



Rrjeti i monitorimit kundër dhunës me bazë gjinore¹
(Monitoring Network Against Gender Based Violence)

SHADOW RAPORT

ON THE IMPLEMENTATION OF THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND
COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE (ISTANBUL CONVENTION)

FIRST ROUND OF THEMATIC ASSESSMENT:

BUILDING TRUST BY DELIVERING SUPPORT, PROTECTION AND JUSTICE

REPORTING PERIOD: JULY 2017 – DECEMBER 2022

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¹ <https://rrjetikunderdhunesgjinore-monitorime.al/en/members/>

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The report draws on the experience of member organizations of the Monitoring Network Against Gender Based Violence, with significant input from the following:

CGJA-Center for Gender Justice in Albania

CLCI - Center for Legal Civic Initiatives

CRCA/ECPAT Albania- Child Rights Center Albania

D&E- Organization “Different & Equal”

IWP- Intellectual Women of Pogradeci Association

WCLS- Woman Center “Light Steps”

WCSSC- Women Counselling and Social Services Center, Kukës

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The views and opinions expressed in this publication do not necessarily reflect the official policy or position of UN Women, other UN agencies or the Government of Sweden.

Acronyms

CPWs - Child Protection Workers

DCM – Decision of the Council of Ministers

EA- Economic Aid

ECtHR – European Court of Human Rights

FLAD – Free Legal Aid Directorate

GDSP– General Directorate of State Police

GPD – General Prisons Directorate

GREVIO- Group of Experts on Action against Violence against Women and Domestic Violence

IEPS –Institutions for Executing Penal Sentences

IPO- Immediate Protection Order

IPPM - Immediate precautionary protection measures

ITG – Interdisciplinary Technical group

LGBTI- Lesbian, Gay, Bi-Sexual, Trans and Inter-Sex

MJ – Ministry of Justice

NPOs - Non-Profit Organizations

PO - Protection Order

REVALB - Electronic Records System on Gender-Based Violence at the local unit

Contents

Acronyms	3
Article 8: Funding	5
Article 20: General support services	8
Article 25: Support to victims of sexual violence	11
Article 51: Risk assessment and risk management	22
Article 56: Measures of protection	31
Part III: Emerging trends on violence against women and domestic violence	35

Article 8: Funding

4. Please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country concerning the allocation of appropriate and sustainable financial and human resources for the implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the Istanbul Convention.

5. Please provide information on any development concerning the provision of appropriate and sustainable financial and human resources for women's rights organisations that provide specialist support services to victims, including those supporting migrant women and girls.

NPO financing under and by way of implementing the law, "On State-Guaranteed Legal Aid"

- Since the adoption of GREVIO's baseline evaluation report on Albania, a new development may be considered the implementation of law no. 111/2017, "On the State-guaranteed legal aid," adopted as part of the Justice Reform. Unlike the previous law no. 10 039, dated 22.12.2008, "On Legal Aid," which was applied with little effect for nearly a decade, it appears that the implementation of this law has been quite positive.
- Under the new law, following authorization by the Minister of Justice to deliver primary legal aid, non-profit organizations (NPOs) are eligible to apply for state funding earmarked for provision of primary legal aid. Currently, 15 NPOs have been authorised, with only two funded this year, i.e., two years after the first calls for applications were announced.
- Civil society organizations have monitored the implementation of the law in different regions of the country, and made important conclusions. Thus, having monitored the delivery of primary legal aid in the districts of Durrës, Shkodër, Tirana, CSOs noted the establishment and operation of all three kinds of entities envisaged by law to deliver primary legal aid in these districts such as, Primary Legal Aid Delivery Centres (government entities in different districts of the country); Authorized Non-profit Organizations; Law Clinics embedded in the universities. Additionally, in 2021, the ONLINE Primary Legal Aid (platformajuristonline.al), and the toll-free number 08001010, have been operating at the national level.
- By monitoring the number of victims receiving free legal aid on gender-based violence throughout 2021, it was established that, of the total number of people who received services from primary legal aid delivery centres in each of the three judicial districts above, victims of domestic violence, victims of gender-based violence, and victims of discrimination, together, account for 4.2% of services in Durrës, 1.2% in Shkodër and 2% in Tirana.² For example, out of 300 citizens who received legal aid from the Legal Aid Delivery Centre in Tirana, only 15 were victims of domestic violence; in Shkodër out of 585 beneficiaries in 2021 there were only 47 victims of domestic violence; whereas in Durrës, out of 378 beneficiaries of legal services, only 13 were victims of domestic

² See: "Monitoring Report. Legal aid guaranteed by the State". Monitoring Period: January-December 2021, Center for Citizen Legal Initiatives, Tirana, 2022. Available at: https://www.qag-al.org/publikime/raport_ndihma_juridike.pdf, p. 12-18.

violence. In addition, over 2021 these centres did not provide aid to the other categories of victims, such as those of sexual violence and human trafficking.

- For the same monitoring period, i.e. 2021, the number of gender-based violence and domestic violence victims, who received aid from 6 specialized NPOs authorized by the Ministry of Justice is several times higher. The beneficiaries were from all categories of gender-based violence, not only victims of domestic violence.³ In many cases, the primary legal aid centres referred the victims of gender-based violence to these NPOs.
- University clinics, on the other side, present a poor picture of support for victims of gender-based violence. In the city of Tirana, FLAD signed 8 cooperation agreements with legal clinics embedded in public and private universities. However, in 2021, only 1 (one) victim of domestic violence received aid at one of these clinics, specifically, counselling and filling out the forms for her to benefit secondary legal assistance.
- As indicated from the above and as also confirmed by observations in 2022, it becomes clear that NPOs specializing in the delivery of legal aid to victims of gender-based violence are the most important, most accessible, and best performing structures. In most cases, victims are directly referred to these NPOs by other institutions or entities. Therefore, the lack of financial resources for NPOs, although provided for by the law, limits the access of victims of gender-based violence to legal services.
- The Albanian government has adopted the implementing by-laws on the provision of funding to NPOs delivering legal aid.⁴ However, in 2021, of the 10 authorized NPOs that applied for budget funding, the Evaluation Commission and the Appeals Committee, composed of members of the Ministry of Justice and FLAD, announced no winners. The same situation repeated itself in 2022. Only in the current year, was it possible for 2 NPOs to benefit from financial support based on this law. The barriers introduced through the by-laws prevent NPOs from qualifying for such funding.
- A review of these by-laws shows that some barriers are completely irrational. For example, NPOs with funding from other sources are completely denied access to budget resources. In addition to being unreasonable, this criterion leaves out and penalizes organizations with experience in this field. Thus, experience becomes a barrier, rather than an advantage. Furthermore, irrationality only intensifies, if one keeps in mind that funding from other sources for NPOs only comes from foreign donors; hence, its availability on temporary and unstable basis.
- NPO financing procedures are quite complex and fraught with numerous bureaucracies. On top of that, the earmarked budget of 8 million ALL per year is insufficient to fund the NPOs authorized to provide primary legal aid. In addition, according to the law, the authorized NPOs may only be funded to provide primary legal aid, not secondary aid, which victims of violence need the most. As a consequence, even today, 6 years after the entry into force of this law, the relevant NPOs are only supported by foreign donors.

³ See, “Monitoring Report. Legal aid guaranteed by the State.” Monitoring Period: January-December 2021, Center for Legal Civic Initiatives, Tirana, 2022. Available at: https://www.qag-l.org/publikime/raport_ndihma_juridike.pdf, p. 12-18.

⁴ DCM no. 55, dated 06.02.2019, “Determining the procedures and documentation to authorise non-profit organizations to provide state-guaranteed primary legal aid;” DCM no. 110, dated 06.03.2019 “Determining the procedures and rules of selection of non-profit organizations to be authorized to provide state-guaranteed primary legal aid funded by the state budget and the manner of funding thereof.”

Concerning funding for organizations that support victims of gender-based violence and domestic violence.

- It should, first, be pointed out that there are many difficulties in financing the organizations in remote districts and rural areas. WCSSC, which works to support women in Kukës city, north of the country, reports that it is very difficult for it to ensure the financial means to support the victims of gender-based violence. It concedes that, in general, it is a difficult mission for organizations in the districts to access finance and donations. Other organizations, too, see a gap between organizations in Tirana and those in the districts in respect of funding. One of the objectives of the Monitoring Network has been to mitigate this gap by cooperating with NPOs in remote districts and rural areas.
- Receiving funding from the Social Fund is also very difficult for district organizations. They point out that there is no budget line for supporting victims of gender-based violence in the Social Fund's sparse resources for NPOs. WCSSC reports that, in one case, from the information on a local-government questionnaire, they learned that the social fund had been given to the Unit of Social Operators for Home Service Delivery, which did not exist.
- The funding situation for organizations supporting victims of human trafficking is different. As also indicated by *the US Department of State Report (TIP Report 2023)*,⁵ the Albanian Government funded three specialized centres for victims of trafficking run by NPOs. The government allocated 22.7 million ALL (\$213,150) to NPO-run victim centres for staff salaries, compared to 22 million ALL (\$206,570) in 2021. It provided an additional 7.2 million ALL (\$67,610) for food support to NPOs, compared to 6.8 million ALL (\$63,850) in 2021. Also, the Government allocated 20.1 million ALL (\$188,730) to the government-run shelter, compared to 20.9 million ALL (\$196,240) in 2021.
- The Government rejected the request of the Victims of Trafficking Centres for increased funding to enable standard overtime or weekend/holiday pay or to increase staff wages above the minimum wage, which could help retain and attract qualified staff for this service.
- *From the above, it may be concluded that NPOs are the entities most experienced and specialized in providing support and legal assistance to victims of gender-based violence and victims of domestic violence. However, as of the present time, the State only provides these NPOs with insignificant and unstable resources. To change this situation, there is a need for the responsible state institutions to change not only the secondary acts and documents, but also their mind-set, and show appreciation, as well as increasing the support for the work of specialized organizations.*

⁵ See: <https://www.state.gov/reports/2023-trafficking-in-persons-report/albania/>

Article 20: General support services

18. Please provide information on programmes and measures aimed at ensuring, through general services, the recovery of victims of violence, including in the health and social areas, financial assistance, education, training and assistance in finding employment and affordable and permanent housing.

Access of victims of gender-based violence to free legal aid

- Law no. 111/2017, by imposing certain criteria, determines who may benefit from free legal aid. In order to benefit, one should qualify for the category of those with insufficient income and resources, or the category of special subjects. These two categories are independent of one-another. In this connection, the NPOs have been holding in the courts that where the victim belongs to the category of the special subjects mentioned below, they do not necessarily have to fulfil the criteria of lack of income and resources, as the normal subjects do.

