



# Promising practices of establishing and providing specialist support services for women experiencing sexual violence

A legal and practical overview for women's NGOs and policy makers in the Western Balkans and Turkey

## Executive Summary



This programme is funded by the European Union





Women against Violence Europe Network (WAVE) is a European-wide network of more than 160 members (including women's NGOs, NGO networks and individual members) in 46 European countries, who are dedicated to addressing and preventing violence against women and girls. Since its foundation in 1994, WAVE has been working to promote and strengthen the human rights of women and children, and to enable women and their children to live free from violence, particularly through building and sustaining a strong European network of specialized support services, experts and survivors.

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Date of publication        August 2021

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<sup>1</sup> Biljana Brankovic is also a member of GREVIO. However, she co-authored this paper in her personal capacity as Consultant, not in her official capacity as GREVIO member, so opinions expressed herein could not be attributed to GREVIO as a whole.

\* 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).

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# I. Introduction

This Executive Summary is developed based on the findings and recommendations identified in the *'CSSP Policy Paper: Promising practices of establishing and providing specialist support services for women experiencing sexual violence. A legal and practical overview for women's NGOs and policy makers in the Western Balkans and Turkey'*.

The Policy Paper and Executive Summary are developed as part of the EU/UN Women project "Strengthening the capacities of regional CSOs networks for policy advocacy, knowledge-based expansion and partnership facilitation on sexual violence in the Western Balkans and Turkey," under the EU/UN Women regional programme "Ending violence against women: Implementing norms, changing minds." The programme aims to end gender-based discrimination and violence against women in the Western Balkans and Turkey, encompassing Albania, Bosnia and Herzegovina, Kosovo, Montenegro, the Republic of North Macedonia, Serbia and Turkey.

With a view to addressing the findings<sup>1</sup> of the 2019 Mapping report, the Civil Society Strengthening Platform (CSSP) project organised a capacity building training to promote promising practice standards in supporting victims of sexual violence, amongst women's specialists support services supporting victims of sexual violence, other women's NGOs, and stakeholders such as policymakers. The ultimate aim of the training was to better prepare service providers in effectively supporting victims of sexual violence, and to contribute to the development of the present Policy Paper.

The aim of this paper is to serve national policy makers and women's NGOs as a learning tool when establishing and providing support services for women and children victims of sexual violence, that can eventually inform a national service provision framework. It focuses on highlighting promising practices implemented by women's NGOs and other stakeholders when supporting victims of sexual

violence, and on establishing a common language when it comes to the specialist services mentioned by the Istanbul Convention, namely: rape crisis and sexual violence referral centres. This paper outlines a process of scaling and learning for women's NGOs and national policy makers in the Western Balkans and Turkey and assesses the need for specialised support of victims of sexual violence, expanding on the principles, concepts, and rationale underlying the rape crisis model.

This paper relies partly on the experience and standards developed in Ireland. It is furthermore important to highlight that women's NGOs in the country, particularly rape crisis centres, have also been providing specialist services primarily to women and girls who have experienced sexual violence for more than 40 years.<sup>2</sup> These services, provided in Ireland but also the UK, reflect high support standards and are the culmination of a long process of research, reflection, consultation, and definition, providing a trauma-informed approach to practice and delivery, that is both appropriate to, and effective when, supporting survivors of all forms of sexual violence.

One important element to be considered is that, in 2021, Turkey withdrew from the Istanbul Convention<sup>3</sup> through a Presidential Decree published on 20th of March. Therefore Turkey is no longer obliged to abide by the standards enshrined in the Istanbul Convention, nor has the obligation to set up specialist support services for women victims of sexual violence.

As violence against women and girls has increased to new levels worldwide as a result of the COVID-19 pandemic, it is of great importance to adequately protect women and children from violence, which requires a serious and ongoing political commitment to protecting women from violence, specifically sexual violence. Thus, when addressing the situation of Turkey in this paper, WAVE would still recommend the following standards to be upheld

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1 Only three out of seven partner countries have identified some sort of specialised sexual violence services, which are often poorly implemented due to a lack of government support and funding. There is furthermore insufficient training and capacity among women's NGOs, service providers, and policy makers on the issue of sexual violence, not enough guiding principles in place for services to support victims of sexual violence, leading to a serious lack of trust by victims to report such crimes.

2 [https://rapecrisis.org.uk/media/2162/rcnss\\_partners\\_final.pdf](https://rapecrisis.org.uk/media/2162/rcnss_partners_final.pdf); <https://www.solacewomensaid.org/>; <https://www.womensaid.org.uk/>

3 <https://www.coe.int/en/web/commissioner/-/turkey-s-announced-withdrawal-from-the-istanbul-convention-endangers-women-s-rights>

by Turkey, when aiming to protect and support victims of sexual violence.

## Methodology and structure of the present paper

The Policy Paper was developed with the help of two international experts, Biljana Brankovic,<sup>4</sup> International Council of Europe Consultant and Group of Experts on Action against Violence against women and Domestic Violence (GREVIO)<sup>5</sup> Member in Serbia, and Clóna Saidléar, Director of Rape Crisis Network Ireland. In her capacity, Dr. Clóna Saidléar focused on providing a detailed explanation on specialist support to women victims of sexual violence, tackling the operational elements, principles, concepts and the rationale underlying the rape crisis model in Ireland, based on the experience of Rape Crisis Network Ireland. Biljana Brankovic provided input based on a ground analysis of the situation in all seven partner countries as well as on previous work that has been conducted in the region, such as the 2019 WAVE Mapping Report, and women's NGOs in the region.

The ground analysis undertaken in all seven partner countries was based on a questionnaire developed in advance by Biljana Brankovic. The questionnaire was sent to national partners in all seven countries, to ensure that information/data is collected by national partners based on a unified methodology, and to allow cross-country comparison. All nine CSSP partners provided detailed information in the form of national reports. Based on their responses, the analysis looks at multi-country surveys on prevalence of sexual violence; previous experience of women's NGOs in assisting sexual violence victims; shortcomings in criminal justice response to rape and sexual assault (where available); strategic policies in place regarding the issue of sexual violence, for example any national action plans including or specific on sexual violence; criminalisation of sexual violence and sexual harassment; the issue of whether forensic examination or other services

can be obtained regardless of victims' willingness to report, among others. Segments of GREVIO Monitoring reports on how the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) has been implemented in the partner countries, referring to the issue of sexual violence, if available for particular countries, are also analysed throughout the paper.

The paper mainly focuses on the standards enshrined in the Council of Europe (CoE) Convention on preventing and combating violence against women and domestic violence, namely Article 25 of the Convention.<sup>6</sup> The CoE convention highlights, among others, the importance of providing adequate support to women victims of sexual violence, be it in the form of sexual violence referral centres or rape crisis centres. Furthermore, the Explanatory report of the convention acknowledges that since sexual violence is especially traumatising, it requires a particularly sensitive response by trained and specialised staff. Such support can include immediate medical care, trauma support, forensic examinations, therapy, the provision of adequate information and sensitive guidance, among others. It might also include accompaniment to different social services or to the police to file a complaint or guidance through potential legal cases, including preventing secondary victimisation through judicial decisions.<sup>7</sup> ■

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4 Biljana Brankovic worked on this project in her own personal capacity, so opinions expressed in the present paper cannot be attributed to GREVIO as a whole.

5 GREVIO is the independent expert body responsible for monitoring the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) by the Parties.

6 Article 25, Support for victims of sexual violence, Parties shall take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims.

7 Council of Europe (2011). Council of Europe Convention on preventing and combating violence against women and domestic violence. Explanatory Report, Council of Europe publishing, Strasbourg, pg. 82

## II. Assessing a potential need for support

To determine a potential need to establish specialist support services for victims of sexual violence, a potential need for support needs to be primarily assessed, how many sexual violence victims might be in need of such support in the Western Balkans and Turkey.

The Organisation for Security and Co-operation in Europe carried out in 2018 a study on the prevalence<sup>8</sup> of violence against women in the Western Balkans (Albania, Bosnia and Herzegovina, Kosovo, Montenegro, North Macedonia, Serbia). The study looked at the violence women experience, impact of violence has on women and girls, including its lasting consequences, and the help-seeking behaviour of survivors.

