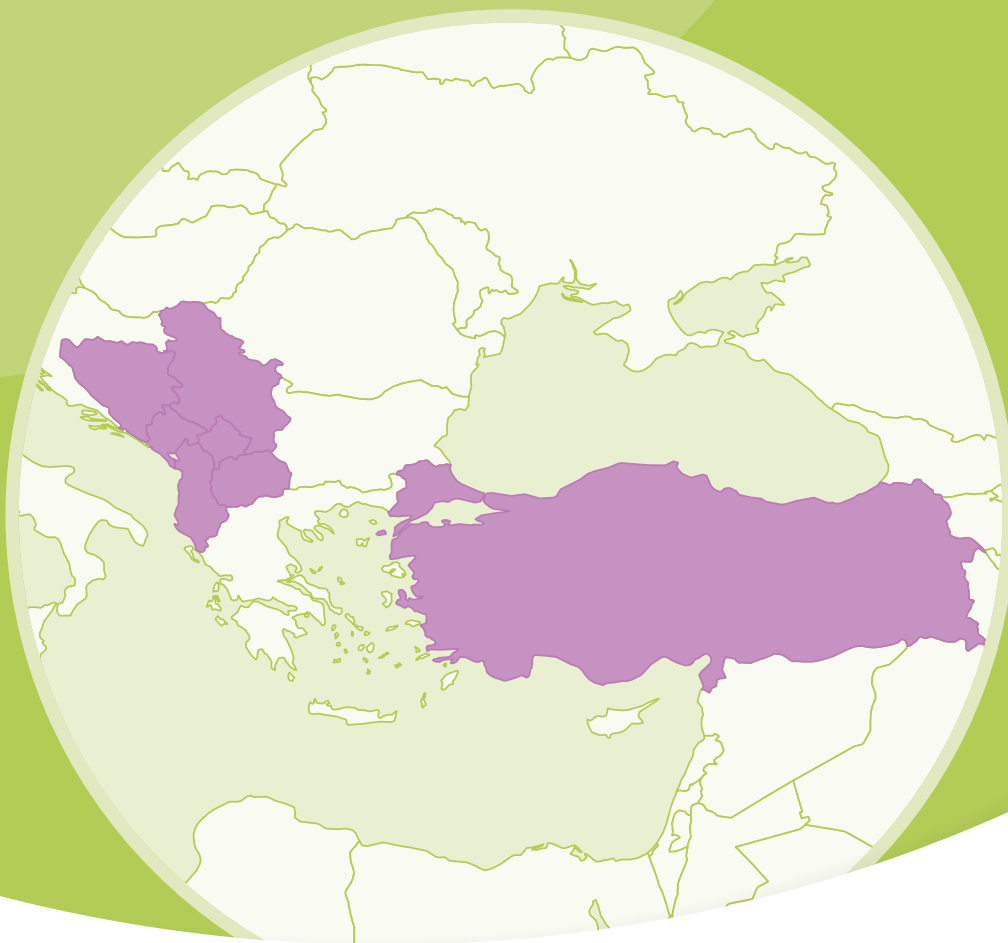


# INTEGRATED POLICIES – INTEGRATED APPROACH

## MAPPING OF POLICIES AND LEGISLATION ON VIOLENCE AGAINST W♀MEN AND THE ISTANBUL CONVENTION IN THE WESTERN BALKANS AND TURKEY

### EXECUTIVE SUMMARY



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**THE EUROPEAN WOMEN'S LOBBY (EWL)** brings together the women's movement in Europe to influence the general public and European Institutions in support of women's human rights and equality between women and men. We are the largest European umbrella network of women's associations representing a total of more than 2000 organisations in all EU Member States and Candidate Countries, as well as 19 European-wide organisations representing the diversity of women and girls in Europe. EWL envisions a society in which women's contribution to all aspects of life is recognised, rewarded and celebrated - in leadership, in care and in production; all women have self-confidence, freedom of choice, and freedom from violence and exploitation; and no woman or girl is left behind.

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**This report is dedicated to the women and girls of the Western Balkans and Turkey**

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# INTEGRATED POLICIES – INTEGRATED APPROACH

## Regional Analysis of Policies and Legislation on Violence against Women and the Istanbul Convention in the Western Balkans and Turkey

“There is not a single country in the world where women are free from male violence, and there is not a single area in any woman’s life where she is not exposed to the threat or realisation of acts of male violence. Male violence against women knows no geographical boundaries, no age limit, no class distinctions, no race nor cultural differences.”<sup>1</sup>

### INTRODUCTION

This mapping was carried out as part of the European Women’s Lobby (EWL) project “Regional Forum for the Promotion and Monitoring progress of the Implementation of the Istanbul Convention in the Western Balkans and Turkey” (the Regional Forum in short). The Regional Forum is part of the three-year UN Women Programme “Ending violence against women: Implementing norms, Changing minds” which aims to end gender-based discrimination and violence against women in the region of the Western Balkans and Turkey. The project encompasses the countries of Albania, Bosnia and Herzegovina, Kosovo<sup>2</sup>, the Former Yugoslav Republic of Macedonia (FYR Macedonia), Montenegro, Serbia, and Turkey. The Regional Forum aims to establish regional dialogue and a functional knowledge sharing mechanism on the implementation and monitoring of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention)<sup>3</sup> and Convention on the Elimination of Discrimination against Women (CEDAW)<sup>4</sup> among Governments, women’s civil society organisations (CSOs), regional institutions and other concerned stakeholders.

The Istanbul Convention is the first legally binding treaty in Europe that criminalises different forms of violence against women and girls, emphasising and recognising

that violence against women is a human rights violation; a form of discrimination against women; and a cause and a consequence of inequality between women and men. The Istanbul Convention (IC), opened for signature in May 2011, requires the State parties to take a holistic approach to violence against women and domestic violence, through proactively creating integrated policies with a set of comprehensive and multidisciplinary measures to prevent violence against women (VAW), protect survivors and prosecute perpetrators. Its adoption in 2011 represented a landmark decision at the European level to prevent and protect women from male violence.

At UN level, the Committee on the Elimination of Discrimination against Women (CEDAW Committee) adopted General Recommendation (GR) no. 35 on gender-based violence against women, which builds on a previous key document, GR no. 19. GR no. 35 provides a strong reference and tool for advocacy action for women’s organisations. Taking stock of the developments of the last 25 years, GR no. 35 reaffirms the UN commitment to a world free from violence for all women and girls. GR no. 35 defines gender-based violence (GBV) against women as a social problem, requiring comprehensive responses, and “one of the fundamental social, political and economic means by which the subordinate position of women with respect to men and their stereotyped roles are perpetuated”. Violence against women is “a critical obstacle to achieving substantive equality between women and men, and is a violation of women’s human rights. It manifests itself on a continuum of multiple, interrelated and recurring forms, in a range of settings, from private to public.”<sup>5</sup>

IC and CEDAW aim to cover a broad range of violence against women and girls (VAWG), providing the most comprehensive legal tools thus far to combat VAWG. What became evident during the initial analysis of the region was that there were certain forms of violence, covered by these conventions, that remain prevalent: specifically, intimate partner violence (IPV) and sexual violence. Most recently, there has also been a significant increase in the number of migrant and refugee women in the region, particularly taking into consideration the migrant crisis of 2015. Migrant and refugee women often exist at the intersection of different forms of discrimination and are thus a vulnerable group with an increased risk of violence.

Civil society and inter-governmental organisations such as the United Nations and Council of Europe have sought of late to emphasise that VAW is both a cause and consequence of inequality between women and men and represents a serious breach of women’s human rights. Ratification of the IC or constitutional alignment with the provisions of CEDAW has occurred across the Western Balkans and Turkey, thereby showing the regional dedication to ending male VAW and Domestic Violence (DV). There have been significant achievements in the implementation of the IC in recent years, but there are still areas of concern and space for improvement. Many achievements and challenges are common to countries across the region, creating the opportunity for relevant stakeholders to come together and more effectively collaborate in combating VAWG and sharing best practices as part of EU accession processes.

### PURPOSE, SCOPE AND METHODOLOGY

The present work will inform discussions at the Regional Forum and act as a basis for developing concrete proposals for action at national and regional levels. Its purpose was to take stock of the implementation of the IC standards and CEDAW. The research was focused on several different forms of male VAW: IPV, sexual violence and violence against migrant and refugee women. The justification for focusing on these forms of violence within the context of the analysis was based on initial feedback from women’s organisations who identified these forms of

violence as the most prevalent regionally. Additionally, this approach served to narrow the scope of the analysis regarding the implementation of CEDAW and the IC, which are broad, wide ranging conventions, and enabled the provision of definitive regional recommendations.

The methodology employed was a formulation of a desk-based research alongside numerous extensive interviews with CSOs across the region. Two questionnaires were used: one for desk based research and one for conducting in depth semi structured interviews. Both questionnaires were based on the provisions of the IC as well as on CEDAW Recommendations 35, 33 and 32<sup>6</sup>. The analysis aims to identify common regional achievements and issues in the implementation of policies and legislation related to VAW by focusing on some of the most burning issues and prevalent forms of violence experienced by women and girls in the Western Balkans and Turkey.

The desk research included a literature review of relevant legislation, policies, and state, CSO and regional organisations’ reports. In each country, a specialist research consultant carried out the desk research and interviewed at least five women’s CSOs, ensuring that women’s voices are represented throughout the report. The result is seven country reports detailing the achievements and challenges, as well as good practices and lessons learned in each of the participating countries in relation to the implementation of the IC and CEDAW. Each country report contains recommendations for improvement in prevention, policies, protection and prosecution of male violence against women.

### MAIN FINDINGS

Until recently, VAW was considered to be a private issue. It was not criminalised and there were no policies prohibiting it. In the past decade, Governments in the region covered by the scope of the mapping, have adopted laws and strategies addressing VAW and gender inequality. The most significant improvements can be seen in the time period between the signing of the IC in 2011 and its entry into force in 2014, as the table below demonstrates.

<sup>1</sup> European Women’s Lobby Position Paper: Towards a Europe Free from All Forms of Male Violence against Women, 2010.

<sup>2</sup> All references to Kosovo in this document should be understood in full compliance with the United Nations Security Resolution 1244.

<sup>3</sup> Text of the Convention available at <https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>

<sup>4</sup> Text of the Convention available at <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>

<sup>5</sup> CEDAW GR No. 35, art 6 and 10 [https://tinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1\\_Global/CEDAW\\_C\\_GC\\_35\\_8267\\_E.pdf](https://tinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/CEDAW_C_GC_35_8267_E.pdf)

<sup>6</sup> CEDAW GR No. 35 on gender-based violence against women, updating GR No. 19; CEDAW GR No. 33 on women’s access to justice; CEDAW GR No. 32 on the gender-related dimensions of refugee status, asylum, nationality and statelessness of women.

