

Regional Guidelines for Risk Assessment and Risk Management to Prevent the Recurrence and Escalation of Violence Against Women

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I INTRODUCTION

Violence against women is considered a violation of human rights and a form of discrimination against women and includes all acts of gender-based violence that result in or may result in physical, sexual, psychological or economic harm or suffering to women. Threats of such actions are also considered as forms of violence and include: coercion, deprivation of liberty, intimidation. Victims can be affected in both the public and private spheres. Violence against women includes domestic violence.

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and General Recommendation no. 35 on gender-based violence against women issued by the Committee on the Elimination of Discrimination against Women (CEDAW Committee), which updates the General Recommendation of the CEDAW Committee no. 19 (1992), contributed to ensuring the recognition of gender-based violence against women as a form of discrimination against women. In General Recommendation no. 28 (2010) on the fundamental obligations of States parties under Article 2 of the Convention states that the obligations of States parties are to respect, protect and fulfill the rights of women without discrimination and to enjoy equality de jure and de facto.¹ For the effective implementation of obligations, it is important to ensure good cooperation between institutions and civil society organizations, including specially recognized and active associations working with victims of criminal acts.

In 1993, the United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women, which laid the foundations for international action against violence against women, and the 1995 Beijing Declaration and Platform for Action, which

identified the eradication of violence against women as a strategic goal.

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter: the Istanbul Convention) is a key regional document for the protection of women from violence. By ratifying the Istanbul Convention, the countries of the Western Balkans and Turkey have committed themselves to adopt legislative and other measures to prevent violence against women and to fully prevent, investigate, punish and provide redress for violence covered by the Convention. Thus, the Istanbul Convention clearly indicates that member states are obliged to ensure the implementation of regulatory obligations - the domain of legislative regulation of issues, and operational obligations - the domain of ensuring implementation. The adoption of appropriate legislation, as a regulatory obligation, includes criminal legislation that should ensure the investigation, prosecution and punishment of perpetrators in a way that is proportionate to the gravity of the acts committed.² In the area of operational obligations, states have a duty to prevent violence, as well as to investigate allegations of domestic violence in a timely and effective manner. Domestic violence also raises the issue of violation of the European Convention on Human Rights and Fundamental Freedoms (hereinafter: the European Convention), namely Articles 2 (right to life), 3 (prohibition of inhuman and degrading treatment), 8 (right to respect for private and family life) and 14 (prohibition of discrimination).

States will violate Article 2 of the European Convention in the case of domestic violence if its authorities do not provide adequate protection to the person from the actions of the

¹ General Recommendation no. 28, item 9.

² Judgments of the European Court of Human Rights: *Kontrovo v. Slovakia*, judgment of 31 May 2007, application no. 7510/04; *Opuz v. Turkey*, judgment from 9 June 2009, application no. 33401/02; *Branko Tomašić and Others v. Croatia*, Judgment rendered on 15 January 2009, Application no. 46598/06, taken from COVID-19 and its impact on human rights, review of relevant case law of the European Court of Human Rights, The AIRE CENTER and CIVIL RIGHTS DEFENDERS

non-state actor,³ and if they were aware that he or she was in serious danger.⁴

Article 3 of the European Convention (op.a.) imposes a positive obligation on states to ensure that persons under their jurisdiction are protected from all forms of ill-treatment prohibited by that article, including situations where such ill-treatment is perpetrated by non-state actors. As in the case of Article 2, States have procedural, regulatory and operational obligations under Article 3 in the context of domestic violence. They have a duty to prevent domestic violence and to investigate, prosecute and punish cases of domestic violence in a timely and effective manner.⁵ The Court also uses the formulations laid down in the Istanbul Convention to emphasize the specific nature of domestic violence and special conscientiousness in resolving cases of domestic violence, and states that States have an obligation to investigate forms of violence covered by the Istanbul Convention without undue delay, as well as to take into account the rights of victims during all phases of criminal proceeding.⁶

With regard to the violation of Article 8 of the European Convention in the case of domestic violence, the European Court took the following position:

“Obligations to prohibit, prevent, investigate, prosecute which may exist under Articles 2 and 3 may also exist under Article 8 when proceedings between individuals are not serious enough to give effect to Articles 2 and 3, but when they affect the moral, physical or personal integrity of a person.”⁷

The Court explicitly considers domestic violence to be a form of gender-based violence, which is a form of discrimination against women. The failure of the State to protect women from domestic violence can lead to a violation of their right to equal protection before the law, even when that failure is not intentional.⁸ In case and when the necessary legislation is adopted, discrimination can also occur due to the general attitude of local authorities, such as the way women are treated in police stations when reporting domestic violence and the passivity of courts in providing effective protection.⁹

Regarding the treatment of victims of violence, including violence against women, it is important to point out that the European Union has adopted Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime (hereinafter: the Victims’ Rights Directive).¹⁰ Although this Directive is binding only for the Member States of the European Union, the fact that the countries of the region have expressed their intention to join the European Union creates a long-term obligation to harmonize national legislation with European Union standards. The main objective of the Victims’ Rights Directive is to “address the needs of the victim in an individual way, based on individual assessment and a targeted and participatory approach to the provision of information, support, protection and procedural rights”.¹¹

According to the Directive, a victim is a person regardless of whether the perpetrator has been identified, arrested, prosecuted or convicted, regardless of the family relationship between them.

3 Ibidem

4 Valiuliene v. Lithuania, judgment from 26. March 2013, application no. 33234/07, taken from COVID-19 and its impact on human rights, review of relevant case law of the European Court of Human Rights, The AIRE CENTER and CIVIL RIGHTS DEFENDERS

5 Ibidem, p. 45.

6 Talpis v. Italy, judgment from 2 March 2017, application no. 41237/14, taken from COVID-19 and its impact on human rights, review of relevant case law of the European Court of Human Rights, The AIRE CENTER and CIVIL RIGHTS DEFENDERS

7 Bevacqua and S. v. Bulgaria, judgment from 12 June 2008, application no. 71127/01, taken from COVID-19 and its impact on human rights, review of relevant case law of the European Court of Human Rights, The AIRE CENTER and CIVIL RIGHTS DEFENDERS, p. 58.

