Kosovo* to train professionals in contact with victims of violence against women, whose scope and frequency vary across institutions. Importantly, in compliance with

⁷⁹ UNICEF.2019-2020 MICS in Kosovo & 2019-2020 MICS with Roma, Ashkali and Egyptian communities in Kosovo. Statistical Snapshot.

⁸⁰ See GREVIO's baseline evaluation reports on: Serbia (paragraph 120) and Poland (paragraph 130)

⁸¹ The cases are reported through the Education Information Management System.

⁸² National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026), p.31; Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN. p.122

its mandate⁸³, the Agency for Gender Equality plays an active role in delivering capacity-building training sessions for various professionals on gender equality, domestic violence and to a lesser extent on violence against women. While welcoming the above, it can be generally noted that most training initiatives on the topics covered by Article 15 are short-term initiatives with a focus on domestic violence and there is no specific emphasis on any of the other forms of violence covered by the Istanbul Convention, such as sexual harassment, sexual violence, forced marriage or violence in the digital sphere. Most training initiatives on domestic violence rarely adopt an intersectional approach which would be required to address the needs of women and girls at risk of or exposed to multiple discrimination.

92. The Academy of Justice⁸⁴ organises a twelve-month basic initial training programme for newly appointed judges and prosecutors, which includes training on domestic violence within the Family Law Module that amounts to a total of 18 hours of training.⁸⁵ The Academy of Justice also organises annual in-service training sessions for the development of the professional skills of judges, prosecutors and other judicial professionals based on a needs assessment conducted by judicial institutions. For example, in the annual training programme for 2022, one-day or two-day training courses have been planned, such as modules on criminal law aspects of domestic violence, court procedure, the protection of children and divorce cases in the context of domestic violence.⁸⁶ According to the Academy of Justice, these modules cover the prevention of secondary victimisation of women victims as well as issues related to economic violence and other forms of violence against women. However, the Academy of Justice, itself, notes that training sessions still need to be updated to reflect new judicial developments including relevant recent case law. The training programme for 2022 has also introduced a training for trainers entitled “Fighting violence against women and domestic violence” focused on criminal and civil law aspects, which is expected to incorporate a training curriculum for judges and prosecutors in Kosovo* published by the Council of Europe.⁸⁷

93. However, the lack of training in the judicial sector in relation to the multi-agency protocol for dealing with domestic violence has been highlighted,⁸⁸ resulting principally in judges having a limited knowledge of it. In comparison, training of prosecutors seems to more extensive, especially considering that the Office of the State Prosecutor has appointed in all basic prosecution offices a Domestic Violence Co-ordinator responsible for handling domestic violence cases.⁸⁹

94. The National Strategy on the Protection against Domestic Violence and Violence Against Women (2022-2026) foresees measures to increase capacity-building within the judicial sector to ensure an effective response to victims of domestic violence and a victim-centred approach. According to the Academy of Justice, its training programme on domestic violence for the year 2022 has been revised and re-designed pursuant to the requirement of the strategy. However, generally, training for judges, prosecutors and other judicial professionals largely focuses on domestic violence, while other forms of violence against women, such as sexual violence, forced marriage or sexual harassment, remain under-addressed. Although the Academy of Justice provides training sessions on the Law on Non-Discrimination, the Law on Gender Equality and the European Convention for Human Rights and its Protocols, it is unclear whether and how these training sessions address the forms of violence against women covered by the Istanbul Convention. In addition, while training for newly appointed judges and prosecutors is mandatory, in-service training for judges and prosecutors is attended on a voluntary basis. The Academy of Justice informed the delegation of the possibility for the Kosovo Judicial Council and Kosovo Prosecutorial Council to make this in-service training mandatory following an evaluation of the performance of judges and prosecutors. However, no

⁸³ Under Article 8 of the Law on Gender Equality, the Agency for Gender Equality is mandated to organise training on gender mainstreaming and gender budgeting for institutions.

⁸⁴ Law on the Academy of Justice

⁸⁵ Academy of Justice. (2020). Initial Training Program. Generation VIII of newly appointed judges 2020/2021.

⁸⁶ Academy of Justice. (2021). Training Program 2021-2022. (Annex II to the Framework Program 2021-2022)

⁸⁷ Skinnider, E. and Qosaj-Mustafa, A. (2020). Preventing and Combating Violence against Women and Domestic Violence. A Training of Trainer’s Manual for Prosecutors and Judges. Council of Europe.

⁸⁸ The Standard Operating the Procedure against Domestic Violence is presented in under Article 18 (general obligations)

⁸⁹ See Chapter IV, section on Articles 49 and 50 (General obligations, immediate response, prevention and protection, Effective investigation and prosecution)

information was provided to the delegation regarding the level of implementation of this measure.

95. Regarding law enforcement officers, according to the Kosovo Academy for Public Safety, a one-week initial training focuses on domestic and sexual violence and covers topics related to the Law on the Protection against Domestic Violence, the issuance of protection orders, the conduct of risk assessment, and the investigation of domestic violence from a victim-centred approach. After this initial training, all police cadets undergo a nine-month traineeship across different police units, including the Domestic Violence Investigative Units. Regarding in-service training, the Kosovo Academy for Public Safety runs a one-week training course on human rights, non-verbal communication, stress management, the investigation of domestic violence as well as basic training on gender equality. The delegation was informed that the Kosovo Police have developed a curricular course which provides standardised procedures for first response to domestic violence cases for frontline police officers and domestic violence investigators. In 2019 and 2020, this mandatory specialised training was attended by over 500 police officers. Mandatory advanced training sessions for the investigation of domestic violence are also offered annually to police officers assigned to Domestic Violence Investigative Units set up in police stations.

96. Despite the above efforts to strengthen police officers' skills, it was not indicated to the delegation if training sessions systematically cover all forms of violence against women, such as sexual harassment, stalking, forced marriage, and violence in the digital sphere. Additionally, it is unclear if such training is based on a gendered understanding of domestic violence that would address the imbalance of power between women and men as a root cause of such violence and a factor to inform all police interventions.

97. Initial and in-service training for healthcare workers seems to be limited. The delegation was informed that in 2021, the Kosovo Chamber of Doctors and the Kosovo Chamber of Nurses, the independent bodies responsible for the issuance and revocation of professional licenses, signed individual memoranda of understanding with the women's rights NGO Medica Gjakova, to provide in-service training on gender-based violence to healthcare professionals. As part of this pilot project, Medica Gjakova is training primary and secondary healthcare workers in Gjakova/Đakovica and Prizren. To promote attendance, these training courses are accredited with 20 points within the Continuing Medical Education Credits system, under which all healthcare workers must get at least 100 accreditation points of continuing professional education in order to re-new their licenses every five years. No further information on training for healthcare workers was provided to the delegation, and the Health Sector Strategy (2017-2021) did not include any measures to ensure the training of healthcare professionals on violence against women. Considering the role of health workers in the early detection of such violence, it is crucial that they receive systematic training on the detection and the provision of trauma-informed care to women victims.

98. Regarding general social services, few training sessions seem to be offered to staff working in the Centres for Social Work, beyond the above training on domestic violence run by the Agency for Gender Equality. This gap is of great concern, considering their primary role in the protection and recovery process of victims of domestic violence as well as their involvement in advising courts in child protection and custody cases.⁹⁰ Reports from NGOs have consistently documented a tendency among social workers to reconcile women victims of domestic violence with their perpetrators in order to "preserve" the family, and to recommend children's custody to the abusive father mainly based on their financial situation.⁹¹ Systematic and compulsory training for staff working at the Centres for Social Work would be essential to sensitise them on the dynamics of gender-based violence against women, including unequal power relations between men and women, and victims' rights.

99. It is urgently recommended that the authorities ensure systematic and mandatory initial and in-service training on the prevention, detection and prosecution of all forms of violence against women covered by the Istanbul Convention, including on the needs and rights of victims, especially those in a vulnerable situation, and on the prevention of secondary victimisation and gender stereotypes for all professionals, in particular healthcare workers, social workers and the judiciary.

⁹⁰ See Chapter IV, section on Article 20 (general support services)

⁹¹ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

All training efforts should be supported and reinforced by clear protocols and guidelines setting the standards that staff are expected to follow.

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

100. The Law on the Protection against Domestic Violence regulates psycho-social treatment for domestic violence perpetrators and mandatory medical treatment for perpetrators with alcohol and drug addictions.⁹² These obligations are further elaborated in administrative instructions.⁹³ Measures to establish such programmes can be traced back to the first Kosovo Programme on Domestic Violence (2011-2014). While subsequent strategies have included similar measures, the availability of perpetrator programmes in Kosovo* remains limited. According to the Administrative Instructions that regulate programmes for perpetrators, psycho-social treatments can be provided by health facilities, social institutions and licensed social services providers (including NGOs), while medical treatment for offenders with addiction problems must be run by medical institutions. In practice, health facilities, mostly mental health centres, are the main entities providing both types of programmes. In addition, two NGOs, SIT Centre in Pristina and Women Safe House in Gjakova/ Đakovica, have set up pilot psycho-cognitive treatment programmes which tend to better meet international standards.⁹⁴ However, such NGO-run programmes for perpetrators have received only limited financial support to carry out such actions. The Kosovo Correctional Service also indicated that they implement a cognitive-behavioural group therapy programme on “Anger Management” in custodial settings.

101. Most programmes for perpetrators are court-mandated, but there does not appear to be any data on the number of participants of court-mandated and voluntary programmes. Research has found no evidence of perpetrator programmes with clear curricula, guidelines, protocols and standards.⁹⁵ As uniform standards on the prioritisation of the safety of women victims and their human rights do not exist, it is unclear to what extent all programmes conduct regular risk assessment and address negative sexist stereotypes which perpetuate gender-based violence against women. Moreover, the few treatment programmes available in public health institutions seem to focus on anger management, instead of encouraging perpetrators to take responsibility for their actions. The fact that mental health services are the main public entities offering all existing programmes for perpetrators has caused concern over the narrow medical approach of interventions for perpetrators. In its baseline evaluation reports,⁹⁶ GREVIO has noted that programmes for perpetrators focusing on medical treatment are problematic, since they seem to indicate that violence will end if the drug or alcohol addiction or mental health problem is overcome, instead of promoting behavioural change in the perpetrator on the basis of accepting responsibility for the violence committed.

102. Nonetheless, it is noted with satisfaction that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) has set a specific objective on the development and implementation of programmes for the psycho-social treatment of perpetrators, in compliance with international requirements and standards. This objective foresees the development of a curricula and modules for programmes for perpetrators and for training professionals delivering these programmes, both aspects requiring the treatment of perpetrators of domestic violence according to a gendered understanding of violence against women.

⁹² Law on the Protection against Domestic Violence, Articles 4 and 9

⁹³ Administrative Instruction n. 12/2012, defining the location and methods of psychosocial treatment for perpetrators of domestic violence and Administrative Instruction n. 02/2013, offering indications on the mandatory treatment for offenders with alcohol and drug addictions.

⁹⁴ Oddone, C. and Morina, D. (2021). “Setting up Treatment Programmes for Perpetrators of Domestic Violence and Violence against Women. Analysis of the Kosovo* legal framework and good practices report”. Council of Europe

⁹⁵ Krol et al. (2017). “Mapping Support Services for Victims of Violence against Women in Kosovo*”. Council of Europe.

⁹⁶ GREVIO baseline evaluation reports on France (paragraph 121), Monaco (paragraph 56), Montenegro (paragraph 94)

103. It is strongly recommended that the authorities:

- a. **draft minimum quality standards for all programmes for perpetrators of domestic violence, which should place at their centre the safety of the victims and their human rights, and which should include the close co-operation between perpetrator programmes and specialist services that assist victims;**
- b. **increase the number of available programmes, both mandatory and voluntary, to ensure their availability across the territory based on minimum quality standards;**
- c. **ensure that the external evaluation of such programmes is conducted and in line with recognised best international practices and principles, including analysis of reliable information on reoffending, in order to assess whether the programmes serve the intended preventive aims;**
- d. **ensure that the programmes for perpetrators of domestic violence form part of a multi-agency approach involving all relevant institutions, including NGOs; and**
- e. **ensure adequate training for all facilitators of perpetrator programmes.**

2. Programmes for sex offenders

104. With regard to the treatment of sex offenders, no evidence suggests that such programmes exist in Kosovo*. While programmes for perpetrators of domestic violence can cover sexual violence perpetrated in this context, these programmes are not specifically designed for sex offenders.

105. It is recommended that the authorities devise treatment programmes addressed to perpetrators of sexual violence, which take due account of best practices developed internationally and guarantee a human rights-based approach.

F. Participation of the private sector and the media (Article 17)

106. The Independent Media Commission is the body responsible for regulating and overseeing media broadcasts in Kosovo*. It can impose sanctions on licensed media which breach its licencing conditions, ranging from requests to withdraw specific materials, imposing fines, to withdrawing licenses. Some of these conditions require respect for human dignity in commercial audio-visual programmes, non-discrimination on the basis of gender and other grounds⁹⁷ and the prohibition of extreme violence or other content that may severely damage the proper development of children.⁹⁸ The Independent Media Commission can receive and investigate complaints related to broadcasters' breach of the above provisions. However, no data on complaints related to discriminatory broadcasting programmes investigated by the Independent Media Commission was made available for the purposes of drafting this report.

107. Interestingly, the Kosovo Programme for Gender Equality (2020-2024) includes specific measures that involve the Independent Media Commission and the Association of Journalists of Kosovo. They include training programmes and modules for journalists on gender equality and gender-based violence as well as measures to raise awareness of existing legislation on anti-discrimination and gender equality. In that context, the Independent Media Commission has signed a memorandum of understanding with the Agency for Gender Equality and the Kosovar Institute for Gender Studies in order to co-operate in the implementation of the above measures.

108. It is also noted with interest that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes several measures involving the media. These are, for example, measures encouraging the media to set guidelines and self-regulatory standards to increase respect for women's dignity and prevent violence against women; cooperating with media and information technology companies to respond to online violence and (sexual) harassment against women and girls; providing information for children and parents on the safe use of digital means of communications; and training the media sector to report on violence against women while respecting ethical principles and the protection of personal data. The strategy also plans measures to involve the private sector, including

⁹⁷ Law on the Independent Media Commission, Article 27, paragraph 4

⁹⁸ Ibid, Article 33

the promotion of working conditions that prevent sexual harassment and establishing incentives for the private sector to implement initiatives to combat violence against women. If adequately implemented, such measures have the potential to sustain the participation of the media and private sector in the prevention of violence against women.

109. It is recommended that the authorities pursue their efforts to actively encourage the involvement of the media and the private sector, including the information technology sector, in the prevention of violence against women in all its forms, notably by ensuring the adequate and prompt implementation of relevant measures foreseen under the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026).

IV. Protection and support

110. Chapter IV of the Istanbul Convention aims at a multifaceted, professional and victim-oriented support structure for any woman who has experienced any of the forms of violence covered by the convention.

A. General obligations (Article 18)

111. Article 18 of the Istanbul Convention sets out a number of general principles to be respected in the provision of both general and specialist protective and supportive services. One of these principles is the need for services to act in a concerted and co-ordinated manner with the involvement of all the agencies concerned, taking into account the relationship between victims, offenders, children and their wider social environment. Addressing the complexity of violence against women requires establishing an intervention system which involves all relevant policy sectors, administrative levels and actors. Multi-sectoral and multi-agency interventions across the national, regional and local levels are key to ensuring an effective and cohesive response to all forms of violence. Effective co-ordination at local level is particularly important in terms of ensuring that responses fit the community needs and of providing “one-stop-shop” services to victims.

112. In Kosovo*, the Standard Operating Procedures (SOPs) for the Protection from Domestic Violence were adopted by the Agency for Gender Equality in 2013, as an inter-sectoral protocol aimed to establish standardised co-ordination across institutions in the provision of support and protection to victims of domestic violence. These guidelines offer a framework for multi-agency and multi-sectoral co-operation among relevant public institutions and other entities in contact with victims of domestic violence, including the police, judicial institutions, health, social and education services as well as NGOs. The SOPs for the Protection from Domestic Violence define a procedure based on four stages: i. the identification and reporting of domestic violence; ii. risk assessment and referral of victims to support services; iii. protective measures for victims; and iv. the recovery of victims from domestic violence as well as the treatment of perpetrators of domestic violence. They set out specific actions to be taken by institutions and entities from relevant sectors, as well as tools to be used, across the various stages of the procedure. The SOPs for the Protection against Domestic Violence further identify a set of obligations for each involved institution and entity from the various relevant sectors, and thus represent an important guidance to respond to domestic violence cases in a co-ordinated manner.

113. In several municipalities, the SOPs for the Protection from Domestic Violence are implemented by municipal co-ordination mechanisms against domestic violence composed of professionals from relevant sectors. In the municipalities where these mechanisms are effective, their members are tasked with co-operating in the management of individual cases of domestic violence. When a member of the mechanism is the first to be in contact with a victim of domestic violence, its role is to refer the victim to other members of the mechanisms, to ensure cross-sectoral co-operation in the provision of different forms of assistance for victims of domestic violence, including shelters, and facilitate their access to justice. In the municipality of Gjakova/ Đakovica, where the first municipal co-ordination mechanism was created and appears to be a promising model, the delegation observed that despite persisting challenges tied to the lack of financial and human resources, the mechanism was central to ensure swift formal and informal exchanges among the professionals, and to ensure quicker access to available support services and protection measures for victims of domestic violence, but also, on an ad-hoc basis to victims of other forms of gender-based violence such as forced marriage.⁹⁹ However, municipal co-ordination mechanisms against domestic violence do not exist in all municipalities across Kosovo*, and some existing mechanisms are not fully operational – for staff and budgetary reasons or because of lack of prioritisation of such measures at municipality level.

⁹⁹ In Gjakova/ Đakovica, the mechanism was formalised through the signature of a Memorandum of Understanding by all its 24 member institutions defining their responsibilities.

On average only half of the municipalities in Kosovo* have set up municipal co-ordination mechanisms against domestic violence.¹⁰⁰

114. While the above efforts to foster multi-sectoral co-operation support and protect victims of domestic violence are a positive development, some gaps limit their impact. The assessment of the implementation of the SOPs for the Protection against Domestic Violence launched by the Agency for Gender Equality in 2019 has shown that the lack of training of professionals from different sectors regarding their duties under these SOPs has resulted in a knowledge gap regarding existing procedures, hindering the co-ordinated delivery of timely and adequate support to victims of domestic violence. In particular, risk assessments were not conducted in a timely and systematic manner by all professionals.¹⁰¹ Without an assessment of the risks that women suffering from domestic violence and their children may be exposed to, providers of general and specialised support services, including shelters, cannot offer them tailored support and protection. In addition, some interventions by professionals from all sectors still prioritise the preservation of the family as a unit and do not sufficiently place the rights and needs of women at their centre. Even though co-operation with shelters and NGOs is foreseen under the SOPs for the Protection against Domestic Violence, their role could be greatly enhanced in the procedure. Stronger multi-agency co-operation among institutions and support services would be essential to ensure the co-ordinated provision of long-term psycho-social and economic support to women victims of domestic violence.

115. Moreover, while noting multi-agency efforts to promote women's access to support and protection in Kosovo* under the above-mentioned SOPs and the municipal co-ordination mechanisms against domestic violence, those mechanisms have been designed with a scope limited to domestic violence. Similar measures do not exist for the other forms of violence against women covered by the convention, such as sexual violence, early and forced marriage or sexual harassment which would require a comprehensive and multi-agency approach to victims' support and protection.

116. **It is urgently recommended that the authorities:**

- a. **adopt the necessary measures, including legislative measures, to ensure that multi-agency co-operation, including through the municipal co-ordination mechanisms or other initiatives extends to victims of all forms of violence against women;**
- b. **incorporate stronger and regular risk-assessment procedures, as part of the multi-agency co-ordination to victims' support and protection, supported by training and further efforts to reinforce the involvement of women's rights NGOs and shelters, with the final aim to ensure the safety of the victim at all stages;**
- c. **ensure the structural and financial sustainability of multi-agency co-operation, including the municipal co-ordination mechanisms.**

B. Information (Article 19)

117. A victim's right to information is enshrined in legislation and policy documents. Article 24 of the Law on the Protection against Domestic Violence establishes police responsibilities to protect the victim and prevent further violence by assuring a special telephone line for reporting domestic violence, informing victims of domestic violence (or their legal representative) of her rights as well as available legal, psychological and other support services.

118. Under the Standard Operating Procedures, all stakeholders from the relevant sectors (e.g. social, health, judicial, law enforcement) must provide victims of domestic violence with information about their rights, including their right to report the perpetrators, the right to compensation as well as the right to receive free assistance in a timely manner. Under the SOPs for the Protection from Domestic Violence, two specific institutions are key in providing information: the Kosovo Police and the Victims Advocacy

¹⁰⁰ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN, p.11

¹⁰¹ Agency for Gender Equality. (2019). Assessment on the level of implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo. p. 154

and Assistance Office (VAAO). As the first responder, Kosovo Police must provide information to victims, including by handing over a leaflet with information on the rights of victims of domestic violence. Victim advocates from the VAAO¹⁰² are central to informing victims and supporting them in navigating the judicial system, as they need to ensure that victims are aware of the support services available to them as well as to represent the victims in criminal proceedings, issue applications for protection orders on their behalf, participate in or monitor court proceedings and perform risk assessments for victims.

119. Despite the above, shortcomings have been identified regarding the lack of or limited information provided to women victims of domestic violence by the different institutions in direct contact with them. For example, the delegation was alerted to the fact that Victim Advocates do not systematically inform victims of their right to compensation, despite their obligation to do so. In addition, civil servants working in the Centres for Social Work, which are the general social services, tend not to provide sufficient information to victims of domestic violence regarding the full range of support services and assistance programmes available to them, such as information on temporary housing, access to psycho-social counselling services or vocational training.¹⁰³ Considering the key role that social services play at all stages of the intervention process with victims of domestic violence, this lack of a pro-active approach to providing information to victims tends to run counter victims' right to autonomy and their long-term empowerment.

120. Information targeting victims of other forms of violence against women seems very limited. In relation to sexual violence, some institutions have launched leaflets and information material about the services they provide to victims such as the Institute of Forensic Medicine and the Government Commission for the Recognition and the Verification of the Status of Victims of Sexual Violence during the War. However, such information material focuses on specific issues such as the securing of forensic evidence or the application to reparation for victims of war-time sexual violence, and does not provide comprehensive information on the rights of victims of sexual violence. With regard to other forms of violence against women, no specific information material seems to exist on the rights and services available to victims of sexual harassment, stalking, female genital mutilation, forced sterilisation or forced abortion.

121. As regards the right of victims to receive information in a language they understand, difficulties were reported from women from Serb communities in systematically accessing information in Serbian across the whole territory. In addition, it seems that little information is available in Romani for Roma, Ashkali and Egyptian women who may not understand or read Albanian, Serbian or English. Moreover, the delegation was alerted to the fact that informational material is rarely accessible to women with disabilities, such as blind women or women with intellectual disabilities.

122. It is noted with interest that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes specific measures to inform victims of violence against women of their rights and services available, including free legal aid in a language they understand. It also foresees the dissemination of information in official languages and accessible to people with disabilities (i.e. in Braille) on existing legislations and support services.

123. It is recommended that the authorities pursue their efforts to ensure that victims receive adequate and timely information on available support services and legal measures for all forms of violence against women, in a language they understand.

¹⁰² Within the Office of the State Prosecutor, the Victims Advocacy and Assistance Office (VAAO) is an independent body, with 7 regional offices, tasked with supporting access to justice and services for victims of crime. Pursuant to the Law on the Protection against Domestic Violence, VAAO officers, who are legal professionals called "Victim Advocates" (VA) are central to protecting the rights of victims of domestic violence by initiating procedures for protection measures, participating in court sessions, and monitoring court proceedings.

¹⁰³ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

C. General support services (Article 20)

1. Social services

124. Under the Law on Social and Family Services¹⁰⁴ and the Law on Local Self-Government,¹⁰⁵ municipalities must provide social services, while the Ministry of Finance, Labour and Transfers is responsible for the overall organisation, quality, monitoring and inspection of social services for “persons and families in need” which specifically includes victims of domestic violence, among other categories.¹⁰⁶ According to the law, each municipality is responsible for the provision of social and family services according to the standards set by the Ministry. Such social services may be provided by public entities (the Centres for Social Work) or outsourced to NGO-run services.

125. The Centres for Social Work are public entities offering general social services in municipalities. Along with law enforcement agencies, these services are the first responders to domestic violence cases. According to Standard Operating Procedures (SOPs) for the Protection against Domestic Violence, the Centres for Social Work must identify victims of domestic violence, refer them to other relevant services, provide victims with short- and long-term social assistance and co-ordinate all social services for victims. To this end, a case manager from the Centres for Social Work is assigned to each victim of domestic violence to elaborate an individual social assistance plan, including a potential referral to a shelter. According to data from the Centres for Social Work, in 2020, 630 women and 121 child victims of domestic violence were provided with shelters and some form of social services.

126. Under the Family Law, the Centres for Social Work also act as “custodian bodies”, assisting and advising the courts in the adjudication of decisions on child custody and visitation. Indeed, divorce court proceedings must also be preceded by a reconciliation procedure guided by the Centres for Social Work, when children are involved.¹⁰⁷ In addition, before issuing decisions involving the “custody, care and education of children”, courts shall “hear the opinion and proposal” of the Centres for Social Work.¹⁰⁸ Under these SOPs, after a case of domestic violence against children is referred by the police or another entity, the Centres for Social Work shall appoint a legal custodian representing the legal interest of the child. However, it seems that no specific guidelines or training exists to assist social workers in screening for a history of domestic violence when conducting reconciliation procedures or when issuing recommendations on child custody and visitation rights.