YEAR	ALBANIA	BIH	KOSOVO	FYR MACEDONIA	MONTENEGRO	SERBIA	TURKEY
2010	Law on Protection from Discrimination, creating Commissioner for protection from discrimination.		Law No.03/L-182 on Protection against Domestic Violence.	Law on Prevention of Discrimination and Protection.	DV – Law on Protection from Family Violence and introduction of victims' protection measures.		
2011	2 <sup>nd</sup> National Strategy and Action Plan for Gender Equality Reduction of GBV and DV 2011-2015. National Referral Mechanism and National Centre for Treatment of Victims of DV established.		First Strategy and Action Plan against Domestic Violence for the period 2011-2014.	National government signed the Istanbul Convention.	2 <sup>nd</sup> National Strategy on protection from DV 2011-2015. General Protocol on institutional conduct in DV cases. Law on free legal aid. Istanbul Convention signed.	1 <sup>st</sup> national strategy related to DV. Introduction of the multi-agency concept. Protocols on institutional conduct in DV cases, local multi-agency Memorandums on Cooperation.	Istanbul Convention signed.
2012	Law No.23/2012 Introduced the offence of Domestic Violence in the Albanian Criminal Code.	Revision of Republika Srpska Law on Domestic Violence to bring it in line with international standards.	Code 04/L-082 Criminal Code of Kosovo, on which criminal prosecution of GBV is based. Appointment of the Co-ordinator against DV. Administrative Instruction No.12/2012 for Psychosocial Treatment of Perpetrators of DV.	2 <sup>nd</sup> Law on Equal Opportunities of Women and Men enacted. 2 <sup>nd</sup> National Strategy for Prevention of and Protection from Family Violence 2012-2015 enacted. 1 <sup>st</sup> National strategy for gender responsive budgeting 2012-2017 enacted.			Istanbul Convention ratified. Law No. 6284 on the Protection of Family and Prevention of VAW came into force. Violence Prevention and Monitoring Centres introduced in 14 pilot provinces. NAP on Combating VAW (2012-2015) is enacted.
2013	Istanbul Convention ratified. Law on Legal Aid for survivors of DV. Changes to the Criminal Code updating and introducing sexual violence, stalking, forced marriage and sexual harassment.	Ratification of the Istanbul Convention. Revision of Federation BiH Law on Domestic Violence to bring it in line with international standards.	Administrative Instruction No.02/2013 on Treatment to Perpetrators of DV. Standard Operating Procedures for Protection from DV.	1 <sup>st</sup> national Assessment of court proceedings in DV cases, with specific focus on assessing the case management from gender perspective. Strategy for gender equality 2013-2020 enacted.	Istanbul Convention ratified.	Istanbul Convention ratified.	
2014				Law on prevention, combating and protection from DV enacted.	Istanbul Convention entered into force.	Istanbul Convention entered into force.	NAP on gender equality 2014-18 is enacted. Nationwide 'Research on DV against Women in Turkey' conducted.
2015		BiH Framework Strategy on Implementing the IC 2015-2018.	Law 05/L-020 on Gender Equality.	Several by-laws to the Law on prevention, combating and protection from DV enacted.	Changes of the Criminal Code- introduction of restraining and eviction orders, but only upon conviction.		
2016	3 <sup>rd</sup> National Strategy on Gender Equality and Action Plan 2016-2020.		2 <sup>nd</sup> Strategy on Protection from Domestic Violence and Action Plan for the period 2016-2020.	National strategy for equality and non-discrimination 2016-2020 enacted.	National Strategy on protection from DV 2016-2020.		NAP on Combating VAW (2016-2020)' introduced. Provincial Action Plans for Combating VAW introduced in 26 pilot provinces.
2017	Albanian Parliament Resolution on condemning violence against women and improving legal mechanisms for its prevention. Government of Albania submitted its baseline report to GREVIO.	Amendment of RS CC to include more sexual violence offences, in line with the IC.		Istanbul Convention ratified by the national parliament.	Changes to the Criminal Code – partial compliance with the IC. First GREVIO evaluation of Montenegro; establishment of the Coordination Body for monitoring IC. Government of Montenegro submitted its baseline report to GREVIO.	Law on Prevention from Domestic Violence.	Government of Turkey submitted its baseline report to GREVIO.
2018	Law No.47/2018 on some significant changes to the Law on Measures Against Violence in Family Relations.	Establishment of Brčko District multi-sector referral protocol.		Istanbul Convention entered into force. NAP for implementation of the IC 2018-2023 prepared. NAP for gender equality 2018-2020 prepared.	Establishment of the Operational Team for combating VAW and DV. GREVIO publishes evaluation report for Montenegro.	Government of Serbia submitted its baseline report to GREVIO.	NAP on women's empowerment 2018-2023 is enacted. GREVIO publishes evaluation report for Turkey.

**Table 1** Milestones and achievements in policy and legislation in relation to VAW in the Western Balkans and Turkey.

Despite many achievements in each country, there are gaps between the normative frameworks, formal commitments (shown by ratification of the IC and many legislative improvements), and the implementation of laws and policies, and concrete action taken to end VAW.

### Integrated Policies

Turkey and five Western Balkan countries ratified the Istanbul Convention between 2011 and 2014, with Serbia and FYR Macedonia making reservations to articles 30 and 44 (both), and 35, 55 and 59 (only FYR Macedonia)<sup>7</sup>. All countries are also party to the CEDAW Convention. Since it is not a member of the United Nations or the Council of Europe, Kosovo could not ratify either convention, but its Constitution guarantees the direct application of CEDAW and places the Convention's authority above national legislation. Article 7 of the IC requires the parties to implement state-wide comprehensive integrated policies to prevent and combat all forms of VAWG and to offer a holistic response to such violence. The manifestations of this integrated approach are national action plans (NAPs) and/or strategies addressing all forms of VAWG, with specific measures and allocated financial resources. To ensure the effectiveness of these NAPs and strategies, they need to include plans for monitoring and reporting. The report indeed found that all countries have policies addressing different forms of VAW. Bosnia and Herzegovina has a Framework Strategy on the Implementation of the Istanbul Convention (2015 – 2018), Turkey has a National Action Plan on Combating Violence against Women (2016 – 2020), and FYR Macedonia is currently in the final phase of preparation of the National Action Plan for Implementation of the Istanbul Convention. Kosovo and Montenegro have strategies for protection from DV and Albania and Serbia have policies addressing VAW within their

gender equality strategies and action plans. Although these documents use definitions of VAW in line with article 3 of the IC, **a common regional issue is the lack of recognition of the structural causes of VAW** and the societal power imbalance between women and men that are at the root of this human rights issue. Within all the focal countries, most measures, laws, and bylaws are directed at combating DV and are gender neutral.

Violence against women is addressed as a form of violence within the family, which includes intergenerational violence, resulting in the lack of gender-segregated data and contributing to the secondary victimisation of female survivors because of the lack of gender sensitive policies, laws, protocols, and implementation. This approach is part of family oriented policies in the region, which tend to favour maintaining the family unit, even at the expense of individual women's safety. While it is commendable that NAPs and strategies related to at least some forms of VAWG exist in all the target countries, more should be done to ensure that there are sufficient financial and human resources to implement the proposed measures (article 8 of IC).



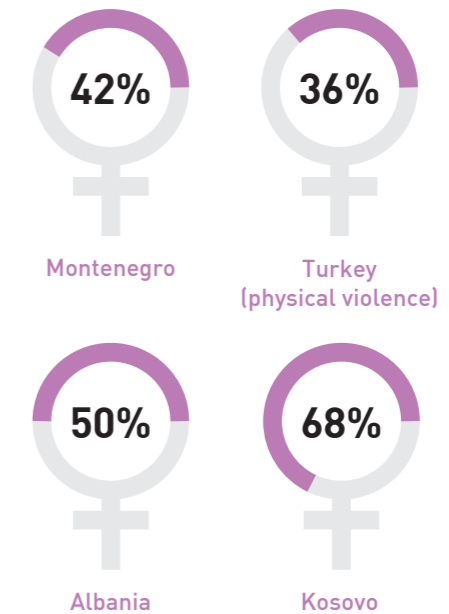
This approach is part of family oriented policies in the region, which tend to favour maintaining the family unit, even at the expense of individual women's safety.

### Male Intimate Partner Violence

The definition of 'domestic violence' in the Article 3 of the IC includes "all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim." These acts include both IPV and intergenerational violence within the family. 95% of all violent acts in the home are male VAW.<sup>8</sup> For the purpose of this report, we looked specifically at VAW perpetrated by a former/current spouse/partner/boyfriend irrespective of whether the couple ever lived together. In researching this phenomenon, we encountered an issue common across the region and the EU, in that there is not enough available comparable gender segregated data.

There has been some improvement in recent years in data collection. For example, the Institute on Statistics in Albania publishes a yearly report with gender-segregated data on GBV, based on the data from police authorities. Courts and the Ministry of Justice in Albania also publish data on DV, but they are not gender-segregated. In Kosovo and FYR Macedonia, the police and different authorities collect gender-segregated data on the victims of reported DV, but no information is available about the relationship between the survivors of violence and perpetrators. In Montenegro, there is official gender-segregated data, but this does not include the relationship between victim and perpetrator or the type of violence. The Serbian judiciary collects data on all criminal acts, but the data is not gender-segregated. In Turkey, the data is collected by the Ministry of Justice, the police, and the gendarmerie. However, the police records are not made public and the criminal justice statistics do not separate DV from other criminal acts. All the countries, except FYR Macedonia and Serbia, have conducted national surveys on DV and/or VAW, which were carried out mostly by women's CSOs and international organisations. In Albania, the survey was carried out by the State Institution of Statistics INSTAT and in

The proportion of women affected by domestic violence



95% of all violent acts in the home are male violence against women.

Turkey by Hacettepe University Institute of Population Studies in Ankara and financed by the former Ministry of Family and Social Policies. These surveys show that DV is a serious issue, affecting 42% of women in Montenegro, 36% in Turkey (physical violence), 50% in Albania and BiH, and 68% in Kosovo.<sup>9</sup>

The IC stipulates that all forms of VAWG and DV should be criminalised. When it comes to male IPV, all the countries have addressed the issue in their legislation, both in criminal codes and special laws.

	CRIMINAL CODE	SPECIAL LAWS
ALBANIA	Domestic violence punishable with up to 2 years. Stalking and murder in intimate partnership punished as aggravated offence.	Law on Measures against Violence in Family Relations (2006), defining all types of domestic violence according to IC, containing protection orders and emergency protection orders.
BIH	In both constitutional entities of BiH; the Republika Srpska and the Federation of Bosnia and Herzegovina, violence in the family is specifically prohibited, punishable by a fine or up to 2 (RS) or 3 (FBiH) years in prison.	The FBiH Law on Protection from Domestic Violence (2013) contains protection measures. The RS Law on Protection from Domestic Violence (2012) proscribes domestic violence as a misdemeanour, providing for protection measures and sanctions of up to 60 days in jail.
KOSOVO	For some offences (Light bodily injury; grievous bodily injury; kidnapping, coercion, unlawful deprivation of liberty, holding of a person in slavery, slavery-like conditions, and forced labour), if the criminal offence is committed in a domestic relationship, then the sentence is increased.	Law on Protection from Domestic Violence (2010), a civil law, containing protection measures, emergency measures, temporary emergency protection measures.
MACEDONIA	Family violence refers to abuse, rude insults, safety threats, inflicting physical injuries, sexual or other mental and physical violence which causes a feeling of insecurity, threat or fear towards a spouse, parents or children or other persons who live in a marital or extra-marital union or other joint household, as well as towards a former spouse or persons who have a child together or have close personal relations.	Law on Prevention, Combating and Protection from Domestic Violence, containing protection measures, emergency measures, temporary emergency protection measures.
MONTENEGRO	According to article 220, domestic violence is punishable by a fine or up to 12 years in prison, depending on the severity.	Law on protection from Domestic Violence (2010), a misdemeanour law, ensuring punishment of ten to sixty days in prison and fines of three to twenty times the minimum wage, and both emergency and long-term protection measures and multi-sectoral cooperation.
SERBIA	Art 194 The use of violence, threat to attack the life or body, or impudent and negligent behaviour jeopardizing the serenity, physical integrity or mental condition of a family member.	Law on Prevention from Domestic Violence (2017), containing emergency and long term protection measures and introducing multi agency cooperation, central database of perpetrators and sanctions for public servants who do not follow the rule of law.
TURKEY <sup>10</sup>	Domestic violence is not a separate crime. 'Felony homicide; felony injury; torment; threat; blackmail; deprivation of liberty; violation of the immunity of domicile; prevention of communication; damage to property; ill-treatment of a person sharing the same dwelling as the perpetrator. Aggravated forms are only available for homicide (including when committed for reasons of traditions and customs), injury, torment and deprivation of liberty.	Law No. 6284 (2012) On the Protection of Family and Prevention of Violence against Women, a civil law containing protective and preventive measures.

**Table 2** Domestic violence in the Criminal codes and specialised laws in the Western Balkans and Turkey.

<sup>10</sup> Other criminal acts that are related to VAWG in Turkey are: soliciting or encouraging another person to commit suicide, defamation, breach of obligations conferred upon by family law (including abandoning pregnant wife or partner); multiple or fraudulent marriage; sexual assault; sexual abuse of children; sexual intercourse with minors; sexual harassment; genital control without the decision of judge and prosecutor.