8 Opuz v. Turkey, judgment from 9 June 2009, application no. 3340/02, p. 184-192, taken from COVID-19 and its impact on human rights, review of relevant case law of the European Court of Human Rights, The AIRE CENTER and CIVIL RIGHTS DEFENDERS

9 Ibidem.

10 Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, OJ L 315, 14.11.2012, pp. 57-73 (available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1421925131614&uri=CELEX:32012L0029>).

11 European Commission, Directorate-General for Justice and Consumers (2012), ‘DG Justice guidance document related to the transposition and implementation of Victims’ Rights Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standard

II THE SITUATION IN WESTERN BALKANS AND TURKEY



Results of the research presented in the integral regional research “**Is justice failing women survivors of violence? - Action-oriented recommendations for effective prevention, protection and prosecution in the Western Balkans and Turkey**”¹² have emphasized that countries in the region share similar or identical problems when it comes to adequate protection for VAW survivors. The Study, produced by the Center of Women’s Rights under the framework of the UN Women regional programme on ending violence against women in the Western Balkans and Turkey “Implementing Norms, Changing Minds,” funded by the European Union, examines the gaps and failures of the response to violence against women in Albania, Bosnia and Herzegovina, Kosovo¹³, North Macedonia, Montenegro, Serbia, and Turkey, as seen from the perspective of actual cases reported and processed within the legal and institutional system of protection.¹⁴

None of these countries has a clear and effective system of coordination between all institutions in the protection chain, nor does there exist an effective system for monitoring individual cases. There is no single and binding

form for risk assessment in VAWG cases. These deficiencies make the protection system ineffective and, as such, do not respond to the real needs of survivors, especially women and girls from minority and marginalized groups. No mechanisms have been put in place to help institutions to anticipate the necessary steps to protect survivors and prevent the recurrence and escalation of violence, including femicide. Even where reasonable and concrete procedures are in place to protect survivors, they are often not respected in practice due to a lack of knowledge and awareness or the mere neglect of the persons involved.

In short, country studies have shown significant gaps and limitations in the system of protection of victims/survivors of violence against women in practice. The conclusions call for a truly interdisciplinary approach that goes beyond strict protection mechanisms and extends to fields such as anti-discrimination, as well as the continuous education of professionals and the commitment of decision-makers to achieve international standards in this area.

¹² Research conducted by the Center of Women’s Rights, in cooperation with Analitika, within the regional UN Women programme on Ending Violence Against Women in Western Balkans countries and Turkey “Implementing Norms, Changing Minds,” funded by the European Union, November 2019.

¹³ *For the European Union, this designation is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence. For UN Women, references to Kosovo shall be understood to be in the context of UN Security Council Resolution 1244 (1999).

¹⁴ The recommendations and findings of the research were validated during 8 round tables throughout the region with the participation of 140 representatives of institutions from all levels of protection and prevention. The representatives underlined that they lack space and opportunity for interstate and intersectoral dialogue, to meet and discuss the implications of recommendations, find common gaps or opportunities and learn from the standards of good practice and from each other.

III TERMINOLOGY

Coercive control – A strategic course of oppressive conduct that is typically characterised by frequent physical abuse and sexual coercion in combination with tactics to intimidate, degrade, isolate and control victims.¹⁵

Crisis – A personal or private situation, but much more often to describe a situation with potential negative consequences in which society as a whole or individual organizations and systems within it find themselves.

Crisis situation – A serious incident that affects the safety of people and the environment.

Domestic violence – 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.¹⁶

Emergency barring order – A short-term legal remedy providing for the removal of a perpetrator of domestic violence from the residence of the victim and barring him or her from returning or contacting the victim. It is also known as an eviction order, barring order or no-contact order, depending on the national context.¹⁷

Gender-based violence – A form of discrimination that seriously undermines the ability of women to enjoy rights and freedoms on the basis of equality with men.¹⁸ Gender-based violence is violence directed against a person

because of his or her gender (including gender identity/expression) or violence that disproportionately affects persons of one gender. In the Istanbul Convention, gender-based violence refers to violence that is directed against a woman precisely because she is a woman, or that disproportionately affects women. It differs from other types of violence in that the victim's gender is the primary motive for acts of violence. This type of violence is deeply rooted in the social and cultural structures, norms and values that govern society and usually continues thanks to a culture of denial and silence.¹⁹

Protection order – A fast legal remedy to protect people at risk of any form of violence by prohibiting, restraining or prescribing certain behaviour by the perpetrator. Any order should take effect immediately after it has been issued and must be available without lengthy court proceedings.²⁰

Protective measures – Legislative and other measures aimed at protecting victims as well as their families and witnesses from any further form of violence and re-victimisation or secondary victimisation, at all stages of investigations and judicial proceedings.²¹

Psychological violence – Any act or behaviour that causes psychological harm. Psychological violence can take the form of, among other things, coercion, defamation, verbal insults or harassment.

¹⁵ Stark, E. (2012), 'The dangerousness of danger assessment', Domestic Violence Report, Vol. 17, No 5, pp. 65-69

¹⁶ Council of Europe, Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, CETS no. 210.

¹⁷ Council of Europe (CoE) (2011), Explanatory report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, CoE, Paris (available at <https://rm.coe.int/16800d383a>).

¹⁸ UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), General Recommendation no. 19 on violence against women, Article 1.

¹⁹ Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Comments on the Provisions of the Convention, Article 3, paragraph 44.

²⁰ Council of Europe (CoE) (2011), Explanatory report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, CoE, Istanbul (available at <https://rm.coe.int/16800d383a>).

²¹ Council of Europe (CoE) (2011), Convention on Preventing and combating violence against women and domestic violence, CoE, Paris (available at <https://rm.coe.int/168046031c>).