The study was published in 2019, indicating the following:

- The lifetime prevalence of sexual violence (experiences of sexual violence since the age of 15) by any partner ranged from 5 % in Serbia to 3 % in Montenegro and North Macedonia
- Some women feel that they are 'obliged' to have sexual intercourse within their marriage;
- Many women suffer from long-term psychological consequences of sexual violence by non-partner or current partner;
- Survivors of non-partner sexual violence were more likely to develop symptoms of anxiety (55 %) compared with women who were exposed to physical forms of violence;
- Nearly half of women did not speak to anyone about the most serious incident of sexual harassment that they experienced, and not a single woman contacted a victim support organisation;

- The vast majority of women who experienced physical and/or sexual violence decided not to report the most serious incidents of violence to the police or any other institution or organisation;
- The proportion of victims asking for help from victims' support organisation is less than 1 %, which could be due to several reasons, including the lack of specialist support services for victims of sexual violence in the region;
- A significant proportion of women in the Western Balkans can be considered directly affected by the conflict in the region, ranging from 10 % in Montenegro to 70 % in Kosovo, possibly indicating that victims of war are 'hidden' among women in this region.

Such findings should be taken into account when assessing a potential need for establishing specialist support services for victims of sexual violence. If establishing these type of services, they should be specialised and tailored to meet the specific needs of sexual abuse survivors.

Prevalence data and findings on psychological consequences of sexual violence further seem to imply that **women in the Western Balkans might have a greater need for rape crisis centres**, rather than for sexual violence referral centres, since the former provide long-term help, counselling, and advocacy for victims who survived sexual violence or sexual harassment recently or in the past.

The specific context in the region has also to be taken into consideration when assessing the potential need for such support services. As illustrated in the findings of the OSCE study, a significant proportion of women have been affected by the armed conflicts in the region.

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8 The term "prevalence" is used to "explain how many, or what proportion (percentage), of the population are affected by a certain phenomenon during a given period of time (usually, lifetime prevalence, or 12-month prevalence). For example, a 10 % prevalence of violence in the past 12 months means that, on average, one in 10 women were victimised once or more often during the 12-month period. Since prevalence counts each victim only once, regardless of whether they have experienced one or more incidents, prevalence of violence does not reflect the intensity of violence or repeat victimisation; it simply measures the number, or proportion, of the population that has experienced violence. When the survey sample is representative of the national (or wider) population, the prevalence measured in the sample can be taken to correspond with the prevalence in the population, within confidence intervals which differ from one survey to another" (See more in: European Union Agency for Fundamental Rights - FRA, 2014).

*“Post traumatic feelings of war rape are similar to feelings after torture,.., which makes this crime and its consequences like no other”<sup>9</sup> – Lepa Mladjenovic<sup>10</sup>*

In the aftermath of the wars in the Western Balkans, some women’s NGOs developed significant expertise in supporting victims of war-related rape. Specialist support for such victims has been developed in Bosnia and Herzegovina, Croatia, Kosovo, Serbia, and representatives of the international women’s movement were involved in offering support, training, and help to women’s NGOs in the region to strengthen and improve their capacities to assist war-rape victims. Several specialised organisations, such as Medica Zenica (BiH) and Vive zene from Tuzla (BiH) were thus established, offering long-term psychological counselling, legal counselling among others. These organisations became experienced in offering support to victims of rape and torture and have developed materials and manuals that women’s NGOs widely used in their work. Due to shifting priorities in the region, e.g. states not investing enough funds in specialist support services for any form of VAW<sup>11</sup>, some of the invaluable knowledge and expertise developed in war times, has been ‘lost’ or became neglected or overlooked.

It would be therefore beneficial to utilise previously developed experience and expertise related to sexual violence, to revive the ‘lost’ knowledge and to further build on it. This can be done through specialised trainings on sexual violence, capacity-building activities and networking, as in general, many women’s NGOs in these countries do not possess specialised knowledge on sexual trauma, thus they would need additional specialised trainings to help sexual abuse survivors cope with their trauma.

## **#MeToo in the Western Balkans: recent initiatives to share experiences of sexual violence**

The #MeToo movement began in the US in 2017, following the scandal of producer Harvey Weinstein. The American film producer was found guilty of

sexual harassment, sexual assault and rape against dozens of women. The social movement aimed to break the silence on sexual abuse and sexual harassment by empowering women to share their own stories on social media, using #MeToo hashtag. Starting in the US film industry, the movement has rapidly spread to all countries and all fields, more and more women disclosing their trauma and experiences.

In the recent period, women in the countries of former Yugoslavia (Croatia, Bosnia and Herzegovina, Montenegro, Serbia) made attempts to make sexual abuse visible and share experiences of abuse, by organising several initiatives/groups on social media, namely on Facebook. These experiences often include sexual violence cases that happened years ago and remained unreported to the police or other institutions.

For example, after the actress Milena Radulovic from Serbia accused drama teacher and director Miroslav Mika Aleksi of rape and sexual abuse, women from the entire region connected within only several hours, sharing their traumas and sending messages to one another. You are not alone (#NisiSama). Groups such as: ‘I didn’t ask for it (41,600 followers)<sup>12</sup>; ‘I believe you (1,088 followers); ‘No means no (3,277 followers)’ were created exactly with the purpose of encouraging women to believe in themselves, asking society to trust accounts of women experiencing sexual abuse and supporting initiatives to for example integrate into the regular school curriculum methods recognising sexual violence in Serbia.

These grass-root initiatives and the increased willingness of women in the Western Balkans to speak out indicate a potential need for specialist support services that would be specifically designed to meet the needs of sexual abuse victims, as required by the Istanbul Convention, Article 25. Governments in the region, as well as international actors, should hear the voices of women and girls.

9 Lepa Mladjenovic, Healing is justice, <https://www.womenngo.org.rs/en/news/480-healing-is-justice>

10 Lepa Mladjenovic (feminist and co-founder of WAVE) is one of the activists in the region who has worked for many years to provide specialist support/counselling to victims of sexual violence, including victims of war rape.

11 See for example GREVIO report on Montenegro, 2018; GREVIO report on Serbia, 2020.

12 Number of followers as of May 2021.

## RECOMMENDATIONS

1. A potential need of establishing specialist support services for victims of sexual violence can be established by prevalence data highlighted above. Such services should be specialised and tailored to meet the needs of sexual abuse survivors.
2. In line with Article 25 of the Istanbul Convention, states are encouraged to establish rape crisis centres or sexual violence referral centres. Prevalence data and findings on psychological consequences imply that in the region there might be a greater need for rape crisis centres, since the former provide long-term help, counselling and advocacy for survivors of sexual violence.
3. Many women's NGOs in the region are highly experienced in providing specialist services (primarily to victims of domestic violence), based on feminist principles, including a gendered understanding of VAW, empowerment, respect for confidentiality, among others. Some of them possess 20 years of experience in specialist service provision. Therefore, UN agencies and state authorities in the region might consider a possibility to utilise the already-existing expertise to develop their capacities further, by supporting and/or funding specialised trainings on sexual violence for members of women's NGOs. The expertise of women's NGOs that specifically deal with this issue might be considered and involved in creating and facilitating such trainings.
4. Offering appropriate support services and empowering women's voices in the process is closely linked to prevention work. Prevention plays a vital role in changing attitudes of the public at large, including different stakeholders and policymakers, overcoming gender stereotypes, and raising awareness on specific issues. Most women who experienced sexual violence decided not to report the most serious incidents of violence to the police nor to any other institution or organisation.<sup>13</sup> Empowering women to seek help and/or protection in these circumstances is an integral part of the role women's NGOs and other state stakeholders have when support victims of sexual violence.

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13 Ibid, OSCE-led survey 2019



# III. Establishing a common language: Specialized support services for sexual violence victims

Article 25 of the Istanbul Convention mentions two types of specialised services that parties of the treaty should establish to offer better support for victims of sexual violence: *rape crisis centres (RCC)* and *sexual violence referral centres (SVRC)*. It is to emphasize that, according to the Explanatory Report of the convention, State parties are not obliged to set up both rape crisis centres and sexual violence referral centre types.<sup>14</sup> It is recommended that one such centre should be available per every 200.000 inhabitants and that their geographic spread should make them accessible to victims in rural areas as much as in cities.

## Sexual Violence Referral Centres (SVRC)

SVRCs primarily provide for the **immediate care** of a sexual violence victim. Services will include medical/health, forensic, and psychological care as well as provide for the storage of forensic evidence. Most SVRC services and professionals are part of existing publicly funded health services. SVRCs are used by survivors in the week immediately after an assault, this is when there is still a possibility of gathering forensic evidence. They will also be able to access immediate medical care. SVRCs will also provide follow-up medical care. Increasingly, SVRCs also provide medium-term psychological support.