As seen in the table above, the countries in the region have opted for several different ways to address DV in their legislation. All countries have a specialised law on domestic violence. Montenegro and the Republika Srpska have misdemeanour laws on DV, while the Federation of BiH and the other five countries have civil laws on DV, focusing more on protection measures and prevention of violence. Turkey is the only country with legislation - Law No. 6284 - that protects not only survivors of DV, but also survivors of all forms of VAW, making it the most aligned with the IC. The Serbian DV law (2017) has detailed procedures for multi-agency cooperation, long term safety planning, and sanctions for officials who fail to apply the law. Interviewed experts from women's CSOs have hopes that this law will bring better protection for women survivors of DV. Albania has commendably recently amended its DV law to include protection for women who have never lived with their perpetrators. It is particularly worth noting that all countries provide for protection measures and emergency orders, in line with articles 52 and 53 of the IC.

**The criminal codes vary a great deal across the region with respect to criminalising acts of DV and VAW.** Albania, BiH, FYR Macedonia, Montenegro, and Serbia have separate acts of DV in their criminal codes. Some domestic legislation also evidences good practice by defining criminal acts committed within a domestic relationship as an aggravated circumstance in line with article 46 of the IC, with Kosovo having the highest number of acts constituting aggravated circumstances if committed in domestic relationships. In Turkey, aggravated circumstances are only present in case of felonious homicide and felonious injury against antecedents, descendants, wife and siblings, and not against extra-marital partners or ex-wives/partners. However, for the most part, **there is a need for further alignment with the IC in all countries** to ensure that all forms of VAW are criminalised and aggravated circumstances used.

While all the countries have legislation addressing DV, there is a persistent gap between the normative framework and implementation. The analysis conducted unearthed many issues in the region. The combination of gender-neutral legislation<sup>11</sup> and traditional social norms rooted in patriarchal structures

**The right of the father to have custody of or contact with the children is prioritised over the right of women and children to safety, which is an endemic issue regionally.**

results in a lack of understanding of the issue of VAWG and DV and its connection to gender inequality and gender stereotypes.

The research uncovered a number of problems when it comes to implementation of VAW and DV laws:

- Although all countries commendably have both emergency and long-term protection measures, there is often no serious consequence for perpetrators who violate these measures. Furthermore, in some cases the needs of the perpetrator take precedence over the needs of the survivor. For example, the perpetrator may not be evicted from the house because he has nowhere to go.
- Very few perpetrators receive prison sentences. In most cases, they receive suspended sentences, which is not a sufficient deterrent and does not foster prevention of further violence.
- High staff turnover and heavy workloads prevent officials from gaining the necessary expertise in cases of DV. There is a need for more consistent gender sensitive training on the issue of male IPV, its causes and consequences, and how to work with women survivors of violence.
- Public officers were found to not always perform their duties fully and not apply the principle of due diligence in investigating and punishing acts of VAW.
- Legal procedures are often long and leave women unprotected throughout the process.

As the detailed country-by-country reports highlight, across the region there is no evidence that DV is taken into account during divorce proceedings. **The right of the father to have custody of or contact with the children is prioritised over the right of women and children to safety, which is an endemic issue regionally.** There is no risk assessment

<sup>11</sup> EIGE: Gender-neutral legislation is legislation that is drafted in universal terms, ignoring gender-specific situations and power relations between women and men, that underpin sex and gender-based discrimination, including gender-based violence against women, <https://eige.europa.eu/rdc/thesaurus/terms/1192>

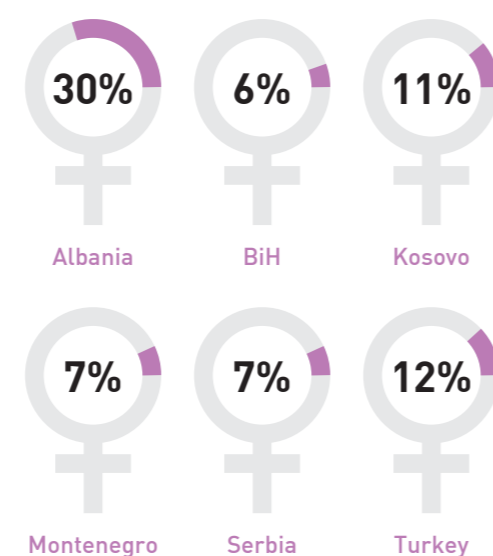
at civil courts during divorce procedures. Mediation and reconciliation are liberally used even though the IC explicitly prohibits it. There is still social pressure to maintain the family unit, and most institutions try to encourage women to reconcile for the sake of the family. Institutions usually permit the perpetrator of violence to pursue contact with the child, which results in women being forced to continue meeting with and exposing themselves to these perpetrators. Due to its prevalence, in some countries (e.g. Serbia) efforts are being made by women's CSOs to raise public awareness concerning femicide (as the most drastic manifestation of male VAW) in order to, based on its motive, criminalise it formally as a special, gender-based hate crime resulting in homicide.

Many specialised services are provided by women's CSOs, although not in all countries. These include shelters, counselling centres, psychological support and legal aid. However, even though these organisations provide valuable services, they are not adequately supported by the states; they lack both the human and financial resources to carry out their important work. There is some support for women's shelters. For example, in BiH, the shelters are slated to receive 100% of their funding from the state and entity governments, however, shelters received only a portion of the funding. In Kosovo, the funding for the shelters is often delayed, which caused temporary closure of several shelters in 2017.<sup>12</sup> The states provide funding for the services that are run by the state, but there are complaints about these services, including the staff misinforming women about their rights.

### Sexual Violence against Women

The 2013 EWL barometer study on rape in the EU found that official data on sexual violence in Europe is difficult to find and that surveys on VAW rarely look at this issue.<sup>13</sup> The Fundamental Rights Agency 2012 survey on violence against women found that on average 11% of women in the EU have experienced sexual violence since the age of 15. The results range from 4% in Portugal to 19% in Denmark, indicating that there are perhaps differences in reported experiences

The proportion of women who experienced sexual violence



of sexual violence due to social stigma and the culture of silence.<sup>14</sup> Across the Western Balkan region and Turkey, it is evident that services for women survivors of sexual violence are scarce and that this very serious crime is still underreported and considered taboo. We found very little data on the prevalence of sexual violence against women in the target countries. A survey in Albania<sup>15</sup> showed that as many as 30% of women had experienced sexual violence, compared to 6% in BiH, 11% in Kosovo, 7% in Montenegro, 7% in Serbia and 12% in Turkey. These differences could be due to different methodologies used for prevalence surveys as well as stigma and a culture of silence surrounding sexual violence.

Article 36 of the Istanbul Convention obliges state parties to criminalise sexual VAW, including rape, so that a lack of consent is enough to prove the crime of rape. This analysis found that legislation was aligned with this requirement only in Kosovo and partially in Montenegro, while in Albania, BiH, FYR Macedonia, and Serbia, the use of force or the threat of force is required to prove rape. In Turkey, although there is no requirement for the use of force, legislation also does not stipulate that rape can be based on a lack of

consent, leaving room for different interpretations. **The IC further requires the states to punish the perpetrators of rape committed in marriage or a similar partnership.** Marital rape is explicitly criminalised only in Turkey and Albania, while in the other countries it can be prosecuted under the criminal codes. In Montenegro and Turkey, marital rape can only be prosecuted on the basis of a private complaint from the survivor, placing an undue burden on women survivors of marital rape to carry out the investigation and prosecution of the perpetrator.

The authorities do not always take reports of sexual violence seriously; **“victim blaming” occurs in the investigation as well as inappropriate questions about the survivor’s sexual history**, although such evidence is prohibited by article 54 of the IC. Questions regarding the survivor’s prior sexual experiences are explicitly prohibited only in BiH and FYR Macedonia, but there are gaps that leave these provisions open to interpretation. Without a strong system of accountability and sanctions for officials who fail to exercise due diligence in cases of VAW, violations of certain legal provisions are likely. **An example of good practice is FYR Macedonia’s multi-sectoral protocol for cases of sexual violence, which ensures that survivors can be interviewed only once and protected from encountering the perpetrator.** Further training of the police is necessary to ensure full implementation, but as a best practice, this is a good model for the region and Turkey.

Services for women survivors of sexual violence are almost non-existent in the region. FYR Macedonia is the only country that provides such services, with three newly opened sexual violence referral centres. Another good model is a pilot project in Serbia, where there are seven Centres for Victims of Sexual Violence as part of hospitals in Vojvodina that provide help to women survivors of sexual violence. This project “Stop-Protect-Aid towards a Stronger Institutional Response to Gender-Based Violence in the Autonomous Province of Vojvodina” is particularly strong because it is based on cooperation between the Provincial Secretariat for Healthcare and a women’s CSO. However, as this is a pilot project, funded by UN Women Trust Fund, it needs the support of local authorities to en-

sure sustainability. The examples from FYR Macedonia and Serbia could be replicated in the other countries in the region as well.

This research also looked at conflict related sexual violence (CRSV) in Bosnia and Herzegovina and in Kosovo. Both countries have taken significant steps in providing reparations to women survivors of sexual violence perpetrated during the conflict in the region in 1990s. Kosovo legally recognised women survivors of sexual violence during the 1998-1999 conflict as civilian victims of war and has founded the Government Commission to Recognise and Verify Survivors of Sexual Violence, which started operating in February 2018. In BiH, there has been improvement in recent years in the criminal prosecution of CRSV and more women have reported such acts. However, there is no state-wide reparation scheme. In both countries there is still considerable social stigma that prevents women from reporting and testifying about these crimes. Of great importance is the women CSOs-led regional initiative, the Women’s Court, which brings together women’s organisations and women survivors of CRSV. The Court holds informal sessions in which women testify about their experiences. This initiative has contributed to raising awareness about the issue and in supporting women coming forward, reporting violence and testifying.<sup>16</sup>

Services for women survivors of sexual violence are almost non-existent in the region.

### Violence against Migrant and Refugee Women

The refugee crisis in 2015 resulted in an increase in the number of refugees and the creation of the so-called Balkan route. The countries that were most affected by this increase were FYR Macedonia, Turkey, and Serbia. At one point there were 920.000 refugees<sup>17</sup> passing through Serbia and 10.000 refugees entering FYR Macedonia daily<sup>18</sup>. Turkey alone has over 3.5 million Syrian<sup>19</sup> refugees, as well as approximately 300,000 asylum seekers and refugees

<sup>12</sup> Interview with women’s CSOs, for more detailed information, please see the full report on Kosovo.

<sup>13</sup> European Women’s Lobby 2013 Barometer on Rape – Report: <https://www.womenlobby.org/2013-EWL-Barometer-on-Rape-Report?lang=en>

<sup>14</sup> <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>

<sup>15</sup> A new national survey is being implemented in Albania by INSTAT with the support of UN Women and UNDP, providing data on all forms of violence against women, including sexual violence.