Referral – The manner in which a victim contacts an individual professional or institution in connection with their case and the manner in which professionals and institutions communicate and cooperate to provide them with comprehensive support. Referral network partners typically include various government departments, women’s organizations, community-based organizations, health care institutions, and others.²²

Referral system – A comprehensive institutional framework that connects various entities with well-defined and delineated (albeit in some cases overlapping) mandates, responsibilities and powers. The overall aim is to ensure the protection and assistance of victims, to aid in their full recovery and empowerment; the prevention of gender-based violence; and the prosecution of perpetrators (the so-called three Ps – Protection, Prevention and Prosecution – op.a.). Referral mechanisms work on the basis of efficient lines of communication and establish clearly outlined referral pathways and procedures with clear and simple sequential steps.²³

Repeat victimisation – A situation in which the same person suffers from more than one criminal incident over a specific period of time.²⁴

Risk – A situation involving exposure to danger of any form of violence directed towards a woman.

Risk assessment – Assessment of the safety risks a particular victim faces on a case-by-case basis, according to standardized procedures and within a multiagency framework. Risk assessment includes an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence.²⁵

Risk and vulnerability – The assessment focuses on the areas where the need is most pronounced.

Risk factor of violence – A characteristic at any level (individual, relational, community or societal) whose presence increases the possibility of violence occurring or recurring.

Risk management – The process by which all relevant authorities manage the safety risks identified in a risk assessment. These activities may be directed towards victims (e.g., safety planning), towards perpetrators (e.g., using police powers to pursue, detect and disrupt offending behaviour) or towards victims and perpetrators in combination. The scope and type of activities undertaken should be informed by risk assessment, implemented within a multiagency framework and monitored for effectiveness. The aim of these activities is to try to reduce the threat posed by the perpetrator and protect the victim from further violence and abuse.²⁶

Risk prediction – A process of assessing the likelihood of violence or recidivism that will happen in the future.

Risk prevention – A process of decreasing the likelihood of violence or recidivism that will happen in the future.

Safety planning – A process by which the victim may consult appropriate agencies to discuss increasing personal safety and the safety of any children. It should form part of a partnership approach between professionals, victims and children and should include an assessment of the level of risk and the development of a crisis plan and a plan for the future, both in the short term and in the longer term. The police have a role in helping to develop and

²² UNFPA 2010.

²³ United Nations Population Fund (UNFPA) (2015), ‘Glossary’, Multi-sectoral response to GBV: an effective and coordinated way to protect and empower GBV victims/survivors, UNFPA Regional Office for Eastern Europe and Central Asia, Istanbul (available at http://femroadmap.eu/MSR_Generic_model_eng.pdf)

²⁴ Council of Europe (CoE) (2006), Recommendation Rec(2006)8 of the Committee of Ministers to Member States on assistance to crime victims, COE, Paris, <https://rm.coe.int/16805afa5c>.

²⁵ Council of Europe (CoE) (2011), Convention on Preventing and combating violence against women and domestic violence, CoE, Paris, Art. 51 (available at <https://rm.coe.int/168046031c>).

²⁶ Robinson, A. L., Myhill, A., Wire, J., Roberts, J. and Tilley, N. (2016), Risk-led policing of domestic abuse and the DASH risk model, What Works Centre for Crime Reduction, College of Policing, Cardiff University, and Department of Security and Crime Science, University College London, Cardiff and London (available at http://www.college.police.uk/News/College-news/Documents/Risk-led_policing_of_domestic_abuse_and_the_DASH_risk_model.pdf).

support safety plans as part of their risk management processes. In general, the victim, with assistance from an independent domestic violence adviser or other independent advocacy service, should carry out the safety planning, with officers being able to contribute to the process by implementing safety measures as part of a risk management plan or action plan. It should be carried out in consultation with other agencies, for example the fire service, housing services and children's services.²⁷

Sexual Abuse/Violence – Any sexual act, attempted sexual act, unwanted sexual comments or contacts and acts of trafficking, or otherwise directed, in connection with a person's sexuality by the use of force by any person, regardless of the relationship between

the person and victim/survivor, in any setting, including, among others, home and work place.²⁸

Sexual Exploitation – Any actual act or attempted abuse of a vulnerable position, difference in power or trust for sexual purposes including, inter alia, the financial, social or political gain from the sexual exploitation of another person.²⁹

Violence against women – Any act of gender-based violence that result in, or is 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, regardless of whether it is occurring in public or in private life.³⁰

²⁷ College of Policing, Authorised Professional Practice (APP), 'Major investigation and public protection: victim safety and support' (available at <https://www.app.college.police.uk/app-content/major-investigation-and-public-protection/domestic-abuse/victim-safety-and-support/#safety-planning>).

²⁸ WHO, World Report on Violence and Health.

²⁹ Report of the Secretary-General of the United Nations on Protection against Sexual Exploitation and Abuse (PSEA) (ST / SGB / 2003/13).

³⁰ UN Declaration on the Elimination of Violence against Women, New York, United Nations, 1993. This includes many different forms of violence against women and girls, such as violence committed by an intimate partner, sexual violence committed by a non-partner, trafficking and harmful practices such as female genital mutilation.

IV ACTING IN CRISIS SITUATIONS



This chapter summarizes the framework for risk assessment of violence against women in the countries of Southeast Europe. More specifically, it provides information on legal and policy settings, on instruments and approaches for risk assessment of violence, and on risk management strategies implemented in cases of violence against women during the crisis caused by the COVID-19 pandemic. In addition, the guidelines propose options for improvement, in particular through the action of entities responsible for the prevention of violence against women (hereinafter: entities).

The World Health Organization declared COVID-19 a global pandemic and the world entered its greatest crisis since World War II.

The crisis is reflected in all spheres of life, but at the same time showed the general unpreparedness of society for effective action in crisis situations, as indicated by various factors. In order to prevent the spread of the pandemic, a number of measures have been established at the global, regional, national and local levels that have an impact on organizing the life of each individual, which has an impact on relationships in the immediate community such as the family and beyond. This primarily refers to restrictions on movement, the introduction of curfews, work from home, and limited operation of shops, pharmacies and other supply facilities. Undoubtedly, facing the crisis has opened a number of questions for citizens, such as how to behave in completely new life circumstances, and for management structures, how to act in order to perform their basic functions while also implementing the measures introduced due to the pandemic – i.e., how to manage in a crisis situation. The need for rapid action leaves very limited room for assessment and planning, and the lack of previously made contingency plans has shown all the weaknesses of governance in all spheres of life. The institutional response to the pandemic is largely on an ad hoc basis, with very intense changes related to

the measures they adopt and implement. In this light, it is necessary to look at the issue of the activities of institutions in preventing violence against women in crisis situations.