### Promising practice includes:

- **Professional trainings:** Medical and nursing staff should be specially trained in delivering forensic sexual violence examinations and health care, this training should include trauma, forensics and legal issues;
- **Adherence to regulation:** Professional standards and regulations should be adhered to, for example, medical, nursing, etc;
- **Coordination of services:** Health, justice and advocacy personnel must be guided by a shared understanding of their distinct roles and duties, as well as mutual professional respect. Ideally shared interagency standards and protocols should be developed for a SVRC.<sup>15</sup>

While SVRCs must be trauma-informed and specialist in sexual violence aftercare, they do not necessarily need a feminist analysis to deliver a survivor-centred service. Psychological care is often focused on disruptive trauma symptoms as needed by survivors immediately after an assault. They do not necessarily play any role in understanding and challenging the causes of sexual violence.

## Rape Crisis Centres (RCC)

RCCs provide a safe environment for survivors of sexual violence whenever and however survivors choose to access them. Survivors may come to a RCC immediately after an incident, or after a longer period of time. These services can be accessed through self-referral, or by being referred by others, such as their doctor.

RCC services aim to offer support relevant to all aspects of sexual violence across all life stages. RCCs work to understand sexual violence trauma, impacts and causes to support each survivor at the point at which they engage, to choose how they wish to address the trauma and what support survivors need. RCC services are, therefore, **'survivor-led'** and rely on a commitment to listening, adapting, and innovating.

A RCC typically combines services ranging from helplines, counselling, psycho-therapy, advocacy and accompaniment through legal, to medical processes for survivors. Tailored groups for minoritized groups in partnership with other CSOs can be established in order to meet the different needs of survivors.

14 Explanatory report to the Istanbul Convention, paragraph 139.

15 In 2018, Ireland has established national guidelines to support the work of SVRCs. These shared SVRC national guidelines place the health care needs of a victim as the primary consideration. They can be found under the following link: <https://www.hse.ie/eng/services/publications/healthprotection/sexual-assault-response-team-national-guidelines.pdf>

Rape crisis services dedicate a proportion of their capacity to change and prevention. Every survivor using a RCC knows that, in sharing their journey with a RCC, they become part of a movement for change. A RCC commits to transforming their community based on what survivors teach them, by raising awareness, engaging in education, and working with other agencies and professions (e.g., the police, doctors etc) to improve the response to survivors and prevent it from happening to others.

### Promising practice in RCCs includes:<sup>16</sup>

- **Professional training:**
  - All staff and volunteer have an understanding of sexual violence and sexual violence trauma. Staff are specialised in their sexual violence support roles;
  - Training programmes should be available for staff and volunteers of the centres;
- **Protection for all staff and volunteer:** Formal supervision and the supportive professional culture within rape crisis centres aim to protect staff and volunteers from vicarious trauma;
- **Survivor empowerment:**
  - RCCs never pressure survivors to take up a service or report to the police but provide them with information, choice, and non-judgemental support;
  - Survivor dignity and confidentiality are respected throughout the entire process;
  - Any mandatory reporting obligations are fully explained in order to allow survivors to make informed choices;
- **Adapted services:** There are a variety of services available that can be tailored to survivors' needs: counselling accompaniment, legal information, group therapy, volunteering, etc;
- **Centres' coordination:**
  - Centres build networks with local organisations and services to ensure the best response to each survivor;
  - Centres network with peer rape crisis centres to share learning, multiply their voice, develop and raise standards and hold each other accountable. ■

## RECOMMENDATIONS

1. Either by establishing rape crisis centres or sexual violence referral centres, such services such be available per 200.000 inhabitants and their geographic spread should make them accessible to victims in rural areas as much as in cities. Such services should furthermore be accessible for vulnerable groups of women.
2. Sexual violence referral centres should primarily provide immediate care and services should include medical/health, forensic and psychological care as well as storage for forensic evidence. Medical and nursing staff should be specially trained in delivering forensic sexual violence examinations and health care; this training should include trauma, forensics and legal issues.
3. Rape crisis centres should provide a safe environment for survivors of sexual violence, whenever and however survivors choose to access them. They provide long-term support, working to understand the sexual violence trauma, impact and its causes to support each survivor at the point when they decide to engage. Rape crisis centres should apply a survivor led and rely on a commitment of listening, adapting, and innovating.
4. It is important to adapt the models applied in Ireland or United Kingdom to the local legal and practical context of the Western Balkans and Turkey. Whether establishing rape crisis and/or sexual violence referral centres it is key to distinguish between these two types of services, and develop for each principles and concepts that put the survivor at the core of all service provision.

<sup>16</sup> In Ireland, RCCs developed, through the RCNI, shared standards of practice and governance. The latest rape crisis service standards were developed by England and Wales in 2018 and are available here: [https://rapecrisis.org.uk/media/2162/rcnss\\_partners\\_final.pdf](https://rapecrisis.org.uk/media/2162/rcnss_partners_final.pdf)

## IV. Principles, concepts, and rationale underlying the rape crisis model

The following principles and concepts outline the potential for replicating and scaling that should be considered when developing comprehensive short-term and/or long-term specialist support services for survivors of sexual violence. These approaches have been successfully implemented for decades by the Rape Crisis Network in Ireland. Services that seek to adopt and implement such principles are encouraged to modify them as appropriate to the national context. By implementing this model of service provision, a relationship of trust with the survivor can be established and her long-term empowerment fostered.

### Building trust through the Rape Crisis Centres survivor-centred empowerment model

Sexual violence is a fundamental breach of trust, this breach is not just about the individual perpetrator but often and perhaps invariably extends to family, friends, communities, and agents of the state. Rape crisis centres' core function is to earn the trust of survivors to support their empowerment and rebuilding of trust in others, including state agencies where appropriate. This is one of the reasons why attention is given to issues of power throughout RCC work, including within support and counselling relationships. Empowering the survivor involves both the personal empowerment of the survivor in any contact they may have with the RCC, and also empowerment of the survivor within society as a whole.

Confidentiality is core to the work of rape crisis centres, in building trust, in respecting the autonomy of survivors and cooperating in a survivor-led response.

The RCC model is always non-directive, non-judgmental, trauma-informed survivor-led as RCCs believe that the best responses possible are led by survivors themselves who are best placed to know what they need at any given point, and to return

the control that was taken during any experience of sexual violence. This has been described as the survivor/recovery model.

**Survivor/recovery model:** seeing traumatic systems as creative responses and adaptations to horrific events. The model explores how the survivor survived creatively during trauma, or during repeated trauma, and how they creatively survived afterwards given their life situation. It emphasizes the survivors' resources and positive strengths.<sup>17</sup>

### Principles of work of RCCs to build trust with survivors:

- Create a safe place where survivors can over time arrive at clarity for themselves that they feel able to communicate in languages and ways that make sense for them and meet their needs;
- Offer tools to manage and overcome disruptive symptoms of trauma (insomnia, flashbacks, anxiety, etc.);
- Promote well-being and focusing on growth rather than symptoms and defects;
- Reinstate and reaffirm one's autonomy;
- Survivor consent and confidentiality must be at core to all supports;
- Understand gender inequality to be the most important determinant of abuse. Sexual violence happens in a social context rather than being purely about individual perpetration.

### The survivor's voice

Sexual violence is often hidden, and survivors remain silent. The hidden nature of sexual violence makes it challenging to engage publicly. However, no survivor has the responsibility to work to create

17 Herman, Judith Lewis. 1997. *Trauma and recovery*. New York: BasicBooks is still considered the seminal text on domestic and sexual violence trauma.

change. Telling their stories can be burdensome and costly. Therefore, RCCs seek to find empowering ways to hear and support survivors' voices safely and appropriately.

Understanding why survivors remain silent, is a first step in applying a victim-centred approach when supporting survivors. RCCs never pressure or burden survivors to tell their stories, being abusive to demand their stories without appreciating the reasons for their silence.

Some reasons why survivors choose to remain silent:

- **Pressure from the perpetrator:** Perpetrators may be powerful members of families, communities, workplaces, etc;
- **Pressure to lose everything:** Survivors may have an interest in preserving support structures (such as family) from the disruption of the truth about the harm that was done to them;
- **Pressure to prevent relatives from violence:** Survivors will understand that families, communities, organisations may have an interest in protecting themselves from acknowledging the harm that happened within their unit;
- **Social pressure:**
  - Survivors face backlash and risk harm when they speak out for 'causing' disruption (ostracised from a group, have to move from home, lose their job, physical assault, etc.);
  - Survivors may be blamed and stigmatised by professionals that should protect and support them or by their families and/or friends;
- **Administrative violence:** Survivors may have witnessed this self-preservation of the institution in action many times prior to being themselves victimised.

**Survivors' stories create change myths pressure:**

These myths create pressure on survivors to speak out and often set unattainable expectations. Survivors' stories, contrary to myth, are rarely disruptive.

