

# LEGAL EDUCATION GUIDE FOR THE CIVIL SOCIETY ORGANIZATIONS ON PROTECTION OF WOMEN AGAINST GENDER BASED VIOLENCE AND DOMESTIC VIOLENCE

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## 1. Introduction

Violence against women is one of the most serious breach of human rights and a huge obstacle in realization of equity, peace and prosperity in society. Today, violence against women, more than ever is known not only as a violation of individual human rights but also as a threat to democracy, obstacle for social development and danger for sustainable peace. For this reason, the violence against women and girls, and in particular violence within the family, are acts that are shocking not only the close circle, but the entire society, and as such require the engagement of all the society for their prevention and reporting. In light of this, civil society, should serve as a bridge between the citizen as an individual and the state. Civil society organizations present as a powerful actors of collective scope of work and interests, common goals and values. Non-governmental organizations (NGO-s), help in engaging entire society and for making aware the public on the gender inequality and harmful stereotypes and to promote social and economic empowerment of women and the girls. Furthermore, civil society, has a task to engage in prevention and fighting violence against women and girls in family and to promote a culture of justice and support for the victims.

### 1.1. Targeted Audience

This Legal Education Guide is primarily addressed to the civil society in Kosovo, which has proved its readiness to challenge the existing attitudes, state powers and discriminatory legislation, and which in continuity fights for making change. The impact of NGO-s, especially of those dealing with promotion of women's rights and protection of women from violence increased significantly in Kosoco society. NGO-s, are at the same time strategic partners in implementing governmental programs and monitoring mechanisms, to ensure that state provides adequate services, multisectoral, in timely manner and of high quality. Also, the role of NGO-s is highly relevant in educational programs and awareness raising in the fight against violence towards women and domestic violence against women. Therefore, the Guide aims to help NGO-s, and other legal professional, to expand the understanding of their dedications and responsibilities according to international instruments and national legal framework. Victim's protection and implementation of the law, require the sufficient legal knowledge. It is important that NGO-s, legal professionals, victim's advocates and wide public are introduced with the legal provisions in preventing gender based violence and domestic violence, and with provisions that deal with gender equity promotion. Familiarity with legal issues will intensify

the efforts to prevent the violence against women and domestic violence and will increase chances for mobilisations and support in special cases.

## **1.2 The Content**

Legal Education Guide is drafted especially based on international standards and instruments that guarantee women's rights and provide basis for legal protection against violence towards women, sexual violence and domestic violence. Also, a review of the national legal framework has been conducted. The Guide is defined as a source of information that aims to serve as an education tool on gender equity and as an advocacy material against women's violence and domestic violence.

The Guide presents the engagements in compliance with international instruments on human rights, especially the UN Convention of Elimination of all forms of Discrimination Against Women (CEDAW Convention) and Convention of the European Council on Preventing and Combating Violence against Women and Domestic Violence (known as Istanbul Convention). Special attention is given to the Istanbul Convention, which is the most advanced international treaty for treatment of violence against women and domestic violence issues. The Convention is the first instrument in Europe, for setting legally binding standards, specifically to prevent gender based violence, protect victims of violence and to punish perpetrators. This Convention, also presents a number of new characteristics to combat violence against women, types of novelties that are still unknown for the Kosovo society. At the same time, the Guide explains relevant provisions of the Kosovo Legal Framework and actions set in the Kosovo National Strategy on Protection against Domestic Violence 2016-2020, which is a comprehensive strategy on prevention and combating domestic violence in Kosovo.

## **1.3 The Aim**

The Legal Education Guide aims to assist in building knowledge and skills widely, on international instruments on human rights with focus on gender equity and combating violence against women, and for their implementation in Kosovo. The Guide, also aims the alignment of the Legal Framework through analysing the provisions that deal with gender equity issues, violence against women and domestic violence. Likewise, the Legal Education Guide aims to provide information on the concrete measures to combat violence against the women, as

foreseen in the National Strategy. Legal Education Guide, explains how to respect the gender equity principles and provides information on how to utilise legal provisions in an effort to put to an end violence against women and girls. The Guide aims to serve as a useful tool to ensure justice, support, protection and legal tools for the victims and to keep responsible perpetrators of this crime.

The Guide aims to help in zero tolerance against violence and, meanwhile promote non-discrimination and gender equity as public assets that provide social, economic and political benefits for individuals and the society entirely. Therefore, the Legal Education Guide aims to serve as an advocacy tool for capacity building and awareness raising. The Guide also, serves as an instrument for the prevention of violence against women and quality legal victims of violence protection and domestic violence.

#### **1.4 Causes of violence against women and domestic violence**

“Violence against women in essence is a power issue. It will only end when gender equity and full empowerment of women becomes a reality.” (UN Secretary General, António Guterres)<sup>1</sup>

Today it is widely recognized that the causes of violence against women, sexual violence and domestic violence derive from the notions rooted on the unequal status of women and are based on the attitudes of society on gender discrimination. Gender inequity and discrimination are considered main causes of violence against women that exist in various levels in all communities in the world. Inequal position exposes women and girls, to danger from violence including gender based violence, sexual violence and domestic violence.

Violence against women is considered as a “manifestation of the historically unequal power in relationship between women and men that led in domination and discrimination of women by men and hindered full advancement of women.”<sup>2</sup> Even today, unequal relationships, unequal power relations, lack of power and control, affected by historic and structural factors, cause

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<sup>1</sup>Remarks of the Secretary General on the International Day on elimination of violence against women, 22 November 2017. <https://www.un.org/sg/en/content/sg/statement/2017-11-22/secretary-generals-remarks-international-day-elimination-violence>.

<sup>2</sup>Istanbul Convention, Preamble .

inequal treatment of women. Violence against women “is one of the essential social mechanisms, by which women are obliged to be in a dependable position comparing to men.”<sup>3</sup>

Violence against women and girls is interlinked, also with social norms that define the role of men and women in the society and behaviours that tolerate the abuse. Traditional gender roles, often are imposed on women to act in secondary roles in the society, putting them in a disadvantaged position in relation to their male homologues. Inequalities between women and men appear in all public and spheres and affect the enjoyment of their socio-economic, cultural and political rights. These inequalities, increase the risks of women’s and girls’ abuse, and enable the development of relationship violence and women abuse, often due to their economic dependence and their limited opportunities. Inequality affects the freedoms, decreases opportunities and affects women’s freedom of choice. Also, it is considered, that the violence against women and girls is not the only consequence of gender inequality, but also it strengthens low status of women in society, and affects a numerous inequalities between women and men. As such, violence against women, “hinders social and economic development of the communities and the states.”<sup>4</sup>

There are a set of factors that alone or in combination, are associated with a higher risk and abusë. Some set characteristics of women, such as sexual orientation, special needs status, or ethnic belonging and some kontekstual factors, such as humanitarian crisis, including situations of war and conflicts, increase vulnerability violence against women. Vulnerable social groups need protection and special support. In a situation of a conflicts, sexual violence is used as an instrument of war, and as a tactic of humiliation and fear to an ethnic special community. In such situation, the violence is experienced by women of all ages.

The key element in prevention of violence against women is the realization of *de jure* and *de facto* equity between women and men. Gender equity means, that women and men (including girls and boys) have the same rights and opportunities in all life areas and are based in premise that women and men should be treated in the same manner. This means that interests, needs and priorities of both sexes should be considered in the same way. Gender equity, also requires positive measures to improve position of women, which is usually the weakest in the society, in order to enable reaching the equity through empowerment of women. Reaching

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<sup>3</sup>Istanbul Convention, Preamble.

<sup>4</sup> UN General Assembly, Resolution 61/143, adopted on 19 December 2006.

gender equity and empowerment of women and girls is one of the Sustainable Development Objectives, adopted in September 2017, by the UN General Assembly.<sup>5</sup> This objective, sets for the elimination of all forms of violence against women and girls, in both public area and individual area, because the fight against violence towards women cannot be divided from the women empowerment and as such is a global priority and precondition and prosperity.

## 1.5 Facts and figures about violence against women

Violence against women and girls is a global concern. Often, is said that violence against women has no limits: violence against gender belonging is a reality in both, developing countries and developed countries, affecting women of all socio-economic layers. The figures show the expansion of the violence. It is estimated that 35 cent of women in the whole world, have experienced physical violence in their life, and/or sexual violence by their intimate partner or another person, while thirty eight (38%) per cent of murders of women is committed by their intimate partners. In some countries, the situation is alarming, because some national studies show that the number of women who have experienced physical violence and/or sexual violence by their intimate partner goes up to seventy (70%) per cent.<sup>6</sup> The figures show that in the European Union countries, one in three (or 33 %) were physical and/or sexual violence victims, while twenty two (22%) percent have experienced abusive behaviour by their intimate partner, though is estimated that only around thirty (30%) per cent of the victims report a more serious incidents.<sup>7</sup>

Violence against women in Kosovo society exists, regardless of the positive changes and advancement in the emancipation of women. EU Progress Report, states that gender based violence, including domestic violence, in considerable manner hinders the full enjoyment of women's rights in Kosovo.<sup>8</sup> Domestic violence continues to be the most prevalent violence that mainly affects women and children. According to the police data (2016), the women comprised

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<sup>5</sup> In September 2017, the UN General Assembly, adopted Agenda 2030 on Sustainable Development, as a platform that aims transformation of all humanity and our planet in a sustainable path of development within 2030. Agenda, defines 17 Objectives for sustainable development, focused in 17 groups of most relevant areas for the humanity. Reaching gender equity and empowerment of all women and girls is objective number 5.

<sup>6</sup>World Health Organization, "Global and regional estimates on violence against women: prevalence and health effect violence of an intimate partner and sexual violence from non-partner, 2014. See more: UN Women, Facts and figures: Ending violence against women, <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>, More detailed information can be found under <http://evaw-global-database.unwomen.org/en>

<sup>7</sup>For more detailed info, see wide survey by the European Union Agency for Basic Human Rights, 2015, at <http://fra.europa.eu/en/publication/2014/violence-against-women-eu-wide-survey-main-results-report>

<sup>8</sup>European Commission (2016). "Progress Report on Kosovo" p. 22, [https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key\\_documents/2016/20161109\\_report\\_kosovo.pdf](https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/pdf/key_documents/2016/20161109_report_kosovo.pdf)



eighty (80%) percent of the 1.247 domestic violence cases, reported with police. The number of the victims is estimated higher, based on the estimations from the authorities - most of cases are not reported.

Based on a research study from Kosovo Women Network Group,<sup>9</sup> sixty two (62%) per cent of kosovars, have experienced one or more forms of violence in their life (68% women and 56% men). In 2014, forty one (41%) per cent of women and twenty (20%) per cent of men expressed that they have experienced one form of domestic violence, including physical, psychological and/or economic violence, while seven (7%) per cent of kosovars stated that their partners have persuaded them to have sexual intercourse without their consent. The research, also reveals that between the years 2005 and 2015, at least twenty two (22) persons have been killed by the persons they had family relations with. According to figures collected during the research, women are more likely than men to experience domestic violence. The research recorded that the most risked groups from domestic violence in the family, are women, children, elderly, disabled, and LGBT community persons. It is encouraging the fact that the research records a significant awareness increase on the existing legal measures to fight the domestic violence. Seventy five (75.3%) per cent of the population in Kosovo is aware that there is a Law on Protection against Domestic Violence, while seventy five point nine (75.9%) per cent stated that they would use the law in case of exercise of violence.

## **2. International standards and norms**

The relevance of paying attention to the issues of violence against women is a result of organised activities and women movements in the whole world. At the same time, while women requested winning the equity and recognition of their rights in many fields, they also highlighted the fact that violence against women is not only a consequence of a bad behaviour act, but is deeply rooted in structural relationships of inequity between women and man. Women movement as a key factor in achieving the promotion of women's rights, have always been an advocate to attract the attention in international arena on the need to prevent and combat violence against women. Advocating for equal rights of women is interlinked with the

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<sup>9</sup>Kosovo Women Network "Enough with excuses: An Analysis of Attitudes, Incidence, and Institutional Responses to Domestic Violence in Kosovo  
<http://www.womensnetwork.org/documents/20151124105025644.pdf>

dynamics of political, economic, social and economical transformations, linking it with the need to combat violence against women.

A bigger attention against women's violence occurred at first in the context of the UN decade on Women (1975-1985), when more women's organizations interlinked with the UN Agenda, through international and regional conferences and women's initiatives. The Global Action Plan, adopted in 1975 in the UN World Conference of Women's International year in Mexico City, identified the full gender equity and elimination of gender discrimination through its main objectives, and draw the attention on the need for the ways of solving conflicts in family by respecting dignity, equity and safety of every member. These efforts acted as a trigger and encouragement, urging the expansion of understanding the violence against women. As a result, international norms and standards are developed in order to prevent and combat violence against women, as well as monitoring and reporting mechanisms are established. Now, it is accepted that women's rights are human rights. Whereas violence against women and domestic violence are forms of violation of human rights.

## **2.1 Women rights as human rights**

Women's rights are human rights. Definitions of human rights presents the totality of those rights, which every individual can enjoy by the virtue of human being. These rights are non-alienable, therefore, nobody can be denied of rights. In essence of human rights stands human dignity principle, and as such it should be respected and protected. States have obligation to respect, protect and fulfill human rights. Obligation to respect means that states should restrain from interfering or limiting the enjoyment of human rights. Obligation to protect requires from states to protect individuals and groups from human rights violations, and requests from the state to prevent violence within its territory. Obligation to fulfill, means that states should undertake positive actions to guarantee, promote and facilitate enjoyment of rights by providing effective legal remedies for violations. This obligation requires from the state to provide effective realization of the rights through adequate legal, administrative and judicial factual measures.