Risk assessment and risk management to prevent the recurrence and escalation of violence against women are integrated into the legislative and policy framework on violence against women of the United Nations, the Council of Europe and the EU, making explicit links between risk assessment and consequent actions to support and protect victims. At the same time, the issue of risk assessment and/or risk management related to violence against women in the countries of the region is most often embedded in some form of policy document, such as national action plans or strategies, and very rarely in national legislation.

Risk assessment is a methodology that determines the nature and extent of risk, analyses potential hazards and assesses existing vulnerability conditions that could together influence the increase of violence against women. Risk assessments and associated assessments of exposures, vulnerabilities and different capacities of institutions provide evidence to decision makers when considering mitigation and development strategies and when planning and implementing preparation, response and recovery activities.

Aware of the situation regarding violence against women, many international organizations have adopted various acts (declarations, guidelines, etc.) to indicate to the authorities that the pandemic has not stopped their obligations to apply international standards ratified by the state; on the contrary, the obligations have increased, given a high degree of risk that the measures introduced due to the pandemic will affect violence against women and even cause situational violence. In the following, we will point out some of these documents that Western Balkans countries and Turkey should keep in mind when acting ur-

gently in the field of violence against women, and thus prevent its escalation:

• **Declaration on the implementation of the Istanbul Convention during the COVID-19 pandemic:** There is an urgent need for governments to implement appropriate guidelines to support victims of violence, but also to support service providers in providing appropriate support to victims of violence, especially in survivors' access to justice. In this regard, the Committee of the Parties of the Istanbul Convention issued a Declaration on 20 April 2020 containing measures aimed at implementing the Convention during the COVID-19 pandemic (hereinafter: the Declaration). The Declaration reaffirms the importance of the principles and requirements of the Istanbul Convention in the areas of prevention, protection, criminal prosecution and integrated policies in the current exceptional circumstances. The Declaration calls on Member States that have ratified the Istanbul Convention to use these standards and recommendations as guidelines for governments to act during a pandemic.

• **Guidance note of CEDAW Committee:** With regards to taking action during the pandemic, the CEDAW Committee has called for joint action against the COVID-19 pandemic from a women's rights perspective and solicits the participation of all key stakeholders, and in particular State parties to CEDAW, and has issued a guidance note on CEDAW and COVID-19 with practical guidelines for States to mitigate the devastating impact that the pandemic is having more specifically on women and girls.³¹ The CEDAW Committee has emphasized that the consequences of the pandemic have impacted women in a disproportionate and more severe manner and that women have experienced multiple and compounded forms of discrimination while

on the front lines of responses, at home, in the health workforce and in various sectors of production.³² The Committee has called for the conceptualization of support models for stimulating local action in a bottom-up mode based on the strategic premise that in such a global crisis, every local group and individual action counts.³³ This requires strengthening national machineries for the advancement of women with standardized infrastructure for efficiency and effectiveness in the pursuit of global gender policy frameworks and targets. States have to engage and sustain these mechanisms and develop them further during and after the COVID-19 crisis. States should neither undermine, sideline nor reduce financial resources for gender equality but, conversely, use the opportunity to overhaul their operations, plan and effect further investments in this area. These steps will be essential for ensuring gender equality and empowerment of women and women's leadership and integral participation in decision-making in the period of "convalescence" of societies.³⁴ In addition, there is a need to increase support for civil society actors to reach all segments of the population and address aspects of the daily lives of women and girls to ensure that they receive adequate support.³⁵ In the guidance, the CEDAW Committee emphasized the importance of the use of modern technology in more efficient, accessible, inclusive, gender-sensitive and widespread ways.

• **Guidance note of the OHCHR:** On April 20, 2020, the Office of the High Commissioner for Human Rights High (OHCHR) has adopted guidance on COVID-19 related to the impact of the pandemic on human rights³⁶ and has emphasized some of the key actions States and other stakeholders can take in the field of preventing gender-based violence.

³¹ Call for joint action in the times of the COVID-19 pandemic from 21 april 2020, OHCHR, Human Rights Treaties Branch September 2020 Compilation of statements by human rights treaty bodies in the context of COVID-19, https://www.ohchr.org/Documents/HRBodies/TB/COVID19/External_TB_statements_COVID19.pdf, str. 37-39

³² Call for joint action in the times of the COVID-19 pandemic (21 April 2020), OHCHR, Human Rights Treaties Branch September 2020 Compilation of statements by human rights treaty bodies in the context of COVID-19, https://www.ohchr.org/Documents/HRBodies/TB/COVID19/External_TB_statements_COVID19.pdf

³³ Ibid, p. 38.

³⁴ Ibid, p. 39.

³⁵ Ibid.

³⁶ COVID-19 GUIDANCE, Office of the High Commisener for Human Rights, 20. april 2020. godine, <https://www.ohchr.org/EN/NewsEvents/Pages/COVID-19.aspx>

V FRAMEWORK FOR RISK ASSESSMENT AND RISK MANAGEMENT ON THE TERRITORY OF WESTERN BALKANS AND TURKEY



Countries in the region responded differently to the COVID-19 pandemic, introducing measures that significantly restricted the rights and freedoms of citizens, citing the need to protect the lives and health of citizens, but lacking an assessment of the proportionality of restrictions in relation to the goal of the measures; as a result, in some states, citizens have appealed to the constitutional court. Measures mainly included: a ban on movement and a total ban on the movement of persons under 18 and over 65; curfew, mostly during the night and/or on weekends; prohibition of assembly; part-time work of institutions or organization of work from home with established shifts in order to ensure the minimum functioning of institutions; changes in the operation of institutions in such a way that the operation of authorized service institutions and law enforcement institutions is redirected to the distribution of assistance packages (centers for social work) and compliance with isolation measures and monitoring violations of curfew (police). This is significant given that these two institutions are, by law, key to reporting domestic violence and proposing and overseeing the implementation of urgent protection measures against perpetrators of violence.

