



**WOMEN'S RIGHTS CENTER**  
**CENTAR ZA ŽENSKA PRAVA**

**INDEPENDENT REPORT ON THE IMPLEMENTATION  
OF THE COUNCIL OF EUROPE CONVENTION ON  
PREVENTING AND COMBATING VIOLENCE AGAINST  
WOMEN AND DOMESTIC VIOLENCE IN MONTENEGRO**

**December 2023**

**INDEPENDENT REPORT ON THE IMPLEMENTATION OF THE  
COUNCIL OF EUROPE CONVENTION ON PREVENTING AND  
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VIOLENCE IN MONTENEGRO**

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## Part I: Changes in comprehensive and coordinated policies, funding, and data collection in the area of violence against women and domestic violence

1. Please provide information on **any new policy development since the adoption of GREVIO's baseline evaluation report** on your country to ensure comprehensive policies covering the areas of prevention, protection, and prosecution in relation to stalking, sexual harassment, and domestic violence, including their digital dimension, rape, and sexual violence, female genital mutilation, forced marriage, forced abortion and forced sterilization, thereby demonstrating further implementation of the convention. Please specify the measures taken particularly in relation to those forms of violence against women that have not been addressed in past policies, programmes and services encompassing the four pillars of the Istanbul Convention.
2. Where relevant, please provide information on any measures taken to ensure the alignment of any definitions of domestic violence and of violence against women in national legislation or policy documents with those set out under **Article 3 of the Istanbul Convention** and provide the relevant applicable provisions in English or French.

1. The reporting period was marked by significant changes and additions to the criminal legislation, which were the result of persistent advocacy of the Women's Rights Center (WRC) and women's non-governmental organizations, who had the representative in the working groups established by the Ministry of Justice<sup>1</sup>. With these changes, the criminal legislation was additionally harmonized with the standards of the Istanbul Convention and UN human rights standards. The definition of a *child* has been changed to include anyone under the age of 18 and the part related to the victims' rights has been significantly improved. However, no legal definition of gender-based violence offered by Montenegrin legislation (including the Law on Gender Equality, that contains the definition of "gender-based violence") is in line with the definitions of "violence against women" and "gender-based violence" as set out in Article 3 of the Istanbul Convention.

On December, 12<sup>th</sup> Parliament adopted the **Law on Amendments to the Criminal Code of Montenegro**<sup>2</sup>. One of the novelties in the Law relate to the definition of criminal offence *Violence in a Family or Family Community* (CC Article 220)<sup>3</sup>. The amended new definition includes: (1) inflicting light bodily injury on a member of a family or family community or endangering the safety by threatening to attack life or limb of a close person, (2) ill-treatment of a member of family or family community or threats in a manner offensive to human dignity; (3) violence used more than once, threats or insolent or ruthless behaviour that endangered or violated physical or mental integrity of a member of family or family community.

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<sup>1</sup> From 2020-2023, the director of the Women's Rights Center, Maja Raicevic, was the member of two working groups established by the Ministry of Justice - the one for amending and changing the Criminal Code, and the Working Group for amending the Law on Protection from Domestic Violence. Besides this, WRC use the public discussion to suggest amendments to the Law on Protection from Domestic Violence.

<sup>2</sup> Law on Amendments to the Criminal Code of Montenegro, link:

<https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/99/3257-18458-23-1-23-9-8.pdf>

<sup>3</sup> Article 220 amended:

"(1) Whoever inflicts light bodily injury on a member of his family or family community or endangers his safety by threatening to attack his life or limb or that of a person close to him, shall be punished by a prison term from six months to five years.

The new definition should solve the long term problem, addressed by the 2018 GREVIO report, requiring more operational clarity between the misdemeanor offence of domestic violence and that of a criminal law nature. In practice, the qualification of "severe violence" resulted in a milder qualification of the offense as misdemeanor in more than 90% of cases, meaning also less deterrent sanctions.

Amended Criminal Code proposed a range of more dissuasive sanctions for this criminal act, ranging from six months to five years for the basic forms of the crime, *without the possibility of imposing a fine*. Where the offence was committed by means of weapons, dangerous tools or other instruments suitable for inflicting serious bodily injury or seriously impairing one's health or where the offence was committed in the presence of a child, the prison term ranges from one to five years, or from one to eight years where the offence resulted in serious bodily injury or harm to one's health or where such an offence was committed against a child.

Where the offence resulted in the death of a family member, the prison term ranges from five to fifteen years (instead of previously foreseen two to twelve years). However, the law still foresees a fine or a prison term of up to one year for *violation of protection measures* against domestic violence imposed by court or another state authority under law<sup>4</sup>.

Another important novelty is expanded *definition of a family member*, so it now includes: a spouse or common-law partner, or a partner in the life partnership of persons of the same sex, their joint children and children of every one of them, blood relatives and relatives by adoption in the direct line without restriction, and in a collateral line up to the fourth degree inclusive, relatives by marriage up to the second degree inclusive, partner in an intimate relationship, persons who live in the same household and persons who share a child or whose child is on the way, even where such persons have never shared a household. Members of a family or family community shall mean former spouse or common-law partner, former partner in the life partnership of persons of the same sex, former relatives by marriage up to the second degree inclusive and a former partner in an intimate relationship

The Criminal Code (CC) introduced new criminal offenses against sexual freedom - *Sexual harassment* and *Abuse of someone else's recording, photograph, portrait, audio recording or file with sexually explicit content*.

Article 211c prescribes that *Sexual harassment*, in the sense of this article, is "any form of unwanted verbal, non-verbal or physical behavior of a sexual nature, which is intended to injure the dignity of a person or group of persons, i.e. which achieves such an effect, especially when such behavior causes fear or creates hostility, humiliating, intimidating, degrading or offensive environment".

Whoever sexually harasses another person will be punished with imprisonment for up to two years, however, the prosecution is undertaken by a private lawsuit. The mildest sanction for sexual harassment, which can include messages of sexually explicit content in messages on social networks, is a prison sentence of up to six months. The sexual harassment of persons particularly vulnerable due to age, illness, disability, addiction, pregnancy, severe physical or mental disability is punishable by up to 2

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<sup>4</sup> Article 220, Paragraph 5 of the CC

years in prison. The same sanction applies to those who sexually harass subordinates in the workplace.

The new criminal act *Misuse of someone else's video, photograph, portrait, audio recording or file with sexually explicit content* (CC Article 175a ) stipulates that whoever makes available to a third person a video or other recording, photograph, portrait, audio recording or document with sexually explicit content, without the consent of the person to whom the document relates, or without the consent of the person shown on the recording, photograph or portrait or whose voice is recorded on audio recording, shall be punished by a prison term of up to two years, up to three years if explicit content has become available to a large number of persons, and up to 10 years if the victim is a child.

The article also predicts confiscation of disputed contents and devices with which the criminal offense was committed, in order to prevent the possibility of further abuse. This offense is prosecuted *ex officio*, whereby the state assumes the obligation to initiate proceedings and represent these cases.

The seriousness and extent of this form of violence is illustrated by the data from 2021, when three groups were exposed on the Telegram group social network, in which more than tens of thousands of individuals from the Western Balkans region exchanged explicit videos and photos of women and girls without their consent<sup>5</sup>.

The article 204, that in 2017 introduced the definition of *Rape* based on the lack of consent of the victim, was amended again by imposing a prison sentence from two to ten years on whomever forces another person into sexual intercourse or another act of equivalent nature with a third person by means of force or threats to directly attack the life or limb of that or of another person (3).

The criminal offense *Trafficking in Human Beings* (Article 444), paragraph 1 was extended by the use of *coercion or kidnapping*, in accordance with Art. 2 of Directive 2011/36/EU of the European Parliament and the Council, Furthermore, in the same article, paragraph 11 was added, which refers to the impunity of victims of criminal acts.

A new article 214a *Forced Conclusion of Marriage, Customary Marriage or Life Partnership of Persons of the Same Sex*, was added, worded as follows:

(1) Whoever coerces another person, by means of force or threats, into concluding a marriage, customary marriage or life partnership of persons of the same sex, shall be punished by a prison term from six months to five years.

(2) Whoever coerces or instigates a child into entering into a customary marriage or into concluding a marriage or life partnership of persons of the same sex or arranges for him a customary marriage or marriage or life partnership of persons of the same sex, shall be punished by a prison term from one to five years.

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<sup>5</sup>The largest EX YU Balkan Room included over 36.000, and the second largest around 25.000 active members. The content of the groups alarmed the public, given that they operated both as intermediary channels for prostitution and as platforms for the distribution of images and videos obtained by extortion or abuse of the trust of partners with whom they were in emotional relationships, of course without their knowledge. The fact that cases of child pornography were also found among the aforementioned groups is particularly disturbing.

(3) Whoever incites another to go abroad or takes another person abroad with the intention to commit the offence referred to in paragraphs 1 and 2 of this Article, shall be punished by a prison term from three months to three years.“

The new article 445a incriminates the *Sale of Children*, punished by a prison term from one to ten years<sup>6</sup>.

The **Draft Law Amending Criminal Procedure Code** introduced new articles related to the *rights of a victim of the criminal offense of trafficking in persons, a criminal offense against sexual freedom, the criminal offense of domestic violence and war crimes* (Article 65a), introducing the legal obligation of the *individual assessment of the victim* (65b) and *Specialist Victims Support Service* that shall be established in high courts and high state prosecutor’s offices (Article 65v). It also furthers the victim’s right to be notified without delay, of the *accused person’s detention*, of the release of the accused person from detention, entry of the indictment into effect, discontinuation of proceedings based on the control of the indictment, and other issues of interest to the victim (Article 248a) as well as of the actions taken (Article 256a). The novelty is also a possibility granted to a victim/injured party to submit a complaint to the Head of State Prosecutor’s Office due to the State Prosecutor’s failure to take action, leading to the delay in the proceedings, to which must be responded within 15 days from the date of receipt of the complaint (Article 256v).

However, there is more to be done to ensure full harmonization of criminal legislation with Istanbul Convention standards and comprehensive protection from domestic and gender-based violence. During the period of writing this report, the Government launched a new public call for establishing a Working Group for a new round of amending the Criminal Code and opened public debate<sup>7</sup>.

**Criminal legislation should be further harmonized with the definitions from Article 3 of the Convention, it should include measures against femicide, digital violence in the public space, and gender-based hate speech. It needs to provide measures of protection for victim safety during criminal proceedings and before a verdict; the Law on Free Legal Aid needs to be amended so that it enables non-governmental organizations that provide specialized legal aid to victims of violence to be part of the state funding system. Furthermore, the state needs to strengthen legal safeguards for child witnesses of violence against women and family violence.**

The misdemeanor, the *Law on Domestic Violence* failed to ensure the duty of competent authorities to provide full and coordinated protection of victims of domestic violence, depending on the degree of vulnerability. A [Draft Law on Amendments to the Law on Protection from Domestic Violence](#) was opened to public debate in July 2023. The new draft expanded the definition of a *family member* in line with the new Criminal Code but missed the opportunity to harmonize the definitions with Article

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<sup>6</sup> “Whoever offers to another, accepts or acts as an intermediary in transfer of a child for financial compensation or any other consideration, shall be punished by a prison term from one to ten years”

<sup>7</sup> Government call: <https://www.gov.me/clanak/javni-poziv-za-predlaganje-predstavnika-nevladine-organizacije-u-radnom-tijelu-za-izradu-teksta-nacrta-zakona-o-izmjenama-i-dopunama-krivicnog-zakonika-crne-gore>

3 of the Convention. It retained a gender-neutral definition of *domestic violence*, despite the proposal presented by the WRC to the working group of the Ministry of Justice. Besides that, the Women's Rights Center submitted a list of comments to the Draft law <sup>8</sup>, out of which **18 were denied, with only one input accepted**<sup>9</sup>. WRC amendments together with official answers from the line Ministry, are listed in Annex A to this report.

**Case brief on prosecutor suspected of domestic violence.** State prosecutor faced domestic violence allegations on May 3, 2023, with media reports suggesting a similar incident in 2021. The victim (his wife), also a state prosecutor, initially kept the perpetrator's identity confidential, which is why she received a warning for violating the Code of ethics. In May 2023, she reported the incident to avoid another disciplinary procedure. Given that the perpetrator is the state prosecutor, the case was referred to the Basic State Prosecutor's Office in a different city from where he works. The prosecution took **five months to qualify for the crime**, eventually opting for misdemeanor proceedings, which is still ongoing, four months later. Only one hearing was scheduled for November 6, 2023, and the next is set for January 15, 2024. Meanwhile, the prosecutor continued public appearances as a representative of the Special State Prosecutor's Office, further raising concerns about the overall handling and impartiality of the case. His participation in the Working Group meeting for amending the Law on Domestic Violence caused the public NGO reaction<sup>10</sup>.

