

**SHADOW REPORT ON THE
IMPLEMENTATION OF
COUNCIL OF EUROPE CONVENTION ON
PREVENTING AND COMBATING VIOLENCE
AGAINST WOMEN AND
DOMESTIC VIOLENCE IN
REPUBLIC OF NORTH MACEDONIA**

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TABLE OF CONTENT

INTRODUCTION	4
I. GENERAL OBLIGATIONS	6
ARTICLE 5 - State obligations and due diligence	6
II. INTEGRATED POLICIES AND DATA COLLECTION	9
ARTICLE 7 - Comprehensive and coordinated policies	9
ARTICLE 8 – Financial resources	14
ARTICLE 9 – Non-governmental organizations and civil society	17
ARTICLE 10 – Co-ordinating body	19
ARTICLE 11 – Data collection and research	21
III. PREVENTION	25
ARTICLE 12 – General obligations	25
ARTICLE 13 – Awareness-raising	26
ARTICLE 14 – Education	28
ARTICLE 15 – Training of professionals	28
ARTICLE 16 – Preventive intervention and treatment programmes	30
ARTICLE 17 – Participation of the private sector and the media	30
IV. PROTECTION AND SUPPORT	31
ARTICLE 18 - General obligations	31
ARTICLE 19 - Information	32
ARTICLE 20 - General support services	34
ARTICLE 21 – Assistance in individual/collective complaints	39
ARTICLE 22, 23, 25 – Specialist support services, Shelters, Support for victims of sexual violence	40
ARTICLE 24 – Telephone help lines	48
ARTICLE 26 – Protection and support for child witnesses	49
V. SUBSTANTIVE LAW	51
ARTICLE 33 - Psychological violence	52
ARTICLE 34 – Stalking	53
ARTICLE 35 – Physical violence	53
ARTICLE 36 – Sexual violence, including rape	54
ARTICLE 37 – Forced marriage	55
ARTICLE 38 – Female genital mutilation	55
ARTICLE 40 – Sexual harassment	56
ARTICLE 42 – Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour”	56
ARTICLE 46 – Aggravating circumstances	57
V. INVESTIGATION, PROSECUTION, PROCEDURAL LAW AND PROTECTIVE MEASURES	58
ARTICLE 49 – General obligations	58
ARTICLE 50 – Immediate response, prevention and protection	61
ARTICLE 51 – Risk assessment and risk management	63
ARTICLE 52 – Emergency barring orders	65
ARTICLE 53 – Restraining or protection orders	67
APPENDIX 1 - LEGAL AND SUPPLEMENTAL SOURCES	75

INTRODUCTION

This general aim of this report is to provide information about the situation in relation to the level of compliance of national legislation with the COE Convention on preventing and combating violence against women and domestic violence, and its implementation in practice, with a special focus on the factual position of women survivors of different forms of violence against women, such as women who suffered domestic violence, women victims of human trafficking, sex workers and LGBTI. It is based on the perspective of women survivors themselves, the effectiveness of the protection provided to these vulnerable groups of women, as well as their ability to effectively overcome the related legal problems and enjoy their legally guaranteed human rights. In parallel, the report provides information about the implementation gaps and systemic deficiencies, related to the main pillars of the convention, such as integrated policies, prevention, protection, and prosecution, and includes the perspective of practitioners involved in the front line for delivering justice to women survivors, such as the CSW, police, courts, health institutions.

The report was prepared by national CSO's with extensive experience in the provision of direct support and advocacy toward improving the status of different categories of women survivors, and international research support for a broader assessment of the implementation of due diligence principle, as listed below.

Association for Emancipation, Solidarity and Equality of Women – ESE is a civil organization, founded in 1994. ESE works locally, nationally and in the region of Central and Southeast Europe in cooperation with partner civil society organizations to improve the implementation of the social and economic rights of vulnerable groups of citizens, by strengthening them, mobilizing, and engaging in the planning, implementation, and evaluation of public policies and services; ensuring equal access to justice and promoting fiscal transparency of institutions in the area of social and economic rights. These three strategic priorities reflect ESE's belief that social and economic rights should be the highest priority of the state and that their implementation should be based on the interests and needs of citizens, according to the principle of allocation of maximum available resources, the progressive realization of rights and non-discrimination. One of ESE's strategic orientations is to enhance access to justice for women who suffered domestic violence. In this regard, ESE is providing direct support to women who suffered domestic violence for protection against domestic violence and resolution of other related legal problems; and cooperates with competent institutions for improving their response toward domestic violence cases. ESE has significant experience in reporting on the human rights situation in the country envisioned in several UN human rights instruments. ESE has provided the data related to women who suffered domestic violence, within the preparation of this report.

The Coalition Sexual and Health Rights of Marginalized Communities MARGINS was founded in 2007 as a non-formal, joint platform and the result of the joint efforts of several organizations. Since 2011, the Coalition has been registered as an individual legal entity, i.e. as an NGO whose founders include: HOPS – Healthy Options Project Skopje, HERA, IZBOR – Strumica, EGAL and STAR-STAR, and Stronger Together. Since then, MARGINI has been working on equal access and enjoyment of human rights of marginalized communities (sex workers, people living with HIV, people who use drugs, marginalized women, and LGBT people) and better life quality in different

social spheres. Coalition MARGINS has provided the data related to women sex workers and LGBTI, within the preparation of this report.

Open Gate is a civil society organization in the Republic of Macedonia, renowned for its commitment, persistence, and professionalism, as well as its focus on the needs and interests of trafficked persons and target groups. Since 2005 Open Gate manages a shelter for accommodation and care for victims of trafficking. Besides safe accommodation shelter provides all the services of the program for direct assistance and support. The accommodation of the victims is on a voluntary base and the shelter is open type of facility that provides 24-hour operation. The shelter is located at a secret address and inside works professionals from various professions such as social workers, pedagogues, and psychologists. The program is implemented in the form of individual counseling and group therapy as well as educational and occupational workshops. In parallel, the organization provides SOS counseling for provision of informative/preventive support. Open Gate has provided the data related to victims of human trafficking within the preparation of this report.

The Edinburgh International Justice Initiative (EIJI) is a student-run initiative that seeks to help institutions working to ensure justice for victims of international crimes and strengthen the international justice system by providing *pro-bono* legal research assistance that can make a practical difference. Recognizing the importance of the “due diligence principle” for the overall implementation of the COE’s Convention, we would like to especially emphasize the importance of the support provided by the Edinburgh International Justice Initiative (EIJI), for preparing a separate

[Report on Due Diligence in relation to COEs Convention on Prevention and Protection against VAW and Domestic Violence](#). The EIJI is an apolitical body providing legal research assistance and not legal advice and does not assume any liability regarding how its research is used in the future. The way in which this report is used by the EIJI’s partners is at their discretion and does not necessarily reflect the views of the EIJI.

I. GENERAL OBLIGATIONS

ARTICLE 5 - State obligations and due diligence

Recent legislative and policy efforts were undertaken by the Government and relevant ministries after the ratification of the Convention toward the implementation of Article 5. The National Action Plan (NAP) for implementation of the Convention 2018-2023¹ was adopted, followed by the adoption of the new Law on prevention and protection against violence against women and domestic violence² (Law on VAW) in 2019. The LAW on VAW emphasizes the due diligence principle in Article 1 which regulates the subject of the law, and especially in Article 4 titled Due Diligence which incorporates the obligations for the state institutions and judiciary to act “urgently with due attention to the interests and needs of the victim”.

Despite the creation of normative preconditions related to the due diligence principle, there is a need for their implementation in practice. Especially recognizing the existing systemic deficiencies in the country, elaborated under the following articles of this report: lack of allocation of the needed financial and human resources for improving the situation with prevention, protection, and prosecution of cases of VAW and domestic violence (DV); low level of awareness-raising efforts toward general and expert public; non-effective protection and unfavorable situation of women survivors of VAW and DV; lenient penal policy toward perpetrators. In addition, there is an absence of a data collection system which will allow the determination of trends and the creation of evidence-based policies in accordance with the specific needs of women survivors.

The data contained under Article 5 was complemented with the main findings of a separate [Report on Due Diligence in relation to COEs Convention on Prevention and Protection against VAW and Domestic Violence](#) of Edinburg International Justice Initiative EIJI. This report explores the scope of due diligence in international law, particularly as it is used in the Istanbul Convention, and then uses a horizontal comparison of other Convention signatories as a basis for demonstrations of due diligence implementation and as a helpful point of reference for North Macedonia. The comparative analysis primarily relates to preventative international implementations in France, Austria, Denmark, and Malta. This comparison showed that due diligence obligations of conduct differ for each treaty member, depending on resources and reasonable expectations. It also showed that many preventative measures, although employed with increasing frequency, continue to prove ineffective or insufficient.

The general conclusion is that although the implementation of the due diligence principle differs between each State and is dependent on the allocated resources and reasonable expectations, there are three main factors that are influencing the failings and improvements in this regard, which is the case for the Republic of North Macedonia as well. The following factors were identified in this regard: A definition of violence that is clear and inclusive; Gendered data collection; and increased funding and aid.

¹ The Action Plan for Implementation of the Convention for the Prevention and Combating of Violence against Women and Domestic Violence 2018-2023

² Official Gazette of RSM, No. 24 from 29.01.2021

In this regard, there is a need of considering the efforts of other member states when working to effectively meet its obligations, as explained in the following part which incorporates a few positive examples in terms of implementation of the due diligence principle in correlation with the other Articles from the convention as elaborated below.

Article 7: Comprehensive and Coordinated Policies

GREVIO has commended Malta about the transformation of the Commission on Domestic Violence into the Commission on Gender-Based Violence and Domestic Violence ('Commission'), as distinct legal personality as an institutional entity, and the increased access to funding in this regard.³

The positive example from Malta can be applied to the National Coordinative Body in the Republic of North Macedonia⁴, in direction of strengthening the independence and financial sustainability of the body for monitoring the implementation of the Convention on a national level. The rotating presidency by different ministries will increase the sense of ownership and thus contribute for more comprehensive and coordinated policies in this regard.

Article 8: Financial Resources

A positive example from Austria referred to the increased State budget for prevention and protection against VAW and domestic violence for almost 50%, which can be applied in North Macedonia in order to address the continues lack of budget funds and dependence of foreign donors support. In addition, Austria has a wide range of CSOs that provide support to victims, which are typically wholly or mostly funded by the federal government, which represents a positive example of recognizing the role and supporting CSO's service providers in North Macedonia.

Article 11: Data Collection and Research

The Efforts undertaken by Denmark toward improving the disaggregated data collection and research on instances of DV and VAW can be considered for improving the collection of gender-disaggregated data on a national level. Especially to consider the efforts of the Danish police that reviewed manually 400 cases of violence and threats in order to address the previously neglected data points such as the nature of the perpetrator's relationship to the victim.

Recommendations

A clear definition of VAW should be adopted, in order to ensure the meeting of due diligence obligation and tackle discrepancies in the treatment of victims and prosecution of perpetrators. In addition, this will ensure clear understanding on what constitutes VAW and allow for easier satisfaction of obligations under the convention.

The Government and relevant ministries need to establish an effective system for the gendered data collection on all forms of VAW and domestic violence. In addition, must ensure that

³ Grevio, 'Baseline Evaluation Report Malta' (GREVIO: Council of Europe, 2020) <<https://rm.coe.int/grevio-inf-2020-17-malta-final-report-web/1680a06bd2>> accessed 7 February 2022.

⁴ Law on Prevention and Protection against VAW and domestic violence, Article 15

transgender and non-binary people, as well as male survivors of gender-based violence are afforded protection and respect as well.

The Government and relevant ministries should establish a practice of regular budget funding for awareness raising among the general and expert public, and protection against VAW and domestic violence. In this regard, they need to increase allocated funding and aid ensuring further support to CSOs which are a vital resource for women facing violence in the country, including the funding of specialized services for addressing specific needs of different vulnerable groups of victims of VAW and domestic violence.

II. INTEGRATED POLICIES AND DATA COLLECTION

ARTICLE 7 - Comprehensive and coordinated policies

The process of ratification of the COE Convention and its entry into force in 2018 was followed by legislative and policy efforts by the State in order to harmonize national legislation with the provisions of the Convention. In this regard, the Action Plan for the implementation of the Council of Europe Convention for the period 2018-2023⁵ was adopted, as well as the new Law on Prevention and Protection from Violence against Women and Domestic Violence⁶. These processes were followed with the adoption of the bylaws by the MOI⁷ and MLSP⁸ which further regulates the proceeding of the relevant institutions such as the CSW and police in relation to the execution of the urgent and temporary measures of protection against VAW and DV.

The improvement of the national legal framework, i.e. the creation of normative preconditions for the protection of different categories of women victims of violence who were not previously formally legally protected, as well as the pro-activity demonstrated by the Ministry of Labor and Social Policy (MLSP) regarding the involvement of the civil society sector in these processes, would usually meant demonstration of a strong political will to prioritize this issue, i.e. improving the situation with VAW and DV in the country. However, the general conclusion is that there is an absence of substantial efforts undertaken by the State for effective implementation of Article 7 from the Convention due to the following reasons:

The National Legislation is not harmonized with the Convention

Apart from the adopted legislative measures for harmonization of national legislation within the NAP 2018-2023, the legislation is still not harmonized. Although the Law on VAW is in a great manner harmonized, yet the Criminal Code is not harmonized with the Convention. In this regard, certain groups of women survivors of VAW and DV are facing a higher level of legal protection compared to other. For instance, the legal protection for women who suffered domestic violence is higher compared to women sex workers. In relation to women sex workers, the national legal framework is incomplete or stipulates provisions unfavorable to marginalized communities. Sex work itself is regulated as a misdemeanor within Article 19 of the Law on Misdemeanors against the Public Order. The law bans the provision of sex services and fines, sex workers, for soliciting.⁹ On the other hand, mediation in prostitution is a criminal offense regulated with article 191 of the Criminal Code. The rights of sex workers are not recognized by the State except in the context of public health and HIV/STI prevention issue which was introduced in the discourse through the grant supported by the Global Fund for AIDS, Tuberculosis and Malaria (GFATM).¹⁰ The National Strategy for equality and non-discrimination 2016-2020 fails to recognize sex workers as a vulnerable group for which the state should take specific consideration in order

⁵ The Action Plan for Implementation of the Convention for the Prevention and Combating of Violence against Women and Domestic Violence 2018-2023

⁶ Official Gazette of RSM, No. 24 from 29.01.2021

⁷ Official Gazette of RSM, 210/21

⁸ Official Gazette of RSM, 240/21;248/21

⁹“Official Gazette” no. 66/1997. Law on Misdemeanors against the Public Order. The law prescribes a fine from 600-800 Euros for the sex worker.

¹⁰Government of the Republic of Macedonia. National Strategy for HIV 2006-2012 and National Strategy for HIV 2012-2016. In the period of the drafting of this report, the Government has not adopted the new National Strategy for HIV.

to prevent discrimination and violence. Accordingly, the human rights perspective was missing at all levels. The research among sex workers demonstrates a high prevalence of domestic violence.¹¹ Many researches prove the intersectional discrimination against sex workers and the lack of access to justice as a result of their specific position in society which makes them more susceptible to violence.¹² It is encouraging that the NAP 2018 – 2023 foresees dismissal of the provision of the Law on misdemeanor against public order and peace based on which women involved in sex work are fined. Until the drafting of this report, the Ministry of Justice failed to remove this provision that disproportionately affects women. In the adopted National Action Plan for implementation of the Istanbul Convention there are few activities directed toward the prevention and protection of violation of women involved in sex industry. Based on the plan, the services for prevention and protection of gender-based violence against women should be inclusive for vulnerable categories of women, including sex workers, lesbians, bisexuals and transgender people.¹³ North Macedonia has an obligation to repeal legal provisions that discriminate against women, thereby protecting, encouraging, facilitating or justifying any form of gender-based violence. Following the ECHR judgment from 2019, X v. FYROM, the State has failed to fully implement it and secure fast, transparent and accessible legal procedure for gender recognition of the transgender people. Lack of comprehensive legal framework related to legal gender recognition disproportionately affects transgender people and results in discrimination and violence.¹⁴ Separate efforts should be undertaken by relevant ministries for adopting comprehensive legal framework related to legal gender recognition.

A significant portion of the activities toward adoption and amendments to the existing laws are still not implemented, although planned for 2018, such as the Law on reparation for victims of crime¹⁵, which is especially important to the women victims of human trafficking.

Part of the implemented activities were not fully implemented as planned, such as the measures planned within the Law on Free Legal Aid¹⁶ and Law on Social Protection¹⁷ in 2019. Namely, the obligation to explicitly list the victims of domestic violence as beneficiaries of free legal aid was not fully implemented by the Ministry of Justice, since women victims of domestic violence are granted free legal aid based on their status of victims, only in the civil court procedure for pronouncing the TMP. In addition, no changes were introduced to Article 20 about this procedure for elimination of the eligibility criteria that is referring to the submission of written certificate by the competent institutions, for confirming the status of domestic violence victim, which especially is a barrier for approval of free legal aid to women survivors who have not reported the violence previously. In addition, this legal provision is not clear in terms of

¹¹Бошкова Н., Штерјова Симоновиќ Х. Анализа на ставовите на сексуалните работници за потребата од промена на законската регулатива за сексуалната работа во Македонија, 2017, стр. 17.

¹²Димитриевски В., Тошева М., Бошкова Н. Анализа за потребата од промена на законска регулатива за сексуална работа во Република Македонија, потреби и предизвици. Здружение ХОПС, Опции за здрав живот Скопје, 2016, стр. 8.

¹³Влада на Република Македонија, Националниот акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и домашното насилство на Република Македонија, 2018.

¹⁴ Coalition sexual and health rights of marginalized communities. Annual report for 2018, 2019 and 2020. Available at: <http://coalition.org.mk/publikacii/izvestai>

¹⁵ Available at https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=54834

¹⁶ Official Gazzete No. 08-2895/1, available at

<https://www.pravda.gov.mk/Upload/Documents/Zakon%20za%20besplatna%20pravna%20pomos.pdf>

¹⁷ Official Gazzete No.08-524/1, available at

<https://www.mtsp.gov.mk/content/pdf/2021/1a28a922f364401e94935d4d694b9d75.pdf>

specification of the type of certificate needed, although it can be interpreted as confirmation from CSW or police where the violence was previously reported. Moreover, part of women survivors who reported the violence previously to CSW and asked for such certificate have expressed their dissatisfaction, since the CSW did not provide them with this document because their “status of victims” has not been confirmed yet. The obligation to improve access to social financial assistance to women who suffered domestic violence, including guaranteed minimum assistance and housing was not met by MLSP, since women who suffered domestic violence are not listed as beneficiaries under these types of financial assistance.

What is especially worrying is the fact that certain activities although planned, will not be implemented as such by the relevant ministries. For instance, despite the planned amendment of Article 28 in the Law on Police, in order for the police officers to be able to take action to remove the abuser from the home in GBV cases, the MOI with the submission of its operational plan for 2019 have informed that this activity will be not implemented at all. Moreover, MOI has stated that they have already informed MLSP in September 2018, when consulted about the NAP about this decision¹⁸. This raises the question whether all the ministries and institutions were adequately informed and consulted in the process of adoption of the NAP 2018 – 2023, since this could seriously affect the implementation of NAP in the future. In addition, the indicators for monitoring the implementation of the NAP are mainly quantitative, which might especially affect the quality of implemented measures. For instance, the indicators related to the establishment of specialized services for women are stated as “four shelters, three referral centers, three crisis centers”.. This indicator cannot be used to assess whether the women survivors are provided with the needed help and support, in accordance with their specific needs.

Another concern is the lack of transparency in the implementation of the NAP. CSO’s are not informed sufficiently, neither included in this process, despite the obligation for their substantial involvement in this regard. In parallel, there is lack of evidence based planning and non inclusion of women survivors in the processes of planning, adopting, implementing and evaluating State policies for addressing GBV and domestic violence.

The National Legislation is not implemented in practice

There is a long-standing well documented practice of disunity between the processes of adopting national strategies, action plans, laws and bylaws, and their implementation in practice, which has continued after the ratification of the COE’s Convention. The NAP 2018 – 2023 lists only the sources of funding for the envisaged activities, i.e. the competent ministries and donations, without specifying the allocated budget funds, which means continuation of this practice by the state. There is no regular practice established on annual level for preparation and publication of operational plans for implementation of NAP by the competent ministries and institutions. The web page of MLSP does not incorporate the annual operational plans of this ministry, and the only publicly available operational plans are those of the Ministry of Interior¹⁹ (MOI) and the

¹⁸ The information is incorporated at the first page of MOI’s OP for 2019

<https://mvr.gov.mk/Upload/Editor Upload/Оперативен%20план-скенирано.pdf>

¹⁹ MOI Operational Plan for 2019, available at <https://mvr.gov.mk/Upload/Editor Upload/Оперативен%20план-скенирано.pdf>

Ministry of Justice²⁰ (MJ) for 2019, as well as the Ministry of Education and Science (MES) for 2021²¹ and 2022²². In addition, despite their obligation, competent ministries do not allocate sufficient funds within their annual budgets for its realization.

As a result, mainly legislative steps were taken, while the prevention of violence and the improvement of the factual situation of women victims were neglected by the State. In addition, there are not publically available evaluation reports about the policies implementation²³, that will show the quality of the measures conducted, the progress made, and the actual impact that it has produced on women survivors. The only one publically available “Annual Report for the activities implemented and progress made toward equal opportunities between women and men in 2019”, does not actually incorporate analysis and evaluation of measures undertaken, but rather general and statistical information in this regard.²⁴ The lack of adequate data collection system severely affects the capacities for monitoring the implementation of policies, and undermines the legislative efforts undertaken by the State in this regard.

In addition, the State did not implement substantial efforts for increasing the level of coordination among the institutions involved in the system of protection, such as CSW and police. As a result, women survivors of domestic violence are reporting to CSO’s difficulties in their communication with institutions, inadequate and harmful proceeding, and evident lack of coordination between the Centers for Social Welfare, police, Courts and health institutions²⁵.

The factual position of women survivors in our society and the continuous trend of high prevalence of GBV and domestic violence in the country confirm this statement and emphasize the need for finally changing the existing approach and prioritize this issue at the top of the political agenda.