At the same time, the prosecutor's offices worked on the principle of on duty, and the courts most often acted only in serious criminal cases and cases that are legally marked as urgent. Legal aid institutions did not provide legal aid to those for whom they were established because the courts did not work and

thus did not perform their primary role.

The police had a priority task, which was to monitor the curfew and isolation measures. The capacity of the police to monitor violations of emergency protection measures in cases of violence was limited, leaving the perpetrator free to abuse the measure, which endangered the lives of women and children. Reports of violence to the police, according to the Department for Legal and Psychological Support of the Center Women's Rights, often ended without an official note, and thus did not reach the prosecutor's office, whose work is also limited.³⁷

The Centers for Social Work justified their inaction by issued orders on the mode of organization of work of institutions during the COVID-19 pandemic, that they do not have enough human or technical capacity to go out on the field, even though they received inquiries from women on how to act in cases where fathers do not act according to the court decisions and do not return children to the mothers according to the agreed time and date.³⁸

At the same time, NGOs recorded an increasing number of reports of violence, but also other requests from women because women were in a state of deep anxiety and insecurity for their own lives and the lives of their children due to the experienced violence and were in need of interviews with occupational therapists and therapy sessions.³⁹ There has also been an increase in the number of threats through information and communication technologies (ICT), which are reflected in the threats of murder,

³⁷ Example of the [Recommendation](#) of the Institution of Human Rights Ombudsman of Bosnia and Herzegovina to competent authorities in a situation of increased risk of domestic violence due to isolation measures for prevention of spread of COVID-19.

³⁸ In a case of the Zenica Center of Women's Rights, a convict awaiting execution of sentence of imprisonment, for 14 days has been avoiding returning a 4-month-old baby to a mother who turned for help to the Center.

³⁹ The Center of Women's Rights noted that the rate of psychological violence among women who addressed the Center before the onset of COVID-19 was 48%, and physical 11%, while at the beginning of the pandemic the percentage got even.

by posting joint photos of explicit content via social networks. Some women were evicted from their homes after curfew.

Undoubtedly, the measures of the government and institutions related to the COVID-19 pandemic also influenced the (non)resolution of cases of violence against women, because the adoption of restrictive measures did not take into account that they could be a trigger for re-traumatization, especially for people with war trauma.

The period of the COVID-19 pandemic brought with it dramatic life changes: fear for health, sudden change of work, feeling of loss of control, fear for financial future, education and welfare of children, possibility of job loss (due to isolation), which was one of the reasons for the occurrence of disturbed partner relationships.⁴⁰

Upon crisis headquarters decisions, orders on the restriction of movement for persons below 18 years have been introduced. Such orders indirectly affected women who experienced violence because they could not seek help due to inability to leave the child/children alone, without care and supervision.

Women who approached NGOs for help stated that they had contacted existing SOS hotlines but did not receive support that required mediation with institutions but received basic advice that they could call the police and centers for social work and report violence.⁴¹

Seminars conducted by the Center of Women's Rights in July-November 2020, with the participation of 90 representatives of institutions in the protection system from Bosnia and Herzegovina, Serbia, Montenegro, Kosovo, North Macedonia, Albania and Turkey, showed that during the pandemic there has been an increase in "*situational violence*" in the family. The name itself indicates that certain situations caused by social relations, natural disasters, pandemics, etc., represent a high level of risk for violence against women both in environments and communities where previous violence has not been registered. Situational partner violence is especially pronounced, which is directly related to the increased level of stress caused by the action of external factors that create fear⁴² and insecurity.⁴³ Stressful situations reduce the person's ability to resolve conflict situations, which is often the trigger for domestic violence. At the time of the pandemic, this condition was further exacerbated by physical social isolation, manifested through the work of parents from home, care for children and their schooling, and care for parents and sick family members. At the same time, in families where there has already been violence, new life circumstances have further increased the risk of recurrence and escalation. During the pandemic, some good practices were registered, such as the establishment of the Budi sigurna ("Be Safe") mobile application. Such examples of good practice can be a model for other countries as well.⁴⁴

⁴⁰ SEMINAR: „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“ – BOSNIA AND HERZEGOVINA, held on September 01 and 02 2020.

⁴¹ Ibidem.

⁴² Stress (Eng. stress – pressure or tension on the body) is the body's response to a situation that a person perceives as **threatening**, dangerous, or threatening to their physical or mental integrity.

⁴³ Nurka Babović, sociologist and therapist, presentation on the online seminar "The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures".

⁴⁴ Minutes from the online seminar – Montenegro "The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures," held on July 1-2, 2020.

VI GUIDELINES FOR RISK ASSESSMENT AND RISK MANAGEMENT

6.1. Crisis management

The COVID-19 pandemic has shown the importance of establishing measures to manage processes during crises. Effective crisis management protects the established public order, and thus both citizens and society as a whole, and can be the difference in their survival. A key prerequisite for crisis management is preparedness, as well as recognizing the crisis before it occurs. If preparations are lacking or inadequate, it is very important to ensure urgent social restructuring in such a way that the use of available resources is in the function of acting on the causes of the crisis, while striving to maintain the maximum level of development in all spheres of life. This requires, above all, that the adoption of measures take into account their proportionality in relation to the objective to be achieved, where **impact assessment is crucial, in order to avoid that interventions in one social segment cause harm in the second segment.**

A lack of planning or lack of a planned approach can delay the response to crisis situations, reacting only when they escalate. Planning alone requires the definition of priorities, for which the existence of analytical information is necessary regarding situations that may require intense and urgent attention. The collection and processing of analytical information is the basis for risk assessment. In this regard, using, inter alia, information and communication technologies at the regional level, a number of activities have been undertaken to assess the risk of escalation of violence against women caused by the crisis since the onset of the pandemic.