127. Despite their multiple duties, serious shortcomings have been identified in relation to the functioning of the Centres for Social Work which negatively affects their ability to assist victims of domestic violence. Firstly, these centres are under-staffed and under-resourced to carry out their wide range of tasks, resulting in uneven service provision and co-ordination with other professionals. Moreover, the delegation was alerted to the fact that some staff members of the Centres for Social Work still lack a gendered understanding of domestic violence, which is even more concerning considering that they are not necessarily social workers by training but rather civil servants. Beliefs persist among some staff members working in the Centres for Social Work that one of their duties is to maintain contact between children and their abusive parents, indicating a lack of awareness of the harm caused to children witnessing violence. The Albanian version of the SOPs for the Protection against Domestic Violence seems to employ a term causing professionals to understand that one of the functions of the Centres for Social Work is to “fix” cases of domestic violence.¹⁰⁹ This and the lack of guidelines on screening for domestic violence in any reconciliation process and before deciding on custody issues tends to reinforce the existing tendency to attempt to reconcile victims of domestic violence with their abusers. Further considerations on the

¹⁰⁴ Law on Social and Family Services

¹⁰⁵ Law on Local Self-Government.

¹⁰⁶ Law on Social and Family Services. Article 2, paragraph 1 and 2.

¹⁰⁷ Law on Family, Article 80, paragraph 1,

¹⁰⁸ Ibid. Article 140, paragraph 2,

¹⁰⁹ Agency for Gender Equality (2019) “Assessment of the level of implementation of the Standard Operating Procedures for the protection against domestic violence in Kosovo”. p.139

role of the representatives from the Centres for Social Work in conducting reconciliation procedures and providing recommendations in child custody and visitation decisions are developed under the sections on Articles 31 and 48 in Chapter V.

128. Although the Centres for Social Work must provide assistance to any person in need, the Law on Social and Family Services does not explicitly recognise victims of violence against women other than domestic violence as a vulnerable group. In addition, there are no protocols or guidelines for social workers on protecting and assisting victims of other forms of violence against women such as sexual violence including rape, stalking, forced marriage or female genital mutilation.

129. Under the Law on Social Assistance Scheme,¹¹⁰ the Centres for Social Work must grant financial support to individuals meeting the economic criteria, among which women victims of violence may be eligible but are not specifically recognised as a category of beneficiaries. Worryingly, this same law provides that people staying in closed institutions are not eligible to social assistance which may be the case for women staying in shelters. No data has been made available to the delegation on the number of women victims of violence who received social assistance. Some municipal or regional employment offices such as in Gjilan/Gnjilane, Gjakova/Đakovica and Mitrovica co-operate with shelters to provide employment opportunities to victims of domestic violence.¹¹¹ In Gjakova/ Đakovica, the delegation was informed that a representative from the municipal employment office is part of the local co-ordination mechanism against domestic violence and that women's rights NGOs refer victims to the municipal employment office. However, generally, municipal employment offices lack resources which negatively impact their ability to support women victims of violence. Considering that women's low economic autonomy is a key barrier preventing them from leaving their abusers, it is crucial to foster initiatives toward their long-term socio-economic empowerment. Hence, it is noted with interest that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes measures to promote women victims' access to employment, vocational training and childcare services. Their swift implementation would be required to ensure women's long-term socio-economic stability.

130. Social housing opportunities exist in some municipalities but remain limited. Although many women victims of domestic violence meet the economic criteria for admission, they are not considered as a group to be prioritised under the Law on Financing Specific Housing Programmes. Despite the lack of official data, indications from civil society underline that very few women victims of domestic violence were granted social housing. Some municipalities may also provide financial support by paying rent, but this short-term financial support does not represent sustainable housing solutions.¹¹² Considering women's low access to property in Kosovo*, women and children suffering from domestic violence are extremely vulnerable to housing exclusion, which hampers their ability to rebuild their lives. Interestingly, the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) includes the development of a three-year social housing plan (2022-2024) addressing the needs of victims of violence against women, but no indication was provided to the delegation regarding the implementation of this measure.

131. It is strongly recommended that the authorities:

- a. increase the resources dedicated to social programmes facilitating the recovery and the socio-economic autonomy of women victims of all forms of violence covered by the Istanbul Convention, in particular social housing schemes, assistance in education and training and in finding employment;**
- b. ensure that Centres for Social Work throughout Kosovo* are provided with adequate human and financial resources allowing them to effectively discharge their duties, while considering appointing social workers specialised in violence against women;**
- c. foster training for social workers on the gendered nature of violence against women, the harmful impact of witnessing violence for children and the screening for domestic violence**

¹¹⁰ Law on the Social Assistance Scheme

¹¹¹ Logar, R. and Qosaj-Mustafa, A. (2021) Quality guidelines for shelters for victims of Violence against Women and Domestic Violence: Enhancing services for victims in Kosovo*. Council of Europe, p. 12

¹¹² Information collected during the delegation visit, see Ombudsperson Institution (2021) Annual report 2020, p.82-83

history during reconciliation procedures and child custody decisions.

2. Health-care services

132. Under the Standard Operating Procedures (SOPs) for the Protection against Domestic Violence, healthcare facilities are responsible for identifying possible victims of domestic violence; providing free healthcare services; reporting cases to the police; preparing medical reports (and if required, written expert reports for courts); and implementing compulsory medical treatment for substance abusers and psycho-social treatment for perpetrator of domestic violence. Despite the above, these SOPs provide little information on the type of support or interventions offered by the different healthcare services in Kosovo*. Moreover, the assessment of the Agency for Gender Equality in 2019 identified shortcomings in the level of implementation of the above SOPs in the health sectors, due particularly to the lack of trained health professionals to support victims of domestic violence. Indeed, healthcare professionals do not always report cases of domestic violence to the police, and often lack knowledge of the importance of ensuring victims' confidentiality and co-operating with other institutions, particularly the Centres for Social Work, the Victim Advocacy and Assistance Office and judicial institutions.¹¹³ With regards to the identification of victims, the SOPs for the Protection against Domestic Violence do not specify how this detection should be carried out and no information has been provided on any type of screening process conducted by health institutions.

133. In 2013, the Ministry of Health and the United Nations Population Fund (UNFPA) launched a manual on gender-based violence for health care workers, which contains guidance on documenting violence by completing a standardised medical form, conducting medical examination, collecting evidence, providing reproductive health services and the referral of victims to psychological support services. While the existence of this manual is noted positively, its content does not specifically address some forms of violence against women such as female genital mutilation, forced marriage (particularly in the context of hymenoplasty and virginity testing)¹¹⁴, forced abortion and forced sterilisation. In these cases, health professionals could play a key role in the identification and referral of potential victims. It is also unclear to what extent health professionals are aware of this manual and use its standardised medical examination forms for documenting gender-based violence. Moreover, there is no systematic training of healthcare workers for the identification, support, and referral of victims of violence against women, beyond domestic violence, that would cover particularly sexual violence, forced abortion and sterilisation, or female genital mutilation. Such training would be essential to address persisting stigma and shame about sexual health, including among the healthcare sector in Kosovo*.¹¹⁵ However, it appears that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) only contains a few measures targeted at the health sector.

134. Moreover, the low involvement of the health sector in supporting women victims of gender-based violence is of particular concern for women who are or might be at risk of intersectional discrimination, especially women in rural areas, women with disabilities, Roma, Ashkali and Egyptian women and LGBTI women, who are less likely to reach basic and specialised medical services, including sexual and reproductive health services.¹¹⁶ In the absence of specialist support services for most forms of violence against women, in particular sexual violence, ensuring women's access to tailored healthcare services is vital for a victim's physical and psychological recovery and her referral to other institutions and forms of assistance, including socio-economic support and access to the justice system. In Northern Kosovo*, women from Serb communities may experience increased difficulties in accessing information about

¹¹³ Agency for Gender Equality (2019) Assessment of the level of implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo. p.150

¹¹⁴ Fejza, H. et al. (2014). Virginity testing impact in women's life in Kosovo.; Open Democracy (2022) "Virginity doesn't exist, so why is it 'tested' and 'repaired'?" available at: <https://www.opendemocracy.net>

¹¹⁵ Pristina Insight (2016). "Sexual health, a taboo even for health professionals".

¹¹⁶ See UNFPA. (2020). Research on Access to Sexual and Reproductive Health Services, including Gender-Based Violence, for People with Disabilities with focus on Women and Girls in Kosovo; KAS & UNICEF. (2020). 2019-2020 Roma, Ashkali and Egyptian Communities Multiple Indicator Cluster Survey.

health services and other general support services due to the dual administrative systems, which presents difficulties arising from variations in the range of services offered and the criteria for their access.¹¹⁷

135. It is strongly recommended that the authorities ensure that women victims of violence covered by the Istanbul Convention have access to adequately resourced health services with trained professionals tailored to assist victims, in particular by:

- a. **detecting all forms of violence against women covered by the Istanbul Convention, responding to their medical needs in a sensitive manner and ensuring their referrals to relevant and preferably specialist support services;**
- b. **developing and effectively implementing protocols and guidelines which ensure that all healthcare professionals adequately respond to women victims of all forms of gender-based violence, including women exposed to intersectional discrimination, in particular women with disabilities, migrant women and Roma, Ashkali and Egyptian women, who may face significant barriers to help-seeking; and**
- c. **providing free-of-charge documentation of forensic evidence suitable for use by the criminal justice sector.**

D. Specialist support services (Article 22)

136. The aim of specialist support is to ensure the complex task of empowering victims through optimal support and assistance catered to their specific needs. Much of this is best ensured by women's organisations and by support services provided, for example, by local authorities with specialist and experienced staff with in-depth knowledge of gender-based violence against women. It is important to ensure that these services are sufficiently spread throughout the territory and are accessible to all victims. Moreover, these services and their staff need to be able to address the different types of violence covered by the scope of the Istanbul Convention and to provide support to all groups of victims, including hard-to-reach groups.

137. In Kosovo*, specialist services for women victims of violence are provided mainly by women's rights NGOs offering assistance to women and child victims of domestic violence, through legal counselling, psycho-social support, accompaniment of victims to appointments and support groups. Shelters which are mostly run by NGOs also provide these services as part of the support provided their residents. Some NGOs also provide specialist support to women victims of sexual violence, particularly on issues related to access to reparation for women victims of war-time sexual violence. Women's rights NGOs are spread across the territory but remain mainly located in urban settings, thus it is not clear whether they reach women in all the regions, particularly women living in rural areas.

138. Women's rights NGOs running shelters and day-care support services licenced by the Ministry of Finance, Labour and Transfer, can apply for funding to the annual funding scheme allocated by this same Ministry. However, as mentioned in this report, the level of funding allocated by this Ministry is insufficient to meet the needs of NGOs providing specialist support services to women victims.¹¹⁸ Thus, women's rights NGOs providing essential specialist services to women remained underfunded and their levels of service provision is reliant on additional and unstable source of funding, such as ad hoc grants from municipal and central institutions or international donors.

139. In addition, it is also noted with concern that women victims of violence exposed to multiple discrimination or in a vulnerable situation face heightened difficulties in accessing specialist services, including women with disabilities, Roma, Ashkali and Egyptian women, migrant women or elderly women. In this regard, women with disabilities or victims who do not speak or read Albanian, such as Roma, Ashkali and Egyptian women, women from Serb communities, or migrant women, may face difficulties in accessing information and services in a language they understand. In this regard community-based NGOs working

¹¹⁷ UN Habitat. (2017) Gender Analysis in north Kosovo and concerned local authorities.

¹¹⁸ See Chapter II, section on Article 8 (financial resources)

with these women play a key role in reaching them and informing them about their rights and available support services.

140. Due to the absence of specialist support services for victims of sexual violence, female genital mutilation, forced marriage, stalking, sexual harassment, violence in the digital sphere, forced sterilisation and forced abortion, women victims of these forms of violence do not have access to legal and social counselling, short-term and long-term psychological support and trauma-care tailored to their specific needs.

141. Recalling the key role that specialist support services play in addressing the different types of violence covered by the scope of the Istanbul Convention by providing tailored support to all groups of victims, it is strongly recommended that the authorities ensure the provision of immediate, medium-term and long-term support services to all victims, including by cooperating with, supporting financially, and tapping into the long-standing expertise of independent women's specialist support services in civil society.

E. Shelters (Article 23)

There are currently eight licenced NGO-run shelters providing support to women victims of domestic violence and their children in Kosovo*, which operate around-the clock and provide free-of-charge support and emergency housing. In addition, in North Mitrovica a municipality-run shelter operates without a license from the Ministry of Finance, Labour and Transfers, which is partly due to the lack of recognition of staff certificates, obtained in Serbia.¹¹⁹ These shelters cover the seven regions of Kosovo* and are located in the main cities. Additionally, there are two shelters for children, including victims of domestic violence. Except for the shelter in North Mitrovica, all shelters are run by women's rights NGOs whose work is based on a gendered understanding of violence against women with a focus on protection and empowering women. However, as already mentioned, most shelters focus primarily on domestic violence and may cover other forms of violence against women only on an ad hoc basis. According to indications from civil society, it is unclear whether the municipality-run shelter in North Mitrovica has adopted a gender-sensitive approach to domestic violence.

142. In 2021, there were 135 places in shelters for women victims of domestic violence and their children.¹²⁰ The Istanbul Convention requires shelters in "sufficient numbers", referring to the standards from the Final Activity Report of the Council of Europe Task Force to Combat Violence against Women, including Domestic Violence, which recommended one family place per 10 000 head of population¹²¹. According to this standard, additional shelter places would be required.

143. Shelters for women victims of domestic violence and their children provide safe housing, as well as support services like clothing, food, healthcare, psycho-social support, legal counselling, education, vocational training, and information about other available services. After a 48-hour period, shelter staff members conduct an assessment and develop an individual plan in co-operation with the victim and the case manager of the Centre for Social Work. The duration of women's stay varies across shelters, but most of them allow for stays up to six months. However, due to limited housing options after the shelter, women may stay up to twelve months or sometimes longer. During the COVID-19 pandemic, from April to May 2020, a quarantine shelter for women victims of domestic violence was created at the Student Centre of Pristina as the result of a co-operation between the Ministry of Health, the Centres for Social Work and shelters. This temporary facility provided safe accommodation and psycho-social support to women who had tested positive for COVID-19, before their admission to existing shelters, in order to safeguard the health of women already present there.

¹¹⁹ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

¹²⁰ WAVE. (2021). WAVE Country Report 2021: Women's Specialist Support Services in Europe, p.121

¹²¹ Explanatory Report to the Istanbul Convention, paragraph 135

144. Notwithstanding the above, certain women may experience additional barriers to accessing shelters. For instance, women with disabilities face physical and communication barriers due to the lack of accessibility. In addition, no specific shelters are tailored to the needs of LGBTI women, who are sheltered on an ad hoc basis. Similar problems exist for women using psycho-active substances. Besides, Roma, Ashkali and Egyptian women and women from Serb communities may encounter problems in being supported by staff speaking a language they understand or who are trained to support them in a culturally sensitive manner. A systematic gap has also been identified regarding the situation of boys above the age of 12 years, who cannot access shelters with their mothers. Hence, they must live separately from their mother in shelters for children or stay with the abusive parent or the family of the abusive parent.¹²² While the reasons behind the age limit are understandable, such separation presents a real risk of re-victimisation and secondary victimisation for boys and their mothers, discouraging women from leaving abusive relationships. Thus, it is noted with interest that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) foresees the provision of support and shelters for LGBTI people and boys over 12 years accompanying their mothers.

145. The lack of sustainable and appropriate funding for shelters, as explained above,¹²³ also limits their sustainability and the scope of specialist support services available to women. Another persisting problem is the low funding aimed at women's long-term socio-economic empowerment during and after their stay at the shelters, including access to employment, financial assistance and longer-term housing that ensures a safe and sustainable way out of violence for women who left the shelters. Some shelters have taken action to foster women's employment, access to child alimony or to pay their rent after they left the shelter, but such measures rely on very limited funding and their staff's initiative. Considering women's high exposure to emotional or economic dependency, it was indicated to the delegation that among women who stayed in the shelter in Gjakova/ Đakovica, on average only 30% managed to become financially independent and rebuild their lives. Offering guidance to tackle the above gaps, in 2021 the Council of Europe launched Quality guidelines for Shelters for Victims of Violence against Women and Domestic Violence in Kosovo*.¹²⁴

146. With the aim of guaranteeing adequate access for women victims of violence and their children to dedicated, safe and supportive shelter facilities, as required under Article 23 of the Istanbul Convention, it is strongly recommended that the authorities:

- a. **expand the number and/or capacity of specialist shelter facilities dedicated to women and their children, including some for boys over the age of 12, throughout the territory, while monitoring the quality and financial sustainability of service provision;**
- b. **provide sufficient and stable funding for shelters to ensure their ability to provide comprehensive quality and victim-centred accommodation and support to victims;**
- c. **guarantee the equitable access to such shelter services for all women victims of all the forms of violence covered by the Istanbul Convention, especially women with disabilities, women living in rural areas, older women, women using psycho-active substances, Roma, Ashkali and Egyptian women, women from Serb communities and migrant women; and**
- d. **address the long-term needs of all women victims and their children by providing adequate and stable funding dedicated to long-term socio-economic and trauma-care support for women during and after their stay at the shelters.**

¹²² Ibid, p.115.

¹²³ See Chapter II, section on Article 8 (financial resources)

¹²⁴ Logar, R. and Qosaj-Mustafa, A. (2021). Quality guidelines for shelters for victims of Violence against Women and Domestic Violence: Enhancing services for victims in Kosovo*. Council of Europe.

F. Telephone helplines (Article 24)

147. The Victims Advocacy and Assistance Office (VAAO), under the Office of the State Prosecutor, runs a free of charge around-the-clock helpline (0800 11112) for all victims of crime, including victims of violence against women. This helpline, which is fully funded by the central authorities, provides information on victim's rights and on existing support services, and facilitates referrals to relevant services. The Office of the State Prosecutor indicates that the helpline provides victims with a confidential mechanism to report various criminal offences, but it is unclear how this mechanism operates.¹²⁵ Although the Standard Operating Procedures for the Protection against Domestic Violence states that helpline operators should provide information and counselling, it is not clear whether psychological support is provided in addition to legal assistance. A 2017 study showed that helpline responders had been trained to work with victims of violence against women, but that it was difficult to evaluate to what extent they base their work on a gender-based understanding of violence against women.¹²⁶

148. According to the authorities, the VAAO helpline has been widely advertised through information campaigns. However, no information has been provided on the number of calls related to violence against women. The Office of the State Prosecutor collects data on the VAAO helpline, which is not disaggregated by sex or type of violence reported during the call. Partial data from 2020 indicates that 539 calls were received over a nine-month period, among which 320 related to domestic violence.¹²⁷ As a positive step, the VAAO has increased the number of helpline operators able to provide support in Serbian and Turkish, and has expanded the helpline coverage to northern Kosovo*.¹²⁸ However, this helpline is not accessible in Romani languages, limiting its accessibility for Roma, Ashkali and Egyptian women. Due to internal procedures, helpline operators keep records with information on callers that are shared with the VAAO, and possibly the police, the prosecutors, the Centres for Social Work and the shelters, which poses a problem in relation to victims' confidentiality and may deter victims from calling this helpline.

149. The Kosovo Police operates a general 24-hour emergency line (192) to be used in case of immediate danger. However, this general helpline is not necessarily operated by trained officers from the Domestic Violence Investigation Units.¹²⁹ In 2020, the Kosovo Police launched a mobile phone app entitled "Call the Police" to report certain crimes, including a feature for reporting domestic violence. No data was provided to the delegation regarding the number of domestic violence cases reported through the above mobile app.

150. Some women's rights NGOs running domestic violence shelters operate regional helplines, including the Safe House in Gjakova/ Đakovica and the Women Wellness Centre in Peja/ Peć.¹³⁰

151. Considering the absence of an around-the-clock helpline dedicated to women victims of all forms of violence covered by the convention available across all Kosovo*, it is welcomed that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) foresees closing this gap, by ensuring the "functioning of a national helpline for all forms of violence against women and domestic violence, available 24/7 in all official languages in Kosovo*", in accordance with the requirements of the Istanbul Convention.

¹²⁵ Office of the State Prosecutor. (2020). "Annual work report for 2019" Office of the Chief Prosecutor. p. 82; Office of the State Prosecutor. (2020). "Work Report for nine-month period of 2020", p. 75; Office of the Chief Prosecutor. (2021). "Work Report of the SP the first semester of 2021". p. 76. Available at: <https://prokuroria-rks.org>

¹²⁶ Krol et al. (2017). Mapping support services for victims of violence against women in Kosovo*. Council of Europe

¹²⁷ Office of the State Prosecutor (2020). "Work Report for nine-month period of 2020". p. 75

¹²⁸ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN, p. 88

¹²⁹ Gačanica et al. (2020). "Women's Rights in Western Balkans. Women in politics, gender-based violence and security for women human rights defenders in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia and Serbia". Kvinna. p. 46.

¹³⁰ WAVE. (2021). WAVE Country Report 2021: Women's Specialist Support Services in Europe, p.121

152. **It is strongly recommended that the authorities concretise their efforts to ensure the functioning of a free, anonymous and round-the-clock telephone helpline dedicated to women victims of all the forms of violence against women covered by the Istanbul Convention, available across the territory and in all relevant languages, which is capable of providing counselling to victims, with due respect for the confidentiality of all callers, and which is operated by qualified staff trained in all these forms of violence.**

G. Support for victims of sexual violence (Article 25)

153. There are no rape crisis or sexual violence referral centres in Kosovo* providing comprehensive and tailored support to victims of sexual violence. The Institute of Forensic Medicine in Pristina is the only institution responsible for forensic examinations of victims of sexual violence.¹³¹ Upon a report of sexual violence made to the law enforcement agencies, the Institute of Forensic Medicine may be required to carry out a forensic examination after the issuance of an order by the Office of the State Prosecutor, upon request by the police. Therefore, victims are obliged to lodge a complaint to the police in order to access forensic examinations and have their evidence collected. Once the case is reported, victims of sexual violence are brought to the Institute of Forensic Medicine by the police. Afterwards, all samples are handed over to the police in charge of storing it before sending it to the Kosovo Forensic Agency, an independent public body in charge of analysing the samples and extracting DNA. When a court-ordered psychological evaluation is required, the Forensic Psychiatrist Institute is responsible for conducting such an assessment.

154. While initiatives have been taken by the Institute of Forensic Medicine to raise awareness of sexual violence and initiate inter-sectoral co-operation in this field, particularly from the angle of securing forensic evidence, this is only one element of the support services for victims of sexual violence. According to the standards of the Istanbul Convention, the collection of forensic evidence should be accessible regardless of the victim's willingness to lodge a complaint. Moreover, the delegation has been alerted to the fact that some victims of sexual violence have been exposed to secondary victimisation and victim-blaming attitudes from forensic doctors from the Institute of Forensic Medicine. In addition, only one of the nine forensic doctors of the Institute of Forensic Medicine is a woman, which limits the possibility for victims to be examined by a woman professional at their request. Moreover, it must be noted that, despite efforts made by some professionals of the Institute of Forensic Medicine to ensure sensitive forensic examination, its current facilities do not provide a supportive environment tailored to the needs of victims of sexual violence. Indeed, victims' privacy is not sufficiently ensured (i.e. the victims fill the consent-form in a corridor) and the building is not accessible to women with disabilities. Furthermore, statistics from the Institute of Forensic Medicine reveal that the majority of victims being examined are children, raising concern that adult women may not be accessing this service due to concerns that they may not be considered 'real victims' based on the belief in rape myths.

155. In addition, when health institutions are the first to be in contact with victims of sexual violence, healthcare professionals can conduct a medical examination, that may serve as evidence during the criminal proceedings. However, general medical professionals are not systematically trained to assist victims of sexual violence and to be responsible for collecting forensic evidence. In such a case, a victim would need to undergo a second forensic examination at the Institute of Forensic Medicine, if she decides to report, which may represent a form of secondary victimisation considering the reportedly intrusive nature of these medical examinations.

156. No data is available on the average time passed between the moment a victim reports to the police and when she is brought to the Institute of Forensic Medicine. Considering the limited capacity and the fact that this service is located in Pristina, there is a risk of losing evidence due to precious time lost in accessing the Institute. In this vein, statistics provided to the delegation by the Institute of Forensic Medicine revealed that for 72% of the victims brought to the Institute, samples were not taken as it was not considered useful according to their timeframes. To avoid this, the Explanatory Report to the Istanbul Convention presents as a good practice the ability of rape victims to have forensic evidence lifted quickly and in a sensitive manner regardless of whether the victim decides to report to the police. Another good

¹³¹ Under Article 3 of the Law on Forensic Medicine, only licensed specialist forensic doctors perform forensic examinations

practice is the possibility of having samples taken and stored so that the decision as to whether or not to report the rape can be taken by the victim at a later date, as GREVIO has pointed out in several of its baseline evaluation reports.¹³²

157. Article 25 requires the provision of holistic services to victims, including medical and trauma support as well as short-term and long-term psychological counselling. Article 25 requires the possibility for victims of sexual violence to receive medical care and trauma support and to access forensic examinations regardless of their willingness to report to the police. In Kosovo*, NGO-run specialist support services, including shelters, provide some psychological counselling, but they are not equipped with the financial and human resources to offer long-term specialist trauma-informed support to victims of sexual violence. Although some NGOs are specialised in sexual violence, mainly in relation to war-time sexual violence, they do not operate in all regions and access to these services is uneven. In general, the lack of well-resourced specialist services for victims of sexual violence and the lack of professionals trained to properly support victims of sexual violence reflects the general absence of policies dedicated to tackle sexual violence in Kosovo*.

158. It is urgently recommended that the authorities set up appropriate and easily accessible rape crisis and/or sexual violence referral centres offering medical care, high-quality forensic examination and immediate, short-term and long-term trauma support delivered by trained professionals. Such centres should ensure a sensitive response by trained specialists and uphold the principle of the victim's informed consent and control over her decisions with respect to forensic/medical examinations and reporting. It is also urgently recommended that the authorities develop specific medical protocols on supporting victims of sexual violence and ensuring that forensic examinations can be carried out and samples can be stored, regardless of whether sexual violence has been reported to the police.

H. Protection and support for child witnesses (Article 26)

159. The obligation set out in this article is to ensure that whenever children have witnessed domestic violence, rape, sexual harassment or other forms of violence covered by the convention, the services provided to direct victims are also equipped to address the needs and rights of any children exposed to such violence. While this is most relevant to domestic violence cases, it is important to bear in mind that children may also be exposed to other forms of violence.

