



Building CSOs
capacities to produce
GREVIO shadow reports

Draft Shadow Report

on the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in North Macedonia

August 2021



Notice

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This report was prepared by the representatives of the Gender Equality Platform and included 9 monitors from 8 member organizations (Reactor, Coalition Margins, HERA, National Network to end Violence against Women and Domestic Violence, Organization of Women of Sveti Nikole, Tiiiiit! Inc., HOPS, and Stella Network) who gathered the necessary data for the report. The final text of the report was compiled by the expert Biljana Kotevska. This report will serve as a basis for the final shadow report that the Gender Equality Platform will prepare and submit to the GREVIO Committee in 2022, in line with the state report deadline.

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„Врати се дома и не доаѓај повеќе. Знаеш ли ти кого пријавуваш? Знаеш дека пријавата магично ќе исчезне? Најдобро е да си покутиш и да се смириш. Ќе ти помине лутината, ќе заборавиш.“

[Go back home and don't come here again. Don't you know who you are reporting? Don't you know your report will magically disappear? It is best if you shut up and make peace with him. Your anger will pass, you'll forget.]¹

„ Не можеме да преземеме интервенција во конкретниот случај, бидејќи сторителот е позитивен на COVID-19.“

[We cannot intervene in this case because the perpetrator is COVID-19 positive.]²

„Судијата упати зборови према детето ‘Оди гушни го татко ти‘“.

[The Judge told the child "Go hug your father".]³

¹ Police man's advice to a woman reporting domestic violence. Media reported personal story of the victim. Source: Aleksandra Spaseska, "Пријавување родово базирано насилство: Колку пати жртвата ја преживува траумата?" [How many times does a victim re-live the trauma?], *kajgana.mk*, <https://kajgana.com/prijavuvane-rodovo-bazirano-nasilstvo-kolku-pati-zhrtvata-ja-prezhivuva-traumata>.

² Response from the police to a request for intervention by a victim of domestic violence (as reported by the NGO Macedonian Young Lawyers Association). SDK, "Тетовчанка молела за помош додека ја тепал сопругот, полицијата не интервенирала оти бил позитивен на коронавирус" [Woman from Tetovo begged for help while her husband was beating her; Police refused to intervene because the husband was coronavirus positive], *sdk.mk*, Source: https://sdk.mk/index.php/neraskazhani-prikazni/tetovchanka-molela-za-pomosh-dodeka-ja-tepal-soprugot-politsijata-ne-intervenirala-oti-bil-pozitiven-na-koronavirus/?fbclid=IwAR2Sj8LKbqobnLK2_ZY0Huxq2GG9TmPjJOuhD7HNwHUu28MMW4wlujEf7E.

³ The child is an eight-year-old daughter, victim of domestic violence by the father. The testimony is shared by the lawyer of the mother and her child - the daughter, both victims of domestic violence. The father was found not guilty. Source: KOD, *Semejno nasilstvo i Swarovski korupcija 23.06.2019* [Domestic Violence and Swarovski Corruption 23.06.2019], <https://www.youtube.com/watch?v=042jrn9hovk>

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List of Abbreviations

2014 DV Law, old law	Law on Prevention and Protection from Domestic Violence
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CSOs	Civil Society Organisations
DV	Domestic violence
GBV	Gender-based violence
GBV Law, new law	Law on Prevention and Protection from Violence against Women and Domestic Violence
Istanbul Convention, IC	Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence
LPPD, ADL	Law on Prevention and Protection against Discrimination (2021)
MLSP	Ministry of Labour and Social Policy
Mol	Ministry of Internal Affairs
NAP	Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023
North Macedonia, MKD	Republic of North Macedonia
VAW	Violence against women

Introduction

"Violence against women is a significantly widespread phenomenon in the Republic of North Macedonia. Three out of five (60%) women consider violence against women to be common, whereas three out of ten consider it to be frequent. Almost one out of five women (17%) knows personally someone in their family and among their friends that have suffered a form of domestic violence." Gender Equality Strategy 2021-2026, p.19.⁴

Gender-based violence (GBV) and domestic violence (DV) is one of the biggest, socially most deeply rooted challenges to women's rights and to the overall societal development in the Republic of North Macedonia (North Macedonia). And, yet, after signing the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) in 2011, it took North Macedonia seven years and significant lobbying and campaigning by civil society organisations (CSOs)⁵ to ratify it. The ratification took place on 23 March 2018, and as of 1 July 2018 the convention entered into force.⁶ The long reluctance to make this landmark international treaty the law of the land was a clear reflection of the deeply rooted patriarchy which overlapped with the undemocratic rule of a government that was increasingly hostile to women's rights.⁷ Only after there was a change in government in 2017 did the tide change allowing finally for the Istanbul Convention to become part of the national legal system pursuant to Article 118 of the North Macedonia Constitution.⁸

Staying tucked under the veil of stigma, taboo, and shame even for decades after women's equality with men was declared and women's rights were recognised under national law,⁹ GBV and DV have persisted and have become entrenched and normalised in the Macedonian society. This long resistance towards adopting a national legal framework to address and combat GBV and DV cultivated a climate of underreporting, denial, and non-recognition of GBV and DV, their specificities and particular nature. It was only with the signing of the Istanbul Convention in 2011 and the first law on DV adopted in 2014 – Law on

⁴ Please note that at the time of writing of this shadow report (text closed on 10.08.2021) the strategy was passed by the Government, but it was not yet adopted by the Parliament.

⁵ See, for example, the campaign "Potpišuvam": <https://www.potpisuvam.org/mk/campaign.html>.

⁶ Council of Europe, *Chart of signatures and ratifications of Treaty 210*, CoE Treaty Office, <https://www.coe.int/en/web/conventions/full-list/-/conventions/rms/090000168008482e?module=signatures-by-treaty&treatynum=210>.

⁷ See, for example: Ana Miškovska Kajevska, 'Suspending Democracy, Harming Gender Equality' in Mieke Verloo (ed), *Varieties of opposition to gender equality in Europe* (Routledge, Taylor & Francis Group 2018).

⁸ Устав на Република Македонија [Constitution of the Republic of North Macedonia], *Official Gazette of the Republic of Macedonia*, Nos. 52/1991; 1/1992; 1/1992; 31/1998; 31/1998; 91/2001; 91/2001; 84/2003; 84/2003; 107/2005; 107/2005; 3/2009; 3/2009; 13/2009; 49/2011; 49/2011; 6/2019; 6/2019; Art. 118.

⁹ Устав на Народна Република Македонија [Constitution of the Peoples Republic of Macedonia], *Official Gazette of the Peoples Republic of Macedonia*, No. 1/1947, Arts. 22(1) and 23.

Prevention and Protection from Domestic Violence (2014 DV Law, old law)¹⁰ – that the country started to make small steps, albeit indecisive and very weak, towards dealing with GBV and DV. Yet, we can speak of existence of a national legal framework on GBV and DV only after the ratification of the Istanbul Convention and the adoption of the Law on Prevention and Protection from Violence against Women and Domestic Violence in 2021 (GBV Law, new law).¹¹

The key outcome of this long state legislative inaction is the pervasive nature of GBV and DV in the country. For illustration purposes, in 2019, a total of 989 cases related to domestic violence were reported to the Ministry of Internal Affairs (Mol), out of which 588 with physical injuries, 23 with minor injuries, 366 for endangering safety and five femicides. In the same year, the Ministry of Labour and Social Policy (MLSP), recorded 1555 new cases of DV with 1 135 women victims/ survivors and 173 children victims/ survivors. In a 2019 Western Balkans regional research on human rights defenders, women human rights defenders in North Macedonia shared personal experiences of sexual harassment, threats of sexual violence and rape, and physical assaults during feminist events, which was met with inaction by the relevant institutions who were perceived to "not seriously consider the crimes that are committed against women".¹² In the first half of 2020, the Ministry of Internal Affairs recorded 6 murders related to DV (compared to 2019).¹³ "There was no significant increase in the number of criminal acts related to domestic violence in the 1st half of 2020 (435) compared to the same period in 2019 (433). However, an increase of 18% was recorded in the number of reports related to domestic violence for the period from January to June 2020 (1874), compared to the same period in 2019 (1541). 65% of the victims were women, and the highest number of assaults against women victims were committed by a current or ex-partner."¹⁴

Following the ratification of the Istanbul Convention, the authors of this report started regular monitoring of its implementation. This shadow report is the outcome of that monitoring effort. We developed questionnaires and a monitoring matrix and collected data during the months of May, June, and July 2021. We relied on several sources of data: (1) publicly available information and sources (collected via desk search), (2) interviews with key stakeholders (conducted during the same period in a structured format; referenced throughout this report), (3) requests for access to public information (sent in the previously stated period; referenced throughout this report), and (4) (re)use of data that our organisations have

¹⁰ Закон за превенција, спречување и заштита од семејно насилство [Law on Prevention and Protection from Domestic Violence], *Official Gazette of the Republic of Macedonia*, Nos. 33/2015; 150/2015.

¹¹ Закон за спречување и заштита од насилство врз жените и семејното насилство [Law on Prevention and Protection from Violence against Women and Domestic Violence], *Official Gazette of the Republic of North Macedonia*, No. 24/2021.

¹² Biljana Kotevska and Ismail Kamberi, "North Macedonia", in Biljana Kotevska (ed), *Human Rights Defenders in the Western Balkans: Intimidation Instead of Recognition* (Civil Rights Defenders, 2019), 68, 76, 79.

¹³ Department of Public Relations and Strategic Affairs- Sector for Public Relations and Protocol (Оддел за односи со јавност и стратешки прашања (Сектор за односи со јавност и протокол), '(Решение за одговор на Барање за слободен пристап до информации од јавен карактер)' (Ministry of Internal Affairs (Министерство за внатрешни работи), 11 August 2020). as cited in: Biljana Kotevska et al, "Franet National contribution to the Fundamental Rights Report 2021 - Republic of North Macedonia", *europa.eu*, https://fra.europa.eu/sites/default/files/fra_uploads/frr2021_north_macedonia-frr2021_en.pdf.

¹⁴ Biljana Kotevska et al, "Franet National contribution to the Fundamental Rights Report 2021 - Republic of North Macedonia", *europa.eu*, https://fra.europa.eu/sites/default/files/fra_uploads/frr2021_north_macedonia-frr2021_en.pdf (citing: Department of Public Relations and Strategic Affairs- Sector for Public Relations and Protocol (Оддел за односи со јавност и стратешки прашања (Сектор за односи со јавност и протокол), '(Решение за одговор на Барање за слободен пристап до информации од јавен карактер)' (Ministry of Internal Affairs (Министерство за внатрешни работи), 11 August 2020)).

collected on GBV and DV in the past several years (where such (re)use was possible when assessed against ethical and privacy standards).

In this shadow report, we provide information on selected articles,¹⁵ in line with the scope of our work. Thus, the report does not cover the full text of the convention. The largest challenge for the preparation of this report was the scarcity of data and the general randomness with which the issue of GBV and DV is treated when it comes to data collection by the state institutions. We discuss this in greater detail in our report on Article 11. In addition, the report would have benefited from being prepared in a longer timeframe to facilitate for making the most out of each of these data collection methods, most importantly of the requests for access to public information, which were most time consuming. The lack of responsiveness of some of the institutions to our requests for information was an additional burden. Finally, completing the monitoring for the whole of 2021 would have been additionally beneficial, considering the envisaged timeframe as to when North Macedonia will receive the GREVIO questionnaire.

¹⁵ For a full list of articles covered by this shadow report, please consult the Table of Contents.

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

Article 3 – Definitions

For the purpose of this Convention:

a "violence against women" is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;

b "domestic violence" shall mean 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;

c "gender" shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men;

d "gender-based violence against women" shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;

e "victim" shall mean any natural person who is subject to the conduct specified in points a and b;

f "women" includes girls under the age of 18.

The GBV law includes definitions for "violence against women", "gender", "gender-based violence against women", "victim", and "women" (Article 3).¹⁶ These are replicated from the Istanbul Convention and are, thus, fully in line with it. It is worth noting, however, that the Criminal Code provides a slightly different definition of a "victim". According to Article 122(22), a victim is "any person that has suffered damage, including physical or mental injury, emotional suffering, material loss or another violation or endangerment of their basic freedoms and rights as a consequence of a criminal act."¹⁷ While this definition does not explicitly include all of the elements of Article 3, paragraphs a and b of the Istanbul Convention, if one takes into consideration that its core elements are "any person", "that has suffered damage", and "as a consequence of a criminal act", it can be considered to not contradict the one in the convention.

The definition of "domestic violence" included in Article 3(3) of the GBV law is replicated from the definition of "domestic violence" in the Criminal Code. Article 122 (21) of the Criminal Code defines DV as

¹⁶ In Article 3 of the GBV law also includes definitions for "close personal relationships", "transgender person", "perpetrator", "violence from an intimate partner", "physical violence", "psychological violence", "stalking", "economic violence", "sexual violence and rape", "sexual harassment", "sexual harassment through internet", "forced marriages", "female genital mutilation", "forced abortion and forced sterilization", "women trafficking", "forced control over women". Source: Закон за спречување и заштита од nasilstvo vrz ženite i semejnoto nasilstvo [Law on Prevention and Protection from Violence against Women and Domestic Violence], *Official Gazette of the Republic of North Macedonia*, No. 24/2021. Art.3.

¹⁷ Кривичен законик [Criminal Code], *Official Gazette of the Republic of Macedonia*, Nos. 80/1999; 48/2001; 4/2002; 16/2002; 43/2003; 19/2004; 40/2004; 81/2005; 50/2006; 60/2006; 73/2006; 87/2007; 7/2008; 139/2008; 114/2009; 51/2011; 51/2011; 135/2011; 185/2011; 142/2012; 143/2012; 166/2012; 55/2013; 82/2013; 14/2014; 27/2014; 28/2014; 41/2014; 41/2014; 115/2014; 132/2014; 160/2014; 199/2014; 196/2015; 226/2015; 97/2017; 170/2017; 248/2018. Art. 122(22).

"harassment, insult, endangerment of security, bodily harm, sexual or other psychological, physical or economic violence that causes a feeling of insecurity, threat, or fear, including threats of such actions, towards a spouse, parents or children, or other people living in a marital or extramarital union or joint household, as well as towards the current or former spouse or extramarital partner or persons who have a joint child or are in a close personal relationship, regardless of whether the perpetrator shares or has shared the same residence with the victim or not".¹⁸ The wording does not match the one in the Istanbul Convention. It will require judicial interpretation to ascertain that the scope of the Criminal Code article will not be considered to be narrower than the one in Article 3(b) of the Istanbul Convention in terms of types of violence that are incriminated. In addition, "that causes a feeling of insecurity, threat or fear" could be interpreted as an additional element that should be satisfied in front of a court; such an element is not present in Article 3(b) of the Istanbul Convention.

Yet, it should be noted that, given the relatively recent adoption of the GBV and the long period of time that the judicial system was processing GBV and DV cases under the old legal framework, it is to be expected that there will be challenges in putting these definitions into practice. Previous research, from before the GBV law, contains valuable information about the judicial culture in the country and the possible challenges that are to be expected and which can serve as a road map for tailoring further the state party's activities. For example, a focus group with lawyers that have brought DV cases to the courts conducted within the frame of a 2019 gap analysis of the Criminal Code compared to the Istanbul Convention brought to light that, regardless of the legal framework according procedural and other rights to the victims, in practice, the rights of the victims "are endangered also by the lack of awareness and knowledge of the judges, in particular the male judges, who do not see domestic or gender-based violence against women, so instead of undertaking the judicial proceedings in an impartial manner and according to judicial procedures, they make efforts to mediate and reconcile the partners and undertake counselling of the victim to go back home to the perpetrator."¹⁹ This was confirmed in the most recent CEDAW concluding observations,²⁰ and in *S.B. and M.B. v. North Macedonia*, where the CEDAW Committee recommended the following: "Increase the awareness of judges on non-discrimination, including the procedural aspect of shifting the burden of proof during judicial proceedings; and ensure that women have recourse to effective, affordable, accessible and timely judicial remedies, to be addressed in a fair hearing by a competent and independent court or tribunal, where appropriate, or by other public institutions, taking into consideration the Committee's General Recommendation No. 33 on women's access to justice."²¹

While the GBV brings some novelties which the judges will need to follow, it is well established in the literature that judicial culture is very difficult to change and feeds into narratives and patterns of "tradition" which are difficult to break. Thus, significant efforts will be needed to secure appropriate application of

¹⁸ Ibid. Art. 122(21).