Seminars, research and other activities were organized, which were used as a basis for drafting the guidelines. The seminars organized by the Center, with the support of

UN Women, provided basic analytical information on defining priorities that should be included in contingency plans to prevent the escalation of violence against women, but are also on defining guidelines on how to act in relation to defined priorities. Through the activities carried out by the Center, a regional consensus was reached regarding the purpose and objectives of the guidelines, and above all the key topics, priorities and established principles of the guidelines. These activities also served as a channel for gathering more complete information on the prevention of violence against women, including information on legislation, institutional mechanisms, and in particular on priorities and constraints.

Although there is no single definition of the crisis in the field of prevention of domestic violence, the crisis should be viewed as an emerging risk that may prevent the effective action of the authorities in the case of violence against women, which in the long run may cause its escalation. Namely, the crisis affects the entire system of established measures to prevent and combat violence against women because it interferes with the normal functioning of all institutions. This is further complicated by the fact that crisis headquarters set up in countries to prevent a pandemic have generally not issued any guidelines for dealing with cases of violence, nor have they consulted with the authorities involved in the prevention of violence against women. At the same time, through the adoption of measures, the crisis headquarters “mobilized” the resources of institutions that have a mandate to act in the field of violence against women. The mobilization was carried out in such a way that new priorities were imposed on these institutions, such as monitoring the execution of isolation decisions, respecting the measure of restriction

of movement for certain categories during curfew, and changing the basic function of some institutions, such as centers for social work, to work on distribution of aid packages, while the role of these institutions in cases of domestic violence and monitoring the implementation of pronounced protection measures was neglected.⁴⁵

The seminars showed that many of the dramatic life changes experienced by professionals as well as difficulty adjusting to changes in the established way of working have affected the degree of efficiency and effectiveness of institutional responses to prevent or stop violence. Formally, the institutions continued working, but they were further removed from their mandate of protection of the victim.⁴⁶ The problem of the lack of specialized internal structures in the institutions responsible for the prevention of domestic violence (departments/appointed responsible persons) that deal exclusively with the issue of violence against women and trained staff within each institution was recognized as a key problem.⁴⁷ All of the above resulted in the accommodation facilities of shelters not working as planned; there were no major changes in the number of protective measures imposed, and there was a lack of monitoring of their implementation.⁴⁸ The victims were left out of protection, which is contrary to the 2030 Agenda “to leave no one behind”.

The lack of crisis management within the institutions proved to be a weakness in the whole region, as was the coordination of activities necessary to minimize the consequences of the crisis.

During the pandemic, sporadic positive examples were registered which showed that the system can function in a crisis situation, but these were mainly related to the sensibility and personal approach of those responsible, since no institutional solutions have been established.⁴⁹

Regardless of the degree of cooperation and coordination between authorities, the practice of drawing up individual plans for victims has generally not been established, nor has the exchange of relevant documentation between institutions. Undoubtedly, there is a need for experts to work on cases of violence who can handle the whole case and who will be linked to other institutions in the chain of protection systems. It was also pointed out that during the pandemic, if all institutions (e.g., center for social work, police...) had 2-3 people trained to work on cases of violence, case management would be improved. If this problem were solved systematically, it would greatly help work on cases of violence.⁵⁰

Addressing the lack of multisectoral cooperation is key to establishing a consistent, comprehensive and uniform risk assessment. Although in some cases there are risk assessment forms in institutions, especially in the police and prosecutor's office, they are not in the system and are not utilized by all institutions, which makes it difficult for those handling cases to be efficient and urgent in providing protection. It is very important to develop a uniform risk assessment form in cases of domestic violence and intimate partnership for all relevant institutions in the protection system in order to anticipate further steps to protect the survivor and prevent the recurrence and escalation of violence.⁵¹

⁴⁵ MINUTES FROM THE ONLINE SEMINAR – SERBIA „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“, held on July 07 and 08 2020.

⁴⁶ Ibidem.

⁴⁷ Emphasized during all seminars.

⁴⁸ MINUTES FROM THE ONLINE SEMINAR – SERBIA „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“, held on July 07 and 08 2020.

⁴⁹ Ibidem.

⁵⁰ SEMINAR: „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“ – BOSNIA AND HERZEGOVINA, held on September 01 and 02 2020.

⁵¹ MINUTES FROM THE ONLINE SEMINAR – MONTENEGRO „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“, held on July 01 and 02 2020.

6.2. Goal and purpose of guidelines

In order to prevent the escalation of violence against women due to the crisis caused by the pandemic, it is necessary to establish a crisis management system in which a number of responsible entities are organized to combat the crisis situation with the basic goal of reducing its negative effects. In this sense, the main goal of the guidelines is to be a guide for all actors involved in preventing violence against women to minimize the escalation of violence against women and ensure the protection of victims of violence during crisis situations. The achievement of this objective upholds the credibility of institutions and ensures compliance with international obligations.

The purpose of the guidelines is to provide support at the regional level for cross-border response planning and to help anticipate potential impacts and relative coping capacity at the national level, and to help identify high-risk areas. At the national level, the purpose of the guidelines is to provide starting points for national assessment and information initiatives on the risk of violence against women and to help prioritize and allocate resources. At the community level, the identified purpose is to encourage a consistent and effective local level of assessment.

Thus, the proposed guidelines are based on:

1. Identification of problems encountered by professionals from the region during the crisis caused by the pandemic;
2. Study of courses of action, taking into account the obligations arising from international documents and national legislation; and
3. Experiences of professionals.

The guidelines provide a framework for possible actions on the prevention of violence against women in a crisis situation and indicate the procedures that enable the competent authorities and all other entities working

in the field of prevention of violence against women to perform their activities successfully during the crisis.

6.3. Institutional response during the crisis

Even prior to the pandemic, combating violence against women faced a number of obstacles. Despite the establishment of a legislative framework and protocols on cooperation, a low level of coordination is still present within the protection chain. The pandemic has led to new problems, such as the closed doors of many institutions dealing with general security, health care and social protection, resulting in the marginalization of victims of violence. Recommendations and orders of crisis headquarters referring to lockdown measures were made without consulting experts. Limited human resources in institutions do not allow the establishment of departments as new organizational units. As a result, it is necessary to establish an organizational structure based on the principle of multisectoral cooperation through the appointment of responsible persons in institutions, who would form a team at the local level. Departments could be established at the regional level.⁵²

It is necessary to introduce risk management in the system of work of all institutions in order to improve the management system in emergency situations.