160. Research has shown that children who witness one parent assaulting the other in the home often develop emotional problems, cognitive functioning disorders and accept attitudes around violence that need to be addressed in the long term.¹³³ It is thus of crucial importance to ensure their access to psychological counselling and therapy as soon as they come to the attention of the authorities.

161. Under the Law on Child Protection adopted in 2019, children who suffer from violence, negligence and mistreatment are entitled to receive free medical assistance and psychological counselling, necessary for their long-term recovery.¹³⁴ However, it is unclear if this legal obligation has been applied to the situation of child witnesses of the forms of violence covered by the Istanbul Convention. Moreover, the Standard Operating Procedures (SOPs) for the Protection against Domestic Violence foresee that, following a report made by a professional to the police and/or social services, or after a woman victim of domestic violence turns to the authorities for help, shelters must provide psychological counselling to children staying with their mothers. The above SOPs also sets out that education plans should be developed for children based on their needs as identified. However, no information was provided to the delegation regarding the presence in shelters of child psychologists or other trained professionals specialised in offering support to children. Moreover, as boys above the age of 12 may be accommodated separately from their mothers who move into domestic violence shelters, it is unknown if any specialist counselling for child witness of

¹³² GREVIO's baseline evaluation reports on Andorra (paragraph 122); Malta (paragraph 125); Slovenia (paragraph 193)

¹³³ Edleson, J.L., (1999). Problems associated with children's witnessing of domestic violence, VAW Net.

¹³⁴ Law on Child Protection, Article 57

domestic violence is offered in these separate children's shelters. Generally, while some NGO-run shelters and day-care specialised services can provide psychological counselling to children, the provision of such services remains rare due to their limited resources.

162. With regard to general support services, particularly the Centres for Social Work, the delegation was made aware that there is a general lack of psychologists working in these services. In this context, the specific absence of trained child psychologists is particularly concerning considering the lack of understanding of the gendered nature of domestic violence among some staff members of the Centres for Social Work who may underestimate the harmful effects of violence on child witnesses and try to maintain contact with both parents, as further explained under the section on Article 31 in Chapter V.

163. **It is urgently recommended that the authorities step-up measures to ensure:**
- a. **the availability of age-appropriate psycho-social counselling for child witnesses of all forms of violence covered by the Istanbul Convention, in particular for children who witness domestic violence;**
 - b. **wider levels of awareness among relevant professionals, particularly those working in social services, education and judicial institutions, of the harmful effects of witnessing domestic violence on children;**
 - c. **the co-ordination of the above with decisions related to the settlement of custody and visitation rights, as well as to the granting of protection measures for child witnesses, including protection orders.**

I. Reporting by professionals (Article 28)

164. Article 378, paragraph 2 of the Criminal Code obliges all public officials and professionals to report to the competent authorities any criminal offence punishable with at least three years of imprisonment, discovered as part of their professional duties and failure to do so shall be punishable by a fine or up to three years of imprisonment. The Standard Operating Procedure (SOPs) for the Protection against Domestic Violence also defines extensive reporting obligations for professionals who may be in contact with victims of domestic violence. Under the above SOPs, suspicious or identified cases of domestic violence must be reported by education and healthcare institutions to law enforcement agencies. With regards to education institutions, in cases of suspected domestic violence against children, these should be reported and referred to the custody body or the police. As mentioned above,¹³⁵ a protocol and an information system exist in the education sector for reporting cases of violence against children.

165. However, the reporting of violence against children by education professionals remains low. Similarly, the number of reported cases by healthcare professionals is particularly low partly due to professionals' lack of training on identifying and supporting women victims of domestic violence. However, it must be noted that extensive reporting obligations for healthcare staff can raise issues around victims' autonomy. Indeed, a fundamental element of the doctor-patient relationship is that of confidentiality, which is based on the notion that individuals should not be prevented from seeking medical treatment for fear of a disclosure of his or her condition to a third party. A confidential relationship is a prerequisite for providing patients with a correct diagnosis and the best possible medical care. This is even more important regarding women victims of domestic violence, sexual violence or other forms of violence covered by the convention, who may not feel ready to report or reach specialised support services.

166. While the above SOPs for the Protection from Domestic Violence are limited to domestic violence, the obligation set forth by the Criminal Code applies to all professionals and to any criminal offence which may be punishable with imprisonment of at least three years. Therefore, it applies to all forms of violence against women. Nonetheless, no information was provided on whether professionals also report other cases beyond those of domestic violence.

¹³⁵ See Chapter III, section on article 14 (Education)

167. As pointed out by GREVIO in several of its evaluation reports,¹³⁶ the requirement deriving from Article 28 is carefully worded in order to allow professionals, when there are reasonable grounds to believe that a serious act of violence has been committed and that further serious acts of such violence are to be expected, to report their suspicion to the relevant authorities without a risk of sanction for breaching their professional duty of confidentiality. The Explanatory Report explicitly states that this provision does not impose an obligation to report.¹³⁷

168. While the imposition of reporting obligations on professionals does not run counter to Article 28 of the Convention, GREVIO has explained in its baseline evaluation reports¹³⁸ that: *"blanket reporting obligations may raise issues around the provision of victim-centred and gender-sensitive support services. Mandatory reporting may in fact constitute a barrier to help-seeking for women victims who do not feel ready to initiate formal procedures and/or fear the consequences of reporting for them or for their children (such as retaliation from the abuser, financial insecurity, social isolation or the removal of children from their care). Where the authorities have introduced mandatory reporting obligations for professionals, GREVIO has noted that these should allow for the balancing of the victims' protection needs – including those of her children – with respect for the victim's autonomy and empowerment, and should thus be circumscribed to cases in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected. In these cases, reporting may be made subject to certain appropriate conditions such as the consent of the victim, with the exception of some specific cases such as where the victim is a child or is unable to protect her/himself due to disabilities"*.

169. Recalling the principle of women's empowerment mainstreamed throughout the Istanbul Convention, it is strongly recommended that the authorities ensure that the duty to report imposed on professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy. To this end, it is strongly recommended that the authorities review the obligation for professionals to report cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the Istanbul Convention has been committed and further serious acts are to be expected. This may well require making the obligation to report contingent upon the prior consent of the victim, unless the victim is a child or is unable to protect her/himself due to disabilities.

¹³⁶ GREVIO's baseline evaluation reports on Andorra (paragraph 135); Poland (paragraph 151); Slovenia, (paragraph 215); and Montenegro (paragraph 149).

¹³⁷ Explanatory Report to the Istanbul Convention, paragraphs 146 and 147

¹³⁸ GREVIO's baseline evaluation reports on Andorra (paragraph 135); Poland (paragraph 170); Serbia, (paragraph 152); and Malta (paragraph 139).

V. Substantive law

170. Chapter V of the Istanbul Convention covers a range of provisions related to substantive law, in the area of both civil and criminal law. Their aim is to help in creating the necessary legislative framework to prevent violence against women, protect them from further victimisation and to ensure robust intervention and prosecution by law-enforcement agencies. This section of the report addresses several but not all provisions of Chapter V of the convention.

A. Civil law

1. Civil remedies against the authorities – ensuring due diligence (Article 29)

171. A core aim of the convention is to end impunity for acts of violence against women. This not only requires that individual perpetrators be held accountable through criminal law and other measures, but also that legal avenues be available to challenge and address any failure of public actors to comply with their due diligence obligation to prevent, investigate and punish acts of violence (Article 5, paragraph 2 of the convention).

172. The Law on Obligational Relationships provides victims with a legal avenue to seek damages against whoever causes death, physical injury or damage to health.¹³⁹ It provides both for material and immaterial damage, opening it up to victims who have experienced non-pecuniary instead of pecuniary damage only, which is of great importance for victims. Regarding available civil remedies against authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers, the Law on Obligational Relationships provides for employer liability (legal or natural person).¹⁴⁰ This would seem to include wrongful acts or omissions by individual public officials, as well as the public agency or institution in the provision of support and protection to victims of violence against women and domestic violence. While public authorities have discretion to decide the kind of civil remedies that are made available as well as the type of behaviour that is actionable under internal law, it is concerning that this law sets out a very high threshold, requiring the damage to be inflicted intentionally or out of gross negligence. In its baseline evaluation reports, GREVIO has stressed that the obligation stemming from Article 29 of the Istanbul Convention should not be viewed as being limited to gross negligence or wilful disregard on the part of the authorities of the duty to protect life.¹⁴¹ While the existence of relevant legal avenues is a positive development and a step towards compliance with the convention, no information was provided to the delegation on regarding their viability for women victims in Kosovo*.

173. Claims against public officials can also be brought to the Constitutional Court for violations of the right to life (Article 25 of the Constitution). In a well-known case regarding the inaction by a municipal court (failure to issue an emergency protection order), resulting in the murder of the applicant's daughter by her former intimate partner and father of her child, the Constitutional Court concluded that the inability to access legal remedies implied a violation of the rights guaranteed by the Constitution and conventions.¹⁴² However, Constitutional Court claims are rarely resorted to by victims of domestic violence because the victim must exhaust all other domestic remedies first.¹⁴³

174. Complaints of police misconduct can be filed with the Kosovo Police Inspectorate, an independent body, who has jurisdiction to handle conduct that has reached the threshold of a criminal offence. Where it ascertains that the conduct is not within its jurisdiction, it can refer the matter for administrative treatment to the Directorate of Professional Standards of Kosovo Police, which deals with cases that reach the threshold of serious misconduct or to the Regional Police Directorate who deals with conduct categorised as minor misconduct. Despite evidence that such failures by police do occur, the delegation was made

¹³⁹ Law on Obligational Relationships of the Republic of Kosovo, Articles 169-189.

¹⁴⁰ *Ibid.*, Article 152.

¹⁴¹ GREVIO's baseline evaluation reports on Italy (paragraph 170); Explanatory report to the convention, paragraph 163.

¹⁴² *Gëzim and Makfire Kastrati against Municipal Court in Pristina and Kosovo Judicial Council*. Case KI 41/12.

¹⁴³ Constitution of Kosovo, Article 113, paragraph 7.

aware of only one case filed in 2019 which is currently before the basic courts. This case is based on an initial complaint against the refusal by the Kosovo Police to register a complaint for a breach of a protection order because of the way the beneficiary of the order was dressed, and the Police Inspectorate and the internal Directorate of Professional Standards and the Appeals and Reward Board declined to act.¹⁴⁴ Complaints against a judge or prosecutor for disciplinary offenses can be submitted to the president of the court or the Office of the State Prosecutor respectively and investigated by the Kosovo Judicial Council and Kosovo Prosecutorial Council.¹⁴⁵ Such disciplinary measures are important tools which should be made use of in relation to public officials who display gender stereotypical behaviours in relation to victims they must serve, as GREVIO has noted in one of its reports.¹⁴⁶

175. Individual complaints about the failure of public officials to act in cases of violence against women may also be brought to the Ombudsperson Institution, who can also initiate *ex officio* investigations into, among other things, the inaction of public officials that has led to the murder of a woman, concerns about lengthy court proceedings and lack of access to effective victim compensation.¹⁴⁷ Its decisions and recommendations are addressed to the parties concerned. The Ombudsperson Institution may also intervene in court proceedings initiated in civil litigation with the consent of the person discriminated against. Only very few cases concern the accountability of public officials in cases of violence against women, although they do exist.

176. **It is strongly recommended that the authorities examine and address any barriers to the use of civil law measures available to hold public authorities accountable for failure to comply with the obligation to diligently prevent, investigate and punish acts of violence covered by the Istanbul Convention and to protect victims, as well as to ensure the provision of adequate information to women victims of violence in order to enable them to make practical use of the existing legal remedies. Progress in this area needs to be measured by collecting data on the number of complaints by victims and their outcomes.**

2. Compensation (Article 30)

177. In Kosovo*, primary compensation covered by Article 30, paragraph 1 of the Istanbul Convention can be sought from the perpetrator as part of the criminal proceedings or separately through civil law remedies. Under the Criminal Procedure Code, criminal courts can order victim compensation for loss of financial, physical and emotional harm caused by the crime for which the perpetrator has been found guilty.¹⁴⁸ The claim must be filed during the investigatory stage or within 60 days of filing the indictment by the Office of the State Prosecutor. Under the Standard Operating Procedures for Victim Protection and Assistance, Victim Advocates from the Victims Advocacy and Assistance Office are to assist victims in completing a simple declaration of damages. If a victim is not awarded restitution in the criminal case, the Victim Advocate is to advise the victim that they may seek restitution in civil court with the assistance of legal aid, a private attorney or self-representation.

178. Information collected during the delegation's visit suggests several limitations in the system of primary compensation. For example, the onus of enforcing compensation orders is placed on the victim who must proceed through civil courts, resulting in delays, additional costs and the need to testify again and face the defendant. This can act as a deterrent to pursuing further action. Research from civil society found that Victim Advocates informed victims about their right to compensation in less than 20% of all cases.¹⁴⁹ Another study found that the judiciary was not applying efficiently the declaration of harm, instead

¹⁴⁴ The delegation takes note of the Ombudsperson Institution's Legal Opinion in Friend of the Court (Amicus Curiae) Capacity. C. No. 385/2020 L.A.K versus Kosovo Police. 12 March 2021.

¹⁴⁵ Law on Disciplinary and Responsibility of Judges and Prosecutors

¹⁴⁶ See GREVIO's baseline evaluation report on Austria (paragraph 126).

¹⁴⁷ According to information received during the delegation's visit: the Ombudsperson Institution received 12 complaints regarding violence against women in 2020; 21 complaints in 2021 and 8 cases in 2022 as of April.

¹⁴⁸ Criminal Procedure Code, Article 62, paragraph 1.4.

¹⁴⁹ As cited in Berisha, A. (2017). From words to action? Monitoring the institutional response to gender-based violence in Kosovo. KWN.

judges tended to state that victims “do not want” compensation.¹⁵⁰ As GREVIO has stated in several of its baseline evaluation reports, more use should be made of the possibility to award compensation under criminal proceedings and the obligation of enforcement should be placed on the authorities.¹⁵¹ This would lift the burden of having to institute civil proceedings which always carry the risk of incurring court fees.

179. If compensation cannot be obtained from the perpetrator, the Law on Crime Victim Compensation regulates the right to subsidiary compensation for victims of violent crimes and their dependents¹⁵², including in cases of murder, rape, sexual abuse of children and criminal offences defined by the Law on the Protection against Domestic Violence.¹⁵³ The Crime Victims Compensation Committee may also cover other violent crimes in cases where the victim is vulnerable. Victims applying for compensation must file a number of documents along with their application within six months of the criminal incident.¹⁵⁴ These include, among others, evidence of citizenship or of permanent residence, medical certificates, or any police document showing that a criminal offence has been detected, reported and dealt with.¹⁵⁵ The Committee shall render a decision within 90 days from receiving a complete application.¹⁵⁶ However, anecdotal evidence indicates there has been low awareness of the existence of compensation and difficulties in collecting the necessary documents by applicants.

180. It is welcomed that primary and secondary compensation is, in principle, available to women victims of violence. However, the delegation is unable to ascertain whether the system is effective in practice owing to the lack of sufficient data. While the data from the Ministry of Justice on compensation granted by the Crime Victims Compensation Committee for the year 2021 indicates that 35 out of 56 applications filed were made by women, the data identifying the number of applications accepted (28) and rejected (28) and applications per type of crime were not sex disaggregated. Moreover, the number of compensation claims brought by women victims, and the outcomes in terms of timescale and compensation amounts per case is not known.

181. As regards victims of sexual violence during the war,¹⁵⁷ although no official numbers exist, it is estimated that as many as 20 000 to 45 000 women and girls were raped or suffered other forms of sexual violence during the conflict.¹⁵⁸ Since February 2018, they can apply to the Government Commission for the Recognition and the Verification of the Status of Victims of Sexual Violence during the War to receive recognition for individual compensation.¹⁵⁹ Once approved, applicants qualify for benefits, including, among others, pension, health services, rehabilitation support, priority treatment in seeking employment, property tax relief and free education in public universities. It is commendable that this mechanism includes qualified professionals who use procedures established through a consultation process involving women’s rights NGOs specialised in working with women victims of war-time sexual violence, in order to ensure women’s protection and dignity, as well as the confidentiality of the process.¹⁶⁰

¹⁵⁰ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN..

¹⁵¹ See GREVIO’s baseline evaluation report on Austria (paragraph 131) and Slovenia (paragraph 228).

¹⁵² Law on Crime Victim Compensation. Under Article 13, paragraph 3, compensation for physical pain can range from €1 500 for moderately serious cases to €7 000 for extremely serious cases. Under Article 14, compensation for severe mental health damages can be up to €5 000.

¹⁵³ Law on Crime Victim Compensation, Article 6.

¹⁵⁴ Ibid., Article 31.

¹⁵⁵ Ibid., Article 32.

¹⁵⁶ Ibid., Article 34.

¹⁵⁷ See Chapter I, section on Articles 2 and 3 (Scope of application of the convention and definitions)

¹⁵⁸ Arber, K. (2018). Pioneering Kosovo Rape Victim Relives Battle for Justice. *Birn. Balkaninsight*. Hynes, P. (2000) “Sexual violence against women in refugee settings”, *Journal of Women’s Health & Gender-based Medicine* 9(8).

¹⁵⁹ In 2014, the Assembly of Kosovo* enacted the law Amending and Supplementing the Law on the Status and the Rights of the Martyrs, Invalids, Veterans, Members of the Kosova Liberation Army, Civilian Victims of War and their Families and for the first time, sexual violence victims of war were recognised under the law.

¹⁶⁰ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

182. The Commission had received 1645 applications as of 21 February 2021, approving 1120, rejecting 228, with the rest still under consideration. Women make up 94% of all applications treated. However, concerns were raised as the process excludes victims who suffered from conflict-related sexual violence after 20 June 1999. The law granted survivors five years to decide to apply for recognition and benefits starting from February 2018, which both public authorities and civil society have agreed to be a too short timeframe for victims of sexual violence to overcome the stigma and trauma associated with such a procedure. Moreover, the considerable number of applications received contributed to some delays in processing applications. As another source of concern, the law prohibits beneficiaries from receiving two pensions if they already receive another war-related payment (e.g., for widows whose husbands died or were injured).

183. It is recommended that the authorities take further measures to facilitate and guarantee access to compensation for victims of all forms of violence against women, including war-time sexual violence, in particular by ensuring that victims are systematically informed of their right to claim compensation and the procedures to be followed. It is also recommended that the authorities consider expanding the five-year period to apply for compensation to the Government Commission for the Recognition and the Verification of the Status of Victims of Sexual Violence during the War.

3. Custody, visitation rights and safety (Article 31)

184. Custody and visitation decisions in relation to families with a history of abuse require a careful balancing of the different interests at stake. Article 31 of the convention seeks to ensure that incidents of violence covered by the convention, in particular domestic violence, are taken into account in decisions on custody and visitation rights to ensure that the exercise of these rights does not harm the rights and safety of the victim or children. In particular in cases of domestic violence, issues regarding common children often represent the only ties that remain between victim and perpetrator.

185. In Kosovo*, decisions on custody and visitation are governed by the Law on Family. In case of separation or divorce, custody is granted to one or the other parent at the discretion of the judge, after hearing the opinion of the Custodian Body (from the Centres for Social Work) and after an investigation has been conducted.¹⁶¹ The non-custodian is entitled to visiting rights, which are determined by decision of the court. This law contains the principle of the “best interest of the child”, by requiring that courts confer custody to the parent who is best placed to protect the interest of the child, namely ensuring education, security and financial maintenance. There is no explicit reference in the Law on Family to ensure that incidents of violence against women are to be considered by judicial authorities in the determination of custody or visitation rights, nor is there a legal provision requiring the systematic screening of family law cases for domestic violence. In practice, it appears that judges rely on formal evidence of violence such as the institution of criminal proceedings or civil proceedings for protection orders instead of undertaking additional measures to screen for a history of abuse. This, however, would be important to comprehensively assess the situation, including by obtaining information about acts of violence such as that documented by a doctor’s certificate, a complaint, witness statements, or reports to the police, as GREVIO has had the occasion to note.¹⁶²

186. The delegation notes, based on exchanges with civil society and existing research, a concerning practice by social workers and the judiciary which consists of assessing the child’s best interest in terms of prioritising the perceived economic well-being over their physical and psychological well-being.¹⁶³ This, coupled with an underlying assumption that children “belong” with their fathers, has resulted in custody of children being given to fathers even where he has perpetrated violence. Concerns have been raised regarding the practice of social workers and family law judges of foregoing options such as awarding alimony to women and /or dividing up property. Hence, such practices do not address women’s unstable economic situation which is impacted by their unfavourable position as regards property rights,

¹⁶¹ Law on Family, Article 140.

¹⁶² See GREVIO’s baseline evaluation report on Monaco (paragraph 108).

¹⁶³ Information collected during the delegation visit, Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

employment, and access to resources.¹⁶⁴ This departs from the victim-centred approach required by the Istanbul Convention, and the fear of losing custody of their children is among the reasons why women living with abuse do not report violence. In Northern Kosovo*, women with dual identity documentation (i.e. from Serbia and Kosovo*) may experience heightened difficulties in accessing divorce proceedings and obtaining child custody due to the dual legal and administrative systems.

187. Ample research has shown that inadequate child custody and visitation decisions may expose women to post-separation abuse.¹⁶⁵ Thus, in its baseline evaluation reports, GREVIO has stressed that the safety of the non-violent parent and any children involved must be a central factor when deciding on custody and visitation arrangements.¹⁶⁶ It is a requirement of the convention to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children. Article 31, whilst preserving the idea of a child's best interests, provides that decisions on custody, frequency of visits, and the relationship between parents and children must consider instances of violence not only against the child but also against the non-abusive parent.

188. In Kosovo*, it appears that visitation rights are frequently granted to the abusive parent because it is considered to be in the best interests of the child to maintain contact, thus prioritising contact over safety. While the Law on the Protection against Domestic Violence foresees the temporary removal of parental rights from the perpetrator, research showed that, in practice, if there is no direct violence against children, courts often assigned regular visits for the father with the child.¹⁶⁷ It also found that some judges may reverse or modify protection orders which have granted temporary child custody to a victim of violence, by giving perpetrators visitation rights after a protection order had removed the perpetrator's parental right.

189. Further, it is concerning that the Law on Family contains provisions restricting women's access to divorce proceedings, and thereafter custody claims. Indeed, Article 70 prohibits spouses from filing divorce claims during the wife's pregnancy and until their joint child has reached the age of one, allowing courts to postpone the divorce if and as long as there are specific reasons to consider it in the interest of the child to maintain the marriage. In this context, it is important to note that several studies have shown the risk of an increase in abuse during pregnancy and post-partum, and that women are particularly vulnerable during this period.¹⁶⁸ In the absence of any obligation imposed on family judges to systematically screen for a history of domestic violence, the use of Article 70 may expose women and their young children to extended abuse.

190. In Kosovo*, the possibility of facilitating supervised access visits has been set up in the Centres for Social Work. The delegation was unable to assess the frequency of supervised visitation orders by the courts or the capacity of the Centres for Social Work to ensure adequate supervision. However, it was alerted by civil society and legal practitioners to the attitudes of some social workers which seem to promote family unity before the safety of victims of domestic violence.

191. It is urgently recommended that the authorities take the necessary measures, including legislative amendments, to ensure that courts are under the obligation to consider incidents of violence against women when determining custody and visitation rights and to restrict custody and visitation rights where this is warranted to guarantee the safety and best interest of the child. In particular, it is urgently recommended that the authorities:

¹⁶⁴ See Chapter I, section on Article 4, paragraph 2 (Gender equality and non-discrimination)

¹⁶⁵ Research shows that for many women and children, violence intensifies after separation, that child contact (including court-ordered contact) is a site for the perpetuation of violence, even where there are high levels of supervision, and that child contact can be used by male abusers as a way of continuing control over women victims. See: R. Thiara and C. Harrison (2016), *Safe not sorry: Key issues raised by research on child contact and domestic violence*, Women's Aid; Mackay K. (2018), "Child contact as a weapon of control", In Lombard (ed.), *The Routledge Handbook of Gender and Violence*. pp. 145-158.

¹⁶⁶ See for example, GREVIO's baseline evaluation report on Poland (paragraph 191); San Marino (paragraph 142).

¹⁶⁷ Banjska, E. et al. (2021). *From laws to action: monitoring the institutional response to gender-based violence in Kosovo*. KWN.

¹⁶⁸ See for example: Finnbogadóttir, H., Dykes, AK. (2016) *Increasing prevalence and incidence of domestic violence during the pregnancy and one and a half year postpartum, as well as risk factors: a longitudinal cohort study in Southern Sweden*. *BMC Pregnancy Childbirth* 16, 327; McFarlane, J. et al. (2002). *Abuse during pregnancy and femicide: Urgent implications for women's health*. *Obstetrics and gynecology*. 100. 27-36.

- a. **take measures to incorporate a systematic process for screening cases related to divorce, the determination of custody and visitation rights in order to identify and take into account cases of violence covered by the Istanbul Convention;**
- b. **amend Article 70 of the Law on Family, to ensure that all women, including pregnant women and mothers of children under the age of one are not legally prohibited from leaving an abusive spouse;**
- c. **ensure that only professionals, particularly psychologists and child psychiatrists, who are attuned to the issue of violence against women and the requirements of the Istanbul Convention, can be appointed by courts to provide advice on issues of custody and visitation in situations of violence against women;**
- d. **provide appropriate training and develop professional guidelines, aimed at raising awareness among the professionals concerned as to the harmful effects of violence on children, including child witnesses, and at familiarising them with the requirements of Article 31 of the Istanbul Convention; and**
- e. **monitor the courts' practice in this field and measure progress.**

B. Criminal law

1. Psychological violence (Article 33)

192. Psychological violence outside the domestic sphere is not specifically criminalised, although several provisions of the Criminal Code may cover some manifestations such as threat (Article 181), coercion (Article 192), and blackmail (Article 329). Such general offences are designed mainly to punish single acts carried out in isolation and are less suitable to capture the conduct set out in Article 33 of the Istanbul Convention, which consists of any intentional conduct that seriously impairs another person's psychological integrity. It is intended to capture the criminal nature of an abusive pattern of behaviour occurring over time, which can be done by various means or methods, such as isolation, control, coercion and intimidation. In the absence of specific data on the number of prosecutions and convictions for psychological violence, both under the general offences of threat, coercion and blackmail, it is difficult to draw conclusions as to how effective these provisions are in holding perpetrators accountable for psychological violence.