¹⁹ Marija Risteska and Aleksandar Cekov, *Анализа на потребите од усогласување на Кривичниот законик со Истанбулската конвенција во Република Северна Македонија* [Analysis of the Needs for Alignment of the Criminal Code with the Istanbul Convention in the Republic of North Macedonia], (Center for Research and Policy Making and Macedonian Women Lobby, 2019), 16.

²⁰ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para. 13(b).

²¹ CEDAW, *Views adopted by the Committee under article 7 (3) of the Optional Protocol, concerning Communication Communication No. 143/2019 - S. B. and M. B. v. North Macedonia*, https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/CEDAW_C_77_D_143_2019_32193_E.docx.

these definitions in practice. The Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023 (NAP) is a step in the right direction. It includes judges and public prosecutors among the professionals which act in different areas of professional and social life, regardless of whether they provide services to victims of GBV and DV directly. It also includes undertaking general GBV training for judges and public prosecutors with the Academy for Judges and Public Prosecutors through modules for judges and public prosecutors.²² However, these were not implemented within the planned deadline (end of 2019) and were postponed for 2021.²³ The new Gender Equality Strategy 2021-2026 does mention the need for "sensibilisation of legal practitioners on gender equality issues due to the possibility for secondary victimisation and discrimination of persons from vulnerable groups with whom they come in direct contact".²⁴ However, unlike the NAP, it clearly does not identify the deeply seated nature of gender discrimination and stereotyping among legal practitioners in general and in the judiciary in specific. Furthermore, in the section on GBV there is no mentioning of this challenge.²⁵ It does include, however, "advanced institutional response to prevention and protection from GBV, particularly by the police and the judiciary", which it ties to regular trainings for the "employees in the institutions" and "number of administrative servants that have passed a training".²⁶ Yet, this will again does not specifically target the judges and the public prosecutors themselves. In addition, the whole specific goal of 3.1. "Prevention and fight against gender-based violence" does not include any results or activities related to other legal practitioners or work with the professional associations of judges and public prosecutors and the lawyers. It also does not foresee any collaborations with the universities which have law faculties in terms of developing courses or including the novelties from the Istanbul Convention and the GBV law as part of their programs.

Recommendations:

- Revise the definition of "domestic violence" in the Criminal Code and in the Law on Prevention and Protection from Violence against Women and Domestic Violence in order to bring it fully in line with the Istanbul Convention and not to burden it with additional elements.
- Undertake comprehensive and systematic training of judges and public prosecutors on the novelties brought by the Law on Prevention and Protection from Violence against Women and Domestic Violence and the Istanbul Convention, including on the novelties in relation to the nature and scope of the definitions as per Article 3. This activity will be best undertaken in collaboration with the Academy for Judges and

²² Ministry of Labour and Social Policy, *Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејното насилство на Република Македонија 2018-2023* [Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023], <https://mtsp.gov.mk/content/word/oglas/Nov%20node/Финал%20драфт%20НАП%20ИК%202018-2023.02.docx>, 12, 35-36.

²³ Маја Balshikjeska and Ана Avramovska Nushkova, *Извештај за напредокот на Р Северна Македонија при спроведувањето на Националниот акциски план за имплементација на Истанбулската конвенција - октомври 2018 - октомври 2020* [Progress Report on the Implementation of the National Action Plan for Implementation of the Istanbul Convention in North Macedonia - October 2018 - October 2020], (National Network to End Violence against Women and Domestic Violence, 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>, 28.

²⁴ *Стратегија за родова еднаквост 2021-2026* [Gender Equality Strategy 2021-2026] (2021), 25.

²⁵ *Ibid*, 19-20.

²⁶ *Ibid*, 40.

Public Prosecutors, as already foreseen under the NAP, but it should be integrated in both the "Initial Training" and in the "Continuous Professional Development" (for both the judges and the public prosecutors, and the administration).

- Ensure that the training of judges and public prosecutors includes addressing multiple and intersectional forms of discrimination, and the relevance for GBV and DV.
- Stimulate and support collaborations with/among the universities which have law faculties for developing/adapting courses/modules to include the novelties from the Istanbul Convention and the GBV law as part of their curricula, including on the novelties in relation to the nature and scope of the definitions as per Article 3.

Article 4 – Fundamental rights, equality, and non-discrimination

1 Parties shall take the necessary legislative and other measures to promote and protect the right for everyone, particularly women, to live free from violence in both the public and the private sphere.

2 Parties criticize all forms of discrimination against women and take, without delay, the necessary legislative and other measures to prevent it, in particular by:

- embodying in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realisation of this principle;
- prohibiting discrimination against women, including through the use of sanctions, where appropriate;
- abolishing laws and practices which discriminate against women.

3 The implementation of the provisions of this Convention by the Parties, in particular measures to protect the rights of victims, shall be secured without discrimination on any ground such as sex, gender, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth, sexual orientation, gender identity, age, state of health, disability, marital status, migrant or refugee status, or other status.

4 Special measures that are necessary to prevent and protect women from gender-based violence shall not be considered discrimination under the terms of this Convention.

Paragraph 1 of Article 4 of the Istanbul Convention is to an extent reflected in the aim of the GBV law established in Article 2 (which establishes non-discrimination as a general principle). Article 2 of the GBV law states that the aim is "prevention of gender-based violence against women and domestic violence, effective protection of victims of any form of gender-based violence against women and victims of domestic violence with respect for fundamental human freedoms and rights guaranteed by the Constitution of the Republic of North Macedonia and international agreements ratified in accordance with the Constitution. The purpose of the law is based on the principle of equality and elimination of stereotypes about gender roles."

As for Article 4, Paragraph 2, of the Istanbul Convention, it can be considered as satisfactory with two exceptions. Firstly, the element of taking the necessary legislative and other measures "without delay" is



questionable. The element of "abolishing laws and practices which discriminate against women" is still not satisfied. Article 46 of the Law on Prevention and Protection against Discrimination does foresee an obligation for a process of internal harmonization of the national legislation to be undertaken. Yet, this obligation is prescribed only for instances where there are non-discrimination provisions. This clearly leaves out those laws which do not contain non-discrimination provisions, but should include such provisions, and moreover – it excludes laws which include provisions that are discriminatory against women. Finally, this will be a step in the right direction towards abolishing laws. Special action needs to be undertaken towards abolishing practices which discriminate against women. The Gender Equality Strategy 2021-2026 does include as a specific aim "3.2. Countering gender stereotypes and sexism and promoting equality". However, it includes a very limited number and scope of activities which are predominantly focused on media, sports, and education. The only more general and systemic change might come from 3.2.6 which ties the strategy to the public duty for equality which exists under the Law on Prevention and Protection against Discrimination. However, the indicator shows that this is also not thought off as a systemic action for unrooting discriminatory practices against women, since it focuses only on monitoring the implementation of this duty as per the Law on Prevention and Protection against Discrimination and the Guidelines for the public sector duty for promoting equality and non-discrimination. Thus, the new strategic document misses out on planning aims and results that can have a truly transformative effect on society and that can work towards abolishing discriminatory practices towards women.

Paragraphs 3 and 4 of Article 4 of the Istanbul Convention are covered with Article 5 of the GBV law which establishes the principle of non-discrimination as a general principle for the GBV law. Paragraph 3 of Article 5 of the GBV law mirrors paragraph 3 of Article 4 of the Istanbul Convention. It includes, however, the discrimination grounds from the Law on Prevention and Protection against Discrimination. While this adds some grounds that are not included in the Istanbul Convention, it does not explicitly include "birth" and "migrant or refugee status". However, these grounds can be read in the scope of other grounds, such as "personal or other social status", "citizenship", or "social status".²⁷ Moreover, this provision is an open ended one, thus grounds can be read in under "or any other ground". It is also worth noting that paragraph 1 of Article 5 of the GBV law proclaims "gender-based violence against women to be discrimination against women which limits them in their enjoyment of rights and freedoms on equal footing with men." Paragraph 4 of Article 5 of the GBV law matches paragraph 4 of Article 4 of the Istanbul Convention.

Recommendations:

- Amend the national Gender Equality Strategy to include expected results that will be more systemic and that will grapple with the transformative potential of the principle of equality towards uprooting discriminatory practices towards women.

²⁷ The Guide on Discrimination Grounds of the (now former equality body) Commission for Protection Against Discrimination confirms that this will be the case. Source: Biljana Kotevska, *Guide on Discrimination Grounds* (Organisation for Security and Cooperation in Europe – Mission to Skopje and Commission for Protection Against Discrimination, 2013).

- Interpret and apply Article 46 of the Law on Prevention and Protection against Discrimination to also include laws which do not contain non-discrimination provisions, but should include such provisions, and laws which include provisions that are discriminatory on grounds of gender.

II – Integrated policies and data collection

Article 7 – Comprehensive and co-ordinated policies

1 Parties shall take the necessary legislative and other measures to adopt and implement State-wide effective, comprehensive, and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.

2 Parties shall ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all relevant agencies, institutions, and organisations.

3 Measures taken pursuant to this article shall involve, where appropriate, all relevant actors, such as government agencies, the national, regional, and local parliaments and authorities, national human rights institutions, and civil society organisations.

It cannot be said that North Macedonia has complied with its obligations under Article 7 of the Istanbul Convention. As we will discuss in this section, although the NAP as a document itself offers good ground for the implementation of the Istanbul Convention, its impeded implementation and lack of continuous, sustained, and coordinated efforts among all relevant agencies, institutions, and organisations results in lack of progress across the plain which undermines also the efforts of the few actors that have attempted to fulfil their obligations as per the NAP, such as the Ministry of Labour and Social Policy. Finally, there is only rudimentary, often inappropriate, efforts to include civil society organisations, as per paragraph 3 of Article 7 of the Istanbul Convention.

Protection against all forms of GBV is part of the Strategic Plan of the Ministry of Labour and Social Policy as a priority objective within the Ministry's Programme for Equal Opportunities and Anti-discrimination.²⁸ GBV is also included in the Gender Equality Strategy 2021-2026.²⁹ However, the main framework set by the national authorities to address violence against women are the NAP and the GBV laws which were adopted as part of the state party's obligation to enforce a comprehensive law against GBV aligned with the provisions in the Istanbul Convention.

The GBV covers domestic violence, gender-based violence³⁰, violence by intimate partner, physical violence, psychological violence, stalking, economic violence, sexual violence and rape, sexual harassment,

²⁸ Ministry of Labour and Social Policy, *Стратешки план на Министерството за труд и социјална политика 2021-2023 година* [Strategic Plan of the Ministry of Labour and Social Policy 2021-2023], Ministry of Labour and Social Policy Official Website, <https://www.mtsp.gov.mk/content/Strateski%20plan%20na%20MTSP%20za%202021-2023%20FINALEN%2014.01.2021.doc>

²⁹ *Стратегија за родова еднаквост 2021-2026* [Gender Equality Strategy 2021-2026] (2021).

³⁰ Defined as violence against women because it affects women disproportionately more than men, and it encompasses unequal power relations between men and women resulting from societal/structural issues and not individual ones.

online sexual harassment, forced marriage, female genital mutilation, forced abortion and forced sterilization, trafficking in human beings/women, and forced control over women as forms of violence against women. The NAP generally covers and mentions all forms of GBV. In its first part, referring to the legislative strategic action and harmonization of the national law with the Istanbul Convention – the NAP explicitly mentions the following forms of GBV: domestic violence, stalking, sexual violence, child marriage, female genital mutilation, honour crimes, and human trafficking. In its second part, referring to the general and special services for victims, it explicitly mentions services for victims of sexual violence and domestic violence. Finally, in its third part, referring to action tackling prevention of gender-based violence it mentions "all forms of gender-based violence" and particularly recognises children witnesses of GBV as victims.

Since these policies are specifically targeting gender-based violence and violence against women, the approach is victim-based, i.e., human rights of the victims are placed at the centre of the policies. The GBV law, as well as the NAP, besides taking into account a wide range of GBV forms, they also take into account the possible multiple or intersectional aspects of the identities of the victims and propose measures targeting vulnerable categories of women, such as women from ethnic minorities, pregnant women, women with young children, single parenting women, women with disabilities, rural women, women who use drugs, sex workers, asylum seekers, migrant women, women without citizenship, refugees, lesbian, bisexual and transgender, women living with HIV, homeless women, etc.³¹

However, the research suggests that while generally all measures in the NAP (referring to legislation, service provisioning and prevention of GBV) do take human rights of the victims into account, certain action when implemented does follow this approach.³² For example, one of the foreseen activities of the NAP is including victims of GBV in the Ministry of Health programme for protection of mothers and children, meaning providing free access to health to those women and children who are not registered beneficiaries of the health-care system. The Programme was adopted in 2019 and considers only women victims of sexual violence but does not anticipate free access to health to women victims of other forms of GBV.³³

Moreover, the general programming by the Ministry of Labour and Social Policy that should include advancement of the economic position of women victims of violence is not focused on victims of GBV.³⁴ The National Network to End VAW and DV have conducted desk analysis of the programming of this ministry for the period 2015-2020 and it concluded that women victims of gender-based violence are not recognized as specific groups for employment measures and other economic measures that should be

³¹ Ministry of Labour and Social Policy, Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејното насилство на Република Македонија 2018-2023 [Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023], <https://mtsp.gov.mk/content/word/oglas/Nov%20node/Финал%20драфт%20НАП%20ИМК%202018-2023.02.docx>; Закон за спречување и заштита од насилство врз жените и семејното насилство [Law on Prevention and Protection from Violence against Women and Domestic Violence], *Official Gazette of the Republic of North Macedonia*, No. 24/2021.

³² Maja Balshikjeska and Ana Avramovska Nushkova, Извештај за напредокот на Р Северна Македонија при спроведувањето на Националниот акциски план за имплементација на Истанбулската конвенција - октомври 2018 - октомври 2020 [Progress Report on the Implementation of the National Action Plan for Implementation of the Istanbul Convention in North Macedonia - October 2018 - October 2020], (National Network to End Violence against Women and Domestic Violence, 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>, 28.

³³ Ibid.

³⁴ Ibid.

tailored to the needs of the victims.³⁵ Similarly, a recent call (2021) for social housing published by the Government of North Macedonia,³⁶ does not explicitly include victims of GBV as eligible candidates for social housing, while categories such as parentless children, people using minimal social protection funds, people affected by natural disasters, people with disabilities, Roma people and single parents are eligible candidates.

To offer an effective holistic and comprehensive response, policies are to be coordinated based on the GBV law and on the NAP. The NAP prescribes specific measures and action to be taken, the responsible institution for the implantation of each specific measure, indicators by which progress is measured, timeframe planned for every specific action, as well as budget for each activity. However, the budget line of the NAP only provides data on the source of budgeting but not on the amount allocated for the action.

With the adoption of the NAP in October 2018, each line ministry was obliged to prepare specific operational plan (OP) for the implementation of the Action Plan.³⁷ Furthermore, these operational plans were supposed to be made publicly available online. However, data suggest that not only most of the OPs are not publicly available, but many line ministries have not prepared operational plans at all. Some ministries have prepared OPs only for 2019 but not for 2020, those being: Ministry of Labour and Social Policy, Ministry of Internal Affairs, Ministry of Health, Ministry of Justice, Ministry for Education and Science, and Ministry for Information Society and Administration. For 2020, only 2 ministries (out of 16) have prepared operational plans, that is the Ministry of Internal Affairs and the Ministry of Health.³⁸ For 2021, operational plan was prepared by the Ministry of Justice.³⁹

Most of the local self-government units (80 municipalities and the City of Skopje) which fall under the jurisdiction of the Ministry of Local Self-Government have not prepared OPs in accordance with the NAP. Only six out of 80 municipalities have included combating GBV as part of their strategic goals.⁴⁰ The City of Skopje had prepared Strategy for Gender Equality in 2021-2025 and an accompanying action plan, however both documents are not publicly available.⁴¹ Under the current Law on Equal Opportunities for Women and

³⁵ Ibid.