In addition, the State’s declaratory approach for dealing with domestic violence which has been legally regulated for almost 20 years, i.e. the absence of positive practices that would be applied today for effective protection of women victims of other forms of VAW, allows us to be critical and conclude that the Government, the competent ministries, institutions and the judiciary have not taken substantial steps to effectively deal with VAW in the country. The main characteristic of the state's approach toward domestic violence in a period of almost 20 years is the subsequent amendment and adoption of laws and policies, without creating the necessary preconditions for their implementation in practice. This fact is confirmed in the concluding observations and recommendations that the CEDAW Committee has sent to our country, starting from the submission of the initial report until today. Namely, the positive aspects that are emphasized mainly refer to the adoption of certain legislation and policies, while the remarks for taking

²⁰ MOJ Operational Plan for 2019, available at https://www.pravda.gov.mk/Upload/Editor_Upload//2018-11-20%20092139_1%20Fina_3.pdf

²¹ MON Operational Plan for 2021 available at <https://mon.gov.mk/stored/document/Operativen%20plan%20-%20Istanbulska%20konvencija.pdf>

²² MON Operational Plan for 2021 available <https://mon.gov.mk/stored/document/Operativen%20plan%20-%20Istanbulska%20konvencija%202022.pdf>

²³ Including the following: Gender Equality Strategy 2013-2020; National Plan of Action for Gender Equality 2018-2020 and Operational Plan for 2018-2019; National Action Plan for implementation of the COE’s Istanbul Convention 2018-2023; National Strategy for Equality and Non-discrimination; National Action Plan for implementation of the Antidiscrimination LAW 2015-2020.

²⁴ Page 25, 2.6. Access to justice, available at <https://mtsp.gov.mk/dokumenti.nspix>

²⁵ Data Base of Legal Aid Center, ESE 2021

substantial steps to improve the factual situation in this field are being repeated in continuity. No sufficient budget and human resources were allocated by the State for implementation of the national legal and policy framework for addressing domestic violence. Please see more detailed information under Article 8.

In relation to victims of human trafficking, despite the legal novelties²⁶, the related legal is mainly gender neutral and needs to be adapted. Moreover, the law for Compensation for Victims of Crimes should be adopted as soon as possible. In the same time there should be action taken for their active implementation especially on strengthening capacities of law enforcement for conducting financial investigations in all cases of human trafficking. Relevant institutions, especially the PPO and the court, should invest more effort in conducting swift, detailed, and efficient investigations and should adjudicate the proceedings within a reasonable period. In cases of child victims and other vulnerable victims of human trafficking, the PPO should provide special measures for protection of children during the criminal proceedings, prior to taking the victim's statement and the beginning of the criminal proceedings. The court should invest more efforts in enabling the presence of a legal proxy/representative of the victim during the criminal proceedings.

Recommendations

The Government and relevant ministries should conduct a detailed overview of the individual measures within the NAP and upgrade the existing NAP, with direct involvement of each relevant ministry, institution, CSO's and other stakeholders in this process. In addition, special efforts should be put for broadening the list of qualitative indicators, including indicators on victim's satisfaction from the provided services, which allow measuring the effectiveness and quality of measures conducted.

Mechanisms for regular preparation of operational plans, including funding from annual budgets for implementation of the NAP by the relevant ministries and institutions, should be established as well.

The Government and relevant ministries should develop comprehensive monitoring and evaluation framework for assessing the implementation and effectiveness of measures undertaken, with direct involvement of each relevant ministry, institutions, CSO's and other

²⁶ The Law on Prevention and Protection from Violence against Women and Domestic Violence defines trafficking in women and girls as a form of gender-based violence, and the services provide for the accommodation of victims of trafficking in the Center for victims of human trafficking. A new Rulebook on the manner, scope, norms and standards for providing social services for temporary residence and space, means, staff and necessary documentation for a Center for temporary residence²⁶ has been adopted in accordance with the Law on Social Protection regarding the Center for Victims of human trafficking.²⁶ Based on this rulebook, a decision was made to determine the prices of social services in the home, out-of-family care, professional assistance and support and temporary residence for 2022, which for the first time provides a cost price. of a service for temporary residence in the Center for Victims of Human Trafficking, in accordance with the methodology for setting the prices of services depending on the norms and standards for providing social services.²⁶ During the year, a cross-sectoral working group, formed within the Ministry of Interior, prepared a gender budget statement for the fight against human trafficking and illegal migration, which shows the political will to promote and include gender equality in the fight against trafficking and illegal migration. The gender budget statement was adopted by the Minister of Interior and was published on the website of the Ministry of Interior.²⁶

stakeholders in this process. In addition, to establish a regular practice to periodically prepare and made public the narrative reports about the implementation and impact produced.

The Government and relevant ministries should establish mechanisms for mandatory involvement of women survivors in the processes of planning, adopting, implementing and evaluating State policies for addressing GBV and domestic violence.

MLSP should initiate changes to the Law on Social Protection, in order to explicitly guarantee the women who suffered domestic violence right to different social financial assistance, and consecutively provide the needed budget funds for this purpose. MLSP should initiate changes to the Law on Prevention, Protection against VAW and domestic violence, in order to exclude the victims consent as a precondition for initiating the civil court procedure for TMP by the CSW.

The Ministry of Interior should initiate change to Article 130 of Criminal Code, for “ex officio” prosecution of the criminal act “bodily injury” committed in domestic violence cases.

The Ministry of Justice should adopt the Law on monetary compensation for victims of crime, and initiate changes to:

- *Article 20 on the Law on Free Legal Aid, in order to dismiss the criteria related to submission of written certificate as a precondition for approval of free legal aid;*
- *Law on Misdemeanor against the Public Order for dismissal of the provision based on which women involved in sex work are fined.*

ARTICLE 8 – Financial resources

Recent efforts were undertaken on legislative level toward implementation of Article 8, such as the adoption of separate legal provision within the new Law on VAW, which stipulates that each ministry will provide budget funding for implementation of preventive and protection measures for addressing VAW and DV. This present a solid basis for improving the situation with the allocation of financial and human resources for implementation of national legislation, but there is still a challenge to implement this legal regulations in practice.

The continuous non-allocation of the necessary budgetary and human resources on this field reflects the real commitments that the State undertakes in this field, and reveals the marginalization of the issue of gender equality, non-discrimination and VAW in our society. In this regard, there is a well documented negative practice of non unity between the processes of adopting national strategies, action plans, laws and bylaws, and their implementation in practice, which has continued after the ratification of COE’s Convention as well. Moreover, there are not mechanisms applied for transparent and participatory budgeting, based on the real needs of women survivors of VAW and domestic violence, which will assure the sustainability of actions undertaken and positive impact on long-term level, neither system for monitoring and evaluation of the measures undertaken and funds spent. In addition, CSO’s providers of services for women survivors of GBV and domestic violence are not participating the planning of State budget in relation to the implementation of the Convention. The continues lack of funds for implementation of national policies and laws related to gender equality and VAW has been in reiterated by relevant international human rights bodies, such as the UN CEDAW Committee,

which in its concluding observations to the State's periodic reporting has repeatedly expressed concern, and recommended the State to "allocate adequate human and financial resources to all national strategies and action plans for the advancement of women, ensure their effective implementation and monitor and regularly evaluate the process"²⁷. Despite this, this practice has continued even after the ratification of COE's Convention.

The Action plan for implementation of the Convention lists only the sources of funding for the envisaged activities, i.e. the competent ministries and donations, without specifying the amount of funds needed and the proportion of the allocated budget funds for implementation of foreseen activities. In fact, most of the implemented activities from the Action plan are funded by the foreign donors. In the process of adoption of the new Law on VAW the Ministry of labor and social policy presented no fiscal implication in the implementation of the Law,²⁸ although there is a provision that impose obligation for the respective institutions to allocate sufficient amount of money for prevention and protection of victims of violence.²⁹ In addition, there are not publically available financial reports for the conducted activities, which can provide more detailed information about the finances that were spent for implementation of the action plan. The annual financial reports for the implemented activities within the National action plan for COE's Convention which are published by the MLSP starting from 2019 are incorporating only a tabular presentation of the balance sheet, without any detailed specification of the implemented activities³⁰. The Financial reports of MLSP about the implemented budget funds do not include separate budget item allocated for dealing with VAW, nether. The last publically available Financial Report of the MLSP for the period 1st January 2021 – 30th September 2021, provides only general spreadsheet information that there were 1.350.000 MKD (less than 22.000 EUR) allocated for gender equality and non-discrimination, yet only 32% of these funds were actually realized³¹. In terms of budget funding for combating human trafficking, only the Ministry of Interior is included in the state budget with a separate budget item, i.e. there is a funded program for action against it. As the evidence shows, over the years there has been an increase in the funds set aside for this purpose. In other words, the funds set aside in 2019 are close to 11 times bigger than the funds awarded in 2018, or 80 times more than the money provided in 2017 and 2016. Yet, there is no information for the purpose for which these funds are used. Especially, since in the report of the National Commission it is evident that activities implemented and reported are mostly funded by International organization and CSO's trough foreign donors.

In addition, the State did not provided sufficient funding even for provision of support services to women survivors. Although the women CSO's are the "traditional" providers of legal, psychological, health and other services to women survivors of violence, yet this role is not recognized and appreciated, since no sufficient budget funds are allocated by the State for sustainable service delivery and operation of CSO's. Women who suffered domestic violence are not provided with the needed legal protection, financial support, and health protection etc. even

²⁷ CEDAW Committee, Concluding observations on the 4th and 5th periodic report of the former Yugoslav Republic of Macedonia*, from November 14th 2018, available at <https://digitallibrary.un.org/record/747307?ln=es>

²⁸ https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=55577

²⁹ Official Gazette of RNM 6p. 24/2021. Law on prevention and protection of violence against women and domestic violence.

³⁰ MLSP Financial Reports for the period 2019, 2020 and 2021 are available on the following link [785M9.pdf \(mtsp.gov.mk\)](https://mtsp.gov.mk)

³¹ Financial Report of MLSP for implemented budget funds the period 01.01.2021 – 30.09.2021 is available at [Finansiski izveshtaj za period 01.01-30.09.2021 godina.xls \(live.com\)](https://finansiski.izveshtaj.za.period.01.01-30.09.2021.godina.xls)

20 years after being formally legally protected by the State. For illustration, in accordance with the Law on games of chance and entertainment games³² (Article 16), the funds realized from the organization of games of chance and entertainment games are used to fund program activities of National disability organizations and their association, the Red Cross of the Republic of Macedonia and CSO's that are working on the field of domestic violence. Despite the increase of the budget for domestic violence over the years, yet annually only 5-6% of these funds in the amount of 65.000 EUR (4.000.000 MKD out of 70.000.000 MKD) are allocated for four CSO's providing services for women who suffered domestic violence³³. In addition, the criteria for allocating funds are not clear, neither the support provided is sufficient to meet the needs of service providers. Apart from this, The MLSP provides funding to organizations licensed to provide services in the field of social protection, including organizations that provide services to women who have suffered domestic violence. However, apart from the register of licensed organizations, there is no publicly available data on the amount of allocated funds or on the applied criteria in this regard. In addition, it is especially important to emphasize that there are CSO providers of specialized legal aid, psychological counseling and other services to women who suffered domestic violence, and are not part of the register of licensed organizations, thus there is not financial support provided to them despite the valuable work they are doing. NGOs dealing with sex workers implement activities mostly funded by the Ministry of health via the Program on prevention of HIV or foreign donors, but the recent decrease of the funding is especially concerning. No sufficient funds were granted to CSO's for protection of trafficked women and girl as well.

The continues lack of budget resources allocated by the State for addressing VAW and DV is the root cause for the existence of serious systemic deficiencies under all the components within the four main pillars of the COE's Convention, which unfortunately are not addressed by the State in a period of almost 20 years, such as: lack of awareness raising efforts by the State; absence of systemic education of practitioners dealing with cases of VAW and domestic violence; lack of victims centered approach and inadequate proceeding; lack of unified system of data collection; low level of coordination among state institutions; ineffective prosecution and lenient penal policy toward of domestic violence perpetrators.

Recommendations

The Government and relevant ministries should establish a mechanism for implementing a process of transparent budgeting, with detailed specification of the funds that need to be adopted within their annual budgets, as integral part of the processes of adoption of national legal and policy framework for addressing GBV and domestic violence. Participation of all relevant stakeholders should be ensured, including CSOs and direct consultations with women survivors, in order to assess their needs and provide budget funds for addressing them.

The prepared annual budgets of relevant ministries should incorporate separate budget item for financial support of CSO's providers of services for women who suffered domestic violence.

³² Official Gazette of RSM, No. 90/2017

³³ Decision on distribution on revenue from games of chance and entertainment games

IN 2021, available at <https://dejure.mk/zakon/odluka-za-rasporeduvanje-na-prihodite-od-igri-na-srekja-i-od-zabavnite-igri-vo-2021-godina-za-finansiranje-na-programskite-aktivnosti-na-nacionalnite>

The Government and relevant ministries should establish a regular practice of preparing detailed annual narrative financial reports about the funds spent, and to make them available to the public.

MLSP should increase the portion of funding for women CSO's working on prevention and protection against domestic violence, within the annual program for allocation of the incomes from games of chance and entertainment games, including the support provided to licensed CSO's, in accordance with their needs in terms of operation and service delivery. In parallel, MLSP should promote the criteria for approval of financial support among interested CSO's.

ARTICLE 9 – Non-governmental organizations and civil society

The ratification of COE Convention was followed by increased participation of civil society organizations in the legislative and policy efforts undertaken by the State, such as the adoption of the NAP 2018-2023, the new Law on VAW, including the consecutive adoption of by legal acts toward implementation of the law in practice. In general, the relevant ministries such as MLSP, MOJ and MOI have improved their practice in terms of participation and cooperation with CSOs in decision making processes or processes aimed at improving the institutional proceeding toward VAW and DV. However, there is a need for further recognition and promotion of the role that CSO's are playing and provision of more substantial support in parallel with the declaratory support.

Women CSO's are "traditional" providers of direct help and support to women survivors of VAW and domestic violence, and they are compensating for the lack of needed specialized services for different vulnerable groups of women, such as women who suffered domestic violence, women victims of human trafficking, sex workers, LGBTI etc. In this regard, the cooperation between the CSOs and state institutions differ in dependence with the vulnerable groups that they are representing. For instance, in terms of domestic violence, there is a practice that different State institutions such as CSW are referring the women survivors to the CSO's providers of specialized services, such as legal aid, psychological counseling, temporary sheltering etc. MLSP is partially funding the work and service delivery of CSOs providing SOS line and temporary sheltering for women survivors. In parallel, specialized CSO's for the provision of help and support to victims of human trafficking are key stakeholders in providing the needed services and supporting the actual needs of victims. They keep meticulous records, and closely follow the regulations pertaining to protection of personal information. On another side, the cooperation between CSOs working with marginalized women and state actors is sporadic, inconsistent and happens at the initiative of the CSOs rather than the state actors.

In addition, despite the recognition of this important role of CSO's, the funding provided by the State is not sufficient for sustainability of their work and addressing of all specific needs of women survivors. A Memorandum of Understanding was signed between MLSP and Open Gate in 2011, and a similar document was signed in 2019 between the two institutions, according to which Open Gate has committed to providing its services at the Centre for Victims of Human Trafficking and Sexual Violence, funded by the MLSP. However the MLSP covers only the cost of the utilities for the Centre that represent 5% of the total budget of functioning of the Centre. Only once, in 2019 Open Gate received grant from MLPS for managing of the shelter with amount

that covered no more than 16% of the total budget for the shelter. In this regard, although they are included in the system for prevention and support for victims of human trafficking, what is missing is financial support from the Government, so they have to rely largely on donors and donations for support.

In addition, the specific needs of different vulnerable groups of women identified by service providers, despite the continuous advocacy efforts of CSOs, are not effectively addressed in the state policies addressing VAW and DV. Such as the right to comprehensive legal aid to women who suffered domestic violence, which will enable them exemption of paying all the courts in the procedure initiated for resolving the problem with violence and related legal problems, such as divorce, custody, alimony, property division, etc. The direct work with sex workers shows that the specifics of their needs and problems are not addressed in the planning of the policies of the state. LGBTI organizations are generally focused on improvement of the situation of LGBTI people and only few of these CSOs³⁴ jointly with informal groups are devoted to the specifics of lesbian and bisexual women, Lezfem³⁵ and Transforma³⁶ on transgender rights. The new Law recognizes women sex workers, lesbians, bisexuals and transgender people as vulnerable groups whose necessities should be taken into consideration in the preventive and protective measure. There is a general impression on the part of CSOs working on trafficking in human beings, that they have a seat at the table in decision-making processes, and addressing the needs in terms of the legal and regulatory framework, yet their requests are not effectively addressed by the State.

In this regard, the general impression is that in the recent years there is increased CSO participation in processes of development and adoption of national legal and policy framework for protection of women survivors of VAW and DV. Yet, despite the improved formal participation of CSOs and practitioners in these processes, their substantial and meaningful involvement is still a challenge, given that despite the provided input by CSOs, the final word on the final text of the prepared policies has the decision makers from the Government and the relevant ministries themselves. For illustration of such practices we will use two recent examples.

In 2019 the Ministry of Labor and Social Policy have established a working group for preparation of the Law on Prevention and Protection against VAW and Domestic violence, which consisted of practitioners of institutions and CSOs. Although there was a consensus for each Article of the prepared draft Law among the working group members, yet, the final text of the Law was changed by the Minister of Labor and Social Policy before its submission to the Parliament for adoption. One of the changes referred to the establishment of the National Coordinative Body. Although it was agreed that the National Coordinative Body for Implementation of the COE's Istanbul Convention should be chaired by different Ministries, such as Ministry of Interior, Ministry of Justice, Ministry of Labor and Social Policy and Ministry of Health, on rotating level, as shared ownership of the entire process, yet Minister of Labor and Social Policy have decided that only MLSP will chair the Coordinative Body, before they have submitted the law for adoption. This is evident in Article 15, par.8 of the adopted Law³⁷, which stipulates the following "The National Coordinative Body is chaired by the Ministry of Labor and

³⁴ Coalition Margins works in the area of transgender rights through advocacy, strategic litigation of cases, legal empowerment of the transgender people and research. More on: <http://www.coalition.org.mk/>

³⁵ More on: <https://www.instagram.com/lezfem?hl=en><https://www.facebook.com/1e3fem-563098877047782/>

³⁶ More on: <https://www.facebook.com/transformamk/>

³⁷ Official Gazette of RSM, No. 24 from 29.01.2021

Social Policy”. This was done without informing and consultations with the practitioners from the working group. This negative practice raises the question whether we can discuss about meaningful or substantial participation of practitioners from institutions and CSO’s in decision making processes, if despite the input provided, it is not respected by the high State officials who have the final word.

In 2021 the Ministry of Justice launched changes to the Criminal code toward its harmonization with the COE’s Convention, and draft changes were prepared by a working group established by the Ministry of Justice for this purpose. At the same time, CSO’s that are working on prevention and protection against GBV domestic violence were constantly advocating for incorporation of the needed changes in the Criminal Code, including change to Article 130, Par.2, that will allow ex officio prosecution of the criminal act bodily injury in domestic violence cases. Yet, despite the fact that all other criminal acts related to domestic violence are ex officio since 2004, with the exemption of this one which is the most common in practice, the arguments of CSO’s were not taken into account. Thus, apart from the continues advocacy of CSO’s, including the arguments provided on the public debate organized on 15 December 2021 in the Parliamentary Committee for Equal Opportunities, the Coordinator of the working group expressed his opinion that this change will be not introduced in the criminal code.

The CEDAW Committee in its latest concluding observations on North Macedonia from 2018 shares the similar concern and therefore issued the recommendation for “[s]trengthen[ing] cooperation with civil society organizations and other stakeholders with the aim of identifying and addressing situations of exclusion, deprivation, poverty and neglect.”³⁸ Also, the process of harmonization of the provisions of the Istanbul Convention with the national legislation and drafting of the bylaws for implementation of the Law on prevention and protection of violence against women and domestic violence is also lacking transparency.

Recommendation

Government and relevant ministries should establish mechanisms for regular consultations of CSO’s in the decision making processes, encourage their participation, and assure that the input provided by CSO’s is recognized as such and incorporated within the final decisions made.

ARTICLE 10 – Co-ordinating body

The National Coordinative Body for implementation of COE’s Convention was established by the Government in 2021, in accordance with the Law on Prevention and Protection against VAW and Domestic Violence. This is a governmental body consisted of representatives of representative of State Secretary, Ministry of Labor and social Policy, Ministry of Interior, Ministry of Justice, Ministry of Health, Ministry of Education and Science, Judges, Public Prosecutors, Units of Local Self government, three CSO’s, trade unions, employers etc. In this regard, it is important to notice that the process of establishment was not transparent; neither the Coordinative Body was promoted in the public.

³⁸ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para.12(e).

The Coordinative Body is chaired by the Ministry of Labor and social Policy only and the administrative work is done by this ministry. In this regard, there is no shared ownership over it by the other relevant ministries with legal mandate to provide protection and support to women who suffered VAW and domestic violence, such as the Ministry of Interior, Ministry of Justice and Ministry of Labor and Social Policy, despite the fact that this was the opinion of the working group engaged for preparation of the law (as elaborated under Article 9). One of the barriers for its functions is that there is no budget allocated for the work of this body especially. The mandate of this body is to monitor the implementation of measures and activities toward addressing VAW and Domestic violence, but there is a lack of capacities for collection of data and proposing measures respectively. In addition, there is not a mechanism, neither a practice established for the institutions to consult the body on the measures and policies undertaken on the field of combating VAW and domestic violence.

In addition, the coordination of all stakeholders in the fight against human trafficking is done by the National Commission for Combating Trafficking in Human Beings and Illegal Migration (Commission). The Commission is chaired by the National Coordinator, and two deputies are participating, one of whom is in charge of the situation and activities in the field of human trafficking, and another deputy is in charge of the situation and activities related to illegal migration, secretary and members of the Commission.³⁹ Within the Commission since 2003, there are working bodies: the Secretariat⁴⁰, responsible for the implementation of the decisions of the Commission and the Subgroup for Combating Child Trafficking (Subgroup)⁴¹ to monitor the specific needs of child victims, protecting their interests and rights. During the year, the Commission maintained regular contacts with members and associates at national and regional level, where they discussed and proposed solutions and efforts to promote the field of trafficking in human beings (trafficking) and illegal migration (IM). For the fifth time, the National Commission prepared new documents,⁴² National Strategy and National Action Plan for Combating Trafficking in Human Beings and Illegal Migration for a Period and National Action Plan for Combating Trafficking in Children 2021-2025. (NAP), which during 2021 were adopted by the Government of the RNM. However, the National Commission office lack human and technical capacity since its operated by one person responsible for assisting the national Commission, preparing annual reports, organizing meetings, preparation of the action plans and monitoring implementation, collecting data etc.