Regarding prevention and combating gender based violence and sexual violence, human international rights require from national authorities to exercise extra care in preventing violence against women, sexual violence and domestic violence. To fulfill this standard of

adequate care, authorities should adopt relevant legislation and take adequate measures to prevent and protect from all forms of violence including protection and victim compensation, as well as investigation and prosecution of the perpetrators and incidents of violence. It also, requires from the states to undertake appropriate measures for women empowerment, and to urge and implement in effective manner the policies of equity between women and men by combating prejudices, customs and practices that are based on the idea of humiliating women.

The concept of universality is essential for human rights and this especially applies when dealing with women's rights. Today, it is widely accepted that *"all human rights are universal and indivisible, reciprocally dependable and interlinked."*<sup>10</sup> In the World Conference on Human Rights held in Vienna in 1993, under the phrase "All Human Rights for All" violence against women is recognised as a violation of human rights. The document adopted during this Conference, stated that "Human rights of women and girls are non alienated, integrated and inseparable from the universal human rights."<sup>11</sup> Conference called for the full and equal participation of women in civil, political, economic, social and cultural life and elimination of all forms of gender based discrimination. The Conference also called for the nomination of a UN Special Rapporteur on Violence against Women, nominated in March 1994 by the UN Human Rights Commission. Special Rapporteur collects information on the violence against women, and recommends measures, manners and remedies at local, regional and international level, for elimination of all forms of violence against women and to mend its consequences, in order to create conciliation of practices in compliance with international legal norms from the field of women's rights.<sup>12</sup>

## 2.2 Comprehensive Instruments on Human Rights

### 2.2.1 Universal Declaration on Human Rights

Universal Human Rights Declaration,<sup>13</sup> as a first catalogue on human rights and fundamental freedoms, stipulates in Article 1: "All people are born free and equal in aspect of their dignity

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<sup>10</sup>Declaration and Action Plan of the World Conference on the Human Rights, held in Vienna in 1993, Article 5. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx>

<sup>11</sup>Ibid, Article 18.

<sup>12</sup>For more information on the mandate and activities of the Special Rapporteur: <http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/SRWomenIndex.aspx>

<sup>13</sup> Adopted on 10 December 1948, by the UN General Assembly.

and rights,” whereas latter its sets clearly that proclaimed rights and freedoms in the Declaration belong to everyone “without any difference in aspect of race, colour, sex, language, religion, political opinion, nationality or social belonging, wealth or birth or any other legal situation.”<sup>14</sup> Universal Declaration guarantees Right to Life, freedom and security for the people,<sup>15</sup> and prohibits torture and inhuman treatment or punishment.<sup>16</sup> It guarantees equal protection before the law, for everybody.<sup>17</sup> Clause against discrimination, means that any form of violence against women may be interpreted as a threat to women’s life, her freedom or safety, or includes torture or inhumane treatment, degrading that is not in compliance with Universal Declaration.

### **2.2.2 International Covenant on Civil, Political, Economic, Social and Cultural Rights**

The engagements deriving from the Universal Declaration on Human Rights, were given enough force which is legally binding with the adoption of the International treaty on Civil and Political rights and International Treaty on Economic, Social and Cultural Rights.<sup>18</sup> In these treaties, with more details than in the Universal Declaration, a range of rights and freedoms, are defined and an absolute and immediate obligation for all state parties, to respect and ensure these rights for all the individuals within their territory, without any discrimination is set. For protection of women against violence, in particular relevant are, Article 2 (Right to an effective legal remedy), Article 6 (Right to Life), Article 7 (Prohibition of Torture, inhuman and degrading treatment), Article 9 (Right to Life and security of persons), Article 14 (Right to a fair public hearing by a competent, independent and impartial tribunal) and Article 26 (Right to equity of arms and equal protection without discrimination) of the International Covenant on Civil and Political Rights.

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<sup>14</sup>Universal Declaration on Human Rights. Article 2.

<http://www.unmikonline.org/regulations/unmikgazette/03albanian/Ahri/AUniversalDeclarationHumanRightsfinal.pdf>

<sup>15</sup>Ibid, Article 3.

<sup>16</sup>Ibid, Article 5.

<sup>17</sup>Ibid, Article 7.

<sup>18</sup>These two instruments are adopted in 1966, and in 1976 entered into force. See for their content: <http://www.unmikonline.org/regulations/unmikgazette/03albanian/Ahri/ACovenantCivilPoliticalRights.pdf>; <http://www.unmikonline.org/regulations/unmikgazette/03albanian/Ahri/AIntCovEconomicSocialCulturalRights.pdf>

Both treaties emphasise the states obligation to ensure equal right of women and men in enjoyment of all the rights.<sup>19</sup>The implementation of these Interantional Treaties is monitored by the Human Rights Committee and by the Committee on the Economic, Social, Cultural and Political Rights. These two monitoring bodies, also provide general comments on interpretation of Conventions and is worthy to mention that already international instruments on human rights are interpreted from a more sensitive gender aspect. An example, is the General Comment, No. 28, by the human Rights Committee, where the interpretation on equal rights of women in enjoyment of all civil and political rights is provided through the lenses of gender sensitivity. The states are required “not only to adopt protection measures, but also positive measures, in all areas in order to achieve effective and equal empowerment of women.<sup>20</sup> Whereas, the Committee on Economic Rights in General Committee, No.22, on the right to sexual health and riproduction, adopted in 2016, emphasises the obligation of states to adopt and implement laws against gender based violence, as well as guarantee legal effective remedies against sexual health violations.<sup>21</sup>

### **2.2.3 European Convention on the Protection of Human Rights and Fundamental Freedoms**

Euroepan Convention on Protection of Human Rights and Fundamental Freedoms is a treaty, drafted to protect human rights, democracy and legal state. Eurpoean Court on Human Rights monitors the implementation of Convention. Though without any doubt, all the rights enshrined in the Convention, are essential for realising the rights of women; when speaking about violence against women, it could be emphasised: Article 2 ( Right to life), Article 3 (Prohibition of Torture and inhumane and degrading treatment), Article 5 (Right to Freedom and Security), Article 6 ( Right to a fair trial and public hearnig in due time and by a competent, independent and impartial Tribunal, established by the Law), Article 8 (Right to respect for private and family life), Article 13 (Right to effective judicial remedies) and Article 14 (prohibition of discrimination). Whereas, Article 14, refers to the rights stipulated in the European Convention. Protocol 12, of the European Conventions Evropiane guarantees the right on the equity that stands independent, foreseeing a complte independent implementation of the non-discrimination principle, “for every right stipulated by the Law.”

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<sup>19</sup>International Covenant on Civil and Political Rights, Article 2.1 and Article 3; International Convention on Social, Economic and Cultural Rights, Article 2.2 and Article 3.

<sup>20</sup>General Comment 28, point 3.

<sup>21</sup>General Comment22, point 49 (d) and (h).

A special importance of the Conventions remains with the fact in creation of the European Court on Human Rights. More and more, the jurisprudence of this Court, analyses the violence against women and domestic violence through the lenses of the human rights. These Decisions of the European Court, emphasise the need for setting effective measures by the national authorities on domestic violence victims. Furthermore, the decisions set the principle that the failure of the national authorities in exercising adequate protection of women, victim of domestic abuse, involve gender based discrimination and violation of women rights for equal protection before the court.<sup>22</sup> European Court recognises that the full effect of the European Convention on Human Rights can be reached only through subtle interpretation and implementation of its provisions that takes into consideration factual inequities between women and men and the manner on how they affect the lives of women.

## 2.3 Special Instruments on Human Rights

Except, comprehensive instruments on human rights, a set of international acts and special instruments on human rights at the international and regional level, present the standards widely recognised that guarantee for the rights of women and girls, and serve as a tool for prevention of violence against women and girls.

### 2.3.1 Convention on the Right of the Children

Article 19, of the Convention on Children's Rights,<sup>23</sup> states that any kind of abuse against children is prohibited. Convention requires from the states to adopt all relevant legislation, and to undertake all adequate administrative, social and educational measures, to protect the children from all forms of physical and mental abuse, harm or maltreatment, negligence or use, including sexual abuse, while under parent or parents care, guardian or legal guardian or other persons that child carers.

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<sup>22</sup>See, for instance, Decisions *Kontrova vs Slovakia*, 31 May 2007; *Bevacqua and S. vs. Bulgaria*, 12 June 2008; *Branko Tomasić and others against Croatia*, 15 January 2009; *Opuz vs. Turqisë*, 9 June 2009; *Kaluczka vs. Hungary*, 24 April 2012; *Mudric vs Moldova*, 16 June 2013; *Rumor vs Italy*, 24 May 2014, *M.G. vs Turkey*, 22 March 2016, *Talpis vs Italisë*, 2 March 2017, *Bălşan vs Romania*, 23 May 2017, etc.

<sup>23</sup>Adopted by the UN General Assembly, Resolution 44/25 më 20 nëntor 1989, entered into force, 2 September 1990. <http://www.unmikonline.org/regulations/unmikgazette/03albanian/Ahri/AConRightsChild.pdf>

Based on Convention, protection measures include, when appropriate, effective procedures for drafting social programs for the Children's required support and of those that care for them, as well as other forms of prevention and identification, such as reporting, referral, investigation and prosecution of cases of child abuse, including if requested court procedures.

### **2.3.2 Convention on Elimination of all forms of Discrimination Against Women (CEDAW)**

Generally, discrimination and gender based discrimination, is a phenomenon that affects the core of human rights and fundamental freedoms. For this reason, attention and care to set the standards in international instruments to prevent women's discrimination was key in efforts to recognise women's rights in global level. UN Commission on Women's status, as a body established in 1946, to monitor the situation of women and to promote the women's rights, in continuity has worked in identification of all forms in which women were denied equality rights with men, preparing series of documents, including a declaration which expresses a political will on elimination of discrimination against women. The results, however, were fragmented, because a binding agreement to address fully the discrimination against women was lacking. For this reason, the Commission decided to prepare an international comprehensive instrument and obligatory on Elimination of All forms of Discrimination Against Women (CEDAW), adopted by the UN General Assembly in December of 1979,<sup>24</sup> which was enforced in September of 1981. Until today, it is ratified by 189 states, or more than 90 % of the UN state members which are state parties (member states) of CEDAW.

CEDAW Convention is considered the most relevant international instrument for promotion and protection of women's rights, as it in detail specifies what is considered discrimination against women and specifies all the measures to be undertaken in order to eliminate unequal treatment. It consists of 30 Articles, divided into 4 Chapters. A 16 substantial Articles identify the main women discrimination fields, by specifying also the ways of intervention. The other part has to do with structures and reporting procedures of the CEDAW Convention. State obligations expand, in a special way, not only in public life but also in private life.

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<sup>24</sup>Adopted by the UN General Assembly Resolution 34/180, 18 December 1979, entered into force on 3 September 1981. Convention is widely known as CEDAW, according to the Abbreviation of its Title in English (Convention on the Elimination of All Forms of Discrimination Against Women).

The aim of the Convention is legal recognition of the women's rights and creation of a gender factual equity for women in all fields of life, whether political, economical, social, cultural, civic or family, by eradicating all forms of discrimination against women from any person or organization. CEDAW, in its preamble stipulates that: "full and comprehensive development of a state, the world's welfare and peace require maximal participation of women, in the same conditions as man, in all the fields."

CEDAW sets legal standards for the achievement of gender equality through elimination of discrimination against women. The Convention makes it clear that women enjoy full and equal human rights. It also, secures the ground for realization of equity between women and men, through ensuring equal access and through provision of equal opportunities. As a primary obligation for state parties, CEDAW sets the improvement of women's position in the society. Convention, also requires a change in the traditional attitude towards women.

CEDAW is the first treaty of human rights that explicitly addresses multiple gender based discrimination:

"Discrimination against women" shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."<sup>25</sup>

States should not allow discrimination against women, and in particular are obliged to:

- To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;

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<sup>25</sup>CEDAW, Article 1.



- To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;
- To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- To repeal all national penal provisions which constitute discrimination against women.

Besides appropriate measures<sup>26</sup> in all fields, and particularly in the political, social, economic and cultural fields, all appropriate measures, including legislation, are set to ensure the full development and advancement of women with the purposes of guaranteeing them exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.<sup>27</sup>

Furthermore, ‘to modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women, and to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.’<sup>28</sup>

Article 6, obliges states to adopt legal measures for combating all forms of women’s trafficking and used for women prostitution, but also to undertake all adequate measures that affect causes and consequences of these phenomenons to prevent them.

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<sup>26</sup>Ibid, Article 3.

<sup>27</sup>Ibid, Article 4.

<sup>28</sup>Ibid, Article 5.

CEDAW guarantees equal participation of women in politics and public life. States are obliged to ensure voting rights for women, participation in elaborating and implementing state policies and a rights to exercise all public functions in all levels of the government.<sup>29</sup> Also, the equity is guaranteed to represent their governments in international arena.<sup>30</sup>

Based on CEDAW, states should guarantee equal rights for women and men in the fields of receiving, changing and maintaining citizenship.<sup>31</sup> Furthermore, states should ensure that women and men have the same rights in education, by adopting all adequate measures to eliminate discrimination, and by providing education that combats gender based stereotypes.<sup>32</sup>

Article 11, prohibits discrimination in the employment field of rights, by guaranteeing, on the grounds of equality between women and men, equal rights in employment and realization of all rights deriving from the employment relationship, including the rights for equal reward between women and men for the same job, and a rights in social security and social benefits. Paragraph 2, of this Article is referred to prevention of discrimination against women based on marital status and maternity, and protects women's rights during the pregnancy and in maternity. It is worth to mention that gender gap in realizations of these rights does not exist. As illustration can serve the request for equal payment for same job, which is still a problem even in developed countries. Statistical data show that in member state countries of EU, women earn around 16% less hourly than men.<sup>33</sup>

On this, CEDAW verifies the equal rights of women in access to healthcare and guarantees equal opportunities in utilising health services including family planning.<sup>34</sup> State parties, should also eliminate discrimination against women in all fields of social and economic life, providing equal opportunities and rights in the fields of economy, culture and sport.<sup>35</sup> Convention, particularly refers to the position of village women and it foresees a number of measures for the equal participation of women in all activities in local level.<sup>36</sup>

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<sup>29</sup>Ibid, Article 7.