The special subjects who may benefit from free legal aid are:

- victims of domestic violence;
- victims of sexual abuse or human trafficking;
- minor victims or minors in conflict with the law at any stage of criminal proceedings;
- children in foster care or social care institutions;
- persons with disabilities; the blind or those suffering from mental health problems;
- persons whose ability to act has been removed/restricted, as well as any other person whose right has been breached through an action/inaction that constitutes discrimination under the applicable legislation.⁶
- In practice, several problems are encountered that hinder the access of victims of gender-based violence to free legal aid. Member organizations of the Monitoring Network report that women and girls (mainly in rural areas) are poorly informed of the relevant law and procedures to benefit from the state-guaranteed legal aid;
- The lawyers who provide free legal assistance manifest inadequate capacities. They need to be specialized and trained to provide such assistance.
- It appears that there is lack of coordination between the member institutions of the local referral mechanisms. Network member organizations report cases of missing contacts between the Local Coordinator & the Police with the Regional Legal Aid Offices, hence

⁶ For more, see, Monitoring report “Legal aid guaranteed by the state”, January-December 2021, Centre for Legal Civic Initiatives, Tirana, 2022. Available at: https://www.qag-al.org/publikime/raport_ndihma_juridike.pdf

preventing domestic violence victims from being referred to these offices so that they benefit from free legal aid.

- There are, also, cases where people from vulnerable groups cannot access these offices and go without services due to the large number of documents available only online. Because they lack the capacities to do it on their own, they are often compelled to pay to have them downloaded.
- Despite the advances of the case law on the free legal aid, there are still cases where the court requires proof of the victim as a special subject, as well as proof of her poor financial standing. This causes confusion in the implementation of the law as regards the special subjects of free legal aid.
- The monitoring of the implementation of the law in several districts of the country in 2021, showed that the special subjects who accessed and benefited the most from free legal aid in this year were the victims of domestic violence. There were fewer requests from other special subjects, such as victims of sexual violence, victims of human trafficking, as well as minors in conflict with the law. For example, only one case of sexual violence was recorded in the three districts. *However, all evidence points to sexual violence being quite widespread, but not reported to the extent it should, due to lack of awareness, prejudice, etc.*⁷
- The Free Legal Aid Centres provide services for only a small fraction of special subjects. This may be explained to some extent with the complementary role played by NPOs, which, as can be seen, account for the largest volume of services for this category throughout the year.
- The Free Legal Aid Centre in Tirana delivered fewer services than its sister centres in Durrës and Shkodër. There are several reasons for that. *One of the reasons is related to the location of this centre. Embedded in the Ministry of Justice, whose seat is a long distance from the Courts, it is not as easily accessible as the other centres that are embedded in the courts.*
- *The law clinics at the universities are not up to the requirements of services for these categories. Network member organisations believe that voluntary work is key to the implementation of this law. To achieve this, the students' internships with the Law Clinic needs to be factored in the teaching/learning workload, which would contribute to students' activism and the training of future professionals. In addition, students are efficient agents in building the population's awareness on gender-based violence. Therefore, there is a need for substantive cooperation with university clinics and promotion of the latter through significant joint activities and experiences.*

Economic assistance for abused women and girls

- Victims of domestic violence are entitled to benefit from the economic aid scheme. The regulatory framework regarding economic aid for victims of domestic violence consists of Law no. 9669, dated 18.12.2006 "On measures against violence in family relations" and Law no. 57/2019 "On Social Assistance in the Republic of Albania." Information gathered

⁷ Ibidem

from municipalities across the country, as well as from the State Social Service, points to a number of issues that need improvement.⁸

- First, the aid is available only to victims of domestic violence, not the victims of gender-based violence when not perpetrated at home. Even children on Protection Orders for having witnessed violence are not eligible for economic aid.
- In many cases, only victims of domestic violence on Protection Orders benefit from the economic aid scheme, not those on Immediate Protection Orders, contrary to the law which grants them both the right to benefit.
- One of the challenges faced by victims of domestic violence is the loss of the right to receive economic aid for the running month, if the protection order is issued after the 10th day of the same month. This is due to the electronic system of the Economic Aid (EA) scheme not accepting applications after the tenth day of each month. These problems are raised from civil society organizations engaging the State Social Service to instruct institutions with practical solutions. But, still there is a confusion regarding their implementation in the municipality level.
- Problems have arisen with victims of domestic violence not registered in the civil registry of the municipality they were staying temporarily. In this case, they cannot benefit from the municipality of temporary residence, but only from the municipality they are registered with.
- In some cases, the second level banks withhold the amount benefited from the EA when victims have loans or obligations to repay, although this is contrary to the Code of Civil Procedures.
- Victims of domestic violence have limited information regarding documentation requirements, the right to appeal, etc. Monitoring has evidenced cases of domestic violence victims with no information on the application process and the relevant required documents, thus missing out on the economic aid for several months.
- Some of the country's municipalities have made the benefit of the EA conditional upon the presentation of peremptory protection orders by victims, although the law stipulates that the court's protection order is peremptory and constitutes an executive title from the day of pronouncement.
- Some court decisions on immediate protection orders/protection orders grant protection to both parties, the plaintiff and the defendant, giving them both the status of victim-abuser. Such decisions have created uncertainty as to who should benefit the economic aid, both parties, only one of them, or none of them. Observations show that there is no unified practice regarding the benefit of economic aid in such cases.
- In a case referred by the Municipality of Prrenjas, the Judicial District Court in Elbasan granted a protection order to both parties; however, the economic aid was given only to one of the applicants, while the other applicant was asked to interpret and clarify the court's decision.
- *As seen from the above, there is still a need for legal improvements, which would entitle the victims of gender-based violence to economic aid, not just the victims of domestic*

⁸ "Access of domestic violence victims to economic aid", Report, Tirana, 2022. Available at: https://www.qag-al.org/publikime/studim_ne.pdf

violence. Also, there is a need for unification of administrative practices across municipalities in the country, in order to avoid discriminatory or exclusionary practices.

Article 25: Support to victims of sexual violence

28. Please indicate if any of the below services are available in your territory: a. sexual violence referral centres (e.g. specialist support services offering immediate medical care, forensic examination and crisis intervention to victims of sexual violence); b. rape crisis centres (e.g. specialist support services offering long-term counselling, therapy and support to victims of sexual violence regardless of whether the sexual violence occurred recently or in the past); c. any other specialised services offering short-term and/or long-term medical, forensic and psycho-social support to victims of sexual violence.

29. Please provide information on the number of such services and the number of women and girls supported annually.

30. Please indicate the procedures and time frames for collecting and storing forensic evidence in cases of sexual violence (e.g. existence of protocols, use of rape kits) in the relevant services.

31. Please describe any applicable access criteria for use of these services (e.g. affiliation with a national health insurance, residence status, prior reporting of the case to the police, other).

Concerning services offered at the national and local level

- Since 2006, social protection services are offered at the municipal level. With the administrative reform of 2014, Albania is divided into 61 municipalities, which are tasked with social service delivery to every victim of violence in their territory. At the municipality level, are established the referral mechanisms on domestic violence and violence against women, subject to regulation by Decision of the Council of Ministers.⁹ The legal framework¹⁰ guarantees the right of victims of sexual violence to free social and legal services, whenever this is possible. On this basis, services are delivered to victims of sexual violence at the local level.
- However, given that most municipalities do not have specialized services for this purpose, service delivery becomes difficult, if not impossible. Adding to this difficulty is the fact that Municipalities have extremely limited budgets for provision of social care services. In general, the referral mechanisms and social sectors in the Municipalities are very weak. In most cases, they receive funding from the central Government, through the unconditional grant scheme, in order to fund social service delivery.
- Since 2018, the Government has established a new financial scheme to fund social services, which is called the Social Fund. By end 2022, the Ministry of Health and Social Protection

⁹ DECISION No. 327, dated 2.06.2021, ON THE MECHANISM FOR COORDINATING WORK BETWEEN AUTHORITIES RESPONSIBLE FOR THE REFERRAL OF CASES OF VIOLENCE IN FAMILY RELATIONS, AND PROCEDURE FOR PROVISION OF SUPPORT AND REHABILITATION OF VICTIMS OF ABUSE.

¹⁰ Criminal Procedure Code, as amended; Juvenile Justice Code (2017); Law No. 18/2017, *On the Rights and Protection of the Child*; and Law no. 121/2016, *On social care services in the Republic of Albania*.

reported having funded over 40 new social services in different municipalities of the country. However, none of the services financed by the Social Fund offer specialized services for victims of sexual violence.

- In April 2021, the Ministry of Health and Social Protection approved a Protocol for Managing Cases of Sexual Violence among Adults, at the local level. The protocol puts forth the legal and procedural principles for Municipalities dealing with cases of sexual violence, as well as the responsibilities of all institutions involved in case management. The protocol focuses only on case management and institutional responsibilities, without assigning duties or responsibilities to the professionals involved in case handling, i.e. psychologists, social workers, police officers, etc. In addition, the protocol lacks a template agreement for inter-institutional cooperation, which is a standard form of work in the management of cases of sexual violence involving children and adults alike, thus ensuring that the institutions not only recognize their duties and responsibilities, but also assume the obligations that arise in handling each case.
- In 2018, the Albanian Government, with the support of UNDP Albania, set up the “Lilium” Centre as an emergency centre for victims of sexual violence. The centre was embedded in the “Mother Teresa” Hospital Centre, the largest public hospital centre, functioning as a university centre, too. Probably, the Centre was incorporated in a hospital setting, rather than in the community, due to the practical reason of the Health Ministry having jurisdiction over the hospital facility.
- During this period, LILIUM has provided services to victims from all districts of the country, given the absence of such services at municipal level. It was established as a completely specialized centre for this type of services for victims of sexual violence. Lilium’s working protocols are designed exclusively for the treatment of adult persons, notably women. However, in practice, a clear division has not been made between services for children victims of sexual violence, and services for women or adult victims, in general. Furthermore, Lilium not only treats emergency cases of sexual violence, but domestic violence, too.
- In reports on this service published by Lilium and the Ministry of Health and Social Protection, it turns out that the beneficiaries of Centre’s service are not only women and girls, but also boys who have suffered sexual abuse. It is unclear what standards apply in providing care for minor boys. According to the Ministry of Health, Lilium operates on all the necessary work standards. From direct experience, the Monitoring Network members have found that the staff at the Lilium Centre are well trained, very cooperative and supportive in dealing with cases of sexual violence against women and children.
- With the end of the UNDP support for the Lilium Centre, the first problems related to the management of the Centre immediately emerged. With staff salaries paid by the Ministry, Lilium had no resources to procure goods for the 72-hour care delivered to the victims, such as food, clothing, medical care and personal hygiene. On more than one occasion, civil society organizations referring the emergency cases of sexual violence were asked to cover the costs of food and care for the victims over their stay at Lilium. This kind of solution was very demoralizing for both Lilium staff and organizations working in this field. In 2022, it seems that the situation was resolved by transferring responsibility for these costs to the “Mother Teresa” University Hospital Centre.
- In 2022, the Ministry of Health and Social Protection, funded by UNICEF Albania, worked to open two crisis centres for cases of sexual violence, modelled more or less after the

service of the Lilium Centre. These two crisis centres, too, have been opened at regional hospitals or health centres, in Fier and Shkodër respectively.