3. Please provide information on how your authorities ensure that policies on violence against women and domestic violence put women's rights and their empowerment at the center and on any measure taken to enhance the intersectionality of such policies, in line with Articles 4 paragraph 3 of the convention.

The implementation and monitoring of human rights strategies and policies remains low and inefficient.

The **Strategy for Protection from Domestic Violence**<sup>11</sup> expired in 2020, and for three and a half years the Government failed to adopt a new one. After three years without any strategic response, in June 2023, the Government finally adopted a [National Action Plan for the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence](#) (Action Plan) with a four-year time frame (2023-2027). The Women's Rights Center's representative was a member of the Working group (with 47% out of the total inputs included in the final version of the Action Plan).

The Action Plan included the definitions stipulated by the Article 3 of the Convention and and through measure 1.2. provided that all women and persons of different gender identities have access - on an equal basis - to specialized support services, especially Roma and Egyptian women, LGBTQ women, women with disabilities, and

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<sup>8</sup> Report on public debate, available at: <https://www.gov.me/clanak/izvjestaj-o-sprovedenoj-javnoj-raspravi-nacrt-zakona-o-izmjenama-i-dopunama-zakon-o-zastiti-od-nasilja-u-porodici>

<sup>9</sup> <https://www.portalanalitika.me/clanak/zakon-o-nasilju-u-porodici-odbili-18-predloga-prihvatili-jedan>

<sup>10</sup> More info at link URL: <https://www.pobjeda.me/clanak/raicevic-zabrinjava-sto-drzavno-tuzilastvo-delegira-kao-svog-predstavnika-tuzioca-koji-se-sumnjici-za-nasilje-u-porodici>

<sup>11</sup> The Strategy is available at:

women living in rural areas when seeking protection from violence. The Action Plan foresees the establishment of one or more official bodies responsible for the coordination, implementation, monitoring, and evaluation of policies and measures to prevent and combat all forms of violence included in this Convention. However, that process has not started to date, and the previously formed National coordination body did not have a single meeting. Its mandate ended due to the change of the Government and so far, the authorities failed to assign the role of coordinating body to one or more institutionalized entities. The Operational Team of the Ministry of Internal Affairs, established in 2018<sup>12</sup> to supervise high-risk cases, stopped working, as the previous minister failed to issue a decision that would allow the continuation of its valuable work.

[The Law on Protection of Equality and Prohibition of Discrimination](#) was drafted. It shifts to the defendant the burden of proving that discrimination did not occur. However, the overall institutional framework remains insufficiently prepared. The 2017 priority recommendation of the ECRI to put in place a system to collect disaggregated data on hate crimes is yet to be implemented. In the latest, [2023 European Commission report on Montenegro](#), it was also stated that there was no progress towards the adoption of a new law that would ensure full compliance of national legislation with the EU *acquis*, European standards on **anti-discrimination**, and the 2017 recommendations of the European Commission against Racism and Intolerance.

In July 2021 the government adopted the [National Strategy for Gender Equality for 2021-2025 with an Action Plan for 2021-2022](#) and adopted the Final Report on the Implementation of the Action Plan for Achieving Gender Equality 2017-2021. Cooperation with civil society organizations is achieved by including the representatives of non-governmental organizations in the Commission for Monitoring the Implementation of the Strategy and the accompanying Action Plan. However, the Commission is not active. The Strategy omits the issue of gender-based violence and domestic violence, which the Ministry of Justice, Human and Minority Rights considers part of the work of the Ministry of Finance and Social Welfare. [The midterm](#)<sup>13</sup> indicated general low scoring in implementing activities that have not exceeded more than 30% out of the total planned measures. This did not come as a surprise, as the European Commission keeps repeating, in its annual country reports, that there is an insufficient

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<sup>12</sup> The Operational Team for Combating Domestic Violence and Violence against Women was established in 2018 within the auspices of the Ministry of Internal Affairs of Montenegro. The last, extraordinary session of the Operational Team was organised on February 4th 2022, on the occasion of a femicide case. During 2023, there were some initiatives to reestablish the Operational Team and enhance its work. Unfortunately, the decision was never approved by the line authority, minister Filip Adzic, so the team stayed non functional till date.

<sup>13</sup> Official findings of the *Mid-term Evaluation of the Implementation of the National Strategy for Gender Equality 2021-2025*, produced by the Department for Gender Equality in Ministry for Human and Minority Rights and presented during the session of WG for drafting new 2023-2024 Action Plan for the implementation of Strategy in whose official membership is the representative of Women's Rights Centre. More at URL: <https://www.gov.me/dokumenta/00303903-9045-4c6a-afed-b6e82ebc552b>



political will to prioritize gender equality in the overall governmental accountability mechanisms<sup>14</sup>. The 2023-2024 Action plan is still under preparation.

The **Law on Gender Equality**<sup>15</sup>, last time amended in 2015, as a special act that governs the gender equality area in general, is not sufficiently harmonized with confirmed international treaties, accepted standards and provisions of relevant directives of the European Union<sup>16</sup>. Institutionally, there is a lack of an appropriate, comprehensive and coherent framework for achieving and improving gender equality in practice, because the majority of competent and other state bodies are often not consistent or sufficiently dedicated to the implementation of their legal obligations concerning gender equality, or their employees are insufficiently trained to implement gender politics<sup>17</sup>. So the State Audit Institution recommended to the Ministry of Human and Minority Rights to initiate *amendments to the Law on Gender Equality*, in such a way that it defines policy measures for achieving and improving gender equality, introduces the obligation to perform a gender analysis, clearly defines the institutional framework for achieving gender equality, as well as the obligations of state bodies, employers and other social partners to integrate a gender perspective in the field in which they operate while providing legal guarantees for the law implementation.

During the reporting period, the Women's Rights Center initiated several legal changes and changes of praxis, such as the establishment of the state Alimony fund (as a result of our findings on economic violence against women and children, which fathers often commit through non-payment of alimony). In 2021, WRC created a **Draft Law on Temporary Child Support, adopted in November 2021**, by which the state established the Alimony Fund and undertook the obligation to regularly pay alimony to those children whose parents failed to respect that obligation. Women's Rights Center sent the draft to the Women's Club of the Parliament of Montenegro, which became our partner in advocating the adoption of this law<sup>18</sup>. In 2021, the Women's Rights Center prepared an analysis and recommendations on the transposition of this **Work-Life Balance** Directive into Montenegrin legislation, primarily to the Labour Law and the Law on Social and Child Protection which was submitted to all relevant stakeholders, including the Working Group for Amending the Labour Law.

Another important activity in the area of socio-economic support to women GBV survivors is WRC's initiative that resulted in the Cooperation Agreement with the Capital City - Secretariat for Social Welfare (2022),<sup>19</sup> which introduced **social housing**

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<sup>14</sup> EC Country Report 2023, page 46. More at Url: [https://neighbourhood-enlargement.ec.europa.eu/montenegro-report-2023\\_en](https://neighbourhood-enlargement.ec.europa.eu/montenegro-report-2023_en)

<sup>15</sup> More at URL: [https://www.ombudsman.co.me/docs/1612165858\\_zakon-o-rodnoj-ravnopravnosti.pdf](https://www.ombudsman.co.me/docs/1612165858_zakon-o-rodnoj-ravnopravnosti.pdf)

<sup>16</sup> From the State Audit Report, find at link: <https://dri.co.me/aktuelnost/objavljen-izvjestaj-o-reviziji-uspjeha-uspjesnost-sprovođenja-politike-rodne-ravnopravnosti-u-crnoj-gori>

<sup>17</sup> Ibid.

<sup>18</sup> We presented the first draft at the Round Table held on October 15, 2021, in the Parliament of Montenegro, and then continued the media campaign and advocacy activities.

<sup>19</sup> The capital City - the Secretariat for Social Welfare and Women's Rights Center signed a cooperation agreement, that introduced social housing as a support service for women victims of violence <https://www.portalanalitika.me/clanak/zrtvama-porodnog-nasilja-obezbijeden-smjestaj>

as a support service for women victims of violence. The Capital City granted a housing unit for temporary accommodation for victims of domestic violence, but implementation of this Agreement is still on hold due to political changes in the Capital City.

**Criminal legislation should be further harmonized with the definitions from Article 3 of the Convention, it should include measures against femicide, digital violence in the public space and gender-based hate speech.**

**Criminal Procedure Code needs to provide measures of victim protection during criminal proceedings and before a verdict;**

**The Law on Free Legal Aid needs to be amended so that it enables non-governmental organizations that provide specialized legal aid to victims of violence to be part of the state funding system.**

**The state needs to strengthen legal safeguards for child witnesses of violence against women and family violence.**

**The Montenegrin Government should initiate the process of amending the Law on Gender Equality to harmonize it with international treaties, generally accepted standards and provisions of relevant directives of the European Union.**

**The Draft Law on Amendments to the Law on Protection from Domestic Violence needs to be harmonized with Article 3 of the Convention and further improved according to recommendations of women's non-governmental organizations (see APPENDIX II).**

**The government needs to establish a National body for the coordination and implementation of policies and measures to prevent and combat all forms of violence covered by the Istanbul Convention, which will place the rights and best interests of victims at the center of all measures and which will rely on the expertise and experience of specialist women's CSOs.**

**The government needs to strengthen the competence of the previously established Operational Team for Violence against Women and Domestic Violence, as an independent mechanism for monitoring and evaluating the work of all competent institutions that are involved in the system of combating violence, with the aim of effective protection of victims, ending the impunity of officials who do not perform their duties in cases of domestic violence and building trust in the work of state institutions.**

**GREVIO Recommendations 2018 remain largely valid.**

- **Article 8: Funding**

4. Please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country concerning the allocation of appropriate and sustainable financial and human resources **for the**

**implementation of integrated policies**, measures and programs to prevent and combat all forms of violence covered by the Istanbul Convention.

**Program budgeting or performance-based budgeting**, introduced in Montenegro in **2021**, is a key prerequisite for gender-responsive budgeting. However, gender-responsive budgeting is still not prescribed by the systemic Law on Budget and Fiscal Responsibility. According to the analysis of the Parliamentary Budget Office<sup>20</sup>, in 2022 the total amount of gender mainstreamed funds is 3.08% of the total proposed state budget. In addition, it is not possible to perform precise quantification of funds that exclusively contribute to gender equality, bearing in mind that the analyses calculate the total funds allocated for certain activities, and not exclusively for their gender-responsible segments. Furthermore, *reports on budget execution* do not contain the question of how the budget contributed to gender equality, so any reporting of consumer units on these issues is left to their will. Numerous consumer units **improperly mark** their goals as gender-responsive, although they are not accompanied by proper indicators. This can create a false picture of the situation and data stating that a significant number of consumer units have gender-sensitive budgets, and that further improvement in this area is not necessary. The analyzed requests for budget funds showed that **out of 87 indicators, there are only 2 gender-responsive indicators**, proving insufficient gender balance of the state budget<sup>21</sup>.

The lack of true political will to strive for a more gender-just society is also evident in the illegal and **non-transparent expenditure of funds** dedicated to women's political organizations. This negative praxis has been continuously raised by CSOs and in the State Audit Institution's reporting<sup>22</sup>. However, the line Ministry of Finance, as well as the Anti-Corruption Agency, entitled to perform duties in this regard, stay non-responsive to date.