In terms of monitoring the implementation of policies addressing human trafficking, in 2019, a National Anti-Trafficking Reporter was established, i.e. an official person was appointed to perform activities equivalent to the role of a national reporter (two professionals hired: one public advisor and one advisor). The Rulebook for this mechanism is not publicly available on the Ombudsman website (accessed on February 21 2021). The scope of work of the National Reporter are the following: analysis of qualitative and quantitative data collected from various partners, monitoring and evaluation of implemented activities outlined in the National Action Plan,

³⁹Members of the Commission, representatives of: Mol, MFA, MLSP, MP, MES, MOH, Basic Public Prosecutor's Office for Prosecution of Organized Crime and Corruption, Judge from the Basic Court Skopje 1, MES / Bureau for Development of Education, State Labor Inspectorate and Employment Agency of RSM.

⁴⁰ Members are representatives of: international organizations, citizens' associations and experts from government institutions:

⁴² In 2006-2008 the first was prepared, in 2009 - 2012 the second, in 2013-2016 the third and in 2017-2020 the fourth Strategy and National Action Plan for Combating Human Trafficking and Illegal Migration in RSM.

participating in the work of the National Commission for Action Against Human Trafficking and Illegal Migration, drawing conclusions and making recommendations for improving and perfecting the action against human trafficking and illegal migration in terms of implemented laws and policies for a better institutional response, recommendations for revisions of strategic goals, initiating and proposing points and stance regarding issues on curbing human trafficking and illegal migration, and preparation of an annual report. The National Anti-Trafficking Reporter, for instance, has one public report on the country's progress in curbing human trafficking.

Recommendations

Government should initiate a process of changing the Article 15 from the Law on Prevention and Protection against VAW and domestic violence, in order to enable the Coordinative Body to be chaired by different Ministries on rotating level, especially taking into account that there was a shared consensus on this among the decision makers, practitioners and CSOs involved in the development of the Law.

Government should improve the operation of the National Coordinative Body for implementation of the Convention, by strengthening its institutional capacities and budget funding and establishment of mechanisms for effective communication with relevant ministries, institutions, judiciary, CSO's. Positive examples by other member States, that were already greeted by GREVIO should be especially considered in this regard.

Government should improve the operation of the National Commission for Combating Trafficking in Human Beings and Illegal Migration, as well as the other mechanisms established, by strengthening its institutional capacities and budget funding.

ARTICLE 11 – Data collection and research

The lack of unified system for data collection is one of the main systemic deficiencies that severely undermine the opportunity for continues monitoring and determination of trends and needs, which will serve as basis for planning, implementing and evaluating national policy and legal framework for addressing VAW and DV.

Despite the normative preconditions for establishment of data collection system for domestic violence cases since 2004, yet almost 20 years later, there is not unified system of data collection established by Centers for Social Welfare, police, civil and criminal courts, Public Prosecutors, health institutions. The existing system for data collection is not unified; neither is providing gender disaggregated data by age, type of violence, geographical location, relationship with perpetrator etc. Furthermore, there data that is collected about domestic violence cases is not made public on national level and can be provided only by the interested entities trough the request for access to public information. The LIRIKUS system for data collection which is used by the Centers for Social Welfare is not functional, since it is not regularly updated by the CSW and the data contained is not harmonized with the data provided directly from CSW on request of the State Department for Social Affairs, which was stated as such in the annual report that this institution is preparing for the work of CSW nationwide. Thus, there is a lack of publically available data on the number of provided legal, psychological, housing and other services to

women survivors. There is not functional system for monitoring the implementation of TMP by CSW, and lack of data about the cases in such need and the number of cases with proposed TMP to the courts; there is not data about the type and number of proposed measures compared to those approved by the courts, neither information about the changed, amended, and terminated TMP. The absence of this data is even more alarming, since the missing information is crucial for assessing the effectiveness of this specialized mechanism for urgent protection of women survivors and addresses the identified shortcomings in this regard. There is a practice of regular announcement of general financial reports on the web pages of CSW, without specification of the funds spent for protection of women survivors, but not a practice for announcement of narrative reports as well. Thus there is not available data not about the services provided to different vulnerable groups of women, including women survivors of VAW and domestic violence. There are publically available narrative reports for some of the CSW, but the provided data is not detailed, and there is not specification of the needed data as elaborated above⁴³. The previous practice of the Ministry of Interior for announcing quartile data on reported domestic violence cases, in terms of criminal acts, misdemeanors and complaints have been abandoned, and there are not publically available data about reported cases of VAW and domestic violence in the police. The practitioners from health institutions are not providing this type of data as well. At the moment, there is not one institution that regularly collects and makes publically available gender disaggregated data on VAW and domestic violence, incorporating the general information about the women survivors (age, gender, place of living, level of education, employment status), relationship between the victim and perpetrator. The State Statistical Office announce annual data on “Perpetrators of criminal acts”, but it does not incorporate information about the victims of crimes, including women victims of criminal acts related to VAW and domestic violence. There is not separate data collection on women victims involved in civil and criminal court procedures within the electronic court system for data collection (AKMIS).

The request for access to public information remains the only tool used by CSO’s for getting some form of gender disaggregated data on VAW and domestic violence, and often the data collected is not unified, neither all the institutions addressed are willing to share the data in this regard. In addition, there is not national survey on VAW and domestic violence conducted by the State so far, in terms of determining prevalence, nature, consequences, neither the State have provided support to other relevant stakeholders in this regard. There is a lack of publically available information about the survey that is expected to be conducted by the State Statistical Office in this regard. Related to trafficking cases there is no electronic joint official data base that collects detailed information. Namely, the data is scatter between the institutions and there is lack of precise data for the PPO in term of indictments and there are missing data about the compensation in the court system. Especially concerning is that many of the judgments were not anonymized at all and revealed personal data for the victim, even for the child - a victim, as opposed to international and domestic provisions for the protection of the privacy and identity of the victim and the child victim.⁴⁴

This fact increases the concerns that even after the adoption of the new Law on Prevention and Protection against VAW and Domestic Violence, the establishment of the unified system for data collection and public announcement will be a challenge, taking into account the broadened

⁴³ Narrative Report from CSW Kavadarci 2020, available at <http://www.jumcsr-kavadarci-mtsp.gov.mk/images/sampled/izvestajRabota2020.pdf>

⁴⁴<https://rm.coe.int/hf29-research-thb-mkd/16809f035d>

scope of the data which refers to different forms of VAW. Especially taking into account the continuous reiteration of the CEDAW Committee's recommendations toward the State to enhance the system of systematic data collection about the cases of gender based violence and discrimination, disaggregated by type of violence, and by the relationship of the perpetrator to the victim, and make the collected data available to the public. In addition in its last Concluding observations the Committee has recommended collection and publically available data on the cases for imposing TMP⁴⁵.

Positive step was done as a result of the CSO advocacy, that the establishment of unified data collection system for domestic violence cases is part of the new National Action Plan for Open Government Partnership (OGP) 2021-2023⁴⁶. However, the process faced an obstacle from representatives of MLSP who are part of the working group coordinated by the MOJ who should implement these measures. Namely, the working group for implementation of this objective was established and launched its work in March 2022. However, during the working meetings organized in March 2022 the representatives of MLSP have informed the coordinator from the Ministry of Justice and other members that the foreseen dynamic and content of the adopted measures is not in line with the current policy efforts undertaken by MLSP, such as the adoption of by legal acts for data collection. Namely, MLSP with international support has engaged external experts for adoption of different by legal acts, including those for MOI and MOJ. In this regard, it is worrying that the lack of will by MLSP to reconcile this two processes can affect the implementation of other measures under the jurisdiction of MOI and MOJ, although there is strong will by these ministries to implement promptly the measures under their jurisdiction, such as advancing of the system of data collection in the police, courts and Public Prosecutors. In this regard, there should be mutual understanding that the new Law cannot present an obstacle for implementation of the NAP for OGP, especially since the adopted objective is a result of almost 20 years advocacy efforts of CSO's dealing with the problem of domestic violence. In this regard, recognizing the long standing practice of proceeding in domestic violence cases and the identified specific needs in terms of data that need to be collected, MLSP should undertake the measures planned, including those related to the establishment of integrated data collection system for monitoring the TMP by police, CSW, health institutions involved in their implementation.

Recommendations

MLSP and CSW should improve the existing system of data collection in cases of VAW and domestic violence by providing gender disaggregated data in accordance with the Law, in relation to the type and number of provided general and specialized measures of protection, such as legal, psychological counseling, housing, employment, health etc. To establish a separate system for monitoring the implementation of temporary measures of protection, including information on the number of approved TMP, and of changed, amended or repealed TMP. To regularly make the collected data available to the public, on quarter level, with the incorporation of all the information.

⁴⁵ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, November 2018

⁴⁶ Национален акциски план за ОВП 2021-2023, цел.4.3., available on the following link <https://ovp.gov.mk/nap/национален-акциски-план-за-отворено-в/>

MLSP should implement its obligations from the NAP on OGP 2021-2023, in relation to data collection for domestic violence, in line with the already undertaken policy efforts toward establishment of data collection system in accordance with the new Law on VAW.

The Ministry of Interior should improve the existing system of data collection in cases of VAW and domestic violence, by providing gender disaggregated data in accordance with the Law in relation to the type and number of criminal acts, misdemeanor and complaints in cases of VAW and domestic violence. Establish a system for monitoring the execution of the TMP “removal of the abuser from home and ban from approaching”, and collect data about the number of respected/violated TMP by the abusers, and the measures undertaken to assure their compliance with TMP. To regularly make the collected data available to the public, on quarter level, with the incorporation of all the information, as elaborated above. The undertaken efforts for implementation of the NAP for OGP in this regard, present a positive step toward implementation of Article 11 in this regard.

Ministry of Justice, court and public prosecutors should improve the existing system of data collection in cases of VAW and domestic violence by providing gender disaggregated data in accordance with the Law for each of the civil and criminal court proceedings, and advance the existing AKMIS system for these purposes. To regularly make the collected data available to the public, on quarter level, with the incorporation of all the information. The undertaken efforts for implementation of the NAP for OGP in this regard, present a positive step toward implementation of Article 11 in this regard.

Ministry of Health should improve the existing system of data collection in cases of VAW and domestic violence by providing gender disaggregated data in accordance with the Law, by number and type of provided health services. To regularly make the collected data available to the public, on quarter level, with the incorporation of all the information, as elaborated above.

The government and relevant ministries should improve the system of data collection related to human trafficking by developing an electronic database of cases of victims of human trafficking, which will be managed by relevant institutions and mechanisms involved in curbing this type of crime. Improve the current in record keeping of cases of human trafficking. Upgrade of information system and supervision over the application of the provisions of the Rules of Procedure in the courts order to have records of cases on the basis compensation for damage caused by the crime of Trafficking in Human Beings or Child trafficking.

III. PREVENTION

ARTICLE 12 – General obligations

Despite the recent legislative and policy efforts undertaken toward addressing the need for awareness raising and implementation of Article 12, the general conclusion is that the State neglected the prevention of VAW and domestic violence, since no substantial efforts were undertaken for addressing the existing gender inequalities, prejudices and gender stereotypes, as root causes of discrimination and VAW. In parallel, the trend of adoption of national legislative and policies, without informing the citizens about the legal changes and rights guaranteed continues. As a result, there is a high level of acceptance of the patriarchal traditions imposing subordinated position of women in family and society, among the general and expert public. In addition, women are not informed about the nature of domestic violence and how to recognize it; and about the legal mechanisms for their protection and the legally guaranteed rights, thus they are not able to protect themselves from acts of violence and effectively resolve other legal problems, such as divorce, custody, alimony, property division etc.

The State's existing declaratory approach have been directly contributing for this unfavorable situation of women, since apart from the adoption of the preventive measures within the National Strategies and Action Plans for addressing gender equality and VAW, their implementation in practice is still lacking. The relevant Ministries and institutions did not addressed the specific needs of different vulnerable groups of women, such as the women who suffered domestic violence, women victims of human trafficking, sex workers, women from ethnic minorities (Roma and Albanian), women from rural areas, women with disabilities. There are not effective programs established for legal and economic empowerment of women, which further undermines the efforts undertaken on this field so far.

In addition, no substantial efforts were implemented for assuring substantial involvement of men in decision making processes related to promotion of gender equality and elimination of VAW and domestic violence in the society neither. The attitude of decision makers toward encouraging men to participate in prevention of VAW and domestic violence can be best illustrated through the work of the Parliamentary Committee on Equal Opportunities between Women and Men, given that more than 95% of the parliamentarians and other attendees at the sessions are women.

Recommendation

The State should allocate budget funding for implementation of national legislation and preventive measures toward raising awareness among general and expert public about the nature of VAW and DV, including elimination of gender stereotypes and prejudices, as root causes of gender inequality and VAW.

ARTICLE 13 – Awareness-raising

The awareness raising efforts are mainly implemented by the CSO's and international organizations, and without the comprehensive State support, the impact achieved on national level is very limited. Despite the declarative support to these campaigns by the national authorities, yet in practice the State have neglected the need for prevention, since the Government, relevant ministries, institutions and judiciary did not implemented continuous awareness raising efforts for improving understanding among the general population about the root causes of domestic violence, including promotion of gender equality and elimination of the existing patriarchal norms and prejudices.

Neither separate awareness raising efforts were undertaken for preventing VAW and domestic violence or addressing the specific needs of women survivors from especially vulnerable categories, such as the women from rural areas, ethnic minorities, women with disabilities. This directly contributes for the continuous trend of high prevalence of domestic violence in the country in the last 20 years. As a result, 37% of the women in the country believe that a “good wife obeys her husband even if she disagrees and almost half of the women or 48% considers domestic violence as private matter that should be handled within the family”⁴⁷.

The COVID-19 crisis and the declared State of emergency in 2020 have increased the need for providing adequate information to women how to recognize VAW and domestic violence, and where to approach for help and support. CSO's have alarmed about this emerging need on behalf of their women beneficiaries, and asked from the State to undertake substantial efforts for increasing access to information during the crisis. For illustration, Association ESE has send written recommendations to the Prime Minister, the Government and relevant ministries and demanded urgent measures to be undertaken for addressing the specific needs of women survivors during crisis, including implementation of comprehensive awareness raising efforts on national level for informing the women how to recognize domestic violence and use the available mechanisms for their protection. There were concrete recommendations on how to use alternative channels of communication for this purpose, including: national TV stations; messages trough mobile operators; insert information for women without phones into monthly bills of public water and electricity companies; leaflets trough pharmacies and supermarkets; engagement of local crisis headquarters for reaching the most vulnerable categories who don't have access to phone and TV etc. Unfortunately, these recommendations were not taken into consideration and the MLSP have provided response which was rather declaratory, explaining that the system is functioning, the campaign for informing the public is implemented, and the relevant institutions such as CSW and police are proceeding in urgent and coordinated manner⁴⁸. Unfortunately, the COVID-19 crisis was not recognized as “trigger” point for the State to change its “traditional” declarative approach, and undertake substantial efforts for addressing the long-term systemic deficiencies in the formal system of protection, and adapt the institutional response to the crisis circumstances.

⁴⁷ OSCE-Led Survey on Violence against Women: North Macedonia, 2019, available at <https://www.osce.org/secretariat/419264>

⁴⁸ The Urgent Recommendations for cooperation and coordination of competent institutions during crisis and state of emergency, send by Association ESE, on 10h April 2020, and the response of MLSP are available on the following links [Препораки за итна заштита од семејно насилство.pdf \(esem.org.mk\)](#);

through mobile operators; insert information for women without phones into monthly bills of public water and electricity companies; leaflets through pharmacies and supermarkets; engagement of local crisis headquarters for reaching the most vulnerable categories who don't have access to phone and TV etc.

Relevant ministries and institutions should prepare and distribute informative leaflets with useful information about the legal mandate of each institution and the help and support that they are providing to women survivors of GBV and domestic violence.

ARTICLE 14 – Education

The new concept on the education was adopted in March 2021 and its implementation started in the school year of 2021/2022. The gender equality and prevention of discrimination and violence are key principles based on which the concept is developed. The Concept is a significant improvement taking into consideration that many analyses of textbooks and school curricula demonstrate frequent presence of gender stereotypes and discriminatory narratives, as well as an absence of certain social groups such as women, people with disabilities, LGBTI people, and people from different ethnicity. All areas of the concept contain promotion of gender equality as a prevention and protection of gender-based discrimination and violence. In addition, the introduction of comprehensive sexuality education, provided in the Concept, will inform the young people on the concepts of equality, protection of violence and elimination of discrimination. The concept was not sufficiently promoted in the public, and there is a need for conducting comprehensive campaign on national level in order to promote the benefits to the general and expert public. Especially because part of the population have expressed their dissatisfaction from the introduced concept, and mobilized themselves, such as the FaceBook group called „Textbooks and teachings must have” with 80.000 members, consisted of parents who are not approving the concept and calling for boycotting the educational process.

There is a lack of systemic education and capacity building of teachers about the gender equality, VAW and domestic violence, neither the students were addressed by the Ministry and educational institutions in the elementary and secondary education.

Recommendation

Ministry of Education should undertake comprehensive awareness raising campaign for promotion of the benefits of the new educational concept. In addition, to organize capacity building for educational staff and peer education among students about the gender equality, VAW and domestic violence.

ARTICLE 15 – Training of professionals

Recent legislative and policy efforts were undertaken toward incorporating the legal obligation for organization of systemic education within the national legislation, as a basis for implementation of Article 15. However, the lack of systemic education remains one of the main deficiencies within the existing system of protection, which further contributes for serious

implementation gaps and inadequate institutional response toward VAW and domestic violence. The efforts undertaken so far were mainly based on donor support and engagement of national and international organizations. The Government and relevant ministries did not implement systemic education of practitioners from relevant State institutions for dealing with domestic violence cases for almost 20 years. There is not general, neither special trainings organized for practitioners from institutions, dealing with VAW and domestic violence for increasing their sensitivity about the nature of VAW, the characteristics, consequences, the relationships between the victims and perpetrators. The situation is even more unfavorable, since the practitioners of relevant institutions such as the police and CSW are not completely informed with their legal obligations how to proceed in these cases. As a result, there are documented negative practices for inadequate and harmful proceeding of these institutions in these cases. There are examples where apart from the lack of protection services provided, the SCW is calling victims accountable for the situation, and initiating TMP against the women survivors. In addition, wrong methodology is applied for working with women survivors of VAW as stipulated under the Article 20 in this report.

Police representatives, even the inspectors dealing with the cases, are not sufficiently informed about the proceedings, including the manner to conduct risk assessment when executing the urgent measures of protection. Association ESE in cooperation with the MOI has conducted assessment of police proceeding in domestic violence cases, incorporating 48 interviews with police representatives (24 police inspectors). The data show that more than half of the police representatives did not attend any training or other educational event addressing GBV and domestic violence⁵¹.

The education of practitioners from judiciary is not incorporated within the initial and continuous education organized by the Academy for Trainings of Judges and Public Prosecutors. The annual Initial Training Program - Practical work for 2022 does not incorporate practical work and monitoring on cases related to VAW and domestic violence by future judges and public prosecutors⁵². The annual program for mandatory continuous training for 2022 for judges and public prosecutors⁵³ does not incorporate basic and specialized training for dealing with VAW and domestic violence, including the work with women survivors. In general, the Academy is open for cooperation with CSO's and co-organization of trainings proposed by them on topics related to gender equality, non discrimination, domestic violence etc.

In terms of human trafficking, most training carried out in the past 3 years has been geared towards officials from MOI, mobile team's member (CSOs, Police, and CSW), educational professionals. In addition, a number of inspectors from the State Labor Inspectorate (excluding persons employed in the last quarter) have undergone basic training on early detection, identification and treatment of potential victims of trafficking. Some of the inspectors have passed advanced trainings. Moreover the Academy for Training of Judges and Public prosecutors of the Republic of North Macedonia state that is organizing continuous training in cooperation with other institutions with relevance on the topic. IO's and CSO's organize most of the trainings.

⁵¹ Draft analysis on police proceeding in domestic violence cases, Association ESE 2021

⁵² The annual Program for Initial Training – Practical work for 2022 is available at https://jpacademy.gov.mk/initial_training/programa-za-praktichna-nastava/

⁵³ Catalog of Trainings - mandatory continuous training for 2022 for judges and public prosecutors, available at

Recommendations

The Government and relevant ministries should undertake substantial efforts for planning and implementing continues systemic education of practitioners, ensured trough their annual budgets regularly. In parallel, to conduct comprehensive need assessment of practitioners concerned in order to identify the specific challenges in their proceeding on cases of VAW and domestic violence, in order to incorporate them within the educational curricula.

In addition, the Government and relevant ministries should organize regular educational events for exchange of experience and positive practices among practitioners, in order to ensure unified proceeding of all institutions and judiciary toward VAW and DV cases.

The Academy for Judges and Public Prosecutors should incorporate the education on GBV and domestic violence, within the initial and continuous education.

ARTICLE 16 – Preventive intervention and treatment programmes

Apart from the adoption of by legal acts or standards that are regulating the establishment and operation of treatment programs for abusers in domestic violence cases, there is a lack of practice in this regard, neither publically available data about the implementation of this program, incorporating evaluation of impact achieved. Neither, there is available information about the capacities of professionals engaged to provide the assistance within these programs. In this regard, this lack should be also interpreted with the lack of adequate proceeding of CSW and inadequate risk assessment, where CSW is referring abusers to visit appropriate counseling with women, in order to keep the family together. Thus, not only those victims are held accountable for situation with domestic violence, but perpetrators are actually “excluded” from visiting the needed treatment programs for changing of their violence behavior, which further undermines all the efforts undertaken so fat for implementation of this article in practice.

Recommendations

The Government and relevant ministries should ensure effective implementation of programs for treatment of the perpetrators, and provide assistance to perpetrators, by appropriate professionals, especially neurologists, psychiatrists and pedagogues, in order to ensure prevention of future acts of violence.

ARTICLE 17 – Participation of the private sector and the media

Apart from the limited efforts undertaken toward the public sector, the State did not implemented substantial efforts for improving understanding among the private sector on the issues related to gender equality, VAW and domestic violence.

Recommendation

The Government and relevant ministries should undertake substantial efforts for creating solid preconditions for implementation of Article 17, and especially toward media for increasing their engagement in terms of improving the understanding among the public on the issue of gender equality, VAW and DV.