³⁶ Government of North Macedonia, ""Оглас за распределба на 37 социјални станови во Струмица"" [Call for social housing applications in Strumica], *Government of North Macedonia Official Website*, <https://vlada.mk/node/25007>. Please note that, although this call is specifically for Strumica, our monitors have information that it pertains to several municipalities in North Macedonia.

³⁶ National Network to End Violence Against Women and Domestic Violence, *За прв пат во Западен Балкан се отвори куќа*

³⁷ Maja Balshikjeska and Ana Avramovska Nushkova, Извештај за напредокот на Р Северна Македонија при спроведувањето на Националниот акциски план за имплементација на Истанбулската конвенција – октомври 2018 – октомври 2020 [Progress Report on the Implementation of the National Action Plan for Implementation of the Istanbul Convention in North Macedonia - October 2018 - October 2020], (National Network to End Violence against Women and Domestic Violence, 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>.

³⁸ Ibid.

³⁹ Response to request for access to public information, archived document No. 19-1428/2021.

⁴⁰ Maja Balshikjeska and Ana Avramovska Nushkova, Извештај за напредокот на Р Северна Македонија при спроведувањето на Националниот акциски план за имплементација на Истанбулската конвенција - октомври 2018 - октомври 2020 [Progress Report on the Implementation of the National Action Plan for Implementation of the Istanbul Convention in North Macedonia - October 2018 - October 2020], (National Network to End Violence against Women and Domestic Violence, 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>.

⁴¹ The information about the adoption of the strategy is on the official website City of Skopje, however the actual documents of the strategy and the action plan cannot be found on their website (website last accessed: 10.08.2021). Source: City of Skopje,

Men, local self-government units also have the obligation to submit annual progress reports on the status of equal opportunities for women and men, including any information on GBV if such data are available.⁴² The latest data show that 34.5% of local governments did not fulfil this obligation for 2019 at all, which is "indicative of both the complete side-lining of gender equality as a priority area in their work and the dysfunctionality of the state mechanisms for [monitoring] the status of gender equality in the country".⁴³ Additionally, under Article 12 of the GBV law, local self-government units must prepare a protocol for institutional and multi-sectoral cooperation as ground for undertaking joint action for prevention and protection against GBV. No information is available as to whether such protocol was prepared.⁴⁴

Under Article 15 of the GBV law, the Government of Republic of North Macedonia is obliged to form a National Coordinative Body for Prevention and Combating Gender-Based Violence with a five-year mandate. This body is to have three members from among CSOs that work with GBV and DV. In specific, Article 15(6) from the GBV law requires that the Government publishes a public call for members of the body from CSOs, and that the selected members will be persons with at least five years of experience in GBV and DV.⁴⁵ Through a request for access to public information, we received information that such a body was formed with a decision dated 8 June 2021. The decision published in the Official Gazette states the composition of the body by stakeholder, but it does not include the names of the members.⁴⁶ From the Ministry and Labour and Social Policy we received⁴⁷ a document which is an additional decision by the Government, dated 15.06.2021, containing a detailed breakdown of the body.⁴⁸ The body held its first

Град Скопје – Родово еднаков град [City of Skopje – Gender Equal City], *City of Skopje Official Website*, (24.02.2021) https://skopje.gov.mk/mk/vesti/2019/24022021_nova_strategija_rodova_ednakvost/

⁴² Закон за еднакви можности на жените и мажите [Law on Equal Opportunities of Women and Men], *Official Gazette of the Republic of Macedonia*, Nos. 6/2021; 30/2013; 166/2014; 150/2015; *Official Gazette of the Republic of North Macedonia*, No. 53/2021. Arts. 14-15.

⁴³ Reactor - Research in Action, *Shadow report on the implementation of the Gender equality strategy 2018/2019* (Reactor - Research in Action, 2020), <https://reactor.org.mk/en/publication-all/shadow-report-on-the-implementation-of-the-gender-equality-strategy-2018-2019/>, 32.

⁴⁴ Upon submitting a request for access to public information, we received a reply on 05.07.2021 from the Ministry of Local Self-Government which declared itself not competent on this matter and directed us to the Ministry of Labour and Social Policy.

⁴⁵ The public call can be found on the link of the government website for cooperation with CSOs: <https://www.nvosorabotka.gov.mk/?q=mk/node/489>

⁴⁶ The body is constituted of: three management officials of the Ministry of Labour and Social Policy, member and deputy-member of the Ministry of Health, member and deputy-member of the Ministry of Education and Science, member and deputy-member of the Ministry of Internal Affairs, judges and public prosecutors, representative of the local government units, member of trade unions, member of the organization of employers, three members of the civil society, one member of the Commission for equal opportunities of women and men and one member of the MPs women's club within the Parliament of North Macedonia. Source: Одлука за формирање на национално координативно тело за имплементација на Конвенцијата на Совет на Европа за спречување и борба против насилство врз жените и семејно насилство [Decision to form National coordinative body for the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence], *Official Gazette of the Republic of North Macedonia*, No. 129/2021.

⁴⁷ Ministry of Labour and Social Policy, Response to Request for Access to Public Information, archived document No. 14-4493/6 (27.07.2021).

⁴⁸ Government of the Republic of North Macedonia, *Решение за назначување на претседавач, членови и заменици членови на Националното координативно тело за имплементација на Конвенцијата на Совет на Европа за спречување и борба против насилство врз жените и семејно насилство, 15 јуни 2021 година* [Decision Appointing Members of the President, Members and Deputy Members of the National Coordinative Body for the Implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence, 15.06.2021], appended to: Ministry of Labour and Social Policy, Response to Request for Access to Public Information, archived document No. 14-4493/6 (27.07.2021).

session on 02.07.2021, with the Minister of Labour and Social Policy as its chairwoman.⁴⁹ According to the exposé by the chair-Minister during this first session, the national coordinative body should monitor the implementation of the Istanbul Convention, to recommend measures for advancing gender equality and combating violence against women, as well as to review and participate in the preparation of the bylaws against gender-based violence according to the new Law, which are yet to be prepared.⁵⁰

The Ministry of Labour and Social Policy has the largest proportion of action according to NAP. Last available data show that most of the activities falling under responsibility of this Ministry are not implemented but compared to other line Ministries, it has implemented more activities considered in absolute numbers.⁵¹ The ministry with least implemented activities is the Ministry of Internal Affairs as it has the lowest number of activities under its coordination (three) and up to this point none are fully conducted. However, some progress was made since October 2020, when not even one activity was started.⁵² At the time of writing, out of three NAP activities, one activity has not started yet (amendments to the Law on Police), one is partially conducted (setting up the infrastructure for "cozy rooms" for victims of violence and people with disabilities in order to avoid double victimization – such rooms are set up in only 8 police stations around the country) and one is ongoing (publishing online information on preventive measures against GBV).⁵³

Generally, the institutions in charge of implementing the NAP lack transparency. Despite their obligation to involve the civil society in the implementation of the activities as prescribed with the NAP, this was largely not the case in practice. The process of harmonization of the provisions of the Istanbul Convention with the national legislation is also lacking transparency. Such is the case with the Criminal code where representatives of the civil society that work with GBV and DV do not participate in the relevant working group, and information on the process is not available.⁵⁴ Additionally, there is no public information for almost any of the activities that are being implemented as part of the NAP. Even for the establishment of the National Coordinative Body, which has three members from CSOs, the information was not readily available online.

Recommendations:

⁴⁹ Ministry of Labour and Social Policy, Министерската Шахпаска на првата седница на Националното координативно тело за спречување и борба против насилство врз жените и семејното насилство: Обезбедуваме нов и ефикасен пристап во справувањето со родово базираното насилство [Minister Shahpaska at the First Meeting of the National Coordinative Body for the Implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence: We Provide a New and Effective Approach to Dealing with Gender-Based Violence], (02.07.2021), *Ministry of Labour and Social Policy Official Website*, https://mtsp.gov.mk/pocetna-ns_article-ministerkata-shahpaska-na-prvata-sednica-nationalnoto-koordinativno-telo-za-spreuvanje-i-borba-p.nspX

⁵⁰ Ibid.

⁵¹ Maja Balshikjeska and Ana Avramovska Nushkova, Извештај за напредокот на П Северна Македонија при спроведувањето на Националниот акциски план за имплементација на Истанбулската конвенција - октомври 2018 - октомври 2020 [Progress Report on the Implementation of the National Action Plan for Implementation of the Istanbul Convention in North Macedonia - October 2018 - October 2020], (National Network to End Violence against Women and Domestic Violence, 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>.

⁵² Ibid.

⁵³ Ministry of Internal Affairs, Response to Request for Access to Public Information, archived document No. 16.12.910/1 (08.07.2021).

⁵⁴ Information based on input provided by CSOs to the Delegation of the European Union in North Macedonia consultation to the preparation of the CLIP document within the EU's Gender Action Plan 3 (on file with monitors).

- Revise the NAP in order to reflect the reality of its seriously belated implementation.
- Advance the publishing of information and data on the implementation of the NAP in the public domain in order to facilitate impartial monitoring of the progress of its implementation.
- Resolve the competence of the units of local self-government and monitor the implementation of their obligation to publish operational plans.
- Introduce a systemic solution to the problem of lack of inclusion of actors from civil society organisations in the measures taken pursuant to the implementation of Article 7 of the Istanbul Convention.

Article 9 – Non-governmental organisations and civil society

Parties shall 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.

Many women CSOs in North Macedonia are active in the field of protection and prevention of GBV and DV. Their activities vary from service provision to monitoring and analysis. The services they offer are wide ranging. Some examples include SOS helplines,⁵⁵ shelters,⁵⁶ counselling and psychological services,⁵⁷ free legal aid⁵⁸ and, in certain cases, court representation for victims,⁵⁹ housing for victims that have left the violent environment⁶⁰ facing homelessness. CSOs working with GBV and DV were also active during the whole COVID-19 crisis, aside from providing legal and other assistance, also by pushing the Government to adjust the measures they were putting in place and to make them sensitive for victims of GBV and DV.⁶¹ Most of these CSOs have very strong expertise in the field and they are recognised for this expertise. Some of these CSOs specialise in research and analysis and produce the rare examples of studies on GBV and DV available on North Macedonia.⁶² Aside from the above-mentioned activities, CSOs working with GBV and DV have also contribute to public policy processes at both central (such as, for example, the drafting of the GBV law and of the NAP) and local level (such as by drafting strategies for the units of local self-government, for example the Organisation of Women in Sveti Nikole). However, their functioning is contingent on

⁵⁵ Such as Crisis Center Nadež' crisis counselling SOS help line.

⁵⁶ Such as short term accommodation (24 to 48 hours) crisis shelter and two shelters at the territory of Skopje (run by CSO Organization of Women Skopje and funded partially by the Ministry of Labour and Social Policy) and Strumica (run by CSO Sky Plus Strumica and funded partially by the Municipality of Strumica).

⁵⁷ Such as the Prv Semeen Centar run by CSO HERA and funded by the City of Skopje.

⁵⁸ Such as CSO Helsinki Committee for Human Rights.

⁵⁹ Such as CSO Macedonian Young Lawyers Association.

⁶⁰ Such as the National Network against Domestic Violence (housing for up to 6 months).

⁶¹ National Network to End Violence Against Women and Domestic Violence, *Справување со насилство врз жените и семејно насилство во Западен Балкан за време и по здравствената криза со КОВИД-19* [Dealing with Violence against Women and Domestic Violence in the Western Balkans During and After the COVID-19 Health Crisis] (July 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/09/Spravuvane-so-nasilstvo-vrz-zheni-i-semejno-nasiltvo-za-vreme-na-KOVID-19.pdf>.

⁶² Such as Reactor – Research in Action.

(project) grants (by international multilateral and bilateral donors, such as EU, UN agencies and in particular UN Women, Kvinna till Kvinna) meaning they lack steady and sustainable funding in general, more specifically comprehensive and systematic funding by the state.⁶³

In addition to CSOs, there are also networks of CSOs that work in the field of GBV and DV. The National Network to End Violence against Women and Domestic Violence "Glas protiv nasilstvo", with a seat in the capitol – Skopje, unites 23 organisations⁶⁴ which cover most of the territory of North Macedonia. The member-organizations are of different sizes - from small grass-root organizations to bigger organizations operating at the national level. The network's mission is to achieve coordinated action of CSOs towards advancing policies and practices in combating VAW and DV. The network is making efforts to provide a unified approach to services throughout the whole country, since at present the access to services in smaller towns is limited compared to the access in Skopje or in the larger regional centres (such as Shtip and Strumica).

The GBV law recognises CSOs as partners in the area of prevention and protection against GBV. In particular, its Article 24 provides legal ground for CSOs to undertake training to state actors, provide specialised services, prepare research and analyses on the state of GBV and DV in the country, collect data and cooperate with institutions in the field of GBV and DV. In addition, Article 12 states that the local self-government units "together with the institutions and the associations prepare Protocol for mutual cooperation for measures for prevention and protection from gender-based violence against women and domestic violence at the local community". Article 15 provides for the establishment of the National Coordinative Body for Monitoring the Implementation of the Istanbul Convention and reserves three seats for members from CSOs that have at least five years of experience in GBV and DV. A number of protocols which should regulate the contribution and engagement of CSOs, especially through provision of services, have been drafted but are not yet adopted.⁶⁵ In addition to this, CSOs working with GBV and DV should also abide by the rules that apply to CSOs in North Macedonia in general. The main framework for this is established in the Law on Associations and Foundations.⁶⁶

Yet, until recently, there was no formalized and coordinated cooperation on protection, prevention, and prosecuting and punishment between NGOs and state/other actors. The situation now is such that the cooperation between CSOs and state actors is sporadic, inconsistent and happens at the initiative of the CSOs rather than the state actors. For examples, CSO representatives contribute in the work of working bodies, local bodies (such as prevention councils), etc. However, these are exceptions, and not a rule and an outcome of a systematic approach towards including CSOs. This is further confirmed in the most recent concluding observations on North Macedonia by the CEDAW Committee, which issued the recommendation for "[s]trengthen[ing] cooperation with civil society organizations and other stakeholders with the aim of identifying and addressing situations of exclusion, deprivation, poverty, and neglect."⁶⁷ As

⁶³ Instances of state funding (central and local level) are noted throughout this report.

⁶⁴ A list of members of this network can be accessed here: <https://www.glasprotivnasilstvo.org.mk/chlenovi-na-mrezhata/>

⁶⁵ Ministry of Labour and Social Policy, Response to a Request for Access to Public Information, archival No. 14-4493/6 (27.07.2021).

⁶⁶ Закон за здруженија и фондации [Law on Associations and Foundations], *Official Gazette of the Republic of Macedonia*, Nos. 52/2010; 135/2011; 55/2016.

⁶⁷ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para.12(e).

we reported in the section on Article 7, despite their obligation to involve the civil society in the implementation of the activities as prescribed with the NAP, this was largely not the case in practice. The process of harmonization of the provisions of the Istanbul Convention with the national legislation is also lacking transparency (for example, the process of amending the Criminal Code), as was even the process for the establishment of the National Coordinative Body, which has three members from CSOs. On grounds of this, although some initial steps have been made, it can be concluded that there is no appropriate recognition, support, and encouragement of work of CSOs in combating VAW at all levels.

Recommendations:

- Introduce a systemic solution to the problem of lack of inclusion of actors from civil society organisations in the measures taken pursuant to the implementation of Article 7 of the Istanbul Convention.
- Draft and adopt all protocols and regulations needed for fully utilising the expertise and potential for effective cooperation, encouragement, and support of CSOs that work with GBV and DV as soon as possible.

Article 11 – Data collection and research

- 1 For the purpose of the implementation of this Convention, Parties shall undertake to:
 - a collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention;
 - b support research in the field of all forms of violence covered by the scope of this Convention in order to study its root causes and effects, incidences, and conviction rates, as well as the efficacy of measures taken to implement this Convention.
- 2 Parties shall endeavour to conduct population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of this Convention.
- 3 Parties shall provide the group of experts, as referred to in Article 66 of this Convention, with the information collected pursuant to this article in order to stimulate international co-operation and enable international benchmarking.
- 4 Parties shall ensure that the information collected pursuant to this article is available to the public.