In Montenegro, the government distributes funding for gender equality and the fight against gender-based violence mainly through the Ministry of Human and Minority Rights and the Ministry of Labour and Social Welfare. However, WCSOs said that the funding available to them is insufficient and that evaluators sitting on the selection committees often lack sensitivity and understanding of gender equality. The Ministry of Labour and Social Welfare chooses such service **providers through public procurement**, public invitation, or public-private partnership, of the Law on Social and Child Welfare<sup>23</sup>. However, there is a lack of clear and fair selection criteria<sup>24</sup>, which results in the selection of CSOs with no experience in the area, and the selection of CSOs unfit for work with a specific target group. So for example, in the field of LGBTIQ+ rights, approximately only **one-third of total funding** goes to organizations

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<sup>20</sup> Presentation of the Bill on the Budget of Montenegro for 2022, Parliamentary Budget Office, Parliament of Montenegro, 2021

<sup>21</sup> This information is obtained from CSO Institute Alternative's Report on Gender sensitive budgeting and was discussed during the panel discussion with a panellist from Women's Rights Center. More info on this at URL: <https://institut-alternativa.org/ia-nije-se-mnogo-odmaklo-u-rodno-odgovornom-budzetiranju/>

<sup>22</sup> More info on this at link: <https://www.dri.co.me/aktuelnost/senator-kovacevic-na-ndi-radionici-posvecenosti-finansiranju-zenskih-organizacija-unutar-politickih-subjekata>

<sup>23</sup> For full criteria see at URL: <https://www.gov.me/dokumenta/e374501c-8d7d-4d3e-b081-136bd505aeb9>

<sup>24</sup> European Commission's Country Report 2023.

specifically dealing with targeted groups.<sup>25</sup> The situation is similar in the field of persons with disability and gender equality in general.

The Law on Social and Child Care stipulates that the resources for social and child care may be also secured from the municipal budgets for the services, such as aid at home, daily care, public kitchen, children's leisure and recreation, housing with support, accommodation in a private unit/shelter, housing for socially vulnerable persons, etc. However, the available *Analysis*<sup>26</sup> showed that from the total budgets for the social protection of all Montenegrin municipalities, only 0,24% was allocated for shelter expenses, while 37% of their financial resources were spent for the services of daycare and 27% for the expenses of the public institutions for the social care. The Capital City of Podgorica is the only one that allocated the resources for the shelter in the amount of 10 000 euros or 0,52% of the total budget allocated for social care. Having in mind that the Law does not acknowledge the specialized services for the victims of gender-based violence, the municipalities do not provide information on the resources allocated for such services in their reports.

5. Please provide information on any development concerning the provision of appropriate and sustainable financial and human resources **for women's rights organizations** that provide specialist support services to victims, including those supporting migrant women and girls.

In Montenegro, the government distributes funding for NGOs dealing with gender equality and the fight against gender-based violence mainly through the Ministry of Human and Minority Rights and the Ministry of Labour and Social Welfare. However, WCSOs said that the funding available to them is insufficient and that evaluators sitting on the selection committees often lack sensitivity and understanding of gender equality. The Ministry of Labour and Social Welfare chooses such service **providers through public procurement**, public invitation, or public-private partnership, according to the Law on Social and Child Welfare<sup>27</sup>. However, there is a lack of clear and fair selection criteria<sup>28</sup>, which results in the selection of CSOs with no experience in the area, and the selection of CSOs unfit for work with a specific target group. So for example, in the field of LGBTIQ+ rights, approximately only **one-third out of total funding** goes to the organizations specifically dealing with targeted groups.<sup>29</sup> The situation is similar in the field of persons with disability and gender equality in general.

**There is a particularly worrying trend of shrinking overall space for provisions of gender sensitive specialized services for women and marginalized groups.** The process of licensing of providers of social protection services, instead of giving priority to those who have the expertise and experience, actually enabled excessive

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<sup>25</sup>More information on this at URL: <https://www.vijesti.me/vijesti/drustvo/680989/kalezic-malo-paznje-posveceno-polozaju-lgbtqi-osoba>

<sup>26</sup> *Analysis. of the participation of the local self-governments in financing material contributions and services in the area of the social and child care*, which was prepared by the Association of Municipalities of Montenegro in 2020.

<sup>27</sup>For full criteria see at URL: <https://www.gov.me/dokumenta/e374501c-8d7d-4d3e-b081-136bd505aeb9>

<sup>28</sup>European Commission's Country Report 2023.

<sup>29</sup>More information on this at URL: <https://www.vijesti.me/vijesti/drustvo/680989/kalezic-malo-paznje-posveceno-polozaju-lgbtqi-osoba>

institutional control of women-led services. It created pressure and a threat to the autonomy and functioning of these organizations and jeopardized a service provision based on human rights and a victim-centered approach. There were cases where perpetrators abused the system to put pressure on women NGO service providers who support the victims, and the relevant institutions adhered to their attempts<sup>6</sup>.

In one particularly concerning case, when granting licenses for social services, authorities failed to take into account the criminal records of a man who held a leading position in an NGO that ran several services for the most vulnerable groups. Such a legal gap, along with possible corruption in the social protection system, allowed an NGO led by a convicted perpetrator to run the services for the most vulnerable categories, such as women and children victims of trafficking and abuse. Besides providing the license to such an NGO, the Ministry of Finance and Social Welfare ensured its full funding, while leaving prominent women-led NGOs with scarce financial support. Furthermore, the Ministry of Finance and Social Welfare failed to meet the deadline for making payments to NGOs whose projects were elected within the [2021 decision](#) following the public call for funding. The funds were paid with a 4-month delay, only after the NGOs whose projects were elected through a public call filed a lawsuit against the ministry. Besides this, the Ministry of Interior in 2023 allocated a grant to this NGO, even after its manager had been accused of exerting violence against minors situated in the trafficking shelter. The two minor victims had filed a complaint with the local police. While the state prosecution initiated an investigation against this employee of the shelter, the Ministry of Labor and Social Welfare (MLSW) did not suspend the anti-trafficking shelter's license and funding and continued to refer two child victims and allocate funding to the shelter until the grant ended in December 2022. This case was addressed by several NGOs and media<sup>30</sup> and harshly criticised in the 2023 EC Report<sup>31</sup> and the State Department TIP Report causing Montenegro to drop to the Tier 2 observation list<sup>32</sup>.

**The GREVIO should consider bringing this to the attention of the authorities and urge the Ministry of Social Welfare and the Institute for Social Protection to investigate allegations of misconduct in granting licenses and funding to the aforementioned NGO. The Ministry needs to urgently change the Rulebooks on social services provision to ensure an ethical and human rights-based system of social support.**

**Official positions on ethics, autonomy, and confidentiality need to be among the main principles when it comes to the work of service providers, which need to be protected from the perpetrators who often use legal possibilities to aggravate their work by calling for inspection under the alleged charges of their illegal work.**

Continuous exclusion of CSOs providing specialized services from the budgetary system of financing **free legal aid**, which imposes an additional financial burden on their work, is also to be mentioned. The Draft Law on Free legal aid is, at the moment

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<sup>30</sup> A series of articles about this case were published by daily "Pobjeda": Article "A criminal case was established against Mitar Radonjić", published on July 29<sup>th</sup>, 2022 at: <https://www.pobjeda.me/clanak/formiran-krivicni-predmet-protiv-mitra-radonjica>

<sup>31</sup> European Commission's Country Report 2023, page. 17

<sup>32</sup> See more at URL: <https://www.state.gov/reports/2023-trafficking-in-persons-report/montenegro/>

of writing this report, withdrawn from the parliamentary procedure, as well as the Law on NGOs. (More on free legal aid also read in Article 20: General support services.)

**Above legislation must be revised to include NGOs in the free legal aid state funding scheme and to provide sustainability for NGOs that provide specialized services for women and marginalized groups.**

**Most of our previous recommendations remain largely valid.**

#### **Article 11: Data collection and research**

6. Please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country on the introduction of **data collection** categories such as type of violence, sex and age of the victim and the perpetrator, the relationship between the two, and where it took place, for administrative data of relevance to the field of violence against women and domestic violence emanating from law enforcement agencies, the justice sector, social services and the public health care sector.

To date, there is no systematic data collection on all forms of violence provided for by the Convention. Data are not classified according to the necessary parameters. Data from different sources are mutually incomparable. The data is collected and consolidated only for the purposes of reporting to international bodies and is not published regularly. The most important research in this field is still conducted by women's and international organizations.

The European Commission also warns about the shortcomings of statistics on the duration of proceedings before courts, which are conducted on the basis of domestic and gender-based violence<sup>33</sup>. In 2019 the Ministry of Human and Minority Rights stopped publishing reports on violence against women and domestic violence containing the data on the number of reports, court cases and their outcome.

As said above, there is **no official data on femicides**. The Women's Rights Center conducts its own database from the media articles. According to collected data, in the period from January 1, 2001, to February 28, 2017, in Montenegro at least 73 femicides happened. From the end of 2017, until October 2023, 15 women were killed by their partners or family members. This data is gathered only from the available media sources and does not represent official statistics on the number of femicides.

**Besides ensuring harmonized records, keeping and carrying out a detailed analysis of the researches based on collected statistical, administrative and judicial data from relevant institutions on gender-based violence including femicide, all data should be classified by minimum standards: sexual orientation, gender identity, and age of victims; sex and age of perpetrators; the relation between the victim and the perpetrator; the form of violence; geographical place of violence; data on children as witnesses of violence, and also include other interesting criteria (such as disability of a person).**

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<sup>33</sup> European Commission's Country Report 2023.



As for the data on **judicial response to gender-based violence**, in the absence of publicly available official data, WRC collected and analyzed the court statistics for the period 2019-2022<sup>34</sup> and for the year 2023. The analysis showed still very lenient penal policy, a small number of evictions and restraining orders imposed in misdemeanor proceedings, and an extremely low number of security measures for victims imposed with a verdict in criminal proceedings. The data showed that prison sentences are closer to the legal minimum and that the penal policy still does not have a sufficiently deterrent character for perpetrators of violence.

There are still cases of domestic violence in investigative and judicial practice qualified as misdemeanors, even though they contain elements of a criminal offense under Article 220 of the Criminal Code of Montenegro. It shows that state prosecutors more often decide on a milder qualification of the offense, so for the past 10 years, the criminal offenses have not exceeded 15% of the total number of reported cases.

### **Research on living conditions and safety of women (MONSTAT,2021)**

Montenegro Statistical Office (MONSTAT) for the first time implemented research on living conditions and safety of women in Montenegro (EU-GBV)<sup>35</sup> in 2021. It showed that one in five women (20.2% of women) experienced violence by an intimate partner during their lifetime. The target population of the EU-GBV survey were women from 18 to 74 years-old. The sample covered 2 232 households. There were 1 609 filled-in questionnaires. This research showed that in total, 6.2% of women reported violence by a non-partner during adulthood. During adulthood, in total 7.5% of women reported experiencing domestic violence, while violence by any perpetrator was experienced by 11.7% of women. Sexual harassment at work during a lifetime was reported by 17.5% of women.

### **Survey on attitudes and perceptions of psychological violence against women and girls in family and intimate partner relationship**

OSCE mission to Montenegro together with Women's Safe House and De Facto agency conducted a *Survey on attitudes and perceptions of psychological violence against women and girls in family and intimate partner relationships*<sup>36</sup>. The survey showed that 44,1% of respondents believe that psychological violence is the most common form of violence in intimate partner and family relationships, and 85% of the surveyed population perceive this kind of violence against women and girls as being either very common or at least occurring in individual cases in Montenegro. Over one-third of the women covered by the survey reported personally experiencing at least one form of psychological violence. Women living in low-income households are identified as being more likely than others to be victims of psychological violence. The unemployed women are also those most likely to

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<sup>34</sup>Women's Rights Center, Analysis of penal policy in cases of gender-based violence 2019-2022, February 2023. See more at URL: <https://womensrightscenter.org/analiza-kaznene-politike-u-krivicnim-i-prekrsajnim-predmetima-u-oblasti-porodicnog-nasilja/>

<sup>35</sup> Full research, conducted from October to December 2021 on link: <https://www.monstat.org/eng/novosti.php?id=3625>

<sup>36</sup> <https://www.osce.org/files/f/documents/e/1/531251.pdf>

report having experienced humiliation and being ridiculed – 41,4% which is yet another confirmation of the link between financial independence and violence. One in ten women claimed that they have been kicked out of their house/apartments, and 8,5% said that their partner would destroy their personal belongings. Finally, the survey states that more than half of the respondents who experienced some form of psychological violence did not turn to anyone.