<sup>30</sup>Ibid, Article 8.

<sup>31</sup>Ibid, Article 9.

<sup>32</sup>Ibid, Article 10.

<sup>33</sup>EU Statistical Office, EUROSTAT, [http://ec.europa.eu/eurostat/statistics-explained/index.php/Gender\\_pay\\_gap\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Gender_pay_gap_statistics)

<sup>34</sup>CEDAW, Article 12.

<sup>35</sup>Ibid, Article 13.

<sup>36</sup>Ibid, Article 14.

CEDAW obliges the state parties to ensure equity of woman and man before the law, as well as to guarantee same legal capacity, as a necessary standard for realization of equal rights.<sup>37</sup>

The states, also are obliged to eliminate discrimination in all the issues that have to do with marriage and family relationship. Amongst other, included are, equal rights to enter marriage and to choose a spouse freely; equal rights of spouses during and after the marriage; equal rights of the spouses regarding property, as well as parental rights and responsibilities, regardless marriage status. It is expressed, that early marriages of minors are with no legal effect, and it is required the issuance of laws specifically for the minimum marital age.<sup>38</sup>

#### **a) Committe for Elimination of Discrimination Against Women (CEDAW Committee)**

Based on CEDAW<sup>39</sup> provisions, is established a Committee for Elimination of Discrimination Against Women (Committee CEDAW), with the aim of monitoring the implementation of Convetion and to review the achievements of the states in its implementaion, by comparing accordance of states with the obligations agreed.

CEDAW Committee, consists of twenty three (23) experts and annually reports to the UN General Assembly. A committeee, also can make suggestions and general recommendations baased on the report review and informations received by state parties. States presents periodical reports at the CEDAW Committee (at least in every four (4) year, and upon request from the Committeee), reprotng on the progress of implemenation of CEDAW and in fullfilling recommendations provided by CEDAW Committee. Committee makes recommendations on issues for which it believes state parties should pauy more attention. NGO's, may also submitt alternative reports (so called 'shadow reports') with the Committee CEDAW, by showing flaws and challenges in implementaion of the CEDAW Convention, not mentioned in the official report of their state. NGO support, especially of women, to for monitoring is a very important step, to see if the states are fullfilling their obligations.

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<sup>37</sup>Ibid, Article 15.

<sup>38</sup>Ibid, Article 16.

<sup>39</sup>Ibid, Article 17.

In October of 1999, the UN General Assembly adopted a Facultativ Protocol of the Convention on Elimination of All Forms of Discrimination Against Women, and has called upon all state parties to the Convention, to become as soon as possible parties of this Instrument, too. The Protocol was enacted in December of 2000. This Protocol is of special importance, because it provides the possibility for the CEDAW Committee to address individual appeals on the act of violence of the rights guaranteed by CEDAW. The Appeals can be lodged by individuals or groups of individuals that pretend violence of their acts or someone else with their consent. Protocol, aslo enables the CEDAW Committe to impelemnt investigation procedures for systematic violations or grave violations of the rights. Facultative Protocol strengthens the supervisory mechanisms of the Convention, and it aslo foresees the obligation of states for sensibilisation of the public opinion on the content of the Convention (CEDAW).

Discrimination against women and girls are closely linked. The issue of gender based violence, eventhough not specifically treated in CEDAW (except trafficking and prostituion), is clearly essential for its provisions, whereas its clauses against discrimination enable women's protection against violence. General Reccommendation No. 12 of the CEDAW Committe in 198, emphasised the obligation of states to protect women from violence based on the different Articles of the Convention CEDAW, and requested from the states to include ifnormation on the incidents of violence in their reports. Furthermore, General Reccommendation No. 19, formulated by the Committee in 1992, accentuated that gender based violence is a form of discrimination that affects heavily women's human rights.

General Recommendation. 19, of the CEDAW Committee, deals entirely with violence against women. Recommendation explicitly stipulates that gender based violence is a form of discrimination that seriously hinders abilities of women in enjoying equaly with men their rights and freedoms. This should be considered by the state parties when they draft and review their laws and policies. The Recommendation, also highlights that gender based violence presents discrimination as per Article 1 of the CEDAW.

Recommendation, further on, stipulates that violence against women is a "violence that is directed towards women for the fact of being a woman, or it affects women disproportionately." Statets should consider gender based violence when act and report based on CEDAW. Moreover, based on Recommendation No. 19, the states also can be responsible for private

actions if they do not take precaution measures to prevent breaches of the rights and to investigate and punish violent acts and to ensure compensation.

General Recommendation No. 35, of the CEDAW Committee, issued in July of 2017, updates the General Recommendation No. 19. This Recommendation recognises that prohibition of gender based violence is done according to the customary international law, and widens the understanding of the violence to include violences of the sexual health and reproductive health rights. Recommendation No.35, re-emphasises the need to change social norms and stereotypes that support violence, and clearly define the level of the state responsibilities for their actions and omissions committed by state actors, as well as for the failures to act with adequate caution, to prevent violence committed by the private entities.

### **2.3.3 Declaration on Elimination of Violence Against Women**

In the beginning of the 1990, the women's movement efforts to gain recognition on the violence against women as an issue of the human rights violation gained started to spread. In a World Conference on Human Rights in Vienna, in 1993, the women's movements and BGO's, were lobbying to reestablish the framework of the law on human rights, including women's rights. They have presented around half of the million signatures from 128 countries by requesting that violence against women should be known as a violation of the women's human rights.

The process of inclusion of violence against women in a defined manner in international Agenda culminated with the adoption of the Declaration on Elimination of Violence Against Women in 1993, by the UN General Assembly.<sup>40</sup> The Adoption of the Declaration is of a special importance. Declaration on Elimination of Violence Against Women is a first international document that explicitly treats violence against women, creating standards in international law for protection of women against sexual violence and gender based violence and by securing a reaction. The Declaration states that violence against women hinders, harms and prevents women from enjoying their rights and expresses concerns due to the failure to protect women from violence for a long time.

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<sup>40</sup> Adopted by the UN Resolution No. 48/104, December 20th, 1993, available at: <http://www.un.org/documents/ga/res/48/a48r104.htm>

Declaration on Elimination of Violence Against Women, recognizes that:

- Violence against women is a manifestation of historically unequal power relations between men and women;
- Domination over and discrimination against women by men and to the prevention of the full advancement of women;
- Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.

Declaration on Elimination of Violence Against Women defines violence against women as: “Violence against women” means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.”

A Declaration makes a distinction between violence against women as a violence that occurs within the family, a violence that occurs within the general community, and a violence committed or approved by state. In this way, the Declaration provides a full definition of the violence against women, by explaining, that:

“Violence against women includes, but is not limited to:

1. Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation;
2. Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution;
3. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

The Declaration, not only that states that state actors should refrain from involvement in violence acts against women, but also states that states should undertake affirmative measures

to prevent and punish violence committed by public and private actors and to establish care networks for gender based violence victims.

#### **2.3.4 Beijing Declaration and Platform for Action**

The fourth World Conference on Women is held in 1995, in Beijing. The Conference generated global engagements for the gender equity advancement. Beijing Declaration and Platform for Action, adopted unanimously by 189 states, established a comprehensive agenda for women empowerment and presented a powerful political document on gender equity. In the Beijing Declaration stated that “advancement of women and achievement of equity between women and men are human right issues and a condition for social justice and should not be seen isolated as a women’s issue.” Beijing Declaration established aims and strategic actions on women advancement and equity achievement in a number of critical fields, including education, healthcare, violence against women, women and media, environment, women and business, state power and decisionmaking, and institutional mechanisms. Beijing Platform for Action identifies specific actions which governments should undertake to prevent and react on violence against women. The elimination of violence is one of the priority action fields, emphasising that violence against women is also a violence of women’s human rights and an obstacle in full enjoyment of women rights. A focus is on the request for the accountability from the state for actions to prevent and eliminate violence against women. A Platform includes a wide definition of the forms of violence.

#### **2.3.5 UN Security Council Resolution No. 1325 on Women, Peace and Security**

Resolution 1325 on Women, Peace and Security of the UN Security Council, <sup>41</sup>adopted in 2000, presents a historical momentum in addressing violence against women in armed conflict situation. Aware of the need for full implementation of the laws that protect women and girls during and after the armed conflict, the Resolution calls upon parties of the armed conflicts for special measures of protection from gender based violence, rape and any other sexual abuse of women and girls. The Resolution also stipulates the responsibility of all the states to put an end to non-punishment, by ensuring criminal prosecution against women violence perpetrators.

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<sup>41</sup>UN SC Resolution 1325 (2000), adopted by Security Council in its 4213 meeting, on 31st of October 2000, <http://www.un-documents.net/sr1325.htm>

### **2.3.6 UN Resolution on Elimination of family Violence Against Women**

In 2004, UN General Assembly adopted Resolution on Elimination of Domestic violence against women.<sup>42</sup> For the first time, at global level, by this Resolution it is recognised that domestic violence is a “public concern.” Resolution call upon states to undertake serious actions to protect victims and prevent domestic violence. The Resolution also requires for bigger security for women through protection orders for violent spouses.

### **2.3.7 Direct Application of International Instruments**

Based on Article 22, of the Republic of Kosovo Constitution, relevant international instruments on human rights are directly applicable in Kosovo and they prevail in case of conflicting with domestic legislation. Here are included, the Convention on Elimination of all Forms of Discrimination Against Women (CEDAW); Universal Declaration on Human Rights; European convention on Human Rights and Fundamental Freedoms; International Covenant on Civil and Political Rights; and Convention on the Rights of the Child. Moreover, based on Article 53 of the Constitution, human rights and fundamental freedoms should be interpreted in compliance with the decisions of the European Court on Human Rights.

## **3. Council of Europe Convention on prevention and combating violence against women and domestic violence (Istanbul Convention)**

### **3.1. Background**

Council of Europe, is an intergovernmental organization with 47 member states, and a main European organization for protection and promotion of human rights, democracy and rule of law. Consistent efforts to promote women’s rights, have raised global understanding that effective implementation of women’s rights means combating violence against women. These efforts have been intensified especially from nineties, and similarly with global initiatives, Council of Europe undertook a series of initiatives for urging protection of women from violence. In particular, these initiatives resulted with the adoption of Recommendation Rec (2002)5, of the Committee of Ministers of Council of Europe, for protection of women against violence, and Recommendation Rec (2007)17, on standards and mechanisms of gender equity.

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<sup>42</sup>UN Resolution No. 58/147, on the Elimination of Violation Against Women, A/RES/58/147, 19 February 2004. <http://www.worldlii.org/int/other/UNGARsn/2003/185.pdf>



Parliamentary Assembly of Council of Europe, has also testified a powerful political attitude against all forms of violence against women. A vast number of resolutions and recommendations that called for obligatory legal standards on preventing and protecting as well as criminal prosecution of the most serious and prevalent forms of the gender based violence, are adopted.

To give another push for elimination of violence, from 2006-2008, a wide European campaign is organised in order to get attention of the lawmakers and public opinion on the need to combat violence against women, including domestic violence and sexual violence. Studies and observation showed indicated about the size of the problem. On the other hand, the campaign, in particular revealed that national responses against violence against women and domestic violence were changing throughout Europe. The need for harmonised legal standards to secure that victims are benefiting from the same protection level as elsewhere in Europe, became apparent. Political will for action increased, and discussion started on the need to empower women protection against violence and domestic violence, especially from the intimate partner. Council of Europe, decided that it was necessary to set comprehensive standards. In December of 2008, a Council established a group of experts to prepare a Convention which would regulate the issue of preventing and combating violence against women and domestic violence. The Draft of the Convention has been finalised in December of 2010.

Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) is adopted by the Council of Europe Committee of Ministers, on April 7th of 2011.<sup>43</sup> It opened for signatures in May 11th of 2011, on the occasion of Committee Ministers' meeting in Istanbul, and enacted as of 1st of August 2014.

### **3.2 Summary**

Convention on Preventing and Combating Violence Against Women and domestic violence is the first European Convention that in a complex and comprehensive manner deals with the issue of violence against women. At the same time, it is the most progressive treaty, which in detail deals with violence against women as a specific violation against women. Convention includes very

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<sup>43</sup>See, the Text of the Convention, on <https://www.coe.int/en/web/istanbul-convention/text-of-the-convention>

detailed provisions regarding the measures that states should include in preventing and violence against women and domestic violence, for victim's protection and punishment of the criminal offence perpetrators.

Convention, recognises the violence against women as a grave violation of human rights and as a form of discrimination. Convention, also stipulates that violence against women is a consequence of social inequality and it follows due to the culture of non-tolerance and denial. Istanbul Convention, makes a new call on women and men equity. As such, the Convention, is a treaty of human rights, and an instrument for bigger gender equity.

Similarly, the Convention is a first international treaty that contains a definition on gender, by emphasising that there exist a social context, which determines roles and behaviours of women and men. The Convention asks for a change in behaviour, roles and gender stereotypes that make acceptable violence against women, by inviting community members, especially men and boys, to change the behaviours.