Monitoring findings and secondary data research reveal that not much progress has been made in this respect despite the legal and political commitments. There are several national entities collecting relevant data of different type and depth. However, collected data mainly contains information on DV and criminal cases involving physical violence and femicides. It is quite challenging to find data on other types of violence. Currently, there is no available information on any coordinated systematic (national) institutional support for research in the field of all forms of violence covered by the scope of the Istanbul Convention that would allow to study its root causes and effects, incidences, and conviction rates, as well as the efficacy of measures taken to implement the Istanbul Convention. Data are not classified according to the necessary

parameters and data from different sources are often mutually incomparable. There are individual reports from official institutions that provide a partial glance at relevant administrative statistics, but they are challenging to be compared and analysed as combined (due to different data collecting set up and/or sampling methods, as well as diverse context related issues, such as, for example, lack of reporting or awareness on some forms of violence. Therefore, it seems safe to conclude that, overall, the country still lacks a systematic collection of disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of the Istanbul Convention. The CEDAW Committee has expressed concern with regards to the lack of systematic data collection on cases of GBV and its disaggregation by relevant factors.⁶⁸

Many of the processes that should contribute to the overall systematization and integration of data collection processes and collected data on GBV, VAW and DV are still in progress, and it is very challenging to find and confirm official information on the actual status of the implementation of the commitments imposed by the Convention and/or other relevant national and EU strategic and legislative documents, including commitments related to data collection and research. The GBV law defines new and improved obligations of the responsible entities for data collection. Table No. 1 below provides an overview of the entities that have data collection responsibilities under this law.

Table No. 1: *Data collection responsibilities under the Law on Prevention and Protection from Violence against Women and Domestic Violence (2021) per institution, type of data collected and article reference*

Institution	Data collected	Legal ground for the data collection obligation, as per the GBV law
The National Coordinative Body for Monitoring the Implementation of the Istanbul Convention	Coordinates and monitors the collection of data on gender-based violence against women and domestic violence according to predefined indicators	Article 16, paragraph 12
Ministry of Labour and Social Policy	Collects data on the number of women victims of gender-based violence and victims of domestic violence in the social protection system divided by gender, age, community affiliation, place of residence, victim-perpetrator	Article 17, paragraph 8

⁶⁸ On challenges for data collection in North Macedonia: Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), paras. 14(e), 16(e), 22(c), 24(e).

Institution	Data collected	Legal ground for the data collection obligation, as per the GBV law
	relationship, type, and number of services provided for victims and perpetrators and other data determined by law by the institutions in the social protection system and by other institutions competent to implement the law	
Ministry of Internal Affairs	Collects data on the number of reported cases of gender-based violence against women and victims of domestic violence divided by gender, gender, age, ethnic community, disability, residence, relationship between victim and perpetrator, qualification of the crime and other data determined by law	Article 18, paragraph 7
Ministry of Health	Collects data on the situation of women victims of gender-based violence and victims of domestic violence who have requested assistance and intervention through the health care system divided by gender, gender, age, ethnic community, disability, place of residence, victim and perpetrator, type and number of services provided to victims and other data in accordance with the Law on Health Records, as well as for perpetrators	Article 19, paragraph 8
Associations (i.e. CSOs)	Conduct research and analysis on the situation with gender-based violence against women and domestic violence	Article 24, paragraph 3
	Collect data on the number of women victims of gender-based violence and victims of domestic	Article 24, paragraph 4

Institution	Data collected	Legal ground for the data collection obligation, as per the GBV law
	<p>violence for whom they have provided assistance and support, divided by gender, gender, age, ethnicity, disability, place of residence, relationship between victim and perpetrator, type and number of services provided for victims and perpetrators, and other data determined by law</p>	
Trade unions	<p>Conduct research and analysis on the situation with gender-based violence against women and domestic violence, report cases of gender-based violence against women, cooperate with associations, foundations, and other organizations in the promotion and prevention of gender-based violence against women and domestic violence</p>	Article 25
Courts	<p>Establish and keep special records on the number of cases of gender-based violence against women and victims of domestic violence based on gender, gender, age, ethnicity, disability, residence, and other grounds, as well as data relevant for monitoring the situation with gender-based violence against women and domestic violence, in accordance with the law</p>	Article 29, paragraph 1
Public Prosecutor	<p>Establish and keep special records on cases of gender-based violence against women and victims of domestic violence on the basis of sex, gender, age, ethnicity, disability, residence, and other grounds, as well as data relevant for</p>	Article 30, paragraph 1

Institution	Data collected	Legal ground for the data collection obligation, as per the GBV law
	monitoring the situation with gender-based violence against women and domestic violence in accordance with the law	
State Statistical Office	Conduct a national survey on the situation with gender-based violence against women and domestic violence. This research survey aims to provide comprehensive information on the number of cases of certain forms of gender-based violence against women and domestic violence by gender, gender, age, ethnicity, disability, geographical affiliation of the victim and the perpetrator, and other relevant information to monitor the situation of violence against women	Article 31, paragraphs 1 and 2

Yet, our monitoring attempts reveal that the Ministry of Labour and Social Policies, through its local centres for social work, the Ministry of Internal Affairs (through their police reports), and the courts are probably the only official entities that collect (limited scope of) relevant data.⁶⁹ The fact that the other contacted

⁶⁹ A publication of the European Women's Lobby on North Macedonia, funded by the EU and UN Women, which is reveals secondary information on specific cases and types of GBV data collected by the law enforcement agencies and social centers, also nudges in this direction. This report covers 3 broader segments on intimate partner violence, sexual violence and violence against migrant and refugee women, and it is evident that the data is, again, collected by the abovementioned MLSP and MOI. This report states that:

- [intimate partner violence] "The Ministry of Internal Affairs (MOI) collects and publishes disaggregated data on DV and MLSP collects data on DV regularly. Judicial data is collected, but there is a lack of data on perpetrators of criminal offences committed in aggravated circumstances of domestic violence. In official statistics of reported, accused, and convicted persons, data on victims is also lacking. Femicides are invisible within the national statistics, and currently collected only by CSOs through media reports. The availability and transparency of the data collection is a continuing problem."

- [sexual violence] "MOI collects data on sexual violence only for the criminal offences and the number of perpetrators that committed the crimes yet have very limited data on survivors. The national women's CSO network gathered data on sexual violence for the period from 2012 to 2017 collected by the MOI and MLSP."

- [Violence against migrant and refugee women] There is lack of data on this segment due to the specific and challenging nature of migration, elaborated in the report. There is a further reference to a UN Women study on the refugee and migration crisis in Serbia and North Macedonia, which deals with the correlated challenges at an overall regional level and it doesn't specifically inform on any data collection practices.

Source: Biljana Nastovska, *Mapping of Policies and Legislation on Violence against Women and the Istanbul Convention in FYR Macedonia* (Women Lobby, 2018), https://www.womenlobby.org/IMG/pdf/ewl-fyr_macedonia_report_web.pdf, 5.

institutions often redirected our requests and pointed towards these institutions attest to this. For further illustration, the website of the State Statistical Office mentions a GBV and DV survey, as part of their IPA II funded activities for the period 2019-2021. However, none of the consulted parties could provide any further information on this. The official reply from the State Statistical Office further confirmed that there is no such data collected by this institution also far.⁷⁰ The publicly accessible statistical information available on their website is rather limited and not detailed enough to draw any conclusions on GBV and VAW cases or study root causes and effects, incidences, and conviction rates, as well as the efficacy of measures taken to implement the Istanbul Convention (for instance, official statistical reports contain information on violent deaths by external causes of death, sex and age, however, there is no information on the perpetrator's gender⁷¹).

Additionally, according to Article 11 of the GBV law, "all bodies of the state administration, courts, public prosecutor's office, local self-government units and legal entities that perform public authorizations determined by law" are obliged to collect statistical and administrative data on the situation with GBV, VAW and DV based on gender, gender, age, community affiliation, residence and other data determined by this or another law, and in accordance with the provisions of the Law on Personal Data Protection. (Article 28, paragraph 1)). The GBV law further referred to the national platform for interoperability - Macedonian Information Magistral (MIM) that was already in existence before the adoption of the GBV law. MIM is envisaged as a platform for direct data exchange, to be operated daily by the MLSP (Article 28, paragraph 2) and 3)). However, in absence of an established protocol, the data collection and data exchange can be evaluated, at best, as questionable.

According to the Convention, population-based surveys should be nationally supported and happen at regular intervals and, to date, this is not the case in North Macedonia. However, population-based surveys to assess the prevalence of and trends in all forms of violence covered by the scope of the Convention, and other important research in this field, is still conducted by women's organizations (or private research companies) through funds from foreign donors. Thus, it cannot be considered that the state party fulfils its obligation as per Article 11(2). The only recent statistically representative nation-wide survey on violence against women was the OSCE-led survey "Safety and Wellbeing of Women" conducted in 2018 and published in 2019.⁷²

⁷⁰ The response we received was a brief "No." without any details as to possible future plans for collecting GBV and DV data. Additional consultations with the State Statistical Office representatives confirm that this survey was planned and postponed twice due to urgent matters related to the national census and the COVID-19 pandemic.

⁷¹ State Statistical Office, *Press release: Population - Violent deaths in the Republic of North Macedonia, 2018*; available at: https://www.stat.gov.mk/pdf/2019/2.1.19.24_mk.pdf

⁷² The full results are made public at the OSCE web page. This is the first representative survey conducted in South-Eastern Europe or Eastern Europe to provide comparable data across the region (and with the FRA survey conducted in EU in 2014) and it encompasses gender attitudes and experiences of women from minority groups. Its aim was to establish a baseline and to provide robust data in order to develop more comprehensive and evidence-based policies, strategies, programmes, and activities to prevent and combat VAW. It covers all forms of violence through different modules (including conflict-related experiences) and explores the experiences of violence among a state-wide representative sample of 1910 women aged 18–74, including 496 women of Albanian ethnicity. It was based on a multistage, stratified, random probability sample design. Link to the complete study: OSCE, Well-Being and Safety of Women – North Macedonia (OSCE, 2019), https://www.osce.org/files/f/documents/3/5/419264_1.pdf

Additionally, the first edition of the Gender Equality Index for North Macedonia⁷³ remains blank when it comes to GBV and VAW since there were no official data on the national prevalence of cases, severity, and reporting for the period this Index refers to (i.e. 2015). There is space for an improvement in this respect and the new edition of the Gender Equality Index will incorporate information on GBV/VAW from the OSCE-led and FRA-based study on the Wellbeing and Safety of Women⁷⁴. The follow up Gender Equality Index will be prepared during 2021. Calls for experts for collecting data and for compiling the index were published at the time of writing of this report.⁷⁵

The Ombudsman should also collect data on GBV and VAW, as mentioned in the Annual Operational Plan of the Ministry of Justice. However, past research and interviews⁷⁶ reveal that their primary focus is on the rights of children and convicts (including women convicts). Their annual report does not reveal any details on number of cases and types of violence, i.e. it only qualitatively addresses the main issues women, men and children face with through analysing the individual cases and complaints the Ombudsman receives throughout the year. The last publicly available report dates from 2019.⁷⁷ When it comes to GBV and VAW, it needs to be noted that the Ombudsman mainly elaborates on the complaints for protection against DV submitted mostly by women victims, with a focus on the children as indirect victims. The Ombudsman also stresses the practical dysfunction of the previously formed National Coordinating Body against Domestic Violence, established under the 2014 DV law several years ago.⁷⁸

According to the Annual Operational Plan of the Ministry of Justice⁷⁹ for the implementation of the second NAP for the implementation of the UN Resolution 13/25 'Women, Peace and Security' (2020-2025), for 2021, two different research studies related to GBV/WAV are taken into account: (1) Ombudsman research on DV and VAW – analysis of data that includes reported VAW cases, and (2) analyses that are part of the annual report for implementation of the Law on Free Legal Aid for 2020. There is no publicly available information if the mentioned research activities have started and the last published report on the ministry's

⁷³ Marija Bashevska, *Индекс на родова еднаквост* [Gender Equality Index] (Ministry of Labour and Social Policy, European Institute on Gender Equality, State Statistical Office and UN Women, 2019),

http://www.mtsp.gov.mk/content/pdf/dokumenti/2019/Gender%20Index_MK_01.pdf.

⁷⁴ OSCE, Well-Being and Safety of Women – North Macedonia (OSCE, 2019),

https://www.osce.org/files/f/documents/3/5/419264_1.pdf.

⁷⁵ It should be added, however, that the call was open only for three working days divided with a weekend and a national holiday. The call is available at:

<https://www.mtsp.gov.mk/content/pdf/2021/огласи%20марија/оглас%20за%20ангажирање%20на%20експерт%20за%20пребирање%20и%20обработка%20на%20податоци%20за%20Националниот%20индекс%20на%20р.е.во%20С.М.%20за%202021..PDF>.

⁷⁶ Secondary data analysis for the purpose of setting up the context for the OSCE led study on Wellbeing and Safety of Women included a key expert interview with the deputy Ombudsman where she clearly stated they only deal with cases with children and convicts, and they did not have a gender focal point that would specifically deal with this type of cases and information. It was also announced that the Ombudsman plans to execute a research study and collect data from administrative data providers but there is no available information to date if this study has been completed. Source: The monitoring person submitting this information was key senior researcher for this study for North Macedonia and Kosovo. The data included is from a key expert interview conducted in June 2016, which is briefly mentioned in the above referenced OSCE-led study.

⁷⁷ Ombudsman, Annual Report on the Degree of Provision, Respect, Advancement and Protection of Human Rights and Freedoms 2019 (2020), <http://ombudsman.mk/upload/Godisni%20izvestai/GI-2019/GI-2019-Ang.pdf>

⁷⁸ Ibid, 22.

⁷⁹ Ministry of Justice, Годишен оперативен план на Министерството за правда за 2021 година [Annual Operational Plan of the Ministry of Justice for 2021] (Ministry of Justice, 2021)

<https://www.pravda.gov.mk/Upload/Documents/MP%20Operativen%20Plan%20za%202021%20%20R%2013%2025%20R.PDF>

website refers to 2019. Moreover, their Operational Plan for the implementation of the Action Plan for the implementation of the Istanbul Convention 2018-2023⁸⁰ does not include any planned activities related to research and data collection. None of the operational plans of this ministry provides sufficient details to draw any further conclusions and they lack crucial information on budgeting, i.e. there are no specific budget allocations, only vague references to public budget sources. When it comes to budgeting, majority of the responsible entities exhibit similar behaviours in their reporting and planning documents.⁸¹

Civil society organisations (CSOs) can act as an important source for information on GBV and VAW cases and prevalence through their corresponding shadow reports and analyses of legal proceedings and cases, or through their records for provided services (in case of service-provision to victims of GBV and VAW). For example, the fifth "Women's Rights in the Western Balkans" report published by the Kvinna till Kvinna Foundation, which monitors the situation with women's rights in six countries in the region, concludes that there is not enough data on sanctioned cases in the Western Balkan countries and that femicides are not recognized as a separate form of homicide. In almost all countries covered by this report, women's CSOs are the only entities collecting data on homicides as a result of gender-based violence.⁸² Table No. 2 below gives a brief overview of some of the key and active CSOs that collect different data segments on GBV and VAW.

Table No. 2: CSOs that collect data on GBV and VAW

CSO/Network of CSOs	Data collected
The National Network to End Violence against Women and Domestic Violence	Annual femicide reports, which also include media reports as of 2020 ⁸³ and other publications and ad hoc studies, like for example their Scoping Study on the Diverse Forms of Sexual Violence ⁸⁴
Association ESE	Annual reports on cost and quality of access to justice for women who suffered domestic violence ⁸⁵

⁸⁰ Ministry of Justice, Оперативен план за 2021 година за спроведување на Акцискиот план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејното насилство на Република Македонија 2018-2023 [Operational Plan for 2021 for implementing the Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023] (Ministry of Justice, 2021) <https://www.pravda.gov.mk/Upload/Documents/%D0%9D%D0%90%D0%9F%20%D0%93%D0%A0%D0%95%D0%92%D0%98%D0%9E%202021.PDF>

⁸¹ By the time of closing of the shadow report, we hadn't received replies to the requests for access to public information to further elaborate/refute some of these points.