- *Apart from these services, no other municipality with substantial portions of the population in Albania, such as Durrës, Elbasan, Korçë, has a referral, crisis or care service for women and girls who survive sexual violence. Despite the commendable measures of the Ministry and the Social Fund to finance national services, such as the National Children's and Women's Helpline, Shelter for LGBTI Persons, etc., this support is insufficient to cover all victims of sexual violence. For this reason, specialized services for victims of sexual violence are available mainly at the national level.*

Services provided by civil society organizations

- In September 2019, CRCA/ECPAT Albania opened the first national service for child victims of sexual violence, in line with the Barnahus model.¹¹ Since the opening of Barnahus Albania, over 66 cases of children and adolescents, of which almost 90 percent girls, have been treated and received protection and care from the service. Barnahus offers all the psychological, legal, and trauma treatment; case management and victim and family empowerment services free of charge. Barnahus staff are internationally trained to provide specialized services to child survivors of sexual violence. Services are provided both in Barnahus settings and in the child's family, doing so in coordination with social and child protection services.
- Some organizations, working to support girls and women who are victims of human trafficking, also treat and provide care for cases of sexual violence against girls and women, offering them shelter, psychological treatment, and help for reintegration in society. The Counselling Line for Girls and Boys is an additional civil society organization that provides counselling and protection services, including to victims of sexual violence at the national level.
- In terms of legal protection, there are a number of organizations that offer free, primary or secondary legal aid. The Ministry of Justice, as the responsible body in this regard, in 2022 authorized 15 organizations, mainly women's and children's organizations, to offer free legal services to citizens, including to victims of sexual violence. Together, these services provide information and legal protection to at least 300 women and girls every month, for all forms of violence, including forms of sexual violence.
- Despite the above, there is no special funding to support the victims of sexual violence and they are lumped up with all other forms of violence. In this aspect, the sustainability of services provided by NPOs is always at risk, as they remain dependent on foreign donors' financing. The Social Fund only pays for the free services of the Children's Helpline and the Women Counselling Line. Apart from these services, the Government does not finance any other services offered by NPOs to help women and girl victims of sexual violence. The municipalities are also helpless.
- Municipalities are almost unable to contract NPOs to deliver specialized services for victims of sexual violence, since, in addition to financial shortages, there is also a lack of special legal acts that would make this possible. This "catch 22" type situation, despite the

¹¹ CRCA/ECPAT Albania: Barnahus Service Albania: <https://www.crca.al/sq/barnhaus/>

principle that victim support is and should be at the centre of all interventions, makes it impossible to deliver services. In reality, most victims, whether minor girls or women, receive very limited services, or no services, that are appropriate for their situation.

- In most cases reported by non-profit organizations,¹² women and girls were victims of sexual abuse by a family member (father, mother's partner, stepfather, father-in-law, etc.) or they were related with the offender. The victims were mostly girl children. Civil society organizations of the Monitoring Network work jointly with the Lilium Centre.
- In one case, sexual violence was perpetrated by unidentified persons against a victim with mental health problems, who was subsequently referred to the LILIUM centre. Because of the sexual abuse, she had conceived. The victim's brothers were opposed to the pregnancy and threatened not accept their sister and the child at home. The law already provided for the possibility of terminating the pregnancy in the case of sexual assault victims. Specifically, Article 11 of Law No. 8045 dated 7.12.1995 "On Termination of Pregnancy," sanctions that: *Termination of pregnancy for social reasons shall be conducted within the 22nd week, provided that a commission of three specialists, doctors, social workers and lawyers, following examination and consultation, assesses that the pregnancy is the result of rape or another sexual crime, as well as when other social reasons are established. The Instruction for handling these cases and the composition of the commission shall be approved by the Minister of Health and Social Protection.* But such Instruction has never been issued and such a commission has never been created, although required by law.
- *In conclusion, it is extremely important to find immediate solutions for the provision of professional services to minor girls and women survivors of sexual violence, wherever they happen to be. This would require the revision of the distribution scheme of social and legal protection services in Albania, the legal obligation of the municipalities or the Ministry to cover the costs of treating any case of sexual violence, jointly with the civil society sector in the country.*
- *Despite legal and policy improvements, services for survivors of sexual violence remain as yet inaccessible to most women and girls. Sexual violence against women and girls continues to be one of the most serious and least reported violations of women's rights in Albania. On the other hand, social prejudices against women still remain prevalent, including among law enforcement and justice institutions.*

Policies and justice in respect of protection and support to victims of sexual violence

- National policies on promoting gender equality and eliminating violence against women, other national policies such as those on social protection, LGBTI rights or Roma people, need to focus on the protection of certain social groups from sexual violence. For example, Roma girls marry and start families at an early age. While lesbian girls, through family pressure, are subjected to the so-called "corrective rape," forcing the girls to have sexual relations with boys or men against their will. In some interviews or statements, some lesbian girls talk about such experience during their adolescence or early youth.

¹² Over January 2022-June 2023, 10 victims of sexual abuse who were referred by the "Diversity and Equality" Centre received legal assistance. In 3 criminal processes attended by this centre, the perpetrators of sexual violence were sentenced to 13 years, 15 years and 25 years of imprisonment respectively. The cases were appealed to the Court of Appeal and the decision of the first instance was upheld. Forensic examination of the victim was conducted by the Institute of Forensic Medicine (Mother Theresa Hospital Centre).

Incentivising policies for reporting sexual violence are also missing. In many cases, abused girls face pressure to remain silent.

- The lack of standards and codes of conduct for both professionals and people who come into contact with them, makes it very difficult to report sexual violence. Representatives of civil society in the National Council on Gender Equality have recommended to the Government, and to the institutions participating in the Council, to make it mandatory to adopt codes of conduct with very clear standards and rules for all professionals in public and private institutions delivering services to the citizens. However, no action has yet been taken to this end.
- The State Police and the Prosecutor's Office are the bodies responsible for criminal prosecution. However, none of these institutions have specialized offices for prosecuting sexual crimes. These crimes are generally pursued by the same sections that pursue either violence against children or gender-based violence. In principle, the investigation begins as soon as the police receive a complaint from the victim, or immediately after become aware of the incident.
- Part of the standard procedure is providing the victim with immediate free-of-charge forensic examination. However, Barnahus Albania has found drawbacks in the process. For example, over the weekend, generally in small towns with no forensic examination units, this service is not provided immediately, losing important evidence, especially in the case of women and girls reporting sexual violence immediately after it has happened. Also, there is no special protocol for how the forensic examination will be conducted, which parts of the body will be checked or which tests will be carried out. In this context, it is observed that the forensic examination only focuses on the vagina, but not the anus or other parts of the victim's body. At the same time, the victims are tested if they have conceived, but they are not tested for having contracted HIV/AIDS or STDs, which is a drawback in this regard.
- There are no criminal policies in place against sexual violence. Until the last 5 years, there was a marked difference between reporting and sentencing sexual crimes. Civil society organizations have intensified their efforts to raise public awareness in order to prevent and punish sexual violence as gender-based violence. Also, they have increased pressure on the justice bodies to investigate and prosecute sexual violence, which these bodies have overlooked in many cases.
- Parallely, the recent years have seen an increase in the awareness of law enforcement and justice institutions with regard to the prosecution of sexual crimes, owing to social pressure exerted openly, and to the public protests organized over 2019-2020. The most recent data released by the Institute of Statistics show a slight increase in the rate of criminal prosecution of this offence.

Number of criminal proceedings and number of victims of sexual violence

- A statistical review of sexual crimes in Albania from 2010 to 2019, carried out by CRCA/ECPAT Albania, a member organization of the Monitoring Network against Gender-Based Violence, showed that over 2008-2018, "of the 917 perpetrators reported to the State Police, the Prosecution prosecuted only 71% thereof, whereas the Courts

convicted only 44% of the accused perpetrators.”¹³ These figures are a long way from the average rate of prosecuting and punishing sexual crimes in Europe. In addition, the study found that 61 percent of victims of sexual crimes are children, with 39 percent adults. Over 83 percent of the victims of sexual crimes in Albania are girls under the age of 18.

- After 2019, the society witnessed several very serious incidents of sexual violence by the teaching or auxiliary staff in schools, mostly against girl children. Despite the protests, demonstrations or engagement in dialogue with parents and civil society, the Ministry has refused to prepare a short and long-term plan of actions for raising children’s understanding of sexual violence and ensuring that they safely report it to the public schools’ internal or external mechanisms.
- In a number of public schools, teachers point to a trend, imposed by Ministry of Education senior officials, to handle every case of violence against children, including cases of sexual violence, within the school itself, without going public or sharing the incident with the child protection system, disregarding the fact that everyone has the obligation to report violence against children in Albania, including teachers. At the beginning of February 2019, a 13-year-old girl was raped in the premises of a public school in Kavaja by 8 students of the same school. Despite the fact that the school’s management was informed about the incident, they kept it hidden and did not report it to the Police, nor the Child Protection Unit. Only when the media broke the news, did the Ministry of Education concede to the event.¹⁴ No action was taken against the teaching staff, despite the fact that they had broken the law.
- In early June 2020, the case of a 12-year-old girl’s rape for at least 2 years by a public school guard who used videos of the girl being raped by a gang of boys and men to keep her under control, caused massive protests against the Minister of Education at that time.¹⁵ A few months later, another case of sexual exploitation of teenage girls by their teachers in a school in Fier, and then in Tepelena, showed that sexual violence against girls in public institutions turned public schools into unsafe institutions for children.
- A year later, in November 2021, parents and the media complained about the employment of a paedophile teacher who was convicted twice for sexual crimes against children at a school in Berat, before the Ministry cancelled his employment and fired him.¹⁶ Despite all

¹³ Report, “Sexual Crimes against Children and Women in Albania,” Published by CRCA/ECPAT Albania, Tirana, 2019. The full analytical report is available at: <https://www.crca.al/sq/publikime/krimet-seksuale-kunder-femijeve-dhe-grave-ne-shqiperi-2008-2018/>

ACCUSED vs CONVICTED FOR SEXUAL CRIMES IN ALBANIA (2008-2018)		
Reported with the police	Accused by the Prosecution	Convicted by Court Decision (2008-2018)
917	654	406
Në %	71,3	44,3

¹⁴ Minor girl raped in Kavaja - 7 teenagers jailed, 1 wanted. Lapsi online newspaper, the article is available at: <https://lapsi.al/2019/02/03/perdhunimi-i-se-mitures-ne-kavaje-burg-per-7-adoleshente-1-ne-kerkim/>

¹⁵ Top Channel TV reports on the protest, “Stolen Childhood” in front of the Prime Minister’s Office and the Ministry of Education. Available at: <https://top-channel.tv/2020/06/04/per-femijerine-e-vjedhur-mijera-qytetare-ne-marshimin-proteste/>

¹⁶ Convicted for paedophilia, this is the teacher whose return to the school “put everybody out on the streets” in Berat. Available at: <https://top-channel.tv/2021/11/27/i-denuar-per-pedofili-ja-kush-eshte-mesuesi-qe-ngriti-ne-kembe-beratin-pas-rikthimit-ne-shkolle/>

these events, neither the Government, nor the Ministries, or any subordinate institution, has adopted any code of behaviour on prohibition of violence and sexual harassment against vulnerable children or adults, or colleagues in the workplace.