IV. PROTECTION AND SUPPORT

ARTICLE 18 - General obligations

The Government and relevant ministries have undertaken legislative and policy efforts for broadening the legal framework for protection to different vulnerable groups of women survivors of VAW and DV. The new Law on VAW and NAP 2018-2023 are defining the type and scope of support services and protection that should be provided in this regard. But, there is still a need for creating the needed preconditions for implementation of the system of protection and support in practice. Contrary to the improvement of the normative preconditions for more effective protection to women survivors of different forms of VAW undertaken after the ratification of COE's Convention, in practice there is a lack of effective implementation of legal mandate by institutions, as well as low level of coordination in cases of VAW and domestic violence.

The existing long-term systemic deficiencies, and moreover the factual position of women survivors presented in this report, indicate that the competent ministries, CSW, police, courts and health institutions, are not providing the needed specific information to women survivors. Practitioners from the competent institutions are insufficiently acquainted with the existing legislation, neither with their specific obligations regarding their proceedings in these cases. The lack of systematic education of practitioners further contributes to their unfamiliarity with the nature of VAW and domestic violence as gender-based violence, and the dynamics and consequences of violence, which directly affects the way of dealing with these cases.

Although the adoption of the Law on prevention and protection against VAW and domestic violence was followed with the development of by-legal acts (Rulebooks) by the Ministry of Interior⁵⁴ and Ministry of Labor and Social Policy⁵⁵, yet substantial efforts should be put for assuring their implementation in practice, since the implementation gaps of the previous law⁵⁶ and by-legal acts regulating the proceeding of CSW and police are not resolved yet.

In addition, the State did not assured the unified provision of general and specialized services to women survivors of VAW and domestic violence. The situation is even more unfavorable, since almost 20 years after the adoption of the Temporary Measures of Protection (TMP) against domestic violence, this specialized mechanism for immediate protection of women survivors is still not functional and there are not available data about the effectiveness of TMP's implementation in practice. The number of civil court procedures for imposing TMP which suppose to prevent domestic violence remains low, compared to the increased number of criminal procedures for committed criminal acts related to domestic violence. The high prevalence of VAW, including the increased number of killings of women, was one of the major

⁵⁴ MOI Rulebook on the manner of conducting a risk assessment of a serious danger to the life and physical and mental integrity of the victim and her family members and the risk of recurrence of violence; and Rulebook on manner of execution of temporary protection measures, Official Gazette No. 240/2021.

⁵⁵ MLSP Rulebook on the manner of implementation and monitoring of temporary protection measures, Official Gazette No. 248/2021; MLSP Rulebook on the manner of conducting a risk assessment of a serious danger to the life and physical and mental integrity of the victim and her family members and the risk of recurrence of violence, Official Gazette No. 240/2021.

⁵⁶ Law on Prevention, Suppression and Protection against Domestic Violence (out of force)

concerns of the CEDAW Committee, expressed in its last Concluding Comments and Observations to the country's last periodic report.⁵⁷

Practitioners from state institutions and judiciary are not sensitized for the nature of gender based violence, the dynamic and consequences, the relationship between the victims and perpetrators are not taken into account, thus the victim's centered approach in their proceeding is not applied. The problem with re-victimization of women who suffered domestic violence by institutions is still not overcome; neither substantial effort was applied to address the needs of vulnerable groups of women survivors, such as women from ethnic minorities, women living in rural areas, women with disabilities, as well as women who are foreigners in the country.

It is worrying that in parallel with the failure to provide the necessary assistance and support, women are facing difficulties in their communication with institutions, such as the Centers for Social Work. Moreover, there is a harmful practice of applying the wrong methodology for working on cases of domestic violence, which results in calling the victims accountable and worsening their condition. Namely, instead of applying the methodology for working with women survivors of domestic violence, there are documented cases when the CSW are applying the methodology for "improving relationship in marriage and family", and guiding the victim to visit counseling together with the perpetrator towards keeping the family together. This harmful practice is not an isolated case and it is repeating, since it was identified by different CSO's providers of services to women survivors⁵⁸.

Please see more detailed information under the following Articles.

ARTICLE 19 - Information

The separate objective "Prevention of GBV and Domestic Violence" incorporates awareness raising activities toward the general population, which are including awareness raising campaign about different forms of GBV and domestic violence, including preparation and distribution of informative materials such as leaflets about the available services to victims of GBV⁵⁹. In addition, vulnerable groups of women, such as women from ethnic minorities and women with disability are targeted with these activities as well. In terms of financial support for realization of these activities, the budget item within NAP does not incorporate the amount of funds specified, but only general information about the source of funding, including MLSP, City of Skopje, ULSC, donations and private sector. In addition, within the Law on Prevention and Protection against VAW and domestic violence, the mandate of the Government and relevant ministries, such as MLSP, MOI and MJ⁶⁰, incorporates general obligation for provision of financial resources for support of activities for prevention, yet there is not separate budget item neither budget funds are provided within the annual budgets of these institutions for this purpose.

In practice, the awareness raising and especially promotion of support services for women survivors of GBV and domestic violence is done mainly by CSO's and international organizations.

⁵⁷ CEDAW Committee, Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, from November 14th 2018

⁵⁸ Data provided from women who suffered domestic violence, beneficiaries of the Legal Aid Centre that operates within Association ESE.

⁵⁹ NAP for Implementation of the convention 2018-2023, Objective 3 Prevention of GBV and domestic violence

⁶⁰ Article 14, 17, 18, 19 and 20 , Law on Prevention and Protection against VAW and domestic violence

But the impact from these activities were rather limited, and significant percentage of women are not informed about the available services, as confirmed in the OCSE LED Survey on VAW61 . In general there is a low level of information among women survivors about the supporting services, including legal measures available for resolution of VAW and domestic violence. In addition, women are not sufficiently informed about the specifics of the civil and criminal court procedures for protection against VAW and domestic violence, neither about the procedures for resolution of other related legal problems, such as divorce, custody, alimony, property division etc. In this regard, a specific need which has been neglected by the competent institutions is to inform women survivors about the amount of costs in the proceedings before the competent courts. Namely, the women's decision to undertake a certain procedure for protection from domestic violence and resolving related legal problems, such as divorce, guardianship, alimony, property relations, etc. is directly conditioned by their financial ability to pay the court costs arising from these proceedings. Therefore, the provision of precise information about the amount of court fees and all the other court costs directly influences the effective resolution of women's legal problems through the courts. As equally as important is the information of women about the legal mechanisms for using exemption from paying the court fees, as prescribed in the Law on Free Legal Aid, Law on Litigation Procedure and Law on Court Taxes.

Please note that detailed information about the personal experience of women survivors in relation to their knowledge on court costs and legal mechanisms for exemption of paying court costs, as well as the impact that the costs are producing, under Article 20, within the part about legal counseling.

In this regard, it is important to stress those women from ethnic minorities and women from rural areas are less informed about the available support services, as well as the civil and criminal court procedures for protection VAW and against domestic violence. In accordance with the court monitoring on domestic violence cases conducted in the period March 2018-February 2019, 80% of the women involved in criminal procedures for committed criminal acts as a result of domestic violence were from urban areas, compared to only 20% of them from rural areas; in terms of their nationality 78% were Macedonians, compared to 12% Albanians, 5% Roma, and 5% from other ethnic minorities62. In addition, women are not informed about other related mechanisms which are legally guaranteed for them, such as the right to be accompanied in front of State institutions and judiciary. Only 17% of women involved in court procedures for their protection were informed about the "right to companion".

The reasons for this situation are twofold: the Government and competent ministries have not conducted a comprehensive campaign at the national level to promote the available assistance and support for women survivors; and, there is lack of adequate and timely information provided by practitioners from the competent institutions, when proceeding in individual cases, after women report the violence. The situation of vulnerable groups of women, such as women from ethnic minorities, women from rural areas and women with disabilities is even more unfavorable when it comes to access to information.

The unfavorable position of women from these vulnerable groups is in continuity confirmed by the CEDAW Committee in its Concluding Comments and Observations to our country, thus there

⁶¹ OSCE Led Survey of VAW: North Macedonia, available at https://www.osce.org/files/f/documents/3/5/419264_1.pdf

⁶² Court Monitoring Report on Domestic Violence Civil and Criminal Court Procedures, Association ESE, 2019

is a need for undertaking substantial efforts for increasing the access to information to women who suffered VAW and domestic violence in general, and especially to vulnerable groups of women.

Recommendations

Government and MLSP, MOI, MJ, MH should incorporate separate budget item for “prevention and protection of GBV and domestic violence” within their annual budgets, and allocate separate funds for promotion of their legal mandate among women, including vulnerable groups of women survivors.

MLSP and CSW should prepare and distribute informative materials among general population and women especially, which incorporates information about the measures of protection provided by CSW, and especially the TMP as specialized mechanism for prevention of GBV and urgent protection of women survivors.

MOI and police should prepare and distribute informative materials among general population and women especially, which incorporates information about the obligations of the police within the criminal procedure, the ex officio prosecution of cases of domestic violence, and especially on their mandate related to the execution of the urgent measure of protection “removal of the abuser from home and ban to approach”.

Ministry of Justice and Basic Courts should prepare and distribute informative materials among general population and women especially, which incorporates information about the civil and criminal procedures for protection and all the specifics of the other civil court procedures. In this regard, women should be informed about all the specifics of the procedures, including the amount of court fees and how to use the mechanisms for exemption of payment of these fees.

ARTICLE 20 - General support services

In accordance with our legislation women survivors can use the general support services, including social protection, health protection, legal aid, psychological counseling, as part of the support provided to citizens in social risk. The social protection services are implemented in accordance with the Law on social Protection by the CSW mainly.

General social services

General social services are granted through the Law on social Protection for people in social risk, and they include provision of the following services by the CSW: information and referral services, professional assistance and support services; counseling services; home services; community services (sheltering and temporary sheltering) and extra-family protection services⁶³. Women survivors of VAW are not explicitly listed as beneficiaries of these services, with the exemption of women who suffered domestic violence who are explicitly listed as beneficiaries of the counseling services and temporary sheltering under the community services, but not for other social services.

⁶³ Article 70

What is especially important to emphasize is the negative practice of CSW after the women are reporting the violence, which afterwards affects the provision of all the social services by this institution. Namely, there are identified cases by CSO's service providers that CSW do not take into account the statements of victims of domestic violence and their children, and not treating the cases as domestic violence, after which the subsequent actions taken are inappropriate for the protection of women and overcoming the trauma of the violence suffered. In this cases, CSW instead of applying the methodology for work with women who suffered domestic violence, are actually referring women to visit marital/partner counseling for partners with disturbed relationships⁶⁴. There is a documented case with ongoing criminal procedure against the employers of the CSW, since despite the criminal conviction of the perpetrator for violence against the children, and the ongoing civil court procedure for deprivation of parental rights, CSW have referred the women and her 10 years old child to visit three different counseling's for "improving the relationship within the family". In addition, the CSW were forcing meetings between the child and the other parent (later with his relatives) without taking into account the history of domestic violence, nor analyzing the child's resistance due to the emotional and physical abuse from the father, even when the abuser was convicted with a final criminal conviction. Moreover, the later practice has continued even after the Department of Mental Health has sent written report recommending the CSW to stop with their practice, as a result of which the health condition of the child deteriorated. In addition, entrustment of guardianship lasts longer due to the absence of inter-municipal cooperation between the SWC and the untimely submission of information to the courts.

These negative practices are producing harmful consequences for women who suffered domestic violence, since not only they are not treated as victims and provided with the needed specialized support, but they are called accountable about the problem with domestic violence, and referred to visit counseling together with her children and perpetrators. Moreover, this is not an isolated case, but rather practice which is been repeated. Association ESE has already sent written information to the MLSP⁶⁵, requesting urgent measures to be undertaken for overcoming this negative proceeding, yet there is still not response provided by MLSP in this regard.

Social financial assistance

The Social Protection Law⁶⁶ guarantees different types of financial assistance for citizens in social risk, such as minimum guaranteed income, allowance for assistance and care from another person, compensation of part-time salary, housing allowance, permanent compensation and one-time financial assistance⁶⁷, which are granted for has a household that is material unsecured and can provide funds in this regard⁶⁸. Yet, women survivors of VAW and domestic violence are not listed as separate category as beneficiaries of this different social financial support provided by the State.

⁶⁴ Data Base of Legal Aid Center, Association ESE 2021

⁶⁵ Available on request

⁶⁶ Official Gazette No. 08-3029/1

⁶⁷ Article 27

⁶⁸ Materially unsecured is considered a household whose total average height of all incomes of all household members on all grounds in the last three months before submitting the request for exercising the right and during the use of the right is lower than the amount of the established guaranteed minimum assistance, accordingly with this law.

Only women who have suffered domestic violence are accurately listed as beneficiaries in this regard, but only in terms of one-time financial assistance, which compared to other types of support is the lowest support in this regard. The provided one-term financial support is up to 15.000 MKD (250 EURO) for urgent protection and housing, and up to 12.000 (200 EURO) for exercising the right to health care and medical treatment.⁶⁹ Needless to say that the provided amount is not sufficient for compensation of the living costs incurred by women and their children, especially taking into account that they are not listed as separate category as beneficiaries of the other types of social financial protection which are providing long-term support in this regard. Especially, recognizing that, there is not unified practice that all women who suffered domestic violence are informed and provided with one-term financial assistance; and at the same time they are not able to meet the eligibility criteria to benefit from the other types of long term financial assistance, such as the minimum guaranteed income and housing⁷⁰. Thus the criteria for approval of these types of support need to be revised and changed, as a precondition for women survivors to actually benefit from them.

In addition, the Law on Housing⁷¹ does not explicitly listing the women survivors of GBV and domestic violence as beneficiaries under this law. The practice shows that women survivors of GBV and domestic violence are not actually benefiting from this law, which leaves their urgent need for housing unmet.

The need for social housing of women survivors is not recognized neither, in comparison to other vulnerable groups of women who are explicitly recognized as such. For illustration, on 03th of March 2022 the Minister of Transport has announced the forthcoming call for social housing for 70 families in city of Gostivar, and encouraged different vulnerable groups to apply⁷², yet women survivors of GBV and domestic violence were not mentioned in this regard⁷³.

Therefore, it is important to conclude that the financial support provided by the State is very low and insignificantly compensates the living costs of women and of their children especially, since the practice shows that the care of children is at women's expense. This is supported with the main findings of OSCE Led Survey on VAW, since the lack of financial support and long-term housing for women is one of the "greatest unmet needs of women".⁷⁴

In this regard, the economic situation of women who have suffered domestic violence affects their ability to take legal action to overcome the problem of violence and related legal problems, but it also directly affects the ability of women to cover the cost of living for themselves and their children after leaving the violent relationship. The practice shows that although the care of children is at the expense of women, the former partners do not have equal financial opportunities to support the children, given that women are in significantly higher percentage

⁶⁹ Article 62, Law on Social Protection

⁷⁰ In accordance with Article 57 the right to housing allowance is provided to the material and housing unsecured persons, who are beneficiaries of guaranteed minimum income; or persons with status of a child without parents or without parental care up to the age of 18 years (or after the termination of guardianship up to 26 years)⁷⁰.

⁷¹ Official Gazette 10-689/2, from 15th March 2012

⁷² Citizens who until the age of 18 were cared for in institutions for orphans, beneficiaries of the right to guaranteed minimum assistance, persons affected by natural disasters, persons with disabilities and families with persons with disabilities, persons belonging to the Roma community, as well as single parents with minor children.

⁷³ The announcement is available on the following link <https://vlada.mk/node/27967>

⁷⁴ OSCE Led Survey on VAW – North Macedonia, 2019, available at

unemployed, while those who are employed earn lower incomes, compared to their former partners⁷⁵. According to a survey conducted with women who have experience in court proceedings for determining child support, two-thirds of women are unable to cover their monthly expenses and the social assistance they receive from the state does not help them. “More than a third of women need between 6,000 MKD (100 Euros) and 19,250 MKD (310 Euros) to cover the monthly expenses for the children, which are 30% of the total household expenses“⁷⁶. This situation makes even more vulnerable the large percentage of women who have to pay rent for housing for themselves and their children after the divorce, given that in the structure of individual monthly expenses, the highest are the costs for food and rent. Moreover, 15 out of 17 women for whom child support was awarded cover the costs themselves, due to non-payment of support by the other parent or untimely payment of the same in an amount lower than the one awarded by the court. In this regard, the one-time financial support of 250 Euros for urgent protection and housing is not sufficient for covering the housing costs for women and their children.

On the other hand, the experience of women who were involved in alimony proceedings in front of the courts, shows that the judges does not determine child alimony according to the needs of the children, and are determining lower amount of alimony from 16% to 100% compared to the one requested. Additionally, the payment of alimony is not awarded for the period from when it is requested, i.e. on average the requested alimony is reduced by 6 months per child. When determining the amount of child alimony, the additional income that the other parent earns on the basis of another activity, as well as the age and number of children, are not taken into account. Consequently, the majority of women (12 out of 17 women in 2020; 9 out of 16 women in 2021) were dissatisfied with determined child alimony; due to disapproval from the moment they were requested it or inability to meet the monthly needs for education, clothing or recreation of their children.⁷⁷ Therefore, the issue of child alimony should be given special attention in the context of the general economic situation of women, their recovery from violence and the possibility of performing their duties as parents. Especially because on the one hand there is an inadequate determination of alimony according to the needs of the children by the court, while on the other hand the awarded child alimony is not paid by the perpetrators, which results in women’s inability to pay for all the monthly needs for their children and assure their wellbeing.

The health COVID-19 crisis has further worsened the economic situation of women survivors and their ability to pay for living expenses, such as rent, food, education etc. The incomes within the households of women who suffered domestic violence were significantly reduced as a result of the crisis⁷⁸. Yet, despite the CSO’s alarming and advocacy, the State did not recognized this need and establish separate budget funds for financial support of women survivors. As a result, part of the women survivors are even not able to leave the abusive household and “forced” to continue suffer violence by leaving with the perpetrators.

⁷⁵ Child support: Reasons that affect the setting of this support, Association ESE 2020, available on ENG at <https://esem.org.mk/pdf/Publikaciji/2021/1/ESE%20Analiza%20izdrshka%20012021.pdf>

⁷⁶ Child support: Whether the child support meets the needs of children, Association ESE, 2021, available at <https://esem.org.mk/pdf/Publikaciji/2021/1/Izdrska%20za%20decata%2011.2021.pdf>

⁷⁷ Child support: Whether the child support meets the needs of children, Association ESE, 2021, available at <https://esem.org.mk/pdf/Publikaciji/2021/1/Izdrska%20za%20decata%2011.2021.pdf>

⁷⁸ Impact of COVID_19 crisis on Roma women and other women in Republic of North Macedonia, Association ESE, 2021

Legal aid

In accordance with the Law on free legal aid⁷⁹, women survivors of VAW and domestic violence are listed as beneficiaries of primary legal aid⁸⁰, but not as beneficiaries of secondary legal aid which is actually needed for them to be able to resolve the legal problems faced, since the secondary legal aid incorporates representation by the appointed lawyer, as well as exemption from paying the court fees and all the costs in the procedure, such as expertise and administrative costs. Women who suffered domestic violence can be approved to the right to free legal aid, because of their status as victims, and without determining the financial situation, but only in the procedure for pronouncing the temporary measures of protection⁸¹. For approval free legal aid in the other court procedures, such as divorce, custody child alimony etc. their financial situation is determined as precondition for approving it. Thus in practice, women are not able to exercise the right to free legal aid and facing serious barriers to use the right to free legal aid, like lack of information about the right to free legal aid and restrictive barriers for approval of free legal aid for other procedures. Please note that the specific barriers related to access to information are elaborated under the specialized legal counseling services.

Health protection

The free of charge health protection⁸² of the women survivors of VAW and domestic violence is legally guaranteed in Article 51 of the Law on Prevention and Protection against VAW and Domestic violence. In this regard, the funding of these services for women survivors should be provided through the preventive programs of the Ministry of Health. In addition, the NAP in its first strategic objective on “harmonization of national laws with the provisions of the convention” further addresses the right to health protection for women survivors, by incorporating measures toward explicit inclusion of victims in the annual preventive health programs for mother and children and co-payment waiver program. Yet, these measures are not implemented yet, although were planned as such for 2019. The annual preventive program for mother and children for 2022⁸³ incorporates only free of charge medical exams for women who suffered sexual violence, not for the other groups of women survivors. The annual co-payment waiver program was not amended at all in this regard.

In practice, women face obstacles to exercising their right to free health care, although they have applied to health facilities at least twice to repair injuries resulting from violence. Some health facilities require certificate from the SWC that women have been reported as victims, as a precondition to provide free of charge health services. However, the SWC does not issue this

⁷⁹ Article 6,

⁸⁰ The primary legal aid incorporates only initial legal advice on the right to use free legal aid, general legal information, general legal advice, and assistance in completing the application for secondary legal aid.

⁸¹ Article 20, Approval of secondary legal aid without determining the financial situation

⁸² Including the following: examination of injuries and provide medical treatment, document the injuries and collect evidence of a bodily injury and mental integrity, issue medical documentation for the established injury that clearly and comprehensively describes the type and extent of injuries, - inform the victims about their rights, the protection procedure and the available services, for help and support and takes other measures for protection of the victims in accordance with the needs of the victims.

⁸³ Program for active health protection of mother and children in Republic of North Macedonia, available at <http://zdravstvo.gov.mk/wp-content/uploads/2022/02/PROGRAMA-ZA-AKTIVNA-ZDRAVSTVENA-ZASHTITA-NA-MAJKITE-I-DETSATA-VO-REPUBLIKA-SEVERNA-MAKEDONIJA-ZA-2022-GODINA.pdf>

certificate in a timely manner immediately after the report of violence, when in fact women have an urgent need for this kind of health services⁸⁴. Therefore, women must pay for these services on their own. There is a possibility for reimbursement of these costs by the perpetrator, by imposing a temporary measure of protection (TMP). However, this opportunity can be used only by those women who have conducted this type of procedure before the court and have explicitly requested the imposition of this TMP. On the other hand, women usually conduct this procedure through the SWC, but this institution does not have the practice of regularly proposing this measure when submitting the proposal for TMP to the court.

Recommendations

MLSP should initiate a change of Law on Social Protection in order to explicitly include women survivors of GBV and domestic violence as beneficiaries of all types of social financial assistance; To revise and adapt the existing criteria to the real needs of women and their children, in order to enable higher number of women in need to actually benefit from the financial assistance provided.

MLSP should urgent conduct in-depth inspection of CSW cases referred to counseling for partners with disturbed relationships in order to identify and extract domestic violence cases. In addition, the ministry should undertake measures for capacity building of practitioners, in order to ensure that CSW is applying the adequate methodology for work with women survivors of GBV and domestic violence.