⁸² Kvinna till Kvinna, *Women's Rights in the Western Balkans* (2021), http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf

⁸³ National Network to End Violence Against Women and Domestic Violence, *Анализа на случаи на феминциди – убиства на жени во Република Македонија* [Analysis of femicide cases – murders of women in the Republic of Macedonia] (2018), http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2013/11/Femicidi-mk.final_.pdf.

⁸⁴ National Network to End Violence Against Women and Domestic Violence, *Студија на опсег на различните форми на сексуално насилство во Р Македонија* [Scoping Study on the Diverse Forms of Sexual Violence in the R. Macedonia] (2017), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2013/11/studija-za-seksualno-nasilstvo-vo-rm-1.pdf>

⁸⁵ Association for Emancipation, Solidarity and Equality of Women, *Cost and Quality of Access to Justice for Women who Suffered Domestic Violence, 2020* (2020), <http://esem.org.mk/pdf/Publikacii/2020/Cost%20and%20benefit%20analysis%20domestic%20violence%202020.pdf>.

CSO/Network of CSOs	Data collected
Reactor – Research in Action	Scoping studies that assess the trends and changes in the manifestation of violence and the perceptions of safety in public spaces on behalf of women and girls ⁸⁶
HERA	Annual reports offer some general information on GBV and DV and they can be used as sources of information on vulnerable groups. For example, their latest report informs that girls and women with disability who are more likely to experience gender-based violence and to suffer for an extended period of time, based on a study carried out in the public facility Banja BANSKO ⁸⁷
Helsinki Committee for Human Rights	Some information can be obtained through their diverse reports and analysis related to legal aid cases, in particular on discrimination (including intersectional discrimination)
The National Council for Gender Equality (SOZM)	A study on DV, titled as: Final report: Informing and data gathering from victims of gender-based violence and monitoring and recommendations for advancement of local policies for support and protection of victims of gender-based violence ⁸⁸
HOPS	Data on GBV against women that use drugs. ⁸⁹
Coalition Margins	Documenting cases of violence in relation to the sexual and health rights of marginalised communities (including lesbians, women sex workers, and trans women); ⁹⁰ sexual and domestic violence against children. ⁹¹

⁸⁶ Reactor – Research in Action, *Gender-Based Violence in Public Spaces in Skopje* (Reactor – Research in Action, 2020), <https://reactor.org.mk/en/publication-all/gender-based-violence-in-public-spaces-in-skopje/>.

⁸⁷ HERA, *2020 Annual Report - Supporting the Vulnerable in Times of Crisis, Protecting the Social and Reproductive Rights!* (HERA, 2020), https://hera.org.mk/wp-content/uploads/2021/06/Godishen-izveshtaj-za-2020-godina_en-web.pdf, 21.

⁸⁸ SOŽM, *Final report: Informing and Data Gathering From Victims of Gender Based Violence and Monitoring and Recommendations for Advancement of Local Policies for Support and Protection of Victims of Gender Based Violence* (2014), http://www.sozm.org.mk/index.php?option=com_content&view=article&id=196%3A2014-12-03-13-34-03&catid=16%3A2013-03-12-20-31-54&Itemid=43&lang=en.

⁸⁹ HOPS, *Родово базирано насилство врз жените кои употребуваат дроги* [Gender Based Violence against Women that Use Drugs] (HOPS, 2021), <https://hops.org.mk/wp-content/uploads/2021/06/hops-5.pdf>.

⁹⁰ Data contained in the annual reports of Coalition Margins, available at: <http://coalition.org.mk/publikacii/izvestai>

⁹¹ Lina Kjostarova Unkovska, *Имаме ли победник? Родови нееднаквости во здравјето и животните перспективи на адолесцентите од Северна Македонија* [Do We Have a Winner? Gender Inequalities in relation to Health and Life Perspectives of Adolescents in North Macedonia], (Coalition Margins, 2020), http://coalition.org.mk/wp-content/uploads/2020/10/margini_rodovi-neednakvosti_2020_final.pdf

There are other important associations and CSOs that collect different GBV/VAW data segments either on regular basis (mainly service provider CSOs) or through ad hoc surveys addressing specific forms of violence. Expert sources point to a number of smaller or narrowly focused CSOs as bright examples in the field of collecting data on DV and GBV and combating against these issues. They include organisations like: EHO Stip and their partner organisations who made an analysis in relation to victims of DV and free legal support estimates for the towns of Shtip and Strumica, then local shelter and counselling centres, which are part of civil organisations like HERA, HOPS, NGO Antiko, Women's Association of Sveti Nikole, and other. However, further explorations are needed to provide a more specific and informed feedback on the overall state of affairs, due to lack updated information on their respective websites and digital information channels and the fact that there is a very fragmented big body of diverse reports that demand for further comparisons, consolidation, and verification of findings, in order to provide comprehensive and reliable insights.⁹²

As for the type of data and whether/how it is disaggregated (by sex, age, type of violence as well as the relationship of the perpetrator to the victim, geographical location, and any other factors deemed relevant, for example disability), during the monitoring period contacted entities did not provide enough information to confirm if data is properly disaggregated and if any prior challenges in data collection were addressed by the institutions (for example, based on prior findings, police records did not include the relationship between the victim and the perpetrator, however the response we received from the relevant Ministry, which contained a general link to their website where actual data reports and sources were to be linked, does not provide enough information to conclude if this was resolved).

Consulted publicly available sources and previous information indicate that there is still a considerable lack of regularly published and disaggregated data at many different levels and, when it comes to multiple and intersectional inequalities and marginalised groups, official data is almost not existent. To illustrate the gravity of the situation with data on GBV/VAW, we can take the MLSP website as an example. This ministry should regularly report the situation on GBV/VAW or domestic violence through their weekly reports summarising the social centres information on reported cases across the country. Nevertheless, published information is intermittent and outdated and it is not at all in line with the legal requirements and commitments imposed by the new Law or the NAP on the Implementation of the Istanbul Convention – their online page source dedicated to weekly reporting on domestic violence contains only two weekly reports from May and June 2020.⁹³

Available information and consulted expert sources indicate that there is a lot of space for improvements, which should be expected once the implementation of the new law comes in place. Establishing a mechanism to monitor the implementation of the NAP (i.e. the establishment of the national coordinative body) is crucial for improving the system for data collection on GBV and VAW and the quality of the collected data.

⁹² In addition to the methodological limitations, noted in the Introduction of this report, the overall COVID-19 pandemic has probably influenced this lack of updated information not only in the case of CSOs but also in the case of the mentioned institutions.

⁹³ MLSP's website has a dedicated page for reports on domestic violence: https://mtsp.gov.mk/ns_article-prijavi-semejno-nasilstvo.nspix (last accessed on 7th and 28th June and 15th July 2021). By the time of closing of this report, we had not received information from the MLSP as to the additionally requested information.

The information on data collating and publishing at the national level is inconclusive at best. The last Shadow Report on the progress of the R. of North Macedonia in the implementation of the National Action Plan for implementation of the Istanbul Convention, issued by the National Network to End Violence against Women and Domestic Violence⁹⁴ doesn't reveal any information on collecting data and the type of data collected by the relevant entities. The same applies for the Gender Equality Index, which excludes GBV/VAW due to lack of collated and publicly available data. This is primarily because there is no uniformed system of data collection yet and all the processes governing and defining it are still ongoing.

The National Action Plan for the Implementation of the Istanbul Convention envisages the establishment of a methodology for unified collection and processing of data from institutions and organizations that provide direct support to victims of all forms of violence. In the domain of prevention activities and actions, it also envisages to increase the role of the Ombudsman in the monitoring of femicides - murders of women, i.e. the establishment of a femicide watch mechanism. However, the responsible coordinative body was only recently formed. There is, overall, no positive shift in this area.

We can safely conclude that the foreseen norm for nationally collated, publicly available, detailed and properly disaggregated statistical data is not at all fulfilled. Existing information only slightly touches the topic of GBV and VAW and mainly tackles domestic violence as a phenomenon but rarely or almost never any other form of GBV and VAW. What is also important to mention is that vital information on cases on DV and VAW that did not reach the courts (dismissed by the prosecutor before any legal proceedings) could be completely unapproachable and it is an important segment that can shed light on the data on GBV and VAW cases and provide significant analytical context that further clarifies the situation on GBV and WAV in North Macedonia. Lack of institutional response to our requests for public information and recent changes in the national legislation (and unfinished procedures for drafting bylaws) make it challenging to draw informed conclusions on the current state of affairs with data collecting at national level.

In addition to the above, some of the following publicly funded agencies also collect portions of data on GBV and VAW (mainly on DV):

- Law enforcement agencies/criminal and civil justice services: the police and the courts collect data on the reported and processed cases but there is no available information on other law enforcement entities like prosecution services, prisons, and probation services.
- Health care services (for example doctors, accident and emergency services, hospitals) – there is no information if these entities collect data on GBV/VAW and what is the format and depth they follow.
- Social services, social welfare, and specialist victim services (state and NGO) collect information on GBV/VAW reports and cases, which primarily focuses on DV as the most common type of GBV/VAW that is actually reported to some extent.

⁹⁴ Maja Balshikjeska and Ana Avramovska Nushkova, *Извештај за напредокот на Р Северна Македонија при спроведувањето на Националниот акциски план за имплементација на Истанбулската конвенција - октомври 2018 - октомври 2020* [Progress Report on the Implementation of the National Action Plan for Implementation of the Istanbul Convention in North Macedonia - October 2018 - October 2020], (National Network to End Violence against Women and Domestic Violence, 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>.



- Other official bodies generally mandated for data collection, such as the State Statistical Office (SSO) do not reveal information on GBV/VAW data collection and, according to their official response, SSO does not collect any data on GBV/VAW.

Based on available information and consultations with expert CSOs, there is an evident lack of specific information when it comes to GBV and a strong demand for more transparency and better systematically organised data sources and mechanisms. Despite all the CSO advocacy efforts, this remains to be a status quo even in 2021.

Due to lack of transparent public sources and a detailed and timely institutional response, CSOs still remain as the main source of information on administrative data on GBV/VAW. The latest regional report by the Kvinna till Kvinna foundation, compiled with the support of local CSOs and dedicated to women in politics, gender-based violence, and security for women human rights defenders in Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, and Serbia, summarises the situation with GBV/VAW and provides some overall statistics from the law enforcement agencies and social service providers for the period 2015-2020.⁹⁵ Donor funded or project-based activities and research are still substituting for the expected but missing publicly funded initiatives even in the field of data collection on GBV and VAW.

Finally, paragraph 4 of Article 11 contains the obligation to ensure that the information collected is made available to the public. While we recognise that there is some margin left to the state parties to determine the form and means, as well as the type of information that is to be made available, at present, North Macedonia is clearly not in line with its overall obligations under Article 11, thus also under paragraph 4.

Recommendations:

- Conduct a nationally supported population-based surveys at regular intervals in order to assess the prevalence and trends for all forms of violence covered by the Istanbul Convention.
- Increase the capacity and implementation of the legislative provisions which mandate GBV and VAW data collection as per the GBV law.
- Refine the data collection methods and procedures that are already in place, in particular with regards to the disaggregation of data, in order to enable data collection on all forms of violence covered by the scope of this Convention with a view to studying their root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement this Convention.
- Devise systematic data collection, collation, and publishing rules and practices and allocate regular state funding to this end.
- Develop and adopt a protocol for data collection and data exchange for the Macedonian Information Magistral.

⁹⁵ Kvinna till Kvinna, *Women's Rights in the Western Balkans* (2020) http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf, 65.

III – Protection and support

Article 20 – General support services

1 Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training, and assistance in finding employment.

2 Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced, and professionals are trained to assist victims and refer them to the appropriate services.

A number of general support services are provided by the public institutions. The main public institutions providing these services are:

- Centres for social work: 30 centres in 30 municipalities, 36 branch offices of the centres for social work in 36 municipalities (out of 80 municipalities) and one Institute for Social Affairs.⁹⁶

The Law on Social Protection⁹⁷ provides legal ground for several types of financial assistance for people in social risk. More specifically, minimum guaranteed income (depends on the members of the family) is the main type of financial aid that can be acquired. Other types of financial aid are predicted for people with different types of disability, one parent families, etc. This law also provides legal ground for financial assistance for housing (Article 27). This allowance applies to all persons who are financially and economically insecure and who are beneficiaries of a minimum guaranteed income and to a person who had the status of a child without parents and without parental care until the age of 18, up to the age of 26 years. Pursuant to the same law, Article 62 provides victims of DV with one-time financial assistance of up to 15,000 MKD for providing emergency protection and care, and up to 12,000 MKD for health care and medical treatment.

- Agency for Employment⁹⁸

The Employment Agency of RNM provides Active programs and measures for Employment through the yearly Operational Plans (2015-2020). Although these documents recognize women victims are as a vulnerable group, the proposed measures are not tailored to the individual needs of the victims and are created for general categories of persons at social

⁹⁶ List of centres for social work, *Agency for Protection of the Rights to Free Access to Information from Public Character*, <https://aspi.mk/imateli/362/>

⁹⁷ Закон за социјалната заштита [Law on Social Protection], *Official Gazette of the Republic of North Macedonia*, Nos: 104/2019; 146/2019; 275/2019; 302/2020; 311/2020; 163/2021.

⁹⁸ Official website of the Agency for Employment: <https://av.gov.mk/pocetna.nspix>.

risk. In addition, lack of coordination among the Employment Agency and the local centres for social work, coupled with the fact that in practice victims of DV do not register specifically as such results in ill targeting of these measures for victims of DV.⁹⁹

- Health institutions: 14 general hospitals, 29 hospitals, 11 public health centres, 32 clinics and clinical centres, 9 special hospitals, 3 institutes and 3 psychiatric hospitals.¹⁰⁰

Women victims of GBV and DV are relieved from the obligation to pay participation for health services. This right although is regulated in Law for health protection still it is not implemented. To accomplish this right, the victim must be insured in the public health institutions. Additionally, all specialist treatments require participation by beneficiaries, so regardless of health insurance status, women victims are obligated to cover these costs by themselves. Moreover, if they do not have health insurance, they must cover the total amount of health service provided.¹⁰¹

In the following several sections, we provide further detail on the available general support services. We focus on social assistance, housing, legal aid and free legal aid, psychological support, employment, and health services.

a. Social assistance

The Law on Social Protection (2019) provides for one-time financial assistance for victims of DV up to 12,000 MKD (200 EUR) (health care costs) or up to 15,000 MKD (250 EUR) (housing costs). For both, the criteria in the law are not specified sufficiently "which leaves room for the social workers to freely decide what amount the victim would receive, i.e. to grant a much lower amount than the maximum established or not at all, in the case of a victim who is employed and has an average monthly income".¹⁰² Both cannot be considered as appropriate to meet the immediate and urgent needs of victims of GBV, let alone for more. The health care financial allowance can be sufficient only if DV victims are exempt "from participating in violence-related health services and provides free check-ups for uninsured victims",¹⁰³ which at present they are not.

The NAP foresees activities that are to lead to the promotion of access to the rights to social security benefits. However, victims of GBV are not specifically recognized as a category for many of these benefits to begin with. Most importantly, victims of GBV are not explicitly mentioned as entitled to a guaranteed minimum income (categories explicitly mentioned include a person who is unable to work due to intellectual disability, physical disability, mental illness or due to permanent changes in health status). Moreover, the state party does not provide other types of financial support for women victims of DV who

⁹⁹ Interview with a representative of the Agency for Employment by a shadow report monitor.

¹⁰⁰ List of health institutions, *Agency for Protection of the Rights to Free Access to Information from Public Character*, <https://aspi.mk/imateli/5/>

¹⁰¹ List of branch offices of the centres for social work, *Ministry of Labour and Social Policy*, <https://www.mtsp.gov.mk/disperzirani-oddelenija-na-centrite-za-socijalna-rabota.nspk>.

¹⁰² National Network to End Violence Against Women and Domestic Violence, *Baseline research: existing rehabilitation and integration services provided at the local level in Republic of North Macedonia* (2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/01/Baseline-research-design-eng-1.pdf>, 9.