Since the baseline reporting period, several studies on gender-based and domestic violence have been conducted, mainly by women CSOs and international organizations. Some of them, that have also been mentioned in the 2021 WCSO's GREVIO Shadow Report are: *The study on violence against women in Montenegro conducted by the OSCE "Women's Welfare and Security"*<sup>37</sup>, *"Perception of the police in Montenegro"*<sup>38</sup>, *The research on violence against women in politics*<sup>39</sup>, *The study on sexual violence against women and children in Montenegro*<sup>40</sup>, *Public opinion research on the prevalence of online violence against women and girls on the territory of the Capital Podgorica*<sup>41</sup>, *Gender-based violence - Changing rules and practices - Overview of the situation in Bosnia and Herzegovina, Serbia, Croatia and Montenegro*<sup>42</sup>, *Case study: Protection of women with disabilities from gender-based violence in Montenegro*<sup>43</sup>, *Empowering transgender, gender variant and intersex victims of violence - Research on the necessary psycho-social services of TIRV victims of violence*<sup>44</sup>

In the meantime, the Women's Rights Center also published several studies including:

- *Women's violence survivors' satisfaction with services provided by centers for social work and specialized CSOs-2022*<sup>45</sup> - More details on this can be found in Article 52 of this report
- *Services for rehabilitation and reintegration of women with experience of violence in Montenegro*<sup>46</sup> - More details on this can be found in the report in Articles 20,22, and 25.

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<sup>37</sup> More info at URL: <https://www.osce.org/me/secretariat/425291>

<sup>38</sup> More info at URL: <https://www.osce.org/files/f/documents/a/e/532247.pdf>

<sup>39</sup> More info at URL: <https://www.undp.org/sites/g/files/zskgke326/files/migration/eurasia/UNDP-mne-istrazivanje-zeneupolitici-2021.pdf>

<sup>40</sup> More info at URL: <http://szk.co.me/wp-content/uploads/2020/03/Studija-o-seksualnom-nasilju-nad-zenama-i-djecom-u-Crnoj-Gori-web.pdf>

<sup>41</sup> More info at URL: <http://szk.co.me/wp-content/uploads/2020/01/Online-i-nasilje-posredovano-komunikacionim-tehnologijama-nad-djevojkama-i-zenama-na-teritoriji-Podgorice-izvjestaj-SK-2.pdf>

<sup>42</sup> More info at URL: <https://www.nvoprma.org/assets/files/Rodno-zasnovanonasilje-regionalnastudija.pdf>

<sup>43</sup> More info at URL: <https://www.undp.org/cnr/montenegro/publications/studija-slucaja-zastita-zena-sa-invaliditetom-od-rodno-zasnovanog-nasilja-u-crnoj-gori>

<sup>44</sup> More info at URL: [https://asocijaciaspektra.files.wordpress.com/2023/07/istrazivanje\\_velika-publikacija\\_finalno.pdf](https://asocijaciaspektra.files.wordpress.com/2023/07/istrazivanje_velika-publikacija_finalno.pdf)

<sup>45</sup> More info at URL: [https://womensrightscenter.org/izvjestaj\\_zadovoljstvo\\_uslugama\\_2022/](https://womensrightscenter.org/izvjestaj_zadovoljstvo_uslugama_2022/)

<sup>46</sup> More info on this at URL: <https://womensrightscenter.org/servisi-za-rehabilitaciju-i-reintegraciju-zena-sa-iskustvom-nasilja-u-cg/>



- *Social housing - support for the rehabilitation of women with experience of violence*<sup>47</sup>
  - *Analysis of penal policy in criminal and misdemeanor cases in the field of violence against women and domestic violence 2019-22*<sup>48</sup>
  - *Analysis of penal policy in criminal and misdemeanor cases in the field of violence against women and domestic violence 2023 (not published yet)*
7. Where relevant, please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country to enable disaggregated data collection:
- a) on the number of emergency barring and protection orders and the number of breaches and the resulting sanctions;

The disaggregated data collection system hasn't improved much since the first GREVIO's baseline evaluation report. The Judicial Information System allows the possibility to extract the data on the number of emergency barring and protection orders and the number of breaches and the resulting sanctions, however, there is still a lack of regular and up-to-date exchange of information between the institutions responsible for monitoring and implementing these measures. The same refers to the database on domestic violence between the Police Directorate and the Center for Social Work, which did not contribute to a more proactive attitude of these institutions in monitoring cases and preventing further violence, judging by the experiences of victims who are still the main initiators of proceedings for violation of protection measures. Misdemeanor records are still collected manually and are not part of a Judicial information system. A statistical overview of the work of all courts is published by the Judicial Council in its annual reports<sup>49</sup>. However, the data are not segregated and mainly refer to the structure of the court cases, summary overview of the method of solving the case, overview of the imposed protective measures, overview of solved cases by structure, etc. Some of this data is also published by the Ombudsperson in its annual report. For example, In the latest 2023 Ombudsperson report, it is stated that a total of (782) protective measures were imposed, namely: removal from the apartment or other living space (122); restraining order (293); prohibition of harassment and stalking (265); mandatory addiction treatment and psychiatric treatment (101), and mandatory psychosocial treatment (1). Regarding the number of perpetrators, the data shows that in 1,565 completed cases, proceedings were conducted against 1,861 perpetrators, of which 1,832 or 98.44% were adults and 29 or 1.56% were minors. Adult perpetrators by gender were 1,462 or 79.80% men and 370 or 20.20% women, while minors by gender were 25 men and 4 women.

- b) on the number of times custody decisions have resulted in the restriction and withdrawal of parental rights because of violence perpetrated by one parent against the other.

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<sup>47</sup> More info on this at URL: <https://womensrightscenter.org/socialno-stanovanje-podrska-rehabilitaciji-zena-sa-iskustvom-porodicnog-nasilja/>

<sup>48</sup> More info at URL: <https://womensrightscenter.org/analiza-kaznene-politike-u-krivicnim-i-preksajnim-predmetima-u-oblasti-porodicnog-nasilja/>

<sup>49</sup> [https://sudovi.me/static/sdsv/doc/lzvjestaj\\_o\\_radu\\_2022\(1\).pdf](https://sudovi.me/static/sdsv/doc/lzvjestaj_o_radu_2022(1).pdf)

Data on the number of times custody decisions have resulted in the restriction and withdrawal of parental rights because of violence perpetrated by one parent against the other was not collected at all. For that reason, the Women's Rights Center and UNICEF in 2019, conducted research and created a *Monitoring report to identify deficiencies in the support and protection of child victims and witnesses of domestic violence in Montenegro*. The research sample consisted of final judgments in proceedings for divorce and custody of children, which included partners who have common minor children. In the period from 01.01.2017. until July 1, 2018. years (18 months), at the level of all basic courts in Montenegro, there were 395 judgments for divorce, of which violence in an intimate partner relationship was registered in only 29 cases (7.34% of the sample), meaning that violence in partner relationships remains invisible in divorce processes. Marital/partner relationships are most often described as "seriously and permanently disturbed" in the reports of centers for social work and in judgments, and not as violence. The systematic approach in data collection and determining the connection between violence against women and abuse of children has not been established.

According to Women's Rights Center research conducted in 2022,<sup>50</sup> the Center for Social Work initiated proceedings for the partial deprivation of parental rights of the perpetrator of violence in one case, and in 2 cases for the complete deprivation of these rights. However, follow-up on these cases is not known to us.

**The state must take the necessary measures to ensure a systematic exchange of information between the competent misdemeanor courts and family courts on existing violence and protection measures in family law cases.**

8. Please provide information on measures taken to allow cases of violence against women and domestic violence to be tracked from reporting to conviction, at all stages of the law-enforcement and judicial proceedings.

**Part II: Information on the implementation of selected provisions in priority areas in the field of prevention, protection and prosecution**

#### **Article 12: General obligations**

9. Please provide information on any **primary prevention measures** aiming to change mentalities and attitudes concerning violence against women and to reduce women's exposure to gender-based violence by:

- a) addressing harmful gender stereotypes and prejudices, customs and traditions based on the idea of the inferiority of women;
- b) addressing the heightened exposure to gender-based violence by women and girls at risk of intersectional discrimination;
- c) encouraging all members of society, including men and boys, to contribute actively to preventing all forms of violence against women covered by the scope of the Istanbul Convention, and promoting the empowerment of women and

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<sup>50</sup> WRC research *Satisfaction of women experiencing gender-based violence with the services of the Center for social work and specialized non-governmental organizations*

girls in all areas of life, notably their participation in politics at all levels and in the labor market.

The reporting period was marked by significant changes in the economic, social and political context, caused partially by the frequent change of Government, but also COVID-19 pandemic that particularly struck women and their economic and social status in Montenegro. Women suffered more from the crisis caused by the COVID-19 pandemic, experiencing existential issues such as losing jobs. Performing significantly more unpaid work at home (92% more than men)<sup>51</sup> and being more exposed to domestic violence. Regardless of this, the Government failed to create measures to alleviate the effects of the crisis and to provide any sort of concrete assistance to women exposed to gender-based violence, except for the public campaign<sup>52</sup>.

The state did not do much to address harmful gender stereotypes and prejudices, customs and traditions. These issues were mostly outside the focus of the political elites, which promoted conservative, traditional and religious values that supported stereotypical attitudes on women. That led to the absence of women from important political processes. Such practice persisted also during the process of formation of the new Government, which was established in October 2023, with only 17% of female members. This is the lowest participation of women in the Government since 2012. In the initial convocation of the Parliament, there were only 17 or 20.98% of women out of the total number of MPs, which is the lowest score since the introduction of the combined quota system in 2016.<sup>53</sup>

Popularization of religious discourse in Montenegro affected the public debate and raised questions on the right of women to bodily autonomy, with radical attitudes coming from the church leaders, that were publicly broadcasted on the national television channel in prime time, causing a public protest<sup>54</sup>.

The public atmosphere is marked also by the upraise in misogynist rhetoric and hate speech against women politicians, women human rights defenders and LGBTIQ persons who were not condemned by decision-makers and political leaders. Despite NGO initiatives<sup>55</sup>, such hateful events were rarely prosecuted, which is why **serious**

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<sup>51</sup> UNDP Montenegro report "Women's Contribution to the Economy of Montenegro – Utilization of Care work by women during Covid-19", The report estimates that women's work in the domain of unpaid work and domestic care exceeded that done by men by 92%. The monetary value of such work and care has been projected at 122 million euros during the three months of the Covid-19 pandemic, that is, from April to June 2020. While 11% of women reported that they usually don't do any domestic work, the share of men who reported the same was 42%.

More at: <https://www.undp.org/montenegro/press-releases/womens-contribution-economy-montenegro>

<sup>52</sup> A campaign #Safe at home (2020) was targeting victims of domestic violence as particularly vulnerable groups in the context of state imposed measures to stay at home, as a prevention for further spreading of the virus.

<sup>53</sup> Women's Right Center, Association Spectra: "A gender perspective of the 2023 Parliamentary election", page 4.

<sup>54</sup> More info on this at link: <https://www.vijesti.me/vijesti/drustvo/604455/protest-ispred-rtcg-zbog-debate-o-abortusu>

<sup>55</sup> WRC with other partner organisations warned that sexist and misogynist speech insult every woman and perpetrate political violence against all women, as they undermine historical efforts to get them more involved in public and political life. WCSO's also called State to adopt Strategy against hate

**considerations have to be put on the capacities of law enforcement, but also on the adoption of the strategic and legislative framework on digital gender-based violence and regulation of the media sectoral policy.**

*WRC research showed that gender-based discrimination related to labor*<sup>56</sup> continued to be widespread in Montenegro, including discrimination related to hiring, promotion, working conditions, maternity leave, paternity leave, parental status, and sexual harassment. Among the persons surveyed, 76% of women who had at least one job interview in the past three years, thought that they had faced discrimination during the hiring process. The most frequently encountered form of discrimination in hiring, according to survey participants, was political preference, followed by age-based and gender-based discrimination. LGBTQIA+ persons are specifically exposed to discrimination that includes maltreatment, disrespect and even sexual harassment due to their sexual orientation. Although official data on the prevalence of gender-based discrimination against LGBTQI+ persons does not exist, WRC qualitative information gathered through the above-mentioned research indicates that it does occur in Montenegro, while the Ombudsperson institution representative assessed it as a second most common cause of discrimination<sup>57</sup>.

Also, 66% of the surveyed women and 47% of surveyed men said that they had experienced questions during job interviews that might imply discrimination. For example, 59% of surveyed women and 29% of men indicated that they were asked about their marital status during a job interview and 41% of women and 18% of men were asked if they have children. Finally, 7% of the women who had at least one job interview were asked for medical proof that they were not pregnant before employers would consider them for a job opening. The findings were used to create a public campaign on gender-based discrimination in labor<sup>58</sup>.