6.3.1. Police

The police are part of the formal system responsible for investigating and prosecuting cases of domestic violence, which are reported to the relevant institutions and which constitute criminal offenses under domestic law. In addition, the police are one of the most important initial contacts for victims, and often the first place where victims seek legal assistance.⁵³ Within their competencies, the police should ensure: making reports at the scene;

⁵² SEMINAR: „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“ – BOSNIA AND HERZEGOVINA, held on September 01 and 02 2020.

⁵³ Provision of police services, part of a multisectoral response to gender-based violence, Standard Operating Procedures, UNFPA Regional Office for Eastern Europe and Central Asia (UNFPA EECARO), 2015, p. 5th and 6th

upon reporting, filing a request for the application of protective measures; deprivation of liberty and detention of persons; keeping records of reported cases of violence; informing the center for social work, especially if children are also exposed to violence; informing the court in case of non-compliance with the imposed protective measure; filing a misdemeanour report for violation of protective measures; and submitting an official report for committing the criminal offense of domestic violence.

6.3.2. *Prosecutor's offices and courts*

States in the region have generally enacted legislation governing the prosecution of domestic violence, through separate domestic violence laws and/or criminal laws. Criminal procedural legislation, which is the basis for prosecuting perpetrators, is certainly important for prosecution. By prescribing domestic violence as a criminal offense and determining the criminal sanction, the preventive and repressive function of criminal legislation is realized. Legislation is the basis for the actions of the prosecutor's office and courts. In addition to the police, the prosecutor's office has a key role in the criminal prosecution of domestic violence; this function is performed through general provisions on the rights and duties of the prosecutor. The role of the prosecution can be observed through three basic phases of proceedings: criminal report, investigation and indictment. The prosecution also fulfills its role through the submission of legal remedies. The prosecution has an important role in relation to the victim, who often appears in the role of a witness on the prosecution side where there is an obligation of the prosecutor to provide support to the victim (witness) and offer legal and other assistance in accordance with the law. The efficiency of the prosecution's case significantly depends on the efficiency of the prosecution's proceedings, given the obligation of the prosecution to take the necessary measures immediately upon learning that there are grounds for suspicion that a criminal offense has been committed, in or-

der to detect and investigate, find suspects, manage and supervise investigation, as well as to manage the activities of authorized officials related to finding suspects and collecting statements and evidence.

The efficiency of processing cases of violence against women is greatly influenced by the continuing social marginalization of violence against women, especially in conditions of emergency and restrictive measures. Although a sharp increase in the intensity of violence against women has been assessed, the number of cases processed has decreased. This is the result of evident weaknesses related to the processing of cases of violence against women in the crisis period, which confirms the theory of marginalization of violence against women. Responsibility for this situation lies with all those obliged to provide protection and assistance to victims of violence. Closely related to this problem is the fact that courts in the region rarely apply and invoke the standards of the Istanbul Convention, which can be seen in the broader context of the uneasy relationship between courts in the region and international law in general.⁵⁴

6.3.3. *Centers for social work*

International standards and national legislation (law on protection from domestic violence, family laws, etc.) mandate that the social protection authorities act in cases of violence against women, especially if children are also exposed to violence, by reporting violence and providing assistance to victims. Social protection services have an important role to play in securing the victim's accommodation in a safe house/shelter, as well as in keeping records of imposed protective measures and informing the court. As a rule, after reporting domestic violence, representatives of centers for social work should go to the intervention accompanied by the police. Procedures for dealing with the intervention should be clearly prescribed, including methodological approaches, as well as further treatment of the victim through the obligation to draw up a work plan with the vic-

⁵⁴ Inid, p. 178.

tim, as well as to ensure work with the perpetrator of violence. The work plan should include the involvement of all experts deemed necessary in support of the victim, as well as non-governmental organizations dealing with violence. It is especially important to ensure the operation of social protection centers through mobile teams.

Undoubtedly, centers for social work are key institutions for the prevention and combating of violence against women and domestic violence. The breadth of their mandates and limited capacities result in the centers not being able to respond adequately in the execution of their mandate, which is further exacerbated by crisis situations. In general, there is a problem with the treatment of centers for social work by the competent ministries. This problem was further expressed during the pandemic through the orders of the crisis headquarters, which are primarily aimed at protecting the health and restricting the movement of citizens and adhering to the recommendations of the WHO. Crisis headquarters have hardly dealt with issuing specific instructions to the competent institutions on how to adequately provide citizens with urgent services; they also did not contact experts in the field when adopting measures, nor did they recognize the

need for the adoption of guidelines for dealing with crisis situations. The staff in the centers took the initiative to help people who applied for their service, especially those of an urgent nature.⁵⁵

6.3.4. Health institutions

Violence against women has a negative impact on women's health, including physical, sexual and reproductive, mental, etc., highlighting the importance of the effective operation of health institutions in the event of violence against women. The competence of health care institutions to act is based on general laws governing health care, as well as a number of special laws governing this area.

During the crisis caused by the pandemic, the healthcare institutions put the primary focus on dealing with cases of COVID-19, and conditionally speaking, they "closed" for all other cases. Even emergencies did not receive adequate treatment out of fear that the pandemic would be "dragged" into health institutions. There were also problems with labour and delivery procedures if the mother was COVID-19 positive.

⁵⁵ Ibidem.

VII GUIDELINES

The established legal-political framework for the prevention of violence against women is not a guarantee that victims will be protected; this is due to the lack of its consistent practical application, which is further complicated during the crisis situation, as shown by the crisis caused by the pandemic. It is this fact that has indicated the need to create guidelines for risk assessment, monitoring of vulnerability and capacity to act in cases of violence against women in times of crisis. The guidelines should promote cross-border response planning, helping national actors anticipate potential impacts on violence against women and the capacity to deal with those impacts at the national level, identifying high-risk areas and supporting cross-border cooperation initiatives.