¹⁰³ Ibid.

have fled the violent environment that will allow them to secure stable housing and other subsistence needs for themselves and their children.¹⁰⁴

b. Housing

The Law on Social Protection provides legal ground for the provision of a housing allowance to all persons who are materially and housing insecure and are beneficiaries of guaranteed minimum assistance and a person who until the age of 18 had the status of a child without parents and without parental care (even after termination of guardianship, up to a maximum of 26 years of age). However, most women victims of violence who are currently at risk of homelessness when leaving the violent environment do not meet the legal requirements for acquiring this right. This leaves them to resolve their housing issue with the one-time financial assistance of up to MKD 15,000 (about 250 EUR) for the provision of emergency protection and care.

According to the Law on Housing, the criteria for acquiring non-profit housing are low incomes, young people who stand out in certain areas, young married couples, single parents, retirees over 60 who do not own an apartment and other categories of people at social risk (Article 91). However, this law too does not include victims of GBV as a separate category entitled to non-profit housing. The state party does not provide other types of financial support for women victims of domestic violence who have fled the violent environment and have financial costs associated with rent and overhead costs.

A recent call for social housing published by the Government of North Macedonia¹⁰⁵, does not explicitly include victims of GBV as eligible candidates for social housing. The eligible candidates are identified as children without parents/parental care, people using minimal social protection funds, people affected by natural disasters, people with disabilities, Roma people and single parents.

With the support of the City of Skopje, the National Network against Violence against Women and Domestic Violence in March 2020, established an open housing house which accommodates women victims of violence and their children and receives support in order to achieve their full reintegration and rehabilitation.¹⁰⁶ This service provides open or transit housing from the moment women victims and their children leave the violent environment until they are fully integrated into social life. Psychological support and counselling are also provided, as well as employment assistance through the promotion of work skills and education. This model of housing is implemented with the direct support of a social worker who provides social services and counselling for the realization of social rights, connecting it with other specialized services for women victims of violence and assistance in providing general services in the field

¹⁰⁴ Ibid.

¹⁰⁵ Government of North Macedonia, "Оглас за распределба на 37 социјални станови во Струмица" [Call for social housing applications for the city of Strumica], *Government of North Macedonia Official Website*, <https://vlada.mk/node/25007>. While this call is specifically for Strumica, our monitors have information that it pertains to several municipalities in North Macedonia.

¹⁰⁶ National Network to End Violence Against Women and Domestic Violence, *За прв пат во Западен Балкан се отвори куќа за отворено домување за жени жртви на семејно насилство* [A Domestic Violence Open House Opened For the First time in the Western Balkans] (10.03.2020), <http://www.glasprotivnasilstvo.org.mk/10-03-2020-soopshtenie-za-mediumi-za-prv-pat-vo-zapaden-balkan-se-otvori-kuka-za-otvoreno-domuvane-za-zheni-zhrtvi-na-semejno-nasilstvo/>.

of social, health and child protection, and provision of an individual program for reintegration and rehabilitation of the victims who will live in the housing house.

c. Legal Aid

The NAP envisages the inclusion of victims of domestic violence as beneficiaries of free legal aid in the Law on Free Legal Aid. In 2019, with the adoption of the Law on Free Legal Aid, the victims of DV were introduced as a special category of beneficiaries of free legal aid. This law provides legal assistance in procedures for protection from violence, divorce, and other legal needs, but for these procedures the amount of income is also assessed in decision-making. According to Article 20 of the Law on Free Legal Aid, secondary legal aid should be provided without determining the financial situation if the applicant is placed in a foster family, housing unit for organized living with support or in a social protection institution, by decision of the Center for Social Work or, if the applicant needs to initiate and represent in a procedure for pronouncing temporary measures for protection from DV before a competent court.

The applicant for free legal aid should submit a certificate that they are registered as a victim of DV. This causes challenges in practice for two main reasons. Firstly, the law does not specify the format, or the authority competent for issuing this certificate. Second, the centres for social work, where victims of GBV and DV can report domestic violence cases, often refuse to issue such a certificate stating that it "has not been proven" that someone is a victim of DV. This was noted as a cause for concern also in the most recent CEDAW concluding observations.¹⁰⁷

Free legal aid is crucial for women who have survived violence as court and administrative proceedings are often lengthy, complex, and expensive, and victims need legal assistance to be able to exercise their rights. In practice, this type of service is provided mostly through CSOs, but also through the centres for social work. According to available information, there are currently 14 NGOs providing free legal aid services to women victims of violence.¹⁰⁸ Currently providing free legal aid mostly refers to cases of DV. Women victims of violence are not specifically defined as beneficiaries of free legal aid, but it depends on their financial situation, i.e., on the fact whether their own support and the support of their family members living in a joint household and the fulfilment of other conditions are endangered. The only benefit exists only for victims of DV, but not for victims of VAW, is that the income of a person seeking free legal aid can be assessed individually, if there are conflicting family interests in a dispute for which free legal aid is sought (Article 12(5)).

d. Psychological support

¹⁰⁷ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para. 13(a).

¹⁰⁸ Ministry of Justice, *Регистар на здруженија за бесплатна правна помош* [Registry of Associations Providing Free Legal Aid], <https://www.pravda.gov.mk/bpp>.

Regarding the provision of specialized counseling centers for victims of domestic violence, the Ministry of Labor and Social Policy has established 2 counseling centers for victims in the capitol – Skopje, and 7 centers in Tetovo, Prilep, Bitola, Ohrid, Kavadarci, Shtip and Kumanovo, managed by the centers for social work.

e. Employment

Employment support services and measures are not developed in a way that makes them adaptable to the individual needs of the victims¹⁰⁹ and of the reality that victims of DV often function as single-parent families, especially in situations where there is one or more minor children (preschool age) (which often results in need for more flexible working arrangements which are hard to come by). They are also restrictive and not available to all women and usually do not take into consideration evolving conditions (i.e. monitoring the situation and adjusting existing or proposing new measures).¹¹⁰

Victims of DV are part of the target groups of the operational plans and active employment measures of the state (such as conditional cash transfers, on-the-job training, or subsidized employment).¹¹¹ However, this is an opportunity only for women victims of DV and only for citizens registered with the Employment Agency as active job seekers.¹¹² These policies do not cover the inactive population comprised mostly of women (54% of according to the State Statistical Office). This further disregards the reality of women from rural areas and ethnic communities who are mostly treated as economically inactive.¹¹³ The self-employment programs are also not adjusted in terms of level and type of support provided to the anticipated needs of victims of GBV and DV.¹¹⁴ Overall, the situation and position of victims of GBV and DV is not taken into consideration also when it comes to the increase need for support and counselling by third persons (such as persons from the social services).¹¹⁵

f. Health services

¹⁰⁹ National Network to End Violence Against Women and Domestic Violence, *Препораки за унапредување на можностите за вработување на жени жртви на семејно насилство* [Guidelines for Advancing the Employment Options for Women Victims of Domestic Violence] (2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/12/Operativni-planovi-web.pdf>.

¹¹⁰ Ibid.

¹¹¹ Ibid.

¹¹² Закон за вработувањето и осигурување во случај на невработеност [Law on Employment and Insurance in case of Unemployment], *Official Gazette of the Republic of Macedonia*, Nos. 37/1997; 4/1998; 14/1999; 25/2000; 101/2000; 50/2001; 7/2002; 25/2003; 37/2004; 4/2005; 50/2006; 29/2007; 88/2007; 102/2008; 161/2008; 162/2008; 50/2010; 88/2010; 171/2010; 51/2011; 86/2011; 11/2012; 80/2012; 114/2012; 39/2014; 44/2014; 44/2014; 113/2014; 56/2015; 129/2015; 147/2015; 154/2015; 27/2016; 119/2016; 21/2018; 113/2018; *Official Gazette of the Republic of North Macedonia*, Nos. 124/2019; 103/2021.

¹¹³ Ministry of Labour and Social Policy, *Национална стратегија за вработување на Република Македонија 2016-2020* [National Employment Strategy of the Republic of Macedonia 2016-2020], <https://www.mtsp.gov.mk/content/pdf/strategii/Nacionalna%20Strategija%20za%20Vrabortuvane%20na%20Republika%20Makedonija%20za%20Vlada%2016102015.pdf>.

¹¹⁴ National Network to End Violence Against Women and Domestic Violence, *Препораки за унапредување на можностите за вработување на жени жртви на семејно насилство* [Guidelines for Advancing the Employment Options for Women Victims of Domestic Violence] (2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/12/Operativni-planovi-web.pdf>.

¹¹⁵ Ibid.



Article 51 of the GBV law prescribes the obligations of the health care institutions. Most of these are immediate obligations and include immediate medical checks and treatment, documentation of injuries and proof collection for violation of bodily and psychological integrity, issuing medical documentation on the documented injuries including clear descriptions, informing the victims of their rights and the procedures for protection and available services for assistance and support, as well as other measures. A health care financial allowance can be awarded for meeting the immediate needs of DV victims, since they are exempt "from participating in violence-related health services and provides free check-ups for uninsured victims",¹¹⁶ which at present they are not.

The NAP asks that GBV victims are included in the Program of the Ministry of Health for Mothers and Children and in the Program for Waiving Participation Fees by the end of 2018. This was only partially implemented, as the former program was amended, but not the latter. The program on protection of mothers and children for 2019 includes free medical checks and other services for women victims of sexual violence that do not have health insurance, however it does not include the other forms of GBV.¹¹⁷

Recommendations:

- Recognise victims of gender-based violence as a separate category entitled to a guaranteed minimum income as per the Law on Social Protection.
- Exempt victims from participating in violence-related health services and provides free check-ups for uninsured victims.
- Revise the conditions for provision of housing allowance in order to reflect the reality of the situations of most women that flee from violence.
- Add victims of GBV and DV in the categories that are entitled to non-profit housing.
- Amend the Law on Free Legal Aid in order to recognise victims of GBV, not just of DV, as beneficiaries of free legal aid.
- Amend the Law on Free Legal Aid in order to specify the format and the competent authority(ies) tasked to issue such certificates.
- Employment assistance and services that can be adjusted to the needs of victims of GBV and DV should be developed through cooperation of the Employment Agency, the centres for social work and CSOs.
- The self-employment programs should be adjusted in terms of amount and types of support provided (such as increased mentoring support).

¹¹⁶ National Network to End Violence Against Women and Domestic Violence, *Baseline research: existing rehabilitation and integration services provided at the local level in Republic of North Macedonia* (2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/01/Baseline-research-design-eng-1.pdf>, 9.

¹¹⁷ Maja Balshikjeska and Ana Avramovska Nushkova, *Извештај за напредокот на Р Северна Македонија при спроведувањето на Националниот акциски план за имплементација на Истанбулската конвенција - октомври 2018 - октомври 2020* [Progress Report on the Implementation of the National Action Plan for Implementation of the Istanbul Convention in North Macedonia - October 2018 - October 2020], (National Network to End Violence against Women and Domestic Violence, 2020), <http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2021/02/NAP-finalen.pdf>.



- The Program for Waiving Participation Fees should include victims of GBV and DV.
- The Program on Protection of Mothers and Children should foresee services for all women that are GBV, regardless of the type of violence and health insurance status.

Article 22 – Specialist support services

1 Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.

2 Parties shall provide or arrange for specialist women's support services to all women victims of violence and their children.

The range and quality of services provided seem to vary quite significantly. While officially the service providers are not understaffed, there seems to be a lack of trained professionals available to provide support 24/7. There is however a general lack of continuous specialized training available to professionals working with DV/GBV.¹¹⁸

These services are frequently provided in shelter and crisis centres. The number of such centres in North Macedonia is 13: ten shelters and three crisis centres. Five are run by women's CSOs and the rest by the Ministry of Labour and Social Policy (MLSP). Ten services are for victims for DV (out of these 9 are opened by the MLSP). There are 8 centres where victims can obtain counselling and advice (out of which one is funded by the MLSP). There are three crisis centres for victims of sexual violence (up to 72 hours) operated by the Ministry of Health in Skopje, Tetovo, and Kumanovo. Overall, the Ministry of Labour and Social Policy funds four CSOs which provide specialised services for women victims of GBV and DV.¹¹⁹

The main issue remains a geographical distribution of shelter centres and provision of other services (such as free legal aid and psychosocial support) as most of the shelters are located in a few, larger cities and out of reach for women from remote areas.¹²⁰ They operate a capacity of 101 beds, which is 50% of the capacity required according to the guidelines for the Istanbul Convention. This lack of beds then spills over to unavailability of other specialist support services for the victims. In addition, they do not operate in a wholistic manner that will address the intersectional discrimination which the victims of GBV and DV face. The lack of intersectional approach in the design and the implementation of these measures affects

¹¹⁸ Kvinna till Kvinna, *Women's Rights in the Western Balkans* (2020) http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf.

¹¹⁹ Ministry of Labour and Social Policy, Response to Request for Free Access to Public Information, archival No. 14-4493/6 (27.07.2021).

¹²⁰ CSO expert interview; Kvinna till Kvinna, *Women's Rights in the Western Balkans* (2020) http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf; HERA, *2020 Annual Report - Supporting the Vulnerable in Times of Crisis, Protecting the Social and Reproductive Rights!* (HERA, 2020), https://hera.org.mk/wp-content/uploads/2021/06/Godishen-izveshtaj-za-2020-godina_en-web.pdf, 21.



significantly traditionally excluded women, such women with disabilities, trans women, women that use drugs, and women sex workers.

In addition, according to the GBV law, the units of local self-government (the municipalities and the City of Skopje) are responsible for the "provision of protection to victims in the local community, establishment of care centres, counselling centres for victims and counselling centres of domestic violence, parents and children counselling, counselling centre and other Forms for care and assistance of victims, including local SOS lines" (Article 33).

Recommendations:

- Ensure practical and standardized access to all specialist support services for all women, in particular women with disabilities, Roma women and women migrants/asylum seekers.
- There is a need to expand the capacity of shelters for GBV and DV victims in terms of beds.
- The geographical distribution and availability of shelters should be increased.

Article 23 – Shelters

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.

The number of shelters that can provide safe accommodation to victims of GBV and DV in North Macedonia is 13 – ten shelters and three crisis centres. Five are run by women's CSOs and the rest by the Ministry of Labour and Social Policy (MLSP). Ten services are for victims for DV (out of these 9 are opened by the MLSP). There are 8 centres where victims can obtain counselling and advice (out of which one is funded by the MLSP). There are three crisis centres for victims of sexual violence (up to 72 hours) operated by the Ministry of Health in Skopje, Tetovo, and Kumanovo. Overall, the Ministry of Labour and Social Policy funds four CSOs which provide specialised services for women victims of GBV and DV.¹²¹

The main issue remains the insufficient number of shelter centres, their geographical distribution, and the provision of other services (such as free legal aid and psychosocial support).¹²² The geographical distribution

¹²¹ Ministry of Labour and Social Policy, Response to Request for Free Access to Public Information, archival No. 14-4493/6 (27.07.2021).

¹²² In its last concluding observations, the CEDAW Committee recommended the following: "Increase the number of shelters, and ensure that access for women who are victims of gender-based violence is within a reasonable distance, and of counselling and rehabilitation services across the State party and ensure that women and girls who are victims of gender-based violence have full and barrier-free access to medical and psychological support." Source: Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para.24(g).



is a challenge since most of the shelters are located in a few, larger cities and out of reach for women from remote areas.¹²³ They operate a capacity of 101 beds, which is 50% of the capacity required according to the guidelines for the Istanbul Convention. This lack of beds then spills over to unavailability of other services for the victims that cannot find shelter there. In addition, they do not operate in a wholistic manner that will address the intersectional discrimination which the victims of GBV and DV face.

The range and quality of services provided seem to vary quite significantly. While officially the service providers are not understaffed, there seems to be a lack of trained professionals available to provide support 24/7. There is however a general lack of continuous specialized training available to professionals working with DV/GBV.¹²⁴ Moreover, save for one, that shelters are not accessible to persons with disabilities, as also observed by the Committee on the Rights of Persons with Disabilities.¹²⁵

In addition, according to the GBV law, the units of local self-government (the municipalities and the City of Skopje) are responsible for the "provision of protection to victims in the local community, establishment of care centres, counselling centres for victims and counselling centres of domestic violence, parents and children counselling, counselling centre and other Forms for care and assistance of victims, including local SOS lines" (Article 33).