For the first time in history, Istanbul Convention, clarifies that violence against women and domestic violence cannot be considered a private matter any longer, but the states have an obligation to treat it effectively, whether in times of peace or during armed conflicts. Based on the Convention, violence against women should be considered a criminal offence and punished by law, including physical, sexual and psychological violence. Also, for the first time, the states are required to criminalize various forms of violence against women, and to include sexual harassment, forced abortion and sterilization, as criminal offences in their legislation.

With adoption of the Convention, states parties are obliged to change their laws, to approve practical measures and to distribute resources to prevent and treat violence against women and domestic violence in effective way. Aiming at protection of women from violence, the Convention, foresees standards and a number of support services for the empowerment of victims and their ability to raise, by specifying the types of services available and sensitive gender access to be applied in the provision of these services.

Convention call on for a holistic approach and coordinated approach on violence against women and domestic violence, by asking the involvement of all institutions and related services, including cooperation with NGO's. On NGO's, the Convention ensures a strong base

for advocacy and request of an improved reaction from the government on violence against women by indicating intervention fields. NGO's also, can utilise Convention, as an legal instrument of appropriate reaction on violence against women, which at the same time serves as a indicator fro the development of awareness programs, prevention and protection.

Convention aims to create a Europe without violence against women and domestic violence and protects all women and girls, regardless of gender, rase, religion, nationality, social origin, sexual orientation, civil status, immigrant or refugge. States are, also enciuraged to implement the Convention and for other victims of domestic violence, such as, men, children and elderly.

Monitoring of implementaion of Convention is done by a Group of Experts, so called "Experts Group on measures against violence and domestic violence" (GREVIO), and Parties Committee, which is a political organ, comprised of representatives of state parties in Convention.

### **3.3 Aims and definitions**

The aims of the Convention defined in Article 1, are:

- a. protect women against all forms of violence, and prevent, prosecute and eliminate violence against women and domestic violence;
- b. contribute to the elimination of all forms of discrimination against women and promote substantive equality between women and men, including by empowering women;
- c. design a comprehensive framework, policies and measures for the protection of and assistance to all victims of violence against women and domestic violence;
- d. promote international co-operation with a view to eliminating violence against women and domestic violence;
- e. Provide support and assistance to organisations and law enforcement agencies to effectively co-operate in order to adopt an integrated approach to eliminating violence against women and domestic violence.

The Convention makes it clear that it applies for all forms of violence against women and domestic violence. By also, recognising that man can also become a domestic violence victims, it is stated that domestic violence affacts women in disproportional way, as women adn girls

are more than man exposed to a higher risk of gender based violence. Eventhough, the state parties are encouraged to apply the Convetnion for all domestic violence victims, meaning also the acts of violence against men and children, the main focus is on women and girls (Article 2).

In Article 3, the Convention provides definitions. Definition of violence against women implies that this form of violence, is understood as a violation of human rights and a form of discrimination against women. Economical gamages are also included, compared to earlier definitions. On this, it is explained:

“**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.”

Convention provides a wide definition on domestic violence that covers acts of violence, physical, sexual, psychological or economic harm between family members or a household, regardless biological or legal relationship and the fact of wither they live together or not. The defintion on gender is neutral, and includes the victims and perpetrators of both genders, as in the following:

“**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.”

A victim is definied every physical person that experinces violence against women and domestic violence.

Convention puts the obligation on preventing and combating violence against women within the achievement of equity between women and men. For this reason, the drafters considered

important to legally define, for the first time in an international treaty, a gender concept, to enable a provision of violence definition through gender perspective.

**“Gender”** shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.”

**“gender-based violence against women”** shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.”

Aware of the facts that more acts of violence are committed against girls, the drafters do not aim to limit the application of the Convention only to the adult victims. This way, it is explicitly stated that the ‘women’ term includes girls also, under the age of 18 years old.

### 3.4 Basic Rights, equity and nondiscrimination

Istanbul Convention recognises that gender violence against women “constitute a serious violation of the human rights of women and girls and a major obstacle to the achievement of equality between women and men.”<sup>44</sup> States undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women.<sup>45</sup>

Article 4, emphasises a right of a person to live without violence both in public and private. Basic principle of the Convention, is its application without discrimination. Based on the Convention all rights 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.”<sup>46</sup>

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<sup>44</sup> Istanbul Convention, Preamble.

<sup>45</sup> Ibid, Article 6.

<sup>46</sup> Ibid, Article 4.3

Discrimination against women creates an atmosphere of support and tolerance of violence. For this reason, principle of substantial equity between women and men requires from state parties not only sanctioning of all forms of discrimination against women, but to embed in their national constitutions or other appropriate legislation the principle of equality between women and men and ensuring the practical realisation of this principle by also abolishing laws and practices which discriminate against women.<sup>47</sup>

### 3.5 Obligation of state

Based on International human rights Law, parties shall refrain from engaging in any act of violence against women and ensure that state authorities, officials, agents, institutions and other actors acting on behalf of the State act in conformity with this obligation. Based on Article 5, of the Istanbul Convention, parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors. 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.<sup>48</sup> To implement policies and measures, states should allocate adequate human and financial resources, and designate or establish one or more official bodies responsible for the coordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence.<sup>49</sup>

Article 9 is relevant for NGO-s, as it stipulates the obligation of the states to “recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.” The aim of this Article is to highlight the important contribution of NGO-s in preventing and combating all forms of violence against women. Thus, by utilizing the Ngo expertise and by including them as partners in cooperation, is enabled the implementation of comprehensive government policies. Researches clearly show that states

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<sup>47</sup>Ibid, Article 4.2

<sup>48</sup>Ibid, Article 7

<sup>49</sup>Ibid, Article 10

with more NGO's, take more effective measures in combating and preventing violence against women and domestic violence. Equity in society can be achieved when women and girls are encouraged to participate in all levels and when they get organised to ask for their rights, including the right not to be violated.

Collection of statistical data at regular intervals was an essential component during the drafting of effective policies in the field of preventing and combating all forms of violence against women. In order to draft evidence based policies and to evaluate the effectivity of the measures it is required to collect statistical data at regular intervals on cases of all forms of violence and support for research studies in the fields of violence against women and domestic violence.<sup>50</sup>

### 3.6 Prevention

To prevent violence against women and domestic violence, Istanbul Convention requires to change the behaviour, roles and gender stereotypes that make acceptable violence against women, by obliging parties to “ take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.”<sup>51</sup>

Prevention is also done through necessary legislative or other measures and by encouraging all society members, especially by making aware men and boys, to actively contribute in preventing all forms of violence against women. Also, the awareness raising for various forms of violence and their consequences; awareness-raising campaigns or programmes, to include gender equity in all educational levels curricula; training of professional staff working with victims and perpetrators of violence acts<sup>52</sup> Convention also requires, to set up or support programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in interpersonal relationships with a view to preventing further violence and changing violent behavioural patterns.

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<sup>50</sup>Ibid, Article 11

<sup>51</sup>Ibid, Article 12.

<sup>52</sup>Ibid, Articles 13-15.

### 3.7 Protection and Support

Parties shall take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand. If prevention measures fail and violence incidents occur, it is important that victims and witnesses are provided support means, protection and intervention by police, as well as specialised services such as shelters and telephone line, and this also means that social services should consider realities and concerns of the victims and support them in starting and building their lives. It is important that victims receive adequate and timely information on available support services and legal measures in a language they understand.<sup>53</sup> This rights is also complemented by the right to legal assistance and to free legal aid provided by the state.<sup>54</sup>

Based on Article 18, of the Istanbul Convention, parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence. These measures should:

- be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;
- be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment;
- aim at avoiding secondary victimisation;
- aim at the empowerment and economic independence of women victims of violence;
- allow, where appropriate, for a range of protection and support services to be located on the same premises;
- Address the specific needs of vulnerable persons, including child victims, and be made available to them.”<sup>55</sup>

Istanbul Convention makes the distinction between general support services and specialised services. Support measures are those facilitating recovery of victims and should include, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment, as well as access to health care and social

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<sup>53</sup>Ibid, Article 19.

<sup>54</sup>Ibid, Article 57.

<sup>55</sup>Ibid, Article 18.3.



services.<sup>56</sup> These services are not only for the victims but serve the wider public. While, specialised support services and adapted assistance are according to the victim's needs and specific types of violence against women and domestic violence. Specialised services include the sufficient number of shelters, free of charge telephone line (24/7) for consultations and support for the victims of violence through referral centers that provide health forensic services as well as psychosocial services.<sup>57</sup> Most of the specialised services can be provided by NGO's.

Also, even that the most of the domestic violence victims are women, it is important to recognise the impact that this might have on children. In many cases, children get asked to testify on the cases of violence. Their needs and rights should be taken into consideration and special support measures and psychosocial measures with due regard to the best interest of a child should be available.<sup>58</sup>

### 3.8 Legal remedies and measures

States should provide the victims with sufficient legal remedies and measures against perpetrator of the violence (such as protection orders), and against state authorities, if they have not fulfilled their tasks in prevention of violence or to protect the victim.<sup>59</sup> Victims have a right to request for compensation from the perpetrators for their violated rights, while the victims that suffered grave body harm or to the health, are entitled to a compensation from the state.<sup>60</sup> Incidents of violence should be considered when Guardianship Decisions are taken and visitation rights or children's contacts, by ensuring that the safety of the child is not in danger. (Article 31).

Istanbul Convention, asks from the states to undertake legislative measures or other measures to guarantee the punishments of the psychological violence, which is defined as an intentional harm of the psychological integrity through a coercion or threats (Article 33). Regardless, that the intention of the drafters was to criminalize psychological violence, the states can declare that they reserve the right to stipulate non-criminal sanctions/punishments for this type of violence.<sup>61</sup>

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<sup>56</sup>Ibid, Article 20.

<sup>57</sup>Ibid, Articles 22-25.

<sup>58</sup>Ibid, Article 26.

<sup>59</sup>Ibid, Article 29.

<sup>60</sup>Ibid, Article 30.

<sup>61</sup>Article 78, paragraph 3.

Based on Article 34, states undertake appropriate legislative measures or other measures to guarantee the punishing of intentional and continuous involvement in threatening behaviour against another person. Also here, the states can state that they reserve the right to put non-criminal sanctions/punishments, for as long as they are effective, proportional and convincing.<sup>62</sup>

Furthermore, the Convention, obliges the states to guarantee the sanctioning of the physical abuse (Article 35) and sexual abuse (Article 36). Explanatory Report of the Convention explains that: “physical violence” refers to a body harm suffered as a result of of a physical use force use, direct and illegal. Based on the Convention, sexual abuse is defined as a “a) forced vaginal penetration, anal or oral of a sexual nature, in a body of the other person with body parts or other objects; b) involvement with a person in other forced acts of a sexual nature; c) urging other person to involve with a third person in forced acts of a sexual nature.” Physical and sexual violence should be punished by law.

Article 37, sanctions forced marriages. States should guarantee incrimination of an obligation of an adult or a child to enter a marriage. Forced marriages can be declared void, annulled or resolved, without a financial or administrative burden for the victim.<sup>63</sup>

States should also foresee in their legislations criminal offences from the female genital mutilation (Article 38), Abortion without consent and forced sterilization (Article 39). Sexual harassment (Article 40) is defined as: “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.”

Istanbul Convention, specifies that culture, custom, religion, tradition or so-called “honour” shall not be regarded as justification for such acts. This covers, in particular, claims that the

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<sup>62</sup> Ibid.

<sup>63</sup> Ibid, Article 32.

victim has transgressed cultural, religious, social or traditional norms or customs of appropriate behaviour.<sup>64</sup>

Furthermore, the offences established in accordance with this Convention shall apply irrespective of the nature of the relationship between victim and perpetrator.<sup>65</sup> The importance of this provision is in the fact that biggest number of the violence against women and domestic violence offences are committed by family members, spouses or intimate partner of the victim. In the past, there were many examples that show avoidance in terms of criminal prosecution for these cases. The most illustrative example is the rape within the marriage.

States should ensure that all criminal acts defined in the Convention, are punished with effective, proportional and prohibition punishments, by considering the grade of their conduct.<sup>66</sup>

Article 48, of the Convention, is of special importance because explicitly prohibits forced alternative processes of conflict resolution, including intermediation and conciliation, in relation to all forms of violence covered by the Convention. Consequently, it requires, that states prohibit in criminal as well as in civil procedures, forced participation in any alternative resolution of disagreement process.

Istanbul Convention, also foresees effective investigations and due time judicial procedures, that provide, sufficient and immediate support for the victims. During all phases of the criminal procedures, the victim's rights should be considered. Moreover, all relevant authorities should assess effectively the level of danger on the security, by which a certain victim is faced and if needed to provide support and coordinated safety. In situations of immediate danger, a state party should undertake measures that perpetrator of domestic violence vacates the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Measures taken pursuant to this article shall give priority to the safety of victims or persons at risk.<sup>67</sup> Also, the Parties shall take the necessary legislative or other measures to ensure that appropriate restraining or protection orders are available to victims of all forms of violence covered by the scope of this

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<sup>64</sup> Ibid, Article 42.

<sup>65</sup> Ibid, Article 43.

<sup>66</sup> Ibid, Article 45.

<sup>67</sup> Ibid, Article 52.

Convention.<sup>68</sup> Giving of orders should not be a financial or administrative burden on victim and not dependant on whether the procedure is ongoing against the perpetrator or not.