The Western Balkans countries and Turkey need to align policies and legislative frameworks with international standards, including recommendations for operating during a pandemic, contained in the Council of Europe Declaration on the Implementation of the Istanbul Convention during COVID-19, CEDAW Committee Guidelines, OHCHR Guidelines and UN Women documents.

In order to take further steps, it is the responsibility of the competent authorities to consult these acts when creating measures to prevent violence against women and prevent its escalation. Appropriate solutions are contained in these acts and are confirmed through risk assessment integrated into Regional Guidelines, which are applicable at the operational level, are directed to the authorities dealing with cases of violence against women, and which provide a comprehensive framework for action in crisis situations.

The guidelines consist of two interrelated parts:

- REGULATORY LEVEL
- OPERATIONAL LEVEL

Regulatory Level

At the regulatory level, states should, regardless of the pandemic crisis:

- Adjust the intensity and modalities of enforcement to extraordinary circumstances and the postponement of the actions of states cannot be justified by any reason;
- Ensure the establishment of quality cooperation between institutions and civil society organizations, including specially recognized and specialized associations that work directly with victims of crime;
- In all countries, make greater efforts to further align national legislation with the Istanbul Convention in order to criminalize all forms of violence against women. This includes the need to improve the definition of rape to cover all situations, including marriage and relationships, including sexual acts without consent, as required by the Convention;
- In the context of the provisions of the EU Victim's Rights Directive and in accordance with the Istanbul Convention,⁵⁶ introduce the Institute of "person of trust" in national legislation in order to overcome the limited capacities of institutions, especially in crisis situations;
- Oblige crisis headquarters to involve and consult all institutions and specialized women's civil society organizations when adopting measures, in order to assess the impact of the crisis on violence against women;
- In order to support integrated response and coordinated cooperation, amend existing protocols and other operational documents at the local level;
- Increase effective cooperation, coordination and cross-sectoral dialogue between

⁵⁶ Ibid, p. 179.

institutions in the chain of protection of women from violence, with a clear concept of support model to encourage local action from the bottom-up approach, giving equal importance to each local group and individual actions.

Operational Level

At the operational level, states, regardless of the pandemic crisis, need to:

- Adhere to the basic principles of risk through three phases:
 - PREPARATION: it is necessary to ensure the commitment of leaders/directors/managers to conduct risk assessment; develop an action plan for conducting risk assessment; appoint a working group to conduct the assessment
 - RISK ASSESSMENT: determine procedures by priorities and decide on measures; document the assessment
 - IMPLEMENTATION: revise or establish a monitoring system of the action plan for the risk assessment
- Establish a mechanism for coordination and cooperation between institutional mechanisms for the prevention of violence against women and crisis headquarters (it is NECESSARY to organize meetings using all available modern communication technologies);
- When drawing up crisis plans, all institutions are obliged to take into account that the crisis is a high risk factor for violence, and that, accordingly, they should plan measures aimed at reducing the impact of stress (which may include available professional psychological and legal assistance, pedagogical counseling);
- It is necessary to clearly define what is the role of each institution that is in the chain of providing any protection⁵⁷;
- In order to act more effectively and promptly on the protection of victims in emergency institutions, establish internal structures, departments or appointed certified experts (depending on the size and capacity of human resources of institutions), with the widest possible powers;
- These institutional structures are the basis for forming a multisectoral team that should establish a high level of mutual communication and coordination, respecting the legal framework and protocols and other acts adopted in this area, with maximum use of information and communication technologies, if the epidemiological situation is complex;
- Establish emergency and urgent duty at each institution, and in case one institution cannot react, there must be modalities of ad hoc solutions. This includes:
 - Particularly high level of communication between institutions
 - That citizens must be adequately informed about the procedures
 - To make lists and to make available lists with contact details of experts that work in the field of protection of women from violence, in case of urgent action
- It is necessary to advocate the development and mandatory application of uniform risk assessment forms in cases of domestic violence and intimate partnership, for all relevant institutions in the protection system, in order to anticipate further steps to protect survivors, prevent recurrence and escalation of severe violence. It is necessary to make a practical guide for their application;
 - Note: Risk assessment forms exist in some institutions of countries in the region (mainly in the police and prosecutor's office). The fact that not all institutions have these forms makes it difficult for those handling cases, in terms of efficiency and urgency in providing protection.
- It is necessary to introduce the development of a safety plan for women victims/survivors of violence and those at increased risk of violence. A well-developed safety plan is the basis for a safer way out of a sit-

⁵⁷ SEMINAR: „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“ – BOSNIA AND HERZEGOVINA, held on September 01 and 02 2020.

uation of violence, with as few consequences as possible and prevention of escalation of violence,

- The safety plan should be jointly drafted by the competent authorities (police, social work centers, prosecutor's office) in cooperation with non-governmental organizations dealing with the protection of victims.⁵⁸
- When drawing up a safety plan for victims of violence and generally when taking measures in this area, special attention should be paid to the protection of women from marginalized groups (women with disabilities, members of ethnic and social minorities, migrants, etc.);
- Given the shortcomings in the treatment of victims of violence against women during a pandemic, all authorities are invited to consider providing support to the victim of violence in all proceedings related to violence, through the involvement of experts from civil society organizations dealing with the protection of women victims/survivors of violence;

In the long run, such a solution should be

incorporated into legislation as mandatory, and to establish a mechanism of a “person of trust”, in line with the provisions of the Istanbul Convention (Article 56) and respecting the framework established by the 2012 EU Victim's Rights Directive.

- For all institutions in the protection system (judiciary, law enforcement agencies, centers for social work, health care institutions) it is necessary to introduce mandatory education/training aimed at sensitization, in order to prevent the influence of prejudices and stereotypes on decision-making and approach of professionals to victims/survivors of violence;
- It is necessary for the competent authorities to take more effective measures to monitor the implementation of protective measures, which requires:
 - Amendment of protocols and other acts
 - Establishment of a more efficient mechanism for urgent action in case of addressing the victim due to violation of measures.

⁵⁸ Minutes from the Online seminar for Serbia, „The marginalization of the issue of violence against women under emergency circumstances, forced isolation and restrictive measures“, July 07 and 08 2020

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