Government and Ministry of Health should incorporate women survivors of GBV and domestic violence as beneficiaries of annual preventive health programs for mother and children and co-payment waiver program.

CSW should establish regular practice of urgent provision of certificate for confirmation of the status of victims of VAW and domestic violence to all women survivors, immediately after the violence is reported.

CSW should establish a regular practice of proposing the temporary measure of protection “the perpetrator must reimburse the medical and other expenses caused by violence”⁸⁵ in all the cases where the victims have suffered injuries and used health care services in this regard.

Ministry of Justice should initiate a change of Law on Free Legal Aid in order to explicitly include women survivors of domestic violence as beneficiaries of secondary legal aid, in all procedures, without determination of their financial situation as criteria for approval.

ARTICLE 21 – Assistance in individual/collective complaints

If we conclude that women are insufficiently informed about the existing legal mechanisms for their protection at the national level, then we must emphasize that the situation is even more unfavorable regarding the individual or complaint mechanisms on international and regional level. Women are not even informed about the existence of the human right treaties, neither

⁸⁴ Data Base of Legal Aid Center, Association ESE 2021

⁸⁵ Article 58, Par.10 Law on Prevention and Protection against VAW and domestic violence

about the complaint mechanisms on international and regional level. In addition, neither the practitioners from institutions are not informed about the international and regional mechanisms for victim's protection. This concern was constantly reiterated by the CEDAW Committee, starting from the ratification of the CEDAW, and confirmed in the country's last periodic reporting in the end of 2018 as well.

In relation to the actual access to free legal advices, the free legal aid funded by the state is very limited and it is approved solely for counseling and representing victims of violence on national level. There is no certified, systemic and regular capacity building training on national and international legal standards for protection of victims of gender-based violence for the clerks in the local office of the Ministry of justice (authorized to provide free legal aid) and for the attorneys at law who represent victims of gender-based violence. It results in low number of cases taken to regional and international mechanism for protection of human rights of victims of gender-based violence.

The number of women who suffered domestic violence provided with free legal aid in accordance with the Law on Free Legal aid is very low, in comparison with the number of women who need free legal aid in order to resolve the problem with violence and other related legal problems. Most of the legal services for the women sex workers, lesbians, bisexual women and transgender people are provided by the CSOs. There are few cases before the ECHR and CEDAW which legal support on national level was provided by CSOs and it continued in course of the proceedings before international and regional mechanism.⁸⁶ Practice shows that not a single victim of trafficking has received free legal help from the Ministry of Justice. The same applies for awarded compensation for damage inflicted, even though the court has ordered it. Similarly, additional challenge is the length of criminal proceedings, which leads to re-victimization and extending the pain and suffering of victims of human trafficking. An issue for concern is the fact that, in practice, victims do not always receive protection when they act as witnesses during the investigation process and criminal proceedings.

Recommendations

The Government and Ministry of Justice should undertake substantial efforts to inform women about the content of the human rights treaties and their rights in this regard, including detailed information on how to use the international individual and collective complaint mechanisms when their rights have been violated. This efforts need to be complemented with the provision of assistance and support in order for the women to be able to use this mechanisms for their protection.

ARTICLE 22, 23, 25 – Specialist support services, Shelters, Support for victims of sexual violence

The specialized support services or measures of protection for women survivors provided by CSW are incorporated in the Law on Prevention and Protection against VAW and domestic violence. In this regard, the following measures of protection are guaranteed by the law:

⁸⁶ X v. FYROM from 2019 (case on legal gender recognition of transgender people before); D.H. and others v. FYROM (pending case of violation against sex workers before ECHR); M.L. and K.S. v. North Macedonia (pending case of violation against transgender sex workers before ECHR); S.B and M.B. (case of discrimination of Roma women in their access to gynecological services CEDAW).

temporary sheltering; ensures that the victim receives the necessary medical assistance and, if necessary, accompanies to the nearest health institution; ensures that the victim exercises the right to social and health protection in accordance with law; psycho-social intervention and treatment; psycho-social treatment in a counseling center in the CSW, associations, counseling for women victims of violence and domestic violence; assistance to the family for regular education of a child; legal aid and representation; economic empowerment of the victims and her active involvement in the labor market, through a competent employment center, and in case of high risk providing urgent protection measures, as well as when the victim uses the services of temporary residence, and no later than 12 hours from the receipt of the application, makes a decision for temporary entrustment of care and upbringing of children of the parent victim.⁸⁷

There is not unified provision of other support services for women survivors of VAW and domestic violence across the country. Certain vulnerable groups of women, such as the sex workers are especially vulnerable in this regard. The women who suffered domestic violence are not provided with the needed support services, despite the existing legislation for almost 20 years. In addition, the negative practice of wrong treatment of domestic violence cases by CSW as explained previously broadens the lack of adequate and timely support to women survivors. There is not publically available data about the health and social services provided to women, apart from some individual reports of CSW. The State did not provided comprehensive system for service delivery on national level for all the women and girls in need, despite the fact that the CEDAW Committee is constantly reiterating its concerns on this issue and recommends that State need to “ensure counseling and rehabilitation services across the State party and ensure that women and girls who are victims of gender-based violence have full and barrier free access to medical and psychological support”⁸⁸.

In relation to human trafficking, there are multiple challenges and obstacles which victims face. For one, a serious obstacle is the inability to secure free medical exams for all victims of HT, especially those Macedonian citizens who have not been registered in the Birth Registry, and foreign nationals who do not have a residence permit. Access to education, i.e. helping underage victims resume regular and compulsory education, is limited and non-functional. There are no special programs or measures to help victims join the labor market, and thus secure their economic empowerment. Victims of human trafficking are not beneficiaries of the active measures provided through the National Employment Agency, simply because the Agency does not have a specialized system which can guarantee protection of victims’ personal details and their status as victims of human trafficking. Reintegration of victims into their communities once they leave the shelter remains a critical issue. This is due to the fact that there is a shortage of sustainable long-term programs. This has a very negative effect on the victims and increases their opportunity to become part of the human trafficking chain again.⁸⁹

⁸⁷CSW, Article 45 - 48

⁸⁸ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

⁸⁹<https://drive.google.com/file/d/1U1LBoDADHztZO-IgF5oNBKRjYFcQj9oK/view>

Temporary sheltering and crisis centers

Recent efforts were undertaken toward increasing the capacities for specialized services for women survivors of VAW and domestic violence. In this regard, since December 2019, North Macedonia increased the number of specialized services for GBV/DV victims/survivors to 11: eight shelters and three crisis centers. Out of the 11, three are run by women's CSOs and the rest by the MLSP through the CSW.⁹⁰The range and quality of services available seem to vary significantly. The increase in the number of services has not been followed by the increase of their financial sustainability; therefore their limited capacities leave the needs of victims of gender-based violence unmet. Women's CSOs have expressed their concerns on the quality of services provided by state-run shelters and crisis centers, doubting the qualifications and knowledge of the engaged staff to provide adequate support for the victims/ survivors.⁹¹The main issue remains a geographical distribution of shelter centers and provision of other services (such as free legal aid and psychosocial support) as most of the shelters are located in a few, larger cities and out of reach for women from remote areas.⁹²

Lack of long-term housing support is one of the main problems faced by women victims of domestic violence, despite the increased capacities for state sheltering. These findings were confirmed by the CEDAW Committee as well, which has reiterated its previous concerns about “the limited number of shelters available in the State party, despite the high incidence of gender-based violence against women and girls, including domestic violence”⁹³.T In addition, OSCE LED survey on VAW stresses that the provision of long-term shelters is one the main unmet needs of women survivors of VAW, since less than 5% of women who reported violence were accommodated; and the shelters are geographically not available on the whole territory of the country. The experience of women and practitioners reveals that there is a lack of sustainability, and women are facing serious barriers to enter the existing shelters⁹⁴.

Despite the emerging need of women for providing long-term housing, which was especially revealed during the COVID-19 crisis, the State did not adopt separate measures for addressing this need and supporting women survivors in this regard. Taking into account that housing costs are one of the highest costs incurred by women, after leaving the abusive relationship, the State need to increase accommodation capacities, by adopting new measures to provide this type of support, such as directly subsidizing these cost for women and expanding it to private accommodation in addition to public shelter accommodation.

In relation to the women victims of human trafficking, despite the fact that there is a state-run shelter for victims of HT in this country, operated by Open Gate and the MLSP, the need for increasing accommodation capacities is noted. Additional issue is securing sustainability of the shelter. There are no a possibility to split the existing facility into two parts so as to provide

⁹⁰Kvinna till Kvinna, Women's Rights in the Western Balkans, 2020 http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf.

⁹¹ Idem.

⁹² HERA, 2020 Annual Report - Supporting the Vulnerable in Times of Crisis, Protecting the Social and Reproductive Rights! HERA, 2020, https://hera.org.mk/wp-content/uploads/2021/06/Godishen-izvestaj-za-2020-godina_en-web.pdf, 21.

⁹³ CEDAW Committee, Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, from November 14th 2018, available at

⁹⁴ OSCE Led Survey on VAW – North Macedonia, 2019, available at

adequate accommodation for underage victims of human trafficking by separating them from adult victims. This leads us to the conclusion that some victims remain marginalized in our society because they do not receive adequate support and protection, nor this happens in due time. Resorting to a single approach for help and support is not an adequate solution when working with cases of human trafficking. On the contrary, each case needs to be treated accordingly the specific needs of the victim (their age, sex, type of exploitation, etc.) In relation to women victims of human trafficking, the shelter, also known as Center for Victims of Human Trafficking and Sexual Violence, is part of the system for social protection. It provides temporary accommodation, and psychological and social help and support. It aims to support victims in the process of rehabilitation and in overcoming the trauma inflicted, and to facilitate victims' reintegration in their respective communities. It accommodates women and girls above 12 years old.

The first shelter for protection of victims of human trafficking in the Republic of Macedonia was established in 2005 by the CSO Open Gate. Up until 2011, it operated as an independent center for victims of human trafficking and was supported by international donors. In 2011, the shelter was transformed into a state center for victims of human trafficking, and since then has been operating under the authority of the MLSP, and run by Open Gate. The Ministry covers the running costs, while the program activities, which run 24/7, are provided by Open Gate staff. The shelter receives financial support from various state and international funds. The only time that MLSP awarded grant for functioning of the Center was in 2019. Since 2018, aside from helping victims of human trafficking, the shelter has been offering help and support to victims of sexual violence, too. This institution is of a semi-open type and its location is classified information with capacity of 7 beds. It is run by team of 7 professional's social workers, psychologists and child counselors, all of whom have vast experience in working with HT cases.

The program for immediate help and support at the Center consists of counseling, individual and group therapy, educational and pastime activities, as well as meeting victims' basic needs. The victims who are part of the program at CSO Open Gate receive legal help, psychological counseling, education and training, medical help and assistance, and humanitarian aid. Furthermore, the program for accompanying work with vulnerable categories provides support to persons who are either at high risk of being trafficked or are not placed at the shelter. In order to facilitate the process of reintegration and resuming a normal life, the program is also offered to victims who have already left the shelter. Aside from the immediate help and support, victims who are beneficiaries of the program receive additional support, such as family and individual counseling, access to local services, and long-term emotional support.⁹⁵ Upon admitting the victim at the shelter, there is a standardized protocol which provides adequate accommodation and protection of the victim. The victim is required to sign a number of documents: a statement confirming they are beneficiary of the services offered at the shelter, an accommodation agreement, a non-disclosure agreement, an inventory of items in possession upon arrival (a mobile phone, money and valuables, etc.). Upon leaving the shelter, the victim is required to sign a statement, certifying they are no longer placed at the shelter.⁹⁶ Underage victims who are placed at the shelter have to sign the same documents, with the difference that these papers are signed by their appointed legal guardian. Once the victim is officially admitted at the shelter, a

⁹⁵<http://lastrada.org.mk/programa-socijalna-asistencija/>

⁹⁶ Association for Action Against Violence and Trafficking in Human Beings – Open Gate. (2012). From Safe Shelter to Social Integration of Victims of Human Trafficking.

comprehensive assessment of the victim's need is conducted. The information from this assessment is subsequently used to design a detailed individual plan for the provision of help and support to said victim. Each victim's case is carefully detailed in a file. Only staff who work with the victims have access to these files. It is worth noting that all staff are required to sign a non-disclosure agreement, protecting the personal details of the victims. Prior to leaving the shelter, the staff prepare a detailed assessment and a reintegration plan for the victim.⁹⁷

The shelter accepts home victims and foreign nationals who have a residence permit. Foreign victims who are staying in the country illegally are placed by the MoI at the Reception Center for Foreign Nationals, until their stay is legalized. Analogous to this, practice shows that the Reception Center is not an adequate facility for the provision of help and support of victims of HT. This is mostly due to the fact that the Centre lacks professional staff who are trained to work with victims of HT.

In addition, the lack of intersectional approach in the design and the implementation of these specialized services affect women who are traditionally excluded, such as women sex workers, women who use drugs, trans women, etc. Due to the widespread stigma and discrimination against women sex workers they face limited access to shelters and crisis centers even in cases of emergency and serious threat to the victim.⁹⁸ Also transgender women victims of domestic violence are not admitted to the shelters for victims of domestic violence.⁹⁹ The Law on prevention and protection of violence against women and domestic violence foresees services for temporary accommodation for victims of violence based on their sexual orientation and gender identity.¹⁰⁰ In 2017 the Helsinki Committee for Human Rights with donor support established a Safe House for LGBTI people victims of domestic violence. During Covid-19 pandemic the financial support of the Ministry of labor and social support was postponed which made the shelter service uncertain for number of LGBTI victims of domestic violence, especially during the long curfews when they were forced to stay in violent environment.¹⁰¹ In January 2022 the Safe House was issued a license by the Ministry of labor and social policy for implementing social services in the community- temporary accommodation for victims of gender-based violence.¹⁰²

Legal counseling services

Providing free legal aid to women who have suffered domestic violence is a prerequisite for their protection against violence and capacity to resolve other related legal problems, such as divorce, custody, alimony, division of property, compensation, etc. In doing so, special attention should

⁹⁷ Ibid.

⁹⁸ Information provided by HOPS Healthy Options Project Skopje, CSO working with sex workers and people who use drugs. <https://hops.org.mk/en/home/>

⁹⁹ Information provided by Coalition sexual and health rights of marginalized communities MARGINS, CSO working with sex workers, people who use drugs, people living with HIV, LGBTI people and marginalized women. <http://www.coalition.org.mk/>

¹⁰⁰ Official

¹⁰¹ Boshkova N. and others. Human rights of marginalized communities during Covid-19: Report from the research on the impact of the measures for tackling Covid-19 on the human rights of marginalized communities, 2021 http://coalition.org.mk/wp-content/uploads/2021/06/MKD_COVID_CIP_WEB_kor.pdf

¹⁰² [https://www.facebook.com/safehousesk/?__cft__\[o\]=AZVQpHoWgcln_t-t6PeqTv2waxP4VJiOsGEC3iuWNU3oigFetmLCjJV3K4Erezk8UyKVxTJIE5wkwGT6g-QyWh-LlyXRlwi3eQAUnNGE3qT7tGcVmUBc8EhniJ7S8RxtmBVW7a8H5kkDLS3UyyN3EKg7&__tn__=-UC%2CP-R](https://www.facebook.com/safehousesk/?__cft__[o]=AZVQpHoWgcln_t-t6PeqTv2waxP4VJiOsGEC3iuWNU3oigFetmLCjJV3K4Erezk8UyKVxTJIE5wkwGT6g-QyWh-LlyXRlwi3eQAUnNGE3qT7tGcVmUBc8EhniJ7S8RxtmBVW7a8H5kkDLS3UyyN3EKg7&__tn__=-UC%2CP-R)

be paid to the adequate and timely informing of women about the specific aspects of the mentioned court proceedings, which are of particular importance for their decision whether they will initiate a certain court procedure to solve the problems they face. In this regard, it is essential to inform women who have suffered domestic violence about the amount of court fees and costs in all the proceedings, as well as the available legal possibilities for their exemption from paying this type of costs. Especially since, resolving legal issues through court proceedings is directly conditioned by the amount of court costs and the financial ability of women to pay for them. Moreover, women who have suffered domestic violence, on average, need to complete at least two court proceedings to resolve the problems they face.

Starting from 2019, Association ESE is assessing the personal experience of women who suffered domestic violence involved in civil court procedures, in order to determine the availability of civil litigation, i.e. the impact of court costs and women's familiarity with the legal possibilities for exemption from payment of costs in all the procedures, such as: temporary measures for protection; divorce; alimony; custody; division of property; eviction from the family home; etc. The experience of women who have suffered domestic violence involved in the above-mentioned civil court proceedings shows that women are not familiar with the different types of court fees and other types of costs, as well as with the possibility to seek exemption from paying this type of costs¹⁰³. Please see below detailed description of the factual situation in relation to the two most common court procedures initiated by women who suffered domestic violence, the procedure for pronouncing Temporary Measures of Protection (TMP), and the divorce procedure.

As a result of the advocacy efforts of CSO's, positive change for facilitating access to justice was done with the adoption of the new Law on Free Legal Aid¹⁰⁴, which incorporates legal provision that explicitly guarantees the urgent approval of the right to free legal aid, including attorney representation in the civil court procedures for temporary measures of protection against domestic violence, without determination of applicant's financial status¹⁰⁵. Yet, the approval of free legal aid is conditioned with the submission of a certificate that the applicant is registered as victim of domestic violence, which represents an obstacle for the women who have not reported the violence previously to CSW or police. This restrictive legal criterion was adopted as such, despite the fact that CEDAW Committee in its Concluding Comments and Recommendations to the 6th Periodic Report of the country have expressed this concern as "barriers for women to claim their rights and obtain redress, owing to the eligibility requirements, such as previous registration of victims with the Ministry of Interior and the Centers for Social Welfare, preventing access to free legal aid, and the delays in confirming legal representation by legal aid providers"¹⁰⁶.

It is important to notify that the experience of women involved in the civil court procedures for TMP, shows that neither one of the women who suffered domestic violence were informed

¹⁰³ Exemption from payment of court costs for women who suffered domestic violence: Knowledge and Practices, Association ESE 2019, available on ENG at

<https://esem.org.mk/pdf/Publikaciji/2020/Exemption%20from%20payment%20of%20court%20fees%20for%20women%20who%20suffered%20DV.pdf>

¹⁰⁴ Official Gazettes No. 08-2895/1, from 16th May 2019

¹⁰⁵ Law on Free Legal Aid, Article 20

¹⁰⁶ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

about the opportunity to be granted with free legal aid by the Ministry of Justice in 2020¹⁰⁷, and 73% of the women involved in these procedures in 2021. In addition, 60% of the women were not informed about the possibility for submitting proposals for TMP directly to the courts. Only 30% of women with this type of civil procedure were informed about the ‘right to poor’ or to ask for exemption of paying the court fees to the Basic Courts. In addition, only one in four women was aware about the amount of court fees that need to be paid. Although their lack of information is partly due to the fact that most of them initiated the procedure through the CSW, it is especially worrying that half of the women give up the already initiated procedures for their protection, due to the “slow handling of domestic violence reports, because they were not consulted on both the proposal and the withdrawal of measures, and due to the lack of follow-up actions after subsequent reports of repeated domestic violence.

The situation is even more alarming, since there is not functional system for monitoring the implementation of the TMP by the CSW, thus the quality of the provided services by CSW in the procedures of pronouncing TMP is not guaranteed. Unfortunately, the MLSP did not implement the needed measures for improving the situation on this field, despite the continues advocacy of national CSO’s and reiteration of this concern by the CEDAW Committee to the last periodic report, which stressed the “delay in holding TMP, the lack of gender-sensitive approach during proceedings and the lack of mechanisms to monitor their implementation”¹⁰⁸.

Therefore, MLSP need to urgently conduct a detailed assessment of the quality of work of the CSW in the procedure for pronouncing TPM, based on the experiences of women who have suffered domestic violence, and devise measures to increase the efficiency and quality of assistance and support in cases of this type¹⁰⁹. Separate aspect which should be taken into account in this assessment is that there is evident discrepancy between the number of women who need urgent protection by using the TMP, and the actual number of women who were supported by CSW in this type of procedure, recognizing that one of the main reasons for this is the demand for signing written consent by the women in order for CSW to initiate such procedure. In addition, MLSP should strengthen the capacities of the employed in the CSW for provision of legal aid in other procedures affecting women who suffered domestic violence, recognizing that the procedure for TMP is the only court procedure in which CSW are providing comprehensive legal aid to women who suffered domestic violence, including legal advices, written submissions, representations in front of the courts and exemption from payment of court fees.

In relation to the divorce procedures, women are not informed about the opportunity to use the “right of poor” trough the Basic Courts, neither about the free legal aid that can be granted trough the Ministry of Justice. Two out of three women were not informed that they can use apply for free legal aid trough the Ministry of Justice for the divorce procedures. In addition, 42% of women with divorce procedures were not aware about the amount of court fees that need to

¹⁰⁷ The impact of court fees and costs and information about the exemption of payment as an obstacle or opportunity in respect of court protection of women who have suffered domestic violence, Association ESE, May 2021, available at <https://esem.org.mk/pdf/Publikacii/2022/1/The%20Impact%20od%20Court%20fees%20and%20costs.pdf>

¹⁰⁸ Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

¹⁰⁹ The impact of court fees and costs and information about the exemption of payment as an obstacle or opportunity in respect of court protection of women who have suffered domestic violence, Association ESE, November 2021, available at <https://esem.org.mk/pdf/Publikacii/2022/1/The%20Impact%20od%20Court%20fees%20and%20costs.pdf>

be paid. The situation is even more alarming, since more than 80% of women with initiated court procedures were not informed about the overall court costs, including the costs for the attorney of the opposite party in the procedures¹¹⁰. This type of costs which are completely neglected by the State, are seriously affecting women's financial capacities and their ability to undertake or complete the civil court procedures for resolution of their problems. There are documented cases where victims who have lost a lawsuit have to pay significant financial resources due to the absence of perpetrators in these proceedings, which sometimes amount to more than two average salaries in the country¹¹¹.

In addition, the quality of the provided free legal aid is not on a satisfactory level, since more than 55% of the women who used legal aid through the CSW and Ministry of Justice are not satisfied with the provided professional legal help, as a result of the following reasons: slow proceeding by practitioners from institutions; lack of information about their rights; and inadequate protection of their interests.