Rape crisis centres understand that:

- Media pressure and interest in 'human interest' led stories, drives demand for survivor testimonials for the purpose of selling media (regardless of the good intentions of those involved);
- Each survivor story is unique and cannot be taken as representative of other survivors' experiences;
- Survivors can be asked to offer insight into the perpetrator's motives and mindsets – this implies the survivor had some control over the perpetrator and therefore carry responsibility and blame - only perpetrators' stories can be a reliable testimony of perpetrators' mindsets;
- An emotional and empathetic response to a survivor's story is not an action and may create no change; Emotion is a poor measure of intervention.

There are ways to support survivors' voice and empowerment while maximising both impact and safety for survivors. These include:

- **Give support:**
  - Ensure a survivors' story is attached to an 'ask' – what is the action or change being demanded once the audience has engaged; Is it realistic and attainable? Can this 'ask' be aligned with and supported by a sustained campaign for change?
  - Gathering survivors' data to tell a collective story;
  - Conducting prevalence surveys;
  - Constructing composite stories (add different survivor's stories together to tell something true but not an individual survivor's story);
- **Give protection:**
  - Respect the Supporting survivors to tell their stories anonymously;
  - Using survivor quotes anonymously;
  - Challenge the patriarchal norms;
  - Challenging victim-blaming;
  - Challenging myths about sexual violence;

- **Ensure a fair justice process:**
  - Ensuring a public criminal justice response that preserves survivor privacy and anonymity; This means that trials are reported on in the media under laws and rules that preserve anonymity for survivors;
  - A transparent justice process - that justice agencies gather and publicly release data regularly, quarterly and annual statistics on reported cases, types of offences, detection rate.

## Guiding principles for victims in the justice system

Survivor engagement is critical to state activity in vindicating survivors' rights. The fact that only a minority engage is a challenge for the legal system. **It is important to resist seeing this as a problem with survivors and instead ask what stakeholders can change about the system.**

A victim-focused justice system will entail additional resources, but this is justified on the grounds that best evidence is achieved when a survivor actively chooses to engage with the justice system.

Victims stay with the system when they are informed and supported. Furthermore, a justice system that is itself the cause of injustice is a failed system. **Therefore, the state must do all that it can to minimise any re-traumatisation<sup>18</sup> of the process through maximising survivor dignity, autonomy, and choice within the justice system.**

The RCNI, in partnership with Safe Ireland as part of the NGO group working on the implementation of the Department of Justice in Ireland's survivor's journey initiative, developed guiding principles in relation to victims' engaging in the justice system. They can be used as a promising practice with the note that they might be partially translatable to other national jurisdictions. These guidelines include, for example, the respect for the dignity of every vulnerable witness in every interaction, the autonomy of the witness, a physical protection strictly based on the individual, and the input of accurate and adequate information about the criminal justice process readable and available to all vulnerable witnesses. ■

## RECOMMENDATIONS

1. Confidentiality is at the core of building survivors' trust. The more a survivor is supported, the more likely they are to formally report and remain with the justice process. Supporting confidential places for survivors is of value to state parties. State parties should work to support and maximise the levels of confidentiality RCCs can offer a survivor.
2. Sexual violence should be understood as an abuse of power, gender inequality being the most important determinant of that abuse. Sexual violence happens in a social context rather than being purely about individual perpetration.
3. It is important to empower survivors to hear their voices safely and appropriately. Putting victims needs the centre of all protection and support measures and establishing a relationship of trust are key elements in establishing specialist support services.

18 Sometimes referred to as secondary traumatisation or secondary victimisation.

## V. Strategic Policies: steps towards accountability of the state

Chapter II of the Istanbul Convention (Integrated policies and data collection) sets out the core requirement for a holistic response to violence against women: the need for state-wide, effective, comprehensive and coordinated policies sustained by the necessary institutional, financial and organisational structures.<sup>19</sup> **Therefore, one of the essential obligations of states is to develop clearly defined, targeted policies aimed at combating all forms of violence covered by the scope of the Convention.** Such policies may take the form of National Action Plans (NAP) or other comprehensive policy documents.

To better support victims of sexual violence, and furthermore apply a holistic approach when it comes to the issue of sexual violence, national policies, for example, national action plans, should address violence against women holistically, including sexual violence. GREVIO baseline evaluation reports on the implementation of the Convention, indicate however an intriguing trend: de facto, most NAPs are focused on domestic violence exclusively, or primarily.

As of 2021, countries in Western Balkans and Turkey do not have specific National Action Plans (NAP)/National Strategies that address sexual violence. As reported by national partners (CSSP partners)<sup>20</sup> in this project, currently valid national policy documents primarily, or exclusively, address domestic/intimate partner violence. Therefore, it can be concluded that sexual violence tends to be overlooked in national policies.

In BiH, currently-valid strategy/NAP at the state level refers to domestic violence only, and it does not include any specific measures on sexual violence; the same applies to documents developed at the level of both entities (Federation BiH and Republic of Srpska). In Kosovo, the NAP recently expired; its focus was only on domestic violence, and it did not include specific measures addressing sexual violence (a new NAP on domestic violence is in the process of approval).

However, several measures related to sexual violence exist in current NAPs in Montenegro, North Macedonia, Serbia and Turkey, as well as the draft Strategy in Albania that has not yet been adopted, as of June 2021.

In Serbia, measures related to improvement of services for victims of different forms of gender-based violence is included in the new Strategy on Preventing and Combating Gender-Based Violence against Women and Domestic Violence (2021–2025), i.e. measure 2.4: “Improving specialist services to women victims of gender-based violence against women and domestic violence through defining standards and ensuring availability of services to women from vulnerable groups.” It is furthermore noted that this specific measure includes services to victims of sexual violence, in order to “remove the shortcomings that represent obstacles to provision of services in accordance with the Istanbul Convention and recommendations of GREVIO. Specialised referral centres are necessary for a quality support to and protection of sexual violence victims that can be obtained in the same place 24/7, including medical and forensic examination, psychological support and legal advice, which are crucial for the victim, not only in order to gather evidence for judicial proceedings, but to ensure her psychological recovery”. Additionally, the strategy includes that there is a need to provide “sufficient and stable budget funding in order to increase the number and quality of specialised services, as well as allocating funding of NGOs that provide specialised services to women with the experience of violence”.

In the case of Montenegro and Albania, a tendency to integrate measures related to sexual violence into NAPs might be possibly viewed as a response to GREVIO’s recommendations – in its reports on Albania and Montenegro, GREVIO identified the lack of specialist support services to victims of sexual violence and urged these countries to set up rape crisis centres and/or sexual violence referral centres in sufficient numbers, in accordance with

19 This requirement is explained in numerous GREVIO reports; see, just as an example, GREVIO report on Turkey, 2018.

20 <https://cssplatform.org/partners>

Article 25 of the Convention (see, GREVIO report on Albania, 2017; GREVIO report on Montenegro, 2018). Albania has taken steps to implement the latter recommendation of GREVIO – the first centre for sexual violence victims was recently established, i.e., ‘Crisis Management Centre for Cases of Sexual Violence’, Liliium Centre, in the capital city Tirana. In the draft strategy that is currently under development in Albania, as explained by the national partner, there is a planned measure to “establish four new crisis centres (two for children and two for adults) for survivors of sexual assault.” At the moment it is however unclear what type of services (short term/long term) these services will provide.

In the case of Montenegro, it is commendable that this country adopted a NAP, which has several specific measures aimed at supporting and protecting victims of sexual violence, including a measure to establish the first centre for victims. However, it must be highlighted that, based on the text of the NAP, it cannot be concluded whether Montenegro opted for the establishment of a rape crisis centre or sexual violence referral centre (in terms of the Istanbul Convention). In the NAP, the term ‘Centre for Victims of Sexual Violence’ is used, without further specification of the services that will be provided in

such a centre, so it cannot be concluded whether its work would fit the definition of ‘rape crisis centre’ or ‘sexual violence referral centre’ (in terms of the Convention). Similarly, North Macedonia adopted the National Action Plan for the implementation of the Istanbul Convention (2018 – 2023), as described in the report on the implementation of this NAP (National Network against Violence against Women and Domestic Violence, 2020). National partner in this project reported that this NAP has several measures that specifically address legislation on sexual violence and support to victims; however, most of planned amendments have not yet been adopted. There are also other measures related to specialist services, such as “Establishment of Crisis centres for Victims of Sexual Violence (72 hours), and Centre for Victims of Sexual Violence and Rape (shelter),” as well as “Preparation of standards for specialist support services to victims of gender-based violence, including Crisis centre for Victims of Sexual Violence (72 hours), and Centre for Victims of Sexual Violence (Shelter).” North Macedonia already has three centres, which are located in hospital settings. Again, based on the text of this NAP, it cannot be concluded which types of services should be (are planned to be) established in the country. ■

## RECOMMENDATIONS

National action plan or other strategic policies should tackle violence against women holistically. Specific policies should be established when it comes to the issue of sexual violence. Moreover, promising practice in police making indicates that strategic policy documents should be accompanied by mechanisms for effective implementation of policies, including, but not limited to, clear indicators for measuring progress for the fulfilment of the proposed objectives.