### 3.9 Immigration and asylum

Convention prohibits discrimination on the basis of immigration or refugee status, when it comes to implementation of its provisions. It recognises the fact that these two groups are vulnerable towards gender based violence, and requests to undertake measures to prevent such violence and to support victims, through sensitive gender procedures. A special importance is given to the obligations of state to recognise gender based violence as a form of prosecution, to be considered when decided about asylum requests. Furthermore, the Convention defines the obligation to respect nonrefoulement principle, to ensure that victims of women's violence, regardless of their status and their location, will not be returned in no place, where their life is endangered or where they can suffer torture or inhuman or degrading treatment.<sup>69</sup>

### 3.10 Monitoring mechanism of the Convention

Monitoring mechanism of the Istanbul Convention<sup>70</sup> aims to evaluate the implementation of the Convention by the states, and improvement of the implementation. Monitoring mechanism is based in two pillars and consists of two independent but interactive organs: Expert Group for measures on violence against women and domestic violence (so called, GREVIO), and Committee of Parties, as a political body, which consists of representatives of state parties.

GREVIO is an independent experts group. It reviews state/country reports on the implementation of Convention and can take information from NGO's and civil society, as well as from national institutions on human rights protection. Based on all received informations, GREVIO prepares the report and conclusions, which it sends to the state and Committee of Parties. GREVIO, can also organise in-situ visits to complete information, if it considers insufficient or to investigate situations, where problems require immediate attention to prevent grave violations of the Convention. GREVIO can adopt, when appropriate, general recommendations on the topics and Convention concepts.

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<sup>68</sup>Ibid, Article 53.

<sup>69</sup>Ibid, Articles 59-61.

<sup>70</sup>Ibid, Articles 66-70.

Committee of parties, follows on the reports and conclusions of GREVIO, and adopts specific recommendations. It is also responsible for selection of the GREVIO members.

A novelty according to the Monitoring Mechanism of the Istanbul Convention, is the state obligations to invite their parliaments to partake in the monitoring process and to review reports and recommendations of GREVIO. Similarly, for the first time, the Convention foresees more important role in Parliamentary Assembly of the Council of Europe, which reviews the implementation of the Convention in regular intervals.

## 4. National legal framework

For a long time, patriarchal customs, traditional attitudes and gender historic roles have limited the rights of the women in Kosovo, to fully contribute in all the aspects of social life. But, Kosovo has taken important steps to create a legal framework and policies aiming at improvement of women's position. The Republic of Kosovo Constitution ensures gender equality as a fundamental value for the democratic development of the society, providing equal opportunities for both female and male participation in the political, economic, social, cultural and other areas of societal life. (Article 7). There is also, no lack of laws and institutional mechanisms for treatment of gender based discrimination. Special attention has been given to the protection against domestic violence. However, there is still no law or comprehensive strategy to treat all forms of violence against women or gender based violence.

### 4.1 Law No. 05/L -020 on Gender Equity

Law No. 05/L -020, on Gender Equity deals with gender equity issues in Kosovo,<sup>71</sup> and decides equity between the genders as an essential value for the democratic development of the Kosovo society. The law guarantees equal opportunities and equal treatment of women and men, same in both public and private life. Based on Article 3, paragraph 1.1, gender equality is the entire and equal exercise of women and men, of their human rights. It is, the non-presence of gender based discrimination in opportunities, sharing of resources or benefits, as well as access to services. Unequal representation- is when the participation or representation of one gender is

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<sup>71</sup>Law No. 05/L -020, on Gender Equity, enacted in 2015, and will replace the Law on gender equity from 2004, in order to align with the international standards. <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=10923>

less than fifty percent (50%) at any level of decision-making body in political and public life.<sup>72</sup> Law on gender equity, moreover, in Article 4, prohibits the direct or indirect gender discrimination. Based on the Law, direct gender discrimination occurs, when a person is treated less favourably than a person from another gender in a comparable situation, while indirect gender discrimination occurs when a provision, criteria or practice that ‘seems’ impartial, but puts a person of another gender in an unequal position.

Law on gender equity, further on provides (Article 3. 1.18), provides a definition of a gender based violence, which “Violence on the grounds of gender- shall mean all acts of violence that result in, or are likely to result in, physical, sexual, psychological, social or economic harm or suffering on the grounds of gender, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.” Further on, Article 4.2, defines: “Gender-based violence is a form of discrimination that seriously inhibits women’s and men’s ability to enjoy rights and freedoms on a basis of equality and is prohibited.” It is worth to mention, that this definition is limited in the discrimination nature of violence, by avoiding categorization of violence as a human rights violence. The definition, also treats violence against both genders and lacks a sensitive approach against women’s violence.

On contrary, Istanbul Convention, recognises a structured nature of violence against women as gender violence and states that women and girls are more than men exposed to gender based danger. For this reason, Istanbul Convention defines gender violence as a violence that is directed against a woman for the mere fact of being a woman, or that affects women disproportionately. As such, within the Convention, the violence is a women’s human right abuse, which at the same time presents a social mechanism of women’s obedience. This is not reflected in the Law on gender equity, even though the Law, defines a number of measures and mechanisms to take care for and achieve gender equity.

In compliance with the set requirements in the Law, there has been drafted a *Program on Gender Equity in Kosovo (2008-2013)*, which elaborated further integration of the gender equity principle in the laws, policies and public services.

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<sup>72</sup>Law No. 05/L -020, on Gender Equity, Article 3. 1.15.

## 4.2 Law No. 05/L -021, on protection against discrimination

Non-discrimination principle is one of the main principles of the constitutional order in Kosovo. Law No. 05/L -021, on protection against discrimination,<sup>73</sup> applies this principle in practice, and prohibits all forms of gender based discrimination in Kosovo society. The Law defines “a general framework on prevention and combating discrimination based on nationality or community belonging, social or ethnic origin, race, colour, gender, sexual orientation, language, country, religion and belief, political affiliation or other opinions, age, family status, genetical inheritance, wealth, disability, aiming at equal treatment.” (Article 1). Furthermore, the Law stipulates that “it applies for all omissions or non-omissions acts of all central and local institutions, physical and legal persons of public and private sector, that violate or have violated the rights of any person or physical and legal persons in all fields of life.” Therefore, to make real the equal treatment principle, the law stipulates indefinite prohibition of all forms of domestic violence and provides legal protection not only from public organs but also from private organizations and individuals. Discrimination is prohibited in access and enjoyment of any rights as defined in the law. The law also defines institutional mechanisms and procedures on protection from discrimination, whereas discriminatory acts present minor offences and are punished by fine.<sup>74</sup>

## 4.3 Law No. 03/L-182, on protection from domestic violence

Law No. 03/L-182, on protection from domestic violence, is enacted in August of 2010. The aim of this law is prevention of the domestic violence and all of its forms as well as treatment of the violence with adequate legal measures. Besides, protection of victims with protection measures, the law aims to provide a legal base for the treatment of the domestic family perpetrators and mitigation of consequences.<sup>75</sup>

Law on protection against domestic violence, lists in detail the behaviours that constitute domestic violence, including physical, psychological and sexual acts, by leaving open the possibility of including any other violent act conducted within the family. Based on, Article 2.1.2., domestic violence is defined as “one or more intentional acts or omissions when

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<sup>73</sup>Law is enacted in June of 2015, abolishing Law No. 2004/3 against discrimination, <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=10924>

<sup>74</sup>Law No. 05/L -021, on protection against discrimination, Article 23.

<sup>75</sup>Law No. 03/L-182, on protection against domestic violence, Article 1.

committed by a person against another person with whom he or she is or has been in a domestic relationship, but not limited to:

- 1.2.1. Use of physical force or psychological pressure exercised towards another member of the family;
- 1.2.2. Any other action of a family member, which may inflict or threaten to inflict physical pain or psychological suffering;
- 1.2.3. causing the feeling of fear, personal dangerousness or threat of dignity
- 1.2.4. physical assault regardless of consequences;
- 1.2.5. insult, offence, calling by offensive names and other forms of violent intimidation;
- 1.2.6. repetitive behaviour with the aim of derogating the other person;
- 1.2.7. non-consensual sexual acts and sexual ill-treatment;
- 1.2.8. unlawfully limiting the freedom of movement of the other person;
- 1.2.9. property damage or destruction or threatening to do this;
- 1.2.10. causing the other person to fear for his or her physical, emotional or economic wellbeing;
- 1.2.11. forcibly entering removing from a common residence or other person's residence;
- 1.2.12. kidnapping.”

A right to enjoy protection and support belongs to all persons in family relationship, which based on the Article 2.1.1, includes persons, that “are engaged or were engaged; are married or were married; are in extra martial union or were in extra marital union; are cohabiting in a common household or were cohabiting in such a household; use a common house and are in connection by blood, marriage, or adoption, in-law or are in a guardian relationship, including parents, grandparents, children, grandchildren, nephews, siblings, aunts, uncles or cousins; are parents of a common child; are procedural parties in a dispute of family relationship.”

In order to prevent and protect victims from re-offending in the family, the Law on protection against domestic violence specifies the protection measures rendered, including: Protection Measure of Psycho-Social Treatment (Article 4); prohibition of approaching the domestic violence victim (Article 5); Prohibition of Harassment to Persons Exposed to Violence (Article 6); Removal from Apartment, House or other Living Premises (Article 7); Accompanying Victim of Violence (Article 8); medical treatment from alcohol dependency and dependency from psychotropic substances (Article 9); Confiscation of Item (Article 10); and Property Protection Measures (Article 11).



Basic Court is competent for issuing protection measures, and can render Emergency Protection Order.<sup>76</sup> These Court Orders are rendered in cases where there are suspicions that the perpetrator invariably presents a danger for safety, health and welfare of the victim.<sup>77</sup> After court work hours, the police can render an Emergency Protection Order, in cases of direct and immediate danger for the victim. Emergency Protection Order expires at the end of the next Court work day.<sup>78</sup>

Requests for any type of the Order can be submitted by the victim, authorised representative, victims advocate, or in cases when the victim is minor by the Center for Social Work. Emergency Protection Order requests and for temporary Emergency Protection Order can also be submitted by the victim's family related person or persons that directly know about domestic violence acts or from NGO's familiarised with the victim and that possess reliable information on domestic violence. If possible, the evidences are attached to the request.<sup>79</sup> The Court decides on the requests for Protection Orders within 15 days of submission, while the procedure based on the request for the Emergency Protection Order is urgent and the Court should decide within 24 hours after the request submission.<sup>80</sup>

Protection Order is rendered for a period of time, which cannot be longer than 12 months and can be extended for a maximum of 24 months. Emergency Protection Order is temporarily issued and within eight (8) days of its issuance, the hearing session will be scheduled for verification. Emergency Protection Order expires at the end of the verification hearing session, and if established, the court replaces it with the Protection Order.<sup>81</sup> In the Protection Order and the Emergency Protection Order should clearly note the Court protection measures and should be stated that non-obedience is a criminal offence.<sup>82</sup> A competent body for execution of protection measures is the Kosovo Police.<sup>83</sup> Police should respond to every information on domestic violence, or protection order violation, or emergency protection order, regardless of who provides the information. Also, if there is a reasonable suspicion for the occurrence of a domestic violence act, the police will detain the assumed offender in compliance with the law.<sup>84</sup>

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<sup>76</sup>Ibid, Article 3.

<sup>77</sup>Ibid, Article 17. 1.

<sup>78</sup>Ibid, Article 22.

<sup>79</sup> Ibid, Article 14.

<sup>80</sup> Ibid, Article 15 and 16.

<sup>81</sup> Ibid, Article 18.

<sup>82</sup> Ibid, Article 18.

<sup>83</sup> Ibid, Article 3.

<sup>84</sup> Ibid, Article 24.

Regardless, that the Law on protection against domestic violence is a civil law, with the main aim of ensuring victim's protection, and not foresee criminal punishment, it stipulates that protection order violation, or emergency protection order, is a criminal offence prosecuted ex officio. The violation is sanctioned by fine in the amount of EUR 200 (two hundred), up to EUR 2000 (two thousand), or the imprisonment for up to six (6) months.<sup>85</sup>

#### 4.4 Sublegal acts, procedures and action programs

Law on protection against domestic violence foresees the issuing of sub-legal acts and drafting of the Program against domestic violence, to implement legal provisions. Until now, two sub-legal acts have been adopted aiming at treatment of domestic violence perpetrators: *Administrative Instruction (UA) No. 12/2012 on defining the location and the way of psychosocial treatment for domestic violence perpetrators*,<sup>86</sup> applied on the domestic violence perpetrators against which the court renders the obligatory psychosocial rehabilitation treatment, and *Administrative Instruction (UA) No. 02/2013 on the way of treating domestic violence perpetrators against which a protection measure of obligatory health treatment from alcohol and psychotropic substances dependency has been rendered*.<sup>87</sup> Sub-legal acts enable the provision of psychosocial and health services by licensed NGO's.

To consolidate interaction and cooperation between the key actors, in order for the adequate addressing of the domestic violence, Kosovo Government drafted and implemented a *Kosovo Program Against Domestic violence and Action Plan 2011-2014*, which has helped in establishing efficient and comprehensive mechanisms on preventing domestic violence, protection and rehabilitation of victims.

*Standard Operation procedures on Protection from Domestic Violence* are adopted in 2013, to establish a coordinated institutional system, which enables immediate and constant reaction to the domestic violence cases. Standard Operation Procedures provide a detailed description of roles and responsibilities for police, social workers, victim's advocates including judges, teachers, health workers, prosecutors and shelter staff in identification, referral as well as

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<sup>85</sup> Ibid, Article 25 and 26.

<sup>86</sup> Adopted by the Prime-minister of the Republic of Kosovo, in 2012.