<sup>16</sup> Women’s court <http://www.zenskisud.org/en/>

<sup>17</sup> EC, (2018) [http://ec.europa.eu/echo/where/europe-and-central-asia/serbia\\_en](http://ec.europa.eu/echo/where/europe-and-central-asia/serbia_en)

<sup>18</sup> <http://data2.unhcr.org/en/situations/mediterranean>

<sup>19</sup> TC İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü, *Yıllara Göre Geçici Koruma Kapsamındaki Suriyeliler*, [http://www.goc.gov.tr/icerik3/gecici-koruma\\_363\\_378\\_4713](http://www.goc.gov.tr/icerik3/gecici-koruma_363_378_4713) (accessed October 25, 2018).

from other<sup>20</sup> countries. However, recently BiH, Montenegro and Albania have also seen an increase in refugees. The IC obliges parties to ensure that autonomous residence permits are granted to women whose residence is dependent on their spouses in cases of IPV (article 59). The parties should also consider GBV

against women in claims for asylum (article 60) and apply a principle of non-refoulement with respect to GBV: that is, to not return women to their countries of origin if they would be subjected to GBV (article 61). The following table shows the extent to which the target countries are aligned with these articles:

	ART 59	ART 60	ART 61
ALBANIA	No	No	No
BIH	PARTIALLY VAW is not a ground for granting autonomous residence, but it may be obtained if other conditions exist. <sup>21</sup>	Yes	No
KOSOVO	PARTIALLY Autonomous residence can be granted to a woman in case of divorce, but IPV is not taken into account.	Yes	Yes
MACEDONIA	PARTIALLY VAW is not a ground for granting autonomous residence permit, but may be granted if the family reunification lasted at least 3 years.	Yes	Yes
MONTENEGRO	PARTIALLY Autonomous residence permit can be granted <i>if</i> a marriage lasted for at least 3 years or for <i>humanitarian reasons</i> that include victims of DV.	Yes	Yes
SERBIA	PARTIALLY Independent permit can be granted to women if they have lived in the country for at least 4 years or if there are grave circumstances.	Yes	No
TURKEY	No	PARTIALLY Women can be placed in a special needs group.	PARTIALLY

**Table 3** Alignment with articles 59,60 & 61 of the Council of Europe Istanbul Convention.

As the table shows, the greatest achievements have been made in implementation of article 60, while the biggest challenges still exist in relation to article 59. **Besides implementing appropriate legislative frameworks, states should institute other forms of support for migrant and refugee women.** Articles 24 and 33 of CEDAW GR no. 32 require the states to provide a number of services to migrant and refugee women, including accommodation, education, health care, food, clothing and social services. The analysis found that the countries were unprepared for the increase in refugees and could rarely

provide adequate services to women. For the most part, women may receive food, clothing, and basic medical services, although this was not the case when there is a high number of refugees. Specialised services for women are missing; cases of violence and sexual harassment largely go unreported because women are afraid of deportation, and even when reported, alleged crimes are sometimes not investigated because the authorities find it hard to investigate within a large concentration of people. There is no gender sensitive screening except in the positive example of FYR Macedonia, which has recently

created a standard operating procedure for screening for cases of violence in crisis, including among migrant and refugee women.

### Women's Civil Society Organisations

Progress in ending VAW would not be possible without women's civil society organisations. Throughout the region, we have found that women's CSOs play a key role in implementing and monitoring the implementation of the IC and CEDAW. Women's organisations challenged the silence and taboo of all forms of male VAW and have made it a public instead of a private issue.

CSOs provide specialised services to women survivors of all forms of male violence and advocate for women's rights and against VAWG. In the past two decades, these organisations have opened and developed shelters, counselling centres, SOS helplines, and psychological and legal support services, even before legislation for the protection of women was in place. In Montenegro, for example, women's CSOs still provide the only specialised services for women. They have campaigned for legislative changes and improvements and have worked on raising awareness. As in Albania, 20.000 women campaigned and succeeded in advocating for Parliament to accede to the IC. In Kosovo, women's organisations have consistently advocated for redress for women survivors of CRSV, succeeding in changing the Law on the rights of civilian victims to include women as civilian victims of conflict. Women's CSOs in Kosovo also successfully advocated for recent changes to the Criminal Code, making sexual harassment a punishable act. In BiH, women's organisations have led the process of ratification and implementation of the IC, participating in the creation of strategies for implementation. The Official GREVIO State report for Serbia acknowledges the women's CSO network as having **"immeasurable importance in the building of the legal and strategic framework to prevent and eliminate violence."**<sup>22</sup> Women's CSOs

**Women's CSOs play a key role in implementing and monitoring the implementation of the IC and CEDAW.**

in Turkey stopped the passing of a law that would permit lenience for rapists who marry children they have raped or sexually abused.

The IC acknowledges the vital importance of women's civil society organisations in Article 9, requiring state parties to *"recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations."* Article 8 further requires the states to provide financial support to women's CSOs, and Article 13 compels them to work with women's CSOs in raising awareness of VAW among the public.

Despite the key role women's CSOs play in ending VAW, their decades of dedicated work and expertise, adequate support from the governments is missing. For the most part, women's CSOs reported that states in the region see them as sources of information and providers of services, and not as equal partners, especially in policymaking.

Funding from the state is very scarce and rarely provided: a systemic issue within the Western Balkans and Turkey. Funding is limited to service provision, but even that is partial and irregular. There are some good initiatives, such as an SOS helpline in Montenegro that receives 50% of its funding from the state, or legislation on shelters in BiH that provides that 100% of the funding should come from the state and entities. However, although legally enshrined, this provision is not implemented, with shelters often receiving only a fraction of the funding. The Kosovo government also supports women's CSO-run shelters, but the failure to provide the necessary funding resulted in most shelters temporary closing down at the end of 2017. Albanian authorities recently supported the CSO-led opening of a 24-hour SOS helpline by providing partial funding.

For other vital activities of women's CSOs there is almost no funding. Women's organisations are funded primarily from foreign donors and there is a concern about what will happen when these donors leave the region. In some countries, larger centrally located women's organisations can raise foreign funds, but the smaller ones do not have this capacity so they receive part of their funding from the larger organisations.

<sup>20</sup> UNHCR, *Turkey's Monthly Statistics as of January 2017*, <http://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/02/eng/671.pdf> [accessed October 25, 2018].

<sup>21</sup> According to the Law on Asylum: if the woman has custody over a child, if she has had residence permit in more than 3 years, if the husband dies or if there are [undefined] «humanitarian grounds.»

<sup>22</sup> Official GREVIO report for Serbia 2018. <https://rm.coe.int/grevioinf-2018-9/16808c1a4e>



In terms of cooperation with the governments in implementing and monitoring the implementation of the IC, more needs to be done to include the women's CSOs. They are rarely part of working groups for writing laws and policies. There are positive examples in Kosovo, where the larger organisations are invited to take part in consultations, and there has been a noticeable improvement in FYR Macedonia with women's CSOs increasingly consulted. In Albania, the National Council on Gender Equality includes three members of civil society, and women CSOs are often invited in hearing sessions in parliament. They were also largely responsible for the design of the law on gender equality. In Montenegro, women's CSOs are now a part of the operational team on DV. For the most part, however, women's CSOs are marginalised as stakeholders, even as part of working groups, they constitute a small minority. *Since women's CSOs represent the voices of the women whom the laws and policies are meant to protect, they should at the very least have equal participation in the decision-making when it comes to implementation and monitoring of legislation and policies.* A worrisome trend in the region is opening of the so-called GONGOs (government-organised non-governmental organisations), which tend to both pull funding from the states and serve as civil society participants in working groups and decision-making bodies, despite the fact that they lack the experience or expertise of independent women's civil society organisations. A Shadow NGO report for Turkey notes that **'the state clearly gives preference to GONGOs when it is a matter of working together, leaving the independent women's movement out of the loops of communication and collaboration.'**<sup>23</sup>

Women's CSOs across the region felt, for the most part, safe to speak up and express their opinions, but that their views were rarely taken seriously or into consideration. There were instances, however, of women's CSOs not feeling safe. In Serbia, half of interviewed women's CSO activists reported being attacked by perpetrators of violence,

traffickers, and even public servants. In Turkey, nine women's CSOs were shut down by a statutory decree during the state of emergency in 2016. The activists also faced hate speech following their activities to condemn sexism and VAW.<sup>24</sup> *The freedom and safety of human rights defenders needs to be ensured so that women's CSOs can continue their work on ending VAW.*

Finally, three countries (Albania, Montenegro, and Turkey) have already undergone a GREVIO process, while Serbia is undergoing it this year. In all these countries, women's CSOs produced shadow reports that greatly helped GREVIO evaluate the implementation of the IC. The inclusion of a shadow-reporting process is of great significance as it indicates the necessity to involve all relevant stakeholders and provides an opportunity for the collection of much needed disaggregated data. The governments of Albania and Serbia acknowledged the work of women's CSOs in their official reports, but *the process of monitoring and reporting could be greatly enhanced if the governments increased their efforts at cooperation with and support for women's CSOs.* In the months following the GREVIO monitoring process, women's organisations within all relevant countries have provided in depth feedback on how the process can be improved: concretely, with the increased efforts of governments in cooperating with and supporting women's CSOs across the region. Women's CSOs are an invaluable source of not just information on the issue of violence against women and the actual experience of women, but also of expertise on best practices in combating VAW and DV.

### Conclusion

The achievements and challenges identified demonstrate a need to establish an integrated approach to tackling VAW and DV, ensuring that women survivors of violence are at the centre of the response to violence, prioritising their safety and well-being in all matters and procedures. The implementation of integrated policies, including NAPs supported by resource allocation as well as legislation aligned with the IC and CEDAW, form the basis for an integrated approach, which also includes protection, prosecution, prevention and service provision, all in cooperation with all the relevant stakeholders.

Integrated policies allow for the achievements made by governments and institutions in the region to be more impactful. They allow the development of sustained cooperation and maximise on existing resources, such as the expertise and experience of women's organisations.

This regional mapping process shows that much *progress in the prevention of and protection from VAWG over the past two decades was driven by the women's movement and achieved through cooperation between governmental institutions and women's CSOs.* Women's CSOs have consistently lobbied for better laws and more protection for women survivors of violence. They have raised awareness, which has had a long-term impact on slowly changing harmful and discriminatory attitudes towards women in society. Women's CSOs have continually assisted government institutions and initiated the first dialogue between stakeholders, which led to the establishment of referral and identifying mechanisms.

Women's CSOs can support governments in creating effective integrated policies and legislation. Most importantly, they have the trust of women survivors of male violence and empower them. They provide services, train other service providers and responsible professionals, such as police, centres for social welfare, judges, prosecutors, and medical professionals. Whenever governments in the region recognised women's CSOs as equal, expert partners and established cooperation, the result was a better system of response to VAW, improved policies, enhanced laws and more successful implementation of the IC and CEDAW. *Henceforth, it is evident that women's CSOs are an invaluable resource and experienced ally in combating male VAW, implementing services, and monitoring progress.*

Based on this present analysis, the European Women's Lobby and the associated research provide the following regional recommendations in order to improve the implementation of the IC and CEDAW and to foster greater collaboration between women's CSOs, governments, and regional institutions:

### RECOMMENDATIONS

- Create National Action Plans and Strategies for implementation of the Istanbul Convention; which include specific measures that should be adopted for all forms of violence against women, that ensures obligations for the allocation of financial/human resources, and that adopts a gender sensitive, integrated approach, ensuring that the survivor's needs are at the centre.
- Criminalise all forms of violence against women in the Criminal Codes. These should be punishable regardless of the relationship of the woman to the perpetrator so as to include women who have never lived with their partners/boyfriends.
- Criminalise all forms of sexual violence against women in the Criminal codes, making sure to align definitions of sexual violence with the IC, so that lack of consent is enough to prove sexual violence, regardless of the use/threat of force. Statutes of limitation should be without limit to ensure that all women can seek justice for sexual violence they survived as children.
- All mandatory service providers (police, centres for social care, judges, prosecutors, health professionals) should implement risk assessment and safety planning.
- Support the opening of women's shelters, counselling centres, sexual violence referral centres and rape crisis centres run by independent women's and feminist CSOs.
- Provide continuous and sufficient funding for independent women's CSOs, transparently through national action plans both for service provision and advocacy work, while ensuring the autonomy of their work.
- Formalise cooperation and support through signing bilateral state agreements to acknowledge regional partnership on implementation of the IC.
- Include women's CSO experts in the work of various government bodies/committees dealing with VAW.
- Ensure transparency in processes of legislative change by organising public debates on legislative reform, providing online streaming of all debates and ensuring a broad representation of different stakeholders.
- Recognise independent women's CSOs as equal partners in policy development and implementation.
- Set up formal criteria for developing dialogue and monitoring implementation of the IC, including criteria for participants based on expertise and experience in work to end VAWG and achieve gender equality.

<sup>23</sup> Istanbul Sözleşmesi Türkiye İzleme Platformu, Shadow NGO Report.