The legal framework for free legal aid is still not harmonized, since the free legal aid guaranteed by the Free Legal Aid Law includes all the costs in the procedure, including attorney representation, and the use of the right to be exempted from paying the court fees from the courts is referring to the court fees only. In this regard, women who are using the "right to poor" are in a less favorable position, since they need to pay for additional costs within these procedures, which might severely affect their economic situation and ability to complete the procedures as such. For illustration, more than 60% of the women involved in court procedure were not able to pay for the attorney representation. Please see the available analyzes of Association ESE for more detailed information about the other civil court procedures, such as custody, child alimony, eviction from home, property division and others.

The perspective of women who suffered domestic violence should be taken into account for planning and implementing measures for enhancing access to justice. In this regard, women have expressed that the State must inform them in details about the court fees and other costs in each of the procedures; to enable initiation of procedures for all women survivors in need, without conditioning it with the payment of court fees.

Positive change was the significant decrease of the amount of court fees for civil court disputes in 2020, yet the other court costs, such as the costs for collecting evidence and others are significantly burdening women's opportunities for resolution of their civil legal problems through the courts. This concern was expressed by the CEDAW Committee in its Concluding observations on the sixth periodic report of the country in November 2018, which stated that women are facing barriers to claim their rights because of the "unaffordable court and forensic fees". In addition the CEDAW Committee recommended that free legal aid should be provided to women, "irrespective of their income, ethnic background or social status, and ensure the presence of

¹¹⁰ The impact of court fees and costs and information about the exemption of payment as an obstacle or opportunity in respect of court protection of women who have suffered domestic violence, Association ESE, November 2021, available at <https://esem.org.mk/pdf/Publikacii/2022/1/The%20Impact%20of%20Court%20fees%20and%20costs.pdf>

¹¹¹ Data provided from women who suffered domestic violence, beneficiaries of the Legal Aid Centre that operates within Association ESE.

appropriate, sufficient and qualified providers of legal aid across the State party, paying attention to the situation at the State level and in local self-government units”.¹¹²

Therefore, the Ministry of Justice should undertake systemic measures for enhancing access to justice for women, who suffered domestic violence, by providing complete exemption from payment of all costs included in the court procedures initiated by women survivors of VAW and domestic violence.

Recommendations

The Government and MLSP should establish separate budget fund for long-term financial assistance, in accordance with the needs of women survivors and their children. Women survivors of VAW and domestic violence need to be explicitly included as beneficiaries of social housing as well.

Government and MLSP should provide regular sustainable funding of the specialized services and work of CSO's service providers, in accordance with the needs of women survivors of GBV and domestic violence.

MLSP should organize continues education of the practitioners involved in delivery of specialized services about the nature of GBV and domestic violence and specific needs of women survivors. Thus, MLSP need to prepare plan for education and provide annual budget funding for implementation of the education.

Government and Ministry of Justice should implement comprehensive campaign in order to inform the women survivors how to use the right to free legal aid, and about all the specific aspects from the procedures commonly initiated by women, including the information about the court costs and exemption mechanisms that can be applied in this regard.

ARTICLE 24 – Telephone help lines

The Ministry of Labor and Social Policy, through the adoption of decision about the annual programs for distribution of the revenues from the games of chance, allocates funds for financing the program activities of 4 civil society organizations, including organizations within which there are telephone lines for women who have suffered domestic violence. In this regard, the national SOS lines for women victims of domestic violence provide basic information and referral of women who suffered domestic violence to the competent institutions. In this regard, in accordance with the broadened scope of protection with the new Law, there is a need of strengthening of their capacities, in order to be able to provide the telephone services to different groups of women survivors. In addition, the provided funding from MLSP is insufficient for sustainability of the work of these organizations and service delivery, including the adaptation of their capacities as explained.

¹¹² Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia*, CEDAW Committee, November 2018

In parallel, recognizing that the SOS lines are actually an entry point in the existing system of protection, important issue that should be paid special attention to is the effective protection of women after they call the national SOS lines, and the actions taken by the competent institutions afterwards. The existence of national SOS lines and the provision of information on rights, as well as referral to the competent institutions, should be accompanied by appropriate action by the institutions themselves, such as the SWC and the police. The previously elaborated shortcomings in the level of proceeding of these institutions emphasize the need to take systemic actions for effective connection and functioning of the overall protection system, after the "entry" of women who have suffered domestic violence through national SOS lines.

Recommendations

MLSP should ensure sufficient funding to the national SOS lines, including funds for broadening of their services to different vulnerable groups of women survivors.

MLSP should undertake systemic efforts for addressing the identified deficiencies within the existing system of protection, in order to ensure that after the information provided through the SOS lines, the women survivors are actually provided with the needed support and protection services by institutions involved, such as CSW.

ARTICLE 26 – Protection and support for child witnesses

The lack of systemic training of practitioners on the nature of VAW and domestic violence, the relationship between the survivors and perpetrators, and consequences that the violence is producing to the women and their children, continues to seriously undermine the efforts undertaken to improve the institutional proceedings in these cases, including the protection of rights and needs of child witnesses or even children who were victims of domestic violence themselves.

A negative practice has been identified in the proceedings of the SWC in a case where the child himself was a victim of domestic violence, for which the father was criminally convicted by the Basic Criminal Court. In this case, the competent SWC not only did not take actions to protect the rights and interests of the child, but also directly took harmful actions that contributed to the deterioration of the child's health. For such harmful actions, criminal proceedings are already being conducted against the employees of the SWC, due to abuse of official position and authority.

In this case, despite the existence of a criminal conviction of the father of the child, as well as an initiated procedure for deprivation of parental rights, the SWC took action to call the mother and child to account, by consecutively sending them to three different counseling centers together with the abuser, in order to "improve family relationships". At the same time, the SWC put a lot of pressure on the mother and child, for organizing personal meetings between the child and the abusive parent at first, and later between the child and father's relatives, which resulted in a serious deterioration in the mental health of the 10-year-old child and use of medication as a result. This practice continued despite the direct indication from the Institute of Mental Health, where the mother was referred by CSW together with the child and the abusive father for visiting counseling. Namely, in its reports, the Institute for Mental Health alerted the SWC to stop

putting pressure on the child, because it directly deteriorates his health condition. What is particularly worrying is that although complaints have been submitted to the MLSP and the Office for Social Activities about the operation of the SWC in this case, no actions have been taken to change the proceeding of CSW. This negative practice of the SWC continued for a period of 5 years and stopped only after the ruling for deprivation of parental rights by the Basic Civil Court. Subsequently, in 2021, criminal proceedings were initiated against the employees of the SWC by the mother, and the case is currently in proceeding by Public Prosecutor's Office, from where there is still no data on the actions taken so far.

Hence, there is an urgent need for the MLSP to establish a system for monitoring the work of the SWC in cases of violence against women and domestic violence, based on the experience of women and children and their satisfaction with the SWC's proceedings and service delivery. An integral part of this system should be calling to account the practitioners who will be found to have acted inappropriately or harmful in cases of this kind. At the same time, there is an urgent need for systematic education of SWC staff for work on cases of violence against women and domestic violence, with special attention to be paid to certain aspects of practical action in providing assistance and support to women and children victims of violence. The Ministry of Justice and Republic Judicial Council should organize systematic education of judges and public prosecutors for dealing with cases of violence against women and domestic violence, as well as provide the necessary preconditions for enabling urgent processing of cases that affect the interests of women and children survivors or witnesses.

Recommendations

MLSP should conduct in-depth inspection to CSW work in the last 12 months, including the decision made by MLSP in those cases where the complaint was initiated against the CSW for undertaken inadequate and harmful proceeding in cases involving children. These efforts should be taken in line with the inspection of cases treated as “disturbed family relationships” as recommended under Article 20. In addition, to organize capacity building vents from practitioners from CSW in order to address the specific deficiencies in their proceeding related to protection and support of children.

V – SUBSTANTIVE LAW

Compliance of Criminal Code with the Convention

Apart from the harmonization of the new Law on VAW with the provisions from the convention, there is a need for undertaking the needed legislative and policy efforts to harmonize the criminal legislation. As stated in Article 1 of the Istanbul Convention, it aims to protect women and eliminate all forms of violence and discrimination, to promote equality between men and women and to strengthen the capacity of women. Therefore, criminal legislation should address the issue of discrimination and inequality together with the issue of VAW.

In terms of definitions, it can be said that the basic term victim is regulated in the Macedonian legislation and Criminal Code with the amendments from 2013. Article 122 defines the term "victim" as "any person who has suffered loss or damage, including physical or mental injury, emotional suffering, material loss, and any other threat or threat to his or her rights and freedoms resulting from the crime ". This makes the Criminal Code differentiate between victims and injured parties. Victims in the proceedings have their own rights, such as: the right to information, protection, assistance, care and support, compensation and mediation. Additionally, Article 53 of the Law on Criminal Procedure establishes the basic rights of victims, including the right of the injured party to participate in the proceedings in which he is allowed to participate in the prosecution or in the claim for compensation, special care and protection from the court, the right to psychological and other professional assistance, as well as support from relevant institutions, etc. According to paragraph 2, it is important for victims to enjoy their rights, while the police, the prosecution and the court have a legal obligation to inform the victim of their rights, as well as to act in their interest in deciding to prosecute the accused. This action begins as soon as the victim makes the first contact with the legal and judicial system, which are usually the police, and then the centers for social work. However, It is necessary to include the definition of gender, as well as to supplement the definition of a victim in order to recognize a woman as a victim of gender-based violence. Especially since, the Criminal Code is completely blind to the term gender since apart from defining gender as a ground for discrimination, gender is not regulated at all by the Criminal Code. Hence, it is necessary to harmonize the Criminal Code with the Istanbul Convention.

Recommendations

To prevent violence against women, a coordinated and comprehensive intervention is needed to prevent discrimination and criminalize all types of violence against women. Therefore, it is equally important for the Criminal Code to define all forms of violence against women as a crime, but at the same time to define the term gender, to revise the language from gender neutral to gender responsible and to recognize women as subjects, but also as victims of violent behavior.

The definition of "violence against women" in the Criminal Code should include economic violence to denote any act of gender-based violence that causes or is likely to result in physical, sexual, psychological or economic harm or suffering to women, including threats of such violence, acts, extortion or arbitrary deprivation of liberty, whether occurring in public or private life in accordance with Article 3 of the COE's Convention. These provisions are intended to provide

greater protection to victims at all levels of action.. This is especially important for raising awareness, building the capacity that will enable the implementation of the Istanbul Convention.

Finally, in terms of harmonization with the basic terms used in the Convention, the Criminal Code requires the appropriate application of the term "violence against women" as an additional factor for the needs of punishment if it occurred at the same time as another crime, such as murder (Article 123); momentary murder (Article 125); bodily injury (Article 130); severe bodily injury (Article 131); coercion (Article 139); unlawful deprivation of liberty (Article 140); endangering security (Article 144); sexual assault on a minor under the age of 14 (Article 188) and mediation in prostitution (Article 191).

Various forms of GBV

As well as being a comprehensive document, the Istanbul Convention is an effective tool because it requires signatory countries to ensure adequate criminal justice for all forms of violence against women and because it seeks to address the root causes of violence against women (gender stereotypes, violent traditions on women and all general manifestations of gender inequality). Currently, the Criminal Code of the Republic of North Macedonia¹¹³ criminalizes only rape. Other forms of violence against women regulated by Articles 33, 34, 35, 36, 37, 38 and 39 of the Istanbul Convention are not explicitly regulated by the Criminal Code. Some of these forms of violence are regulated in part by violations of other laws, such as the Family Law (forced marriage), the Law on Protection and Prevention of Discrimination, the Labor Law (sexual harassment in the workplace), and the Law on Termination of pregnancy (forced abortion and sterilization) etc. Please see below the status and recommendations related to different forms of GBV:

ARTICLE 33 - Psychological violence

The Macedonian Criminal Code does not recognize the crime of psychological violence as separate. It mentions it only in the definition of domestic violence in Article 122. The Convention defines violation of mental integrity it as the use of coercion or threat. Given the fact that practice shows that physical violence is always preceded by psychological violence, by clearly defining and criminalizing it, the State will finally reduce the trend of physical violence and femicides in the country. Hence, the regulation of the crime of Coercion in Article 139 is not sufficient. The object of protection in the crime of coercion is the freedom to form a will for a certain action, while the COE's Convention requires protection of the psychological integrity of the person. Unlike the basic form of the crime, when the prosecution is undertaken on a private lawsuit, a qualified form exists when committing domestic violence and is prosecuted ex officio. Also, the regulation of the threat in part by Article 144 of the CC - Endangering security is not enough. This provision sanctions the induction of a feeling of insecurity, threat or fear with a serious threat of attacking the life and body of a person or a person close to him. If the crime was committed while committing domestic violence, it is considered as a qualifying circumstance and the envisaged punishment for the perpetrator is more severe, and the prosecution is undertaken ex officio. However, linking the threat to its outcome - violation of mental integrity is not done.

¹¹³ ("Official Gazette" No. 37/1996; 80/1999; 4/2002; 43/2003; 19/2004; 81/2005; 60/2006; 73/2006; 7/2008; 139/2008, 114/2009, 51/2011; 135/2011; 185/2011; 142/2012; 166/2012; 55/2013; 82/2013; 14,27,28, 115, 132, 160,190 / 2014; 196/2015

Recommendation

Compliance with the Istanbul Convention is required, it is necessary to prescribe a new crime in the Criminal Code, "psychological violence", in accordance with the provisions of the Convention.

ARTICLE 34 – Stalking

The Law on Prevention and Protection against VAW and domestic violence is defining stalking in accordance with the Convention, but it is not treated as criminal act under the Criminal code. In this regard, pursuant to Article 78, the Convention gives ratifying countries the right to retain the right to introduce non-criminal measures, such as a ban on approaching and restricting the perpetrator. However, the State's decision to introduce non-criminal measures is different from the actions of all other countries in the region, with the exception of Bulgaria. For example, Bosnia and Herzegovina in 2015 amended the Criminal Code and criminalized stalking, as did Montenegro, Serbia and Croatia. Hence, it can be concluded that the Macedonian legal framework treats stalking mainly through the prism of domestic violence, in order to provide protection for the victims and to prevent further violence against them. However, due to the seriousness of this form of gender-based violence, given that it causes fear and anxiety among victims, the Criminal Code is obliged to resolve this issue and punish this act.

Accordingly, further steps need to be taken to ensure that stalking is treated as a form of gender-based violence. The regulation of the elements of stalking with Article 144 of the Criminal Code of RSM is not enough. Endangering security as a crime does not recognize the gender dimension nor does the genesis of the crime that arise from gender stereotypes and gender inequality between men and women. The provision of Article 144 also refers to physical fear, while the provision of the COE's Convention refers to the psychological state of fear.

Recommendation

Therefore, the Criminal Code should either regulate this crime to be gender-responsive, or criminalize stalking as a new crime with provisions that will provide sanctions for perpetrators, and at the same time provide protection for victims.

ARTICLE 35 – Physical violence

Article 35 of the Istanbul Convention regulates: "Parties shall take the necessary legislative or other measures to ensure that the intentional commission of acts of physical violence against another person is criminalized." The Criminal Code does not regulate physical violence as a separate crime but includes it in the definitions of domestic violence in Article 122 paragraph 2 only. In the Criminal Code an object of protection when regulating the criminal acts "bodily injury" and "severe bodily injury"¹¹⁴, are the life and bodily integrity. However, there are two reasons why this regulation of domestic violence as a qualifying factor for crimes is not sufficient. First, it does not indicate the genesis of violence, i.e. gender inequality, gender roles and stereotypes that led to crime against the victims. Second, the regulating domestic violence as a qualifying factor of the crime, not the crime itself, does not allow the collection of data on the

¹¹⁴ Article 130 and 131, Paragraph 2

crime which is a serious obstacle to the implementation of the COE's Convention, especially Article 11, which deals with data collection and reporting of all forms of violence.

Recommendation

The Criminal Code does not regulate physical violence as a separate crime, in order to ensure indication of the genesis of GBV, and allow collection of relevant data for the committed criminal acts in this regard.

ARTICLE 36 – Sexual violence, including rape

Although in the national legal system, different forms of sexual offenses are punished by different laws, yet it must be noted that the terminology used is slightly different from that in the COE's Convention, where the term sexual violence is used. The national legislation uses the term "sexual violence", which comes from the word "sex" (biological characteristics that define someone as a woman or a man).

The act of sexual violence is not based on the concept of lack of consent from the victim, but on the concept of the use of force. So, in cases where the use of physical force is not present, it is difficult to present it as a crime, as an act of sexual violence. Otherwise, the absence of consent gives a clearer perception of whether the offense can be characterized as a sexual assault, at least by the victim. The police and prosecution prosecute cases where the victims resisted the offender, where at the same time they unsuccessfully protected the victims who were not able to oppose the offender. In this case, it is best to focus on the victim's consent, analyze the situation, and hear the witnesses. Rape in marriage is punishable but requires the use of force or serious threats.

Another important aspect in prosecuting sexual assault offenses is to ensure that court rulings, are not influenced by gender stereotypes or existing myths about female and /or male sexuality. It is worth noting that the provisions governing sexual violence in the national legal framework use a gender-neutral vocabulary. This means that sexual assault can be committed against both men and women. In addition, Article 186 of the Criminal Code does not explicitly define the elements of rape. Instead, the term "adultery" is used, which is a very general term does not explicitly mean sexual violence.

Recommendations

Therefore, the legislator should make additional efforts to better define the term "rape" and to requirements set out in the COE's Convention regarding the elements of the act. It is also advisable in its definition process to cover all forms of unconsensual penetration, including body parts or objects.

The redefinition of this crime must take into account the practice of the European Court of Human Rights, especially the decision in the case MS v. Bulgaria, where the court found that "rape is a violation of a person's sexual integrity and self-determination and that rape legislation should focus on non-consent rather than the use of force as an integral part of the crime of rape".

Finally, in practice Ministry of Interior collects data on rape and reports on this crime on a regular basis, but without providing gender-disaggregated data on rape victims and perpetrators. Hence, it is necessary to harmonize in terms of data collection and reporting of rape with Art. 11 of the Convention.

ARTICLE 37 – Forced marriage

Child marriage is not autonomously regulated by the Criminal Code. One aspect of the crime criminalized by Article 37 of the Istanbul Convention is that forced marriages are part of human trafficking and child trafficking, as well as the consequences of marriages from that offense. These acts are criminalized under Article 418-a of the Criminal Code, and the Law provides for imprisonment of at least 4 years for perpetrators and at least 8 years for perpetrators of child trafficking. In addition, although the nature of the offense is regulated, its limited scope only in the case of trafficking in human beings and child trafficking makes compliance with the Istanbul Convention partial. At the same time Art. 6 of the Criminal Code partially criminalize underage marriage by enabling the application of the Convention to minors as well. However, what the criminal code does not allow is to criminalize the intentional lure of an adult or child in the territory of the country or in another country in order to force an adult or child to marry.

Recommendations

The forced marriages and marriages with children in North Macedonia should be regulated by separate provisions of the Criminal Code, as required by the Istanbul Convention and its Article 37, which provides for this. To this end, there are different approaches in the world on how to deal with this issue. Good practice that can be followed is the Norwegian Criminal Code, which defines the crime of forced marriage as "any person who, by force, deprivation of liberty, inappropriate pressure or other unlawful conduct or threats of such conduct, compels anyone to enter into marriage." he will be guilty of causing a forced marriage."

Another option for dealing with a forced marriage is to criminalize any act in which force is used or threats are used that cause fear and suffering to another person and are effected by concluding a marriage or a complete ban on the marriage of minors or minors. This is the case with German criminal law, which treats forced marriage as a serious crime.

ARTICLE 38 – Female genital mutilation

The female genital mutilation is not regulated by the Criminal Code, as provided by Article 38 of the COE's Convention. One aspect covered by the Criminal Code is the provisions of Articles 130 and 131, which penalize bodily injury and grievous bodily injury. As can be seen from the Criminal Code, in none of the paragraphs of the two articles that regulate bodily injury is explicitly mentioned any female body part that would give it a dimension based on the native crime. However, given the seriousness of the act, which could have potential health damage to the lives of women and girls, it should be explicitly defined as a crime. Female genital mutilation is part of the traditional circumcision procedure in some parts of the world. Although such traditions are

not nurtured in the country, due to globalization and migration (movement of people), such a procedure can also take place on the territory of the country.

Recommendations

It is necessary to criminalize the offense on the territory of all signatory countries in order to contribute to the eradication of this practice. In addition, Macedonia should introduce measures to cover the specific aggravating circumstances of this behavior, which could be used for effective prosecution under the crime of physical violence, as well as criminalization of the aspect of coercion determined by paragraph 38 of the Article.

ARTICLE 40 – Sexual harassment

Although sexual harassment is treated in different laws¹¹⁵, the, taking into account that sexual harassment can occur in many places, such as schools, workplaces, hospitals, public spaces, etc., this requires legal instruments that go beyond the Labor Law. However, it is based more on discrimination than in the form of gender-based violence. In this respect, sexual harassment is not criminalized, so it is not in line with the COE's Convention. So far, sanctions include fines for perpetrators and employers if they fail to prevent or protect employees from offenders. However, criminal legislation on sexual harassment should not exclude existing sanctions, but supplement them.

Recommendations

North Macedonia should introduce sexual harassment as a crime in the Criminal Code and define appropriate sanctions for perpetrators. Criminal liability for sexual harassment should take on a new quality by defining violence against women.

ARTICLE 42 – Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour”

According to the provisions of the Macedonian Criminal Code, culture, customs, traditions or honor do not provide a solid basis for justifying crimes. In addition, Article 6 of the Criminal Code exempts juveniles from liability, but the second paragraph of the article allows the application of the Convention to minors as well.

Recommendation

The State should introduce measures to cover specific aggravating circumstances of this behavior, which could be used for effective prosecution under the crime of physical violence.

¹¹⁵ Law for prevention and protection against discrimination, Law on Labor Relations, Law on protection against psychological violence at the workplace

ARTICLE 46 – Aggravating circumstances

Article 39 of the Criminal Code contains general rules for sentencing. The Law does not differentiate the mitigating circumstances from the aggravating circumstances, but leaves such an assessment to the court. and aggravating circumstances). Also, when sentencing, the repeated crimes of same type are taken into account by the court, whether the acts were committed for the same motives and how much time has passed since the previous conviction, i.e. the served or forgiven sentence, whether the crime was committed against a person or a group of persons or property, directly or indirectly, because of his or her national and social origin, political and religious beliefs, property and social status, gender, race or skin color; the property status of the perpetrator, taking into account his other income, his property and his family liabilities. Although these provisions implicitly correspond to those of the Convention, it is still necessary to consider their possibility of full incorporation and harmonization of the legislation of the Republic of Northern Macedonia with the Convention.