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speech and show zero tolerance towards violence against women, especially those performing public and political duties. Some of the most recent statements against hate and misogynist speech see at: <https://www.vijesti.me/vijesti/drustvo/681720/hra-i-czp-osudjujemo-objavljivanje-knjige-prostackog-naziva-ratnog-zlocinca-seselja-podrska-za-vuksanovic-stankovic>, <https://m.facebook.com/womensrightscenter.mne/photos/a.629938143719094/4900197206693145/>, <https://womensrightscenter.org/tag/zeneupolitici/>, <https://www.standard.co.me/drustvo/hra-i-centar-za-zenska-prava-podnijecemo-prituzbu-rem-u-i-aem-u-happy-promovise-mrnju-prema-zenama/>, <https://rtnk.me/drustvo/centar-za-zenska-prava-ispitati-navode-o-zastrasivanju-poslanice-pejovic/>

<sup>56</sup>WRC: Gender-based discrimination and labour in Montenegro, publication date: April, 2022  
<https://womensrightscenter.org/rodno-zasnovana-diskriminacija-u-oblasti-rada-u-cg/>

<sup>57</sup> Apart from political orientation. More info at the same research, page 25.

<sup>58</sup> The campaign was created as part of the regional project “Strengthening of civil society organizations in the fight against discrimination and improvement of women’s labor rights” (2018- 2022), in which the Women’s Rights Center was a partner organization, and the leading organization was the Kosovo Women’s Network, while the other partners were The Helsinki Citizens’ Assembly from Banja Luka, Kvinna till Kvinna from Serbia, Gender Alliance for Development from Albania and Reactor from Macedonia. The project was financed by the European Union and the Swedish International Development and Cooperation Agency. See campaign at: <https://www.youtube.com/watch?v=0o9WInU1xyg>, <https://www.youtube.com/watch?v=U69JDEyCa0M>, <https://www.youtube.com/watch?v=ki2svZ9VYXE>, <https://www.youtube.com/watch?v=BqXtq9Ugp5k>, <https://www.youtube.com/watch?v=OXXLogpejcl>, <https://www.youtube.com/watch?v=m6iXS11gx0w>, <https://www.youtube.com/watch?v=05uEnEaKMiW>.

Reporting discrimination still seems to involve social stigma for people who report it. Most experiences of gender-based discrimination related to labor go unreported (in 80% of cases reported by the online survey participants). More people seem to recognize the Labour Inspectorate and Ombudsperson Institution as institutions where gender-based discrimination should be reported. However, the number of cases before different institutions remains very low. **However, the fact that the institutions do not track cases of gender-based discrimination related to labor before them creates additional reasons for concern.**

The Labor Inspectorate, Judicial Council on behalf of the courts, and Ombudsperson Institution provided their statistics, while the police and prosecution did not. In total, from 2018 to 2020, the Labour Inspectorate had *18 work-related cases of discrimination*. **The Inspectorate did not have any information as to how many of these cases involved gender-based discrimination, as they do not disaggregate their data based on this ground.**

All campaigns addressing harmful gender stereotypes and prejudices were carried out by international organizations and the civil sector with very little financial and other contributions from state institutions.

Since the baseline reporting period, the Women's Rights Center conducted dozens of activities aiming to raise awareness on gender-based violence and non-discrimination, not only within the framework of campaigns dedicated to 16 days of the fights against gender-based violence but also related to specific situations of public attacks on women and failure of the institutions to protect victims of femicide. Those included numerous public statements, media appearances and public protests, that significantly raised public awareness on the position of women and gained public support for our cause.<sup>59</sup> A campaign dedicated to the promotion of free legal aid for victims of domestic violence launched in partnership with the CoE office in Montenegro and SOS Hotline Podgorica, **#Tell the story until the end** (2022)<sup>60</sup> was regionally recognized. WRC also launched an informative campaign for victims of gender-based violence (2022)<sup>61</sup>, disseminating the key information for protection (contacts, legal measures, legal remedies). In 2023, supported by the UN Women Serbia Norwegian Embassy in Belgrade, WRC launched a campaign **"Improving**

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<sup>59</sup> Due to the femicide of Sejla Bakija in Podgorica and Tuzi, October 2021, the Government and relevant institutions were urged to implement specific measures for improved protection of women and children from violence. More info at: <https://www.pobjeda.me/clanak/masovni-protest-u-tuzima-ovdje-nema-vise-sigurnosti-ni-kuca-vise-nije-skloniste>  
<https://www.vijesti.me/vijesti/drustvo/569755/protest-zbog-ubistva-sejle-bakije-u-podgorici-zrtvama-se-mora-vjerovati>

<sup>60</sup> The European Union and the Council of Europe, in cooperation with the Supreme Court, the Ministry of Justice, the Ministry of Human and Minority Rights, the Association of Judges of Montenegro, the Women's Rights Center, and the SOS telephone for women and children victims of violence Podgorica launched a campaign to promote free legal aid for victims of violence in the family, through the slogan: #Tell the story to the end.

<sup>61</sup> The campaign "Strengthening access to justice for survivors of gender based violence" is realized with the support of the Ministry of Foreign Affairs of the Czech Republic. See campaign at: <https://www.facebook.com/womensrightscenter.mne/posts/pfbid029KtPx4RWuXUJnpDfAD8X7KdjG9jFVKRncEuA7yGeQZps3PadneiXUjxAm84qfTsil> ,  
<https://www.facebook.com/womensrightscenter.mne/posts/pfbid0untGMHPVnb21yDcGUsXRG2v5vS Qh8mi3mhLwVV9ZnWbkkPffNEEhVssKXzkg6Prhl> ,  
<https://www.facebook.com/womensrightscenter.mne/posts/pfbid026GK1WXDyP3yF9HmtqytRjJj6R6KdQg5Yxniv18R87vxsdUKzTAXDvbqMg2DAQYI>

**Women's Safety"** on security measures of a restraining order (2023) promoting the newly established electronic monitoring system.<sup>62</sup>In 2022, supported by UNICEF, WRC published and distributed **"There is a way out"** brochure<sup>63</sup>, which is intended for migrant women who have experienced domestic violence or are victims of human trafficking.

During the reporting period, the Women's Rights Center implemented several campaigns, aiming to raise awareness of the importance of the Istanbul Convention and its standards. Some of them are:

#Equality from the drawer: for policies of nonviolence!(2021) organized on the occasion of 10 years since the signing of the Istanbul Convention, which was regionally implemented and emphasized the importance of respecting the provisions of the Convention to preserve and improve the hard-won rights of women. In parallel, we keep advocating for the ratification and harmonization of national laws and policies with the Istanbul Convention. For this purpose, WRC conducted training programs created for the judiciary, police, center for social welfare, and other institutions involved in the implementation of the Convention. WRC representatives participated in several working groups for the adoption of relevant laws and policies, such as the Law on Protection from Domestic Violence, and the Criminal Code of Montenegro. WRC participated in the CoE campaign to mark the 10th Anniversary of the Istanbul Convention<sup>64</sup>.

In the field of the fight against discrimination, also several campaigns were influential and noticeable, among which #Unwanted (2018-2019) campaign against prenatal sex selection, a problem that was addressed by CoE<sup>65</sup>. After the #Unwanted campaign, that ratio we presented the first draft at the Round Table held on October 15, 2021, in the Parliament of Montenegro, and then continued the media campaign and advocacy activities have been moving between 108 boys and 100 girls<sup>66</sup>. From 2020 to 2021 we launched the campaign #Discrimination doesn't work to raise understanding of discrimination against women at work, as well as the possibilities for overcoming it, and involving citizens, institutions, and other relevant social actors<sup>67</sup>.

**The state needs to take a strategic approach in planning and organizing awareness-raising campaigns against gender stereotypes and all forms of violence covered by the scope of the Istanbul Convention and fully implement**

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<sup>62</sup>The estimated reach of the campaign was 2700 users on facebook, 1988 on instagram and 386 on twitter.

<https://www.facebook.com/womensrightscenter.mne/posts/pfbid02WFPfxppjdn1fpHrZ7qf42f6E1dETNZaJbHH9d432tXe3ib3sfNgzFhBUkHTDTiSKI>

<https://www.instagram.com/p/CyDtg5ro7BH/>

[https://twitter.com/CZP\\_Cg/status/171027604545720741](https://twitter.com/CZP_Cg/status/171027604545720741)

<sup>63</sup> WRC Brochure: "There Is A Way Out", 2022, available at: <https://womensrightscenter.org/izlaz-postoji-brosura-za-migrantkinje-suocene-sa-nasiljem/>

<sup>64</sup> <https://www.coe.int/en/web/istanbul-convention/testimonies>

<sup>65</sup> In 2012, the Council of Europe's commissioner for human rights unsuccessfully urged Montenegrin authorities to investigate the prevalence of sex-selective abortions. More at URL: <https://www.coe.int/en/web/commissioner/-/sex-selective-abortions-are-discriminatory-and-should-be-bann-1>

<sup>66</sup> <https://www.slobodnaevropa.org/a/24714336.html>

<sup>67</sup> Campaign "Discrimination doesn't work", 2021. Available at: <https://www.facebook.com/womensrightscenter.mne/videos/diskriminacijaneradi-radnaprava/767926997146529/>



**all awareness-raising activities already foreseen in the 2021-2022 Action Plan for implementing the National Strategy for Gender Equality 2021-2025 and repeated in the new 2023-2024 Action Plan due to the low implementing results in the previous period. This is also a clearly defined measure (3.1.) in the National Plan for the Implementation of the Istanbul Convention<sup>68</sup>, which envisages regular and at all levels awareness-raising campaigns or programs about the various manifestations of all forms of violence covered by the Convention, their consequences for children and the need to prevent such violence. These activities include the promotion of equal parental leave, gender-sensitive education, recognition of economic violence, better inclusion of women in the ownership structure of enterprises, campaigns against hate speech and digital violence, etc.**

**State authorities should establish a methodology for working and monitoring the success of all implemented campaigns aimed at protecting women from gender-based violence, especially for women from marginalized communities, such as Roma and Egyptian.**

#### **Article 14: Education**

10. Please provide a few examples of promising teaching or prevention programs, materials, or initiatives for use in formal education (from pre-school to higher education) that:

- a) educate children and youth about equality between women and men, the right to personal integrity, mutual respect, and non-violent conflict resolution in interpersonal relationships, including the notion of freely given consent;
- b) address some or all the forms of gender-based violence against women and girls covered by the Istanbul Convention;
- c) promote the inclusion of digital literacy and online safety in formal curricula as foreseen under GREVIO General Recommendation No. 1 on the digital dimension of violence against women;
- d) ensure that teaching material used in school does not convey negative gender stereotypes of women and men of all ages;
- e) offer tailored interventions aimed at preventing gender-based violence and empowering all girls, including those at risk of intersectional discrimination.

The conservative educational system remained resilient to numerous civil initiatives for the introduction of gender equality and women's studies at higher levels of education. The reporting period brought only a setback in this respect, especially expressed during the tenure of former Minister of Education, Vesna Bratic<sup>69</sup>. In her

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<sup>68</sup> National Plan for the Implementation of the Council of Europe Convention (Istanbul Convention) for the period 2023-2027, Available at: <https://wapi.gov.me/download-preview/1f031d7b-7220-460a-a48b-bf093b37db6c?version=1.0>

<sup>69</sup> Bratic was a member of Prime Minister Zdravko Krivokapic's Government, elected after the Democratic Front, the Democrats and the URA Civic Movement jointly won the majority in the parliamentary elections in August 2020. One of her first moves as a minister was the mass dismissal of Montenegrin school directors, and among those she appointed to their positions were defenders of war criminals. On the last day of her ministerial mandate, Vesna Bratic decided to financially support the Serbian Orthodox Church (SPC) in Montenegro from the budget for culture and without a public call, in amount of more than 90,000 eur. More at: <https://www.slobodnaevropa.org/a/spc-crna-gora-vesna-bratic/32371935.html>

public appearances, she actualized the discriminatory narrative that also challenged the multicultural, multi-religious, and multiethnic nature of Montenegrin society, and enabled the influence of the church on the education system, unlawfully appointing directors of educational institutions. Therefore, it is not unusual that education about human rights, especially the rights of women and marginalized groups shows only regress, while the state's support for religious schools is manifested through the allocation of significant financial resources for the establishment of religious schools<sup>70</sup>. Such lack of formal education and other forms of education on gender equality, that supports societal stereotypes and prejudices, was addressed in the Montenegrin National Strategy for Gender Equality 2021-2025<sup>71</sup>. The lack of gender-sensitive education, recognized in the strategy's context analysis, continued due to the failure of the line Ministry of Education to implement measures foreseen by the Action Plan 2021-2022. So, there is still no special analysis of curricula from the perspective of gender equality, in terms of gender stereotypes or gender-sensitive language. The courses in civic education that were mandatory in the previous reporting period, are now optional subjects for students<sup>72</sup>. Furthermore, actual interdisciplinary areas hardly challenge gender traditional norms<sup>73</sup>, as visible through the following case studies. Low response in achieving better gender equality in the field of media and culture is also noticed, while the line Ministry of Culture and Media officially informed the Department for Gender Equality, in charge of monitoring the extent of strategy implementation, that it is not able to undertake any of the planned activities related to measure 2.4. *Introduce gender-responsive programs and the mandatory use of gender-sensitive language in the programs of cultural institutions*<sup>74</sup>. Even three years after the implementation of the gender equality strategy, cultural institutions still do not make special programs for gender mainstreaming, nor do they train their employees in gender equality.