193. Psychological violence is also specifically criminalised under the dedicated offence of domestic violence (Article 248) and can be prosecuted under the general offences already mentioned, which can lead to aggravated sentences if committed within family relationships (Article 70). While Article 248 includes psychological violence intended to violate someone's dignity, it does not define this term. It only refers to the definitions set out in the Law on the Protection against Domestic Violence, which does not set out criminal offences but establishes a civil protection regime. The inclusion of economic violence in Article 248 as well as its list of conduct ensures its application to a more broadly defined range of behaviours with a focus on controlling, coercive and threatening behaviour rather than just physical violence. It is noted, however, that Article 248 does not apply to psychological violence committed against non-cohabitating intimate partners.¹⁶⁹ The delegation was informed that the draft law aimed to amend the Law on the Protection against Domestic Violence¹⁷⁰ may provide separate definitions for each form of domestic violence covered by the Criminal Code.

194. It is commendable that prosecutors may initiate criminal proceedings in cases of domestic violence regardless of whether or not the victim wishes to press charges and the crime may be reported by anyone. Nonetheless, following the introduction of Article 248, the delegation was informed that confusion arose among prosecutors and the judiciary as to how psychological and economic violence were defined under the Criminal Code and which offences to apply in situations of domestic violence, resulting in cases where the courts dismissed cases involving both domestic violence and other generic criminal offences.¹⁷¹

¹⁶⁹ See Chapter I, section on Articles 2 and 3 (Scope of application of the convention and definitions)

¹⁷⁰ Ibid

¹⁷¹ Information collected during the delegation visit. See also Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

Promising steps were taken by the Supreme Court through the issuance of the “Guidance on Legal Qualification and Treatment of Domestic Violence Cases According to the Criminal Code”, in June 2020 which clarify, on the one hand, how to implement Article 248 and on the other hand, when to proceed with other general offences that would cover different forms of domestic violence.

195. The Supreme Court Guidance defined psychological violence as including constant control, verbal abuse, isolation, humiliation or emotional abuse through swearing, insulting, blackmailing, intimidating, stalking and the constant surveillance of a victim, degrading treatment, intimidation or similar forms of control or keeping a victim under constant emotional distress by putting her under reasonable fear of using violence against her or individuals in a family relationship. Economic violence includes denying access to or controlling basic resources by restricting the means necessary for living, denying access to medical services, education or employment, damaging property or other forms of pressure in order to keep a person in a dependent economic position. Economic violence can be expressed as a single form of pressure or combined with other forms of abuse or violence, and in particular with psychological violence.

196. In addition, the Supreme Court Guidance concluded that the purpose of Article 248 was to include the “lightest forms of domestic violence”. It instructs prosecutors and the judiciary that in cases where the elements of any underlying offence have not been met, as a result of the degree of violence exercised or the lack of evidence for that element, the qualification of the offence should be in accordance with Article 248. In the absence of robust data, it is difficult to determine how these guidelines have been applied. There is concern that if the legal authorities focus on the last isolated incident without considering the history of the domestic violence, they might perceive the incident as being of a “lighter nature”. This seems to defeat the very purpose of specific domestic violence offences, which is to capture the continuous nature of domestic violence.

197. It is strongly recommended that the authorities take measures to effectively investigate, prosecute and punish acts of psychological violence by making full use of the available provisions in the Criminal Code, including by ensuring prosecution under Article 248 of the Criminal Code in cases of psychological violence in the domestic context, and to increase training, among law-enforcement officials, judges and other relevant professionals of the gendered nature and consequences of psychological violence. It is also recommended that the authorities review the existing case law of psychological violence to examine whether the available provisions are adequately used in practice.

2. Stalking (Article 34)

198. Stalking is criminalised under the offence of “harassment” (Article 182 of the Criminal Code) that covers a “pattern of repeated and unwanted attention or communication”; “intent to harass, intimidate, injure, damage property or kill another person or his or her children, family, relatives or pets”; and “in the course thereof, places that person in reasonable fear of death, grievous bodily injury, serious damage to property or substantial emotional distress”. Punishment includes a fine or a three-year prison term. The sentence is aggravated if the offence was committed against a former or current domestic partner or a former or current family member or with a weapon.

199. While it is welcomed this provision which primarily refers to the intent of the perpetrator, it is concerning that the constituent element of instilling a sense of fear in the victim has been set at a particularly high threshold by linking it to the “reasonable fear of death, grievous bodily injury, serious damage to property or substantial emotional distress”. This may place a disproportionate weight on the victim’s behaviour and may leave many victims unduly unprotected. In a similar context, GREVIO recalled that Article 34 defines stalking as the intentional conduct directed at another person, causing her or him to fear for her or his safety, irrespective of any severe moral suffering and harm.¹⁷²

200. In 2019, 141 convictions were recorded for harassment, with 73 perpetrators receiving fines, 15 receiving a prison term of less than 12 months, four a prison term between one and five years,

¹⁷² See GREVIO’s baseline evaluation reports on San Marino (paragraph 151).

while 44 cases were conditionally discharged.¹⁷³ Civil society indicated to the delegation that the judiciary published few cases of harassment, and therefore, it has not been able to analyse whether the constituent elements have been interpreted to ensure they are in line with Article 34 of the convention. For instance, the term “unwanted attention” is not defined and leaves room for interpretation, raising concerns that this may require that the victim must demonstrate that the acts are unwanted. Moreover, concern was raised about the lack of knowledge by law enforcement agencies, prosecutors and the judiciary regarding this offence, and their limited understanding of both the complex nature of stalking, women’s reactions to it, and how to effectively stop this continued form of violence against women.

201. GREVIO, in its Recommendation No. 1 on the digital dimension of violence against women, recommends that online and technology-facilitated stalking, such as threats, damage to reputation, monitoring and gathering of private information on victim, identity theft, impersonating the victim, using modern communication tools and ICT devices be appropriately sanctioned. Therefore, it is welcomed that Article 182, paragraph 4 defines repeated and unwanted communication that includes making repeated phone calls, leaving voice messages and sending text messages, mail or e-mails. However, tools used to track victims like, among others, cameras, recording equipment, global positioning systems (GPS) or software (i.e. spyware) are not explicitly covered.

202. **It is recommended that the authorities review the threshold required for a behaviour to qualify as stalking to ensure that threatening conduct causing the victim to fear for her or his safety is criminalised, without requiring fear of death, grievous bodily injury, serious damage to property or substantial emotional distress. It is further recommended that the authorities develop investigation and prosecution guidelines supported by training for relevant professionals on the gendered nature of stalking, its digital dimension and its serious psychological consequences.**

3. Physical violence (Article 35)

203. In the Criminal Code, physical violence is covered under general offences such as murder, aggravated murder, negligent murder (Articles 172, 173, 175 respectively) as well as assault, light bodily injury and grievous bodily injury (Article 184, 185, 186 respectively), which can be aggravated in family relationships (Article 70). It is welcomed that aggravated murder includes depriving a family member of his or her life; as well as murders motivated by gender.

204. Of relevance to domestic violence is the dedicated offence contained in Article 248 of the Criminal Code. While it does not define the terms of physical violence, it refers to the definitions in the Law on the Protection against Domestic Violence, which includes physical assault regardless of consequences; the use of physical force exercised towards another member of the family; any other action of a family member, and which may inflict or threaten to inflict physical pain or psychological suffering.¹⁷⁴ This law, however, does not establish criminal offences but offers a list of individual acts of domestic violence.

205. The above-mentioned Supreme Court’s “Guidance on Legal Qualification and Treatment of Domestic Violence Cases According to the Criminal Code”¹⁷⁵ contains two key instructions. First, in all cases where the elements of the underlying offences are met, the qualification of the criminal offence should be made according to the relevant articles rather than making a conjunction with Article 248. Second, in all cases where elements of an underlying offence have not been met, because the consequence caused is of a “lighter nature” or when there is a lack of evidence on the harm caused, the qualification should be made according to the relevant paragraph of Article 248. However, in the absence of data, it is difficult to determine how these guidelines have been applied by the courts. Similar to the concerns regarding psychological violence, there is a concern that if the legal authorities focus on the last isolated incident without considering the history of domestic violence, they might perceive the incident of physical violence as of a “lighter nature” and therefore Article 248 would apply rather than a general offence that might

¹⁷³ Kosovo Agency for Statistics. (2020). Statistics of Jurisprudence for Adult Persons 2019.

¹⁷⁴ The Law on the Protection against Domestic Violence, Article 2, paragraph 1.2.

¹⁷⁵ See Chapter V, the section on Article 33 (Psychological violence)

attract a harsher penalty. Moreover, due to a tradition of over-reliance on physical corroborating evidence, it is unclear whether a victim's statement alone would be viewed as a "lack of evidence".

206. The disparity between the sanctions imposed by Article 248 versus general offences covering the same conduct raises questions regarding the effectiveness of parallel sanctioning regimes. This may translate into a practice of treating domestic violence as a minor offence or creating a hierarchy of domestic violence offences. Article 248 attracts a fine and up to three years imprisonment, whereas some of the generic offences can attract harsher penalties particularly with the consideration of aggravating factors such as Article 70 (where the perpetrator shares a domestic relationship with the victim) or Article 113 (offence committed against a 'vulnerable victim').

207. It is recommended that the authorities take measures to ensure effective investigation, prosecution and punishment of acts of physical violence against women, including intimate partner violence, by making full use of the available provisions in the Criminal Code and to ensure that sanctions are effective, proportionate and dissuasive, taking into account the gendered nature of these offences.

1. Sexual violence, including rape (Article 36)

208. Rape (Article 227), sexual assault (Article 229), and degradation of sexual integrity (Article 230) are criminalised under Chapter XX of the Criminal Code ("offences against sexual integrity"). The offence of rape is defined as subjecting another person to a sexual act without such person's consent. The term "sexual act" means penetration, however slight, of any part of the body of a person with a sexual organ or an object for sexual purpose or the penetration however slight of the anal, oral or genital opening of a person with any object for a sexual purpose, or any other part of the body or any part of an animal. The offence of sexual assault is defined as where a person touches another for a sexual purpose or induces a person to touch them or another person for a sexual purpose, without consent. The term "touching" means any direct or indirect contact, where there is no penetration, between the body of a person with any part of the body of another person or with an object. These offences bring the Criminal Code in line with the requirement of Article 36, paragraph 1 of the Istanbul Convention. As an example of compliance, the offences explicitly cover non-consensual sexual violence committed with an object. It is further welcomed that these two offences explicitly cover conduct of causing another person to engage in non-consensual acts of a sexual nature with a third person as per Article 36, paragraph 1 c of the convention.

209. Additionally, it is welcomed that the Criminal Code includes a definition of consent¹⁷⁶, which means voluntary agreement of a person over the age of 16 to engage in a sexual act. It can also mean voluntary agreement between two people over the age of 14 where the difference in their age does not exceed two years. The Criminal Code defines some non-exhaustive circumstances where no consent is obtained. The delegation commends this important step towards adopting a context-based approach of consent and holding perpetrators accountable under the many circumstances where the victim did not give her consent voluntarily as the result of her free will.

210. Punishments for both rape and sexual assault are increased if there is a threat of violence, imminent danger, exploitation, use of weapon, torture, bodily injury, intoxication, awareness of a victim's vulnerabilities, or domestic relationship with the victim. The Criminal Code contains a wide range of aggravating circumstances. However, while it may be warranted to provide for higher penalties in some cases of rape with aggravating circumstances, the minimal sanctions of two years for rape cases (Article 227) and one year or a fine for sexual abuse cases (Article 229) are particularly low. The principle established by the Istanbul Convention is that all sexual acts without the consent of the victim shall give rise to dissuasive sanctions. Where the circumstances of the act are particularly violent, abusive and traumatising, aggravating circumstances should be applied to ensure a sanction commensurate with the gravity of the act.

¹⁷⁶The Criminal Code of the Republic of Kosovo, Article 225, paragraph 1.

211. It is concerning that, according to legal experts, some recent court decisions qualified the absence of injuries and resistance of a victim of rape, the lack of forensic evidence, and the absence of the victim during the trial as reasons to not qualify the prosecuted offence as a rape, resulting in mitigated sentences although no such mitigating circumstances are foreseen by the law.¹⁷⁷ This indicates the further need for training and guidelines for judicial professionals to enhance the effective implementation of the consent-based definitions of rape that focusses on the behaviour of the defendant rather than that of the victim. .

212. There is also concern whether the non-exhaustive list of circumstances where no consent is obtained is in sufficiently clear language to break away from the longstanding practice of courts to require proof of the victim's resistance to convict the perpetrator. It is unclear whether the courts require that the victim must express her opposing will verbally or otherwise, and this would not cover instances where the victim remains passive but does not consent. There seems to be a need for clear guidance on the need to focus, in relation to the surrounding circumstances of the case, on the assessment of the woman's free will and the perpetrator's ability to take notice of the woman's will.

213. It is welcomed that the Criminal Code provides, for both rape and sexual assault, their occurrence within a domestic relationship as an aggravating circumstance.¹⁷⁸ Furthermore, the Law on the Protection against Domestic Violence includes within the definition of 'domestic violence' "non-consensual sexual acts and sexual ill-treatment".¹⁷⁹ However, indications from civil society raise concerns that despite these provisions, their implementation regarding intimate partner rape and sexual violence is lacking.¹⁸⁰

214. Regarding sexual violence during the war, cases have been dealt with by the Special Prosecution Office of the Republic of Kosovo.¹⁸¹ Article 104 of the Criminal Code recognises the non-applicability of statutory limitations for war crimes and other criminal offenses to which the statutory limitation cannot be applied under international law. All indictments and prosecutions in Kosovo* have been brought for "war crimes against the civilian population" which covers "forcible rape" under Article 142, paragraph 1 of the 1976 Criminal Code of the Socialist Federal Republic of Yugoslavia, the law in force during the war. Civil society has raised concerns that this may led to difficulties in prosecution as it would require proof that the victim received physical injuries.¹⁸²

215. It is recommended that the authorities ensure an understanding of rape and sexual violence as offences based on the absence of consent, as defined in the Criminal Code, including through training and guidelines for professionals in the law enforcement and the judiciary. It is also recommended that the authorities carry out an analysis of the courts' practice in respect of cases of sexual violence, including war-time sexual violence, with a view to introducing, on the basis of the findings of such analysis, appropriate measures to ensure that the provisions of the Criminal Code on sexual violence are being effectively applied.

4. Forced marriage (Article 37)

216. The offence of forced marriage as defined in Article 239 of the Criminal Code is in line with Article 37, paragraph 1 of the Istanbul Convention. It is punishable by imprisonment of one to eight years and is aggravated if the criminal offence is committed against a child; committed by a parent or someone exercising parental authority; and/or with the purpose of obtaining a material benefit. The Criminal Code also punishes any official who knowingly permits unlawful marriage. However, the conduct described in Article 37, paragraph 2 of the convention of luring a person to the territory of a third state for the purposes

¹⁷⁷ Information collected during the visit, see also Kika, R. (2021) "No justice for the 15-year-old rape victim". Kosovo 2.0

¹⁷⁸ The Criminal Code of the Republic of Kosovo, Articles 227 paragraph 4.9 and 229 paragraph 3.9, respectively.

¹⁷⁹ The Law on the Protection against Domestic Violence, Article 2, paragraph 1.2.7.

¹⁸⁰ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

¹⁸¹ International Amnesty. (2017). Wounds that burn our souls: compensation for Kosovo's wartime rape survivors; Ukaj Elshani, V. (2020). Legal Framework of Conflict Related Sexual Violence: the Kosovo Case.

¹⁸² Ibid.

of forcing that person to marry against his or her will is not a criminal offence in its own right. Customary

child marriages are criminalised in Article 240 (co-habiting in extramarital community with a minor), which sets out criminal liability both for the adult co-habiting with the child and for the parents or guardians who arranged such co-habitation. However, comprehensive data was not available regarding how Article 239 has been applied in practice.¹⁸³ The delegation notes the concerns raised by civil society that it may be difficult to satisfy the burden of proof that a marriage was “forced”.¹⁸⁴ While courts may accept physical threats or emotional pressure, there may be reluctance among judges to accept as “forced” factors like fear of ostracism or shame, which may be particularly onerous for women in certain communities.

217. The practice of arranging child and early marriages that borders on forced marriage is prevalent among Roma, Ashkali and Egyptian communities.¹⁸⁵ Girls in these communities are raised in the knowledge that they will marry at an early age, with or without their consent. In many cases it is difficult to establish the actual use of force or threat, but the young age of most brides would point to a probable lack of consent to a marital union.¹⁸⁶ Nonetheless, GREVIO has stressed in several of its evaluation reports the distinction between arranged and forced marriages,¹⁸⁷ noting that while the first category does not fall within the scope of Article 37 of the convention because of the existence of an “implicit” acceptance, the second one does. As regards child marriage, GREVIO has recalled that the global human rights standards set out in the United Nations Convention on the Elimination of All Forms of Discrimination against Women and the United Nations Convention on the Rights of the Child prohibit the betrothal and the marriage of a child, ensure the right to freely choose a spouse and to enter into marriage with free and full consent, and consider early and forced marriage a harmful practice which must end.

218. According to research, some police officers, prosecutors, and judges conflate the issue of customary and forced marriage within the Roma, Ashkali and Egyptian communities, considering both that it is an inevitable consequence of “cultural difference” and that the application of the Criminal Code in such matters is therefore unnecessary.¹⁸⁸ In Kosovo*, most of the cases of early marriage in these communities are not officially registered.¹⁸⁹ GREVIO has previously noted that the unofficial character of such unions is not an impediment to their criminalisation in the sense of Article 37 of the convention.¹⁹⁰ As de facto marriages concluded under traditional principles, to which one of the parties has not voluntarily consented, they have the same negative consequences on women and girls as any registered marriage would have, such as dropping out of school and early/unwanted pregnancies etc. A stricto sensu requirement of a civil solemnisation of the union may jeopardise the protection afforded to forced marriage victims by the convention.

219. It is strongly recommended that the authorities criminalise the intentional conduct of luring an adult or a child to the territory of another state with the purpose of forcing this person into a marriage. It also is strongly recommended that the authorities take appropriate measures, including issuing protocols and training to relevant professionals, to ensure that both forced marriage and the customary cohabitation of minors do not remain unpunished.

¹⁸³ The Kosovo Police indicated to the delegation that 1 case of forced marriage was reported to the police in 2021.

¹⁸⁴ Information collected during the delegation visit, see also Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

¹⁸⁵ See Chapter I, article 4, paragraph 3 (intersectional discrimination)

¹⁸⁶ See GREVIO’s baseline evaluation report on Montenegro (paragraph 183).

¹⁸⁷ See GREVIO’s baseline evaluation reports on Montenegro (paragraph 183) and Serbia (paragraph 188).

¹⁸⁸ See UNFPA. (2012). Child marriage in Kosovo. Position of Roma, Ashkali and Egyptian Women in Kosovo.

¹⁸⁹ NREAWOK. (2018). Early Marriage: The Capacity and Knowledge Assessment of Roma, Ashkali and Egyptian CSOs. UN Women Central Asia.

¹⁹⁰ See GREVIO’s baseline evaluation reports on Montenegro (paragraph 184).

5. Female genital mutilation (Article 38)

220. It is welcomed that the criminal offence of female genital mutilation was established in 2019. Article 180 of the Criminal Code provides that whoever “for non-medical reasons, partially or totally removes

or permanently alters the external female genitalia” shall be punished, with a penalty that increases for “vulnerable” victims. There is also a penalty increase if the victim dies as a result of the mutilation. Inciting or assisting the crime is also punishable.

221. However, the delegation was informed that there have been no reported cases or recorded convictions to date, as it is largely considered alien to local practices and traditions. However, civil society has raised concerns that there is a lack of knowledge and understanding regarding this form of violence against women amongst the professionals concerned.¹⁹¹

6. Forced abortion and forced sterilisation (Article 39)

222. Article 178 of the Criminal Code criminalises the termination of pregnancy without the consent of the pregnant woman. Such situations, or assisting with such, is punishable with imprisonment. Article 179 of the Criminal Code criminalises forced sterilisation. This offence is also punishable with imprisonment. In both offences, the penalties increase if they result in grievous bodily injury, serious impairment to health, or death.

223. The offence of forced sterilisation relies exclusively on a lack of consent, while Article 39, paragraph 2 requires additionally prohibition of sterilisation if the victim does not understand the procedure. The absence of data makes it difficult to determine the effectiveness of these provisions, particularly, whether these provisions ensure adequate protection of women with disabilities in residential institutions or under guardianship.¹⁹²

224. **It is recommended that the authorities ensure that the existing provisions on forced abortion and forced sterilisation are able to protect women with disabilities against this form of violence.**

7. Sexual harassment (Article 40)

225. The delegation welcomes the introduction of the criminal offence of sexual harassment in 2019. Article 183 of the Criminal Code criminalises any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which aims at or effectively constitutes a violation of the dignity of a person, which creates an intimidating, hostile, degrading or offensive environment. The punishment is a fine or imprisonment up to three years. The penalty incurred increases if the perpetrator is in a position of authority over the victim or if a weapon, instrument, or object is used. Article 183, paragraph 5 requires that the criminal offence be initiated following a motion.

226. In addition to the criminal sanctions, sexual harassment as a form of discrimination is also sanctioned through the Law on Gender Equality and the Law on the Protection from Discrimination, which have low sanctions in the form of civil fines but encompass a wide range of aspects of public and private life, including but not limited to employment, education, access to social protection, social amenities, fair and equal treatment in court proceedings and access to public places. Besides, addressing sexual harassment as part of disciplinary offences is covered through the internal regulations of various institutions, but as indicated by civil society, the procedures for reporting and handling these cases internally are not always clear.¹⁹³

¹⁹¹ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

¹⁹² Explanatory Report to the Istanbul Convention, paragraph 206.

¹⁹³ Sylva, M. (2021). “Sexual Harassment in the Public Administration in Kosovo: Visible to Victims, Invisible to the System”. Kosovar Gender Studies Centre.

227. In the absence of data regarding convictions and non-criminal sanctions handed down for this offence, it is difficult to assess the effectiveness of the existing legal framework on sexual harassment. Moreover, the delegation was informed that several stakeholders do not clearly distinguish between sexual harassment and sexual violence.¹⁹⁴ GREVIO has drawn attention to the difference between the two in previous evaluation reports.¹⁹⁵ Sexual violence, including rape, as defined by Article 36 of the Istanbul Convention refers to sexual acts performed on another person without her or his freely given consent and covers sexual acts with or without penetration. Sexual harassment refers to somewhat less invasive but still harmful conduct such as verbal, non-verbal or physical conduct of a sexual nature that is unwanted by the victim.

228. GREVIO Recommendation No. 1 on the digital dimension of violence against women requires effective application of Criminal Code offences to respond to on-line sexual harassment. These forms of violence include such conduct as non-consensual image or video sharing; non-consensual taking, producing or procuring intimate images or videos (up-skirting, creepshots, fake porn); exploitation, coercion and threats (forced sexting, sexualised doxing, impersonation); sexualised bullying; and cyberflashing. Given the lack of data and case law, the delegation is unable to determine how effective criminal offences, such as sexual harassment (Article 183) and unauthorised photographing and other recording (Article 202), have been used to address this form of violence in its digital dimensions.

229. It is recommended that the authorities take measures to ensure that the legal provisions protecting women from sexual harassment are fully applied, including where such harassment is carried out using digital tools. Furthermore, it is recommended that the authorities increase their efforts to ensure higher levels of awareness of sexual harassment as opposed to sexual violence among the relevant stakeholders and to strengthen data collection regarding this form of violence against women, covering criminal, civil and disciplinary proceedings.

8. Sanctions and measures (Article 45)

230. Article 45 of the convention requires that offences defined in Articles 33 to 41 are punishable with the imposition of sanctions which are “effective, proportionate and dissuasive”. In the absence of official data,¹⁹⁶ it is difficult to analyse if courts have effectively sanctioned the seriousness of the offences in accordance with the spirit of the law. Despite reforms to the Criminal Code introducing the offence of domestic violence and corresponding sanctions of “fines and imprisonment up to three years”, the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) notes that sentences for perpetrators of domestic violence remain low. Research also found that judges give lenient sentences, often fines, suspended sentences and probation, some with the motive of reconciling the two partners.¹⁹⁷ The European Commission has also raised concerns about lenient sentencing in cases of gender-based violence in Kosovo*.¹⁹⁸ The Supreme Court Sentencing Guidelines have attempted to address these issues by giving more detail to judges regarding applying aggravating and mitigating factors.¹⁹⁹ However, research from civil society found there had been virtually no implementation of these Guidelines, no consistency in judicial reasoning, and that mitigating and aggravating factors were not applied in accordance with the Guidelines.²⁰⁰

¹⁹⁴ Information collected during the delegation visit, see also Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN, p.64.

¹⁹⁵ See GREVIO’s baseline evaluation report on Montenegro (paragraph 196).

¹⁹⁶ While the data received from the prosecution office notes the manner of resolving cases of domestic violence, it does not provide information as to the specific sanctions and measures.

¹⁹⁷ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

¹⁹⁸ European Commission. (2019). Kosovo*2019 Report, p. 28.

¹⁹⁹ Supreme Court of Kosovo, Sentencing Guidelines, First Edition, 2018.

²⁰⁰ Kosovo Law Institute. (2019). Sentencing Policy in Kosovo: Analysis on the implementation of the Sentencing Policy Guidance by Kosovo Courts, 2019, p. 5.