Recommendations:

- There is a need to expand the capacity of shelters for GBV and DV victims in terms of beds.
- The geographical distribution and availability of shelters should be increased.
- These shelters should be accessible to all women, in particular women with disabilities, Roma women and women migrants/asylum seekers.

Article 24 – Telephone helplines

Parties shall take the necessary legislative or other measures to set up state-wide round-the-clock (24/7) telephone helplines free of charge to provide advice to callers, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of this Convention.

The GBV law prescribes measures that are to facilitate the reporting of GBV and DV by citizens (Articles 12, 33). There are 3 existing S.O.S. helplines that provide support 24/7. Additionally, there is one helpline dedicated to victims/survivors of human trafficking. The helplines are run by women's CSOs.

¹²³ CSO expert interview; Kvinna till Kvinna, *Women's Rights in the Western Balkans* (2020) http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf; HERA, *2020 Annual Report - Supporting the Vulnerable in Times of Crisis, Protecting the Social and Reproductive Rights!* (HERA, 2020), https://hera.org.mk/wp-content/uploads/2021/06/Godishen-izveshtaj-za-2020-godina_en-web.pdf, 21.

¹²⁴ Kvinna till Kvinna, *Women's Rights in the Western Balkans* (2020) http://www.glasprotivnasilstvo.org.mk/wp-content/uploads/2020/11/WRWB_2020.pdf.

¹²⁵ Committee on the Rights of Persons with Disabilities, *Concluding observations on the initial report of the former Yugoslav Republic of Macedonia CRPD/C/MKD/CO/1* (29.10.2018), para.28(c).



The helplines remain largely inaccessible for women that do not speak the majority, Macedonian, language. Only one helpline provides limited support in Albanian language, while no helpline services exist in other ethnic minority languages.

In 2020, during the first wave of COVID-19, the Ministry for Labour and Social Policy carried out a campaign funded by the OSCE on the prevention and protection from DV. Through the campaign the Ministry aimed to inform victims of DV, but also the entire public how to recognize all forms of DV, where to request and report for assistance and which are existing services for the protection of victims of DV. The Ministry encouraged victims of DV, but all those who have witnessed or have knowledge of violence, to report the existing to SOS lines, the nearest police station, the centres for social work, health institutions, so that they can acquire protection against the perpetrator and further support.¹²⁶

Recommendations:

- Introduce or financial support CSOs to open and operate helplines in languages other than Macedonian and Albanian and improve the accessibility of helplines in Albanian language.

Article 25 – Support for victims of sexual violence

Parties shall take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims.

There are three crisis centres for victims of sexual violence (up to 72 hours) operated by the Ministry of Health in Skopje, Tetovo, and Kumanovo.¹²⁷ However, this is neither sufficient in number, nor can be it considered appropriate and easily accessible.

Recommendations:

- Expand the network of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers which can provide for medical and forensic examination, trauma support and counselling for victims. Ensure that the expansion of this network enables geographical accessibility on the whole territory of the country and that the services offered by these centres are accessible for women from ethnic groups which are not in majority in the country and for women with disabilities.

¹²⁶ CSO expert interview.

¹²⁷ Ministry of Labour and Social Policy, Response to Request for Free Access to Public Information, archival No. 14-4493/6 (27.07.2021).

IV – Substantive law

Article 29 – Civil lawsuits and remedies

1 Parties shall take the necessary legislative or other measures to provide victims with adequate civil remedies against the perpetrator.

2 Parties shall take the necessary legislative or other measures to provide victims, in accordance with the general principles of international law, with adequate civil remedies against State authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers.

The legal framework in place, as a whole, is rather recent, thus it remains to be seen whether the civil remedies will in practice show to be adequate for the particular context. The 2014 DV law provided possibility for temporary protection to victims of DV. Upon request of the victim, the courts can deliver a decision to ban the perpetrator to continue with the violence, to contact the victims or can introduce other measures that will prevent the violence to occur. The GBV law, which replaced the 2014 DV law, stipulates the same temporary measures for victims of GBV. Some elements, such as the clear legal possibility to instigate civil procedure for violation of the due diligence principle (prior existing only as part of the urgency element), are new. The findings from the monitoring seem to suggest that the older measures are more exercised in practices compared to the newer ones.

Thus far, it seems that the courts are using the possibility for temporary protection, as per the GBV law. In the period from January to May 2021, there were 171 requests for civil protection and 123 requests were approved.¹²⁸ The number of measures imposed on the perpetrators in the respective period cannot be ascertained because in most of the proceedings the victims claim more than one measure and the courts impose several measures with one decision. Only the court in Ohrid and Tetovo provided disaggregated data on the form of violence from which the victims claimed protection. Thus, in Ohrid all 13 claims were for protection of physical violence and in Tetovo from 12 claims, 4 were for protection against psychological violence and 8 for protection against physical violence. The court in Skopje provided disaggregated data on the type of measures that the court imposed to the perpetrator. From 44 measures in total, in two cases the court ordered the removal of the perpetrator from the home. The courts in Gostivar and Struga did not receive any request for temporary protective measures in the respective period.

Related to the civil protection of victims in cases when state authorities have failed in their duty to take the necessary preventive or protective measures within the scope of their powers, the legal possibility to instigate civil procedure for violation of the due diligence principle was not initiated in front of the courts in the period from January to May 2021. For the same period, the courts in Gostivar and Kavadarci reported

¹²⁸ We acquired the data presented in this section through requests for access to public information which we submitted to 15 courts of first instance. Out of these, we did not receive replies only from three courts – the courts in Gevgelija, Strumica, and Shtip.

only one case of indictment for a murder of a woman. In the same period the court in Ohrid delivered one judgment on murder of a woman and the perpetrator received 2 years of imprisonment.

Recommendations:

- Develop and implement comprehensive training programs for legal practitioners in order to promote the possibilities for civil remedies for victims of GBV and DV.
- Further advance the data collection capacities and procedures of the courts, in particular the disaggregation of data, in order to better understand the use of civil remedies.

Article 30 – Compensation

1 Parties shall take the necessary legislative or other measures to ensure that victims have the right to claim compensation from perpetrators for any of the offences established in accordance with this Convention.

2 Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety.

3 Measures taken pursuant to paragraph 2 shall ensure the granting of compensation within a reasonable time.

Neither the current legal framework in place nor the novelties announced or discussed thus far will bring North Macedonia in line with its obligations under Article 30. The current possibilities for compensation under the law are particularly restrictive.

The Law on Criminal Procedure provides legal grounds for compensation of damages from state funds to victims of crime for which the Criminal Code prescribes minimum four years of imprisonment. However, only minor victims of human trafficking, sexual assault, and rape can get compensation from state fund once they exhaust all remedies for execution of the final judgment of the court. This right is guaranteed under the Law on Justice for Children. In the period from January to May 2021 there was no claim for compensation submitted to the Ministry of justice and only two children of sexual assault received compensation from the fund.

There is an ongoing process for drafting the Law on the Payment of Monetary Compensation to Victims of Criminal Offences. Article 9 of the draft includes GBV as a violent criminal act that falls within the scope of the proposed law. It also provides for compensation for the direct and for indirect victims, such as spouses, partners, children, parents, grandparents,¹²⁹ which can be important in GBV and DV cases. Conditioning the

¹²⁹ Предлог закон за исплата на паричен надоместок на жртви од кривични дела [Draft Law on the Payment of Monetary Compensation to Victims of Criminal Offences] (16.09.2019), *ENER*, https://ener.gov.mk/Default.aspx?item=pub_regulation&subitem=view_reg_detail&itemid=54834.

possibility for claiming regress for compensation awarded from the perpetrator based on due regard being paid to the victim's safety is not well addressed in the draft law. Nevertheless, the draft will overall bring an improvement to the legal framework compared to the current one. But, the adoption of this law, originally expected for the end of 2019, has been significantly delayed.¹³⁰

Finally, the state party's reservation on paragraph 2 remains in place. According to this reservation, North Macedonia "reserves the right not to apply or to apply only in specific cases the provisions of Article 30, paragraph 2, of the Convention, in accordance with its applicable legislation (Law on the Children's Justice) only in relation to a child established to have been a victim under final decision of a Court or to have been harmed by an act that is stipulated by law as a criminal offense with elements of violence".¹³¹ This may pose a challenge the process of extending subsidiary state compensation to non-nationals, as required by the Istanbul Convention, considering the limitations posed by Article 3(3) of the Law on Children's Justice. Thus, while reservations on this article are possible, the approach to the reservation should be reconsidered in order to secure compensation for all children.

Recommendations:

- Adopt a law allowing for compensation to be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions.
- Introduce guarantees that the possibility for claiming regress for compensation awarded from the perpetrator will be conditioned on paying due regard to the victim's safety.
- Consider modifying the reservation on paragraph 2 in order to allow for compensation for all children, nationals of North Macedonia or not.

Article 33 – Psychological violence

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised.

The intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is not criminalised in North Macedonia. This form of violence is included in the definition of domestic violence included in Article 122(21) of the Criminal Code which defines DV as "harassment, insult,

¹³⁰ At the time of writing of this report, the proposal for the Law on the Payment of Monetary Compensation to Victims of Criminal Offences passed in the Government (28.07.2021). It is now to be sent for discussion and adoption in the Parliament. Source: Government of the Republic of North Macedonia, 92 седница на Владата [92 session of the Government], *Government of the Republic of North Macedonia Official Website*, <https://vlada.mk/node/26044>.

¹³¹ Council of Europe, *Reservations and Declarations, CETS, No. 210*, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210?module=declarations-by-treaty&numSte=210&codeNature=0>



endangerment of security, bodily harm, sexual or other psychological, physical or economic violence that causes a feeling of insecurity, threat or fear, including threats of such actions, towards a spouse, parents or children or other people living in a marital or extramarital union or joint household, as well as towards the current or former spouse or extramarital partner or persons who have a joint child or are in a close personal relationship, regardless of whether the perpetrator shares or has shared the same residence with the victim or not".¹³² However, psychological violence is not a form of violence per se and outside of the realm of domestic violence. This makes it impossible to pursue all GBV cases committed through psychological violence. In addition, the DV definition introduces the element of causing "a feeling of insecurity, threat or fear" which could be interpreted as an additional element to be satisfied in front of a court. Such an element is not present in Article 33, nor in Article 3(b), of the Istanbul Convention.

Recommendations:

- Criminalise psychological violence, defined as the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats, as a special form of violence in the Criminal Code.
- Align the definition of domestic violence with Article 3(b) of the Istanbul Convention.

Article 34 – Stalking

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalised.

Stalking, understood as the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is not criminalized. In fact, stalking is not recognised under the national legal system at all. Introducing a definition of this crime in the Criminal Code is part of the objective 1 of the NAP, planned for completion by the end of 2019.¹³³ At the time of drafting of this shadow report,¹³⁴ a proposal for amending the Criminal Code was passed by the Government that

¹³²Кривичен законик [Criminal Code], *Official Gazette of the Republic of Macedonia*, Nos. 80/1999; 48/2001; 4/2002; 16/2002; 43/2003; 19/2004; 40/2004; 81/2005; 50/2006; 60/2006; 73/2006; 87/2007; 7/2008; 139/2008; 114/2009; 51/2011; 51/2011; 135/2011; 185/2011; 142/2012; 143/2012; 166/2012; 55/2013; 82/2013; 14/2014; 27/2014; 28/2014; 41/2014; 41/2014; 115/2014; 132/2014; 160/2014; 199/2014; 196/2015; 226/2015; 97/2017; 170/2017; 248/2018. Art.122(21).

¹³³ Ministry of Labour and Social Policy, Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејното насилство на Република Македонија 2018-2023 [Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023], <https://mtsp.gov.mk/content/word/oglasi/New%20node/Финал%20драфт%20НАП%20ИК%202018-2023.02.docx>; Закон за спречување и заштита од насилство врз жените и семејното насилство [Law on Prevention and Protection from Violence against Women and Domestic Violence], *Official Gazette of the Republic of North Macedonia*, No. 24/2021.

¹³⁴ Text closed on 10.08.2021.

will introduce stalking as a crime.¹³⁵ The proposal for amendments of the Criminal Code will now go for discussion and adoption to the Parliament.

Recommendations:

- Introduce a crime of stalking, understood as the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, in the Criminal Code.

Article 35 – Physical violence

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of committing acts of physical violence against another person is criminalised.

The intentional conduct of committing acts of physical violence against another person is criminalised. Article 130 of the Criminal Code criminalises bodily injury, whereas Article 131 criminalises severe bodily injury. Both crimes are general and not formulated in a way that can take into consideration the gender-based nature of the crimes, as per the Istanbul Convention. For both crimes, a more severe punishment is prescribed in cases of domestic violence, but this does not include all GBV cases. Also, it does not capture fully the gender-based nature of the crime nor does it allow for adequate data collection for the crimes where DV acts as a qualifier, in contravention to Article 11 of the Istanbul Convention.¹³⁶

In addition, North Macedonia has logged in a reservation on this article, in conjunction with Article 55, paragraph 1 (ex officio and ex parte) according to which the country reserves the right "not to apply Article 55, paragraph 1 in respect of Article 35 of this Convention regarding minor offences, until the alignment of the provisions of the relevant legislation of the Republic of Macedonia with the provisions of the present Convention."¹³⁷ This has been interpreted as making the implementation of the Istanbul Convention regarding physical violence practically impossible.¹³⁸

¹³⁵ Government of the Republic of North Macedonia, 92 седница на Владата [92 session of the Government], *Government of the Republic of North Macedonia Official Website*, <https://vlada.mk/node/26044>.

¹³⁶ Marija Risteska and Aleksandar Sekov, *Анализа на потребите од усогласување на Кривичниот законик со Истанбулската конвенција во Република Северна Македонија* [Analysis of the Needs for Alignment of the Criminal Code with the Istanbul Convention in the Republic of North Macedonia], (Center for Research and Policy Making and Macedonian Women Lobby, 2019), 27.

¹³⁷ Council of Europe, *Reservations and Declarations, CETS, No. 210*, <https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210?module=declarations-by-treaty&numSte=210&codeNature=0>

¹³⁸ Marija Risteska and Aleksandar Sekov, *Анализа на потребите од усогласување на Кривичниот законик со Истанбулската конвенција во Република Северна Македонија* [Analysis of the Needs for Alignment of the Criminal Code with the Istanbul Convention in the Republic of North Macedonia], (Center for Research and Policy Making and Macedonian Women Lobby, 2019), 9.

Recommendations:

- Consider revisions of the Criminal Code that will enable recognition of the gender-based nature of the physical violence in cases of GBV and DV.
- Consider revisions of the Criminal Code that will enable data collection, as per Article 11 of the Istanbul Convention.
- The reservation on applying Article 55, paragraph 1, in respect of Article 35 should be withdrawn.

Article 36 – Sexual violence, including rape

1 Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

a engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object;

b engaging in other non-consensual acts of a sexual nature with a person;

c causing another person to engage in non-consensual acts of a sexual nature with a third person.

2 Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.

3 Parties shall take the necessary legislative or other measures to ensure that the provisions of paragraph 1 also apply to acts committed against former or current spouses or partners as recognised by internal law.

The approach towards sexual violence, including rape, in the national legal system is different from the one prescribed by the Istanbul Convention. The most central element missing in the approach towards this crime is consent. Article 186 of the Criminal Code proscribes the act of "rape" defined as being conducted "through the use of force or threat of an immediate attack on ones life or body, or an attack on the life or body of a close person." Even if some of the elements can be read as absence of consent, this is not the same as giving consent "voluntarily as the result of the person's free will". Moreover, the definition also includes the element of "forceful rape" (in Macedonian language "*присили на обљуба*") which introduces a strong focus on the behaviour of the victim, including an element where the victim should prove providing resistance (widely discussed in literature as a highly element of any rape definition). The sentence is imprisonment of three to ten years. This article is further developed for cases of rape of a minor (14 to 18 years of age) (paragraph 2, and imprisonment of at least ten years), severe bodily injury, death or any other severe consequences resulting from the rape or if the crime "was committed by several persons or in an especially cruel and degrading manner or out of hate, the offender shall be sentenced to minimum imprisonment of four years" (paragraph 3). This definition is fully not in line with both the letter and the spirit of the Istanbul Convention. This definition was also challenged in the CEDAW Committee's most

recent concluding observations.¹³⁹ The Criminal Code criminalises¹⁴⁰ in a similar fashion the acts of sexual assault of a helpless person (Article 187), sexual assault of a minor younger than 14 years of age (article 188), and sexual assault through the abuse of a position of power (Article 189). It does not include a particular reference to acts committed against former or current spouses or partners, as per paragraph 3 of Article 26.