## VI. Sexual violence and sexual harassment in the law

**Sexual violence:** the purpose of the Istanbul Convention in Article 36 is to criminalise all non-consensual acts of any sexual nature, including rape. The central element of the convention's definition of sexual violence is the lack of consent given voluntarily as a result of the person's free will.

Based on the responses received by the partners in this project and analysis of GREVIO reports (where available), in several countries in the Western Balkans and Turkey, definitions of sexual offences in criminal legislation are not harmonised with the convention, namely they are not based on the lack of freely-given consent, although a notable progress in amending legislation in this respect has been identified in Montenegro, Turkey, and Kosovo.

**Sexual harassment:** the Istanbul Convention, in its Article 40, sets out the principle that sexual harassment can be subject to criminal or other legal sanctions. While generally it is preferable to place these crimes under criminal law, the drafters acknowledged that many national legal systems

consider sexual harassment under civil or labour law. Consequently, state parties to the convention may choose to deal with sexual harassment either by their criminal law or by administrative or other legal sanctions, ensuring that the law deals with sexual harassment.<sup>21</sup>

Some countries in the Western Balkans and Turkey criminalised sexual harassment, while others have chosen to address it through labour legislation/laws on gender equality/laws on prohibition of discrimination. Sexual harassment is defined as a specific criminal offence<sup>22</sup> in Albania, one entity of BiH (Republic of Srpska), Serbia, Turkey, and Kosovo, and it is not criminalised in Montenegro, North Macedonia, one entity of BiH (Federation BiH), as well as in Brcko District of BiH. However, sexual harassment in the latter countries/entities is addressed in the Labour Law, Law on Gender Equality, etc. Sexual harassment is thus subject to other (non-criminal) sanctions, and/or possibilities for legal protection are provided (compensation for damages can be claimed). ■

### RECOMMENDATIONS

Legislative changes would (possibly) contribute to a more effective prosecution. In the judicial practice, force-based definitions tend to lead to require the proof of physical resistance by the victim (no resistance - no rape) and therefore, a low chance of conviction to the perpetrator. It is recommended therefore to align national legislation with the caselaw of the European Court of Human Rights<sup>23</sup> and Istanbul Convention standards.

21 As further explained in several GREVIO reports (See for example, GREVIO report on Turkey, 2017; GREVIO report on Spain, 2020), the offence of sexual harassment defined in Article 40 of the Convention encompasses any unwanted behaviour of a sexual nature that affects or might affect the dignity of a person.

22 Further, in these countries, offence of sexual harassment is not prosecuted ex officio - criminal proceedings with respect to sexual harassment can be carried out only in the form of private prosecution, that is, can be initiated only on the basis of a victim's complaint.

23 See ECtHR landmark case: M.C. v. Bulgaria, 2003



## VII. Assessing survivors' needs: the importance of data

A critical aspect of the implementation of the Istanbul Convention is being able to show that a state understands the scale of the problem and the needs of survivors and is also able to demonstrate what measures are in place, if they are being used, and if they are effective to prevent and protect women from violence. According to Article 11 of the Istanbul Convention, states are responsible for collecting disaggregated relevant data at regular intervals on cases of all forms of violence covered by the scope of the Convention.

A key challenge is that often data is not gathered, analysed, or published. This silence means poor performance is difficult to name and hold into account and indeed good performance may go unnoticed.

To build up a complete picture of a survivor's journey, different data sets should be examined, such as: *population prevalence data* (survey conducted of a nationally representative sample of the population, e.g. from this type of survey it can be stated with confidence the real nature and scale of sexual violence in the whole population); *administrative data* (e.g. data gathered by police, rape crisis centres, courts); survivor data (usually collected by women's CSOs running these type of specialist services, due to their confidential and non-governmental support that they offer survivors).

In order to examine administrative data-collection models in the region and assess whether these can be used for the purpose of analysing and improving national policies, partners of this project were asked whether administrative data is available in their countries, including annual number of rape cases/cases of other forms of sexual violence reported to the police, as well as the annual numbers of criminal charges, indictments, and convictions of rape/other forms of sexual violence from 2018–2019.

Based on national reports provided by CSSP partners, it is not possible to create a complete picture – some of the above-indicated data are non-existent, and/or are not publicly available (as Article 11 of the Convention requires), or are gathered, but not collated at the national level. For example, in North Macedonia, national partner reported in this project that data on convictions can be obtained only by sending requests to courts across the country, relying on the Law on Information of Public Importance.

In some countries, such as Albania, the Institute for Statistics publishes the annual the report 'Men and Women in Albania', which includes a chapter on judicial data, specifically on violence against women, including sexual offences.<sup>24</sup>

Therefore, in the following text the case of Serbia is presented as an illustration.

### The case of Serbia

In Serbia, data on cases of sexual violence reported to the police are not publicly available, so it is not possible to assess whether some reports did not result in filing criminal charges. On the other hand, National Statistical Office provides national-level data on criminal charges, indictments, and convictions for all criminal offences (as defined in the Serbian Criminal Code). These data are publicly available on the website of the Statistical Office of the Republic of Serbia.

Previous research studies on the implementation of due diligence standard in Serbia (which represents one of the over-arching principles of the Istanbul Convention) analysed trends with respect to prosecution of all criminal acts related to VAW, including sexual violence in the period of around 20 years

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24 The report for Albania for 2020, is available here: [burra-dhe-gra-2020.pdf](#) (instat.gov.al)

(Brankovic, 2013;<sup>25</sup> 2015;<sup>26</sup> 2016<sup>27</sup>), relying on official data on criminal charges and convictions. Regarding the criminal offence of rape, the research showed that the total annual number of criminal charges has been very low – it ranged from 60 to 170 in the period from 2002 to 2019; even, a noticeable decrease can be identified after 2010, which represents a worrying trend. The total annual number of convictions for rape has been also very low. It should be kept in mind that Serbia has

a population of roughly 7 million.<sup>28</sup> In interpreting this data, methodological limitations<sup>29</sup> should be taken into account, as well as the fact that judicial proceedings for rape last up to four years. Data indicate that there is a lot of room for improvement in the area of Prosecution for rape in Serbia. With respect to other sexual violence offences, however, a certain increase in criminal charges can be noted. ■

## RECOMMENDATIONS

1. It is recommended to introduce harmonised data categories across various sectors (e.g. police, judiciary, health care), conduct analysis of conviction rates, and disaggregate data by factors mentioned in the convention, such as sex and age of both the victim and perpetrator, as well as their relationship.
2. Administrative data is crucial to be properly and thoroughly collected to be able to analyse the institutional/judicial response to sexual violence in the Western Balkans and Turkey and for laying down the foundations for policymaking in the future.

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25 Brankovic, B. (2013). *News from the Future: the Istanbul Convention and Responsibility of the State for Combating Violence against Women; Operationalisation of Due Diligence Principle*. Belgrade: United Nations Development Programme (UNDP), (in Serbian). Online version is available at: <http://www.sigurnakuca.net/sites/default/files/inline-files/VestilzBuducnosti.pdf>

26 Brankovic, B. (2015). Sexual violence: Emerging from oblivion. Paper presented at the 1st International Conference on Sexual Violence in Croatia, organized by Women's Room – Centre for Sexual Rights, Committee for Gender Equality of the Government of Croatia, Centre for Education, Counselling and Research, and Committee for Gender Equality of the Croatian Parliament, Zagreb, Croatia, Croatian Parliament, 23 October 2015.

27 Brankovic, B., on behalf of GREVIO (2016). Barriers to women's access to justice – gaps in meeting the requirements of the Istanbul Convention, *Paper presented at the Regional Conference Strengthening Judicial Capacity to Improve Women's Access to Justice, organised by Council of Europe in partnership with the National Institute of Justice of the Republic of Moldova*, Chisinau, Moldova, 24–25 October 2016.

28 Population estimate on 1 January 2020: 6 926 705; Statistical Office of Serbia, <https://www.stat.gov.rs/en-us/oblasti/stanovnistvo/procene-stanovnistva/>.