- Time-frames of prosecution and examination by courts of cases of sexual violence remain quite disturbing. Delays in judicial reviews are commonplace. However, in cases of sexual violence in schools, these delays should be minimized. Regrettably, this is not the case. In one particular case, it took a full 66 court hearings before the teacher who sexually harassed an 8-year-old student was punished. The court of Gjirokastra took 4 years to conduct his trial.¹⁷
- Violence and sexual harassment in the workplace are, more often than not, broadcast as scandals in the media. The last case involved the Mayor of Kukës, who was filmed having sex with a woman in his office, allegedly in exchange for funding from the municipal budget for her projects. He was arrested a few days later and accused of corruption.¹⁸ However, before him, at least two ministers and two mayors, as well as a number of male public officials, were reported for violence and sexual harassment in the workplace.
- The Ministry of Health and Social Protection does not have a database for reporting and tracking cases of sexual violence against girls and women in Albania. The only database is the one in the form of statistics maintained by the responsible bodies. Additionally, neither have REVALB and social services published a database on cases of sexual violence.
- The lack of a database of reported cases makes it very difficult not only to coordinate, but also to support victims and follow up on them, both at the national and local level. No one has complete information on the treatment of cases, the services received, the problems encountered, as well as the status of the victims, including whether they have been fully rehabilitated or not.

Support to the LGBTIQ community

- Respect for the sexual orientation and gender identity of persons belonging to the lesbian, bisexual, transgender, inter-sexual or queer community is a rare occurrence in Albania. This applies not only to aspects of identity or being LGBTIQ, but also to physical and emotional safety. Despite the several strategies and action plans adopted over the years on the rights of LGBTIQ persons, the widespread homophobia across the levels of state institutions and officials makes their implementation practically impossible. Children and youth attending public education often complain of violence and bullying by students and teachers, both in school and online.

¹⁷ The 12-year-old minor O.L had to wait four years before the Gjirokastra Court could make a final decision regarding the sexual violence perpetrated by her teacher, 63. It took place when she was 8 years old. During this time, 66 trial sessions were conducted, some in the presence of the victim herself, because the Court had no protocol on how to treat and interview child victims of sexual violence. The teacher was investigated and prosecuted without a prison arrest. So, the girl had to change her school and place of residence, in order not to face her abuser every day. After many efforts, the Tepelenë Municipality provided a modest financial grant to enable her education and care, whereas Barnahus Albania supported the girl throughout this long ordeal with the justice system.

¹⁸The former mayor of Kukës, Safet Gjici, is arrested for corruption, whereas the girl in the video is given the security measure of house arrest. Available at: <https://top-channel.tv/2023/06/24/ekskluzive-arrestohet-per-korrupsion-ish-kryebashkiaku-i-kukesit-safet-gjici-arrest-shtepie-per-vajzen-ne-video04/>

- A survey of discrimination due to sexual orientation and gender identity conducted by the PINK Embassy - an organization that works for the advancement of LGBTI rights in Albania - showed that almost 70 percent of teachers do not report and take no action when LGBTI teenagers complain about violence in public school settings. Transgender children in particular complain about breaches and disrespect for their rights in public schools.
- The Ministry of Education has not issued any regulation or protocol on how the cases of transgender children should be handled by the educational body. This has created too many difficulties and conflicts between teachers, parents and transgender children, allowing open discrimination against them. Albania does not recognize and does not guarantee the right to change or to live a gender identity other than the biological sex; therefore trans children and teenagers face increased risks not only of physical violence or bullying, but also of sexual violence and harassment.
- Since the closure of schools due to Covid and onwards, the Ministry has refused to cooperate with organizations of the LGBTI community. Contrary to the requirements of the Action Plan on LGBTI Rights, as of the present time, the Ministry does not inform children and adolescents about sexual orientation and gender identity, where to seek help in case of violence or discrimination, or where to report cases of sexual violence, whether online and offline. This has increased the risk of LGBTIQ children and adolescents becoming victims of violence or sexual exploitation, due to lack of protection and care for them in public schools. The Ministry of Education, although legally obliged to take care of all children, regardless of sexual orientation or gender identity, has silently allowed discrimination and violence against LGBTI children and adolescents.

Legislation on preventing and punishing sexual violence

- Although the Albanian state has constantly taken action to improve the legal framework concerning the protection and promotion of women's rights, yet such legislation and public policies are far from guaranteeing the effective protection of women and girls from sexual violence and creating an extensive system of services for their care and rehabilitation.
- The Criminal Code (1995),¹⁹ as amended, contains a special chapter on sexual crimes against both children and adults. It has been subject to several changes from time to time, including the introduction of new criminal offenses, such as sexual harassment. However, apart from these changes, the Code still contains erroneous notions, which may have been a factor in its incorrect implementation.
- The Criminal Code of the Republic of Albania contains special provisions on the criminal offenses of sexual violence, which are placed in the special section, "Sexual Crimes" (Articles 100-108/a of the Criminal Code). These provisions saw some improvements owing to the changes of 2012 and 2013. For the first time in 2013, "Sexual Harassment" was provided as a criminal offense, whereas sexual relations with the use of violence were sanctioned as a criminal offense also when happening between spouses. However, in the

¹⁹ The Penal Code, Section 6, Sexual Crimes, contains 12 criminal offenses in the field of sexual crimes against children, minors and adults. Trafficking in human beings for the purposes of sexual exploitation, prostitution and child pornography are regulated in other chapters of the Code.

light of the Istanbul Convention, some articles in the section on sexual crimes contain significant inconsistencies, which are summarized in the following:²⁰

- The Istanbul Convention establishes *lack of consent from the victim* as a standard for punishing sexual violence. The relevant provisions of the Istanbul Convention uphold the case-law of the European Court of Human Rights (ECtHR), particularly the case “M.C. against Bulgaria”.²¹ However, the corresponding articles in the Albanian Criminal Code posit incompatibilities with these standards. The legislator’s choice to regulate and punish only sexual intercourse with penetration is in itself a wrong approach, meaning that the focus of the sexual act is placed on the victim. In this way, the use of an overly narrow definition of the sexual act provides protection only to victims of rape, but not all victims of sexual violence.
- For example, Article 102 of the Criminal Code, “Sexual relationship with adults” requires the fulfilment of the condition of the use of force or violence by one party. Moreover, the use of force is the main element for the criminal offense of sexual violence against minors from 14 to 18 years old (Article 101) as well as in homosexual relations (Article 102/1). In all these cases, the burden of proof is placed on the victim, who must prove the use of violence and her/his resistance to the abuser. Currently, the absence of consent is required exclusively for rape occurring between spouses or cohabitants.
- These inconsistencies have also been pointed out by the Independent Group of Experts of the Istanbul Convention (GREVIO) in the first evaluation report on Albania, in 2017. They assess that the Criminal Code’s definition of rape is not in accordance with the Istanbul Convention because of making the use of force a prerequisite for rape. According to this definition, the victim has the burden to prove the use of force. This may result in the rape not being reported or prosecuted. Also, GREVIO emphasizes that in Albania there is no evidence of a broad interpretation of the elements of force, creating significant obstacles to victims’ access to justice.²²
- As shown above, the entire Section VI of the Criminal Code, “Sexual Crimes,” needs to be revised, in order to ensure full compliance with the Istanbul Convention and international practice. So far, there is only partial compliance. Particular attention should be paid to Article 36 of the Istanbul Convention, which specifies that consent must be given out of the person’s free will and must be evaluated according to the relevant circumstances.²³
- Additionally, the minimum age for giving consent should be determined by law. These upgrades need to be understood by the Albanian justice institutions in order for the new standards to be enforced. However, the specific wording in the domestic legislation and the factors that are considered an obstacle to giving free consent are at the discretion of the national legislator.
- A comparative study of Albanian legislation with international acts and practices revealed an omission of punishment for some elements that constitute sexual violence. These

²⁰ See: Agustela Nini Pavli & Aurela Anastasi, Report, “Analysis of the provisions against sexual crimes of the Criminal Code of the Republic of Albania compared to the international standards on gender equality”, Centre for Legal Civic Initiatives, with the support of UN Women, Tirana , 2021

²¹ Ibidem.

²² Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Baseline Evaluation Report, Albania, 2017

²³ Council of Europe, Explanatory Report of the Council of Europe Convention “On preventing and combating violence against women and domestic violence” (Istanbul Convention), 2011, available at <https://rm.coe.int/grevio-first-baseline-report-on-albania/16807688a7>

omissions may lead to the violation of the rights of victims or defendants who are exposed to this category of criminal offenses. For example, there are some forms of sexual violence recognized as such by international standards, but not provided for in Albanian legislation. Such are “Female genital mutilation” and “Forced sterilization,” as well as “Sexual harassment in the workplace.”

- **“Female genital mutilation”.** The Istanbul Convention, article 38, foresees female genital mutilation as one of the forms of violence against women.²⁴ However, the Criminal Code of Albania does not have a provision that prohibits and punishes this offense. This may be due to such mutilation, as encountered in other countries, not being reported in Albania. However, other provisions in the Criminal Code referring to harmful behaviour may fill up the void. Notably, Article 88 of the Code punishes any intentional injury that causes mutilation or any other permanent damage to health. In any case, no instance of female genital mutilation has been encountered in the Albanian case law.
- Albania has not seen any case of punishment for behaviour that is defined as female genital mutilation, because the practice is not part of the Albanian customs and traditions. However, with the rising numbers of foreign citizens entering Albania, in particular the influx of asylum seekers and immigrants from countries with this cruel practice, the Criminal Code needs to be amended to provide for this crime. The GREVIO report for Albania expressed this concern and laid out the need for preparations to identify and treat victims of female genital mutilation.²⁵ A number of European countries such as Italy, Monaco, Montenegro, Portugal, Serbia and Spain, after ratifying the Istanbul Convention, have enshrined a provision on mutilation in their legislation.²⁶
- **Forced Sterilization.** Article 39 of the Istanbul Convention provides for forced termination of pregnancy and forced sterilization as forms of violence against women. Article 93 of the Albanian Criminal Code criminalises abortion without the consent of the pregnant woman and punishes it with a fine or imprisonment of up to five years. However, a provision criminalizing forced sterilization is missing. In fact, the Istanbul Convention does not intend to criminalize any medical intervention or surgical procedure that is performed to women’s benefit, to save her life, or to assist a woman who lacks the capacity to consent. Rather, the purpose of this provision is to emphasize the importance of respecting women’s reproductive rights, allowing women to decide freely on the number and spacing of their children, ensuring their access to information on natural reproduction and family planning.²⁷ This issue can be particularly worrying when applied on persons with disabilities forcing them to undergo sterilization against their will.
- **Sexual harassment in labour relations.** With the changes of 2013, the Albanian Criminal Code enshrined for the first time the criminal offense of “Sexual Harassment” (Article

²⁴ The Istanbul Convention defines female genital mutilation as: the cutting, infibulation, or other mutilation of all or part of a woman’s labia majora, labia minora, or clitoris. Coercion or solicitation of a woman or girl, as well as provocation of a girl to submit to these acts must be prohibited by legislation.