<sup>87</sup> Adopted by the Ministry of Health, 2013.

assisting the domestic violence victims. NGO's have been involved as non-governmental support partners in service provision.

National Legal framework is completed further with the the Republic of Kosovo National Strategy on protection against domestic violence and Action Plan 2016 – 2020, which will be elaborated in more detail in the text.

#### **4.5 Kosovo Criminal Code**

Kosovo Criminal Code No. 04/L-082, enacted in January 1st, of 2013, does not provide a definition on domestic violence, but defines a number of criminal acts providing a base for criminal prosecution, if they are conducted within family relationships, amongst which, Slavery, slavery-like conditions and forced labour (Article 169); Aggravated murder (Article 179); Inciting suicide and assisting in suicide (Article 183); Unlawful termination of pregnancy (Article 184); Light bodily injury (Article 188); Grievous bodily injury (Article 189); Threat (Article 185); Harassment (Article 186); Assault (Article 187); Coercion (Article 195); Unlawful deprivation of liberty (Article 196); Infringing inviolability of residences and premises (Article 200); Rape (Article 230); Sexual assault (Article 232); Degradation of sexual integrity (Article 233); Sexual abuse of persons with mental or emotional disorders or disabilities (Article 234); Sexual abuse of persons under the age of sixteen (16) years (Article 235); Sexual relations within the family (Article 243); Failure to report child abuse (Article 254); Forced marriage (Article 246); Extramarital community with a person under the age of sixteen (16) (Article 247); Unlawful taking or keeping of a child (Article 249); Illtreatment or child abandonment (Article 250); Violating family obligations (Article 251); Avoiding maintenance support (Article 252); Blackmail (Article 341); Damaging another person's property rights (Article 344), etc. Criminal Code, Article 120 paragraph 37, defines 'Vulnerable victim - a child, a physically or mentally handicapped person, a person suffering from diminished capacity, a pregnant woman, or a domestic partner.' In cases when criminal offence is conducted against vulnerable victim, the perpetrator is rendered higher punishments. Also, based on

Article 74, paragraph 2.12, when the court renders the decision, the court considers as aggravating circumstances the cases where the criminal act is a consequence of gender based violence or sexual orientation.

It should be mentioned that Istanbul Convention, asks the states to take necessary legal measures to secure investigation and effective criminal prosecution for criminal acts against women and domestic violence. For this reason, the Republic of Kosovo National Strategy on protection against domestic violence and Action Plan, recommends the amending of the Criminal Code, with the aim of classification of domestic violence a criminal offence.

#### **4.6 Kosovo National Strategy on Protection Against Domestic Violence and its Action Plan 2016–2020**

Kosovo National Strategy on the Protection Against Domestic Violence and its Action Plan 2016–2020, is drafted in order to serve as a Guide towards a society free of violence, which at its core has a healthy family that protects, respects and treats with priority and without any distinction, the needs of every one of its members. The Vision of the Strategy, is: *“A society that ensures all of its citizens, adults and children, to live without fear or a threat of a domestic violence, that protects children, brings the perpetrators in front with their responsibilities and decreases the public tolerance towards violent actions”*.

Kosovo National Strategy on the Protection Against Domestic Violence emphasises the facts that regardless positive changes and advancement achieved, the violence against women still exists in Kosovo society. Furthermore, it is emphasised that in Kosovo, domestic violence continues to be the most prevalent form of violence that affects women and children, due to their socio-economic status, that makes them more dependable than other family members. To treat domestic violence, the aims of the National Action Plan go until 2020, and the Government of Kosovo together with the institutions and responsible parties: to treat with priority and effectiveness all domestic violence cases; to ensure access to integrated services; to guarantee justice and responsibility for the persons that suffer violence; to endure rehabilitation and reintegration for the victims of violence; and to increase the awareness of the

society to stop domestic violence. The implementation of the Strategy aims to consolidate the interaction between the participating parties by, empowering functionalisation of the existing mechanisms and by establishing new mechanisms on protection and treatment of the domestic violence cases; thorough coordination of actions and by ensuring regular sustainability of their budgeting lines in support to the actions on domestic violence at local and central level, by implementing punishment against domestic violence.

#### **4.6.1 Strategic and specific objectives**

Kosovo National Strategy on the Protection Against Domestic Violence is conceptualised around four objectives: 1. Prevention and awareness; 2. Protection and coordination; 3. Legislation, investigation and proceedings; and 4. Rehabilitation and reintegration. Within the strategic objectives, until 2020, the National Strategy aims in fulfilling the specific aims, as in the following:

##### **Strategic objective 1: Prevention and awareness**

1. Decrease of the prejudicial attitudes that support domestic violence, through information, education as well as lifelong learning. (Specific Objectives: 1.1. Building of professional capacities for the service provision in domestic violence prevention; 1.2. Encouraging the victims on reporting the cases of domestic violence; 1.3. Awareness raising of the society to not tolerate the exercise of the domestic violence).

##### **Strategic objective 2: Protection and coordination**

2. Ensuring efficient and inclusive mechanisms for rapid reaction to the domestic violence cases, as well as interinstitutional cooperation at local and central level. (Specific Objective: 1. Advancement of the inclusive policies within the victim's protection, within the victim's protection; 2.2. Improving the functioning of the institutional coordination mechanisms at local level as well as their increase in the municipalities where they do not exist. 2.3. Improvement of the interministerial coordination and cooperation between central and local level and civil society organizations on victim's protection.)

##### **Strategic Objective 3: Legislation, investigation and proceedings;**

3. Improvement of the legal infrastructure and increase in the efficiency of the domestic violence treatment, focusing on the victim's needs as well as adequate sentencing of the perpetrator. (Specific objectives: 3.1. Improvement of the legal infrastructure for the efficient

treatment of the domestic violence cases. 3.2. Specialization of the police investigators, social workers, victim's protection, prosecutors and judges, for emergent proceedings and additional care for the cases of violence. 3.3. Clarification of the roles, tasks and responsibilities of every institution in providing adequate services for the cases of domestic violence.)

#### **Strategic Objective 4. Rehabilitation and reintegration**

4. Access to existing and new services, efficient and sustainable, for long-term rehabilitation and reintegration of the victims and perpetrators of the domestic violence, in the entire Kosovo territory. (Specific objectives: 4.1. Increasing services for the rehabilitation of the domestic violence victims. 4.2. Allocation of funds for longterm reintegration services for the domestic violence victims. 4.3. Utilising reintegration policies for the improvement of rehabilitation and reintegration services for the victims. 4.4. Establishment of the rehabilitation and advisory institutions with obligatory programs for the perpetrators of the domestic violence.)

#### **4.6.2 Institutions and existing mechanisms in response to the domestic violence**

The Kosovo National Strategy on the Protection Against the Domestic Violence lists the main institutions that act in fulfilling its legal framework and assistance in the protection from the domestic violence, as in the following:

- **The National Coordinator Against the National Domestic Violence** – is selected to be the Justice Ministry Deputy Minister, with the mandate of supervising the implementation of the Kosovo National Strategy on the Protection Against Domestic Violence and the implementation of the Kosovo National Strategy and of the National Action Plan activities and coordinate the work of the Inter-ministerial Coordination Group on the protection against domestic violence.
- **Kosovo Police** – is one of the main institutions for protection against the violence. Police investigates and prosecutes the crimes committed in the family in compliance with the Kosovo Criminal Code, and implements Protection Orders according to the Law on Protection Against the Domestic Violence. The Police is obliged to respond to every threat or violence act, accompany the victim and immediately arrest the criminal offence suspects. Kosovo Police, established the Investigation Unit on domestic violence in every municipality.
- **Prosecution** – Prosecutors are obliged to undertake actions, as soon as they are informed about a case of a domestic violence, including Protection Orders, to establish

if there are enough facts for criminal prosecution. Prosecution and police cooperate in cases of domestic violence, while the prosecution should supervise the police work in order to ensure collections of quality evidences. After ending investigation, the prosecution should file a criminal charges against the offender or rule out the criminal reporting. In case of a child victim, prosecutor is obliged to conduct a criminal prosecution in the way that best serves the best interests of the child.

- **Basic Courts** – their role is in ensuring lawful and fair treatment of all the parties in the cases of domestic violence. Their task is to include the review of the Protection Orders Requests, based on which the Law on Protection Against Domestic Violence. In criminal procedures, the Courts have the authority to punish the offenders of the criminal offences linked to domestic violence, as well as persons that have violated the Protection Orders. The Strategy recommends that courts change the punishment policy against the domestic violence perpetrators.
- **Office of Victims Protection and Assistance (OVPA)** – is located in the Office of State Prosecutor of Kosovo, with the responsibilities to protect victims of violence. After reaction of the police, the victim's assistant meets with the victim and informs him on the available services from the state. OVPA has a public phone line free of charge for the persons that would like to report on the domestic violence. The Strategy recommends to leave more space for the functioning of the line.
- **Free Legal Aid Office** – Based on the Free Legal Aid Law, adopted in 2012, domestic violence victims are entitled to request free legal aid (Article 31). In absence of a documentation for the category for domestic violence victims, the Statement of the Victim's Assistant is taken.
- **Kosovo Ombudsperson** – is responsible for protection, supervision and promotion and protection of human rights and fundamental freedoms. In case that any of the Kosovo Institutions, during the treatment of the domestic violence case maltreats the victim, the victim is entitled to report the case with the Ombudsperson.
- **Kosovo Correctional Service (KCS)** – is responsible for resocialisation of the prisoners by respecting their rights based on the Law. KCS should provide conditions in order that the prisoners receive adequate services, especially if a person has problems related to alcohol and/or drug abuse.
- **Probationa Service** – is a state administration organ located within the Ministry of Justice, with responsibilities for organization, implementation and supervision of the

execution of the alternative punishments and social reintegration of the sentenced persons and of the persons released on condition.

- **Centers for Social Work** – are public institutions in the municipal level that provide social and family services, protections and financial aid for the social needs, by including also the persons that have experienced domestic violence. The Centers, also have competences as a guardianship organ for minors.
- **NGO-s and shelters** – provide shelter, rehabilitation and reintegration for the domestic violence victims. The Law on Social and Family Services foresees that every NGO that provides social services should register with the relevant organ and get licence from the Ministry of Labour and Social Welfare.
- **Educational Institutions** – are obliged to have pedagogues and psychologists in institutions, in order to provide assistance for the children that are in need of assistance. Educational Institutions are legally responsible to report child abuse.
- **Health Institutions** – provide health services for the victims of domestic violence by applying Standard Operation Procedures as well as respecting health ethics and confidentiality. Health Ministry is obliged to provide necessary infrastructure for the implementation of the Law on protection against Domestic Violence.
- **Employment offices and Vocational Education Center** – Employment offices are responsible for the registration of the unemployed and advising for employment, while Vocational education centers provide vocational training for persons referred by the Employment offices. These institutions, provide employment services and vocational qualifications for the domestic violence victims.
- **Municipal Institutions and coordination mechanisms for protection from domestic violence** – Municipalities are responsible for the financing of the service providers, such as shelters. Some municipalities supported by International organizations, have established or are in the process of establishing coordination mechanism, in order to further improve the assistance provided to the victims of violence.

## 5. Recommendations

- Violence against women and girls, including violence against women, is one of the most severe forms of human rights violations, which affects all aspects of the society.



- Changes in social, political and economical system are accompanied by a legal reform that aims to establish a legal system in compliance with requirements of plural democracy, rule of law and respect for human rights. Kosovo laws should be aligned with standards, treaties and international obligations. The Laws that treat issues of violence against women, have some specific characteristics, due to the objective and specific scope of work. In the following, are some recommendations that should be considered in legislation, to prevent, treat and punish all forms of violence against women.
- Comprehensive approach which is based on human rights is a basic principle in which the legislation should be based, to ensure an effective and coordinated response on violence against women. Based on the International Law, states have clear obligations to monitor and implement the legislation that deals with forms of violence against women, always protecting human rights.
- Legislation should accept that violence against women is a form of gender based discrimination and a manifestation of the relationship historically unequal between the power of women and men. Violence against women should be recognised as one of the main social mechanisms, through which women are put in a dependant position in relation with men. Furthermore, the laws should recognise that violence against women and violence in the family are forms of human rights violations.
- Legislation should define discrimination against women as any difference, exclusion or restriction conducted based on the gender, with a meaning or a consequence to hinder, harm or cancel the recognition, enjoyment or exercise by women, regardless of their marital status, based on equality between woman and man, human rights and freedoms in civil, political, economical, social and cultural fields or any other field.
- Legislation should ensure that all the rights foreseen by the law are ensured without discrimination based on race, gender, colour, language, religion, public opinion or other opinion, social and national origin, gender identity, age, health condition, special needs, civil status, immigration status or refugee or based any other status.
- Even more, the legislation should ensure that culture, customs, religion or tradition cannot be considered justification for violence acts. This in particular, means pretending that the victim violated norms or cultural religious or traditional customs of the required behaviour.