<sup>24</sup> For more detailed information, please see the full report on Turkey. <https://rm.coe.int/turkey-shadow-report-2/16807441a1>

# EXECUTIVE SUMMARY FOR ALBANIA



## Ratification of the Istanbul Convention.

Albania was the second country to ratify the Istanbul Convention (IC) in 2013, without reservations. There is a comprehensive legal and institutional framework charged with implementation of the IC and addressing violence against women (VAW). Strategic documents, such as the National Strategy for Gender Equality (NSGE) appropriately recognise the need to reduce and eradicate VAW, albeit doing little to analyse the power imbalances between women and men. As one CSO representative stated “*Albania has good on paper protection of victims of violence.*” Furthermore, financial resources allocated to the fight against VAW in NSGE are expected to be covered mostly from donors. A number of institutions are in place to design, implement, and oversee policies and actions related to VAW. However, multiple sources point to challenges in coordination as well as human and financial resources. For instance, the National Council on Gender Equality as the advisory body of the government has important oversight function, but insufficient resources to carry out these duties.

## Main recommendations:

- Increase the level of financial and human resources to enable policies to be carried out in a sustainable manner, without heavily relying on outside donors. Match the important functions of the National Council on Gender Equality with appropriate staff and funding.

**Intimate Partner Violence.** Data on the prevalence of domestic violence (DV) are available from different sources. Since 2013, the Institute of Statistics has collected and published gender disaggregated data according to which 1 in 2 women experience some type of DV presently. There is unanimous agreement among CSO representatives interviewed for this analysis, that the combination of a deeply patriarchal mentality with socio-economic dependence of women on their male counterparts highlights the power imbalance between men and women, and largely provides context for the alarming figures on the prevalence of DV in Albania.

The definition of violence in the Albanian legislation is not fully in line with IC as it uses the word **and** when listing the types of violence forming the ground for prosecution, which could be interpreted as requiring the existence of all types of violence, listed as the basis for prosecution. While psychological violence is extremely widespread, it is also under-prosecuted. The Criminal Code (CC) is not fully in line with Article 33 of the IC, as it recognises psychological violence only as a consequence of VAW instead of as a punishable crime. Issuing protection orders is one of the weakest links of survivor protection system. Reports and data show that the needs of the survivor come second to the situation of the perpetrator, often leaving both in the same house and leading to tragedies for the woman.

## Main recommendations:

- Amend the definition of violence in domestic legislation to include the word **or** instead of **and** when listing the types of violence so as not to reduce grounds for prosecution to the existence of all types of violence at once.
- Amend domestic legislation, especially CC and Law on Measures against Violence in Family Relations, to specifically recognise and criminalise psychological violence in line with article 33 of IC.
- Increase efforts to de-normalise and eradicate social acceptance of VAW in society, especially in rural and remote areas through awareness raising activities, organised campaigns, and social dialogue.
- Increase efforts to include employment and entrepreneurship programmes as integral part of addressing VAW since economic dependence is often a factor preventing women from reporting violence.
- Co-operate with women’s CSOs to set up emergency shelters easily accessible to women in all municipalities.
- Conduct an analysis of suspended trials for survivors that had earlier obtained a protection order to understand why there is a high prevalence of this phenomenon.
- To ensure proper protection, the needs of the survivor should take priority to the situation of the perpetrator when issuing protection orders.

**Sexual Violence.** Sexual violence is the most underreported and least studied of all types of VAW. A significant shortfall in the legislation is that proof of the use of force is required to prove sexual violence, rather than the lack of consent, which is in contradiction with article 36. Such an approach leads to the inability of women to access justice and overcome the inherent power imbalance with men, especially in a topic that is still considered taboo. The protection measures are not sufficiently provided to women survivors of sexual violence, including sexual harassment and stalking, contributing to low levels of reporting. The Criminal Code sets a cap of 20 years for statutes of limitation, which could penalise survivors in their quest for justice, especially in the context of a country where sexual violence is often swept under the rug. Rape crisis centres and emergency shelters are completely lacking, making efforts to address sexual violence primarily ad-hoc, dependent on foreign funding, and mostly managed by CSOs with little governmental support.

## Main recommendations:

- Amend the criminal code in line with IC to recognise lack of consent as the basis for adjudicating cases of rape.
- Conduct training with governmental officials, especially police officers, health officials, media representatives, and municipal focal points of DV in dealing with sensitive cases, such as sexual violence.
- Remove the current 20-year cap on the statute of limitations for cases of sexual violence to allow for prosecution of such crimes indefinitely.
- Establish rape crisis centres for women survivors of sexual violence and increase the role of government institutions in supporting the women’s CSOs in managing these shelters and other services for survivors.
- Improve coordination and collaboration between CSOs and the government in ensuring sustainability of services offered to survivors, to reduce dependency upon foreign funding.

**Violence against Migrant and Refugee Women.** In recent years, Albania has become a route for migrants. This poses new challenges in dealing with violence against migrant and refugee women. Legislation, while relatively in line with the EU acquis, is gender neutral. In fact, in direct contradiction to article 59 of the IC, the Law on Foreigners foresees that in case of a marriage dissolution, the spouse that does not possess a residence permit loses the right to stay in Albania. Migrant women are not receiving health and social services, albeit maintaining access to these rights per the Albanian legislation.

**Main recommendations:**

- Include in the Law on Foreigners gender-based violence as basis for seeking asylum and amend the law to be in line with the IC by removing a stipulation that a spouse would lose the right to stay in the territory of Albania when a marriage is dissolved.
- Government institutions must work closely with relevant CSO's to identify migrant and refugee women in need of services.

**Women's CSOs.** When it comes to preventing and protecting women from violence and implementing the Istanbul Convention, women's CSOs play a crucial role in both legislation and practice. They initiated and helped design the first law on gender equality in society and continue to conduct research, collect data, and offer recommendations. Women's CSOs are crucial to service delivery for women survivors of violence, offering a wide range of services from free legal aid to psychological counselling. Without their presence, measures to fight violence against women would be truncated and weak. Women's CSOs have become an indispensable force for change and reaction in addressing VAW. However, representatives interviewed agree that the government could do more to provide an enabling environment for CSOs beyond its verbal commitments and promises.

**Main recommendations:**

- Provide regular, sufficient and sustainable government funding for CSOs to be able to continue offering essential services to survivors of violence, as the latter possess the appropriate set of knowledge, expertise and experience.
- Increase coordination between women's CSOs and state institutions in designing, implementing and evaluating policies related to VAW.

**Women's CSOs are crucial to service delivery for women survivors of violence, offering a wide range of services from free legal aid to psychological counselling.**

# EXECUTIVE SUMMARY FOR BOSNIA AND HERZEGOVINA



**Ratification of the Istanbul Convention.** BiH ratified the Istanbul Convention in 2013, without reservations. Given the country's deep-seeded patriarchal attitudes as well as the prevalence of VAWG, ratification was an important step. It has led to increased awareness as well as to the formation of various strategies for combating VAWG. While such strategies and accompanying legislation largely comply with the IC, implementation is insufficient, primarily because of problems with funding, the complicated government structure established by the Dayton Agreement, corresponding disputes over which bodies should bear responsibility for the execution of VAWG laws/policies, and, ultimately, resistance to the idea that VAWG is a serious problem.

**Main recommendations:**

- Establish education programs that - starting in primary school - emphasise gender equality, the destruction wrought by patriarchal attitudes, and the criminality of VAWG.
- Undertake awareness raising campaigns regarding VAWG.
- Organise comprehensive, gender-sensitive training for professionals working with VAWG survivors and introduce accreditation for professionals working on VAWG issues .
- Conduct further research on the nature and prevalence of different forms of VAWG.

**Implementation is insufficient, primarily because of problems with funding, the complicated government structure by the Dayton Agreement.**

**Intimate Partner Violence.** IPV is regulated by the state and entity criminal codes as well as by laws on domestic violence, both of which are generally in line with the IC. Implementation, however, falls short of IC standards. Courts consistently impose mild sanctions - including suspended sentences - for IPV and never award compensation.



Meanwhile, IPV survivors participating in criminal proceedings rarely receive the support and protection they are due under relevant legislation. Outside the courtroom, although BiH laws require different branches of the government to ensure IPV survivors' access to psychological, legal, and social services, such institutions have failed to fulfil their financial responsibilities, particularly with regard to safe houses. Women's CSOs are thereby struggling to fund the provision of services to survivors.

**Main recommendations:**

- Correctly characterise IPV crimes in criminal proceedings as criminal offences and in their appropriate aggravated form, and issue safety measures when necessary.
- Impose sanctions that are commensurate with the severity of IPV offences and, in particular, refrain from imposing suspended sentences.
- Provide funding for safe-houses, legal assistance, and SOS lines, in accordance with the entity Laws on Domestic Violence and established protocols. Ensure that all survivors of VAW have equal access to services regardless of their location or status, and that services are provided in accordance with a clear set of standards, as required by the IC.
- Ensure that the safety of IPV survivors in divorce proceedings is prioritised over family unification and amend the Family Laws to eliminate the requirement that spouses with children undergo mediation.

**Sexual Violence.** The various criminal codes that proscribe sexual violence are not in line with the IC because of the limited pool of offences covered and the requirement that force/threat of force be proven. Additionally, sexual violence survivors, like IPV survivors, infrequently receive support and/or protection in criminal proceedings. Unlike in IPV cases, however, sentences for sexual violence tend to be commensurate with the gravity of the offence. With regard to social services, there are no safe houses or other institutions specifically geared towards assisting rape survivors.

**Main recommendations:**

- Amend the definition of sexual violence in the criminal codes to eliminate the requirement of force/threat of force and provide for other non-consensual acts.
- Amend the FBiH Criminal Code to include sexual violence offences such as genital mutilation, forced sterilization, and forced marriage.
- Establish rape crisis centres, filling the current gap with respect to the lack of specialised services for sexual violence survivors.

**Conflict Related Sexual Violence.** While the number of prosecutions for CRSV has increased in recent years at the behest of the BiH justice sector and international community, the vast majority of women have been left without redress. There is no state-wide reparations scheme for CRSV survivors due to issues with funding and disputes over which institutions should bear financial responsibility. As a result, survivors have been forced to look to the courts and social pension schemes for recourse. Criminal courts, however, rarely award compensation and generally refer survivors to their civil counterparts, which are currently imposing statutes of limitations to dismiss all wartime claims. Encouragingly, CRSV survivors in criminal proceedings are increasingly receiving the support and protection prescribed by legislation. Despite this progress, sentences continue to be startlingly low, reflecting the belief that CRSV is a minor offence compared to other wartime crimes.

**Main recommendations:**

- Establish a reparations scheme for CRSV survivors.
- Take steps to ensure that survivors' compensation claims are resolved in criminal trials and that survivors are not directed to civil proceedings.
- Stop imposing statutes of limitations and court fees on CRSV survivors who lose their wartime claims.
- Impose sentences commensurate with the gravity of CRSV.

**Violence against Migrant and Refugee Women.** Legislation on refugee women is partially in compliance with the IC. VAWG is listed as a form of persecution but is not identified as a justification against removal. This legislation has become all the more important given that BiH is experiencing a steep increase in the number of refugees entering the country. In Bihać, where the majority of refugees are located, the safe house has been so overwhelmed with administering basic services to refugee women and their families that it has been unable to address issues of VAWG. Moreover, it is unclear whether the government will fund services for refugee women to the extent that it has done so for Bosnian women. CSO interviewees, for example, report that various government institutions are refusing to subsidise refugees' stays in safe houses. With respect to migrant women, relevant legislation does not enumerate IPV as a ground for remaining in the country upon cessation of marriage.