29 The data-gathering models do not allow calculation of conviction rates (as required by the Convention, Article 11); it is not possible to “track” the cases from the moment of recording by the police until the final judgment of the court and thus calculate the proportion of convictions out of the total number of reported cases. It should be further kept in mind that judicial proceedings for rape last long: the research of Judicial Academy, conducted in 2014 (in: Brankovic, 2015) indicated that the length of judicial proceedings for rape in Serbia is: up to four years. This is one of the reasons why the annual number of convictions in a respective year may be higher than a total number of criminal charges in that year. Therefore, we cannot analyse proportion of convictions (out of the total number of criminal charges in a respective year), but data on the annual numbers of criminal charges and convictions are still indicative and show trends in this area.

## VIII. Support to victims of sexual violence

The traumatic nature of sexual violence, including rape, requires a particularly sensitive response by trained and specialised staff, as victims of this type of violence need immediate medical care and trauma support combined with immediate forensic examinations to collect the evidence needed for prosecution. Furthermore, there is often a great need for psychological counselling and therapy very often even weeks and months after the event occurred.<sup>30</sup>

Based on the national reports received by CSSP partners, specialist support services have been introduced in some of the countries in the Western Balkans and Turkey.

Specialist support to victims of sexual violence has been introduced in **Albania** recently in a hospital setting, as a pilot programme.<sup>31</sup> The first so-called ‘Crisis Management Centre for Cases of Sexual Violence’, *Lilium*, was established in the capital city (Tirana). The centre is available 24/7 and it offers social and health services to women, men, and children, provided by a multidisciplinary team of professionals including gynaecologists, paediatricians, psychiatrists, clinical psychologists, social workers, police officers, lawyers, and nurses. Short-term services at the centre are coordinated with other services in the community, to ensure long-term support to survivors, and the centre is funded by the state.<sup>32</sup> The aim of the centre is to provide integrated services, all health care services, forensic examination, evidence gathering for the criminal justice and psychological services are provided in this location. The centre establishes furthermore offers free psychological aid and accommodation for up to 72 hours for victims. The minimum set of quality standards have been published in the Official Gazette, based on which all public and private agencies have to operate in the future.<sup>33</sup>

**North Macedonia** established in 2017 three centres in hospital settings, which, based on the

description of their work, seem to fit the definition of ‘sexual violence referral centres’ (in terms of the Convention). The centres, as explained in WAVE sources and reports of the national partner, provide urgent medical support to women and girls survivors of rape, and are located in gynaecological clinics in three cities: Skopje, Kumanovo, and Tetovo. Apart from the urgent medical help provided by these centres, the coordinator of the Rape Referral centres also informs the police and public prosecutor about any cases of sexual violence, with the consent of the victim. These centres are run by the Ministry of Health. Furthermore, one shelter for victims of sexual violence was established in 2018, run by the Ministry of Labour and Social Policy.

In **Montenegro**, the first helpline for survivors of sexual violence was established in 2019 and is run by women’s NGO Montenegrin Women’s Lobby. Also, the National Plan for the Improvement of Specialist Support Services for Victims of Violence in Accordance with the Istanbul Convention for the period 2019-2021 includes a measure to “establish a Centre for Victims of Sexual Violence” in 2021, and also to develop guidelines on the work of such a centre, and guidelines for its staff.

In **Serbia**, as highlighted as well by the GREVIO Baseline report for Serbia and WAVE Mapping Report<sup>34</sup>, there were three Centres for Victims of Sexual Violence (CVSV) that have been established in seven districts of the Autonomous Province of Vojvodina, as part of the project “Stop-Care-Cure! Run by the Provincial Secretariat of Health Care in partnership with women’s NGO Centre for Support of Women Kikinda. These services provide immediate medical care, forensic practices, and intervention in situations of crisis, in these centres victims are also able to access services such as legal counselling, psychosocial support and psychotherapy. At the time of writing this paper, there are currently four CVSVs in Vojvodina, and negotiations on opening two new ones are ongoing.

30 Explanatory Report of the Istanbul Convention, paragraph 138.

31 The initiative was supported by UNDP; See: <https://www.al.undp.org/content/albania/en/home/presscenter/articles/2018/albania-sets-up-the-first-center-to-support-victims-of-sexual-vi.html>

32 WAVE (2019). *WAVE country report 2019: The situation of women’s support services in Europe*. Vienna: WAVE.

33 Information received as part of the interview carried out with representatives of Lilium Centre, provided by national partner in this project.

34 [https://cssplatform.org/wp-content/uploads/2019/10/CSSPWAVE\\_SVReport190927\\_web.pdf](https://cssplatform.org/wp-content/uploads/2019/10/CSSPWAVE_SVReport190927_web.pdf)

In **Turkey**, Child Monitoring Centres (CMCs) are available in 28 provinces in Turkey. As of December 2020, there are 53 child monitoring centres available. These are specialist units operating in hospital settings, aiming to prevent child victims' secondary trauma. According to the Presidential Decree on the Support of Victims of Crime No. 63, from the 10<sup>th</sup> of June 2020, there is a provision of sexual violence and rape crisis centres, mentioning that such centres are to be established by the Ministry of Health, upon the request of the Ministry of Justice to serve victims of sexual violence. These centres can also be established in universities.<sup>35</sup> Considering though Turkey's decision, through Presidential

Decree on the 20<sup>th</sup> of March 2021, to withdraw from the Istanbul Convention it is important to highlight that Turkey no longer has the obligation to abide by the standards enshrined in the Istanbul Convention.

In **Bosnia and Herzegovina**, however, forms of support to victims of sexual violence have been created long ago, in response to conflicted related sexual violence. NGOs with years-long experience in providing specialised assistance to sexual abuse survivors also exist in Serbia,<sup>36</sup> and several such organisations were established in **Kosovo**.<sup>37</sup> ■

## RECOMMENDATIONS

1. As the Explanatory Report of Istanbul Convention highlights it is good practice to carry out forensic examinations regardless of whether the matter will be reported to the police, and offer victims the possibility of having samples taken and stored so that the decision to report the rape can be taken at a later date.
2. It is recommended that the provision of services shall not be dependent on the victim's willingness to press charges or testify against the perpetrator.
3. Centres for victims of rape and sexual violence should provide crucial medical and forensic services, provide residential and non-residential support. Victims should be able to seek these services any time after the assault took place, including several years later.

35 ARTICLE 9- (1) In terms of the implementation of the fifth and sixth paragraphs of Article 236 of the Criminal Procedure Code, in order to prevent the repeated victimization of sexual crime victims and to ensure that judicial and medical procedures are carried out at once by trained officials in this field. Centres are established by the Ministry of Health, upon the request of the Ministry of Justice, to serve victims. These centres can also be established by universities.

36 See: Incest Trauma Centre, Belgrade, <http://incestrauacentar.org.rs/index.php/o-nama/>

37 See: Medica Gjakova, <https://www.peaceinsight.org/en/organisations/mg/?location=western-balkans&theme>

## IX. Protocols or guidelines that regulate duties of professionals and procedures in cases of sexual violence, including rape

Concerning existing protocols/guidelines for professionals in dealing with cases of sexual violence, based on the responses/reports (provided by CSSP partners), as well as GREVIO reports, it can be concluded that existing protocols/guidelines for professionals (the police, judiciary, health-care professionals, social workers, teaching staff, etc.) address domestic violence only (or primarily), while similar instructions related to providing support to sexual violence survivors are absent or insufficiently developed.

For example, in the GREVIO evaluation report on **Serbia** (2020),<sup>38</sup> GREVIO positively assesses the fact that protocols regulating duties and responsibilities of relevant professional groups (such as the police, social workers, health-care professionals, etc.) have been developed, but notes that these cover domestic violence cases only. The institution welcomes the Special Protocol of the Ministry of Health for the Protection and Treatment of Women Victims of Violence in Serbia, which was adopted in 2010, but notes that the latter document covers physical violence, psychological violence and sexual violence involving the use of force, coercion or physical intimidation, but don't take into account other forms of violence covered by the Convention. Furthermore, GREVIO noted that in Serbia measures to develop institutionalised structures exist for domestic violence, but not for any other forms of violence.

When analysing the issue of availability of protocols/guidelines for professionals in Serbia, it should be added that under the project implemented in the Autonomous Province of Vojvodina a guideline<sup>39</sup> was also developed in 2019, which prescribes procedures to medical and other professionals, and explains standards on which service provision should be based. Furthermore, throughout 2020, CVSs' capacities to provide support to victims of violence

against women and girls in light of the pandemic were strengthened through three protocols:

- 1) The first protocol was drafted to ensure mandatory testing for infectious and sexually transmitted diseases in injuries inflicted during sexual violence.
- 2) The second protocol aims to ensure improved coordination of the hospital working groups and groups for coordination and cooperation within the public prosecution office, with a view to ensure the protection of victims of sexual violence in line with the highest ethical and safety standards.
- 3) The third protocol was drafted with primary health care centres and gynaecological ambulances with the purpose to expand the scope of health care institutions involved in providing direct assistance to women victims of sexual violence, and to increase the knowledge and awareness of professionals within the primary health care centres and patients about the work and services provided within the rape crisis centres.