Two specific cases directly related to teaching materials used in schools, showcasing problematic gender stereotypes of women and men of all ages, are briefly described below:

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<sup>70</sup> The fund of 1,800,000 euros, was allocated from the state budget to the religious gymnasium founded by the Serbian Orthodox Church, according to two Government's decisions. More at:

<https://www.gov.me/clanak/saopstenje-sa-9-sjednice-vlade-crne-gore>  
<https://www.gov.me/clanak/saopstenje-sa-21-sjednice-vlade-crne-gore-2>

<sup>71</sup> In this document it is stated that: "the patriarchal model of behaviour, understanding Montenegrin society and what is "acceptable" for female and male children, and what not, often makes violence an acceptable model of behaviour against women and persons of different gender identities. The consequences are devastating for the society and they take many forms, such as the drastic ones - selective abortions, gender-based violence, and discrimination at work." The National Strategy for Gender Equality 2021-2025, at link URL:

<https://www.gov.me/dokumenta/33985332-d431-4c25-9643-e9a15d76e548>

<sup>72</sup> "Many professionals agree that this subject should be returned to the regular educational process, as it includes topics that every citizen, member of a democratic society should master and adopt as a lifelong skill, regardless of their profession. There is an elective course "media literacy" in gymnasiums, which is vital for the development of critical thinking, so a combination of civic education and media literacy could bring generations that will nurture democratic values". See also National Strategy for Gender Equality 2021-2025.

<sup>73</sup> Ibid.

<sup>74</sup> Information obtained during the work of the Working Group for drafting the 2023-2024 Action Plan for the implementation of NSGE 2021-2025, in which the representative of Women's Rights Center participated.



***Stereotypes in the elementary school curricula:*** The media and a group of parents of fifth-grade pupils of the elementary school in Podgorica, reacted after their children were given homework in which they were asked to memorize examples of traditional customs in Montenegro<sup>75</sup>. These customs, among other things, state that: the oldest man in the family is the head of the family, that he makes all decisions independently in the name of the whole family, and no one is allowed to oppose him, that female children have no rights, that women role is in the house to take care of children and prepare food, that the birth of male successor is accompanied by rejoicing and the obligatory firing from weapons, while this is not the case when female children are born. When asked by the media, the school's management stated that the goal of the assignment was for the students to become familiar with the customs that were once cultivated in Montenegro, and for the purpose of comparing the differences with today's times. However, it is not clear whether a task was presented to children in such a way that they can understand their discriminatory nature. The teaching material was taken from old books that are no longer used in basic education.

***An example of abuse of the official position of school director:*** In the elementary school "Štampar Makarije" Podgorica, the pupils of the ninth grade were asked to fill out a survey for Ph.D. research conducted by the ex-pupil of that school and a Ph.D. student in the field of psychological sciences<sup>76</sup>. Questions were the following: do they agree that families lived better when it was clear who was the boss in the house, do homosexuals, prostitutes and drug addicts deserve to die of AIDS, do they agree that there is nothing worse than a man who cries, does a good wife always listen to her husband, do they agree that suicides should not be buried where normal people are buried, etc. An additional problem is that the school principal approved the completion of the survey without mandatory prior consultations and official approval from the Institute for Education of the Ministry of Education<sup>77</sup>. Non-governmental organizations appealed to this negative practice and demanded his disciplinary responsibility. As a result, the Educational Inspection determined several breaches of work duty as well as abuse of official position and called for the dismissal of the director. The Inspector's decision was reconsidered by the School Board and determined as unfounded, only after the president of the Council of Parents, within which this decision was primarily assessed (which goes beyond the authorities of this body) initiated the procedure before the School Board. By doing so, particular pressure was placed on the school staff to refuse the above decision and not to dismiss the director<sup>78</sup>. The Board's decision is final.

Not only that school curricula selectively and marginally include the matter of the social contribution of women, as it was recognized in the Gender Equality Strategy itself, in history, science, culture, art, and politics, but they also fail to comprehensively educate

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<sup>75</sup> More information on this at URL: <https://www.cdm.me/drustvo/sporni-sadrzaj-o-ocuvanju-tradicije-direktorica-os-savo-pejanovic-nastavnica-tekst-preuzela-iz-udzbenika-koji-se-nekad-koristio-da-ucenici-uporede-razlike/>

<sup>76</sup> More information on this at URL: <https://kodex.me/clanak/284471/o-direktoru-gacevicu-krajem-mjeseca-cgo-trazi-da-ministarstvo-reaguje-hitno>

<sup>77</sup> As he stated in his announcement, he believed that the topics and concepts contained in the research are ones that children think about and talk about every day. He also added that he did not read the contents of the controversial survey to the end.

<sup>78</sup> See more info at: <https://www.roditelji.me/blog/2023/12/22/kaluderovic-roditelji-daka-os-stampar-makarije-dovedeni-u-pravnu-zabludu/>

young people on the social importance of their achievements for the development of the community and feminist struggle in the overall emancipation of the societies after II World War. For these reasons, the Women's Rights Center organized educational and art workshops to fill the gaps in education and educate young activists (students, artists) about different kind of history, *non-selective and inclusive*. Since 2019 we have launched "Small School of Smashing of Patriarchy" and "Short Course of Abolishing Patriarchy" that has been attended by more than 150 young artists and activists till today. The school aims to create an atmosphere for fundamental changes in social norms that contribute to the spread of discrimination and violence against women, through education about the principles of feminist activism and gender equality.

**Peer violence with a notable gender dimension** became a matter of serious concern. In 2019, *three young trans persons dropped out of their secondary education because of violence and discrimination, and the lack of adequate support from the school administration. In addition, there were many cases of peer violence in secondary schools, with 2 cases of attacks on trans-students that were reported but inadequately addressed by educational institutions*<sup>79</sup>.

**In parallel with implementing all obligations that are already agreed and determined in the national educational and gender equality strategies, state needs to fully implement all GREVIO AND CEDAW recommendations related to conducting capacity-building programs for teachers at all levels of education to change existing stereotypical views and attitudes about the roles of women and men in the family and society; ensuring the integration into the school curricula of mandatory, age-appropriate sex education, including education on sexual and reproductive health and rights, paying special attention to the patriarchal attitudes and violence; Give priority to eliminating traditional stereotypes and structural barriers that may deter girls from enrolling in traditionally male-dominated fields of study; sustain the informal programs conducted by women NGOs.**

11. Please complete tables I and II included in the Appendix to provide a comprehensive overview of the professional groups that receive initial and in-service training on the different forms of violence against women and domestic violence. Please specify the frequency and scope of the training and whether it is compulsory.

12. Please specify if the expertise of women's rights organizations or specialist support services is integrated in the design and/or implementation of the training.

Still, the most significant and evidence-based training and education for professionals working in the field of gender-based and domestic violence are provided by specialized women NGOs with years of expertise in combating violence and discrimination. The Women's Rights Center has transferred its knowledge and gained through many years of direct support to women with experience of gender-based violence and discrimination into numerous lectures, forums and educational programs for police and judiciary, intending to improve the institutional response to gender discrimination and violence against women and children. We initiated and organized

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<sup>79</sup> Information from the National Strategy for Gender Equality, *ibid*.

the first trainings on the standards of the Istanbul Convention and the standards of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which became regular annual curricula for judicial trainings, conducted by the Center for Training in Judiciary and Prosecution, mostly through international funding ( Council of Europe, UNICEF, Chemonics, Aire Center) and through WRC project some of which were funded by Ministry of Labor and Social Welfare and the Ministry of Human and Minority Rights. Since 2019, more than 210 representatives of institutions and attorneys have participated in WRC training. However, the state needs to do more to recognize and sustain WRC expertise, which wasn't even mentioned in the state report.

However, besides numerous training organized for the judges, structural gender biases and a lack of understanding of GBV standards persist, contributing to a lack of victim protection and access to justice. It is well illustrated by the following example<sup>80</sup>: the long-time head of the misdemeanor court, who was a candidate for the position of judge of the Constitutional Court, and attended numerous seminars on gender-based violence against women, found the victim of sexual violence, who defended herself from the attacker, guilty of violating the Law on Public Order and Peace, and issued her a warning with the obligation to pay half of the court costs. When qualifying the act, but also when submitting a request to initiate misdemeanor proceedings, the submitted medical documentation was not taken into account, in which the injury in the form of a hematoma was stated. The acting judge considered that the violence committed by the victim could not be treated as self-defense because she did not call the police at the immediate time of the attack. The aforementioned event caused a harsh reaction from the public<sup>81</sup>, and the Women's Rights Center published a statement<sup>82</sup> warning that the court's decision deters all future victims from reporting violence and privileges the perpetrator of violence by imposing only a fine as if he had crossed the street outside the pedestrian crossing. After the reaction of the public, the acting Supreme State Prosecutor requested that the acting prosecutor take all the necessary measures and actions within his competence to fully clarify all the facts of the specific event, especially those related to the physical injury of the victim and the possible existence of a criminal charge<sup>83</sup>.

**The state needs to sustain regular and comprehensive training, led by or in consultation with NGOs that serve victims, based on best practices including the dynamics of gender-based violence against women and domestic violence, new legal provisions in the Montenegrin criminal legislation and, in particular, digital violence and hate speech against women. The training needs to focus on risk assessment and promoting victim safety for all system actors including police, CSW personnel, prosecutors, and judges in misdemeanor and basic courts.**

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<sup>80</sup> See the case of sexual violence on a page 67 of this report.

<sup>81</sup> Radio Free Europe, 15.08.2023. <https://www.slobodnaevropa.org/a/napad-milica-kolasin-zene-nasilje/32549126.html>

<sup>82</sup> Women's Rights Center Public Statement, 14.08.2023.

<https://www.facebook.com/womensrightscenter.mne/posts/pfbid02Gz5fEroLzVSzXCPcSW84YwH2QfNG6EDf8aFdoL8YfdkzNAecFMEcsMeWovLLovqGI>

<sup>83</sup> Supreme State Prosecutor, 17.08.2023. <https://sudovi.me/vrdt/sadrzaj/WB4y>

**The regular long-term evaluation of the practice of the judiciary that attended the training should be mandatory.**

#### **Article 16: Preventive intervention and treatment programs**

13. Please provide information on measures taken to increase the number of available preventive intervention and treatment programs for perpetrators of domestic and sexual violence both for voluntary and mandatory attendance.

14. Please provide information on measures taken to:

- a) increase the number of men and boys attending perpetrator programs for domestic and sexual violence;
- b) ensure that the perpetrator programs apply standards of best practice;
- c) ensure the safety of victims and co-operation with specialist support services for victims;
- d) ensure that the outcomes of the programs are monitored and evaluated.

Since the last reporting period, there have been no significant developments in the field of prevention, especially when it comes to programs for perpetrators of violence. The rare existing activities in this sphere were established on the wrong foundations, not affecting a better understanding of the gender dimension of violence, acceptance of responsibility and changes in the behavior of the perpetrators. According to the *National Plan for the Implementation of The Council of Europe Convention on preventing and combating violence against women and domestic violence for the period 2023-2027*, the Ministry of Labor and Social Welfare envisaged the adoption of a new *Rulebook on the closer method of determining and implementing the protective measure of mandatory psychosocial treatment*, however, no activities were initiated to date.