**Main recommendations:**

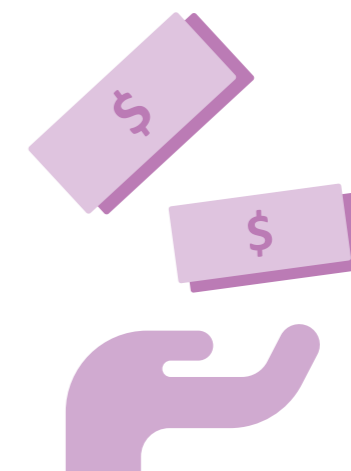
- Provide sufficient funding for women's CSOs to process the increase of refugee women and their families.
- Ensure that refugee women have access to the same services provided to other VAWG survivors, particularly with regard to refugee women's shelter in safe houses.
- Amend the Law on the Movement and Stay of Aliens and Asylum so that VAWG survivors are able to obtain residence in BiH independent of marital status.
- Amend the Law on Asylum so that the provision on non-refoulement identifies VAWG as a justification against removal or return.

**CSO interviewees, for example, report that various government institutions are refusing to subsidise refugees' stays in safe houses.**

**Women's CSOs.** Women's CSOs are leading monitoring and implementation of the IC, with their government partners receding into the background. CSOs have assumed the financial burden of responsibilities specifically allocated to government institutions, such as the funding of safe houses, SOS lines, and legal assistance. The government only periodically consults CSOs, despite their wealth of experience in the field, and there is no regular mechanism through which CSOs and state institutions can communicate about combating VAWG. Overall, CSOs have found that the government views them not as strategic partners in policy-making, but as service providers and sources of information.

**Main recommendations:**

- Fulfil financial responsibilities as prescribed by relevant legislation.
- Include women's CSOs as partners in policy making on VAWG, whether it comes to the development of strategic plans, the amendment of laws, or the GREVIO process.
- Set up formal channels of communication through which women's CSOs and relevant institutions can regularly consult about issues pertaining to VAWG.



# EXECUTIVE SUMMARY FOR KOSOVO



## Ratification of the Istanbul Convention.

After a decade of UN administration and failed negotiations on the legal status between Belgrade and Prishtinë/Priština, the Assembly of Kosovo<sup>25</sup> declared 2008 its independence. Today, Kosovo is recognised by more than 100 UN member states, but without membership in the UN and the Council of Europe (CoE). Therefore, Kosovo did not ratify the CoE Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention, IC). Although Kosovo could not ratify the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), it ensured its direct application through article 22 of the Kosovo Constitution. An overall action plan encompassing all relevant measures to prevent and combat all forms of violence against women (VAW) covered by the scope of the IC does not exist.

Kosovo does not apply an integrated approach to combating VAW, limits its institutional work predominantly to domestic violence (DV), and applies a gender-neutral policy approach. Progress has been made in approving a progressive legislative and policy framework, but the manifestations

of historically unequal power relations between women and men still hinder the full protection of women survivors of VAW. One Prishtinë/Priština-based interviewed CSO representative commented: *"Kosovo is good in drafting the best public policy documents. In practise, some minor things got better, but real progress cannot be seen"*.

### Main recommendations:

- Amend the Constitution to include the Istanbul Convention into the list of international human rights frameworks that directly apply and have priority in application.
- Immediately develop, adopt and start implementing a Kosovo-wide effective, comprehensive and co-ordinated strategy and action plan encompassing all relevant measures to prevent and combat all forms of violence against women covered by the scope of the Istanbul Convention, including domestic violence.

**Intimate Partner Violence.** Representative surveys on the prevalence of DV and intimate partner violence (IPV) in Kosovo have not been conducted by public institutions. Existing CSO data found that IPV, in all its forms, is wide spread. Police, prosecutors, judges, social workers and women's shelters continue to apply separate data collection and case management. Not all stakeholders can provide gender-segregated data and no data on perpetrators is available. IPV is primarily regulated through the Law on the Prevention of Domestic Violence (LPDV), a civil law, ensuring the protection of victims, but not meant to prosecute and penalise criminally. The LPDV covers all IC forms of intimate partner violence and offers protection orders. Nevertheless, CSOs highlight that too often there are no consequences for breaking protection orders. Prosecution of IPV acts is regulated in the Criminal Code (CC). The CC does not offer a definition of DV per se, though a number of criminal offences committed within a domestic relationship may be considered for prosecution of DV acts. Supported by UN Women, the amendments to the CC that include the definition of domestic violence have passed the first hearing in the Parliament after international organisations and women CSOs have pushed for such a definition to be included.

However, not all DV acts defined by the LPDV are included in the CC and harmonisation of these two laws is still pending. Challenges in implementation were found with all institutional actors. CSOs criticise continued use of the lowest sentence and that judges come up with negative examples from private life. Some judges still encourage family reconciliation and blame women for crimes perpetrated against them. Women's shelters are very well established but lack financial support. Victim's advocates (VA) play a central role in ensuring the rights and access to justice and services for all victims of crime including women survivors of IPV and sexual violence. Women's CSO representatives have a positive impression on the work of the VAs, but pointed out that they lack a feminist approach.

Some judges still encourage family reconciliation and blame women for crimes perpetrated against them.

### Main recommendations:

- Amend the Criminal Code so that it is fully aligned with the provisions from the Istanbul Convention and, specifically, appropriately defines domestic violence as a criminal offence and covers all other forms of gender-based violence against women, incl. marital rape, forced sterilisation, psychological violence and female genital mutilation.
- Amend the Family Law to explicitly prohibit mediation and reconciliation in cases of intimate partner violence against women.
- Immediately and based on the consultation with women's CSOs adopt clear and concrete legal provision on the founding, licensing and financings of women's shelters, enabling 100% funding over the whole year and putting the interest of the survivors in the centre of the further discussion.
- Integrate a feminist approach into victims' advocates, police, prosecutors and judges daily work and expand access to services, by making sure the help line is accessible through all landline and mobile phone operators and that services to non-majority communities are provided in their native language.

## Sexual Violence incl. Conflict Related Sexual Violence (CRSV).

Institutions in Kosovo have not conducted research with representative samples on sexual violence against women. Under the CC and in line with the IC, forced abortion, stalking, rape and forced marriage constitute specific offences. In cases of rape, the lack of consent is sufficient and no use of force is required to constitute the act of rape, which is in line with the IC. Marital rape against spouses is however not explicitly mentioned in the Criminal Code but can be prosecuted. Sexual harassment is defined and prohibited under Kosovo's anti-discrimination and equality legislation. Police and judges still lack knowledge pertaining to sexual violence. Police do not always take reports of sexual violence seriously or investigate them appropriately, which potentially contributes to under-documentation of such cases and their inadequate address.



Even though in violation with IC, victim blaming and multiple questioning by different police officers and inappropriate documentation of the sexual history of survivors has been observed, as reported by CSOs. There is a significant dropout rate from reported to prosecuted cases. None of the CSO or institutional providers fulfils the requirements of a rape crisis centre or sexual violence referral centre. In recent years, Kosovo has taken steps towards the provision of reparations for survivors of CRSV during the armed conflict of 1998-1999. Nevertheless, perpetrators have not been brought to justice and survivors fear that the crimes committed against them will remain unpunished.

#### Main recommendations:

- Set-up easily accessible rape crisis centres or sexual violence referral centres for survivors in sufficient numbers to provide for medical and forensic examination, trauma support and counselling in line with Istanbul Convention provisions.

**Violence against Migrant and Refugee Women.** Kosovo never became a transit territory for refugees and migrants travelling to EU. The legal text of the laws on asylum and foreigners apply EU standards but stay predominantly gender-neutral, not recognising all facets of GBV.

#### Main recommendations:

- Amend the laws on asylum and foreigners to recognise all forms of gender-based violence when granting asylum and applying the principle of non-refoulement.

**Women's CSOs.** Despite the framework of an international administration until 2008 and the strong influence of international partners in Kosovo contributing to a progressive legal framework, it was CSOs that began breaking down the social taboo of IPV, sexual violence and GBV. CSOs are integral part of policymaking and its implementation and regular consultations with civil society take place. CSOs perform all kind of roles and programmes of ending VAW are not imaginable without the strong presence of women's CSOs. Nevertheless, the government is not creating an enabling environment for women's CSOs. A limited financial support is provided through funding for the shelters. The significant majority of women's CSOs are still funded by international partners and donors. A Kosovo Serb CSO representative interviewed commented that "*Kosovo is investing more money into infrastructure and highways, than into people and social services*", keeping women's CSOs work unregulated and unfunded.

#### Main recommendations:

- Increase the cooperation with women's CSOs, providing them with an enabling environment and treating them as partners in policy development and not as only service providers.

CSOs perform all kind of roles and programmes of ending VAW are not imaginable without the strong presence of women's CSOs.



## EXECUTIVE SUMMARY FOR THE FORMER YUGOSLAV REPUBLIC OF MACEDONIA



#### Ratification of the Istanbul Convention.

After several decades of hard work in the area of women's rights protection, in December 2017 the national Assembly ratified the COE Convention on preventing and combating violence against women and domestic violence (Istanbul convention)<sup>26</sup>. Once the ratification had been finalised, the country established a working group that is currently providing advice on the implementation of the IC alongside with the national action plan (NAP) for implementation of the Convention. This report elaborates the findings of the research of the forms of violence against women (VAW) in FYR Macedonia: intimate partner violence, sexual violence and violence against migrant and refugee women. All three forms of VAW are partially covered by the national legal acts, but all of them are largely gender neutral and do not address VAW as a social phenomenon.

All three forms of VAW are partially covered by the national legal acts, but all of them are largely gender neutral and do not address VAW as a social phenomenon.

#### Main recommendations:

- Apply and promote a change in policy making and implementation when dealing with VAW and DV, making clear that this phenomenon is understood as a human rights infringement and it is based on historically unequal power between women and men.
- Collect and publish annually disaggregated data on all forms of VAW, including the relationship between perpetrator and victim including children victims, the specific vulnerability of the victims (disability, residence status, etc.).

**Intimate Partner Violence.** The enactment of the Law on prevention, combating and protection from domestic violence (DV) in 2015 was progress in terms of protection of women survivors of DV. However, the law lacks adequate protection of women from intimate partner violence (IPV), in terms of; granting the police with discretionary power to execute immediate protection orders (removal of the perpetrator from home);

provision of better protection of women and children during divorce proceedings by providing limitation of the visitation rights of the perpetrator; and clear prohibition of alternative dispute resolution in cases of VAW. Women's CSOs confirmed that the enforcement and monitoring of the temporary protection orders (TPM) are very weak. Divorce proceedings should relate to other legal processes such as granting custody rights and issuance of a TPM for DV.

**Main recommendations:**

- Amend/enact legislation that will include clear prohibition of alternative dispute resolution procedures and mediation/reconciliation in cases of all forms of VAW.
- Introduce and implement specialised training for social workers on better assessment and limitation of the visitation rights between the children and abusive parent.
- Introduce training for the judges and public prosecutors on the legal provisions regarding special protection to vulnerable categories (Art 54 Code on Criminal Procedures(CCP)).

**Sexual Violence.** Sexual violence has been somewhat regulated against, but due to the lack of gender sensitive interpretation/services, this type of violence is not reported and also not processed adequately by the institutions. The level of service provision for VAW is low; therefore, the country should ensure a comprehensive strategy on service provision for all forms of VAW. All professionals should be part of specialised, joint trainings on equality between men and women, violence, the needs and rights of survivors and how to prevent secondary victimisation and encourage multi-agency cooperation. Specialist support services should meet the demands of survivors, irrespective of the form of violence they experienced or the particular realities and compounding difficulties they face. All those general sheltering services should ensure

provision of facilities that will respond to different marginalised groups of women and girls including /survivors of sexual violence, their children, survivors living with disabilities including mental health and substance abuse problems, etc.

**Main recommendations:**

- Amend CC in order to require lack of consent to constitute rape (without the requirement of use of force), criminalise marital rape, sexual harassment, FGM, and amend the statute of limitation with regards to all forms of VAW.
- Set up easy accessible shelters that provide accommodation to survivors of VAW, rape crisis support and sexual violence support services, including counselling centres for trauma support addressing the needs of marginalised women and co-managed by women's CSOs with supported funding. All the general services should be adapted to the needs of the sexual violence survivors and their children.
- Support the opening and running of at least one free national 24/7 SOS helpline covering all forms of violence against women including sexual violence and offering crisis support in all relevant languages.
- Active participation in joint training should be mandatory for all professionals regarding processing survivors of VAW including sexual violence in the sexual violence referral centres (SOPs).
- Ensure that specialised CSOs accompany the survivors in all stages of the procedure.