231. While respecting the principle of the independence of the judiciary, it is strongly recommended that the authorities take measures to ensure that judicial sanctions in cases of violence against women are effective, proportionate and dissuasive. In determining judicial sanctions, precautions should be taken to avoid victims being re-victimised by the imposition of fines on their spouses or partners. The suspension of sentencing should be the result of careful balancing between the need, on the one hand, to promote the social reintegration of first offenders and, on the other, to contain the danger of recidivism, avoid undue delays in criminal proceedings and uphold the principle of accountability under criminal law.

9. Aggravating circumstances (Article 46)

232. The Criminal Code provides for general rules on mitigation or aggravation of punishment in Article 70. Furthermore, some of the aggravating circumstances required by Article 46 of the Istanbul Convention form part of the elements of the crime in the Criminal Code, thus qualifying them as more serious offences punishable by harsher sentences. One common aggravating circumstance is where the offence is committed against a victim who is considered “vulnerable”. Under Article 113 of the Criminal Code, a vulnerable victim is a victim of a crime who is a child, a person with mental or physical disability, a person “suffering from diminished capacity”, a pregnant woman, the elderly or a person whose relationship to and dependence on the offender make them particularly vulnerable to repeat victimisation, intimidation or retaliation. The Supreme Court Sentencing Guidelines explain that the greatest consideration in sentencing where these provisions apply is the level of vulnerability of the victim and the extent to which the perpetrator perceived that vulnerability.

233. One of the aggravating factors judges are under the obligation to consider is “if the offence is committed within a domestic relationship”,²⁰¹ which does not explicitly cover intimate partners who have never lived together,²⁰² unlike Article 46 (a) of the convention. It is also concerning that an offence committed in the presence of the child is not considered as an aggravating factor. The delegation notes with interest that an aggravating factor mentioned in Article 70 of the Criminal Code is if the offence is a hate act motivated by gender. Moreover, the Sentencing Guidelines are generally informed on issues of domestic violence, and states that “a prolonged period of mental and physical abuse will increase the defencelessness of the victim and the likelihood of a finding of significant aggravation”; however, the Guidelines do not appear to extend this gendered understanding to other forms of violence.²⁰³ For example, there appears to be lack of understanding how certain forms of violence against women can result in severe psychological harm for the victim, as required by Article 46 (h) of the convention. Nor is there available data to analysis the effective implementation of the criminal sanctions and the Sentencing Guidelines.

234. It is recommended that the authorities take appropriate measures to ensure, through training and guidelines, that all circumstances listed in Article 46 of the Istanbul Convention are, in practice, considered as aggravating circumstances by the judiciary, and to adopt legislative measures with the aim of expressly including the commission of the offence against or in the presence of children in the list of aggravating circumstances.

11. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

235. In Kosovo*, there are no mandatory alternative dispute resolution processes, either in criminal or in civil legislation, that would contravene the obligation to ban all such processes in relation to all forms of violence covered by the scope of the convention. Nonetheless, there is concern with the focus on reconciliation in the Law on Family with little guidance on how to handle cases involving domestic violence. Article 59 of this law provides general principles that courts shall consider when dealing with “breaches of marriage”, including preserving the institution of marriage and encouraging spouses to take

²⁰¹ Criminal Code, Article 70, paragraph 2.14.

²⁰² See Chapter I, section on Articles 2 and 3 (Scope of application of the convention and definitions)

²⁰³ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

all practicable steps, whether by marriage counselling, reconciliation procedures or otherwise, to save the marriage, while avoiding any risk of harm or violence to spouses and to children. The law establishes reconciliation procedures, including where there are children. Such procedure is conducted by a Custodian Body made up of social workers. While the law articulates exceptions to attending reconciliation efforts,

domestic violence is not explicitly mentioned.²⁰⁴ The availability and use of reconciliation in divorce proceedings without any screening for a history of domestic violence raises concern, particularly in light of continuous indications from civil society that some judges still encourage family reconciliation, which creates an enabling environment for recidivism, victim-blaming, and secondary victimisation.²⁰⁵

236. There are also issues regarding mediating disputes through extra-judicial procedures under the Law on Mediation, which can apply to contested matters in several legal domains including family law, civil law, and criminal law. With respect to mediation in criminal matters, only cases punishable by a fine or imprisonment of three years can be subject to mediation. The law provides that mediation shall not be applied in cases of domestic violence.²⁰⁶ The Code of Conduct of Mediators also requires mediators to terminate any mediation process where there are elements of domestic violence, to notify the parties of the reason for termination, and to instruct the parties to follow “the procedures in accordance with the legislation in force”. Despite such prohibition, this remained a problem amongst prosecutors and resulted in the Office of the State Prosecutor releasing, in 2016, a guiding note prohibiting the use of alternative dispute resolution measures such as reconciliation in domestic violence cases.²⁰⁷ The guidelines explain why reconciliation should not be used, using the cyclical patterns of domestic violence perpetrators as justification. According to civil society, in practice, these guidelines have not halted individual prosecutors from mediating between parties.²⁰⁸

237. It is further worrying that many other forms of violence covered by the convention can be subjected to mediation, where the sanctions meet the requirement of the Mediation Law (i.e. punishment by fine or up to three years imprisonment). There are no guidelines for these cases to assist the authorities to recognise the power imbalances often found in cases involving violence against women and the traumatic impact experienced by victims facing the perpetrator in un-supported conditions and entering the mediation process on a par with the perpetrator. There was no information provided to indicate that the use of mediation in cases of violence against women offers the same or greater measure of protection of the victim’s safety as the criminal justice process; referral to mediation is made after the perpetrator has been charged with a crime; trained and qualified personnel using risk assessment tools determine if the case is appropriate for mediation, the victim is fully informed and voluntarily consented, the process ensures that the perpetrator fully accepts responsibility for the violence; the mediation process is transparent; and there remains the possibility of criminal conviction and sentence if the process fails.

238. It is urgently recommended that the authorities introduce measures ensuring the systematic screening for domestic violence by all professionals involved in implementing family and civil law and to support the application of these measures through training efforts. It is further urgently recommended that the authorities ensure that women victims of violence to whom mediation is offered are informed of their rights, in particular as regards the non-mandatory nature of mediation.

²⁰⁴ Law on Family, Article 76.

²⁰⁵ Sasa Gavric. 2018. Mapping of Policies and Legislation on Violence against Women and the Istanbul Convention in Kosovo. UN Women and the European Women’s Lobby and From Words to Actions. Kosovo Women’s Network.

²⁰⁶ The Law on Mediation, Article 2, paragraph 3.

²⁰⁷ Office of the State Prosecutor, Guideline 360/16, June 2016.

²⁰⁸ Qosaj-Mustafa, A. and Morina, D. (2018). Access to justice for victims of gender-based violence in Kosovo. KIPRED.

VI. Investigation, prosecution, procedural law and protective measures

239. Full accountability for all acts of violence against women requires an adequate response from law-enforcement agencies and the criminal justice sector. Chapter VI of the Istanbul Convention establishes a set of measures to ensure criminal investigations, prosecutions and convictions of the various forms of violence covered therein.

A. General obligations, immediate response, prevention and protection (Articles 49 and 50)

240. A key principle of an adequate response to violence against women is that of swift and effective investigations and judicial proceedings that are based on a gendered understanding of these types of offences and that take into consideration the rights of the victim during all stages.

1. Reporting to, immediate response and investigations by law-enforcement agencies

241. With the adoption of the Law on the Protection of Domestic Violence in 2010, a range of measures have been introduced to enhance the police's response to domestic violence. The Kosovo Police have established Domestic Violence Investigation Units (DVIUs) in each municipality, staffed with both women and men police officers who are trained specifically to deal with domestic violence cases. Moreover, the Standard Operating Procedures (SOPs) on the Protection against Domestic Violence sets out standardised and harmonised methods of cross-sectoral co-ordination and intervention, including for law enforcement and judicial institutions. The above SOPs foresee that all police officers should make use of proportionate measures to protect victims of domestic violence, detain the suspected perpetrator with the purpose of preventing further violence; and interview the victims in rooms that provide comfort and security for the victim. Thus, some police stations have created victim-friendly spaces within the police station designed to ensure privacy. Kosovo Police have also prepared an information document called "Victim Package" which is given to victims and includes details of the police officer in charge of the investigation, offers information on victims' rights and indicates the available institutions and support services.

242. While the above measures are positive, the SOPs for the Protection against Domestic Violence take a gender-neutral approach to domestic violence by not specifically linking its manifestations to gender inequalities which make women particularly vulnerable to domestic violence. Furthermore, several gaps exist in the practical implementation of these SOPs. An assessment from the Agency for Gender Equality²⁰⁹ has stressed that not all police stations have a special room for interviewing victims of domestic violence, despite the requirements of the SOPs. It also found that there was a need to foster training of all police on domestic violence, and not limit this to those officers from the DVIUs. First responding police officers who attend the scene of the crime are not necessarily from the DVUIs, and then cases are taken by police officers who are often insufficiently trained and lack knowledge of co-operation with other institutions, including the Centres of Social Work, Victims Advocacy and Assistance Office and shelters. Moreover, while there has been a rise in the number of women police officers, it is still insufficient to allow victims to interact with officers of the same sex when reporting or during investigations. The authorities informed the delegation that while women police officers make up 43% of DVIUs, they represent only about 15% of all police officers and very few are at high levels of responsibility. Therefore, when first responders attend the crime scene, the likelihood of the victim being able to speak to a female officer is low. The Kosovo Police informed the delegation that their SOPs for the Protection against Domestic Violence were updated in March 2022, but no specific information was provided on what those updates entail.

243. Moreover, since other forms of violence against women are not covered by the Law on the Protection Against Domestic Violence, general provisions of the Criminal Procedure Code and the Law on Kosovo Police apply as with any other criminal offence. This includes the Police Code of Ethics which

²⁰⁹ Agency for Gender Equality. (2019). Assessment of the Level of Implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo.

calls for investigations to be objective and impartial while taking into account the specific needs of certain individuals, including women.²¹⁰ According to the Kosovo Police, specific police standard operating procedures are being developed for dealing with criminal offences related to sexual violence, which will be based on the standards of the Istanbul Convention. NGOs indicate that the Kosovo Police lack a standardised approach in responding to cases in different regions, as exemplified by delayed medical examination of victims, which can undermine the retrieval of physical evidence.²¹¹ Further guidance is needed in relation to cases of sexual violence, stalking, forced marriage, sexual harassment and the use of digital technologies in cases of violence against women. Positively, the delegation noted the foreseen measures to expand the scope of the Law on the Protection Against Domestic Violence and the associated SOPs as per the National Strategy on Protection against Domestic Violence and Violence against Women (2022-2026).

244. It is encouraging to note that recent police data reveals an increase in reporting in domestic violence cases which may indicate a rise in women's confidence in the criminal justice system.²¹² In 2021, according to the Kosovo Police, 2 456 cases of domestic violence were reported, while almost 80% of the victims were female. The lack of disaggregation of the data does not, however, allow the isolation of reported cases of intimate partner violence from other forms of domestic violence. Other forms of violence covered by the convention seem to be underreported.²¹³ In previous evaluation reports, GREVIO has stressed that the way in which law-enforcement officers respond to victims is a critical factor that may contribute to determining whether a victim decides to report and chooses to participate in further legal action or abandons it.²¹⁴ More effort seems needed to reach women at risk of intersectional discrimination, such as women with disabilities, women living in rural areas, Roma, Ashkali and Egyptian women, or women in prostitution, and to build their trust in the justice system.

245. Indications from civil society stress that women face challenges in reporting, including lack of confidentiality, situations where police refuse to take reports from victims they deem not to be dressed appropriately, and where police have minimised the reporting of psychological violence.²¹⁵ Moreover, studies have found a lack of a gendered understanding of such violence, which can lead to inaction because some individual officials minimise the violence and seek justification either in the victim's behaviour or that of the perpetrator (e.g. attributing the violence to substance abuse, mental illness and poverty).²¹⁶ Victim-blaming attitudes also lead some police officers to treat reported instances of domestic violence as mere disputes between couples and try to "reconcile" the couple. In addition, police officers seem to lack full knowledge about other forms of violence against women. According to information received from civil society, beliefs in myths around sexual violence can contribute to both a negative experience for the victim (e.g. inappropriate questions and comments) and also a lack of case progression.²¹⁷

246. The delegation was informed of the strong reliance of police and prosecution services on the victim's statement, in particular in domestic violence cases. Where victims withdraw their statements, the criminal proceedings frequently come to an end for lack of supporting evidence. There was little information as to police efforts to improve the comprehensive collection beyond the victim's/witness' statement. There is a need to step up measures aimed at ensuring effective investigations and case building in all instances of violence covered by the convention.

²¹⁰ Ministry of Internal Affairs. Police Code of Ethics. Article 33.

²¹¹ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

²¹² According to the Kosovo Police, the number of cases of domestic violence reported to the police have increased from 1 038 in 2015 to 2 069 in 2020. Cited in Banjska et al. 2021. "From Laws to Action". Kosovo Women's Network. p.78.

²¹³ According to Kosovo Police, 86 cases of rape and 1 case of forced marriage were reported in 2021, with all victims but one being women. Additionally, 244 cases of harassment were reported by women. The above data did not include reported cases of sexual harassment, female genital mutilation, forced abortion or forced sterilisation.

²¹⁴ See GREVIO's baseline evaluation report on Slovenia (paragraph 309).

²¹⁵ For instance, see Ombudsperson Institution, C.No.385/2020, L.A.K Suit A-1483/2019 Versus Kosovo Police.

²¹⁶ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

²¹⁷ Ibid.; Information received during the delegation visit; Qosaj-Mustafa, A. and Morina, D. (2018). Accessing justice for victims of gender-based violence in Kosovo. KIPRED

247. **It is urgently recommended that the authorities:**

- a. **enhance the capacity and knowledge of all law enforcement officers regarding strong case building for all forms of violence covered by the Istanbul Convention, including timely evidence collection and the prevention of secondary victimisation; and**
- b. **draw up standard reporting and investigative procedures in relation to all other forms of violence against women, in particular sexual violence and forced marriage.**

2. Effective investigation and prosecution

248. As a promising step, several specialised prosecutors dealing with domestic violence cases have been appointed in the basic courts, as called for in the Standard Operating Procedures to Enhance the Efficacy of Prosecutorial Services in responding to Domestic Violence Acts issued in 2017 by the Kosovo Prosecutorial Council and the Office of the State Prosecutor. These procedures also include appointing on-call prosecutors to handle domestic violence cases reported after working hours to ensure that these cases are handled with priority and working jointly with Victim Advocates of the Victims Advocacy and Assistance Office. In addition, the Supreme Court issued Guidance on Legal Qualification and Treatment of Domestic Violence Cases According to the Criminal Code to assist understanding of the selection of charges under the dedicated offence of domestic violence or general criminal offences. Promising practices highlighted in research from the Agency for Gender Equality consist in fast tracking measures for domestic violence trials and the installation of special victim-friendly interview rooms in the prosecution offices of some municipalities.²¹⁸ However, the above research also called for further training for specialised prosecutors and noted the lack of specialised prosecutors at the Appellate Prosecution Office as well as the need to release specialised prosecutors from other criminal cases so they can focus on domestic violence cases.

249. Furthermore, the delegation was concerned to hear that many cases of domestic violence were dismissed due to the victims' withdrawal of their testimony. This can reflect weak case building, insufficient protection and support for victims to encourage their participation, and a lack of understanding of the pressure put on victims to withdraw by the perpetrator. While it is understood that victims are exempt from testifying against their spouse where the criminal offence sanction is less than three years imprisonment,²¹⁹ it is concerning that an overwhelming percentage of victims consistently oppose the prosecution and want to withdraw their participation. The need to pro-actively and rigorously collect all relevant evidence in addition to the victim's statement has not been sufficiently stressed, despite its particular importance for effective ex officio prosecution of crimes of violence against women. More measures are needed to improve the collection of multiple forms of evidence so that reliance on the victim's testimony is lessened. Moreover, enhanced evidence collection, along with an understanding of the gendered nature and pattern of coercive power and control of domestic violence, informs prosecutors in their task of selecting the appropriate charge that reflects the seriousness of this offence.

250. Although there is no legal obligation to undergo a forensic examination in cases of rape or sexual violence,²²⁰ it is noted with concern that such examinations are considered mandatory by law enforcement and judicial authorities. While sexual violence offences are consent-based rather than force-based, the delegation was informed that the criminal case will not proceed if the victim has not undergone the examination, even in cases where victims report days or weeks after the incident. Women who do not lodge a report to the police in the immediate aftermath of a rape are thus denied the possibility of preserving valuable medical evidence should they decide to seek justice later. Moreover, when women report to the police, the timely referral of victims to forensic examination tends to be hindered by insufficient co-operation between the police, prosecution services, courts and the Institute of Forensic Medicine, the only institution performing a forensic examination ordered by the Office of the State Prosecutor. This adds to

²¹⁸ Agency for Gender Equality. (2019). Assessment of the Level of Implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo. Cited the good practice in Prizren, where the specialised prosecutor adds a letter to the domestic violence case that informs the administration that the case should be assigned to a designated domestic violence court and be prioritised.

²¹⁹ Criminal Procedure Code, Article 127.

²²⁰ Ibid., Article 144

already mentioned gaps regarding support services available for victims of sexual violence in Kosovo*.²²¹

251. **It is urgently recommended that the authorities:**

- a. **ensure that prosecution services make use of all possible measures in order to provide criminal justice for victims of all forms of violence by the Istanbul Convention, while paying due regard to evidence other than the victim's statement, as well as re-examine the practice of withdrawing charges in cases when women victims change or withdraw their statements.**
- b. **ensure that the forensic examination and collection of evidence in cases of sexual violence and rape is conducted in a timely and gender-sensitive manner, including by re-enforcing training and procedure across law enforcement agencies and the Institute of Forensic Medicine, and by ensuring that victims can undergo such examination outside Pristina and access the service directly without an order by the prosecutor or court.**

3. Conviction rates

252. While some cases of sexual violence and harassment are handled by courts, most of the gender-based violence cases that come before the courts relate to domestic violence.²²² It is welcomed that the Kosovo Judicial Council has appointed judges specialised in and responsible for prioritising domestic violence cases in civil proceedings. Moreover, it is commendable that the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) calls for the appointment of designated judges also in criminal proceedings; however, information regarding their appointments and presence across the regions is unavailable.

253. In view of the available data, the delegation is concerned by the low levels of conviction, the light sentences imposed and the high levels of attrition in relation to cases of violence against women and domestic violence. Regarding sexual violence cases, official data shows that in 2019, there were only 18 convictions for rape and 11 convictions for sexual assault,²²³ which seems low compared to the number of cases reported to the police.²²⁴ Most convictions resulted in conditional sentences or sentences below one year of imprisonment.²²⁵ Regarding domestic violence, data from the Office of the State Prosecutor indicated that in 2021 the number of on-going cases involving women victims of domestic violence was 2 378 cases, and in that year 411 people were found guilty by a court decisions; in nine cases the indictment was rejected; and in five cases compulsory measures were ordered. Moreover, a study found that the rate of dismissed cases was high, with over half of all criminal charges related to domestic violence being dismissed (51.5%) by courts in 2017, and only 40.4% of cases during the period of 2015-2018 resulted in a guilty verdict.²²⁶ However, the lack of regularly collected sex-disaggregated data across law enforcement and judicial institutions makes it difficult to assess accurate attrition rates at the various stages of the criminal justice chain and to identify causes thereof. An evidence-based analysis of the factors contributing to attrition is crucial to address them, including through a review of sex-disaggregated administrative data and case law and to analyse the handling of criminal cases by law-enforcement agencies, prosecutorial offices and courts in order to verify where attrition occurs and to identify possible gaps in the institutional response.

²²¹ See Chapter IV, section on Article 25 (support for victims of sexual violence)

²²² National Strategy on Protection against Domestic Violence and Violence against Women (2022-2026)

²²³ Kosovo Agency for Statistics. 2020. Statistics of Jurisprudence for Adult Persons 2019. p. 32 and 74. Note in 2019 prior to the amendment to the Criminal Code, the offence of rape was covered by Article 230 (now 227) and sexual assault was Article 232 (now 229).

²²⁴ According to official data retrieved by the Kosovo Law Institute, 83 cases of crimes against sexual integrity mainly rape and sexual assault were reported to the police in 2017, 101 cases in 2018, 52 cases in 2019. See Kosovo Law Institute. (2021). Crimes against sexual integrity in Kosovo (in Albanian only). p.8

²²⁵ For example, among rape convictions in 2019, there were 7 conditional sentences, 5 sentences from 1 to 12 months of prison, 2 sentences from 1 to 2 years of prison, 2 sentences from 2 to 5 years of prison and 1 sentence from 5 to 10 years of prison. In 28 cases the convicted perpetrators were men and in 1 case the gender of the convicted perpetrator was not registered: Kosovo Agency for Statistics. 2020. Statistics of Jurisprudence for Adult Persons 2019. p. 32 and 74.

²²⁶ Qosaj-Mustafa, A. and Morina, D. (2018). Accessing justice for victims of gender-based violence in Kosovo. KIPRED.

254. Low conviction rates erode victims' confidence in the criminal justice system, sending the message that perpetrators will not be held accountable, which, in turn, contributes to the problem of low reporting to law enforcement authorities. Civil society and legal practitioners pointed out several factors contributing to this situation in Kosovo*, including the lack of strong case-building and the over-reliance on victim testimony as primary evidence. As regards sexual violence, the influence of gender stereotypes and the over-reliance on forensic evidence also prevent the convictions of perpetrators. Furthermore, delays in court cases contribute to secondary victimisation for the victim and have consequences for the progression of the case. According to the Criminal Procedure Code, an assigned trial judge should schedule an initial hearing to be held within 30 days of the indictment being filed.²²⁷ Research has found that the courts met this deadline only in relation to half of the 56 judgments issued between 2017 and 2019 in relation to "crimes against sexual integrity", including rape and sexual assault.²²⁸ In these cases, the average time between the filing of the indictment and the first hearing was over seven months, with a maximum of more than four years in one case.²²⁹ NGO court monitors also note recurring delays in the handling of cases of violence against women.²³⁰

255. It is welcomed that the judiciary has Guidelines for the Implementation of the Sentencing Policy of the Supreme Court. However, the Agency for Gender Equality has expressed concerns that judges are not implementing sentences in accordance with these guidelines and that there are still judges who impose house arrest and fines in domestic violence cases even in cases of recidivism, and that there is a lack of consideration of aggravating circumstances in cases of repeated violence.²³¹ Civil society also indicated that there is a tendency to rely more on suspended or conditional sentences or fines in cases involving domestic violence, with some judges ordering lenient sentences - seemingly with the motive of reconciling the couple. Information provided to the delegation showed that in some cases involving violence against women, judges issued conditional sentences even though the charge involved a minimum prison term.

256. With respect to war-time sexual violence, only three cases have been completed in the courts. Each resulted in an acquittal after appeal, after the court found there was insufficient evidence to identify the alleged perpetrator.²³² NGOs note with concern few steps have been taken by the authorities to follow-up to prosecute and try these cases.²³³ It is important to recall that, in one of its baseline evaluation reports, GREVO has stressed the need to ensure sustained prosecution of war-time sexual violence and to ensure that sanctions imposed are proportionate and dissuasive.²³⁴

257. It is urgently recommended that the authorities swiftly identify and address any factors, which contribute to attrition (the process whereby cases drop out of the criminal justice system) in criminal justice procedures in relation to all cases of violence covered by the Istanbul Convention, including the reasons for delays in criminal proceedings. Such measures should be supported by sex-disaggregated administrative and judicial data that are reliable and comparable throughout the judicial chain.

B. Risk assessment and risk management (Article 51)

258. Concern for the victim's safety must lie at the heart of any intervention in cases of all forms of violence covered by the Istanbul Convention. Article 51 thus establishes the obligation to ensure that all relevant authorities, not just law-enforcement authorities, effectively assess and devise a plan to manage

²²⁷ Criminal Procedure Code, Article 242.2.

²²⁸ Kosovo Law Institute. (2021). Crimes against sexual integrity in Kosovo (in Albanian only). p.24.

²²⁹ Ibid.

²³⁰ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

²³¹ Agency for Gender Equality. (2019). Assessment of the Level of Implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo.

²³² International Amnesty. (2017). Wounds that burn our souls: compensation for Kosovo's wartime rape survivors.

²³³ Ibid.

²³⁴ See GREVO's baseline evaluation report on Bosnia and Herzegovina

the safety risks a victim faces on a case-by-case basis, according to standardised procedures and in co-operation with each other.

259. Under the Standard Operating Procedures (SOPs) for the Protection against Domestic Violence, a risk assessment is to be part of the immediate police intervention in domestic violence cases. After such risk assessment, the police have an obligation to protect victims and inform them of their rights, including informing them about various types of protection orders, liaising with other actors to provide psychological support, legal aid, shelter, and other assistance. Once the victim is brought to safety, the police must develop an adequate protection plan. A checklist provided for the police on the risk assessment consists of several items in a Basic Data Form. The delegation was informed that while the first responding police may conduct an initial risk assessment, it is the obligation of the police investigators from the DVIUs to fill in the Basic Data Form for which they have had specific training. Prosecutors have an obligation to take the necessary measures depending on the risk assessment done in domestic violence cases.

260. While it is welcomed that risk assessments based on standardised forms are foreseen as a mandatory step under the Standard Operating Procedures for the Protection against Domestic Violence, this appears in practice to mainly concern the law enforcement agencies, whereas the objective of Article 51 is that all competent authorities that may come into contact with victims, effectively assess the risks to the victim's safety on a case-by-case basis.²³⁵ Moreover, risk assessments do not appear to be systematically carried out by the police, nor to always be done comprehensively to ensure proper victim protection.²³⁶ In particular, the police often fail to conduct regular and repeated risk assessments at all relevant stages of the proceedings, including during and after the issuance of protection orders.

261. Research from the Agency for Gender Equality and civil society indicates that the standardised risk assessment form included in the Standard Operating Procedures for the Protection against Domestic Violence does not require some essential information for drafting proper victim's safety plan and is only conducted during the victim's first interview.²³⁷ In some places, prosecutors have also created their own risk assessment forms and distributed them to police officers themselves, creating confusion as to which tool to apply. In addition, risk assessment procedures appear not to be fully integrated into the municipal co-ordination mechanisms against domestic violence. While the delegation heard of local co-ordination mechanisms functioning well, civil society noted with concern that Victim Advocates were not always present with the victim when police officers conducted risk assessments and that prosecutors did not request regular risk assessments.