Article 58 of the Istanbul Convention regulates the obligation of the signatory countries to determine, long enough and commensurate with the gravity of the crime, a period of obsolescence of the acts. Macedonian criminal law recognizes the statute of limitations for prosecution and the statute of limitations for the execution of a criminal sanction. The deadlines for statute of limitations, the course and termination of the statute of limitations and the statute of limitations are regulated by Articles 107, 108 and 112 of the Criminal Code. Absolute statute of limitations for the prosecution of all crimes for which statute of limitations is allowed exists after "twice as much time as is required by law for the statute of limitations for criminal prosecution" (Article 107, paragraph 6 of the Criminal Code). "The statute of limitations does not guarantee that after the age of 18, children who have been victims of sexual violence will be prosecuted for any of the crimes." Additionally, Article 112 of the Criminal Code provides for the possibility of non-obsolescence of criminal prosecution, if it is provided by an international agreement that has been ratified.

VI. INVESTIGATION, PROSECUTION, PROCEDURAL LAW AND PROTECTIVE MEASURES

ARTICLE 49 – General obligations

In parallel with the needed harmonization of national criminal legislation, there is a need for intensifying efforts toward effective implementation of the criminal procedure for committed criminal acts related to domestic violence. Especially taking into account that despite the adopted severe penal policy toward domestic violence perpetrators for almost 20 years ago, in practice there are barriers for effective implementation in all phases of the procedure, including the investigation, prosecution and the procedure in front of the criminal courts.

The data presented below are extracted from the conducted in-depth analysis on completed criminal procedures as a result of domestic violence¹¹⁶, and the conducted court monitoring to civil and criminal cases related to domestic violence¹¹⁷.

In general, the judicial practice shows that: Although punishable by law, psychological and sexual domestic violence are still not punished; Domestic violence is not fully punished for withdrawing from criminal proceedings for crimes committed as a result of domestic violence; The perpetrators of domestic violence do not receive the deserved punishment, a punishment appropriate to the gravity and circumstances under which the domestic violence occurred; Late administration of justice in cases of domestic violence; Women who have suffered domestic violence experience and witness it again, thus are facing re victimization in the criminal proceedings¹¹⁸.

What is worrying is the absolute lack of criminal proceedings for protection of victims of sexual domestic violence. In addition, neither a case has been filed nor criminal proceedings have been initiated for the protection of victims of psychological domestic violence for criminal offenses Coercion under Art. 139 st. 2 of Criminal code and Unlawful deprivation of liberty under Art. 140 st. 2.

Withdrawal of the motion for prosecution by the victim and withdrawal of the indictment by the public prosecutor in cases/cases of domestic violence means stopping the procedure and impunity of the perpetrators of violence. In terms of withdrawing, it is evident that the most common is the criminal offense Physical injury under Art. 130 st. 2. This crime must not be seen as isolated incident because most often before and after the occurrence of such a criminal case event there is psychological violence against the victim of domestic violence, its severe insult by the perpetrator, followed by serious threats to attack her life and body, which in the case of a victim of domestic violence most often results in mental disorder followed by depression. Prosecution for this criminal act is performed ex officio, but upon a previously given proposal of

¹¹⁶ Analysis on Criminal Legal Protection of women who suffered domestic violence, Association ESE 2019, Association ESE, 2019, available at

<https://esem.org.mk/pdf/Publikacii/2019/Krivicnopravna%20zashita%20na%20zhenite%20zrtvi%20na%20CH.pdf>

¹¹⁷ Court monitoring report on civil and criminal domestic violence cases, Association ESE, 2021, available at

<https://esem.org.mk/pdf/Publikacii/2020/Извештај%20од%20судско%20набљудување%20на%20кривично%20и%20граѓански%20предмети%20за%20семејно%20насилство.pdf>

¹¹⁸ Is domestic violence sanctioned, Main findings from Analysis on Criminal Legal Protection of women who suffered domestic violence (in-depth analysis to completed criminal cases), Association ESE, 2019, available on the following link <https://esem.org.mk/pdf/Publikacii/2019/Ce%20казнува%20ли%20семејното%20насилство.pdf>

the victim of family violence. Out of 16 criminal proceedings initiated for the criminal offense of Physical Injury under Art. 130 st. 2, in five (5) cases the criminal proceedings against the perpetrators of this criminal act were stopped due to the withdrawal of the proposal for criminal prosecution by the victim of domestic violence before the beginning of the main hearing, ie one third (30%) from the criminal proceedings for this crime. This means that in these proceedings the perpetrators went unpunished. The problem is that this is the only crime of domestic violence that they are prosecuted on a motion instead of ex officio. In addition to withdrawing the victim, The withdrawal of the charges by the Public Prosecutor's Office was also noted during the main trial hearing on criminal offenses prosecuted ex officio for lack of on proofs. If this data is compared with the number of suspended sentences for this criminal act (in all 11 proceedings 11 suspended sentences were imposed, and in no case is it pronounced effective imprisonment) is obtained devastating information that the victim of domestic violence for this crime will either be forced under pressure by the perpetrator to withdraw the proposal for criminal prosecution or if she does not withdraw the proposal, then the court will certainly pronounce it on the perpetrator alternative measure. This leads us to the conclusion that the protection given to victims of domestic violence for the most common crime type of crime is reduced to the lowest possible level. Hence, a legal amendment of Article 130 par. 4 in which the words: „and for paragraph 2 after proposal "to be deleted and thus the criminal prosecution for this crime will be undertaken ex officio without prior request of the victim's family proposal violence. This will discourage the perpetrator and other persons from exerting pressure on the victim of domestic violence to withdraw the motion for criminal prosecution. That is, the victim will not have a legal opportunity to do such a thing, on the one hand and by on the other hand, any perpetrator for such a crime will be obligated brought before a court, he will be tried and convicted.

The criminal procedures for committed criminal acts as a result of domestic violence is delayed in practice. In relation to the duration of the criminal procedure, the conducted in-depth analysis on completed criminal cases related to domestic violence shows that on average the largest duration in processing cases of domestic violence to the complainant procedure passes from the occurrence of the event to the filing of an indictment, i.e. in the first stage of the procedure. This phase lasts an average of 140 days or 56% from the procedure. This indicates the time period of occurrence of the criminal event until indictment significantly affects criminal protection of women who have suffered violence, due to which it occurs the need to complete expert teams in the police that will be exclusively educated and will work on the detection and rapid processing of these items. On the other side, the second and third phase which separately last 57 and 52 days, respectively represent 44% of the total duration of the first instance procedure. If we take into account that both phases depend on the work of the courts that means that almost half of the duration of the entire procedure depends on the court. If we do the analysis for each individual crime, from the average duration of the first instance procedure can be seen that on average the longest the proceedings for the criminal offenses of attempted murder and murder are ongoing. All this is due to the fact that these are criminal offenses for which regular proceedings are conducted and for whom judgment is required and a large amount of evidence is presented, expert examinations are performed, experts were questioned at the main hearing, and in no case was there confession of guilt. All of the above clearly shows that there is a need for specialization of judges who will act in the adjudication of the criminal offenses committed as an act of domestic violence and continuous education of those judges in this area.

There is revictimization of the victims during the procedure. Previously given victim's statement during the investigation is not considered as valid evidence during the main hearing. In as many as 77% of the cases in which there were material and other evidences presented from which the existence of the violence is evident, the victim of domestic violence had to testify again about the violence they suffered. In 15 cases the victim was cross-examined by the defendant and his counsel.

In terms of aggravating circumstances, it is evident from the performed inspection that in most of the cases no evidence regarding the conviction of the defendant has been presented by the Public Prosecutors. It all comes down to the statement / testimony of the defendant regarding his conviction at taking his generals, especially for criminal offenses for which summary proceedings are conducted. Exceptions are the cases related to the criminal offense of Murder under Article 123 para. 2 t. 2, in which an Excerpt from the criminal record for the defendant is proposed and presented as evidence.

The legally prescribed prison sentences for the perpetrators of domestic violence are not imposed in practice. Given that this is a serious social problem that significantly affects both society and the family, the legislator singled out domestic violence as a separate type of crime and provided for the application of stricter penal policy towards perpetrators of domestic violence. Namely, each criminal act committed as a result of domestic violence should imprisonment is prescribed. In this regard, by imposing the legally foreseen prison sentences, judges will provide special prevention to perpetrators of domestic violence, as well as general prevention toward the whole public. It is worrying that from a total of 66 completed criminal cases with first instance verdict, imprisonment was imposed in only 10 cases. Conditional sentences were pronounced in as many as 43 cases. The court also granted three acquittals and nine dismissals judgments. It is worrying that the aggravating circumstances are not taken into account, as well as the frequent application of the institute of "mitigation of punishment" for the perpetrators of domestic violence by judges. In doing so, the nature of domestic violence, recidivism, and serious consequences for victims of domestic violence are not taken into account¹¹⁹. Summarized data on the type of court decisions in general, as well as in relation to separate criminal convictions, clearly indicate that the penal policy that practiced by the courts for this type of violence, does not even contribute to reducing and eliminating severe forms of domestic violence and leading to protection from this type of violence.

Recommendations

The Ministry of Interior and Ministry of Justice should organize education of the police and public prosecutors in order to become sensitive and recognize the individual crimes in which they are elements of domestic violence. At the same time, it is necessary to take measures to raise public awareness of the incrimination of domestic violence and for certain crimes through which it is punished.

¹¹⁹ Court monitoring report on civil and criminal domestic violence cases, Association ESE, 2021, available at <https://esem.org.mk/pdf/Publikacii/2020/Извештај%20од%20судско%20набљудување%20на%20кривично%20и%20граѓански%20предмети%20за%20семејно%20насилство.pdf>

Ministry of Justice should initiate legal amendment of Article 130 par. 4 in which the words: „and for paragraph 2 after proposal "will be deleted and thus the criminal prosecution for bodily injury will be undertaken ex officio without prior request of the victim's family proposal violence.

It is necessary for the judges to reduce the possibilities for delaying the procedure in the court, by increasing the number of cases in which the judgment is rendered in the absence of the defendant. Ministry of Justice should provide specialized judges who will act in the adjudication of the criminal acts committed as an act of domestic violence, and ensure their continues education in this regard.

The application of special measures for procedural protection of women victims of domestic violence during the court procedure should be explored, i.e. in accordance with Art. 54 of the Law on criminal proceedings. In particular, it is recommended that judges review it the possibility to use video and audio recording from the previously given testimony of the victim during the investigation.

The Academy for judges and Public Prosecutors should organize forums for judges in order to emphasize the need to apply the provided penal policy against perpetrators of domestic violence and unification of case law in cases of this kind. It is necessary for the judges to take into account aggravating circumstances and, according to the consequences of suffered domestic violence, to impose harsher punishments on the perpetrators.

ARTICLE 50 – Immediate response, prevention and protection

In accordance with the Law on Prevention and Protection against VAW and domestic violence, the police representatives can enter the place of living after victim have reported the violence, in order to remove the “immediate and serious danger to the life and physical and psychological integrity of the victims and members of the family”¹²⁰. Consecutively, risk assessment is conducted by the police representatives and if there is an imminent risk, the perpetrators can be deprived of liberty. In parallel within 12 hours the police representative will inform the Public Prosecutors Office, and prepare police report and submit the proposal to the Basic Civil Court for pronouncing the urgent measure of protection “removal of the abuser from home and ban to approach the home”. However, there is a non unified practice in the implementation of this legal provision by the police. Police representatives are not trained to proceed in these cases and how to adequately conduct the risk assessment. The assessment about the police proceeding in domestic violence cases, which incorporated 48 interviews with police representatives (out of which 24 police inspectors), shows that more than half of them (52%) have not visited any training, roundtable or workshop related to VAW and domestic violence, while 22% of them have visited basic training, and only 12% specialized training. In addition, the collected data from 12 women with previously experience with reporting the violence to the police, shows that there is different practice on the part of police officers after the violence was reported by phone, in terms of the information they seek and the decision itself whether to enter the scene where the violence occurred. There is unified practice that police officers always go to the scene if the victim reports that the perpetrator posses a weapon; but if there is different practice in this regard if a weapon was not reported during the call. There are not unified questions that the

¹²⁰ Article 49, Law on Prevention and Protection against VAW and domestic violence

police representatives is asking the women that are reporting the violence through phone, and from the possession of a weapon it is not clear what are the actual criteria applied for the police to decide whether to go to the place of the living or ask the victim to report the violence directly to the police. On another side, there are cases where police representatives are going to the scene, yet only to warn the perpetrator not to commit violence, without having him removed out of the place of living and conduct adequate risk assessment in this regard.

The lack of education of police representatives proceeding in domestic violence cases directly influences the manner in which they proceed in these cases and the protection that is provided to women who suffered domestic violence. In addition, there is not obligatory practice for the women police representatives to be involved when proceeding in cases of VAW and domestic violence, which further affects the position of women who suffered domestic violence. Thus, there is a need for organization of obligatory basic education for working with women survivors for all the police representatives that have contact with victims, and specialized trainings for those who are directly proceeding and making decisions in these cases.

Positive step was undertaken in 2021, when the Ministry of Interior upon the initiative of Association ESE has established cooperation, incorporating assessment of police proceeding in domestic violence cases, and preparation of written guidelines in this regard. The draft assessment of the police proceeding is prepared, and in the forthcoming period it will be presented to the police representatives from 8 Sectors for Internal Affairs, as a basis for future capacity building and for improving different aspects from police proceeding.

During 2021 Coalition Margins documented 54 cases of gender-based violence and domestic violence of marginalized women and transgender people, out of which 22 were women sex workers. In most of the cases the perpetrator is the partner of the victim, and in the cases where sex workers are the victims the perpetrator is also the clients or third party. LGBTI people are victims of domestic violence by their parents or other close relatives. Most of these women who report the cases to CSOs are not motivated to pursue the case due to the previous incompetent and unprofessional treatment by the competent institutions.¹²¹ In the Polog region, specifically in Gostivar, the victims of gender-based violence do not report to the police based on their previous experience and they do not trust that they will get the necessary assistance.¹²²

In year 2020 seven victims of trafficking are identified, out of which six female children (girls) and one adult male (five victims for sexual exploitation, one forced begging and one labour exploitation). In 2019 were six identified victims of trafficking, all are females and four are children (two victims of forced marriage, one of sexual exploitation, one of forced labour, one victim of sexual exploitation combined with forced marriage, one labour exploitation combined with begging). The vast majority of victims in North Macedonia are children from dysfunctional families with a plethora of risk factors, including domestic violence and poor social and economic circumstances, is another concern. Initial identification of victims in 2019 remains a challenge, indicated by the low number of officially identified persons compared to the actual number of trafficked persons in the country. This poor identification is due mostly to the lack of human and

¹²¹ Report on the violation of the human rights of marginalized communities from the documented cases in the period August-November 2021 <https://bit.ly/3MQ4LJc>

¹²² Drndarveska D., Senih A., Ananievska A. Sexual and health rights of marginalized communities. Annual report 2018, 2019.

technical resources, poor education, and poor application of the existing indicators for identification of victims by the relevant institutions. Another issue worth noting is the difference in the gap between reporting of the crime and raise criminal charges. This period ranges between two months in one case and two years in another. In three other cases, the average period is around four to six months, and in one of the cases, charges were filed a year and nine months after the crime was disclosed.¹²³The reason for this discrepancy is linked again with lack of human and technical capacity of PPO, inefficiency in taking statements from victims as well as lack of motivation to give priority of the cases and to act in reasonable time. There is a lack of an established system that will facilitate a precise identification of cases (even in cases when authorities make a mistake which needs correcting). In other words, the 2018 SOP does not contain a provision which will allow a person who has not been identified a victim to submit an appeal or any other legal remedy in order to have their status recognized.¹²⁴

Recommendations

Ministry of Interior should undertake systemic measures in order to ensure appropriate identification of victims of human trafficking, and address the discrepancy between the officially identified persons and the actual number of trafficked persons in the country.

Ministry of Interior should undertake measures for education of police representatives about the nature of VAW and domestic violence, and ensure their sensitiveness toward specific needs of women survivors, including women sex workers and transgender people.

ARTICLE 51 – Risk assessment and risk management

Recent legislative and policy efforts were undertaken by the State and relevant ministries toward implementation of Article 51, par.1, for especially addressing the risk assessment in terms of the seriousness of the situation and the risk of repeated violence against women survivors of VAW and domestic violence. In accordance with the Law on Prevention and Protection against VAW and domestic violence, the CSW and police in a period of 12 hours after the reporting are obliged to make a risk of serious danger to the life and physical and mental integrity of the victim and members of her family, and risk of repeated violence, and undertake measures of protection of the victim¹²⁵. In addition, MLSP and MOI have adopted by legal acts toward ensuring implementation of these procedures in practice. MLSP has adopted Rulebook, including written forms for carrying out risk assessment and monitoring the implementation of the measures of protection by CSW¹²⁶, while MOI have adopted Rulebook, including written forms for carrying out risk assessment and implementation of urgent measure of protection¹²⁷. In this regard, in a situation when there is a lethality risk or risk of repeated violence, the police is obliged to

¹²³<https://drive.google.com/file/d/14hgFd8c8sHTqNu7kjY6tNSQ8EGiqDF3j/view>

¹²⁴The recovery and reflection period might be terminated in cases when the victim's status has been acquired illegally. The domestic or foreign national may appeal against the decision to terminate the recovery and reflection period, and are entitled to administrative dispute (p. 36 of the SOP). Consequently, once the persons loses their victim status, they also lose their right to temporary residence.

¹²⁵ Article 50, Law on Prevention and Protection against VAW and domestic violence

¹²⁶ Official Gazette RNM No. 240/21

¹²⁷ Official Gazette RNM No. 210/21

prepare and submit proposal to the Basic civil court for “removal of the abuser from home and ban to approach the home”, without victim’s consent.

In this regard, it is important to notice that the obligations of the police to carry out risk assessment in domestic violence cases and execute the urgent measure of protection, dates since the adoption of the Law on Prevention and Protection against domestic violence from 2015 (out of force), and there were serious implementation gaps identified within the proceeding of police in this regard, including the lack of knowledge and skills among the police representatives for conducting proper risk assessment in domestic violence cases.

Thus, recognizing that the new Rulebooks were adopted at the end of 2021, there is a need for MOI and MLSP to intensify efforts for their implementation. Practitioners from police and CSW need to be informed in details about their obligations arising from the law and by legal acts, and especially to attend capacity building for strengthening of their skills for conducting risk assessment and undertaking measures for protection of women survivors and their families at risk. The increased number of murders of women in the country in the recent years is additionally imposing the need for intensifying the education of practitioners in this regard.

In terms of implementation of par.2, through recent legislative and policy developments, institutions have made significant efforts to address gendered dimension of small arms at legislative and policy level. This is primarily reflected in increasing legislative efforts to prevent and combat the misuse firearms in the context of domestic violence, and to a lesser degree policy effort to address other gender concerns related to small arms ([Report on the Gender Analysis of Small Arms Control legal and policy frameworks in the Republic of North Macedonia, SEESAC 2021](#)). The Law on Weapons considers "domestic violence" and "severe disruption of family relationships" as grounds for posing danger to public order and consequently as a ground for rejection of the application for permit to acquire weapons. This is also reflected in the procedure for the renewal of firearms license. The storage of the weapons and ammunition for both natural persons and by the legal entities is regulated. The legislation regulates the procedure of the relevant institutions, Center for Social Work and the police in cases when weapons was use or was threatened to be used, as well as when weapons is possessed by the perpetrator or the perpetrator has authorization to carry and use weapons as part of their authorization. Legislation regulates that the possession of a weapon, the use of a weapon or the threat of a civilian in domestic violence based on a risk assessment, the weapon is temporarily confiscated by the police and if there are justifiable reasons it is confiscated. Consequently, the license is temporarily revoked until a final court decision is made, when the license is permanently revoked. The legislation has regulated domestic violence incidence occurrence as a basis for weapons temporary seizure for a large group of security personnel till the court's decision in criminal, misdemeanor and temporary protection order for domestic violence becomes final, including a mandatory psychiatric and psychological examination or counseling with a psychologist for assessing the ability of the perpetrator to carry out with his/her position of carrying and using a weapon.

Recommendations

MLSP and MOI should distribute the adopted Rulebooks to the CSW and police, in order to inform the practitioners about their concrete obligations related to carrying out risk assessment. In

addition, practical workshops should be organized for all the practitioners proceeding in cases of VAW and domestic violence for strengthening of their knowledge's and especially skills for using the written forms and carry out proper risk assessment.

Prevent and appropriately respond to firearms misuse in cases of domestic violence by amendment and addenda of the Law on Weapons through: definition of a domestic violence, as contained in the Criminal Code and in the Law on Prevention, Suppression, and Protection from Domestic Violence; specific provision ie an obligation for notification to the spouse (current and former from the last two years) or close family member by the responsible state institution during the process of obtaining the license; provision for consultation with Center for Social Work, obtaining data on history of domestic violence, including stalking when it is legally introduced; preparation of a Rulebook for security vetting of domestic violence to be developed and adopted by the Ministry of Interior; to amend the requirement "legally convicted for a criminal act committed with intent, which is prosecuted ex officio" to "legally convicted for a criminal act committed with intent, which is prosecuted ex officio with a previously given proposal of the victim of domestic violence" for the cases of DV and "the person has been issued with a temporary protection order for domestic violence"; and to explicitly regulate the court decision for imposing temporary protection orders as a ground of revocation of the license.

Regulate a procedure for all security personnel authorized to carry and use weapons and align these procedures to have one uniform state policy approach, including foreseeing "all forms of domestic violence" as a condition for security vetting in employment and regulating carrying and use of a weapon out of their working positions.

Reassess and uniform the approach in provisioning the risk assessment and risk management in accordance to the Istanbul Convention and consequently accept the possession and access to firearms, regardless of whether the firearms were used or threatened in domestic violence incident as a risk.

Ensure effective and timely implementation with preparation and adoption of a Guide on Law on Weapons demonstrating the linkages between these SALW and domestic violence, and envisage clear guidelines for proceeding what has to be done when domestic violence is committed.