In cooperation with the Medical Faculty of the University of Novi Sad, Centre for Support of Women developed an **educational programme on the role of the health sector in the protection of women victims of violence, accredited by the Health Council of Serbia, and has developed an Online Learning Platform with the aim to improve the knowledge and skills of healthcare professionals to effectively provide health services to women victims of sexual violence**, increase knowledge and skills for collaboration and communication within multisectoral teams, and to improve the knowledge and skills for documenting and recording domestic violence, gender-based violence, and sexual violence.

38 <https://rm.coe.int/grevio-report-on-serbia/16809987e3>

39 Todorov, D., Stevkovic, Lj., Veselinovic, I., Josimovic, S. (2019). *Guideline for conduct in cases of sexual violence within sexual violence referral centres in the Autonomous Province of Vojvodina*. Novi Sad: Provincial Secretariat for Health-Care of the Autonomous Province of Vojvodina and Centre for Support to Women, Kikinda (in Serbian).

In **Bosnia and Herzegovina** (more precisely Republic of Srpska) resource materials<sup>40</sup> were developed, which include instructions to professionals who provide protection and support to victims of different forms of violence, including sexual violence (for police, prosecutors, judges, health professionals). These resource materials indicate that “victims of sexual violence should be referred/accompanied to conduct medical and forensic examination in an authorized health institution, usually gynaecologists in primary health care upon reporting the offence to the police, and health professionals are obliged to report suspicion that sexual violence occurred if they identify signs during medical examination of a patient. There is no information that forensic examination has to be paid for by the victim. Resource package for health professionals (referred above) indicates that a health professional who provides medical help and carries out the examination is advised not to put pressure on a victim to confirm violence. It is advised that a victim has to give a written consent for examination to be conducted by a health professional, and for disclosure of the data collected. A suggested form for collecting data is provided within the resource package. Forensic examination is strictly under control of a public prosecutor, who can accept findings/specialist medical opinion of a doctor. However, if these findings are to be used as evidence within criminal proceedings, a prosecutor is obliged to order their examination by an expert witness, who would be also invited by the court to provide opinion during trial. This rule applies generally to all criminal offences, and not just to offences related to sexual violence.”

In **Montenegro**, there is a plan (as mentioned in the National Action Plan for the Improvement of Specialist Support Services for Victims of Violence in accordance with the Istanbul Convention 2019-2021) to develop a specific protocol in 2021, which will be entitled: The protocol on treatment, prevention, and protection of victims of sexual violence.

However, responses of national partners, indicate that legal provisions or prescribed procedures (e.g.,

by-laws) regulating the work of state agencies are not in line with the requirements of the Istanbul Convention, to provide, for example, medical and forensic examination to all victims, regardless of their willingness to report the offence. Regulations in respective countries are (mostly) restrictive in this respect – forensic examinations are subject to a request by the law enforcement agency or prosecution office. Therefore, a forensic examination depends on the prior report of the victim to the police or prosecution. Furthermore, in some countries, an additional problem exists: since the provision of high-quality forensic examinations is limited, victims sometimes must rely on non-specialist forensic examiner, or pay a fee for expert forensic examination.

For example, in **North Macedonia**, the national partner describes that “The victim must report the case to the police in order to get an official medical examination; she/he cannot request a medical examination on his/her own - an appropriate team must report on her condition and the injuries from sexual violence.” Similarly, in Montenegro, national partner reports that “Examinations of victims of sexual violence are performed in primary hospitals and the Clinical Centre of Montenegro. Professionals and the institutions that are recognized as subjects of protection and where victim can approach and report the crime are: police, prosecutors, judges, health professionals. Upon reporting to the police, the victim is referred/accompanied to conduct medical and forensic examination in authorized health institutions, usually gynecologists in primary health care.”

In **Turkey**, as clarified by the national partner, the applicable procedure after rape includes the following: “When a woman reports the rape or other sexual offence to the police/law enforcement, her statement is taken, and with the instruction of the prosecutor, she is accompanied by the police to a hospital for examination. Genital examinations, if conducted without a decision of an authorised judge of prosecutor, are treated as a criminal

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40 Ministry of Labour and Social Protection of the Republic of Srpska and UNFPA (2015). *Resource Package for Response of Health-Care Providers in Republika Srpska to Gender Based Violence*. Banja Luka: UNFPA, <https://www.vladars.net/sr-SP-Cyrl/Vlada/Ministarstva/MZSZ/Documents/UNFPA%20Resursni%20Paket%20Light%20FINAL2.pdf> (in Bosnian-Croatian-Serbian), and High Judicial and Prosecutorial Council of Bosnia and Herzegovina (2018). *Handbook for Action in Cases of Gender Based and Sexual Violence against Women and Children for the Police, Prosecutors and Judges*, [https://vstv.pravosudje.ba/vstv/faces/docservlet?p\\_id\\_doc=48586](https://vstv.pravosudje.ba/vstv/faces/docservlet?p_id_doc=48586) (in Bosnian-Croatian-Serbian).

offence in Turkey (Article 287 of the Turkish Criminal Code).<sup>41</sup> In a criminal case, the woman is taken to the hospital by the police/gendarmerie with the public prosecutor's instruction, and the case is registered as a judicial/criminal case in the hospital. The woman is examined by a forensic expert (and/or a gynaecologist) who records the findings and prepares the report. After a sexual offence, if a woman goes directly to a hospital, then the

procedure is for the doctor to notify the authorities, starting with the hospital police. If the woman does not want to report the crime yet, she can ask the doctor to collect and record the evidence, however, a decision of an authorized judge or prosecutor is necessary for a genital examination. There is no information that forensic examination has to be paid for by the woman." ■

## RECOMMENDATIONS

1. There is a need to develop appropriate protocols and guidelines for professionals as victims of sexual violence face prejudices by professionals when they try to access for example the criminal justice system.
2. Procedures and guidelines should be in line with practices requiring forensic examinations to be carried out by sensitive and skilled practitioners, without delay, regardless of whether the incident will be reported to the authorities. The victims should be able to obtain forensic examination without priorly reporting the crime to the police.
3. Collecting and storing forensic evidence should be possible at any time so that a victim can make a decision at a later stage whether she wants to report the violence or not.

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41 Article 287 of the Turkish Criminal Code (Genital examination) reads as follows,

(1) Where a person conducts a genital examination or dispatches a person for such, without a decision of an authorized judge or prosecutor, shall be sentenced to a penalty of imprisonment for a term of three months to one year.

(2) The provision of the aforementioned paragraph shall not apply for examinations which have been carried out in compliance with the provisions of law or decree which are designed to protect the public from contagious disease.

## X. Reporting by professionals

Article 28 of the Convention states that state parties to the convention shall take the necessary measures to ensure that the confidentiality rules imposed by internal law on certain professionals do not constitute an obstacle to the possibility, under appropriate conditions, of their reporting to the competent organisations or authorities, if they have reasonable grounds to believe that a serious act of violence covered by the scope of this convention, has been committed and further serious acts of violence are to be expected.

### Reporting by professionals – interpretation of GREVIO

“GREVIO points out that the requirement deriving from Article 28 of the convention is carefully worded, so that when there are reasonable grounds to believe that a serious act of violence has been committed and other such acts can be anticipated, professionals may report their suspicions to the relevant authorities without risking punishment for a breach of their duty of professional secrecy. This provision does not impose an obligation to report. Mandatory reporting may in fact constitute a barrier to seeking help for women victims who do not feel ready to initiate formal procedures and/or fear the consequences of reporting for them or for their children (for example, retaliation from the abuser, financial insecurity, social isolation or the removal of children from their care). Where the authorities have introduced mandatory obligations for professionals, GREVIO notes that these should allow for the balancing

of the victims’ protection needs – including those of her children – with the respect for the victim’s autonomy and empowerment, and should thus be circumscribed to cases in which there are reasonable grounds to believe that a serious act of violence covered by the scope of the convention has been committed and further serious acts are to be expected.”<sup>42</sup>

Relying on the answers/reports of national partners in this project, as well as on reports by GREVIO on Albania (2017), Montenegro (2018), Serbia (2020), and Turkey (2018), it can be concluded that legal provisions and/or regulations on mandatory reporting by professionals in the Western Balkans and Turkey are not based on the balanced approach mentioned above. There are no safeguards that would ensure an appropriate balance between protecting the victims on one hand, and respecting their autonomy, on the other. Furthermore, laws and/or available regulations stipulate that those professionals, primarily, medical ones, have the strict legal obligation to report violence, once they discovered it in the course of their daily work. Non-reporting is treated as a criminal or minor offence.