²⁵ Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Baseline Evaluation Report, Albania, 2017

²⁶ Council of Europe, Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), Mid-term Horizontal Review of GREVIO baseline evaluation reports”, 2022, cited.

²⁷ Council of Europe, Explanatory Report of the Council of Europe Convention “On preventing and combating violence against women and domestic violence” (Istanbul Convention), 2011, cited.

108/a). The data collected by the State Police show that this criminal offense accounts for one of the most reported forms of sexual violence. The Albanian government has not enacted a protocol or a code of conduct for public officials in respect of sexual harassment in the workplace. On the other hand, no public institution conducts information sessions or trainings on matters of gender equality, personal safety, sexual orientation and gender identity, sexual violence or harassment; or information sessions on how to safely report cases that may be encountered while working for the Government, Municipalities or other public institutions.

- Judicial practice proves that enshrining this provision in the Criminal Code has encouraged reports of sexual harassment. There have also been more complaints about sexual harassment in the workplace. Already, in addition to the Istanbul Convention, which requires the imposition of sanctions for all forms of violence and unwanted behaviour (Article 40), the Albanian State has ratified Convention no. 190 of the International Labour Organization. By so doing, the State has bound itself with important obligations to prohibit violence and harassment in the workplace.
- Albanian experience, seen from all angles, points to the need for the Criminal Code to provide for commission of sexual harassment in the workplace by special subjects, i.e. individuals who commit sexual violence because of labour relations. This is clearly supported by reviews of Albanian legislation's compliance with international standards, as well as reviews of investigative and judicial practice in Albania as of today. Enshrining sexual harassment in the workplace as a criminal offence, or at least as an aggravating circumstance, would make the penal legislation more effective.
- The Code takes the wrong approach by differentiating between crimes as **heterosexual** and **homosexual**. At least, eight criminal offenses in the field of sexual crimes contain the words: "Sexual or homosexual relationship..." implying that heterosexual violence is different from homosexual violence. This is a blatant display of discrimination in language and definition that remains in the Code. Since 2010, LGBTI organizations have been asking for a change in the language of the Criminal Code, but the Assembly has so far refused to make changes in this regard.²⁸
- ***Based on the above, the following conclusions are made:*** Sexual crime provisions in the Criminal Code have certain drawbacks and in some cases they conflict with international standards on gender equality. Therefore, it is important to take measures to change the Criminal Code in order to enshrine a new definition of abusive sexual relations and other offences of a sexual nature, in accordance with international standards. It is necessary to change the definition of sexual violence from one that warrants the use of force and coercion, into one that warrants freely given consent, thus not requiring victims to prove the use of force by and resistance to the offender. Also, there is a need for the Criminal Code to provide for new figures of criminal offenses of sexual violence, which are currently missing. These provisions are important to protect women from severe forms of sexual

²⁸ Press Statement of the PINK Embassy: The Penal Code must avoid discrimination against LGBTI persons. Available at: <https://www.pinkembassy.al/kodi-penal-n%C3%AB-shqip%C3%ABri-t%C3%AB-shmang%C3%AB-diskriminimin-e-personave-lgbti>

violence, and mutilation and forced sterilization as well. Additionally, amendments should be made to the provisions on protection of children from sexual violence. Discriminatory language against persons due to their gender identity and sexual orientation should be avoided.

Article 51: Risk assessment and risk management

48. Please describe any standardized and mandatory risk assessment tools in use by all relevant authorities in all regions for forms of violence against women such as stalking, violence committed in the name of so-called honour and domestic violence and to what extent these tools are being used in practice to assess the lethality risk, the seriousness of the situation and the risk of repeated violence with a view to preventing further violence. Please specify whether the following elements are considered as red flags when carrying out the risk assessment: a. the possession of or access to firearms by the perpetrator; b. the filing for separation/divorce by the victim or the break-up of the relationship; c. pregnancy; d. previous acts of violence; e. the prior issue of a restrictive measure; f. threats made by the perpetrator to take away common children; g. acts of sexual violence; h. threats to kill the victim and her children; i. threat of suicide; j. coercive and controlling behaviour.

49. Please, specify how effective co-operation is ensured between the different statutory authorities and specialist women's support services in making risk assessments and whether the risks identified are managed by law enforcement agencies on the basis of individual safety plans that include also the safety of the victim's children.

50. Please, describe the efforts made to analyse retrospectively all cases of gender-based killings of women, in the context of domestic violence and other forms of violence against women to identify the existence of possible systemic gaps in the institutional response of the authorities with the aim of preventing such acts in the future.

Answer:

Please, describe any standardized and mandatory risk assessment tools in use by all relevant authorities in all regions for forms of violence against women such as stalking, violence committed in the name of so-called honour and domestic violence and to what extent these tools are being used in practice to assess the lethality risk, the seriousness of the situation and the risk of repeated violence with a view to preventing further violence.

- The network wishes to draw attention to the fact that some of the answers to the questions in the risk assessment questionnaire have been provided for in the Shadow Report on the follow-up to the implementation of the recommendations of the GREVIO Committee for

Albania, 2017.²⁹ However, as a supplement to the report, the following should be pointed out:

- **Legal provisions.** The risk assessment and management process is subject to the civil and administrative legislation and is carried out exclusively as part of issuing civil protection orders. The criminal procedural legislation does not provide for risk assessment. In our practice, we have not seen risk assessment and risk management at work, not even in instances of cooperation with the prosecutor's office, i.e., during the conduct of criminal investigations and criminal proceedings.
- It should be noted that the legal basis for risk assessment has been expanded. In addition to the legal amendments to the law against domestic violence, DCM No. 327, dated 2.6.2021 was subsequently approved. The latest improvements set forth the obligation of the administrative bodies to conduct risk assessment. Risk assessment and management is subject to the following laws and by-laws:
 1. Law No. 9669, dated 18.12.2006, "*On measures against violence in family relations,*" as amended. (Article 13/1).
 2. Joint Instruction of the Ministry of Health and Social Affairs and the Ministry of the Interior no. 866, dated 20.12.2018, "*On risk assessment procedures and template forms to be used in domestic violence cases.*"³⁰
 3. Decision of the Council of Ministers (VKM) No. 327, dated 2.6.2021, "*On the mechanism of coordinating work between the responsible authorities on the referral of cases of violence in family relations, and relevant proceedings to support and rehabilitate victims of violence.*"
- The law, "On measures against violence in family relations", specifically Article 13/1, paragraph 1, provides that risk assessment and management is mandatory and not an optional process. This article expressly reads, "*1. When the risk assessment shows that the exercised violence represents a threat to the life, health and freedom of family members, the State Police structures responsible for handling domestic violence shall immediately take preliminary measures to protect the victim/s and stop the violence.*"
- Additionally, Joint Instruction no. 866, dated 20.12.2018, issued pursuant to and implementing this law, provides for risk assessment as a mandatory process with the State Police as the responsible authority. However, in real life, State Police does not conduct risk assessment in all the police districts. The monitoring of State Police conduct in the Durrës, Tirana and Shkodër districts, over 2019-2020, revealed that risk assessment was not employed in Shkodër, whereas it was only selectively used in the other two districts.³¹
- Further, this monitoring showed that certain police sectors did not see risk assessment as a mandatory activity. They had even elaborated some *Influencing factors that induce police to*

²⁹ See: "SHADOW REPORT ON THE IMPLEMENTATION OF RECOMMENDATIONS ADDRESSED TO ALBANIA BY THE COMMITTEE OF THE PARTIES TO THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATTING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE 2018-2020", available at: [1680a4681f \(coe.int\), p.6-7](#)

³⁰ 7 Joint Instruction of the Ministry of Health and Social Affairs and the Ministry of the Interior. 1. "On the risk assessment procedures and template forms to be used in domestic violence cases, Instruction No. 866, issue date: 20 December 2018, date of approval: 20 December 2018, Official Gazette No.204, p.15587.

³¹ Ibidem

*undertake a risk assessment.*³² The Network Organizations in the Shkodër district affirm that, still today, risk assessment and management is used only sporadically, demonstrating lack of awareness of its mandatory character.

- In Durrës and Tirana districts, the interviewed police officers recognised the importance of risk assessment in ensuring the earliest possible intervention to prevent escalation of domestic violence and deterioration of the conflict. In the past, upon receiving a domestic violence report, the Police submitted a request for the Immediate Protection Order/Protection Order and had to wait until a court decision was made on the precautionary measures (48 hours or 15 days). During this period, the Police were not clear about what to do with the victim and the perpetrator,³³ hence, their passivity.
- VKM No. 327, dated 2.6.2021 considers risk assessment as part of the Joint Intervention Plan that is drawn up by the local coordinator and the interdisciplinary technical team attached to the local Referral Mechanism. Therefore, the local coordinator of domestic violence (personally, or a social worker of the local unit) has the obligation to participate in the risk assessment procedures carried out by the State Police.
- **In light of the above,** it may be concluded that all institutions should create understanding of risk assessment as a mandatory process. The risk assessment report should also be filed with the relevant authorities in order to be used in the criminal proceedings. This can be achieved through improved cooperation between the state police and the prosecution. Such cooperation is warranted by law, *“On measures against violence in family relations,”* article 24, which expressly reads, *“In any case, the police officer at the police unit where the victim shows up for protection, shall refer the case to the prosecution to criminally prosecute the offender, pursuant to the rules defined in the Code of Criminal Procedure.”* Having assessed and managed the risk himself, the police officer places all the documents produced by this process in the relevant file. It appears that this practice will allow to make risk assessment reports more professional, thus becoming a more useful instrument.
- On its part, the Prosecution should request that the state police and the local coordinator comply with this provision. By being submitted to the Prosecution Office, the risk assessment report becomes a helpful tool in the latter’s proceedings. This has been pointed out by the prosecutors themselves, who while cooperating with the member organizations of the Monitoring Network have indicated that the risk assessment carried out by the police is very useful to the prosecution in both the criminal proceedings and management of the risk.
- Network member organizations also confirm the need for increased professionalism in writing the risk assessment report. In the trainings provided, prosecutors with the General

³² Ibidem. p. 13

³³ Relative to risk assessment issues, see, Centre for Legal Civic Initiative: “REPORT ON MONITORING THE IMPLEMENTATION OF LAW NO.47/2018 “ON SOME ADDITIONS AND AMENDMENTS TO LAW NO. 9669, 18.12.2006, ‘ON MEASURES AGAINST VIOLENCE IN FAMILY RELATIONS’, AMENDED” Monitoring Period: January 2019-December 2020, available at: https://www.qag-al.org/ang/publication/report_law_monitoring.pdf, pp. 9-21

Prosecutor's Office requested that this assessment be carried out professionally and not in a formal and superficial manner, as they sometimes find out.