Ministry of Health issued *Guidelines for the implementation of protection measures of psychosocial treatment for perpetrators of domestic violence*<sup>84</sup>, which will also be amended and harmonized with the mentioned Rulebook and the standards prescribed by the Convention, to strengthen the capacities of health institutions and increase the number of boys and men who attend programs for perpetrators violence, as it was stated in the latest Montenegro Report to GREVIO.

The WRC Analysis 2019-2022<sup>85</sup> and 2022 Ombudsperson report<sup>86</sup> stated that overall 101 measures on mandatory addiction treatment and psychiatric treatment were

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<sup>84</sup> Guidelines for the implementation of protection measures of psychosocial treatment for perpetrators of domestic violence, more at link: [smjernice za sprovođenje zastitne mjere psihosocijalnog ...wapi.gov.mehttps://wapi.gov.me > download](https://wapi.gov.mehttps://wapi.gov.me/download)

<sup>85</sup> Women's Rights Center, Analysis of penal policy in cases of gender-based violence 2019-2022, February 2023. See more at URL: <https://womensrightscenter.org/analiza-kaznene-politike-u-krivicnim-i-prekrsajnim-predmetima-u-oblasti-porodicnog-nasilja/> and

<sup>86</sup> Report at the link: [https://www.ombudsman.co.me/docs/1681285008\\_finalizvjestaj\\_12042023.pdf](https://www.ombudsman.co.me/docs/1681285008_finalizvjestaj_12042023.pdf)

imposed<sup>87</sup>, and only **1 for mandatory psychosocial treatment**<sup>88</sup> and **11** in 2021<sup>89</sup> and 2020<sup>90</sup>. Ombudsperson keeps reporting the lack of systematic psychosocial support services and repeats recommendations to the Ministry for Internal Affairs to consider the need to establish and continuously conduct psychotherapy, psychosocial and occupational therapy in the treatment of prisoners and to establish a psychiatric department (unit) in the Institut for execution of criminal sanctions. These recommendations have not been met to date.

**The 2018 GREVIO recommendation remains valid.**

### **Article 18: General obligations**

15. Please provide information on any multi-agency cooperation mechanisms, structures or measures in place designed to protect and support victims of any of the forms of gender-based violence against women covered by the Istanbul Convention (e.g., interdisciplinary working groups, case-management systems, cross-sectoral protocols/ guidelines...). Please describe:

- a) the state agencies involved in their functioning (law-enforcement agencies, judiciary, public prosecutor, local authorities, healthcare services, social services, educational institutions, etc.);
- b) whether they involve specialist support services provided by civil society organizations, especially women's rights organizations;
- c) how they adopt a gender-sensitive approach to violence against women, including the prioritization of the safety of women and girl victims, their empowerment and a victim-centered approach;
- d) the financial and human resources dedicated to their implementation; and
- e) any available information on the evaluation of their outcome or impact.

Multi-agency cooperation mechanisms and structure in cases covered by the Convention do not exist, even though the Law on Protection from Domestic Violence and the accompanying Protocol prescribes their work and obligations in detail. The law entrusted the coordination of cases to centers for social work, however, numerous cases from WCSOs practice show that multisectoral teams do not actually exist and do not meet (except for smaller municipalities where this practice has existed before), unlike stated in the state report. The case managers have an extremely passive role, which is particularly noticeable through their claims that the centers for social work have *an exclusively advisory role*, which they often state in their formal responses to our urgencies and letters from our beneficiaries<sup>91</sup>. Such claims are not a matter of lack of knowledge of their jurisdiction, but a kind of avoidance of responsibility and proactive role in the victim's protection. The lack of multi-sector cooperation has an extremely negative impact on the safety of victims and their access to justice, which

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<sup>87</sup> According to Criminal Code of Montenegro there are four treatment measures important for domestic violence perpetrators: 1) mandatory psychiatric treatment and custody in a health institutions (article 69); mandatory psychiatric outpatient treatment (article 70); mandatory treatment of drug addicts (article 71) and mandatory treatment of alcoholics (article 72).

<sup>88</sup> [https://www.ombudsman.co.me/docs/1681285008\\_finalizvjestaj\\_12042023.pdf](https://www.ombudsman.co.me/docs/1681285008_finalizvjestaj_12042023.pdf)

<sup>89</sup> [https://www.ombudsman.co.me/docs/1652269181\\_final\\_izvjestaj\\_05052022.pdf](https://www.ombudsman.co.me/docs/1652269181_final_izvjestaj_05052022.pdf)

<sup>90</sup> [https://www.ombudsman.co.me/docs/1619074992\\_izvjestaj\\_01042021.pdf](https://www.ombudsman.co.me/docs/1619074992_izvjestaj_01042021.pdf)

<sup>91</sup> Source: WRC archive

is confirmed by the fact that three out of four women killed in the period from 2021-22, reported violence to the police, centers for social work and to judicial authorities, but their protection was jeopardized by the absence of information exchange and mutual transfer of responsibility between competent institutions.

What is particularly worrying is the absence of control and complaint mechanisms that victims can turn to in cases when they are not satisfied with the work of the institutions. Although there is a system of responsibility prescribed by law in every institution, these are slow and hard-to-reach mechanisms that have not produced results in practice. That was one of the ideas behind forming an Operational Team for Domestic Violence and Violence against Women in 2018, established primarily to deal with high-risk cases and eliminate irregularities in the work of institutions that protect victims. The establishment of the team was initiated by women's NGOs<sup>92</sup>, which later became its members, based on the decision made by the then Minister of Internal Affairs. The team worked until 2022, meeting monthly and on *ad hoc* basis, when urgent cases required it, gaining more influence with each resolved case. However, the Minister of Internal Affairs<sup>93</sup>, elected during the mandate of the technical Government (from April 2022 to October 2023) failed to enable further institutional work of the team, as well as previously promised strengthening of its role, so eventually the team stopped meeting. The WRC requested from the previous Government and repeated the request to the current one (established in October 2023) ***to strengthen the competence of the previously established Operational Team for Violence against Women and Domestic Violence, as an independent mechanism for monitoring and evaluating the work of all competent institutions involved in the system of combating violence, to ensure effective protection of victims, end the impunity of officials who do not perform their duties in cases of domestic violence and to build trust in the work of state institutions.*** Furthermore, in accordance with the 2018 GREVIO recommendation, WRC requested that the Government ***establish a National body for the coordination and implementation of policies and measures to prevent and combat all forms of violence included in the Council of Europe Convention on the Prevention and Suppression of Violence against Women and Domestic Violence (Istanbul Convention), which will protect the rights and to place the best interest of the victims at the center of all measures and which will rely on the expertise and experience of specialist women's non-governmental organizations.***<sup>94</sup>

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<sup>92</sup> More about the constitutional session of the Operational team see at: <http://www.kontrolapolicije.me/blog/konstituisan-operativni-tim-za-borbu-protiv-nasilja> and the initiatives of WNGOs that preceded it: <https://www.vijesti.me/vijesti/drustvo/53337/mup-ce-formirati-operativni-tim-za-borbu-protiv-porodicnog-nasilja>

<sup>93</sup> Beside the fact that the line Minister stated that “additional efforts must be made in Montenegro in order to create strong systemic mechanisms in order to prevent violence against women and create an adequate criminal policy”, on the occasion of International Women’s Day, little has been done during the time of his mandate. Minister of Interior’s statement find at URL: <https://mina.news/vijesti-iz-crne-gore/drustvo/adzic-kaznenom-politikom-do-efikasnije-zastite-zena-od-nasilja/>

<sup>94</sup> More about the protest and all of our requests submitted to the Prime Minister find at the URL's: <https://www.dan.co.me/vijesti/drustvo/protest-ispred-vlade-raicevic-trazimo-da-se-sve-institucije-ukljuce-u-efikansu-zastitu-zena-5213989>; <https://www.vijesti.me/vijesti/drustvo/686133/protest-czp-a-ispred-vlade-dignite-glas-zbog-vasih-majki-i-sestara>



The Government response is still awaited, at the time of finalizing the report. WRC in the meantime, organized 2 public protests<sup>95</sup> in an attempt to put pressure on the Government to consider the submitted requests.

The following is an example of a case in which a multi-agency approach was missing and the due diligence standard was not met.

### **The case of femicide of Z.N. (27)**

*After suffering continuous, brutal physical and psychological violence by an unmarried husband for years, pregnant Z.N. (27) was brutally murdered. For about 8 hours, while their minor children were in the house, he repeatedly hit her in the head and body area with his fists with an improvised baton, causing her multiple bodily injuries, 5 serious and 11 minor injuries. He gave her the last, fatal injury early in the morning when he punched her in the right eye area with his fist, according to the medical expert "with a force of huge intensity", as a result of which she instantly lost consciousness and on 01/22/2022. died in the hospital. From the moment she lost consciousness, 6 hours passed until the moment D.N. left her in the car in front of the hospital, in an unconscious state, together with their three minor children and a roommate, whom he also continuously abused, and he fled.*

*The violence in the family was reported two times before the Z.N. murder. Both times (in 2019) Basic State Prosecutor's Office assessed a lack of elements of criminal offense, qualifying the case as a misdemeanor, even though her medical record clearly stated a completely open fracture of the lower jaw in the area of the body on the right side, or other serious injuries over the whole body as in the second case. The prosecution rejected the second report as well, with the explanation that the defendant defended himself by remaining silent, while the victim used her right not to testify after the prosecutor presented her with that possibility. She was heard by the prosecutor seven days after the defendant, which allowed him to influence her to give up testimony. During a public appearance on national television, the state prosecutor justified his inadequate proceeding by saying that there was no evidence of who committed the crime and that the specialist doctor's report was not sufficient evidence for a trial before the court. However, it was evident that the prosecution failed to gather other evidence than the victim's testimony, which resulted in the rejection of the criminal complaint filed by the police. On February 4, the Operational Team for the Fight Against Domestic Violence and Violence Against Women concluded that the Center for Social Work in Bar, the Security Center in Bar, the Basic State Prosecutor's Office in Bar, and the Court for Misdemeanors in Budva-Department in Bar collectively were "careless" and "inadequate" in their handling of Nerda's case.*

*This femicide case was referred by the Higher State Prosecutor's Office to the High Court in Podgorica for the criminal offense of aggravated murder under Article 144, paragraphs 1 and 6 of the Criminal Code of Montenegro, for which the prosecution demanded the maximum penalty of 40 years in prison. The experts stated in their findings that the accused's ability to understand the significance of his act and the ability to manage his actions were preserved at the time of the act.*

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<sup>95</sup> The first protest was held in December 2023, while the second one is scheduled for December 28th 2023, both in Podgorica."

However, in its decision orally presented on December 11th, 2023<sup>96</sup>, the Council of Judges changed the qualification of the offense as "domestic violence with the deadly outcome" (art. 220 paragraph 4 concerning paragraphs 1, 2, and 3 CC of Montenegro) and imposed the maximum penalty for that offense, i.e. 12 years in prison.

This verdict caused public protests, organized by the WRC, which followed the trial and whose attorney represented the family of the victim<sup>97</sup>. At the press conference WRC organized on this occasion, the WRC attorney emphasized that the Higher Court judge did not take into account that the last blow was preceded by eight hours of extremely cruel physical abuse<sup>98</sup>, that the late Z.N. It was in the second month of pregnancy that according to the experts, the last blow was so strong that it caused such a bouncing of the head that blood vessels in the brain ruptured. It also did not take into account the fact that the expert in his testimony, the court expert, notes that the injured party would have had a better chance of "surviving" if she had received timely medical help immediately after receiving the injury.

The Higher State Prosecutor's Office pointed out that it will file an appeal against the aforementioned decision.

16. Please detail whether any such cooperation mechanisms or structures set up for the delivery of support services for a specific form of violence covered by the Istanbul Convention is based on a **legal or policy document advocating** for or requiring such approaches.

Several legal norms and policies require cooperation mechanisms and structures set up for the delivery of support services for domestic violence, as described in the state report. However, the protocols for other forms of violence covered by the Convention are missing. The lack of protocols in cases of sexual violence is illustrated in the case study describing the treatment of the rape victim by the state hospital (WRC case study described in Article 20: General support services).