**Violence against Migrant and Refugee Women.** Migrant and refugee women are not sufficiently legally protected from all forms of VAW, the new Law on Foreigners includes some novelties, however, it omits several crucial elements. Law on asylum and temporary protection is lacking recognition of VAW as a form of a persecution.

**Main recommendations:**

- Amend Law on foreigners to give the right to family reunification to extra-marital couples; to define "particularly difficult situations" so they refer to VAW situations and grant the anonymous permit irrespectively of the duration of marriage in cases of VAW; to include the right to TRP in cases when the expulsion proceeding is initiated against the abusive spouse/partner; to prevent the loss of residence status of victims of VAW in case they were unwillingly removed from the country of residence.
- The Law on Asylum and Temporary Protection should recognise VAW as a form of persecution, include gender sensitive interpretation of the refugee definition and non-refoulement principle and regulate the protection in cases of persecution on the grounds of membership of a social group such as: FGM, early marriages, political opinion related to non-traditional gender roles and sexual orientation.
- Ensure gender sensitive reception procedures at the borders and in the migrant and asylum centres/shelters.
- Develop training manual and implement gender sensitive training for the migration and asylum police inspectors and social workers (addressing also multi-sectoral SOPs for prevention and response to VAW in emergency and crises situations and disasters).

**Women's CSO's.** Lastly, women's CSOs have a significant role in putting the issues related to IPV, sexual violence and GBV high on the political agenda. Most of the above-mentioned interventions are included in the NAP for implementation of the IC. However, further efforts are needed in order to achieve alignment with the standards of the IC in all areas and this simply cannot be achieved without formal cooperation with women's CSOs.

**Main recommendations:**

- Initiate concrete cooperation and ensure long term strategic financing of the women's CSOs by the state central budgeted, local governance units and private sector.
- Encourage active involvement of the women's CSOs on GBV policies at a central, regional and local level.
- Provide state finances to CSOs that offer specialised support services to victims of VAW.
- Support of the small and rural women's CSOs at a local level in providing specialised services to women victims of VAW and DV.
- Women CSOs should participate in all joint trainings for all professionals regarding processing victims of VAW including sexual violence in the sexual violence referral centres.

Further efforts are needed in order to achieve alignment with the standards of the IC in all areas and this simply cannot be achieved without formal cooperation with women's CSO's.



# EXECUTIVE SUMMARY FOR MONTENEGRO



## Ratification of the Istanbul Convention.

Montenegro was among the first ten countries that signed and ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), without any reservations. It was also among the first signatory states in which the Convention entered into force, on 1 August 2014. After the first GREVIO evaluation of Montenegro, conducted in 2017, Montenegro is expecting the First Evaluation Report. Montenegrin CSOs also took part in the baseline evaluation by sending their Shadow Report and meeting the members of GREVIO during their country visit. All relevant legal acts - *Law on Gender Equality, Law on Domestic Violence Protection (LDVP), the Criminal Code* etc. contain gender-neutral definitions of VAW, which are not in line with IC and fail to acknowledge that women are disproportionately affected by violence.

## Main recommendations:

- Ensure full compliance of Criminal Code with the IC provisions, so that it defines domestic violence as a criminal offence and covers all other forms of gender-based violence against women, incl. marital rape and psychological violence.

**Intimate Partner Violence.** There is no official centralised electronic data collection system; therefore, it is not possible to determine the prevalence of IPV in all registered DV cases, or to automatically obtain information on how individual cases were prosecuted and the outcomes. Representative surveys on the prevalence of DV and intimate partner violence (IPV) in Montenegro, conducted by UNDP showed that 42% of women in Montenegro have, during their lives, been exposed to some form of violence (psychological, physical, economic or sexual) by their spouses or partners. The study showed that patriarchal attitudes and gender stereotypes are still widely spread in Montenegro, and seriously affect institutional response to protection from VAW.

IPV is primarily regulated through the Law on the Prevention of Domestic Violence (LPDV), a misdemeanour law that covers all IC forms of intimate partner violence. *The Criminal Code* (CC) criminalises IPV through various provisions, but mainly through Art. 220 that provides the definition of DV, but needs to include a precise description of all forms of DV stipulated by the IC, as it is the case with LPDV. Both legal provisions provide a narrow definition of family that leaves out partners or ex partners that have never shared the same household. LPDV introduced the urgency of acting of all institutions, obligatory reporting and emergency intervention of all public legal entities, social protection of survivors, legal aid, confidentiality of procedure and orders of protection, including emergency police eviction order. However, CSOs noted a failure of institutions to conduct a victim's rights centred approach according to Article 49 of the Convention, as well as to comply with the Articles 50 and 51 when it comes to principle of urgency and obligatory risk assessment. A lenient penal policy means that there is "a deep institutional misunderstanding of the nature of violence, as well as of its consequences for the survivors, family members, and society as a whole", as stated by the activist of the NGO Women's Rights Centre, Podgorica. In addition, the percentage of POs imposed in a misdemeanour procedure and the provision of physical POs for women who have experienced GBV is worryingly low in relation to the total number of prosecuted cases of domestic violence. In practice, only the most serious cases comprising "heavy bodily injury" or ongoing violence go to the criminal court. Greater sanctions are a rare occurrence, even when there was "severe" physical violence. The security measures of Eviction from Common Residence and Restraining Order provided by the CC, and

available only upon conviction, have been issued by the Montenegrin courts only 6 times between 2010-2017. CSOs are particularly concerned about the lack of physical protection of survivors - in four cases known to CSOs, that ended with the murder of three women and the attempted murder of two women, the perpetrator was repeatedly reported to the police and other competent institutions, but they failed to assess risk and provide protection. The institutions do not actively screen for DV in divorce cases that include children, but instead rely wholly on the parties to inform them. They tend to overlook the harms partner violence causes to children and often prioritise reconciliation and make custody and visitation decisions without taking domestic violence into account, contrary to the Article 31 of the Convention. They tend to prioritise visitation as a violent parent's right and may forego any supervision when children are not direct victims of the violence.

## Main recommendations:

- Ensure full compliance of Criminal Code with the IC provisions, so that it defines domestic violence as a criminal offence and covers all other forms of gender-based violence against women, incl. marital rape and psychological violence.
- Widen the circle of protected persons within criminal and misdemeanour protection of the partners and former partners, former in-laws, as well as persons who were or are in emotional or sexual relationship regardless of whether they were living in the same household.
- Amend the Law on Free Legal Aid so it recognises CSOs as free legal aid providers.
- When determining parental contacts, child visitation and custody, CSWs and courts should consider IPV and its effects on children.





**Sexual Violence.** Under the CC and in line with the IC, forced sterilisation, forced abortion, female genital mutilation, stalking and rape constitute specific offences. In cases of rape, the lack of consent is partially included in the definition, but the definition is not fully complied with IC, as it still contains *the use of force* as a “more severe form of rape”. Marital rape can be prosecuted by a private charge only, which does not comply with the IC. Sexual harassment is defined and prohibited under Montenegro’s anti-discrimination, workplace and equality legislation. Forced marriage can be prosecuted, but it requires further compliance with the IC Article 37. Montenegro does not provide specialist free services for survivors of sexual violence, including rape. There are no special protocols or guidelines for survivor support and assistance, nor free specialist psychological support for overcoming trauma. The acting of law enforcement in these cases is highly influenced by personal beliefs and stereotypes, that significantly affects prosecutions within these cases, as well as protection and support for the women.

**Main recommendations:**

- Set-up easily accessible rape crisis centres or *one stop shops* for survivors of sexual violence in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for survivors in line with the Istanbul Convention provisions.

**Violence against Migrant and Refugee Women.** Montenegro never became a part of the so-called Balkan route, but the number of refugees and asylum seekers is increasing. The 2018 *Law on Foreigners* provides for expedited procedures to grant asylum and defines the forms of protection in compliance with the international and EU standards, but does not recognise GBV and remains gender-neutral.

There are no special protocols or guidelines for survivor support and assistance, nor free specialist psychological support for overcoming trauma.

**Women’s CSOs.** Montenegrin women’s CSOs have a key role in providing support and protection for women and children DV survivors. They provide the only available specialised support services for women - SOS Helpline, psychological and legal assistance, organise trainings, campaigns, and participate in drafting of national legislation and policies. Despite the formal state commitment to ensure active cooperation with civil society organisations, this obligation has not been implemented to a sufficient extent. The state hardly ensures any funding for women CSOs, so they strive for sustainability, since they are predominantly financed through the projects supported by international donors.

**Main recommendations:**

- Ensure participation of women CSOs in all coordinating bodies established in order to monitor law and policy implementation, including the Committee for coordination, implementation, monitoring and evaluation of policies and measures for prevention and fight against all forms of violence (the Committee).
- Adequately fund CSO services for women survivors of intimate partner violence, including shelters, hotlines, legal assistance, and other support while respecting their autonomy, expertise and work principles.



# EXECUTIVE SUMMARY FOR SERBIA

**Ratification of the Istanbul Convention.** The Council of Europe Convention on preventing and combating violence against women and domestic violence, also called the Istanbul Convention (IC), was ratified by the Serbian National Assembly in November 2013 and entered into force in August 2014. The inauguration of IC came as a result of the aspiration of the Republic of Serbia to join the European Union (EU) whereby the compliance with EU *acquis* produced favourable policy and legal changes. It must be noted that domestic and family violence (DV) concepts were already part of the Serbian legislation and policy since 2005 and multi-agency approach was promoted since 2011. Hence, and although the IC implementation action plan was never created, the introduction of the treaty further influenced the amendment of the Criminal Code (CC) in 2016 and the introduction of the new Law on Prevention from Domestic violence (LPDV) in 2017. Currently, the biggest obstacles regarding the implementation of the IC are the absence of political will to fully harmonise the domestic legislation, to allocate public funds for prevention of gender-based violence and support programs for survivors,

and in the lack of public administration’s capacities for policy implementation. Existing non-governmental resources are not acknowledged and utilised, previous support of multi-agency and pluralism concepts records a decline, while cooperation with specialised women’s CSOs is seldom practiced.

**Main recommendations:**

- Align national legal framework with Istanbul Convention fully.
- Produce realistic action plan on combating VAW, including detailed public budget allocations.
- Produce a plan to support and fund the local licensed services provided by women CSOs.

**Intimate Partner Violence.** The prevalence of intimate partner violence (IPV) in Serbia is not observed, and official statistics related to DV are not segregated by gender. However, according to available data, every second woman in the region of central Serbia has experienced some form of DV. The IPV policy implementation conditions are provided with a vast network of public administration entities and available resources, including: Ministry of Justice, Ministry of Interior, Ministry of work and social welfare, with the availability of 34 basic prosecutor's offices, 67 basic courts, 35 police departments with about 200 additional police stations, and 136 centres for social work. The Family Law, the Criminal Code, the new LPDV and the Law on ratifying the Istanbul Convention are all at their disposal. Notwithstanding, only in the last three years (2015-2017), about 100 women were murdered by their intimate partner or family member. About every second femicide case is the result of domestic violence, for which the perpetrator was previously known to public institutions. However, after the LPDV was introduced, there are notable improvements related to policy implementation. Despite this however, it cannot be concluded that women survivors of intimate partner violence are provided adequate support as policy effectiveness evaluation is missing.

**Main recommendations:**

- Introduce annual VAW prevalence data collection and distribute reports widely.
- Allocate assets for human resource capacity development at the policy implementation level.
- Increase the production of Individual support and protection plans, as part of new LPDV requirement, and adequately involve survivors of violence in individual protection planning process.
- Ensure independent anti-VAW policy evaluation is produced annually. Ensure service beneficiaries' participation in evaluation.