Please specify whether the following elements are considered as red flags when carrying out the risk assessment: a. the possession of or access to firearms by the perpetrator; b. the filing for separation/divorce by the victim or the break-up of the relationship; c. pregnancy; d. previous acts of violence; e. the prior issue of a restrictive measure; f. threats made by the perpetrator to take away common children; g. acts of sexual violence; h. threats to kill the victim and her children; i. threat of suicide; j. coercive and controlling behaviour.

- The risks to be examined with “caution” during the risk assessment are defined by the Joint Instruction No. 866, dated 20.12.2018, and highlighted by the administrative practice of the Police and the justice bodies. The joint instruction expressly determines these points of caution in the paragraph below:

“Among other things, the collection of information shall aim to establish: the availability of weapons, not only in cases where illegal possession of weapons is suspected, but also in cases where a weapon is available with a permit; repeated cases of domestic violence and its source; previous judicial protection orders or immediate protection measures; offender's behaviour relative to previous protection orders; the existence of final criminal court rulings against him; the offender's mental state; whether they use alcoholic or narcotic substances; or whether they pose a threat to the life, health or freedom of the victim, their children or other family members.

For the preparation of the risk assessment report, the police officer shall analyse in particular:

- Risk level in the short term to the life, health and freedom of family members and the possible risk dynamics.*
 - The need for precautionary measures of immediate protection and duration thereof.*
 - The need to prevent the further escalation of violence, by ending the perpetrator's actions.”*
- The Instruction mentions that its list of risk factors is not exhaustive. The model included in its annexes provides a rubric that needs to be supplemented with other considerations.
 - A comparison of the Questionnaire with the Instruction mentioned above reveals the common elements (marked in red) as follows:
 - The perpetrator has a firearm;**
 - Separation/divorce initiated by the victim or breakup of the relationship;
 - Pregnancy;
 - Previous acts of violence;**
 - Previous restricting orders;**

f. Threats by the perpetrator to take the children;

g. Acts of sexual violence;

h. Threat to kill the victim and the child;

i. Suicidal threats;

j. Controlling and manipulative behaviour.

- In addition to the risk factors posed by the perpetrator, the Joint Instruction also requires “Caution” when identifying the risk factors associated with the victim. Thus, the template in this Instruction contains a section with questions about the victim’s condition:

a. Is she afraid of the perpetrator?

b. Has she left home? Does she want to leave home?

c. Does she have health problems?

d. What is the condition of children who witnessed the abuse? What was their reaction?

- These risk factors have also been evidenced by the administrative practice. Thus, the monitoring carried out over 2019-2020 in several districts of the country, showed that the risk assessment reports designed by the police in the districts of Durrës and Tiranë indicated as risk factors: the use of physical violence; • obvious conflict; • repeated incidents of domestic violence;³⁴ • the abuser’s addiction to alcohol and narcotic substances; • signs of violence on the victim’s body; • the presence of children during episodes of violence and violence against children; • the aggravated psychological condition of the victim; • possession of a weapon.
- In addition, the monitoring showed that police officers employ the Joint Instruction and stick to the risk factors expressly mentioned therein. However, this monitoring is only partial and may not account for all kinds of practice. To reach a solid conclusion, further monitoring is needed.
- From a legal point of view, all the issues requiring “Caution” under the international standards on risk assessment and management are directly applied by the responsible authorities. This position has also been taken by the Albanian legal doctrine.³⁵

49. Please, specify how effective co-operation is ensured between the different statutory authorities and specialist women’s support services in making risk assessments and whether the risks identified are managed by law enforcement agencies on the basis of individual safety plans that include also the safety of the victim’s children.

³⁴ Commentary of the Law, “On Measures against Violence in Family Relations,” Tirana, 2021, available at: https://admin.magjistratura.edu.al/uploads/Komentari_Ligji_Dhuna_ne_Familje_4c2bf6fe39.pdf pp.151-152

³⁵ Ibidem, p. 151

- As a rule, cooperation between state authorities and service providers for women should be achieved through the referral mechanisms at the local level, as well as through their cooperation with the prosecution. As regards risk assessment issues, the kind of cooperation most in need of improvement is the one between the state police and the local coordinator against domestic violence. Monitoring by Network Members indicates that this cooperation is dysfunctional, thus creating big drawbacks.
- Based on the legislation that regulates risk management and assessment, the responsible bodies are: the State Police, the courts through the issuance of civil protection orders, the Local Coordinator of Domestic Violence and the member bodies of the inter institutional technical teams attached to the referral mechanisms. The State Police has the key role, as the body responsible for performing risk assessment and taking immediate precautionary protection measures (IPPM).
- However, the Network member organizations report that gaps are created in risk management because the state police do not always perform the risk assessment. Mostly, they do not manage the risk through IPPMs. Rather, they petition the Court for an Immediate Protection Order or a Protection Order. It takes days before the civil courts issue the orders, meaning that no measures are taken to end the violence.
- Network members are also concerned about the misuse of the risk assessment, something that they notice while providing support to the victims. There are cases where the police compile two risk assessments for the same case, one for the man and one for the woman. These assessments contain contradictions that devalue police efforts and render the risk assessment useless. In such cases, it would be advisable for the court to criticize and guide the police to avoid such pitfalls. Regrettably, in one such case, the court considered both assessments, which greatly relativized the defence order in favour of the woman.
- Network members have raised such concerns and asked the State Police to conduct risk assessment and proceed with extraordinary barring orders. These orders appear to be particularly relevant in situations of emergency. They are a most valid instrument in the current conditions of the country launching the new Judicial Map, which has brought many changes in the jurisdiction of the courts, while reducing their number.
- Member organizations have also raised the need for efficient cooperation between the state police and the local coordinator as regards risk assessment and management. The fact that the law designates the state police as the body responsible for carrying out the risk assessment causes the coordinator's participation in the process to be neglected. Monitoring has revealed that, in many cases, the Coordinators fail to respond, or the police fail to notify them. On their side, the police claim that the reports were received after the official working hours, so they were unable to inform the coordinators.³⁶
- Often times, risk assessments are carried out without the presence of the Local Violence Coordinator. Although tolerable under Instruction no. 866, dated 20.12.2018, the lack of input by these coordinators leads to assessment reports being incomplete and police officers

³⁶ "REPORT ON MONITORING THE IMPLEMENTATION OF LAW NO.47/2018 "ON SOME ADDITIONS AND AMENDMENTS TO LAW NO. 9669, 18.12.2006, 'ON MEASURES AGAINST VIOLENCE IN FAMILY RELATIONS', AMENDED" Monitoring Period: January 2019-December 2020, citation p. 9-21

failing to correctly identify the risk factors. Lack of cooperation in the process of risk assessment with Local Coordinators has been encountered in all the Police Directorates where the network members support the victims and conduct their monitoring operations (Tirana, Elbasan, Durrës, Fier and Vlora). The same applies to police cooperation with Child Protection Workers (CPWs) in the Municipalities or Administrative Units. Notwithstanding regular Police notification to participate in risk assessments where the victim is a child, often CPWs do not attend.

- Police officers find it difficult to detect mental health problems in offenders (as required by the risk assessment template) due to lack of specialization to do so. Cooperation with mental health institutions is difficult and often non-existent where the offender is suspected to suffer from mental health issues.
- Municipalities and Administrative Units lack human resources to participate in risk assessments in all cases of violence during 24 hours a day. All Network reports³⁷ show that there are cases the police could not refer the case to the coordinator immediately.
- Although the legislation provides for a full-time local coordinator on domestic violence, *de facto* they are charged with many other tasks that are not relevant to the function and duty of the coordinator. The frequent change of staff in local self-governments creates further issues. This is something that happens in the state police, too.
- Network Organizations point to some additional issues preventing the State Police to take immediate action to manage the risk. Sometimes, police officers are not trained in filling out the report template on risk assessment. Consequently, they do not conduct risk assessment at all, or the template form is poorly filled in. The frequent turnover of Police staff cause trained police officers to be replaced by officers who are not trained and lack the proper skills. There have been instances of police officers not being aware of their responsibility to deal with domestic violence where the victim is a non-resident, as provided for by the law, “On measures against violence in family relations,” of 1996.
- Cooperation between the state police and the prosecution and courts on risk management is poor. In one case, the Network members reported that risk management was not coordinated between/among the bodies. Thus, in the district of Elbasan, following a violence report, the Police requested an IPO and filed criminal charges against the perpetrator. In 2 different processes with the same parties, the court issued an Immediate Protection Order where one of the protective measures was: “the offender shall maintain a 50 m distance from the victim;” whereas in the criminal proceedings, the court imposed the precautionary measure of “home arrest” for the offender.³⁸ This latter measure would be executed precisely in the couple’s shared apartment, where the victim lived with their children.
- In addition to the above, the institutions responsible for managing cases of domestic violence do not design and implement an Individual Safety Plan for the victims and their children, a practice that is very necessary for preventing the recurrence of violence or preventing the killing of women, which has become an alarming phenomenon in recent

³⁷ See: “REPORT ON MONITORING THE IMPLEMENTATION OF LAW NO.47/2018 “ON SOME ADDITIONS AND AMENDMENTS TO LAW NO. 9669, 18.12.2006, citation pp. 9-21

³⁸ Decisions by the Elbasan District Court

years in Albania. Generally, Individual Safety Plans are solely designed and implemented by the shelters for domestic violence victims.

50. Please, describe the efforts made to analyse retrospectively all cases of gender-based killings of women, in the context of domestic violence and other forms of violence against women to identify the existence of possible systemic gaps in the institutional response of the authorities with the aim of preventing such acts in the future.