262. There is a lack of data as to whether the practice of risk assessments is being undertaken in all domestic violence cases, as well as how the risk assessments are duly considered by all relevant authorities at all stages of the investigation and the application of protective measures. Several cases have been reported in the media and court transcripts, highlighting where the police failed to conduct appropriate risk assessment which, in some cases ultimately allowed for a fatal altercation.²³⁸ Moreover, the delegation was informed by the authorities that no retrospective review into the death of the many women killed in Kosovo* as a result of domestic violence has been carried out by the authorities. Such reviews are central to identifying systemic gaps in the institutional response to domestic violence.

263. Moreover, the risk assessment tool under the SOPs for the Protection against Domestic Violence is not available for all forms of violence against women and is only applicable in domestic violence cases. Moreover, the justice institutions are not aware of the protection measures to be followed when assessing and protecting victims of rape, sexual assault, stalking, sexual harassment, or forced marriage. It appears that most police officers still lack a thorough understanding of the risks of such violence, and victim

²³⁵ Explanatory Report to the Istanbul Convention, paragraph 260.

²³⁶ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN; Qosaj-Mustafa, A. and Morina, D. (2018). Accessing justice for victims of gender-based violence in Kosovo. KIPRED.

²³⁷ Agency for Gender Equality. (2019). Assessment of the Level of Implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo; Qosaj-Mustafa, A. and Morina, D. (2018). Accessing justice for victims of gender-based violence in Kosovo. KIPRED.

²³⁸ Ibid.; Ombudsperson Institution's Ex Officio Report No. 150/2021 and Ex Officio Case No. 346/2019.

blaming and cultural relativism, particularly for sexual violence, limits the protection for these victims.²³⁹ In relation to early and forced marriage, efforts are needed to involve professionals from relevant sectors in assessing the risk of such violence, particularly the education sector. Considering that risk assessment is a key step to ensuring co-ordinated safety measures and support to victims, it is of paramount importance that such measures do not aggravate any harm experienced by victims and that investigation and judicial proceedings do not lead to secondary victimisation.

264. It is urgently recommended that the authorities ensure the systematic use of a standardised, evidence-based risk assessment tool for all forms of violence covered by the Istanbul Convention, in order to enable all relevant risk factors for lethality and repeated violence to be timely identified and responded to, when first contact is made with victims and subsequently. It is also recommended that the authorities ensure that risk-assessment and management procedures are central to co-ordinated multi-agency responses to violence against women, while stepping up training for law enforcement agencies, judiciary and other relevant services.

C. Emergency barring orders (Article 52)

265. The Law on the Protection against Domestic Violence sets the grounds for issuing two types of emergency barring orders: temporary emergency protection orders and emergency protection orders. The Kosovo Police issue temporary emergency protection orders when the urgent need arises to protect victims outside of regular court working hours (e.g. weekends and evenings). Under this law, temporary emergency protection orders shall be granted if there is ground to believe that the perpetrator has committed or threatened to commit domestic violence, or that the perpetrator poses an immediate or imminent threat to the safety, health, or well-being of the victim.²⁴⁰ Temporary emergency protection orders last until the end of the next day that the court is in operation.²⁴¹ Temporary emergency protection orders can have immediate effect, even if these orders are time bound. These orders can be replaced by a court emergency protection order and be extended to children in need of protection. Emergency protection orders are issued by courts within 24 hours of the request and may last up to 15 days. Emergency protection orders can be requested by victims, Victim Advocates of the Victims Advocacy and Assistance Office, representatives of the Centres for Social Work, or any person with direct knowledge of an act of domestic violence.

266. It is welcomed that the emergency protection orders can provide for a wide number of measures, including providing the competent authorities with the power to remove a perpetrator of domestic violence from the joint residence that he shares with the victim if there is a risk of repeat domestic violence, which results in the perpetrator being immediately obliged to leave the residence in the presence of a police officer.²⁴² Breach of any protection order is considered a criminal offence.²⁴³ However, the delegation was alerted to the fact that the police tend to remove victims rather than perpetrators from shared residences.²⁴⁴ This practice places the burden of hurriedly seeking safety in a shelter or elsewhere on the victim, who is often accompanied by dependent children. This practice seems to be based on the assumption that most victims have a preference for shelters. The Police also appear to accept the perpetrator's offer to leave voluntarily instead of issuing a barring order, or simply warn the perpetrator.

267. Regarding emergency protection orders issued by the courts, the law foresees a number of protection measures, including ordering the perpetrator to allow the protected party to use part of the shared residence or communal areas of the shared residence; or ordering the perpetrator to pay for rent

²³⁹ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

²⁴⁰ Law on the Protection against Domestic Violence, Article 22, paragraph 3.

²⁴¹ Law on the Protection against Domestic Violence, Article 22, paragraph 2.

²⁴² Ibid., Article 7.

²⁴³ Under Article 25 of the Law on the Protection against Domestic Violence, a violation of a protection order, an emergency protection order or a temporary emergency protection order shall be sentenced by a fine from €200 to €2000 or imprisonment of up to 6 months.

²⁴⁴ Information collected during the delegation visit, see also: Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

of temporary living premises of the protected party or to pay alimony to the protected party and the children.²⁴⁵ It is noted with concern that the common practice of confining the perpetrator to part of the shared home rather than issuing a barring order against him. The reluctance to remove the perpetrator from the home appears to be based on the situation that many family properties are registered in the name of the husband or his family and not in the wife's name as joint owner. This supports the belief that the property belongs to the man and the law cannot bar him from his home.

268. In addition, there appears to be a gap in the continuity between temporary emergency protection orders and emergency protection orders which may negatively affect the continuous protection of victims. Indeed, under the Law on the Protection against Domestic Violence, a temporary emergency protection order lasts until the end of the next day a court is in operation, and not necessarily until a subsequent emergency protection order applied for by the victim has been granted by the court. Thus, in practice there may be a gap between the end of the validity of the temporary emergency protection order and the issuance of the emergency protection order.

269. The use of temporary emergency protection orders and emergency protection orders remains rare in Kosovo*. In 2021, 35 temporary emergency protection orders were issued by the police, while the courts approved only 15 orders out of the 32 requests for emergency protection orders.²⁴⁶ The reasons for such low numbers vary but may be linked to the need for more adequate risk assessment. It may also result from the fact that patrol police officers are not authorised to issue temporary emergency protection orders. Instead, such orders are granted by the Head of the Regional Kosovo Police Unit against Domestic Violence or his delegate, making it less of an immediate tool.²⁴⁷

270. **It is strongly recommended that the authorities review their system of emergency barring orders with a view to ensuring that victims of domestic violence have access, in situations of immediate danger, to emergency barring orders that provide uninterrupted protection, meeting the requirements of Article 52 of the Istanbul Convention. Furthermore, it is strongly recommended that the authorities monitor the use of emergency protection measures in order to identify and remedy any obstacles in their implementation.**

D. Restraining or protection orders (Article 53)

271. In addition to emergency protection orders, the Law on the Protection against Domestic Violence provides for protection orders issued in regular court sessions whose decision is to be made within 15 days of the request, and which last up to 12 months.²⁴⁸ Under the law, the imposed measures can include: prohibiting approaching the victim and her children, by defining the location, region and distance within which the perpetrator cannot approach them; prohibiting harassment of the victim; granting the victim temporary child custody and removing parental rights temporarily from the perpetrator; expelling the perpetrator from the shared home; police accompaniment for victims to collect personal items; confiscation of weapons; ordering the perpetrator to allow the victim to use communal parts of the shared premises; and ordering the perpetrator to pay rent for temporary accommodation or to pay alimony for the victim and any children.²⁴⁹ Breaches of protection orders are considered a criminal offence²⁵⁰ and the Guidance from the Supreme Court requires charges to be brought for the breach of the order itself and for any criminal conduct underlying the breach.²⁵¹ However, protection orders are limited to the narrow interpretation of domestic relationships, as previously discussed, and do not apply to domestic violence among

²⁴⁵ Law on Protection against Domestic Violence, Article 11, paragraph 1.

²⁴⁶ Information on the 2021 data provided to the delegation by the Kosovo Police and the Office of the State Prosecutor.

²⁴⁷ Qosaj-Mustafa, A. and Morina, D. (2018). Accessing justice for victims of gender-based violence in Kosovo. KIPRED.

²⁴⁸ Law on Protection against Domestic Violence, Article 15.

²⁴⁹ Ibid., Articles 5, 6, 7, 8, 10, 11.

²⁵⁰ Ibid., Article 26, paragraph 2.

²⁵¹ Supreme Court of Kosovo. (2020). Guidance on Legal Qualification and Treatment of Domestic Violence Cases According to

couples who have never cohabited.²⁵² Moreover, victims of other forms of violence against women covered by the convention do not have access to protection orders under the civil protection regime in Kosovo*.

272. According to indications from media and civil society, weak implementation and monitoring of protection orders can result in serious consequences for the victims.²⁵³ It is concerning that some police officers and prosecutors place the onus on the victim to request a protection order, or end proceedings if she withdraws her statement or fails to attend another interview. There is also the concern that there is insufficient distinction between protection orders and emergency protection orders in the law which may cause confusion among victims in determining which order is most appropriate to their situation, and to courts in determining whether the evidence presented by the applicant best supports the issuance of a protection order or an emergency protection order. More specifically, the test for both orders is the same, there is no definition of what situations amount to emergencies, and as such is being left open to interpretation, which may contribute to inconsistent application. In addition, protection orders rarely seem to include the wide range of measures that are available, such as ordering the perpetrator to pay for rent of temporary living premise of the victim or to pay alimony to her and the children. Police officers also report difficulty monitoring protection orders, especially in situations where the court has ordered a protection order where the victim and perpetrator continue to share the same residence. In this regard it is to be noted that the possibility for protection orders to cover only a part of a premise shared by the victim and the perpetrator runs against the main purpose of protection orders under Article 53 of the convention, which is to prevent the commission of violence and to protect victims.²⁵⁴ Another concern is that some judges attempt to reconcile the parties in protection order hearings.

273. Available data from 2021 shows that there were 597 requests for protection orders, with 518 protection orders issued by the courts, 17 requests rejected and six withdrawn by the applicant. The range of measures granted, as well as the average time for issuing them, and the number of criminal charges instigated for violations of protection orders is unknown to the delegation. In addition, no mechanism seems to exist to systematically monitor protection orders, such as GPS monitoring and electronic bracelets, or regular reporting requirements. While it is welcomed that the Law on the Electronic Supervision of Persons whose Movement is Limited by the Decision of the Court foresees the use of electronic bracelets, according to the Ombudsperson Institution, the Kosovo Police do not have an operational room for electronic supervision and therefore lack the capacity to implement this law.²⁵⁵ The Agency for Gender Equality's 2019 assessment found that 74% of DVIU police officers say they monitor protection orders.²⁵⁶

274. **It is urgently recommended that the authorities review their system of protection orders to ensure that:**

- a. **protection orders are available for immediate protection without undue delay and extend to all forms of violence covered by the scope of the Istanbul Convention without limitation to domestic violence;**
- b. **protection orders are vigilantly enforced and breaches sanctioned in line with the requirement of effective, proportionate and dissuasive criminal or other sanction;**
- c. **there is no possibility for protection orders to cover only a part of a premise shared between the victim and the perpetrator, and/or any other possibility allowing perpetrators to remain within proximity to the victim; and**
- d. **to monitor progress in this area by gathering data on violations and sanctions imposed as a result.**

²⁵² See Chapter I, section on Articles 2 and 3 (scope of application of the convention and definitions)

²⁵³ Information collected during the delegation visit; Ombudsperson Institution's ex officio report no. 150/2021.

²⁵⁴ Explanatory Report to the Istanbul Convention, paragraph 268

²⁵⁵ Ombudsperson Institution. (2018). Ex Officio Case no. 621/2018 in relation to "Preventive operational measures to protect victims of domestic violence pursuant to the Law no. 05/I-003 on the Electronic Supervision of Persons whose Movement is Limited by the Decision of the Court.

²⁵⁶ Agency for Gender Equality. (2019). "Assessment of the Level of Implementation of the Standard Operating Procedures for the Protection against Domestic Violence in Kosovo".

E. Ex parte and ex officio proceedings (Article 55)

a. Ex parte and ex officio proceedings

275. Article 55, paragraph 1, of the Istanbul Convention contains the obligation to ensure that investigations into a number of categories of offences shall not be wholly dependent upon the report or complaint filed by a victim and that any proceedings underway may continue even after the victim has withdrawn her statement of complaint.

276. The Criminal Code provides for ex officio prosecution in crimes of light bodily injury, severe bodily injury,²⁵⁷ rape, sexual assault, forced marriage, forced abortion and forced sterilisation, bringing it in line with the requirement of Article 55, paragraph 1 of the Istanbul Convention.

277. Notwithstanding the above, it is of concern that where the authorities must act ex officio, insufficient evidence collection and overreliance on the victim's testimony has led to cases being dropped where the victim withdraws her statement or refuses to testify as has been explained in this report.²⁵⁸ By merely incorporating a requirement to proceed ex officio while allowing a practice that continues to base the entire case on the victim's statement, an enormous burden is placed on the victim. Past GREVIO baseline evaluation reports have noted the limits of failing to balance the need not to place the onus or burden of initiating proceedings on the victim with the need to offer continuous support to victims throughout the criminal justice system.²⁵⁹

b. Victim support in legal proceedings

278. With a view to empowering victims and to encouraging them to go through with criminal proceedings, paragraph 2 of Article 55 sets out the obligation to ensure that victims' organisations, specifically trained domestic violence counsellors or other types of support/advocacy services may assist and support victims during investigations and judicial proceedings.

279. According to the Criminal Code and Criminal Procedure Code, the Victims Advocacy and Assistance Office (VAAO), the independent body that forms part of the Office of the State Prosecutor, is tasked with protecting the rights of victims and ensuring a victim-centred approach in criminal proceedings as well as during proceedings for protection orders. Victim Advocates from the VAAO can represent victims in criminal court; pursue criminal charges when the evidence demonstrates the existence of a criminal act and the prosecution fails to pursue an investigation; ensure that victim's rights are considerations and protected during all stages of the criminal justice proceedings, including their special needs as witnesses; and advise and assist victims to apply for compensation. The general availability of such victim support lawyers is welcomed and their important role in representing the interests and perspective of the victim during all stages of the criminal proceedings, including in ensuring compensation from the perpetrator is greatly valued.

280. However, Victim Advocates are typically generalist lawyers and lack specialisation in dealing with gender-based violence. Thus, victims who are supported or assisted by an additional specialist support service during investigations and proceedings are more likely to file a complaint and testify and are better equipped to take on the emotionally challenging task of actively contributing to the outcome of proceedings.²⁶⁰ Moreover, Victim Advocates predominately provide legal assistance. Article 55, paragraph 2 does not only refer to the possibility for victims' organisations to provide legal support during investigations and judicial proceedings, but also to offer psychological support to prepare the victims to endure testifying in front of the accused, accompanying victims to court and/or assisting them in any other practical and emotional way.²⁶¹ Research and indications from civil society suggest that some Victim Advocates still

²⁵⁷ The Criminal Code provides for ex officio prosecution for other "criminal offences against life and body" (Chapter XVI)

²⁵⁸ See Chapter V, section on Article 49 and 50 (General obligations, immediate response, prevention and protection)

²⁵⁹ See GREVIO's baseline evaluation report on Montenegro (paragraph 135)

²⁶⁰ Explanatory Report to the Istanbul Convention, paragraph 282

²⁶¹ Ibid.

advise women to stay with perpetrators if they have children or that they may be unavailable for victims because of their low numbers.²⁶²

281. Although some women's rights NGOs provide support services to victims during investigations and judicial proceedings, only Victim Advocates have legal standing to support victims in court. Some NGOs have memoranda of understanding with the courts to monitor legal proceedings and others have been designated to provide legal aid according to the Law on Free Legal Aid.²⁶³ The delegation was alerted by legal practitioners to the fact that these women's rights NGOs have limited financial resources and cannot meet the needs of all victims. Besides, judges were not always familiar with their role (e.g. support person in court) and did not always allow them to assist the victim. Some services were not available early in the investigative stage. Moreover, where support services exist, it is typically geared towards domestic violence victims.

282. It is recommended that the authorities step up measures to increase access to legal and psycho-social support at all stages of legal proceedings for all victims of violence against women and child witnesses, including by promoting and supporting the role of specialist women's organisations. Support should be available not only in criminal proceedings but also in related civil proceedings, such as those instituted to settle a compensation claim, a divorce or custody decisions after domestic violence cases.

F. Measures of protection (Article 56)

283. The Criminal Procedure Code contains provisions protecting victims and their families who are witnesses in the criminal trial from intimidation,²⁶⁴ including the right to inspect the case file,²⁶⁵ the right to be heard and supply evidence,²⁶⁶ and the right to interpretation.²⁶⁷ Civil society representatives have, however, indicated that many of the protection measures articulated in Article 56 are currently absent from the legal framework, such as victims not having an express right to receive information on the general progress of the investigation or proceedings.²⁶⁸ However, the draft Criminal Procedure Code as of 1 January 2020, which was still in parliament at the time of the drafting of this report, could, if adopted, improve the legal framework's harmonisation with the Istanbul Convention in this respect.

284. There is a wide range of protective measures provided under Chapter XIII of the Criminal Procedure Code to keep victims and their families safe from intimidation and retaliation, particularly as witnesses in criminal proceedings. Criminal court judges may make an order for a protective measure where they determine that a serious risk exists to the victim or her family member and, that the protective measure is necessary to prevent it. A serious risk here is defined as a warranted fear of danger to the life, physical or mental health or property of the victim or family member as an anticipated consequence of giving evidence during an examination or testimony in court. These protective measures include, among others, an order for anonymity; omitting or expunging data or information that could be used to identify the victim; non-disclosure of any records identifying the victim; efforts to conceal the features or physical description of the victim giving evidence, including testifying behind an opaque shield or through image or voice-altering devices, remote examination prior to court hearings with the defence counsel present; assignment of a pseudonym; in-camera sessions; and the temporary removal of the defendant from the courtroom in some circumstances.²⁶⁹ All witness protection measures are governed by the Law on Witness Protection.²⁷⁰ Article 228 of the Criminal Procedure Code also provides that additional protective measures

²⁶² Information during delegation's visit.

²⁶³ Law on Free Legal Aid, Article 30.

²⁶⁴ Criminal Procedure Code, Article 221 and 222.

²⁶⁵ *Ibid.*, Article 214.

²⁶⁶ *Ibid.*, Article 63.

²⁶⁷ *Ibid.*, Article 14, paragraph 2.

²⁶⁸ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

²⁶⁹ Criminal Procedure Code, Article 221 and 222.

²⁷⁰ *Ibid.*, Article 227

in cases of domestic violence are governed by the Law on the Protection against Domestic Violence.

285. However, many of the above measures are only available if the victim can demonstrate a serious risk of intimidation from the perpetrator because of her role as a witness. In addition, such measures lack a gendered understanding of violence against women and how re-traumatising investigations and judicial proceedings can be for these victims. Thus, there is a need to anchor protection measures on a gendered understanding of violence against women and that protection from secondary victimisation is also from the criminal justice system not just the perpetrator. Such measures are intended to limit the psychological impact on the victim of participating in the criminal justice system and not only if there is a threat to the life or physical safety of the victim or her family. Reports indicate that secondary victimisation through the justice system is alarmingly common due to the insensitivity and lack of training of criminal justice actors.²⁷¹

286. Little information was conveyed on the use of existing measures. With the absence of data, the delegation was unable to analyse how effective the current protective measures were in practice. As a positive development, the Law on Child Protection adopted in 2019, provides that child victims and witnesses are entitled to specific protection measures during judicial proceedings, including interviews to be conducted in child friendly interview rooms, the possibility to testify without the presence of the perpetrator as well as the provision of financial, psycho-social, legal and medical support.²⁷² However, the delegation was unable to assess if special care of children's needs as victims and witnesses are taken into account.

287. It is strongly recommended that the authorities enhance the use of measures to protect the rights and interests of victims during investigations and judicial proceedings. Data collection and research on the implementation of these measures and their effectiveness need to be carried out regularly, including from a victim's perspective.

G. Legal aid (Article 57)

288. Free legal aid is available under the Law on Free Legal Aid in civil, administrative, minor offence and criminal procedure. The law sets the criteria individuals must meet to receive free legal aid: qualification, financial and legal criteria.²⁷³ Eligible persons must have identification documentation from Kosovo* while residing in its territory or they must have a temporary residence permit allowing them to legally stay in Kosovo*.²⁷⁴ Other persons may be considered eligible under law or international agreements. To be eligible, applicants must also meet financial criteria. Primary legal aid is to be provided to all persons that have the right to social assistance. Secondary legal aid is provided to all persons whose gross family income is lower than the average.²⁷⁵ In addition, under the legal criteria, legal aid is provided to cases that are assessed based on the real value of the request, the strength of the evidence presented by the applicant and the probability for success.²⁷⁶

289. There are a number of concerns with the current eligibility thresholds for victims of violence against women and domestic violence. Firstly, when the means test is calculated on the basis of the household income of a family, it can be a significant barrier for such victims who do not have equal access to the

²⁷¹ Banjska, E. et al. (2021). From laws to action: monitoring the institutional response to gender-based violence in Kosovo. KWN.

²⁷² Law on Child Protection, Article 55.

²⁷³ Law on Free Legal Aid, Article 6.

²⁷⁴ Ibid., Article 7.

²⁷⁵ According to Article 5 of the Law on Free Legal Aid, primary legal aid includes information and legal advices regarding the legal procedures; drafting of paper-work; representation in civil, administrative and minor offence procedure; defence and representation in criminal procedure; information and legal advices related to violation proceedings; and information, legal advices and aid in the mediating and arbitral procedures, which is to be provided to all persons that have the right to social assistance. Secondary legal aid includes the drafting of paper-work and entire other technical aid that has to do with completion of the case; and representation in civil, administrative and minor offence procedure.

²⁷⁶ Law on Free Legal Aid, Article 9.

family income and/or if the perpetrator is also a family member, to be considered eligible to access free legal aid. Secondly, in cases involving violence against women, including domestic violence, there can be challenges in demonstrating eligibility regarding the legal criteria. The burden is on the victim applicant to provide relevant documentation and collect corroborating evidence which can impact the assessment of the strength of the evidence.

290. Civil society has drawn the delegation's attention to some concerns with quality and availability of free legal aid for victims of violence against women, including domestic violence. These include insufficient government funding which has led some legal aid offices to close; lack of specialisation of legal aid lawyers in the area of violence against women; and a worrying practice that if the victim has chosen not to report to the police or if for some reason the victim cannot get a copy of the police report, it will be difficult for her to obtain free legal aid as there will be considered a lack of documentation to prove she is a domestic violence victim.²⁷⁷

291. It is noted with interest that a draft law on amending and supplementing the Law on Free Legal Aid plans to extend legal aid to victims of domestic violence directly without means testing. However, the same conditions may not apply to women who have experienced other forms of violence covered by the convention. Consequently, women victims of sexual violence, sexual harassment, forced marriage, or other forms of violence would still only be entitled to free legal aid if they meet the income requirements.

292. **It is recommended that the authorities ensure that victims of all forms of violence covered by the Istanbul Convention have de jure and de facto access to legal aid at an early stage of the procedure. Furthermore, it is also recommended that the authorities consider that if the means test is calculated on the basis of the household income of a family, but individual family members are in conflict with each other or do not have equal access to the family income, only the income of the person applying for legal aid is used for the purpose of the means test.**²⁷⁸

VII. Migration and asylum

293. In the area of migration and asylum, the main requirement of the Istanbul Convention is to ensure that residence status laws and asylum procedures do not turn a blind eye to the realities of women living in abusive relationships or subjected to sexual violence and exploitation and other forms of gender-based violence. Residence status laws shall provide for the possibility of obtaining autonomous residence permits for women in specific circumstances (Article 59). Asylum procedures, on the other hand, must be gender-sensitive and allow women to disclose their stories in full, and grounds for persecution shall be interpreted in a gender-sensitive manner. This can only be achieved if, in turn, reception procedures and support services for asylum seekers are sensitive to the needs of women victims or those at risk of violence (Article 60).

A. Residence status (Article 59)

294. The Law on Foreigners governs the granting of autonomous temporary residence permits in certain circumstances, including in cases of divorce or separation, for humanitarian and other reasons. Article 54, paragraph 3 of this law states that "exceptionally, autonomous residence permits may be issued upon application to persons who have entered by virtue of family reunification, in the event of widowhood, divorce, separation", irrespective of the duration of the marriage or the relationship. According to the authorities, this provision can be used to deliver an autonomous residence permit to women victims of

²⁷⁷ Information collected during the delegation's visit; See Farnsworth, N. et al. (2015). No More Excuses: An analysis of attitudes, incidence, and institutional responses to domestic violence in Kosovo. Kosovo Women's Network, p.19 and 65;

²⁷⁸ The wording is from Guideline 1 of the United Nations Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems, UNGA resolution 67/187. Also see CEDAW GR. No. 33, paragraph II E. Legal aid and public defense. In cases of family conflicts or when the woman lacks equal access to the family income, means testing eligibility for legal aid and public defense should be based on the real income or disposable assets of the woman

domestic violence whose residence status was dependent on that of their abusive sponsor ex-partner/ex-spouse. However, while a few autonomous residence permits have been granted to women in the event of divorce, the authorities said that they were not aware of any case where the above provision had been applied to grant an autonomous residence permit to a migrant woman after the dissolution of her marriage or relationship due to domestic violence. Similarly, civil society organisations did not report of any such example. In the light of the above, it is not possible to assess to what extent migrant women suffering from domestic violence are, in practice, aware of the possibility to benefit from this provision. Guidelines on the application of the Law on Foreigners would be necessary to ensure that the history of domestic violence is considered in the granting of autonomous residence permits under Article 54, paragraph 3, but also to preclude the implementation of other provisions²⁷⁹ which may run counter to it.