**Sexual Violence.** Sexual violence against women is criminalised under the Criminal Code. However, Serbian law defines rape as the use of force, and not as the absence of consent as required by the IC. Furthermore, marital rape is not criminalised and it can only be prosecuted if obvious force was used, notwithstanding the consent. The national legislation regarding sexual violence was amended, but it reflects the IC requirements only to the limited extent – the most significant improvements are recognition of stalking, forced marriage, genital mutilation and sexual harassment as new criminal acts. Likewise, prevalence studies are not conducted, while the available statistics do not provide gender segregated information about any type of sexual violence criminal acts. Most notably, there are no rape crisis centres. A pilot project of seven health centres in hospitals in Vojvodina shows promise, but it is internationally funded, with no firm promises from the local government to ensure long-term sustainability.

**Main recommendations:**

- Harmonise national legislation concepts and provisions to fully reflect IC ideas and obligations.
- Amend the Criminal Code to make lack of consent, and not use of threat/force the requirement to qualify as a crime.
- Include sexual violence in policy implementation plan and budgetary allocations.
- Develop institutional capacities towards comprehension of the problem and policy application.

**Serbian law defines rape as the use of force, and not as the absence of consent as required by the IC.**

**Violence against Migrant and Refugee Women.** VAW issues are not considered in crucial policy documents regarding migrants and refugees in Serbia. The need for food, hygiene and basic medical requirements of a big number of people who migrate through Serbia are recognised and provided by the state. However, rare support services to women violence survivors are registered during the research. VAW prevalence data are not recorded by Serbian authorities and the issue is significantly under-researched and unrecognised in Serbia. Moreover, the officials claim that IPV is not an issue regarding migrants and refugees since there are no such cases noted by the Serbian public administration officers.

**Main recommendations:**

- Investigate violence against migrant and refugee women through a gender lens.
- Initiate policy solutions according to the collected evidence.
- Establish minimum standards for services.
- Involve women's CSOs in policy planning, implementation and service delivery.

**Women's CSOs.** Women's feminist CSOs in Serbia were essential improvement agents regarding, primarily, social recognition of IPV as widespread, gendered and dangerous phenomena. An extensive network of women's CSOs, activists and direct support service providers, is present in Serbia. The network consists of 25 local helplines run by specialised women CSOs covering most of the country, whose services comprise facilitating empowerment process for women and understanding the characteristics of violence against women, giving policy related information to survivors, individual consultations regarding personal needs, risk assessment and safety planning, self-help and support group work. The network recognises this need and maintains some capacity to work with multiple discriminated and marginalised groups of women, such as women from the Roma community and other national minorities, women with disabilities,

sexual minorities, and human trafficking survivors as groups under particular risk of VAW. Besides providing direct support services to IPV survivors, the network members stand for a zero-tolerance principle, elevate policy standards and monitor the implementation of national and international laws. On the one hand, women's CSOs are recognised for their expertise and are acknowledged for their great influence on developments at both national and local level. On the other hand, attacks on women anti-violence advocates are still frequent. Moreover, notwithstanding the contributions in the field, the research findings show public administration's support decline to specialised women's CSOs – lack of cooperation, exclusion from public administration multi-agency bodies, the introduction of costly service licensing rules, and denial of public funds, among other issues.

**Main recommendations:**

- Enable qualitative participation of specialised women's CSOs in public policymaking and evaluation processes. Women from minoritised groups must be adequately involved.
- Provide public resources for development of capacities for service provision.
- Ensure the funding sustainability by public budget funding of services.
- Ensure anti-corruption public funding processes and respect of the rule of law.

**An extensive network of women's CSOs, activists and direct support service providers, is present in Serbia.**

# EXECUTIVE SUMMARY FOR TURKEY



## Ratification of the Istanbul Convention.

Turkey ratified the IC on 14 March 2012 without any reservations. IC came into force on 1 August 2014. The first state report of Turkey was received by GREVIO on 3 July 2017. The Shadow NGO report of the IC Monitoring Platform comprising 81 member CSOs was submitted to GREVIO in September 2017 and the first evaluation report was published in October 2018. General Directorate on Status of Women (GDSW) under the Ministry of Family and Social Policy<sup>27</sup> (MoFSP) is the coordinating institution in implementing IC, as well as the National Action Plan on Combating Violence against Women (NAP) (2016-2020) which is the third of such NAPs. Provincial Action Plans for Combating Violence against Women were also introduced in 26 pilot provinces in 2016. The Shadow NGO report notes that GDSW has a limited share (0.038%) in the overall budget of MoFSP. It also states that some activities of the NAP (2016-2020) are vague, while no assessment of the outcomes of the previous action plan - NAP (2012-2015) - is publicly available.

## Intimate Partner Violence.

According to the last nationwide research on VAW in 2014, 36% of ever-married women survived physical violence in intimate relationships. Women's CSOs also record cases of femicide reported in the media. According to one such data, men murdered 409 women across Turkey in 2017. Gendarmerie and police records are kept separate and the records of the latter on IPV are not publicly available. While criminal justice statistics are publicly available, criminal cases involving IPV are not regarded as a separate category. The major legislative tools in combating IPV and VAW are Law No. 6284 on the Protection of Family and Prevention of Violence against Women (Law No. 6284) and Turkish Criminal Code (CC). Law No. 6284 defines VAW and DV, and regulates a number of protective and preventive measures, including barring orders. Injunction orders can be issued for periods of up to 6 months, and violation is punished with preventive imprisonment for 3-10 days.

Women's CSOs state that some judges request women to make a new application with new evidence for extending the duration of existing injunction orders, while some law enforcement agencies are reluctant to take action, belittling the violence or showing disbelief in the survivor's account of the incident. There is no crime defined under the banner of IPV in the CC. However, some acts of IPV such as threat, injury, murder, rape etc. are criminalised in the CC. They are classified as petty offences, minor criminal offences or serious offences, depending on the nature of the act of violence. Stalking and psychological violence are not defined in CC, but covered under other offences such as threat. There are 68 Violence Prevention and Monitoring Centres (VPMCs) that run support services for survivors. As of September 2018, there are 110 women's shelters operated by MoFSP (i.e. the newly established Ministry of Family, Labour and Social Services as of 9 July 2018) with a capacity of 2,697; 32 women's shelters operated by municipalities with a capacity of 725; and 1 women's shelter operated by a women's CSO with a capacity of 20, in addition to 1 women's shelter operated by Directorate General of Migration Management with a capacity of 12.<sup>28</sup> Some problems cited by women's CSOs regarding VPMCs and shelters include inadequacy of psychological support, staff encouraging survivors to make peace with the perpetrators, and it is reported that boys over 12 years old and women over 60 do not have access to shelters. Although there is a state-run, national, free of charge hotline for support services including women, it is not specialised for VAW.

## Main recommendations:

- Increasing the share of state budget allocated to elimination of VAW, including budget of GDSW; undertaking of regular nationwide research on VAW.
- Recording data on VAW disaggregated with regards to sex, age, type of violence etc. and making it publicly accessible with a view to security and privacy of survivors.
- Launching of a national hotline specialised for VAW; ensuring that all relevant service providers, including law enforcement officers receiving applications of survivors of VAW, are trained and experienced on gender equality and VAW.
- Enabling access of women and children of all ages to shelters.
- Provision of effective psychological assistance to survivors in VPMCs and shelters.
- Issuing of injunction orders on the basis of a comprehensive risk analysis.
- Incorporation of DV as a separate crime in CC, and if not, at least to have aggravated forms for different types of violence that might occur in domestic relations; and incorporation of stalking and psychological violence as separate crimes in CC.
- Withdrawal of any reduction, liquidation or deferment judgement causing impunity or damaging the dissuasiveness of the penalties in VAW cases.



There are 68 Violence Prevention and Monitoring Centres (VPMCs) that run support services for survivors.

**Sexual Violence.** In the nationwide research on VAW conducted in 2014, 12% of ever-married women reported being subject to lifetime SV. In the CC, sexual assault and sexual harassment are criminalised, with rape being punished by no less than 12 years in prison. While marital rape is criminalised, it is prosecutable only upon survivor's complaint. All kinds of sexual attempts against children under the age of 15 or against those who attained the age of 15, but lack the ability to understand the legal consequences of such an act, and abuse of other children sexually by force, threat or fraud are criminalised. There are no rape or SV crisis centres. Women's CSOs report that survivors of SV are faced with judgmental attitudes of law enforcement officers and that evidence may not be collected properly due to disbelief in women's accounts of the incident.

**Main recommendations:**

- Establishment of SV crisis centres.
- Establishment of prosecution offices specialised in sexual crimes and that work in coordination with SV crisis centres.
- Ensuring effective prosecution of all cases of sexual violence.
- Prevention of early and forced marriages by regulations regarding the sexual abuse of children.

**Violence against Migrant and Refugee Women.** As of January 2017, 45,383 refugees and 250,018 asylum-seekers (from Afghanistan, Iran, Iraq, Somalia and others) are in Turkey.<sup>29</sup> As of 24 October 2018, the number of Syrians is reported as 3,589,327 and of which 1,641,844 are women.<sup>30</sup> Overall, only 157,958 of Syrians live in camps.<sup>31</sup> Syrian women in Turkey reported to have encountered sexual harassment, early marriage and being forced to marry a local man as his second or third wife. Refugee women who are survivors of VAW can benefit from Law No. 6248. However, lack of capacity of personnel in relevant public agencies and inadequacy of translation services are cited as some problems by women's CSOs. The shadow NGO report to GREVIO notes that the process of receiving asylum-seekers' applications is not gender-sensitive, while it also cites cases in which HIV-positive women and LGBTIQ refugees were deported.

**Main recommendations:**

- Designing of public services for refugees with a gender equality perspective.
- Training of relevant service providers on gender equality and VAW.
- Improving access of refugee women survivors of VAW to shelters.

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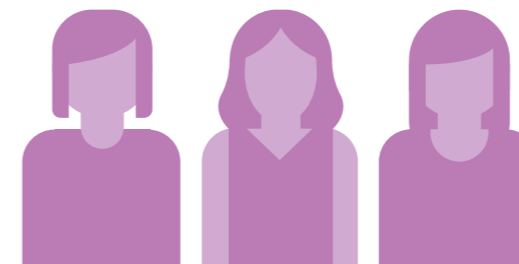


Women's CSOs state that there are no regular consultation mechanisms with the public authorities and that dialogue and cooperation have significantly declined over the last couple of years.

**Women's CSOs.** Turkey has a vigorous feminist movement, which has led various successful campaigns to eliminate VAW. Available funds for women's CSOs are EU funds, funds from private foundations, and individual donors. It is not common practice for the state to provide funding to women's CSOs. Some of the women's CSOs reported backlash due to their receipt of international funds. The shadow NGO report to GREVIO states that nine women's CSOs were shut down in November 2016 by a statutory decree issued under the State of Emergency rule (which lasted from 20 July 2016 to 19 July 2018). Women's CSOs state that there are no regular consultation mechanisms with the public authorities and that dialogue and cooperation have significantly declined over the last couple of years. Most women's CSOs mentioned that cooperation with the public authorities is established sporadically. The increasing influence of GONGOs in the areas of work of independent women's CSOs is also mentioned in the shadow NGO report to GREVIO.

**Main recommendations:**

- Recognition of independent women's CSOs by the state as equal partners in combating VAW.
- Establishment of regular, participatory and effective consultancy mechanisms with independent women's and LGBTIQ CSOs regarding preparation and implementation of policies on VAW.
- State provision of regular and adequate funding to independent women's CSOs providing services to survivors of VAW, and the shelters they run, while ensuring their autonomy.



<sup>29</sup> UNHCR, *Turkey's Monthly Statistics as of January 2017*, [http://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/02/eng\(67\).pdf](http://www.unhcr.org/tr/wp-content/uploads/sites/14/2017/02/eng(67).pdf) [accessed October 25, 2018].  
<sup>30</sup> TC İçişleri Bakanlığı Göç İdaresi Genel Müdürlüğü, *Yıllara Göre Geçici Koruma Kapsamındaki Suriyeliler*, [http://www.goc.gov.tr/icerik3/gecici-koruma\\_363\\_378\\_4713](http://www.goc.gov.tr/icerik3/gecici-koruma_363_378_4713) [accessed October 25, 2018].  
<sup>31</sup> Ibid.



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