Recommendations:

- Align the definitions of sexual violence, including rape, in the national legislation with Article 36 of the Istanbul Convention, clearly ensuring the centrality of consent given voluntarily as a result of the person's free will assessed in the context of the surrounding circumstances as an element in these definitions.

Article 37 – Forced marriage

1 Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised.

2 Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.

Forced marriage, as the intentional conduct of forcing an adult or a child to enter a marriage, is not criminalised in the Criminal Code. Articles 418-a and 418-g include forced marriage in the criminalization of trafficking in persons and trafficking in children. Article 197 prohibits cohabitation with a child younger than 16 years of age (or up to 18 years of age upon proposal). However, none of these focuses on forced marriage per se, as established under Article 37 of the Istanbul Convention. Introducing a definition of this crime in the Criminal Code is part of the objective 1 of the NAP, planned for completion by the end of 2019.¹⁴¹ Yet, this activity has not been completed yet.

¹³⁹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para. 24(c).

¹⁴⁰ Other criminal acts of a sexual nature include masturbating in front of another person ("Gratifying sexual urges in front of another" Article 190), mediation in prostitution (Article 191), displaying pornographic material to a child (Article 193), production and distribution of children pornography (Article 193-a), enticing a child who has not turned 14 to sexual assault or other sexual act (via computer-communication means) (Article 193-b) and incest (Article 194). Source: Кривичен законик [Criminal Code], *Official Gazette of the Republic of Macedonia*, Nos. 80/1999; 48/2001; 4/2002; 16/2002; 43/2003; 19/2004; 40/2004; 81/2005; 50/2006; 60/2006; 73/2006; 87/2007; 7/2008; 139/2008; 114/2009; 51/2011; 51/2011; 135/2011; 185/2011; 142/2012; 143/2012; 166/2012; 55/2013; 82/2013; 14/2014; 27/2014; 28/2014; 41/2014; 41/2014; 115/2014; 132/2014; 160/2014; 199/2014; 196/2015; 226/2015; 97/2017; 170/2017; 248/2018.

¹⁴¹ Ministry of Labour and Social Policy, Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејното насилство на Република Македонија 2018-2023 [Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023], <https://mtsp.gov.mk/content/word/oglas/Nov%20node/Финал%20драфт%20НАП%20ИК%202018-2023.02.docx>.

Recommendations:

- Introduce a crime of forced marriage, as the intentional conduct of forcing an adult or a child to enter into a marriage, in the Criminal Code.

Article 38 – Female genital mutilation

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- a excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris;
- b coercing or procuring a woman to undergo any of the acts listed in point a;
- c inciting, coercing, or procuring a girl to undergo any of the acts listed in point a.

Excising, infibulating, or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris, coercing or procuring a woman, or inciting, coercing, or procuring a girl of the same acts is not criminalised in North Macedonia. Introducing a definition of this crime in the Criminal Code is part of the objective 1 of the NAP, planned for completion by the end of 2019.¹⁴² Yet, this NAP activity has not been completed.

Recommendations:

- Introduce a crime of female genital mutilation, as per Article 38 of the Istanbul Convention, in the Criminal Code.

Article 39 – Forced abortion and forced sterilisation

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- a performing an abortion on a woman without her prior and informed consent;

¹⁴² Ministry of Labour and Social Policy, Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејното насилство на Република Македонија 2018-2023 [Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023], <https://mtsp.gov.mk/content/word/oglasj/New%20node/Финал%20драфт%20НАП%20ИК%202018-2023.02.docx>.



b performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure.

Performing an abortion on a woman without her prior and informed consent and performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure is not criminalised in North Macedonia. Introducing a definition of this crime in the Criminal Code is part of the objective 1 of the NAP, planned for completion by the end of 2019.¹⁴³ Yet, this activity has not been completed yet.

Recommendations:

- Introduce a crime of forced abortion and forced sterilisation, as per Article 39 of the Istanbul Convention, in the Criminal Code.

Article 40 – Sexual harassment

Parties shall take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction.

Unwanted verbal, non-verbal or physical conduct of a sexual nature and in any form with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment is not criminalised under national law.¹⁴⁴ It is however, subject to a different legal sanction, which also falls within the scope of Article 40 of the Istanbul Convention. Sexual harassment is included in the Law on Prevention and Protection against Discrimination, the Law on Harassment at the Workplace and in the Law on Equal Opportunities of Women and Men. These are the three key legislative acts that regulate sexual harassment. Due to the fragmented nature of the national legislation that deals with equality and non-discrimination, provisions on sexual harassment can be found

¹⁴³ Ministry of Labour and Social Policy, Акциски план за спроведување на Конвенцијата за спречување и борба против насилството врз жените и семејното насилство на Република Македонија 2018-2023 [Action Plan for Implementing the Convention on Preventing and Combating Violence against Women and Domestic Violence in the Republic of Macedonia 2018-2023], <https://mtsp.gov.mk/content/word/oglasj/New%20node/Финал%20драфт%20НАП%20ИК%202018-2023.02.docx>.

¹⁴⁴ Please note, however, that Article 190 Criminal Code does include the crime of masturbating in front of another person ("Gratifying sexual urges in front of another"), which can be considered as a form of sexual harassment. Source: Кривичен законик [Criminal Code], *Official Gazette of the Republic of Macedonia*, Nos. 80/1999; 48/2001; 4/2002; 16/2002; 43/2003; 19/2004; 40/2004; 81/2005; 50/2006; 60/2006; 73/2006; 87/2007; 7/2008; 139/2008; 114/2009; 51/2011; 51/2011; 135/2011; 185/2011; 142/2012; 143/2012; 166/2012; 55/2013; 82/2013; 14/2014; 27/2014; 28/2014; 41/2014; 41/2014; 115/2014; 132/2014; 160/2014; 199/2014; 196/2015; 226/2015; 97/2017; 170/2017; 248/2018.

scattered in other laws as well. These definitions are not always in line with the ones from the *lex generalis* – the Law on Prevention and Protection against Discrimination.

According to Article 10(2) of the Law on Prevention and Protection against Discrimination, "Sexual harassment shall mean any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect of violating the dignity or creating a threatening, hostile, humiliating or intimidating environment, approach or practice." This definition includes all key elements from the definition in Article 40 of the Istanbul Convention. Articles 41 alone and in conjunction with Article 42 (on graver forms of discrimination, including multiple and intersectional discrimination) prescribe fines for sexual harassment ranging from 400 to 3,000 EUR (Article 41) and from 700 to 5,000 EUR (Article 42). The definition in Article 4(7) in the Law on Equal Opportunities of Women and Men is similar to the one in the Law on Prevention and Protection against Discrimination. The Law on Harassment at the Workplace is specific in its scope in that it does not tie the acts of harassment to a discrimination ground. It is still relevant for the purposes of sexual harassment and for the alignment with the Istanbul Convention. Article 5(2) from this law largely follows the elements from required by Article 40 of the Istanbul Convention.¹⁴⁵

Recommendations:

- Align all national provisions on sexual harassment with the definition provided in Article 10(2) of the Law on Prevention and Protection against Discrimination.
- Introduce criminal sanction for the crime of sexual harassment as defined in Article 40 of the Istanbul Convention.

Article 41 – Aiding or abetting and attempt

1 Parties shall take the necessary legislative or other measures to establish as an offence, when committed intentionally, aiding or abetting the commission of the offences established in accordance with Articles 33, 34, 35, 36, 37, 38.a and 39 of this Convention.

2 Parties shall take the necessary legislative or other measures to establish as offences, when committed intentionally, attempts to commit the offences established in accordance with Articles 35, 36, 37, 38.a and 39 of this Convention.

In the Criminal Code, "attempt" is regulated by Article 19, which states that a person who intentionally starts committing a crime, but does not complete it, will be punished for attempting a crime for which according to law imprisonment of five years or more may be imposed, and for attempting another crime only when the law explicitly prescribes punishment for attempt. The perpetrator will be punished for

¹⁴⁵ It is worth noting that Article 5(2) focuses only on creating "fear, discomfort or humiliation" whereas Article 40 from the Istanbul Convention on "intimidating, hostile, degrading, humiliating or offensive environment." Yet, in practice, it should not be expected that this will limit the scope of legal protection.



attempting within the limits of the punishment prescribed for the crime and may be punished more leniently.

In the Criminal Code "encouragement" is regulated in Article 23 as general rule for all criminal offences. It stipulates as a person who intentionally incites another to commit a crime shall be punished as if he had done it himself. A person who intentionally incites another to commit a crime an offense punishable by five years' imprisonment by law or more severe punishment, and no attempt will be made for an act, it will be punished as for attempted crime.

Article 24 of the Criminal Code defines "helping" as one who intentionally assists another in the execution of a crime will be punished as if he had committed it himself and can be punished as well milder. Assisting in the commission of a crime shall be considered in particular: giving advice or instructions on how to commit a crime, making funds available to the perpetrator to commit the crime, removal of obstacles to the commission of the crime, as well as pre-promised concealment of the crime of the perpetrator, the means by which the crime was committed, the traces of the crime or the objects obtained with the crime. It is also general article for all criminal offences.

Recommendations:

- Ensure that the amendments of the Criminal Code for introducing new crimes, as suggested elsewhere in this report, maintain that it is an offence, when committed intentionally, aiding, or abetting the commission of the offences established in accordance with Articles 33, 34, 35, 36, 37, 38.a and 39 of the Istanbul Convention. Ensure the same for attempts to commit the offences established in accordance with Articles 35, 36, 37, 38.a and 39 of the Istanbul Convention.

Article 43 – Application of criminal offences

The offences established in accordance with this Convention shall apply irrespective of the nature of the relationship between victim and perpetrator.

The offenses established under the Criminal Code apply irrespective of the nature of the relationship between the victim and the perpetrator. Having said that, it is important that all acts required under the Istanbul Convention are criminalized to begin with.

Recommendations:

- Ensure that all offenses, as proscribed by the Istanbul Convention, are criminalised under the national law.

Article 45 – Sanctions and measures

1 Parties shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include, where appropriate, sentences involving the deprivation of liberty which can give rise to extradition.

2 Parties may adopt other measures in relation to perpetrators, such as:

- monitoring or supervision of convicted persons;
- withdrawal of parental rights, if the best interests of the child, which may include the safety of the victim, cannot be guaranteed in any other way.

While the formulation of sanctions under national law may be in line with the Istanbul Convention, considering the general challenges for the rule of law in North Macedonia,¹⁴⁶ it can hardly be considered that the sanctions prescribed under national law are effective and dissuasive. The established culture of tolerance for GBV and DV¹⁴⁷ feeds a general climate of impunity of GBV and DV cases which, in turn, makes these sanctions not dissuasive. Thus, these sanctions cannot be looked at separately from the general challenges which shape the context in which they are to be applied.

The prescribed sentences do include the deprivation of liberty. The criminal offenses established under the Criminal Code thus far make the offenses established under the Istanbul Convention eligible for extradition, as per the Law on International Cooperation in Criminal Law.¹⁴⁸

In the GBV law there are urgent and temporary measures. According to Article 57, urgent measures of protection are undertaken in order to eliminate the immediate and serious danger to the life and physical and psychological integrity of the victim and her family members. These include removing the perpetrator from the home and prohibiting him from approaching the home. The temporary protection measures are covered in the Article 58 for the purposes of addressing the reasons for re-perpetration of violence. To this end, the court may impose the following temporary measures: 1) a ban on threatening to commit violence; 2) a ban on harassing, telephoning, contacting or otherwise directly or indirectly communicating the victim; 3) prohibition to approach at a distance of less than 100 meters from the residence, school, workplace or certain place that the victim regularly attends; 4) removal from the home regardless of ownership for ten to 30 days; 5) prohibition to own a fire or other 6) to return the items needed to meet the daily needs of the victim and the family; 7) to provide legal support to the family; mandatory treatment of the perpetrator if he uses alcohol, drugs and other psychotropic substances or has a mental illness; 10) the perpetrator must reimburse the medical and other costs incurred as a result of the violence; 11) any other measure that the court deems necessary to ensure the safety and well-being of the victim and other members of the family. The measures included in Article 45(2) of the Istanbul Convention can be considered to fall within the scope of this article. The CEDAW Committee has expressed concern with regards to the lack of systematic data collection "disaggregated by relevant factors, on cases of gender-based violence and

¹⁴⁶ See, for example: Iva Conevska and Ismail Kamberi, *Chapter 23 Shadow Report* (European Policy Institute – Skopje, 2019).

¹⁴⁷ As discussed in the introduction of this report.

¹⁴⁸ Закон за меѓународна соработка во кривичната материја [Law on International Cooperation in Criminal Law], *Official Gazette of the Republic of North Macedonia*, No. 77/2021.

discrimination against women brought before the courts and on the number of temporary protection orders and include such data in the next periodic report."¹⁴⁹

Recommendations:

- Address the general climate of impunity of GBV and DV cases in order to boost the effectiveness and dissuasiveness of the sanctions for GBV and DV.

Article 46 – Aggravating circumstances

Parties shall take the necessary legislative or other measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:

a the offence was committed against a former or current spouse or partner as recognised by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority;

b the offence, or related offences, were committed repeatedly;

c the offence was committed against a person made vulnerable by particular circumstances;

d the offence was committed against or in the presence of a child;

e the offence was committed by two or more people acting together;

f the offence was preceded or accompanied by extreme levels of violence; g the offence was committed with the use or threat of a weapon;

h the offence resulted in severe physical or psychological harm for the victim; i the perpetrator had previously been convicted of offences of a similar nature.

The Criminal Code sets certain general rules for sentencing where part of the certain aggravating circumstances provided by Article 46 are covered, i.e. it is provided that the court will take into account all the circumstances that affect the sentence to be lower or higher (mitigating and aggravating circumstances). A heavier sentence is specified in the context of DV for the following crimes: article 123 paragraph 2 (murder), article 125 (murder in an instant), article 130 paragraph 2 (bodily injury), article 131 paragraph 2 (heavily bodily injury), article 139 paragraph 2 (coercion), article 140 paragraph 2 (unlawful deprivation of liberty), article 144 paragraph 2 (endangering security), article 188 paragraph 2 (Sexual assault on a minor under 14 years of age), article 191 paragraph 4 (Mediation in prostitution). This clearly leaves out GBV acts and the other acts which are at present not included under the Criminal Code.

¹⁴⁹ Committee on the Elimination of Discrimination against Women, *Concluding observations on the sixth periodic report of the former Yugoslav Republic of Macedonia CEDAW/C/MKD/CO/6* (14.11.2018), para. 24(e).



Recommendations:

- Ensure that the future amendments of the Criminal Code, as proposed in this report and to a great extent planned with the NAP, maintain applicability of the aggravating circumstances for all crimes proscribed on grounds of the Istanbul Convention.

Article 48 – Prohibition of mandatory alternative dispute resolution processes or sentencing

1 Parties shall take the necessary legislative or other measures to prohibit mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence covered by the scope of this Convention.

2 Parties shall take the necessary legislative or other measures to ensure that if the payment of a fine is ordered, due account shall be taken of the ability of the perpetrator to assume his or her financial obligations towards the victim.

Based on the Article 86 of the GBV law, in the proceedings for protection of victims' rights the court cannot refer the parties to bargain on the outcome of the case. However, the Law on Criminal Procedure provides the opportunity to the perpetrator to bargain with the prosecutor and the victim does not have a saying the process.

Recommendations:

- Remove explicitly the possibility under the Law on Criminal Procedure for the perpetrator to bargain with the prosecutor, excluding the victim.