295. Temporary residence permits can be also granted for “serious humanitarian reasons” under Article 59, paragraph 1 of the Law on Foreigners, when “a foreigner has co-operated or accepts to co-operate with the justice authorities or upon the proposal of the authorities for the state security”; or for “other serious humanitarian reasons.” According to the authorities, Article 59, paragraph 1 of the said law may apply to situations where the stay of victims of gender-based violence is necessary owing to their personal situation, for the purpose of their co-operation with the competent authorities in investigations or criminal proceedings, or when a migrant woman needs to regain the residence permit which she lost after being taken abroad for the purposes of forced marriage. However, it has not reported any cases where such a temporary residence permit has been granted in these situations. In addition, no guidelines exist to clarify the meaning of “serious humanitarian reasons” and the application of this provision in cases where the applicant suffers from any of the forms of violence covered by the Istanbul Convention.

296. The Law on Foreigners does not explicitly foresee the suspension of expulsion for victims of gender-based violence who arrived under a family reunification scheme and face repatriation because of expulsion proceedings initiated against their abusive sponsor spouse or partner. This gap is concerning considering that Article 51, paragraph 1, item 4 of the said law provides that the Department for Citizenship, Asylum and Migration (DCAM) of the Ministry of Internal Affairs “may withdraw or refuse to renew the residence permit of a family member when the sponsor’s residence permit expires and the family member does not yet enjoy an autonomous right of residence under Article 54 of this law”.

297. **It is recommended that the authorities take measures to:**

- a. ensure that the practical implementation of the Law on Foreigners allows migrant women victims of gender-based violence whose residence status was dependent on the one of their abusive ex-partner or ex-spouse to receive an autonomous residence permit on the basis of standards of proof that they can meet;**
- b. ensure that the practical implementation of the Law on Foreigners allows migrant women victims of gender-based violence to receive an autonomous residence permit, when their stay is necessary owing to their personal situation or for the purpose of their co-operation with the competent authorities in investigations/ criminal proceedings, or when they need to regain the residence permit that they lost after being taken abroad for the purposes of forced marriage; and**
- c. ensure that migrant women victims of gender-based violence have the right to be granted an autonomous residence permit in the event of expulsion of their abusive spouse or partner.**

²⁷⁹ For instance, Article 51, paragraph 1, item 2 of the Law on Foreigners provides that the Department for Citizenship, Asylum and Migration (DCAM) of the Ministry of Internal Affairs “may [...] withdraw or refuse to renew a family member’s residence permit [...] when the sponsor and his/her family member do not or no longer live in a real marital or family relationship”.

B. Gender-based asylum claims (Article 60)

1. Gender-sensitive asylum determination procedure

298. Kosovo* is mainly a transit territory, hosting a low number of female asylum-seekers. In 2021, there were 43 women out of a total of 578 asylum seekers, while there were 148 women out of a total of 1261 asylum seekers in 2020.²⁸⁰ These numbers have decreased compared to 2019.²⁸¹ According to the Ministry of Internal Affairs, from 2019 to 2021, the main countries of origin of asylum seekers were Syria, and to a lower extent Morocco, Algeria, Iraq and Libya. Due to its transit nature, several asylum seekers left Kosovo* after applying for asylum and before receiving the decision on their application.

299. The 2018 Law on Asylum sets the conditions and procedures for granting refugee status and international protection in Kosovo*, aligned with most of the European Union acquis. Article 1, paragraph 35 of the said law recognises physical, psychological and sexual violence as acts of persecution that constitute grounds for asylum. In addition, Article 1, paragraph 11, item 4 recognises asylum claims on the grounds of membership of a particular social group with due regard to “gender-related aspects”. Although gender-based violence against women is not explicitly recognised as a ground for asylum or international protection, the above classification contained in the Law on Asylum implicitly implies that women asylum seekers subjected to gender-based violence are entitled to be granted asylum on the basis of membership of a particular social group.

300. The Law on Asylum recognises as “vulnerable persons”: asylum seekers, refugees and people with subsidiary protection or temporary protection with special needs, who have been “subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation”.²⁸² Under the said law, vulnerable asylum seekers should receive special care based on their special needs, including regarding their accommodation, reception conditions, medical treatment and psycho-social counselling. Professionals working with victims of torture, rape or other serious acts of violence are obliged, under the law, to be trained on victims’ special needs and fulfil confidentiality requirements.

301. According to the Law on Asylum, the asylum procedure lasts up to 6 months, with a possible extension to 9 months for complex cases. As a safeguard, accelerated procedures are prohibited for vulnerable applicants, particularly victims of torture, rape or other forms of serious psychological, physical or sexual violence, if special support cannot be provided.²⁸³ Asylum applications may be lodged at the border crossing points, police stations or at the Department for Citizenship, Asylum and Migration (DCAM) of the Ministry of Internal Affairs. After receiving the request, border guards or police officers must immediately contact the DCAM, which is the body responsible for first-instance decisions on asylum applications, and the applicant is transferred to the Asylum Centre. Thereafter, officials of the Asylum Centre must inform the applicant about his/her rights and the procedure for determination of international protection status including the possibility of receiving free legal aid and contacting representatives of the United Nations High Commissioner for Refugees (UNHCR) or specialised NGOs present in the centre.²⁸⁴ Subsequently, the applicant undergoes a medical examination, with his/her consent, to document potential evidence or signs of former persecution that will be sent to the DCAM.

302. The Law on Asylum contains provisions to ensure the gender-sensitivity of the asylum procedure. For instance, women asylum seekers have the right to request that the asylum procedure be conducted by a female asylum officer and if possible, an interpreter of the same sex.²⁸⁵ However, it is unclear if this requirement is always fulfilled in practice. Moreover, applicants shall be interviewed without the presence

²⁸⁰ Statistics of the Ministry of Internal Affairs, Department for Citizenship, Asylum and Migration (DCAM), 2020 and 2021

²⁸¹ According to the DCAM, Ministry of Internal Affairs, in 2019, there were 2081 asylum seekers, including 381 women.

²⁸² Law on Asylum, Article 1, paragraph 28

²⁸³ Law on Asylum, Article 63

²⁸⁴ *Ibid.*, Articles 26, 30 and 54

²⁸⁵ *Ibid.*, Articles 14 and 15

of family members unless the asylum officer considers their presence as necessary.²⁸⁶ According to the DCAM, decisions of asylum officers are based on an assessment of all evidence available as required under the Law on Asylum, including statements of the applicants, testimonies, information on the country of origin, and follow the UNHCR Guidelines on International Protection. Asylum officers receive some voluntary in-service training on gender in the context of asylum and migration, including gender-based violence, organised by international organisations. Notwithstanding the above, according to civil society and practitioners working on the ground, while access to the asylum procedure is effectively ensured in Kosovo*, gaps remain in the gender-sensitive implementation of the asylum procedure. Indeed, asylum officers do not always have a comprehensive understanding of gender-based violence and persecution, which consequently is not sufficiently analysed, referred to or taken into account in their decisions. Moreover, the Istanbul Convention remains little known among asylum officers. The above may explain why in 2019 and 2020, the DCAM indicated that it had not registered any asylum cases involving women applicants who had sought protection on the grounds of gender-related persecution.

303. To address the lack of standards on ensuring the protection of migrant and asylum-seeking women victims of gender-based violence in an integrated manner, the Ministry of Internal Affairs, together with the Kosovo Police, specialised NGOs, UNHCR and other relevant public institutions have launched a working group to draft “Guidelines for the prevention of risk mitigation and response to gender-based violence in the mixed migration context of Kosovo”. It is welcomed that the aim of this policy document is to provide multi-agency guidance to professionals from relevant sectors²⁸⁷ on the procedure to follow regarding the prevention, detection, referral and support of victims of gender-based violence in the context of the asylum procedure. As of April 2022, this document had been finalised and was waiting for approval from the Ministry of Internal Affairs. In the same vein, in 2021, multi-agency guidelines on the protection of children in the asylum procedure were adopted by the Ministry of Internal Affairs: the “Guidelines on assessing and determining the best interests of Children Applying for International Protection, Refugee and Migrant”.

304. **It is recommended that the authorities step up efforts made to identify women asylum seekers who have experienced or are at risk of gender-based violence, including through regular training and the dissemination of multi-agency gender guidelines for international protection and refugee status determination. It is also recommended that the authorities collect data on the annual number of asylum applications based on gender-related persecution, and the numbers of such applications granted and rejected.**

2. Accommodation

305. Under the Law on Asylum, applicants can be accommodated at asylum centres or elsewhere at their own expense, if they wish.²⁸⁸ There are two reception centres in Kosovo*, the Centre in Magure in the municipality of Lipjan/ Lipljan, and the Centre in Vranidoll/ Vrani Do close to Pristina. During the Covid-19 pandemic, Kosovo* faced an increase in the number of migrants staying in the territory, due to restrictions on movement for migrants and asylum seekers. This phenomenon overstretched Kosovo*s reception capacity. Hence, the ‘Belvedere camp’ in Mitrovica, in the North of Kosovo*, also provides reception facilities for asylum-seekers. The expansion of these facilities is planned in the framework of the “Contingency Plan for managing eventual influx of migrants, refugees and applicants for international protection” adopted in 2019.²⁸⁹ An additional temporary reception and registration centre for migrants and asylum-seekers is currently under construction in Vranidoll/ Vrani Do.

306. As mentioned above, under the Law on Asylum, vulnerable applicants, including women subjected to some forms of psychological, physical or sexual violence, including rape and female genital mutilation, must have access to tailored accommodation, reception conditions, medical treatment and psychosocial

²⁸⁶ Ibid., Article 57

²⁸⁷ The Ministry of Internal Affairs (DCAM, Department for Reintegration of Repatriated Persons and Integration of Foreigners), Kosovo Police (Directorate of Migration and Foreign, Border Guards, Domestic Violence Unit), Centres for Social Work, Ministry of Health, NGOs, international organisations are involved in this multi-agency guidance.

²⁸⁸ Law on Asylum, Article 55

²⁸⁹ Ministry on Internal Affairs. (2021). Strategy on Migration (2021-2025)

counselling. It is welcomed that several policy documents have been adopted in this regard, particularly the 2019 Guide on Reception Conditions for Vulnerable Applicants seeking International Protection explaining the standards of the 2018 Regulation of the Ministry of Internal Affairs on the Functioning of the Asylum Centre. Accordingly, early assessments of the applicants' needs should be carried out shortly after their admission to the reception centre, including through a standardised questionnaire aimed at identifying vulnerable applicants who suffered from gender-based violence. In addition, women asylum seekers who are victims of gender-based violence should be receiving information on their rights, on the principle of confidentiality applied to the procedure and on available specialised psychosocial and medical services. According to the above guide, such assessments of applicants' needs should be a continuous process and not be limited to a first initial interview.

307. Furthermore, women asylum seekers shall be accommodated in separate rooms for women only and those staying with their children or family should be accommodated in a single room.²⁹⁰ Women asylum seekers shall also receive tailored support provided by female professionals, when available. Moreover, asylum seekers in Kosovo* are authorised to work for a nine-month period, after submitting their application for international protection and applicants meeting the economic criteria are also eligible to social assistance.²⁹¹ Nonetheless, the delegation was informed that single mothers seeking asylum or recognised as refugees often feel discriminated in their communities and the public sphere, and that more initiatives are needed to empower them.

308. The staff operating reception centres include public servants working as, among others, social workers, officers processing asylum claims and logistic officers. In addition, representatives from NGOs (Civil Rights Programme in Kosovo, Kosova Rehabilitation Centre for Torture Victims, Jesuit Refugee Service) and UNHCR present in the centre provide specialist psychosocial, medical and legal support. According to the Ministry of Internal Affairs, regular training on the identification of victims of gender-based violence and other forms of violence are regularly organised in the reception centres, in co-operation with the International Organisation for Migration (IOM) and UNHCR. Women asylum seekers who are victims of gender-based violence may access support provided by shelters outside the asylum centres. The Ministry of Internal Affairs does not hire psychologists or other specialist professionals in addition to NGO representatives present in the asylum centres. Indications from civil society have stressed the lack of staff operating in the reception centres, including female staff members other than NGO representatives.

309. **It is recommended that the authorities strengthen the system of protection and support in relation to violence against women available to women asylum seekers residing in asylum reception centres, including by increasing the number of trained staff providing gender-sensitive trauma-informed, psychosocial and legal counselling.**

C. Non-refoulement (Article 61)

310. The principle of non-refoulement is recognised under the Law on Asylum, the Law on Foreigners and the Law on State Border Control and Surveillance, providing that no applicant, refugee, person under subsidiary protection or temporary protection shall be expelled or returned in any manner to the frontiers of territories where his/her life or freedom would be threatened on account of race, religion, nationality, membership of a particular social group or political opinion.²⁹²

²⁹⁰ Ministry of Internal Affairs Regulation No. 03/2018 on the Functioning of Asylum Centre, Articles 22 and 29

²⁹¹ *Ibid.*, Articles 27 and 35; Law on Asylum, Article 26

²⁹² Law on Asylum, Article 5; Law on Foreigners, Article 92; Law on State Border Control and Surveillance, Article 4.

Concluding remarks

311. This report has highlighted the numerous initiatives taken by Kosovo* both before and after the constitutional amendment adopted on 25 September 2020 giving direct effect to the Istanbul Convention in Kosovo*, to advance its laws and policies addressing violence against women and domestic violence. Over the last ten years, important efforts in Kosovo* have been made to devise specific laws and protocols as well as comprehensive and coordination policies and mechanisms to respond to domestic violence. In this regard, the Law on the Protection against Domestic Violence adopted in 2010 and the Standard Operating Procedures (SOPs) for the Protection from Domestic Violence adopted in 2013 are central instruments establishing measures to assist and protect victims of such violence. The nominations of the National Co-ordinator against Domestic Violence and the Inter-Ministerial Co-ordination Group against Domestic Violence tied with high political mandates also illustrate the political willingness of Kosovo* to improve the design and the implementation of comprehensive laws and policies in this field. On the ground, the creation of municipal co-ordination mechanisms against domestic violence, and the appointment of specialised police units, prosecutors and judges also demonstrate the willingness to develop a tailored and multi-agency response to the needs for assistance and protection of victims of domestic violence.

312. More recently, the measures taken by the authorities show its interest in aligning the legal and policy framework in Kosovo* with the standards of the Istanbul Convention. The National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026) adopted in January 2022 is the most promising example of these efforts to design policies while using the convention as a benchmark to cover other forms of violence against women, beyond domestic violence. Another positive development to be noted is the ongoing reform of the Law on the Protection against Domestic Violence and the SOPs for the Protection from Domestic Violence the scopes of which are planned to be expanded to ensure that women victims of all forms of gender-based violence can be provided with protection and support.

313. Despite these important advancements, this report has shown the pressing need to tackle practical deficiencies in the protection and the assistance of victims of all the forms of violence against women covered by the Istanbul Convention. Thus, further effort should be deployed to ensure that relevant professionals in all key sectors, including among others, the judicial, law enforcement, healthcare and social sectors, are trained and equipped to support all victims in a gender-sensitive and victim-centred manner. Such measures would require addressing gaps in the current legal and policy frameworks and their implementation, in relation to victims' support and protection, including the lack of access to sustainable resources for NGO-run specialist support services, the uneven conduct of comprehensive risk assessment, and gaps in the timely issuance and monitoring of emergency barring and protection orders.

314. Specific action should also be taken to define tailored procedures to support victims of certain forms of gender-based violence beyond domestic violence, particularly victims of sexual violence, forced marriage and sexual harassment, which are currently left without specialist support. Finally, the current system in Kosovo* does not sufficiently grasp and address the long-term impact of violence against women, including its long lasting economic and psychological effects. Thus, measures are needed to ensure the socio-economic empowerment of women victims of gender-based violence including in the context of social assistance, employment and property policies.

315. This report aims to support Kosovo* in its endeavour to advance the implementation of the Istanbul Convention. The delegation encourages its authorities to widely disseminate its findings, not only to the relevant public institutions at all central and municipal levels, but also to NGOs and other civil society organisations working in the field of violence against women.

Appendix I

List of recommendations

I. Purposes, definitions, equality and non-discrimination, general obligations

A. Scope of application of the convention and definitions (Articles 2 and 3)

1. It is strongly recommended that the authorities pursue their efforts to harmonise all legal and policy definitions of violence against women and domestic violence based on those set out in the Istanbul Convention, while ensuring their effective practical implementation. It is further strongly recommended that the authorities take measures to ensure that all definitions of domestic violence in use extend to all current and former intimate partners irrespective of whether the victim is in an informal intimate relationship or shares a residence with the perpetrator.

B. Fundamental rights, equality and non-discrimination (Article 4)

1. Gender equality and non-discrimination

2. It is urgently recommended that the authorities pursue their efforts to implement comprehensive and co-ordinated laws, policies and mechanisms for achieving gender equality, while taking further actions to remedy existing gaps in women's equal access to socio-economic rights, particularly property, inheritance and child alimony, as well as to monitor administrative and courts' practices in those fields and to measure progress.

2. Intersectional discrimination

3. It is strongly recommended that the authorities take further measures to tackle the multiple discriminations in accessing protection and support faced by certain groups of women victims of violence, in particular women with disabilities, Roma, Ashkali and Egyptian women, women living in rural areas, single mothers, LGBTI women and women in prostitution, including by developing policies and measures to address their specific needs. To this end, the authorities might wish to draw inspiration from the guidance provided in the collection of papers on the Istanbul Convention in relation to the design and implementation of measures addressing the practical barriers and bias faced by women at risk of intersectional discrimination who suffered from gender-based violence.

C. Gender-sensitive policies (Article 6)

4. It is recommended that the authorities increase their efforts to mainstream a gender-sensitive response to violence against women in all relevant policies, and through the development and implementation of relevant guidelines and training curricula for members of public institutions, adapted to their respective fields.

II. Integrated policies and data collection

D. Comprehensive and co-ordinated policies (Article 7)

5. It is recommended that the authorities enhance long-term co-ordination in developing, implementing and monitoring policies giving due importance to preventing and combating all forms of violence against women, including by strengthening the continuous and efficient functioning of existing co-ordination mechanism at central and municipal level.

E. Financial resources (Article 8)

6. It is urgently recommended that the authorities increase the stability and the level of funding granted to specialist NGOs to remedy gaps in the provision of specialist support services, especially shelters for victims of violence against women, by considering replacing the annual tendering procedure by a stable multi-annual funding scheme.

7. It is also recommended that the authorities ensure appropriate human and financial resources for all institutions and entities mandated to implement measures aimed at preventing and combating violence against women, including the municipal co-ordination mechanisms against domestic violence. To this end, it is further recommended that the authorities pursue their efforts to implement gender budgeting tools and gender impact assessments in all relevant ministries and institutions as a way of allocating sufficient funding to respond to violence against women as well as to monitor the implementation of gender budgeting tools with a view to documenting an increase over time in the budgets earmarked and spent in this field.

F. Non-governmental organisations and civil society (Article 9)

8. It is urgently recommended that the authorities ensure suitable funding opportunities for women's rights NGOs that run specialist support services and lead grassroots prevention efforts in relation to all forms of violence against women. It is also strongly recommended that the authorities ensure a more systematic consultative dialogue with specialist women's rights NGOs and grassroots organisations to bring forward their priority concerns, their promising interventions and incorporate their experiences into the design of policies to prevent and combat all forms of gender-based violence against women.

G. Co-ordinating body (Article 10)

9. It is strongly recommended that the authorities fully institutionalise the Office of the National Co-ordinator against Domestic Violence by allocating the necessary human and financial resources dedicated to its work. It is further recommended that the authorities ensure, on the one hand, the co-ordination and implementation of measures to prevent and combat all forms of violence against women, and, on the other hand, their independent evaluation, in order to ensure objectivity in the evaluation of policies. Regular monitoring and evaluation should be based on sound data, comparable indicators and cover the entire territory.

H. Data collection and research (Article 11)

1. Administrative data collection

a) Law-enforcement agencies and the justice sector

10. It is urgently recommended that the authorities expand the scope of the data collected by law-enforcement agencies and the judiciary to cover all forms of violence against women, and to ensure that such data is disaggregated by sex, age and the relationship between the victim and the perpetrator. It is strongly recommended that the authorities take measures, including through the rolling out of the Case Management Information System, to harmonise the collection of the above data between law-enforcement agencies and the judiciary with the ultimate aim of assessing attrition rates.

b) Health-care sector

11. It is strongly recommended that the authorities take measures to ensure the collection of harmonised data in relation to healthcare providers' contacts with patients for reasons related to experiences of gender-based violence. Such data should be disaggregated, at a minimum, by sex, age and relationship of the perpetrator to the victim.

c) Social services

12. It is strongly recommended that the authorities expand the scope of the data collected by social services and shelters to ensure that it addresses all forms of violence covered by the Istanbul Convention and are disaggregated by sex, age and relationship of the perpetrator to the victim and other relevant categories such as disability status.

2. Population-based surveys

13. It is strongly recommended that the authorities carry out regular prevalence surveys on all forms of violence against women covered by the Istanbul Convention, including violence experienced by women at risk of intersectional discrimination.

3. Research

14. It is recommended that the authorities step up efforts to support research into manifestations of violence against women that remain unexplored, including by setting research priorities and offering funding opportunities. It is further recommended that the authorities continue to evaluate existing policies and legislative measures to assess their level of implementation, efficacy and victim satisfaction with support and protection services.

III. Prevention

A. General obligations (Article 12)

15. It is recommended that the authorities foster measures aimed at eradicating stereotypes, prejudices and all practices based on the idea of women's inferiority to men, which contribute to justifying and perpetuating violence against women.

B. Awareness raising (Article 13)

16. It is recommended that the authorities further diversify and sustain their awareness-raising efforts to address all forms of violence covered by the Istanbul Convention, including through the resourcing of campaigns and by engaging in partnerships with women's rights NGOs and community-based organisations working with women at risk of intersectional discrimination and the media.

C. Education (Article 14)

17. It is strongly recommended that the authorities pursue their efforts to incorporate teaching materials on equality between women and men, all forms of gender-based violence against women and girls, non-stereotyped gender roles, mutual respect, non-violent interpersonal conflict resolution and the right to personal integrity into the formal curriculum, adapted to the evolving capacity of learners. It is also strongly recommended that the authorities take further measures to ensure early intervention by education staff where children, particularly girls, are at risk of any of the forms of violence covered by the Istanbul Convention.

D. Training of professionals (Article 15)

18. It is urgently recommended that the authorities ensure systematic and mandatory initial and in-service training on the prevention, detection and prosecution of all forms of violence against women covered by the Istanbul Convention, including on the needs and rights of victims, especially those in a vulnerable situation, and on the prevention of secondary victimisation and gender stereotypes for all professionals, in particular healthcare workers, social workers and the judiciary. All training efforts should

be supported and reinforced by clear protocols and guidelines setting the standards that staff are expected to follow.

E. Preventive intervention and treatment programmes (Article 16)

1. Programmes for perpetrators of domestic violence

19. It is strongly recommended that the authorities:

- a. draft minimum quality standards for all programmes for perpetrators of domestic violence, which should place at their centre the safety of the victims and their human rights, and which should include the close co-operation between perpetrator programmes and specialist services that assist victims;
- b. increase the number of available programmes, both mandatory and voluntary, to ensure their availability across the territory based on minimum quality standards;
- c. ensure that the external evaluation of such programmes is conducted and in line with recognised best international practices and principles, including analysis of reliable information on reoffending, in order to assess whether the programmes serve the intended preventive aims;
- d. ensure that the programmes for perpetrators of domestic violence form part of a multi-agency approach involving all relevant institutions, including NGOs; and
- e. ensure adequate training for all facilitators of perpetrator programmes.

2. Programmes for sex offenders

20. It is recommended that the authorities devise treatment programmes addressed to perpetrators of sexual violence, which take due account of best practices developed internationally and guarantee a human rights-based approach.

F. Participation of the private sector and the media (Article 17)

21. It is recommended that the authorities pursue their efforts to actively encourage the involvement of the media and the private sector, including the information technology sector, in the prevention of violence against women in all its forms, notably by ensuring the adequate and prompt implementation of relevant measures foreseen under the National Strategy on the Protection against Domestic Violence and Violence against Women (2022-2026).

IV. Protection and support

A. General obligations (Article 18)

22. It is urgently recommended that the authorities:

- a. adopt the necessary measures, including legislative measures, to ensure that multi-agency co-operation, including through the municipal co-ordination mechanisms or other initiatives extends to victims of all forms of violence against women;
- b. incorporate stronger and regular risk-assessment procedures, as part of the multi-agency co-ordination to victims' support and protection, supported by training and further efforts to reinforce the involvement of women's rights NGOs and shelters, with the final aim to ensure the safety of the victim at all stages;
- c. ensure the structural and financial sustainability of multi-agency co-operation, including the municipal co-ordination mechanisms.

B. Information (Article 19)

23. It is recommended that the authorities pursue their efforts to ensure that victims receive adequate and timely information on available support services and legal measures for all forms of violence against women, in a language they understand.

C. General support services (Article 20)

1. Social services

24. It is strongly recommended that the authorities:

- a. increase the resources dedicated to social programmes facilitating the recovery and the socio-economic autonomy of women victims of all forms of violence covered by the Istanbul Convention, in particular social housing schemes, assistance in education and training and in finding employment;
- b. ensure that Centres for Social Work throughout Kosovo* are provided with adequate human and financial resources allowing them to effectively discharge their duties, while considering appointing social workers specialised in violence against women;
- c. foster training for social workers on the gendered nature of violence against women, the harmful impact of witnessing violence for children and the screening for domestic violence history during reconciliation procedures and child custody decisions.