- Very serious cases of femicide are recorded every year. Network organizations have been active and have encouraged national and local debates on femicide on a case-by-case basis. In addition, they have also organized protests to draw attention to speedy investigations of femicide and perpetrators' identification.
- The review and analysis of gender-based killings is now a normal practice for Network member organisations. Several meetings have been organized with the participation of police members, local bodies, and other state authorities. One of the cases analysed by Network is the case of J.E. in Elbasan, where representatives of the Monitoring Network participated in the meeting of the Interdisciplinary Technical Team on 01.08.2022. The analysis produced several conclusions, which have been shared with members of the network, and the General Directorate of the State Police, in order to improve the manner of now the relevant issues are tackled.
- The problems identified by the above analyses point to the the need for better cooperation between the state police and the local coordinator of the Inter institutional Technical Team on Risk Management, as well as the need to assess risk in a most responsible fashion, collecting information from as many sources as possible.
- Important conclusions are also drawn from the monitoring report "Stop Femicide," Tirana, 2023.³⁹ Many findings derive from a review of the current legislation against femicide, in particular the review of judicial decisions on this criminal offence. Additionally, the report reveals important findings on the institutional capacities and their training needs. A summary of the most relevant findings is given below.
- **Concerning legislation:** Albanian legislation, including criminal procedural laws, has been improved. In addition to general provisions, the Criminal Code provides for specific criminal offenses such as domestic violence, murder due to family relations, stalking, crimes related to marriage, etc. The Criminal Code provides for several criminal offenses signified by the term "femicide" such as: murder (Article 76 of the Criminal Code), intentional homicide in connection with another crime (Article 77), premeditated murder (Article 78), murder in other qualifying circumstances (Article 79), murder due to family relations (Article 79/c), domestic violence (Article 130/a), intentional serious bodily harm

³⁹ Hysi V., Anastasi A., Bozo A., Vora E., "MURDER OF WOMEN (FEMICIDE) AND ATTEMPTS FOR FEMICIDE IN ALBANIA (2017-2020)." This report was prepared by the Center for Legal Civic Initiatives as part of the UN Women regional program "Ending violence against women in the Western Balkans and Turkey", "Enforcing norms, changing mind-sets", with the financial support of the European Union.

(Article 88, paragraph 2), infanticide (Article 81). The non-criminal legislation dealing with the prevention of domestic violence has also been improved and widely implemented.

- However, the Report finds a number of problems and takes a very critical stance in respect of legislation implementation, respect for and standardization thereof. In the first place, it requires the continuation of the approximation of criminal and non-criminal legislation on all forms of violence against women in society with the standards provided for in the conventions, which the Albanian state is a party to. This suggestion is in line with the Committee of the Parties recommendation that the Albanian state makes sure that the measures taken in accordance with the Istanbul Convention address all forms of violence against women, in a holistic and comprehensive manner.
- **Concerning the implementation of criminal law** by law enforcement bodies, the report analyses 23 court decisions from all judicial districts. A number of problems have been identified, which are directly or indirectly related to risk assessment and management, as well as the safety and support of victims of gender-based violence.
- Judicial practice is not standardized and unified on the treatment of the victim and the relationship between the perpetrator and the victim; the criminal policy on criminal offenses related to femicide with the same social risk, varies from one court to another.
- The meaning of criminal offenses of femicide is not unified in practice; prosecutors and judges have taken different positions regarding the legal definition of the main criminal offense, its type and measure of punishment.
- Despite the legal improvements on the measures for the prevention of violence in family relations, access to the family dwelling is not always prohibited to the offender. Even where the court orders the offender to leave home, this measure is not accompanied by other measures to protect the victim and enforce treatment programs for the abuser. Moreover, in many cases, these measures are not enforced and their execution is not monitored.
- Criminal acts of femicide caused 27 victims, with most of them women (89%). These crimes are more often committed against spouses, ex-spouses, or partners.
- Women are more often victims of femicide by their husbands, but also by other family members or non-family members. Women are more often victims of murder by their husbands, in their own home or by other family members who live with them. Victims of femicide have also been the women who had been on court's protection order or women who had reported their abusive husbands or non-family abuser to the police. This clearly demonstrates the gap in risk management and the implementation of civil protection orders. It seems clear that police actions remain disconnected and inconsistent as regards risk management. There is even worse, i.e., cases where police officers never understood their responsibility, and did not even record violence reports.
- In one of the court decisions analysed by the report, the defendant himself had stated in court that he had killed the victim because she had filed a complaint against him with the police. This was also confirmed by witnesses who had heard the defendant telling the victim so. However, in the reasoning of the decision, no reference is made to this fact. This is due either to the police not recording the victim's report at all, or to the court not taking into account the police investigation.

- Most of the victims were subject to physical and psychological violence before being killed. Most of the victims were physically and psychologically abused for long periods (44%); psychologically abused (11 %), and only a few victims (15 %) did not experience abuse before their murder. Part of the victims were on a protection order at the time the crime was committed or before the crime (19%). Only a small number had reported the violence and sought help.
- Banal motives, jealousy, gender stereotypes, patriarchal culture, suspected adultery, alcohol addiction, untreated mental health illnesses, the family's economic problems are some of the motives for the criminal offences related to femicide.
- The majority of perpetrators of criminal offenses had no previous criminal conviction (75%), and 21% were convicted for various criminal offences in the past. 17% of the perpetrators were convicted of domestic violence, and one perpetrator was convicted twice.
- The court decisions show that 25% of the defendants claimed having mental or psychological health problems. However, forensic examination showed that most of the defendants were mentally responsible at the time of the criminal offense.
- In addition to the uneven understanding and implementation of the law, the court decisions show that the defendants were given significantly reduced sentences due to summary judgments. Abbreviated trials imposed mitigated sentences even for crimes of femicide that were committed by harsh methods. Such was the case of the victim L.R., who was thrown by her husband from the fourth floor of a building while their children watched.⁴⁰
- **In relation to the assessment of the capacities of the responsible institutions**, the analysis concluded that there are many drawbacks in the training of staff dealing with cases of femicide. Some staff members are prejudiced and indoctrinated, holding many stereotyped beliefs. In some cases, they are not aware of the international standards in this field. For example, the Report reaches the conclusion that responsible institutions need in-depth analysis and open discussions on how they handle risk assessment and management. Additionally, the Report highlights the need for joint discussions by all institutions on the prevention of femicide.⁴¹

Article 56: Measures of protection

55. Please provide information on the measures taken to ensure the following: a. that the relevant agency informs the victim when the perpetrator escapes or is released temporarily, at least when they or their family might be in danger (paragraph 1 b)

- **From a formally legal point of view**, informing the victim when the perpetrator escapes or is released temporarily became the subject of legal regulation only in the recent years. However, civil society representatives and organizations raised the issue of victim's information in this respect two decades ago. Specifically, working to support victims of

⁴⁰ Ibidem, pp. 78-85

⁴¹ Ibidem, pp. 101-159

trafficking over 2000-2010, some Network members approached the institutions about the fact that no information was given to victims of trafficking about the offender's status, their imprisonment, temporary release, or escaping from prisons.

- After the ratification and entry into force of the Istanbul Convention in 2012,⁴² these organizations requested that the legislation determines the responsible body for providing such information, as well as the relevant information procedures in order to make sure that victims are informed before the perpetrator is released.
- On the other hand, defence lawyers with the organizations providing legal services to victims of domestic violence, have requested the civil courts in hearings on "Issuance of the Protection Order", that the Istanbul Convention be applied directly, by putting on the Protection Order the measure to inform the victim if the offender is released from prison.
- Initially, these submissions were not taken into consideration. There were even different opinions on this issue, with some lawyers considering such information as a breach on defendant's rights. Among other things, the situation was due to the fact that the legal position of the victim in the criminal proceedings was almost non-existent. The institutional attention was only focused on guaranteeing the defendant's right to a due legal process.
- This situation changed after the Justice Reform, as a result of the important changes made to the Code of Criminal Procedure regarding the legal position of the victim in the criminal process. These changes entered into force in 2017.⁴³ In this aspect, the Code was aligned with Directive 2012/29/EU,⁴⁴ providing for the victim as a procedural subject, with procedural rights and entitled to benefit from support services during the criminal process.⁴⁵ On this basis, the victim's right to information was also sanctioned.
- The Code of Criminal Procedure, article 58, letter 'e' provides that the victim of the criminal offense has the right to be informed about the arrest of the offender and his release, according to the conditions set in this Code. Some of these conditions are specified in article 279/a of the Code, "The right of the victim to information." It reads as follows: 1. For legal reasons, the victim, her legal representative or her defender have the right to request information about the status of proceedings, as well as having access and receiving copies of the acts and evidence that are in the prosecutor's file. 156 2. The prosecutor may reject the request when: a) the interest of preserving the secrecy of the investigation exceeds the interest of the victim; b) the interest of the defendant exceeds the interest of the victim; c) the victim has not yet been questioned as a witness. 2. The victim, his/her legal

⁴² Law no. 104/2012 dated 8.11.2012 "On the ratification of the Convention of the Council of Europe "On the prevention and fight against violence against women and domestic violence"", Official Gazette no. 151, 23 November 2012, available at: <https://qbz.gov.al/eli/fz/2012/151/c46d185d-6a7f-408f-977b-5f316889f361;q=Fletore%20zyrtare%20nr.151.%2023%20Nentor%202012>

⁴³ See, Criminal Procedure Code of the Republic of Albania, Added by law no. 35/2017, dated 30.3.2017

⁴⁴ Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, available at: [EUR-Lex - 32012L0029 - EN - EUR-Lex \(europa.eu\)](http://eur-lex.europa.eu/LexUriServ.do?uri=CELEX:32012L0029-EN-20121025-0001-5)

⁴⁵ See: Article 58, etc., of the Code of Criminal Procedure. See further: Anastasi A., "ON A CLASSIFICATION OF VICTIMS' RIGHTS DURING THE CRIMINAL PROCESS IN ACCORDANCE WITH THE DUE LEGAL PROCESS" (Conference paper), Tirana, 2019, available at: https://www.researchgate.net/publication/365205183_PER_NJE_KLASIFIKIM_TE_TE_DREJTAVE_TE_VIKTI_MAVE_GJATE_PROCESIT_PENAL_NE_QASJE_ME_PROCESIN_E_RREGULLT_LIGJOR

representative or his/her defender have the right to submit a request information regarding the imposition, continuation, replacement or removal of security measures against the defendant, except when information on these facts may endanger the life or health of the defendant.