**Strict reporting obligations by professionals may have serious implications in cases of sexual violence and may influence victims’ help-seeking behaviour.** Health care professionals’ obligation to report may present barriers to seeking medical help, as victims may fear mandatory reporting and the initiation of criminal proceedings against their will. ■

42 GREVIO (2020). *GREVIO’s (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*: Malta. Strasbourg: Secretariat of the monitoring mechanism of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence



## RECOMMENDATIONS

1. Based on previous GREVIO recommendations (such as the GREVIO evaluation report on Malta), the duty to report imposed on professionals, should be balanced by full and sensitive information being provided to the victim to allow her to make an informed decision herself and maintain autonomy.
2. The obligation of professionals to report the violence should be reviewed when it comes to reporting cases of violence against women and their children, other than in situations in which there are reasonable grounds to believe that a serious act of violence has been committed and further serious acts are to be expected.
3. As victims of sexual violence might be afraid to approach state-run specialist services, knowing that staff in such services are under strict obligation to report violence to the police, victims should be offered the possibility to turn to women's NGOs that would provide confidential support. Women's NGOs offer the advantage of encouraging women to speak out, especially those women who do not wish to file a complaint and who might feel that by approaching a state-run service, they will be compelled to do so, or they will in any case expose the perpetrator to criminal investigation. Thus, with the aim of building trust on the part of the victim, regardless of whether any legal or administrative steps are taken, NGO-run services should not be under strict reporting obligations.<sup>43</sup>

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43 See further considerations regarding Article 25 on support for victims of sexual violence (Istanbul Convention).

# XI. The case for the autonomy of women's NGOs<sup>44</sup>

There can be no credible response to sexual violence without the engagement and cooperation of survivors of sexual violence. The formal criminal justice system, with its universally low reporting and conviction figures on sexual violence, struggles for legitimacy under these circumstances.

Sexual violence services and women's NGOs exist to serve survivors. The first duty of women's CSOs is to earn the trust of survivors. That relationship of trust and survivor engagement, precisely because they are not state bodies, is why the state should value and fund the work of women's NGOs. NGOs as non-state actors play a significant role in supporting the governments to meet their obligations by providing the support and responses survivors need and are entitled to, without a need for survivors to make themselves known to the state. One of the core commitments women's NGOs make to survivors is, that they will not be pressured or obligated to engage with the state, and the NGOs services and support are confidential.

Protecting women's NGOs unique asset of autonomy and independence is therefore a means for the state to meet survivors' needs where it cannot do so directly. Government funding of NGO based women's specialist support services is therefore a way for the state to fulfil its obligations under the Istanbul Convention in ways that would otherwise be impossible.

## The importance of long-term, sustainable funding for women's specialist support services

If new specialist support services should be established to meet the needs of sexual abuse survivors, a question can be raised: how will these services be funded?

Funding of service-provision activities is usually project-based and there is little political will and/or local administrative support to ensure the sustainability of projects implemented by women's NGO services. According to GREVIO baseline reports, "women's NGOs in Serbia, Albania, and Montenegro are dependent on international donors, which raises issues of the long-term sustainability of NGO-run services. Many activities undertaken are of a project nature, and thus of limited duration. Expertise that is being developed under such schemes is easily lost without the necessary follow-up funding and without the necessary political and local administrative support to accept foreign sponsorship and to ensure continuity at local level." Ratifying the Istanbul Convention means that states also commit to allocate appropriate financial and human resources for activities in combating violence against women, carried out both by public authorities and relevant women's NGOs. ■

## RECOMMENDATIONS

1. Women's NGOs play a significant role in ensuring that states do meet their obligations under the Istanbul Convention. Allocating sustainable funding for women's NGOs in the Western Balkans and Turkey eventually leads to the empowerment of survivors and allocating proper support to women victims of sexual violence.
2. Appropriate funding through suitable funding opportunities, such as long-term grants based on transparent procurement procedures would ensure sustainable funding levels for women's NGOs that run specialist support services for women victims of sexual violence.<sup>45</sup>
3. National authorities are strongly encouraged to establish suitable programmes and grants as well as adapted and transparent procurement procedures, to ensure sustainable funding levels for women's NGOs.

44 Istanbul Convention Article 9: *Parties shall recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.* Article 18 (4): *The provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator.*

45 These recommendations were also issued by GREVIO in the Baseline reports for Montenegro and Serbia.

## XII. Final remarks and recommendations

The Executive Summary focuses on offering promising practices identified across the region of Western Balkans and Turkey but also in other European countries such as Ireland. The paper is to support policy makers and women's NGOs when establishing and running specialist support services for women victims of sexual violence. For a more detailed view on other promising practices, readers are encouraged to consult the Policy Paper constituting the basis of the present Executive Summary: 'Promising practices of establishing and providing specialist support services for women experiencing sexual violence. A legal and practical overview for women's NGOs and policy makers in the Western Balkans and Turkey'.

As highlighted throughout the paper, it would be essential to urgently develop specialist support to sexual violence victims in line with Article 25 of the Istanbul Convention across Western Balkans and Turkey where such services are not in place.

Ensuring a sensitive response by trained and specialist staff, in sufficient numbers, and recalling that one such centre should be available for every 200.000 inhabitants, are essential elements to consider when establishing such services, as well as making them accessible to victims in rural areas as much as in cities. Regarding the type of centres, when assessing the potential need for support in the Western Balkans and Turkey, there might be a greater need for rape crisis centres, rather than sexual violence referral centres, since the former provide long-term help, counselling and advocacy for survivors of sexual violence. Whether authorities opt to create rape crisis or sexual violence referral centres, it is of paramount importance that they develop comprehensive immediate, short-term and long-term specialist support for these victims, provided by skilled and experienced staff specially trained in sexual trauma.

There is furthermore a need to establish a common understanding across the region about principles of work of such centres, including gendered understanding of violence against women, respect for confidentiality and survivors' autonomy. Promising practices from the United Kingdom, Ireland, and Nordic countries can be used, but with a careful adaption to national socio-cultural contexts.

Putting survivors' needs at the centre of all protection and support measures and establishing a relationship of trust with them are key elements in creating specialised support services, but also in supporting them throughout the justice system. Sexual violence services and women's NGOs exist to serve survivors. They also play a significant role in supporting the state to meet its obligations by providing the support and responses survivors need and are entitled to, without a need for survivors to make themselves known to the state. One of the core commitments women's NGOs make to survivors is that they will not be pressured or obligated to engage with the state, and the services and supports can be delivered confidentially to them. Finally, appropriate funding through suitable funding opportunities such as long-term grants based on transparent procurement procedures would ensure sustainable funding for women's NGOs running specialist support services for women victims of sexual violence.

Bearing in mind that in the aftermath of wars in the Western Balkans, some women's NGOs have gained significant knowledge and experience in supporting survivors of war-related rape, it would be recommendable to build on the previously developed expertise, which has been partly 'lost', due to focus on domestic violence in state policies across the region. Furthermore, specialised trainings could be organised for women's NGOs that already work in the region, based on principles that are internationally recognised as promising practice.

Policies in the region (e.g., national action plans) are primarily focused on domestic violence, while all the issues violence against women and girls need to be taking in account, especially sexual violence. An important step would be to strengthen data-collection and create foundations for evidence-based policy making.

Results of this study, relying on GREVIO reports (where available) and analysis of national reports, further imply that several countries in the region (still) have not adopted standards of the convention with respect to the definition of rape, other sexual violence offences, and sexual harassment in their laws. Legislative changes would (possibly) contribute to a more effective prosecution.

Significant changes are needed with respect to the development of protocols and guidelines that would specifically address the duties and responsibilities of all relevant professionals in supporting sexual violence victims, as these are rare. If such documents do exist, it is highly advisable to furthermore examine and review procedures for reporting rape and other forms of sexual violence in the region.

The need to develop proper protocols and 'tools' for professionals is even more crucial if we have in mind research on attitudes towards sexual violence of the general population and among professionals, which shape perception of what constitutes violence, and contribute to enhancing fear among victims to speak out about their sexual abuse experiences.

It is therefore recommended to advocate for changes in regulations related to reporting by professionals, as these are mostly based on a strict obligation of professionals to report violence if they discover it in the course of their work. Furthermore, there is a need to introduce safeguards that would ensure an appropriate balance between protecting the victims on one hand, and respecting their autonomy, on the other, relying on the standards of the convention and GREVIO's interpretation identified in different GREVIO Baseline evaluation reports. ■



This programme is funded by the European Union