2. Health-care services

25. It is strongly recommended that the authorities ensure that women victims of violence covered by the Istanbul Convention have access to adequately resourced health services with trained professionals tailored to assist victims, in particular by:

- a. detecting all forms of violence against women covered by the Istanbul Convention, responding to their medical needs in a sensitive manner and ensuring their referrals to relevant and preferably specialist support services;
- b. developing and effectively implementing protocols and guidelines which ensure that all healthcare professionals adequately respond to women victims of all forms of gender-based violence, including women exposed to intersectional discrimination, in particular women with disabilities, migrant women and Roma, Ashkali and Egyptian women, who may face significant barriers to help-seeking; and
- c. providing free-of-charge documentation of forensic evidence suitable for use by the criminal justice sector.

D. Specialist support services (Article 22)

26. Recalling the key role that specialist support services play in addressing the different types of violence covered by the scope of the Istanbul Convention by providing tailored support to all groups of victims, it is strongly recommended that the authorities ensure the provision of immediate, medium-term and long-term support services to all victims, including by cooperating with, supporting financially, and tapping into the long-standing expertise of independent women's specialist support services in civil society.

E. Shelters (Article 23)

27. With the aim of guaranteeing adequate access for women victims of violence and their children to dedicated, safe and supportive shelter facilities, as required under Article 23 of the Istanbul Convention, it is strongly recommended that the authorities:

- a. expand the number and/or capacity of specialist shelter facilities dedicated to women and their children, including some for boys over the age of 12, throughout the territory, while monitoring the quality and financial sustainability of service provision;
- b. provide sufficient and stable funding for shelters to ensure their ability to provide comprehensive quality and victim-centred accommodation and support to victims;

- c. guarantee the equitable access to such shelter services for all women victims of all the forms of violence covered by the Istanbul Convention, especially women with disabilities, women living in rural areas, older women, women using psycho-active substances, Roma, Ashkali and Egyptian women, women from Serb communities and migrant women; and
- d. address the long-term needs of all women victims and their children by providing adequate and stable funding dedicated to long-term socio-economic and trauma-care support for women during and after their stay at the shelters.
- e. expand the number and/or capacity of specialist shelter facilities dedicated to women and their children, including some for boys over the age of 12, throughout the territory, while monitoring the quality and financial sustainability of service provision;
- f. provide sufficient and stable funding for shelters to ensure their ability to provide comprehensive quality and victim-centred accommodation and support to victims;
- g. guarantee the equitable access to such shelter services for all women victims of all the forms of violence covered by the Istanbul Convention, especially women with disabilities, women living in rural areas, older women, women using psycho-active substances, Roma, Ashkali and Egyptian women, women from Serb communities and migrant women; and
- h. address the long-term needs of all women victims and their children by providing adequate and stable funding dedicated to long-term socio-economic and trauma-care support for women during and after their stay at the shelters.

F. Telephone helplines (Article 24)

28. It is strongly recommended that the authorities concretise their efforts to ensure the functioning of a free, anonymous and round-the-clock telephone helpline dedicated to women victims of all the forms of violence against women covered by the Istanbul Convention, available across the territory and in all relevant languages, which is capable of providing counselling to victims, with due respect for the confidentiality of all callers, and which is operated by qualified staff trained in all these forms of violence.

G. Support for victims of sexual violence (Article 25)

29. It is urgently recommended that the authorities set up appropriate and easily accessible rape crisis and/or sexual violence referral centres offering medical care, high-quality forensic examination and immediate, short-term and long-term trauma support delivered by trained professionals. Such centres should ensure a sensitive response by trained specialists and uphold the principle of the victim's informed consent and control over her decisions with respect to forensic/medical examinations and reporting. It is also urgently recommended that the authorities develop specific medical protocols on supporting victims of sexual violence and ensuring that forensic examinations can be carried out and samples can be stored, regardless of whether sexual violence has been reported to the police.

H. Protection and support for child witnesses (Article 26)

30. It is urgently recommended that the authorities step-up measures to ensure:
- a. the availability of age-appropriate psycho-social counselling for child witnesses of all forms of violence covered by the Istanbul Convention, in particular for children who witness domestic violence;
 - b. wider levels of awareness among relevant professionals, particularly those working in social services, education and judicial institutions, of the harmful effects of witnessing domestic violence on children;
 - c. the co-ordination of the above with decisions related to the settlement of custody and visitation rights, as well as to the granting of protection measures for child witnesses, including protection orders.

I. Reporting by professionals (Article 28)

31. Recalling the principle of women's empowerment mainstreamed throughout the Istanbul Convention, it is strongly recommended that the authorities ensure that the duty to report imposed on professionals is tempered by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy. To this end, it is strongly recommended that the authorities review the obligation for professionals to report cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the Istanbul Convention has been committed and further serious acts are to be expected. This may well require making the obligation to report contingent upon the prior consent of the victim, unless the victim is a child or is unable to protect her/himself due to disabilities.

V. Substantive law

A. Civil law

1. Civil remedies against the authorities – ensuring due diligence (Article 29)

32. It is strongly recommended that the authorities examine and address any barriers to the use of civil law measures available to hold public authorities accountable for failure to comply with the obligation to diligently prevent, investigate and punish acts of violence covered by the Istanbul Convention and to protect victims, as well as to ensure the provision of adequate information to women victims of violence in order to enable them to make practical use of the existing legal remedies. Progress in this area needs to be measured by collecting data on the number of complaints by victims and their outcomes.

2. Compensation (Article 30)

33. It is recommended that the authorities take further measures to facilitate and guarantee access to compensation for victims of all forms of violence against women, including war-time sexual violence, in particular by ensuring that victims are systematically informed of their right to claim compensation and the procedures to be followed. It is also recommended that the authorities consider expanding the five-year period to apply for compensation to the Government Commission for the Recognition and the Verification of the Status of Victims of Sexual Violence during the War.

3. Custody, visitation rights and safety (Article 31)

34. It is urgently recommended that the authorities take the necessary measures, including legislative amendments, to ensure that courts are under the obligation to consider incidents of violence against women when determining custody and visitation rights and to restrict custody and visitation rights where this is warranted to guarantee the safety and best interest of the child. In particular, it is urgently recommended that the authorities:

- a. take measures to incorporate a systematic process for screening cases related to divorce, the determination of custody and visitation rights in order to identify and take into account cases of violence covered by the Istanbul Convention;
 - b. amend Article 70 of the Law on Family, to ensure that all women, including pregnant women and mothers of children under the age of one are not legally prohibited from leaving an abusive spouse;
 - c. ensure that only professionals, particularly psychologists and child psychiatrists, who are attuned to the issue of violence against women and the requirements of the Istanbul Convention, can be appointed by courts to provide advice on issues of custody and visitation in situations of violence against women;
 - d. provide appropriate training and develop professional guidelines, aimed at raising awareness among the professionals concerned as to the harmful effects of violence on children, including child witnesses, and at familiarising them with the requirements of Article 31 of the Istanbul Convention;
- and

- e. monitor the courts' practice in this field and measure progress.

B. Criminal law

1. Psychological violence (Article 33)

34. It is strongly recommended that the authorities take measures to effectively investigate, prosecute and punish acts of psychological violence by making full use of the available provisions in the Criminal Code, including by ensuring prosecution under Article 248 of the Criminal Code in cases of psychological violence in the domestic context, and to increase training, among law-enforcement officials, judges and other relevant professionals of the gendered nature and consequences of psychological violence. It is also recommended that the authorities review the existing case law of psychological violence to examine whether the available provisions are adequately used in practice.

2. Stalking (Article 34)

36. It is recommended that the authorities review the threshold required for a behaviour to qualify as stalking to ensure that threatening conduct causing the victim to fear for her or his safety is criminalised, without requiring fear of death, grievous bodily injury, serious damage to property or substantial emotional distress. It is further recommended that the authorities develop investigation and prosecution guidelines supported by training for relevant professionals on the gendered nature of stalking, its digital dimension and its serious psychological consequences.

3. Physical violence (Article 35)

37. It is recommended that the authorities take measures to ensure effective investigation, prosecution and punishment of acts of physical violence against women, including intimate partner violence, by making full use of the available provisions in the Criminal Code and to ensure that sanctions are effective, proportionate and dissuasive, taking into account the gendered nature of these offences.

4. Sexual violence, including rape (Article 36)

38. It is recommended that the authorities ensure an understanding of rape and sexual violence as offences based on the absence of consent, as defined in the Criminal Code, including through training and guidelines for professionals in the law enforcement and the judiciary. It is also recommended that the authorities carry out an analysis of courts' practice in respect of cases of sexual violence, including war-time sexual violence, with a view to introducing, on the basis of the findings of such analysis, appropriate measures to ensure that the provisions of the Criminal Code on sexual violence are being effectively applied.

5. Forced marriage (Article 37)

39. It is strongly recommended that the authorities criminalise the intentional conduct of luring an adult or a child to the territory of another state with the purpose of forcing this person into a marriage. It also is strongly recommended that the authorities take appropriate measures, including issuing protocols and training to relevant professionals, to ensure that both forced marriages and the customary cohabitation of minors do not remain unpunished.

6. Forced abortion and forced sterilisation (Article 39)

40. It is recommended that the authorities ensure that the existing provisions on forced abortion and forced sterilisation are able to protect women with disabilities against this form of violence.

7. Sexual harassment (Article 40)

41. It is recommended that the authorities take measures to ensure that the legal provisions protecting women from sexual harassment are fully applied, including where such harassment is carried out using digital tools. Furthermore, it is recommended that the authorities increase their efforts to ensure higher levels of awareness of sexual harassment as opposed to sexual violence among the relevant stakeholders and to strengthen data collection regarding this form of violence against women, covering criminal, civil and disciplinary proceedings.

8. Sanctions and measures (Article 45)

42. While respecting the principle of the independence of the judiciary, it is strongly recommended that the authorities take measures to ensure that judicial sanctions in cases of violence against women are effective, proportionate and dissuasive. In determining judicial sanctions, precautions should be taken to avoid victims being re-victimised by the imposition of fines on their spouses or partners. The suspension of sentencing should be the result of careful balancing between the need, on the one hand, to promote the social reintegration of first offenders and, on the other, to contain the danger of recidivism, avoid undue delays in criminal proceedings and uphold the principle of accountability under criminal law.

9. Aggravating circumstances (Article 46)

43. It is recommended that the authorities take appropriate measures to ensure, through training and guidelines, that all circumstances listed in Article 46 of the Istanbul Convention are, in practice, considered as aggravating circumstances by the judiciary, and to adopt legislative measures with the aim of expressly including the commission of the offence against or in the presence of children in the list of aggravating circumstances.

10. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

44. It is urgently recommended that the authorities introduce measures ensuring the systematic screening for domestic violence by all professionals involved in implementing family and civil law and to support the application of these measures through training efforts. It is further urgently recommended that the authorities ensure that women victims of violence to whom mediation is offered are informed of their rights, in particular as regards the non-mandatory nature of mediation.

VI. Investigation, prosecution, procedural law and protective measures

A. General obligations, immediate response, prevention and protection (Articles 49 and 50)

1. Reporting to, immediate response and investigations by law-enforcement agencies

45. It is urgently recommended that the authorities:

- a. enhance the capacity and knowledge of all law enforcement officers regarding strong case building for all forms of violence covered by the Istanbul Convention, including timely evidence collection and the prevention of secondary victimisation; and
- b. draw up standard reporting and investigative procedures in relation to all other forms of violence against women, in particular sexual violence and forced marriage.

2. Effective investigation and prosecution

46. It is urgently recommended that the authorities:

- a. ensure that prosecution services make use of all possible measures in order to provide criminal justice for victims of all forms of violence by the Istanbul Convention, while paying due regard to evidence other than the victim's statement, as well as re-examine the practice of withdrawing charges in cases when women victims change or withdraw their statements.
- b. ensure that the forensic examination and collection of evidence in cases of sexual violence and rape is conducted in a timely and gender-sensitive manner, including by re-enforcing training and procedure across law enforcement agencies and the Institute of Forensic Medicine, and by ensuring that victims can undergo such examination outside Pristina and access the service directly without an order by the prosecutor or court.

3. Conviction rates

47. It is urgently recommended that the authorities swiftly identify and address any factors, which contribute to attrition (the process whereby cases drop out of the criminal justice system) in criminal justice procedures in relation to all cases of violence covered by the Istanbul Convention, including the reasons for delays in criminal proceedings. Such measures should be supported by sex-disaggregated administrative and judicial data that are reliable and comparable throughout the judicial chain.

B. Risk assessment and risk management (Article 51)

48. It is urgently recommended that the authorities ensure the systematic use of a standardised, evidence-based risk assessment tool for all forms of violence covered by the Istanbul Convention, in order to enable all relevant risk factors for lethality and repeated violence to be timely identified and responded to, when first contact is made with victims and subsequently. It is also recommended that the authorities ensure that risk-assessment and management procedures are central to co-ordinated multi-agency responses to violence against women, while stepping up training for law enforcement agencies, judiciary and other relevant services.

C. Emergency barring orders (Article 52)

49. It is strongly recommended that the authorities review their system of emergency barring orders with a view to ensuring that victims of domestic violence have access, in situations of immediate danger, to emergency barring orders that provide uninterrupted protection, meeting the requirements of Article 52 of the Istanbul Convention. Furthermore, it is strongly recommended that the authorities monitor the use of emergency protection measures in order to identify and remedy any obstacles in their implementation.

D. Restraining or protection orders (Article 53)

50. It is urgently recommended that the authorities review their system of protection orders to ensure that:

- a. protection orders are available for immediate protection without undue delay and extend to all forms of violence covered by the scope of the Istanbul Convention without limitation to domestic violence;
- b. protection orders are vigilantly enforced and breaches sanctioned in line with the requirement of effective, proportionate and dissuasive criminal or other sanction;
- c. there is no possibility for protection orders to cover only a part of a premise shared between the victim and the perpetrator, and/or any other possibility allowing perpetrators to remain within proximity to the victim; and
- d. to monitor progress in this area by gathering data on violations and sanctions imposed as a result.

E. Ex parte and ex officio proceedings (Article 55)

b. Victim support in legal proceedings

51. It is recommended that the authorities step up measures to increase access to legal and psycho-social support at all stages of legal proceedings for all victims of violence against women and child witnesses, including by promoting and supporting the role of specialist women's organisations. Support should be available not only in criminal proceedings but also in related civil proceedings, such as those instituted to settle a compensation claim, a divorce or custody decisions after domestic violence cases.

F. Measures of protection (Article 56)

52. It is strongly recommended that the authorities enhance the use of measures to protect the rights and interests of the victims during the investigations and judicial proceedings. Data collection and research on the implementation of these measures and their effectiveness need to be carried out regularly, including from a victim's perspective.

G. Legal aid (Article 57)

53. It is recommended that the authorities ensure that victims of all forms of violence covered by the Istanbul Convention have de jure and de facto access to legal aid at an early stage of the procedure. Furthermore, it is also recommended that the authorities consider that if the means test is calculated on the basis of the household income of a family, but individual family members are in conflict with each other or do not have equal access to the family income, only the income of the person applying for legal aid is used for the purpose of the means test.

VII. Migration and asylum

A. Residence status (Article 59)

54. It is recommended that the authorities take measures to:

- a. ensure that the practical implementation of the Law on Foreigners allows migrant women victims of gender-based violence whose residence status was dependent on the one of their abusive ex-partner or ex-spouse to receive an autonomous residence permit on the basis of standards of proof that they can meet;
- b. ensure that the practical implementation of the Law on Foreigners allows migrant women victims of gender-based violence to receive an autonomous residence permit, when their stay is necessary owing to their personal situation or for the purpose of their co-operation with the competent authorities in investigations/ criminal proceedings, or when they need to regain the residence permit that they lost after being taken abroad for the purposes of forced marriage; and
- c. ensure that migrant women victims of gender-based violence have the right to be granted an autonomous residence permit in the event of expulsion of their abusive spouse or partner.

B. Gender-based asylum claims (Article 60)

1. Gender-sensitive asylum determination procedure

55. It is recommended that the authorities step up efforts made to identify women asylum seekers who have experienced or are at risk of gender-based violence, including through regular training and the dissemination of multi-agency gender guidelines for international protection and refugee status determination. It is also recommended that the authorities collect data on the annual number of asylum applications based on gender-related persecution, and the numbers of such applications granted and rejected.

2. Accommodation

56. It is recommended that the authorities strengthen the system of protection and support in relation to violence against women available to women asylum seekers residing in asylum reception centres, including by increasing the number of trained staff providing gender-sensitive trauma-informed, psychosocial and legal counselling.

Appendix II

List of the public authorities, non-governmental organisations and civil society organisations with which the Council of Europe delegation held consultations

Ministries:

- Ministry of Administration and Governance
- Ministry of Culture, Youth and Sport
- Ministry of Education, Science, Technology and Innovation
- Ministry of Finance, Labour and Transfers
- Ministry of Health
- Ministry of Internal Affairs
- Ministry of Justice

Public entities:

- Agency for Free Legal Aid
- Agency for Gender Equality
- Academy of Justice
- The Correctional Service
- Government Commission for the Verification and the Recognition of the Status of Victims of Sexual Violence during the War
- Independent Media Commission
- Institute of Public Health
- Institute for Forensic Medicine
- Kosovo Academy for Public Safety
- Kosovo Forensic Psychiatric Institute
- Kosovo Judicial Council
- Kosovo Police
- Mediation Chamber of Kosovo
- Ombudsperson Institution of Kosovo
- Office of the State Prosecutor
- Victim Protection and Assistance Office

Municipal entities:

- Basic Court in Pristina
- Centre for Social Work in Pristina
- Family Medicine Centre in Pristina
- Psychiatric Clinic in Pristina

- Municipal Co-ordination Mechanism against Domestic Violence in Gjakova/ Đakovica:
 - Municipality of Gjakova/ Đakovica
 - Municipal Education Directorate in Gjakova
 - Municipal Directorate of Health and Social Welfare in Gjakova/ Đakovica
 - Agency for Free Legal Aid in Gjakova/ Đakovica
 - Basic Court of Gjakova/ Đakovica
 - Basic Prosecution in Gjakova/ Đakovica
 - Centre for Social Work in Gjakova/ Đakovica
 - Kosovo Police in Gjakova/ Đakovica
 - Municipal Office for Employment in Gjakova/ Đakovica
 - Probation Services of Gjakova/ Đakovica
 - Regional Hospital, Institute of Psychiatry in Gjakova/ Đakovica
 - Victim Protection and Assistance Office in Gjakova/ Đakovica

Parliamentary Assembly:

- Deputy Speaker of the Assembly of Kosovo
- Parliamentary Committee on Human Rights, Gender Equality, Victims of Sexual Violence During the War, Missing Persons and Petitions

Professional organisations:

- Chamber of Doctors
- Chamber of Nurses

Non-governmental organisations:

- Active Women of Gjakova
- Advancing Together
- Centre for Counseling, Social Services and Research (SIT)
- Centre for Equality and Liberty
- Centre for Gender Policy and Research
- Centre for Information, Critique, and Action (QIKA)
- Centre for the Protection of Women and Children
- Civil Rights Program in Kosovo (CRPK)
- Committee of Blind Women of Kosova
- Grazeta
- Handikos
- Hope & Home for Children (SDSF)
- Initiative for Justice and Equality (INJECT)
- Kosovo Disability Forum
- Kosovar Gender Studies Centre
- Kosovo Law Institute
- Kosova Rehabilitation Centre for Torture Victims
- Kosovo Women's Network
- Labyrinth
- Lawyers Association Norma
- Medica Gjakova
- Medica Kosova
- Non-Governmental Organization for Advocacy and Reintegration of Victims of Violence
- Terre des Hommes
- Safe House Gjakova
- Single Parent Association
- Svet Andjela
- Voice of Roma Ashkali and Egyptians (VORAE)
- Women for Women International
- Zensko Pravo

Independent legal professionals:

- Rina Kika, lawyer

International Organisation:

- UNHCR Representation in Kosovo*

Comments from the authorities

The following comments do not form part of the Report on the Assessment of the Alignment of Kosovo*'s Laws, Policies and other measures with the standards of Istanbul Convention



Republika e Kosovës
Republika Kosova-Republic of Kosovo
Qeveria -Vlada-Government
Ministria e Drejtësisë - Ministarstvo Pravde - Ministry of Justice

Zyra e Koordinatorës Nacionale Kundër Dhunës në Familje -Kancelarija Nacionalni
Koordinator Protiv Nasilja u Porodici - Office of the National Coordinator Against
Domestic Violence

KOSOVO's Comments

on

**The Report on the Assessment of the Alignment of Laws,
Policies and other measures with the standards of the Council
of Europe Convention on Preventing and Combating Violence
against Women and Domestic Violence**

Prishtinë, September 2022

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Introduction

Kosovo is committed to tackling domestic violence, violence against women and gender based violence. As such, the Assembly of the Republic of Kosovo adopted the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) on 25 September 2020, giving direct effect to this Convention in Kosovo's law. The government stipulated as national priority the prevention and adoption of domestic violence and gender based violence.

Kosovo is for the first time undergoing an assessment of its implementation of the Istanbul Convention, in line with the methodology of the baseline evaluation procedure of GREVIO (the Group of experts on action against violence against women and domestic violence) – the monitoring committee of the Istanbul Convention. Our authorities express appreciation for the logistical assistance provided in this process through the Council of Europe co-operation project "Reinforcing the fight against violence against women and domestic violence - Phase III" (2021-2023).

We would like to emphasize some general and specific comments in relation to the conclusions and proposals contained in the assessment report prepared in line with the methodology of GREVIO.

General Comments

1. The report uses the footnote/asterisk whenever referring to Kosovo, throughout the document.

Authorities view with concern the use of the footnote/asterisk, whenever referring to Kosovo throughout the document. If the report uses the footnote, authorities urge the Council of Europe to use the European Union's practice of referring to Kosovo. As such, the report would use the footnote only once, and only at the first instance it appears, just like with all other explanatory footnotes. Authorities believe it is unnecessary to use the footnote every time Kosovo is mentioned, and therefore urge the Council of Europe to delete the asterisk throughout the text.

2. The report provides a detailed assessment and recommendations to Kosovo authorities.

Kosovo authorities welcome the findings and recommendations and acknowledge the need to further action in line with the guidance provided through the report in order to strengthen the implementation of the Istanbul Convention in Kosovo.

Special Comments

3. The report strongly recommends the full institutionalization of the Office of the National Coordinator against Domestic Violence, by allocating the necessary human and financial resources dedicated to its work and ensure the monitoring and evaluation of work based on sound data, comparable indicators and coverage through the whole territory (paragraph 51).

Authorities acknowledge the commitment to formalize the Office of the National Coordinator against Domestic Violence, and ensure the undertaking of monitoring and evaluation process based on sound and inclusive data, as well as comparable indicators.

4. The report finds that data collected by the police and judicial institutions are not broken down by all categories as set out in the Explanatory Report to the Convention, including the sex and age of both the victim and the perpetrator, the relationship between them, type of violence and geographical location (paragraph 57).¹

Taking into consideration the above observation, the authorities would kindly make reference to the database (ISKP - information system) of the Kosovo Police, where all criminal offenses initiated by the Kosovo Police are recorded and divided according to gender, age, ethnicity, author/victim, place where the crime occurred etc. and that can be issued for a short time. Excluding the crime of stalking, which as such is not foreseen by the Criminal Code of the Republic of Kosovo; in cases where one person stalks another, the Kosovo Police handles these cases according to Article 182 - Harassment.

²⁹³Explanatory Report to the Istanbul Convention, paragraph 76.

5. The report recommends the local authorities to step up efforts to support research into manifestations of violence against women that remain unexplored, including by setting research priorities and offering funding opportunities; as well as to continue to evaluate existing policies and legislative measures to assess their level of implementation, efficacy and victim satisfaction with support and protection services. (paragraph 70)

Authorities take note of the recommendations under Section E (paragraphs 52-70) and acknowledge the commitment to undertake steps to ensure grounded information on the phenomenon, and evaluate undertaken interventions.

6. The report makes reference to the Agency of Gender Equality, having launched a protocol for the identification and reporting of cases of violence in schools (paragraph 88).¹

Authorities point out that the protocol was launched by the Office for Good Governance in the Office of the Prime Minister, based on the initiative from the Ministry of Education, Science and Technology.

7. The report strongly recommends local authorities to pursue their efforts to incorporate teaching materials on equality between women and men, all forms of gender-based violence against women and girls, non-stereotyped gender roles, mutual respect, non-violent interpersonal conflict resolution and the right to personal integrity into the formal curriculum, adapted to the evolving capacity of learners (paragraph 89).

Kosovo authorities acknowledge the importance to pursue efforts to incorporate teaching materials. Authorities want to make reference to the material prepared from the Ministry of Education, namely the Informator on the role of schools in the implementation of standard action procedures for protection from domestic violence. The same, has been distributed in all municipalities, dedicated to their schools.

8. The report strongly recommends authorities to concretize their efforts to ensure the functioning of a free, anonymous and round-the-clock telephone helpline dedicated to women victims of all the forms of violence against women covered by the Istanbul Convention, available across the territory and in all relevant languages, which is capable of providing counselling to victims, with due respect for the confidentiality of all callers, and which is operated by qualified staff trained in all these forms of violence (paragraph 152).

Kosovo authorities acknowledge the importance of establishing this line.

9. The report notes that no data was provided to the delegation regarding the number of domestic violence cases reported through the above mobile app (paragraph 149).

Authorities inform that during 2022, the Kosovo Police through the digital application "Notify the Police" received a total of 82 information on domestic violence.

²⁹⁴The cases are reported through the Education Information Management System.

Authorities takes this statement with concern, as no complaint by an individual or official has been addressed to the Institute of Forensic Medicine. The authorities acknowledge the commitment to improve services for victims of sexual violence.

11. The report makes reference to the current facilities of the Institute of Forensic Medicine noting that the building is not accessible to women with disabilities (paragraph 154).

Authorities sustain that the finding is misleading, as the building of the Institute for Forensic Medicine, since its foundation in 2006, has had access for people with disabilities on the first floor, where forensic services are performed. A photo of the building is provided as evidence to sustain this claim.



The Council of Europe project "Reinforcing the fight against violence against women and domestic violence in Kosovo* - phase III" aims at defining a concrete roadmap for strengthening Kosovo*'s legal and policy frameworks as well as building institutional capacities to prevent and counter violence against women and domestic violence in line with the standards of the Istanbul Convention.

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