ARTICLE 52 – Emergency barring orders

Recent legislative and policy efforts were undertaken by the State and MOI toward implementation of Article 52 from the Convention. In accordance with Article 57 from the Law on Prevention and Protection against VAW and domestic violence, urgent measure "removal of the abuser from home and ban to approach the home" can be imposed from 10 to 30 days for protection against immediate danger to the victims and her family members, without the consent of the victim. The urgent measure is imposed by the competent civil court, upon submitted proposal by the police. In this regard, the police are obliged to go to the scene after the violence is reported, prepare police report, and carry out risk assessment as explained under Article 51, prior to the preparation and submission of the proposal to the court. In 2021 MOI has adopted Rulebook on the manner of execution of the urgent measure of protection and

temporary measures of protection¹²⁸ that further regulates the obligations of police in this regard.

As it was noted under Article 51, although the police obligation to provide this urgent measure in domestic violence cases is from 2015, there is a low level of implementation of this urgent measure in practice. In accordance with the practice presented by civil law judges that are proceeding in these cases, the proposal submitted by the police for imposition of the urgent measure of protection is not adequately prepared or it is incomplete, which makes difficulties for them to impose the measure urgently as it is intended. In addition, the police assessment conducted by Association ESE in 2021 with 48 police representatives from the 8 Internal Affairs Sectors shows that police representatives are mainly informed about the opportunity to submit proposal to the court for imposing the urgent measure of protection, yet they are not sufficiently informed about their specific obligations in this regard. For instance, only 18 out of 48 police representatives were informed that the victim's consent is not a precondition for submitting proposal for the urgent measure to the court, while 15 of them stated that victim's consent is needed and 10 police representatives did not know if the consent is needed. In addition, police representatives have emphasized the difficulties faced when preparing the proposal for urgent measure to the court. Parts of them are related to the internal capacities and functionality of the police, such as: the lack of financial and human resources; short deadlines for preparation of the police report, risk assessment and proposal to the court; the need for providing signatures from their superiors; complicated and not precise risk assessment. Part of the difficulties is related to the proceedings of the courts that are imposing the urgent measure. Namely, if domestic violence occurs during the weekends or holidays when the courts are not working, there is no possibility for the judge to "respond" to the proposal submitted by the police and impose the urgent measure promptly, which affects the effectiveness of the urgent measure itself¹²⁹.

As a result of the advocacy efforts of CSO's, the new NAP for Open Government Partnership 2021-2023, under its objective 4.3., incorporates measure for "appointment of an on-duty judge (and a typist) for imposition of temporary measures of protection during weekends and holidays"¹³⁰. It is expected that this measure will contribute for more effective implementation of the urgent measure of protection. However, there is a need for strengthening the capacities of the police for implementation of their legal obligations related to the execution of the urgent measure of protection, especially the skills needed for proper carrying out of risk assessment, and preparation of the police report and proposal that should be submitted to the courts.

Recommendations ARTICLE 52

MOI and Sectors for Internal Affairs should organize capacity building of all police representatives proceeding in these cases, in order to ensure effective implementation of the urgent measure of protection "removal of the abuser from home and ban to approach the home". Practical workshops should aiming at strengthening of skills among practitioners on how to conduct proper

¹²⁸ Official Gazette RNM No. 210/21

¹²⁹ Draft Assessment of Police Proceeding in Domestic Violence cases, Association ESE 2021

¹³⁰ National Action Plan for Open Government Partnership 2021-2023, available at <https://ovp.gov.mk/wp-content/uploads/2021/07/NAP5-PARTNERSTVO-ZA-OTVORENA-VLAST-2021-2023--potvrden-od-Vlada-26.10.2021.pdf>

risk assessment, and prepare the police report and proposal to the court for imposing the urgent measure of protection.

ARTICLE 53 – Restraining or protection orders

The recent legislative and policy efforts undertaken by the State are solid basis for implementation of the Article 53. The adoption of the Law on Prevention and Protection against VAW and Domestic Violence, and the adopted bylaws by the MLSP¹³¹ and MOI¹³² enabled expansion of the protection provided through temporary measures of protection (TMP) to different groups of victims of GBV, despite the existing protection of this type for women who suffered domestic violence¹³³. In this regard, the TMP that were first introduced in the Family Law in 2004, and in the Law on Prevention, Suppression and Protection against domestic violence (out of force) in 2015, were actually incorporated in the new Law, by broadening the scope of protection to all victims of GBV.

In this regard, it is especially important to emphasize that there is a decrease in the duration of the TMP removal of the abuser from home, in comparison with the previous regulation of this measure under the domestic violence law. Namely, the duration of all TMP in the new Law is from three months up to one year (Article 62), with the exemption of this measure for which it is explicitly stated in Article 58 to last from 10 to 30 days. It is not clear whether the intention was to unify the duration of this TMP with the duration of the urgent measure of protection (Article 57) “removal of the abuser from home and ban to approach the home”, which would be inadequate since these are two different types of measures for protection of women survivors. Moreover, this novelty in the law lowers the previous level of legal protection which was already granted for women survivors of domestic violence, and thus it is necessary to delete the provision “in a duration from 10 to 30 days” from Article 58 of the new Law.

The TMP are imposed by the Basic Civil Court with duration from three months to one year, upon submitted proposal from MOI, CSW, victims, and parents or guardian on behalf of their child or protégée¹³⁴. In this regard, there are 10 TMP explicitly listed in the Law¹³⁵, with additional opportunity given to the Court for imposing any other measure toward ensuring security and wellbeing of the victims and her family members. In terms of their execution, it is divided among different ministries and institutions. MOI (police) is obliged to implement TMP from banning character and the measure removal of the abuser from home (1, 2, 3, 4 and 5); Ministry of Health (health institutions) is obliged to implement the measure for mandatory treatment of the abuser in cases of use of drugs and alcohol (9); the separate Counseling program should implement the measure for treatment of perpetrators; and other measures are implemented in accordance with

¹³¹ Official Gazette RNM No. 248/21

¹³² Official Gazette RNM No. 210/21

¹³³ Article 58

¹³⁴ Article 59

¹³⁵ 1) Ban of threatening to commit domestic violence; 2) Ban to harass, telephone, or otherwise communicate with the victims; 3) Ban to approach distance close than 100 meters from the place of living, working place or other place regularly visited by the victims; 4) remove of the abuser from the home regardless of the right to property from 10 to 30 days; 5) Ban to possess firearm or have it confiscated; 6) Mandatory return of the items needed to meet the daily needs of victim and her family members; 7) Mandatory support of family; 8) Mandatory visit of program for perpetrators; 9) Mandatory treatment of the perpetrator if he uses drugs, alcohol, and other psychotropic substances; 10) Obligatory to reimburse the medical and other costs incurred by the violence.

the Law¹³⁶.

In terms of their number and type, the implementation of TMP in practice should provide effective protection to women survivors and their family members, and significantly contribute for prevention of GBV and domestic violence in the country.

Unfortunately, despite the fact that TMP are part of national legislation for almost 20 years, this specialized preventive mechanism for protection of women survivors of domestic violence faced serious implementation gaps and has not really come to life in practice. Especially since their effective implementation might have prevented the current “high prevalence of GBV against women and girls in the country, and the high number of killings of women”¹³⁷.

In the next part we will provide data about the practice related to proposing, imposing, executing and monitoring of TMP for protection of women who suffered domestic violence, and conclude with recommendations for improving their implementation which will ensure effective protection to women survivors of domestic violence, but also to other groups of victims of GBV, as it is stipulated in the Law. In relation to the sources, the data elaborated below is provided from the beneficiaries of ESE’s LAC and other CSO’s within the regular provision of services to women survivors, as well as from practitioners from institutions with whom ESE is cooperating toward improving the proceeding of practitioners working in domestic violence cases, such as lawyers, judges, social workers, police representatives and others.

In this regard, the existing practice shows specific implementation gaps in all phases the process, starting from the preparation of the proposals for TMP and access to the courts; the court procedure for imposition of TMP; the implementation of TMP after being imposed; and monitoring the execution of the TMP in practice. While part of the implementation gaps are result of the limitations within the Law, yet most of them are actually on the level of practical proceeding of institutions involved in the execution of the TMP.

Barriers related to the preparation of proposal for TMP and submission to the court

The practice shows that there is a discrepancy between the number of proposals for TMP submitted by CSW to the court, and the number of women survivors who need protection through TMP. The reasons for this situation are multifold.

The inadequate treatment of domestic violence as “disturbed family relationship” leads that part of the women survivors are not informed and provided with protection through TMP. For instance, practice shows that practitioners who were previously working in the department for marriage and family or not dealing with domestic violence, were given the obligation to proceed in domestic violence cases, without ensuring their capacity building needed for effective implementation of their obligations in this regard. As a result, cases with elements of domestic violence are treated as cases with disturbed marital and family relationship, and the appropriate methodology for work with women victims is not applied, including their protection through TMP.

¹³⁶ Article 73, Execution of the Urgent and TMP

¹³⁷ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018),

Moreover, women are called accountable for the situation and referred to visit counseling together with her children and abuser in order to keep the family together, which not only excludes them from the protection provided through TMP, but contributes to their further victimization by the institution and abusers. Another issue which affected the treatment of domestic violence cases was the case management system within CSW, which was established as a result of the adoption of the Law on social protection in 2019. In this regard, there is a need to explore the impact that the new case management system within CSW has produced on the protection and support provided to women survivors.

Part of women who reported the violence to CSW was not even informed about the existence of the TMP. Part of the women beneficiaries of CSOs with previous experience in CSW are stressing that they were not informed about the opportunity to be protected through TMP, but only referred to CSOs for provision of help and support, while part of the women were informed by CSW for the protection provided through TMP. Thus there is a non-unified practice in terms of the initial contact with the victims, and the type of information that CSW is providing to them in terms of their legal rights and available mechanisms for their protection against further acts of violence.

In addition, in the cases identified for submission of TMP, CSW is demanding victim's signed consent for submitting proposal for TMP to the court, which is another obstacle that influences the lower number of proposals. In this regard, the victim's decision to sign the consent is dependent on the manner in which the CSW has explained and encouraged her to initiate such procedure. In this regard, the practice of CSW should be significantly improved and unified, especially in relation to the initial contact with the women survivors and the manner in which the practitioners are informing women about the meaning and nature of the TMP.

Finally, there is not unified practice neither with the preparation of the proposals by the practitioners from CSW. The different and non-unified practices among CSW's nationwide are mainly a result of the lack of systemic education of practitioners from these institutions dealing with cases of domestic violence, and the lack of internal mechanism within the CSW that would ensure transfer of knowledge and skills among colleagues' practitioners, in cases of redeployment to another working position within the institution or retirement of the employees working on domestic violence cases. What is worrying is that the identified positive practices in terms of the prepared proposals by CSWs are not sustainable on a long-term level as well. Namely, the conducted court monitoring to civil cases for imposing TMP within the Basic Civil Court in Skopje in the period March 2018 – February 2019, showed that a significant portion of proposals submitted by CSW were well documented with solid expert opinion provided, which resulted in imposition of TMP without a court hearing being held. 56 out of 89 cases submitted by CSW (62%) were resolved by the courts in urgent manner without organization of court hearings¹³⁸. The civil law judges have also expressed their satisfaction from the improved proceeding of CSW Skopje, during the consultations within the court monitoring process. However, the next year in 2020 the judges have expressed their dissatisfaction from the prepared proposals for TMP by CSW, and stressed that the identified positive practice was discontinued. There is a need for

¹³⁸ Court monitoring report on civil and criminal cases of domestic violence, Association ESE, 2019, available at <http://www.esem.mk/pdf/Publikacii/2020/Извештај%20од%20судско%20набљудување%20на%20кривично%20и%20граѓански%20предмети%20за%20семејно%20насилство.pdf>

further exploring the reasons for this discontinuity in CSW Skopje, in order to determine whether it is a result of redeployment to different positions within the institution, retirement of part of practitioners, or as a result of the new case management system within CSW. In addition, in 2021 and 2022 part of CSO's service providers have identified negative and harmful practice of CSW in terms of the content of prepared proposals for TMP. Namely, there are domestic violence cases when CSW are preparing and submitting proposals for imposition of TMP against both spouses, i.e. against the victims and against the perpetrators; and part of the measures proposed, such as psychological counseling are not even part of TMP, but part of the measures that CSW should provide to women survivors. Written information was already sent to the MLSP February 2022, with demand to undertake efforts for overcoming the identified shortcomings in CSW proceedings in this regard. Especially since most of the procedures for imposing of TMP are submitted by this institution. For instance, an analysis conducted with women survivors in 2021 shows that most of women (32 out of 39) have lead or will lead the procedure for TMP through CSW, "due to the fact that women who have suffered domestic violence usually turn to the CSW to overcome the problem of violence and other legal problems, so they are more familiar with the legal competencies of this institution. On the other hand, the expressed dissatisfaction of women regarding the assistance and support they received from the SWC during the procedure for imposing temporary protection measures is particularly worrying. According to the data obtained from the 22 women who used the opportunity to conduct the procedure through the SWC, we concluded that as many as half (12) were completely dissatisfied with the assistance and support provided, six (6) were partially satisfied and only four (4) were satisfied. . There were several reasons for dissatisfaction with the procedure, the most common of which were: slow action on a domestic violence complaint, as well as proposing and withdrawing the proposed measures during the procedure without the prior consent of the women. The stated negative practices in the actions of the SWC directly contribute to the failure to achieve the purpose for which the TPM is pronounced, which is the effective protection of women who have suffered domestic violence. The procedure for TPM is a specialized preventive mechanism for the urgent protection of women who have suffered domestic violence, with short legal deadlines for implementation. As a result of the slow action of the SWC, which contradicts the urgency of this procedure, women are unprotected, ie they continue to suffer violence and face threats to their lives and health. Of particular concern is the fact that many women are insufficiently informed and consulted when the SWC decides to propose or withdraw TPM. Namely, for proposing or withdrawing the SWC it is necessary to take into account the situation of women due to which the procedure is initiated because otherwise there is a risk of not proposing a TPM in a situation when there is a need or withdrawal of TPM in a situation where there is still a risk of recurrence of violence."¹³⁹

In addition, women who are submitting the proposal personally to the court are facing more barriers, compared to women who are supported by CSW in this procedure. They need to pay for the court fees and other court costs, and facing difficulties in writing the proposal for TMP. In respect of exemption from paying court costs for this procedure, there are three possibilities for women who are ready to try to solve the problem of domestic violence in court. Through Centers for Social Affairs, in accordance with the Law on Prevention and Protection from Violence against

¹³⁹ The Impact of court fees and costs and information about exemption from payment of court fees and costs as an obstacle or opportunity for women who suffered domestic violence, Association ESE 2021, available at <http://www.esem.org.mk/pdf/Publikaciji/2022/1/The%20Impact%20of%20Court%20fees%20and%20costs.pdf>

Women and Domestic Violence (as explained previously); through the Ministry of Justice in accordance with the Law on Free Legal Aid, which includes representation by a lawyer; and through a personal proposal of the women with a request for exemption from court costs to a competent court, in accordance with the legal provisions for the litigation procedure provided by the institute, the so-called right of the poor. Positive step was done with the adoption of special provision within the Law on Free Legal Aid in 2019, which guarantees approval of secondary legal aid (attorney representation and all costs in the procedure) within 48 hours to women who suffered domestic violence in the civil court procedure for TMP, based on their status of victim's, without determination of financial status¹⁴⁰. However, the submission of written certificate for confirming the status of victim as eligibility criteria is a serious obstacle for exercise of this right. Especially, for the women who have not reported the violence previously to any institution, but need urgent protection through TMP. In addition, the Law does not specify the type of certificate needed, nor the competent institution in this regard. Part of the women who approached CSW were not provided with the certificate, and CSW have informed them that their status of victims is still not confirmed. This is a serious deficiency, since the TMP suppose to provide immediate protection from any further acts of violence, and the prolongation as described will result in non effective protection and serious consequences on the behalf of the women survivors. In addition, women are not informed about the right to free legal aid in accordance with the Law on Free Legal Aid.

Barriers related to imposition of TMP by the Courts

The main findings from the process of court monitoring of civil cases for imposition of TMP will be used for elaboration of the barriers related to the procedure in front of the courts¹⁴¹. In this regard, there is no unified practice among different courts, and the main challenges identified are related the duration of the court procedures, and presentation of evidence before the courts.

The prompt proceeding of the courts and observance of principle of urgency is crucial for effective protection of women survivors' through TMP. In this regard, the practice shows that the number of court hearings held is from 1 to 7 court hearing, while the average number of hearings was 2 per case. The main reasons for prolongation of the court procedures are the disorderly delivery of court invitation to perpetrators, the presentation of additional evidence, and hearing of witnesses. What is worrying is that there are cases when the court hearings were delayed more than once because of the absence of the perpetrators. In order to provide the urgent protection, the burden of proof in these court procedures should be lower as opposed of presenting evidence in other civil disputes between two opposing parties, since TMP are specialized mechanism for protection of women survivors. In this regard, there is a practice of presenting more evidence even in the cases where was evident the existence of domestic violence. Most common evidences presented during the court hearings are the statements of the victim and the perpetrators and material evidences. It is worrying that in most cases these

¹⁴⁰ Article 20, Law on Free Legal Aid

¹⁴¹ Court monitoring report on civil and criminal cases of domestic violence, Association ESE, 2019, available at <http://www.esem.org.mk/pdf/Publikacii/2020/Извештај%20од%20судско%20набљудување%20на%20кривично%20и%20граѓански%20предмети%20за%20семејно%20насилство.pdf>

evidences were presented cumulatively, despite the principle of urgency and the need for urgent protection of women survivors that imply lower level of proving domestic violence. Moreover, there were some cases where there was a parallel procedure against the perpetrators already initiated, yet the civil law judges have prolonged the imposition of TMP.

What is additionally worrying is the recent practices of the Appellate Courts proceeding in appealed procedures initiated by domestic violence perpetrators. In accordance with the statements of civil law judges from Basic court in Skopje consulted in the preparation of this Shadow report, the Appellate Courts are overturning the judgments of the Basic Courts that imposed TMP without court hearing being held, in the absence of the abuser. The basis for this is the disorderly delivery of court invitation (delivery) to perpetrators and their absence from the court hearings when the TMP are imposed. This practice of the higher court might seriously affect the previous efforts undertaken toward ensuring that TMP are imposed urgently, without prolongation in order to ensure effective and immediate protection to women survivors. In this situation, the avoidance of the perpetrators to receive the court delivery will result in postponement of the procedure and non provision of the immediate protection to women survivors, which is opposite to the aim of TMP.

Barriers related to the execution and monitoring of the imposed TMP

There is a lack of effective system for monitoring the execution of TMP by each of the individual institutions involved (such as police, health institutions etc.) and lack of system for overall monitoring of TMP established by CSW. In this regard, there are not publically available data about the manner of execution and the effectiveness of protection provided trough TMP, which was confirmed in the NAP for implementation of the COE's Convention 2018-2023. The recognition of this deficiency by the State should be the first step toward ensuring implementation of TMP in practice and preventing future increase of GBV and domestic violence in the country.

In addition, there are certain deficiencies related to the implementation of certain measures of protection. There is a lack of practice and not available information about the execution of the TMP for "mandatory counseling of perpetrators". In addition, there were difficulties in the implementation of the TMP "mandatory treatment if the perpetrators use drugs or alcohol", by relevant State institutions. For instance, there are cases when the health institutions have the opposite opinion from the police regarding who should bear the costs for transporting the perpetrator to the health institution, which affected the implementation of this measure.

Thus, there is an urgent need for ensuring all the needed preconditions for establishment of effective system for execution and monitoring of TMP. The relevant ministries should undertake substantial efforts for execution of different temporary measures of protection under their jurisdiction, and increase coordination among CSW, police and health institutions in this regard.

Recommendations ARTICLE 53

MLSP should initiate changes to the Article 58, TMP 4 “removal of the abuser from home” from the Law on Prevention and Protection against domestic violence, and delete the stipulation “in duration of 10 to 30 days”.

MLSP and CSW should prepare written guidelines with information that should be mandatory provided to women survivors once they report the violence to CSW, including information about the objective and importance of the TMP.

MLSP should conduct urgent inspection to cases treated as disturbed family relationship in order to extract the cases with elements of domestic violence and undertake consecutive efforts to ensure that proper treatment and protection is provided to women who suffered domestic violence. In parallel, MLSP should implement regular capacity building efforts, and organize basic trainings for all the practitioners from CSW about the nature of GBV and domestic violence; and specialized trainings for practitioners dealing with these cases, focusing on the principles for work with women survivors. In addition, MLSP should conduct in-depth assessment of the impact that case management system produces on the protection and support provided to women survivors.

MLSP should undertake efforts toward reviewing the proposals prepared by CSW in the last 12 months, in order to assess the quality and appropriateness of the prepared proposals, including expert opinions of CSW submitted to courts. The satisfaction of women survivors from the provided services should be an integral part of this assessment. Based on the main findings from this assessment, MLSP should organize education of practitioners from CSW’s, including practical work about the content and manner of preparation of proposals for imposing TMP to the courts. In addition, MLSP and CSW should ensure mentorship and transfer of knowledge among colleague’s practitioners from CSW, as a precondition for sustainability of positive practices.

Ministry of Justice should initiate a procedure for changing Article 20 from the Law on Free Legal aid in terms of the needed eligibility criteria of written certificate as confirmation of the status of victims, as a precondition for approval of free legal aid. In addition, MOJ should undertake efforts toward promoting this right among women who suffered domestic violence, and ensuring that the secondary legal aid is approved within 48 hours as regulated by the Law.

Ministry of Justice and Academy for Judges and Public Prosecutors should organize forums for civil law judges and other practitioners, for exchange of experience related to the procedure for imposing TMP, toward establishing of unified urgent proceedings in these cases nationwide.

The civil law judges should lower the level of proving, and respect the principle of urgency in this procedure, thus to impose the proposed TMP without the prolongation of the procedure, especially in the cases where the existence of domestic violence is evident.

Ministry of Justice, Judicial Council and Supreme Court should organize consultations with Appellate Courts in order to discuss the specific of the procedures for imposing TMP, and to ensure the imposition of TMP with the respect of the principle of urgency, and that the imposition of TMP will not depend on the perpetrators willingness to receive the court invitation and attend the court hearings.

MLSP and CSW should establish effective system for monitoring the execution of TMP, ensuring mandatory mechanisms for effective communication, exchange of information and coordination among competent institutions. In addition, Government and relevant ministries should organize events for exchange of experience among practitioners involved in the TMP, such as lawyers, judges, police, CSW, CSO's etc. toward identification of positive practices and improvement of the implementation of TMP nationwide.

APPENDIX 1 - LEGAL AND SUPPLEMENTAL SOURCES

LEGAL SOURCES USED

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