- The above sanctions constitute, without any doubt, a significant improvement in the legal position of the victim in the criminal process. However, they only provide for the right to information during the criminal investigation and prosecution. Consequently, the victim is not provided access to information once the process has ended and the perpetrator is serving his sentence.
- The procedures for how to inform the victim when the perpetrator escapes or is released temporarily, at least when the victims or their family might be in danger, are unclear. For this, initially, a Cooperation Agreement was made between the General Directorate of Prisons and the General Directorate of the State Police (no. 2194 prot, dated 05.03.2019 for the GDP and no. 897/3 prot, dated 03.04.2019 for GDSP). However, the content of this agreement remains unknown, as it has not been made public.
- Law no. 79/2020, “On the execution of penal decisions,” article 30, paragraph 3, provides: *“When the convicted person is released, according to the provisions of letters “a”, “b” and “c”⁴⁶ of this article, the release procedure is carried out by the institution for execution of the penal decision, while in other cases the release is subject to an execution order by the prosecutor. In these cases, the prison authorities should coordinate with the State Police, which, as the case may be, shall take measures to inform the victim of the criminal offence and ensure her life and health.”*
- The law no. 81/2020, “On the rights and treatment of detainees and pre-detainees,” article 79, paragraph 6, provides: *“The court that issued the decision, the prosecutor that ordered the execution of the decision, the responsible ministry for public order and safety and the State Police shall receive immediate notice of the release of the convict and in special cases they shall receive advance notice. In the case of foreign citizens, the Ministry of Justice shall notify the ministry responsible for foreign affairs.”*
- In respect of the above, the newly adopted laws in 2020, provide for the institutions’ obligation to inform mutually, but there are no provisions on the responsible body and the relevant procedures of informing the victims. The Monitoring Network has drawn attention to the need to designate the responsible body/bodies to inform the victim, determine the procedures to be followed, and establish the relevant deadlines.
- These concerns were raised because of the experience of some Network organizations, which, while helping and supporting victims, found that, despite the legal improvements, the victims were not informed of the offender’s release from prison. In some cases, the organizations’ lawyers used the freedom-of-information law to request information from the institutions regarding this issue.

⁴⁶ Article 30 paragraph 1 stipulates that: The prison sentence is considered completed and the convicted person is released when: a) they finish serving the sentence; b) the remaining sentence is forgiven; c) the criminal offense or remaining sentence is amnestied; ç) they are released by court decision.

- Several problems are listed in connection with the victim's right to information: *first*, it is not clear which of the institutions should inform the victim; *second* the victim's information is not an automatic obligation of the institution; *third*, after submission of the request, the institution delays the answer; *fourth*, there are no procedures and deadlines for returning the answer. The deadlines provided for by the Code of Administrative Procedures are not conducive to swift information. Specifically, in the case of such a request, the D&E Organization had to wait over 10 before a response was given.
- On March 1, 2023, a very serious event occurred. D. H, who was newly released from prison, killed 3 women in one day and injured three others, just because they were women. Two of the women had lived with him. He had been previously convicted of domestic violence and was released from prison by a court decision which shortened the length of his sentence. However, none of the victims had been informed of his release.
- Subsequently, the General Director of Prisons adopted Order No. 559, dated 23.03.2023, "*Reporting on perpetrators of sexual crimes who complete their prison sentence and other prisoners who are released.*" This order was necessitated by the serious criminal event of March 1, 2023. It orders the Institutions for Executing Penal Sentences (IEPS) to inform in detail the State Police structures on the criminal profile, the danger of repeating the crime, or carrying on with the criminal activity by inmates released from prison, or the conflicts that these inmates created within the IEPS, their family situation, etc.
- An electronic register of sexual offenders is in the process of being created pursuant to the law, "On the Register of Convicts of Sexual Crimes," which entered into force in 2022. The law obliges the competent bodies to draw up the register within 6 months from the entry into force of this law. However, this register has not been created yet, and the law not implemented even a year after its entry into force.
- The above referenced Order has two annexes. The first annex is the template of the report on prisoners released by the IEPSs. The second annex is the template of the report on the release of sexual violence convicts. In this manner, the Order regulates the sharing of information on inmates' release by the IEPS and the State Police, including the local police structures with jurisdiction over the convict's place of residence.
- However, what is not regulated is the victim's information when the abuser escapes, is released temporarily, or permanently because of finishing his prison sentence; nor is the victim informed when the escapee/releasee is a high risk criminal. Moreover, there no provisions to provide advance information to the victim about the perpetrator's release, whether temporarily or permanently. Order No. 559, dated 23.03.2023 obligates IEPSs to notify the State Police structures at the time of release; in special cases, also, in advance.
- *The Network inquiries with the above-mentioned bodies show that it is not clear whether the State Police is the body responsible for informing the victims. Any information that the Network member organisations was able to receive relative to convicts' release was based on a request for information. However, due to unawareness, a request for information may not be submitted in the case of temporary release, escape, or previous releases. Hence, the need for ex-officio information by the institutions.*
- *State Police efforts and actions notwithstanding, the Monitoring Network assesses that, when the perpetrator is released temporarily, has escaped or is released permanently, at*

least in cases where the victims and their family are in danger, the victims' information needs to be regulated in respect of determining the responsible body and relevant timeframes, at least through the adoption of relevant by-laws.

- *Additionally, there is a need for an action and cooperation plan between the institutions responsible under the law, so that such preventative procedure works effectively in real life, given its importance for protecting the victims' life and health.*

Part III: Emerging trends on violence against women and domestic violence

56. Please provide information on new developments since the adoption of GREVIO's baseline evaluation report on your country concerning: a. emerging trends in violence against women and domestic violence, including its digital manifestations (types of perpetration, groups of victims, forms of violence); b. emerging trends in domestic case law related to violence against women; c. emerging trends in the allocation of funding and budgeting by your state authorities; d. innovative approaches to primary prevention, for example new target audiences and means of communication, public/private partnerships etc. e. emerging trends related to access to asylum and international protection for women victims of violence against women.

Emerging trends in domestic violence

- The emergence of new forms of domestic violence/violence against women and girls has been evidenced by the organisations delivering help and support to victims of gender-based violence. Survivors of domestic violence also testify on the use of digital violence as a new trend mostly by husbands, ex-husbands or intimate partners against women.
- NPOs are increasingly dealing with cases of domestic violence through digital means. A positive development is the fact that the court does not see domestic violence as a phenomenon limited only to traditional forms, but it also recognises its new digital manifestations. In cases where the perpetrator used digital violence after the victim was placed on a PO/IPO, the court considered such action a breach of the Protection Order and extended the PO's validity. This approach contributes to strengthening protection from domestic violence in all its forms, including the newly emerging manifestations. However, it is important that these cases are automatically dealt with in the criminal process and the perpetrator charged with criminal liability for violating the Protection Order. For this reason, it is necessary to strengthen other institutions' referral of such cases to the criminal court.
- The Criminal Court, too, punishes digital violence and recognizes the new forms of online violence. This has been evidenced by criminal proceedings against stalking, as well as the criminal proceedings against domestic violence.
- DH. H. was a victim of domestic violence. At the time she contacted the Legal Aid Centre, she had a Protection Order for herself and her two minor children against her ex-husband. Her Protection Order was issued by the Court of the Mat Judicial District (decision no. 3,

dated 23.02.2022) with a 12 (twelve) month validity. DH. H. reported that, despite the Protection Order, her husband continuously threatened her over the phone and social networks, sending threatening and offensive messages, publishing her personal photos on false accounts on the social network of 'tik- tok'. In the above case, all the court did was to extend the term of the Protection Order, but the case was not prosecuted, because there was no referral by any of the institutions involved. The victims themselves, generally, avoid the criminal process.

- Over the recent years, cases of digital violence against women and girls have been reported, involving mainly: publication of intimate videos and photos on social networks/online portals, or blackmail to publish videos and photos. The NPOs point out that the criminal investigation structures do not possess the special digital tools for a complete and efficient investigation of this phenomenon, which is assuming disturbing proportions nowadays.
- An innovative approach to the prevention and reporting of domestic violence is the “Bright Sky” application, supported by the Vodafone Company, which can be downloaded and used free of charge on any digital mobile device. It offers support and information to anyone who is in an abusive relationship or to those who are concerned about someone in an abusive situation.

Emerging trends related to migration

- Kukës is one of the regions experiencing a mass departure of citizens in migration. This tendency has created new challenges due to the economic difficulties arising for families and the ensuing social problems.
- Male spouses, who leave illegally, marry foreign women in different European countries. Their wives in Albania “agree” to divorce, so that their husbands can get the ID papers and “put bread” on the family tables back home. This phenomenon has shaken family relations.
- Under the circumstances, the entire burden of managing the family (children, parents in-law or other in-laws at home) falls on the woman, who is now divorced *de jure*.
- In many cases, men in emigration discontinue their support to families in Albania, because of the new family they create in Europe. This causes even more serious economic, social and psychological consequences for women and their children in Albania.
- In this emigration situation, there is also an increasing number of people who seek to simulate domestic violence, in order to gain asylum and family reunification permit in the countries of migration.

Emerging trends in sexual violence

- The protection of girl children and women from sexual violence on the Internet is most problematic for the Albanian state. The widespread use of the Internet, with almost 90 percent of the population having daily access to it, has made all types of forms of online violence and sexual harassment a matter of great concern for women and girls.
- **iSIGURT.al** - The National Platform for Safe Internet in Albania, which maintains detailed information on online sexual violence incidents reported by children and adults, says that

over 2020-2021 online incidents of sexual violence and harassment increased 6 times over, with more than 6 thousand pages reported of featuring sexual violence against children, in over 90 percent of cases, girl-children.

- Albania has a very weak legal framework regarding protection from online sexual violence. Some forms of online sexual violence remain unpunished, because the Criminal Code does not enshrine them as criminal offenses, so no one can be held legally responsible. Grooming, sexting or even revenge by pornography are not punishable by the Criminal Code, so criminals take advantage of this situation to commit sexual crimes on the Internet.
- Since 2015 when the platform for online safety was launched, the number of reports doubled from year to year. Almost 80 percent of the victims are women and girls. The State Police has a very modest sector for prosecuting online crimes and their main focus is child pornography (CSAM). This means that even if the victims complain to the police, the perpetrator will most likely never be detected, due to the State Police lacking advanced technology to identify and prosecute online crimes.

Sexual violence in sports, an emerging trend

- Sexual violence in sports against girls and women is a completely unknown and unreported issue in Albania. Almost all sports federations, in addition to men's teams, also have women's teams, at least in the main sports (football, volleyball, basketball, weightlifting, running, etc.) Despite the lack of awareness about the risks to physical and sexual safety of girls and women in sports, no sports federation has ever organized campaigns or awareness activities related to this topic.
- Cooperation and dialogue between sports federations, the Olympic committee, sports clubs and NPOs is extremely weak and this makes it even more difficult to organize awareness activities to inform athletes as a whole, in particular girls and women, about sexual violence, the available complaint mechanisms, etc. To our knowledge, no federation has any protocol, mechanism or code of conduct for reporting and following up on cases of sexual violence.
- On the other hand, the responsible Ministry, i.e. the Ministry of Education and Sports, has chosen to remain silent on this matter. They have not organized any meeting with the sports federations and clubs, despite the fact that they provide finances to some of them, through funding the athletes. Additionally, they have not developed any regulations, guidelines, or standards for the protection of children and young people from sexual violence or any form of violence in sports.
- *From the above, it may be concluded that there is a need for attention to the risks emerging with the new trends, as well as building awareness on prevention and management of gender-based violence and domestic violence.*