- Legislation should be comprehensive (inclusive) and multi-disciplinary, by incriminating all forms of women violence and should include prevention and protection issues, empowerment and victim's support as well as punishment and bringing the perpetrator before the justice and treatment of the perpetrators through obliged rehabilitation programs.
- Laws should be drafted based on a gender sensitive approach, which makes legislation sensitive to gender and not blind. Gender sensitivity makes distinction between women and men, as well as their specific needs. Sensitive gender approach on the gender based violence and violence against women accepts that experiences of women and men are different and women have specific needs for support and protection.
- To be fully effective, adoption of legislation that deals with violence against women should be accompanied with a review and change, according to the need, of all other relevant laws to ensure that women's rights and elimination of violence against women are incorporated in all legal provisions. This includes, in particular, family laws and provisions that have to do with divorce and children, property laws, laws that deal with social and labour issues and rights.
- Laws should request that relevant executive structures, in cooperation with police, prosecutors, judges, health sector and education sector, to develop directives and standards, for the implementation, in an inclusive and timely manner.
- Legislation has more chances to be implemented effectively when accompanied by an inclusive policy framework that include a national strategy or the action. States should ensure to include all measures on violence against women and domestic violence in a single catalogue of the policies that provide a common response against violence. Kosovo National Strategy on Protection against Domestic Violence and its Action Plan should be used as a framework for comprehensive and coordinated implementation against violence against women in Kosovo. However, it is recommended to draft a comprehensive strategy aiming at prevention and combating all forms of violence against women.
- Legislation on violence against women more and more consists of provisions that require budgeting distribution for its implementation. This means, creating a general obligation for the Government to secure an adequate funding for implementation of measures, and the request for allocation of funds for special activities as well as

allocation of specific funds for NGO-s activities that are linked with the implementation of the law.

- Regular and institutionalised training on gender sensitivity and capacity building for the public officials on violence against women should be foreseen in the legislation. The legislation, should also mandate special trainings for relevant public officials when the new legislation is adopted, to ensure they are aware and competent to implement their new tasks. Such a training and capacity building should be developed and conducted in close consultations with NGO-s that are active in combating violence against women.
- Specialised police units, prosecutors and specialised judges on violence against women will enable the provision of an efficient and gender sensitive in cases of violence against women. The establishment of a specialised units facilitates development of expertise, while specialised units proved more qualitative, more responsive and effective in treating violence against women.
- Careful and regular monitoring is critical to ensure that legislation is implemented effectively and without negative foreseen effects. Implementation of legislation should be supervised by a special and multi-sectoral mechanism that includes NGO-s, and which regularly reports to the Parliament. The monitoring should assess the success of the programs and measures, in order to prevent and address violence against women and domestic violence, by identifying intervention fields, in particular fields that need legal reforming.
- Monitoring should be accompanied with statistical data, gathered at regular intervals on the frequency of all forms of violence against women, and on the causes and consequences of violence, to assess the effectivity of the measures to prevent, treat and punish the violence against the women. Such statistical data should be divided by gender, age, ethnic belonging, educational level and other relevant features.
- Legislation should provide the definition of the violence against women, in accordance with Istanbul Convention. Violence against women should be understood as a violation of human rights and form of discrimination against women, which means all acts of gender violence that lead to a harm or physical suffering, sexual, psychological or economical for women, including threats for conducting these acts, coercion or arbitrary deprivation of liberty, regardless whether they are happening in public or private life.

- Legislation should include violence against women conducted by special actors and in special circumstances. Violence against women should be understood as a violence which includes physical, sexual, psychological and economical violence which happens within the family, including beating up, sexual abuse of female children in family environment, marital rape, genital mutilation of women and girls and other traditional practices harmful for women; physical, sexual, psychological and economical violence, that occurs within the general community, including rape, sexual abuse, sexual harassment and at work, in educational institutions and anywhere, women trafficking and forced prostitution; and physical, sexual, psychological and economical violence conducted or approved by the state, wherever it happens. State actors should undertake affirmative measures to prevent and punish violence conducted by public and private actors and to establish support networks to care for the victims of gender based violence.
- Legislation should explain, in compliance with Istanbul Convention, that gender violence means the violence addressed towards a woman for the mere fact that she is a woman or that affects women in a proportional manner.
- Legislation should provide a comprehensive definition of the domestic violence, including physical, sexual, psychological and economical violence. In this aspect, domestic violence means all acts of physical, sexual, psychological and economical violence that happen within a family or family unit, or between ex-spouses or ex-partners or between spouses and their actual partners, regardless the fact if a perpetrator shares or has shared a same residence with the victim.
- Legislation should in compliance with the requirement of Article 49, of the Istanbul Convention, incriminate violence against women. In particular, domestic violence, including physical, sexual, psychological and economical violence should be considered as a criminal offence and be punished by the law. In this direction, it is recommended to change the Kosovo Criminal Code, where domestic violence is defined as criminal offence and to punish with effective sanctions, proportional and convincing.
- Legislation should, in compliance with Article 48, of the Istanbul Convention, explicitly prohibit alternative forced processes of conflict resolution, including mediation and conciliation, in regard to all forms of violence against women. This should be reflected in Kosovo laws, especially in Criminal Code and Criminal

Procedural Code, Law on Protection against Domestic Violence, as well as in the Law on Contested Procedure.

- Definition of sexual violence is needed to protect women and girls from gender based violence, especially from the violence and all forms of sexual abuse. In particular, sexual attack within intimate relationship, including marital rape should be incriminated. This will be done through ensuring the implementation of legal provisions, regardless of the nature of relationship between the perpetrator and the victim, emphasizing that the marriage relationship cannot qualify for protection against a lawsuit for sexual attack. It is recommended that marital rape is included explicitly in the Article 230 of the Criminal Code of Kosovo.
- Legislation should define sexual harassment, which according to the Istanbul Convention is any form of verbal undesirable behaviour, with the aim or effect of violating person's dignity, especially when established in a threatening environment, hostile, degrading, humiliating and offending. The incrimination of sexual harassment and inclusion of this criminal offence in the Kosovo Criminal Code is recommended.
- Legislation should prioritise the prevention of violence against women and should include provisions on the measures to prevent violence against women, including awareness activities on human rights, gender equity and women's rights to be free from violence; drafting of educational curricula to modify discriminatory social and cultural models of behaviour, as well as gender discriminatory stereotypes.
- Legislation that regulate education field should foresee all educational levels, from preschool to tertiary education, the promotion of gender equity and of women and girls free of violence. Such education should be sensitive on gender issues and to include adequate information regarding existing laws that protect women's rights and that address violence against women. Relevant curricula in consultation with civil society should be developed.
- Legislation should encourage media sensitisation and training of journalists on violence against women, by accepting the media role and training of journalists on violence against women, through accepting the role of media in shaping social perceptions and definition of attitudes and definition of behaviour and acceptable attitudes. Journalist training on women's rights and on the root causes of the violence against women affects the violence reporting and social attitudes.

- Legislation should foresee the governmental support for public awareness raising on violence against women, including general campaigns that sensitize population on violence against women as a manifestation of inequity and as a violation of women's human rights; and specific campaigns to increase the familiarity with adopted laws that address violence against women. Public awareness campaigns are critical to spread the message of zero tolerance on violence against women, and are a powerful tool for informing victims on their rights and available legal remedies. Awareness campaigns should be organized in cooperation with the NGOs and are an important tool for information of victims on their rights and available legal remedies. Awareness campaigns should be organized in cooperation with NGOs.
- Legislation should foresee the obligation of state to contribute in establishing inclusive services and integrated support services to help survivors of violence. These services should include: a national telephone line, where all survivors can get help through the phone during all the time and free of charge; a shelter in every 10,000 inhabitants; an advising center for women counseling in every 50,000 women that provides counseling and support for victims of violence, including legal aid; as well as specialized services for specific groups, such as immigrants and victims of trafficking.
- Legislation should ensure the effective and on time provision of financial aid for violence survivors, in order to fulfill their needs. In particular, the laws that regulate various rights of employment and social insurances and social benefits, should include provisions for financial support for the victims of violence. Survivors of violence against women have long term expenses that are linked to their suffering, reduced productivity and limited employment opportunities.
- Legislation should define necessary measures to establish and support programs that aim education of perpetrators of domestic violence and crimes with sexual motive, to use nonviolent behaviour in interpersonal relations, aiming at prevention of further violence and changing of the violent behaviours. The programs should encourage perpetrators to take responsibility for their actions and to review their attitudes, in order to reeducate and discourage from re-offending. Designing of these programs should be done in close cooperation with victims' advocates.
- Legislation should ensure speedy and timely procedures in cases of violence against women. The laws should foresee that police officers should immediately respond to every request for help and protection in cases of violence against women, even in case

when a person who reports violence is not a victim; to give priority calls on the cases of violence against women; to make a coordinated risk assessment at the place of occurrence and to interview the parties and witnesses in special rooms to ensure about the confidentiality and the possibility to talk freely; to advise the victim on her rights and in case of need, to ensure health treatment of the victim, or of her relatives. The police should implement binding arrest policies if there are justifiable indications to believe that a crime has happened.

- Legislation should ensure criminal prosecution ex officio for all crimes against women, and should define the tasks of the prosecutors as main responsible organ for criminal prosecution. Prosecutors should ensure that victims in all phases of procedure, are immediately and adequately informed in a language that they understand for their rights, legal procedural details; available services, support mechanisms and protection measures; as well as for the opportunity for compensation in legal procedures.
- Legislation should ensure that the victims have a right to free legal aid, to ensure their access to justice and to avoid re-victimization. Legal Aid, including independent legal advisers and victim's representation, are critical components of the access to justice system, to enable the understanding of the legal system and utilisation of legal remedies, for which the victims are entitled. If needed, the victim should be provided with a qualified interpreter/translator and also translation of legal documents.
- Legislation should guarantee that specific rights of the victim during the judicial process, including victim's right to present evidence with alternative means, such as declarations under oath. When before the court, the victim should be given the opportunity to give evidence without being faced with the perpetrator, including camera and videolinks. The victim should be allowed to give evidence only when needed and entitled to have sessions without presence of the public.
- Legislation should make sure that protection orders are available for victims of all forms of violence against women. Issuing protection orders should not be linked with the fact of whether the procedure against a perpetrator is running or another procedure such as, divorce procedure. Protection orders are issued regardless other measures and the request for protection order should be made regardless any other procedure, which does not impact the right to request protection. Protection orders should be allowed in both criminal and civil procedures.

- Protection orders should provide for longterm protection. Based on the Law on Protection against Domestic Violence, protection order could continue for maximum 24 months. Current restrictions regarding extension of protection orders, without alternative measures, in cases where conditions continue, consist breach of victims of violence rights for an effective legal remedy and effective protection by the state against acts of violence. Restriction of 24 months for protection orders, which is defined by the law, should be taken off to provide possibility for the extension of protection order until the causes and circumstances continue, for which the protection is ordered.
- Kosovo Legislation should define procedures for recognition of protection orders issued by foreign authorities, considering a number of the Kosovo citizens live and work outside the country, with the aim of effective protection and safety, health and welfare of the victim of violence and facilitation of their approach to justice.
- Legislation should incriminate violation of protection orders. Based on the Law on Protection against Domestic Violence in Kosovo, the breach of protection order or order for urgent qualifies as a criminal act and is prosecuted ex officio. Supervision of implementation of these provision in practice is recommended, to ensure undertaking of the necessary legal actions for revealing as well as, investigation and on time prosecution of criminal acts of breaching protection orders.
- Legislation should foresee a proportional sanctions and according to the severity of the acts of violence against women. Punishment instructions should be developed to ensure a unified approach and sustainability in the results of the punishment. Repeated incidents of family violence as well as repeated protection orders should be considered as aggravating circumstances and to be punished with grave punishments. Fines should not be allowed in family violence cases, if this is going to cause financial difficulties for the victim and/or her children.
- Legislation should ensure that sanctions from criminal procedures can also order for the victim's compensation payment, by the perpetrator. Whereas, the compensation can be an element of the punishment of perpetrators against women, and should not be replaced with other sanctions such as prison. Also, the possibility for civil lawsuits compensation should be allowed Legislation should also foresee the creation of a compensation program sponsored by the government, which provides the victims of violence with the right to apply and get a fair compensation amount.



- Legislation should allow the possibility for the violence survivors to file a civil suit against governmental organs or individuals and non-governmental organs that have not properly cared in preventing, investigating or punishing violence; and lawsuits based on the laws against discrimination. Claims against third parties provide an extra opportunity to hold accountable the governmental agencies and other institutions on the violence against women, and also may present an extra source for monetary compensation for the survivors.
- Legislation that regulates family issues should guarantee the possibility of divorcing a violent spouse and financial allowances for women and children, including cohabitation marriages. It should also, guarantee the right of a victim to remain in a joint property after the divorce; right to property and the right to social and pensional insurances. At the same time, it is required the careful review of guardianship and child visitations to establish the history of violence, by admitting that the best protection of children is achieved by protecting their mothers. Protection from family violence and the right to live free should be a principle not only in legislation against women, but also in other relevant fields of the family law.
- Legislation should recognise independent status and more favourable status of immigrants and survivors of violence against women. Legislation should recognise gender based violence as a form of persecution, which will be considered when decided about asylum request. The survivors of violence should be enabled to apply independent from the perpetrator, for legal asylum. Moreover, the legislation should respect the principle of non-refoulment, to ensure that victims of violence are not returned in any place where their life is in danger or where they would endure torture, inhuman and degrading treatment. Survivors of violence against women, should be part of a special social group for Asylum Law aims.

## 5.1 Check List

During the drafting of legislation on the violence against women, some actions should be considered and undertaken in a standardised manner. In the following, a Check List with the steps to be undertaken during the drafting of legislation on the violence against women is presented.

### Step1:

Step 1: Defining legislative goal
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In the beginning of every legislative process, the aim of the legislation should be clearly defined. The aim of legislation on violence against women should be the prevention of violence, ensuring investigation, prosecution and punishment of the perpetrators, provision of protection and support for the victims' survivors of violence, as well as re-education of the perpetrators, to use a non-violent behaviour in interpersonal relationships.

Step 2: Consultations with key actors
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Comprehensive consultations with all actors affected by the legislation, or that are going to implement the legislation. Is the key element during the preparation process. Consultation ensure that experiences and realities of the women that experienced violence are portrayed correctly, and that the legislative response is in compliance, multi-disciplinary and comprehensive. Consultations also increase the possibility for effective implementation of legislation.

The below non-final List of key actors provides a Guide on who should be consulted in development of the legislation on violence against women:

- Survivors/victims;

- Non-governmental organizations that work against women's violence, including also those with experience in combating violence against specific groups of women, such as minorities or special needs women, or immigrant women;
- Service providers for survivors/victims;
- Governmental departments, including all national mechanisms working in combating violence against women and in the field of women empowerment;
- National Institutions on Human Rights;
- Police and enforcement organs;
- Prosecutors;
- Judges;
- Lawyers/lawyers associations;
- Victim's advocates;
- Health Workers;
- Forensics;
- Social Workers/advising providers;
- Education workers;
- Statistics officers;
- Prison officers;
- Religious leaders;
- Community leaders;
- Media.

Step 3:

Adoption of the facts approach based in drafting the legislation

Facts and evidence based approach ensures development and drafting of legislation which complies with the situation and reality of the violence against women and which is responsive to the need to prevent, combat and treat violence against women. A well informed legislation, improves the quality and future effectiveness during the implementation of legislation. Legislation should be prepared based on reliable evidences including data and studies on the volume, expansion and incidence of all form of violence. Of special importance are studies/researches on the causes and consequences of the violence against women, as well as

experiences and lessons learned during addressing and treating of violence. Experiences and best practices from other countries in preventing and addressing violence against women should be considered, according to the local context.

## 6. Annex: Contact List

### Kosovo Police

*Address: St. "Luan Haradinaj" n.n. 10000 Prishtina, the Republic of Kosovo*

**Contacts from the office (fix) and mobile telephone: 192 or 038 550 999**

All calls in the number **080019999**, are anonymous, free of charge and confidential.

### Numrat e Stacioneve Policore

#### Region of Prishtina

Police Sub-station	Police Sub-station	Police Sub-station
Regional Directorate Prishtina	038540021, 038249933, 038504504-2015	192
Regional Traffic Prishtina	038534234	
Police Station Obiliq	038561600	192 - Prishtina
Police Station Fushë Kosova	038535812	192 - Prishtina
Police Station Graçanica	038564292	192 - Prishtina
Police Station Lipjan	038581010	192 - Prishtina
Police Station Drenas	038/584092	192 - Prishtina
Police Station Podujeva	038571805	192 - Prishtina
Police Station Veriu	038249942	
Police Station Jugu	038549924	
Police Station Qendra	038502223	
Police Sub-station Orllan	038614972, 038504504-7896	192 - Prishtina
Police Sub-station Bernica	038515092, 038504504-7871	192 - Prishtina

Police Sub-station Magure	038502472	192 - Prishtina
Police Sub-station Janjeva	038567009	192 - Prishtina

## Region of Peja and Gjakova

Station	Phone Number	Office Number/mobil
Regional Directorate Peja	039 432327 ; 038 504504-5000	192 - Peja
Regional Directorate Gjakova	038 504504-5510	192 - Gjakova
Police Station Peja	039 433273	192 - Peja
Regional Traffic Gjakova	0390 323784	
Regional Traffic Peja	039 432595	
Police Station Gjakova	0390 322482 ; 038 504504-5500	192 - Gjakova
Police Station Istog	039 451374	192 - Peja
Police Station Klinë	039 471199	192 - Peja
Police Station Deçan	0390 361020	192 - Peja
Police Station Rahovec	029 277913	192 -Gjakova
Police Station Malishevë	038 269007	192 - Gjakova
Police Sub-station Gorazhdevc	039 467389 ; 038 504504-5775	192 - Peja
Police Sub-station Junik	0390 370092	192 - Gjakova
Police Sub-station Vitomiricë	039/442 203, 038/504 504-5770	192 - Peja
Police Sub-station Ponashevc	0390 370888	192 - Gjakova

## Rajonii Mitrovica

Station	Tel No.	Fix/mobil free of charge
Regional Directorate Mitrovica	028/532 366, 038/504504-4000	192 - Mitrovica
Regional Traffic Unit Mitrovica	028 532 628	
Police station Mitrovica North	028 532 585	192 - Mitrovica
Police station Skenderaj	028/582 087	192 - Skënderaj
Police station Vushtrri	028/572 010	192 - Vushtrri
Police station Zubin Potok	028 461 042	192-Fiks, 028/192-Mobil – Mitrovica North
Police station Zveqan	028 665 130	192-Fix, 028/192-Mobil - Mitrovicë Veri
Police station /Region Mitrovica north	028 425 170, 038 504504-4215 & 038 504504-4200	192-Fiks, 028/192-Mobil – Mitrovica North
Police station Leposaviq	028/83 424	192-Fix, 028/192-Mobil – Mitrovica North
Police Substation Prilluzhe	028 573 509 , 038 5080-4542	192 - Vushtrri

## Region of Prizren

Station	Phone Number	Office Number/mobil
Regional Directorate Prizren	029/244 355 or 038/504504-6000	192 - Prizren
Regional Traffic Prizren	029/244 655	
Police Station Suharekë	029/271 024	192 - Prizren
Police Station Dragash	029/281 017	192 - Prizren
Police Sub-station Sredskë	038/502 575	192 - Prizren
Police Sub-station Mushtisht	029/275 105	192 - Prizren
Police Sub-station Mamushë	029/273 453	192 - Prizren



Police Sub-station Zhur	029/625 092	192 - Prizren
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## Region of Gjilan

Station	Phone Number	Office Number/mobil
Regional Directorate Gjilan	0280/330 188 ose 038/504504-7001	192 - Gjilan
Police Station Gjilan	0280/330 061	192 - Gjilan
Regional Traffic Gjilan	0280/330 091	
Police Station Novoberda	038/576 092	192 - Gjilan
Police Station Viti	0280/381 513	192 - Gjilan
Police Station Kamenica	0280/372 390	192 - Gjilan
Police Sub-station Klllokot	0280/381 094 , 038 504504-7886	192 - Gjilan
Police Sub-station Ranillug	038/504504-7878	192 - Gjilan
Police Sub-station Zheger	0280/386 011 , 038 5080-7508	192 - Gjilan
Police Sub-station Pozharan	0280/386-269 or 038 5080-7553	192 - Gjilan
Police Sub-station Muqiverre	0280/ 320 197 or 038 5080-7108	192 - Gjilan

## Region of Ferizaj

Station	Phone Number	Office Number/mobil
Regional Directorate Ferizaj	0290/322 406 ose 038/504504-3036	192 - Ferizaj
Police Station Ferizaj	0290/ 327 412	192 - Ferizaj
Regional Traffic Ferizaj	0290/321 899	
Police Station Shtërpçë	0290/70092, 038/541 271, 038/504504-3400	192 - Ferizaj
Police Station Kaçanik	0290/380 834	192 - Ferizaj
Police Station Hani i Elezit	0290/385 015	192 - Ferizaj
Police Station Shtime	0290/389 008	192 - Ferizaj

## **Office for Victim's Protection and Assistance**

### **1. Regional Office Prishtina**

On duty phone: **044 278 738**

Telephone: 038246-059- 038 200 18 738 (Centre)

Address: Justice Palace, in the Building of a Basic Prosecution, Building C, 1st floor, Office No. C007 and COO6, Hajvali

#### **Contact:**

Basri Kastrati, Manager for the Office of Protection and Assistance of Victims

### **2. Regional Office Gjilan**

On duty phone: 044 **711 220**

Office phone: 0280 320 462

Address: in the Building of a Basic Prosecution Office in Gjilan, St. MarijeShllaku, n.n, Gjilan

### **3. Regional Office Ferizaj**

On duty phone: **044 161 138**

Office phone: 0290 325 602

Address: in the Building of a Basic Prosecution Office in Ferizaj, St. Reçaku, Ferizaj

### **4. Regional Office Prizren**

On duty phone : **044 310 468**

Office phone: 029-241-898

Address: in the Building of a Basic Prosecution Office in Prizren, 1st floor, Offices No. 01,02 and 04, Rruga WilliamWalker, Prizren

### **5. Regional Office Peja**

On duty phone: **044 348 164**

Office phone: 039 421 194

Address: in the Building of the Basic Prosecution Office in Peja, 3rd floor, Office No. 28, Rruga Lekë Dukagjini, Peja

### **6. Regional Office Gjakova**

On duty phone: **044 310 466**

Office phone: 0390 320 228

Address: in the Building of a Basic Prosecution Office in Gjakova, 1st floor, St.Nëna Terezë, n.n. Gjakova

### **7. Regional Office Mitrovica**

On duty phone: **044 310 468**

Office phone line: 028 543 489

Address, in the Police Station Building, 3rd floor, Rruga Bislim Bajgora, n.n,  
Mitrovia

**Helpline Office** – is a public telephone number free of charge within OVPA, to enable victims and the public a confidential mechanism for reporting various criminal acts and abuses; to inform victims and other persons on their rights, securing the needed information for available services and contact numbers. The operators are engaged 24/7.

- Helpline is free of charge and open 24/7
- Every victim can call this number
- Calls are confidential

This line provides support and advice for all victims of crime

**Free helpline (24 h), number: 080011112**

## **Agency for Free Legal Aid**

St. RrustemHyseni, Prishtina  
Telefoni+381 38 200 189 42  
E-mail;[info-anjf@rks-gov.net](mailto:info-anjf@rks-gov.net)

### **Legal Aid Offices in Kosova**

#### **Legal Aid Office – Prishtinë**

St. RrustemHyseniNr. 30  
tel:+381(0)38 200/18-945

#### **Legal Aid Office -Prizren**

St. “Marin Barleti”, former Cadastral Building  
tel:+381(0)29/230554

#### **Legal Aid Office -Peja**

St. „Bukuroshes” Nr. 8  
tel:+381(0)39/ 423-698

#### **Legal Aid Office - Mitrovica**

St.”VëllezëritDragaj”, Nr. 16  
tel:+381(0)28/534-477

#### **Legal Aid Office - Gjilan**

St. “MullaIdrizi”Nr. 41  
tel:+381(0)280/321-134

## **Shelters for protection of victims**

Women’s Center, Prishtina Tel. mob: +377/ 044/508-081

Safe House, Gjakova Tel +381/0390-30-098

Shelter ”Liria”, Gjilan Tel. mob: +377/ 044/125-729

Shelter, Mitrovica Tel. mob: +377/ 044/158-686

Shelter, Prizren Tel. mob: +377/ 044/380-4

## Centers for Social Work

1. **Peja** 039-433-473
2. **Deçan** 0390-361-014
3. **Junik** 044-253 293
4. **Klinë** 039-471-476
5. **Istog** 039-451-140
6. **Gjakova** 0390-323-510
7. **Prishtina** 038-244-841, 038-212- 478, 038-213 082
8. **Obiliq** 038-562-077
9. **Graçanica** 049-776 700
10. **F.Kosovë** 038-536-462
11. **Gllgovc**038-584-356
12. **Lipjan** 038-581-454
13. **Podujevë** 038-571-838
14. **Shtime** 0290-389-031
15. **Gjilan** 0280-320-140
16. **Novobërda** 038-576-037
17. **Kllokot** 044-732517
18. **Partesh**045-597496
19. **Viti** 0280-381-660
20. **Kamenica** 0280-371-099
21. **Ferizaj** 0290-327-525
22. **Ranillug**0280/75195
23. **Shterpce** 064-383-1543, 045-526561
24. **Hani i Elezit**044-206889
25. **Kaçanik** 0290-380-671
26. **Mitrovica - J** 028-535-440
27. **Mitrovica - V** 028-424-468
28. **Zveçan** 028-665-159
29. **Leposaviç**028-83977
30. **Skenderaj** 028-582-247
31. **Vushtrri** 028-572-006

- 32. Zubin Potok** 028-460-064
- 33. Prizren** 029-223-451
- 34. Dragash** 029-281-227
- 35. Malisheva** 029-269-004
- 36. Rahovec** 029-276-663
- 37. Suhareka**029-271-165
- 38. Mamusha** 045-546654

## **Ombudsperson Institution**

### **Main Office, Prishtina**

St. "MIGJENI", no. 21

+381 (0) 38 223 782; +381 (0) 38 223 783

+381 (0) 38 223 784; +381 (0) 38 223 789

Free calls for clients:

0800 15555

Fax: +381 (0) 38 223 790

E-mail:info@ombudspersonkosovo.or

### **Regional Office Graçanicë**

Rrr. "Car Lazari" p.n.

+381 (0) 38 223 783

+377 (0) 44 367 719,

+381 (0) 64 37 11 137

### **Regional Office Prizren**

St. "Remzi Ademi", n.n

Telephone:

+381 (0)29 222 138

### **Regional Office Gjilan**

St "Bulevardi i Pavarësisë"

(Former Court Building) n.n.

+381 (0)280 320 843

**Regional Office Ferizaj**

Municipality Building (first floor)

+381 (0)290 326 032

**Regional Office Peja**

St "Mbretëresha Teutë", No.59,

Municipality Building, #rd Floor III, no. 3

+381 (0)39 432 931

**Regional Office Gjakova**

St. "IsmailQemali"

(former Cadastral building)

+381 (0)390 327 698

**Regional Office in Mitrovica**

St. " Afrim Zhitia" n/n

( Ndërtesa e Administratës Pensionale të Kosovës),

Kati 3, Zyra No. 11 and 12.

+381 (0) 28 530 138

**Sub Office in Mitrovica**

Address: St. "Sami Frashëri", n.n.Lagja e boshnjakëve,

Building ZAK Mitrovica North

+ 377 (0)45 455 319

+381 (0)64 956 00 50