As a result of protests that followed the femicide of a 19-year-old girl by her ex-partner and intense advocacy initiatives of women's NGOs providing specialized services<sup>99</sup>, the Supreme State Prosecutor's Office adopted **Instructions of a general nature for handling cases for the criminal offense of violence in the family and the family community**<sup>100</sup> and distributed it to all basic state prosecutor's offices for the uniform application of the law. The clear guidelines aim to address non-efficiency in the work

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<sup>96</sup> After the strong public reaction to the judgment for the murder of Z.N, the High Court in Podgorica published an Announcement, available at: <https://sudovi.me/vspg/sadrzaj/gmVJ>

<sup>97</sup> Info about the press conference see at URL: <https://www.antenam.net/drustvo/308381-zbog-presude-za-svirepo-ubistvo-protesti-dok-zakon-ne-pocne-da-stiti-zrtve-nasilja>, <https://mina.news/socijalnemreze/raicevic-necemo-stati-dok-truli-sistem-ne-bude-reformisan/>; <https://www.portalanalitika.me/clanak/raicevic-najavila-masovne-gradanske-proteste-zbog-presude-nikolicu-dosta-nam-je-javasluha-institucija>; <https://www.slobodnaevropa.org/a/nasilje-nad-zenama-crna-gora-femicid/32727657.html>

<sup>98</sup> Statement of the WRC attorney about the case at URL: <https://www.youtube.com/watch?v=19Z4wVZXG4c>

<sup>99</sup> Media report on meeting between Ms. Maja Jovanovic and women NGOs, at: <https://www.antenam.net/drustvo/238729-jovanovic-se-sastala-sa-predstavnicima-nvo-koje-se-bave-problemom-nasilja-u-porodici>

<sup>100</sup> The Instruction was drafted by the WRC and adopted by the Supreme State Prosecutor.



of prosecution and the police, which was called for mandatory risk assessment of the victim and her condition, as well as to obtain data from the records on the possession of firearms for the reported person, and on previous reports of violence. The instruction recommends detention or imposition of some of the supervision measures from the Code of Criminal Procedure in every GBV case. Special attention was focused on determining whether children witnessed violence, directly or indirectly, especially when deciding the direction of determining victim status for child witnesses of violence. In cases of criminal acts of domestic violence, based on the instructions, the institute of deferred prosecution was forbidden. According to the Instructions, it is mandatory to inform the victim about her right to free legal aid and to a confidant person and to inform her in a convenient way about the detention or release of the offender. The instructions of a general nature provided a solid ground for better efficiency in protection for victims. However, Women's Rights practice shows that it is not fully and unanimously implemented by all prosecutors in the country.

17. Please explain whether all or some of the services of protection and support offered for victims of the different forms of violence against women are provided based on a one-stop-shop approach.

The state is not providing any of the services of protection and support for victims of the different forms of violence against women based on a one-stop-shop approach. Failure of the state to ensure such a service forces the victims to wander from one institution to another without adequate support, which often results in secondary victimization, loss of trust in the work of institutions and giving up further reporting of violence.

Only a few existing women's NGOs services act in the form of a one-stop-shop approach, providing free legal aid and representation before the court, psychological help and psychotherapy, support from a confidant person (such as the Women's Rights Center), and some offer accommodation in addition to these services (SOS Center Niksic, Women's Safe House), mostly situated in the main cities. More about other women's services is written in the part of the report that refers to Specialized services.

## **Article 20: General support services**

18. Please provide information on programs and measures aimed at ensuring, through general services, the recovery of victims of violence, including in the health and social areas, financial assistance, education, training and assistance in finding employment and affordable and permanent housing.

In 2022, in Montenegro, there were 18 primary health care centers, 7 general hospitals, 3 special hospitals, 1 clinical center, 2 health institutes, the Institute for Emergency Medical Services with 18 units and one regional station, spread across municipalities. All these institutions are under the jurisdiction of the state. In addition, there is one private institution that provides general and special services. There are also 13 centers for social work which, together with their regional units, are represented in all 24 municipalities in Montenegro.

In 2019, the Institute for Social and Child Protection published the report "Mapping Social and child protection services in Montenegro"<sup>101</sup>. In addition to public institutions, the report also listed 79 social service providers, of which 22, among other service categories, provide some form of support for surviving victims of violence. The report lists 6 organizations that provide specialized support services.

However, the report cannot be considered completely reliable for several reasons. In addition to not recognizing the services provided by prominent women NGOs, there are strong indications that not all services listed in the report are provided. A possible reason may be that information about services was **not collected through direct supervision or visits**, but according to data from the CSO register. The identified CSOs were then asked to fill out questionnaires, which were collected and analyzed by the Institute for Social Protection.

**According to the data collected through the provision of direct support to victims, we conclude that the general support services that exist in Montenegro are mostly unable to provide adequate support to women who have experienced violence because most of them lack specialization and expertise in this area.** The state report describes very well what general support for victims should look like, however, in practice, it is completely different and is not even close to the standards prescribed by the Law on Protection from Domestic Violence, the accompanying Protocol, and the Convention itself in Article 20, as confirmed by the WRC research findings that follow:

As for **financial assistance**: the Law on Social and Child Protection does not recognize victims of violence against women or single mothers as a separate category of social protection beneficiaries, in need of financial support. Therefore, a very small number of women managed to acquire the right to material benefits (continuous financial support), because it implies numerous criteria, which can only be fulfilled by people in an extremely unfavorable financial position. Therefore, most women who experienced gender-based violence still remain without any significant support. **One-time assistance**, provided by the same law, is easier to get, but the amount is so low that it cannot meet basic needs for a few days. For amounts that are considered higher, ranging from 100 to 200 euros, the centers for social work must obtain the approval of the competent ministry. This procedure takes a long time, so the basic purpose of financial support is lost. The Union of Municipalities publishes reports on social support allocations at the local level, but it is not specified how much money is allocated to support victims of gender-based and family violence, given that they are not recognized as a special category even at the municipal level.

**On finding employment**: In its actions, the Employment Service does not recognize women with experience of violence as a special, vulnerable category. National Employment Strategy 2021-2025<sup>102</sup>, as well as the accompanying Employment Action Plan for 2022 also do not recognize victims of violence as a vulnerable group. In the

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<sup>101</sup> More info at URL:

<https://www.zsdzcg.me/images/Biblioteka/MAPIRANJE%20USLUGA%20SOCIJALNE%20I%20DJEČJE%20ZAŠTITE%20U%20CRNOJ%20GORI.pdf>

<sup>102</sup> Nacionalna strategija zapošljavanja 2021-2025. godine, Ministarstvo ekonomskog razvoja CG, 2021: <https://www.gov.me/dokumenta/69ebe10f-f575-4d45-b642-378ce7c95601>

Report on the implementation of the 2022 Action Plan<sup>103</sup>, it is stated that overall 65 women in Podgorica and Bijelo Polje together with 19 from Nikšić and Berane have been engaged in the framework of “Activate Women”, an internationally funded project, which does not guarantee sustainability and continuity. Within the same Action plan, measures of acquiring business skills for women **from rural areas were also foreseen**, but according to the Report on its implementation, none of the local municipalities have reported on the realization of this measure. The Law on Social and Child Protection prescribes mandatory cooperation between the Employment Office of Montenegro and the Center for Social Work. This cooperation refers to the activation of capable working beneficiaries of material security. The right to material security is acquired based on the family's financial situation and does not take into account whether someone is a victim of violence or a single parent. Therefore, a very small percentage of women with experience of violence will find employment in this way.

**Social housing:** According to Article 4 of the Law on Social Housing, victims of domestic violence are recognized as a target group that, among others, has priority in realizing the right to social housing. Article 8 determines a set of material criteria for exercising this right. When allocating social apartments for use, municipalities are guided by the criteria from Article 8, and not by the priorities determined by Article 4 of the Law, which is explained in the latest Social Housing Program Proposal for the period 2017-2020<sup>104</sup>. The social housing program has not been adopted by the state yet. Thus, out of a total of 1,965 housing units at the level of Montenegro, shown in the table in the aforementioned program, none were allocated to women victims of violence, or at least not on that basis. A woman who needs this type of support after leaving violence can hardly prove that she meets the other criteria, even in the first period after leaving, when she needs accommodation the most. The right to housing is not included in the scope of social protection rights prescribed by the Law on Social and Child Protection.

Women's Rights Center practice shows that many women who experienced violence and those who take care of children independently, particularly Roma women and women with disability, found themselves in a situation of financial insecurity during the COVID-19 virus pandemic, due to job loss, unemployment, irregular alimony, consequences of violence etc. Many of them were faced with the impossibility of paying the rent of the housing space where they live with their children, as well as the impossibility of paying communal and other housing costs, and were exposed to forced evictions and the risk of homelessness with their children. Therefore in our Policy brief on Social housing<sup>105</sup>, we proposed that the state provide funds **for transitional assistance in housing** for women victims of violence, through the **transitional social housing program**. The transitional housing program is provided for a period of up to 24 months, or longer if necessary, for victims who need temporary housing after exiting domestic violence. Eligible beneficiaries of the fund can be local

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<sup>103</sup> Report on the link: <https://wapi.gov.me/download-preview/548bb30c-23da-4d6c-9b89-c7f1f0361cba?version=1.0>

<sup>104</sup> More at URL: <https://wapi.gov.me/download-preview/a9fa570e-3b22-4ea9-b7cf-460bbe73752f?version=1.0>

<sup>105</sup> More on this study: <https://womensrightscenter.org/socialno-stanovanje-podrska-rehabilitaciji-zena-sa-iskustvom-porodicnog-nasilja/>

government units and other organizations with a documented history of effective work against domestic violence and violence against women.

**Free legal aid:** The free legal aid offices were established in all Basic courts in Montenegro. However, the research<sup>106</sup> has shown that women who have experienced violence, use this right to a lesser extent compared to the other categories of the beneficiaries. CSOs dealing with women's rights have noticed that women often do not receive adequate free legal aid, given that the available jurists frequently do not have specific knowledge and sensitivity for gender-based violence. Our female beneficiaries lodge frequent complaints that a lawyer, assigned under the Law on Free Legal Aid, did not show understanding or was not available to them to a sufficient extent. Apart from the aforementioned, each new procedure requires the appointment of a new lawyer and, hence, a victim must acquaint lawyers with her case several times, which is an additional victimization for her and it often disables the appropriate legal protection and access to justice. The Law does not acknowledge the legal services that are provided by specialized non-governmental organizations, which provide strategic representation, and, thus, CSOs are constrained to finance the mentioned services using foreign donations. **If it is taken into account that the Women's Rights Center provided free legal aid to almost 300 women in just one year (2022), and that the state provided it to 168 women over 3 years, then it is clear that there is a need to enable CSOs to enter the system of state financing of free legal aid.**

Roma and Balkan-Egyptian women often faced increased barriers to escaping domestic violence, including potential condemnation and abandonment by their broader family and loss of access to their children. According to NGOs and the ombudsman, women survivors of domestic violence often complained that government-run social welfare centers did not respond adequately to their appeals for help. NGOs reported that state institutions did not provide physical protection for survivors<sup>107</sup>.

Support services to victims/witnesses: The Supreme Court did invest some efforts in the establishment of the Service for the support to victims/witnesses in all Basic and High courts in the country. However, these services have not yet been applied in practice and not a single case of the provision of support to victims/witnesses has been recorded until 2022. The Women's Rights Center signed the Memorandum on Cooperation with the Supreme Court of Montenegro and participated in the preparation of the information materials for the abovementioned services and, in three (3) instances, provided the basic training for their representatives. However, frequent staff changes in the courts, including in the mentioned services, make their establishment difficult.

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<sup>106</sup> Reserach of the free legal aid system in Montenegro – creating an effective and sustainable system of the free legal aid provision, 2019

<https://gamn.org/wp-content/uploads/2019/09/GA-Istra%C5%BEivanje-sistema-besplatnepravne-pomo%C4%87i-u-Crnoj-Gori-2012-2019-3.pdf>

<sup>107</sup> 2022 Country Reports on Human Rights Practices: Montenegro,

at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/montenegro>

## Questions specific to the public health sector:

19. Have specific measures been taken to ensure that public health services (hospitals, health centres, other) respond to the safety and medical needs of women and girls victims of all forms of violence covered by the Istanbul Convention on the basis of national/regional standardized protocols?

20. Do such protocols detail the procedure to: a. identify victims through screening;

- a) identify victims through screening;
- b) provide treatment for all the medical needs of victims in a supportive manner;
- c) collect forensic evidence and documentation;
- d) ensure that a clear message of support is conveyed to the victim;
- e) refer to the appropriate specialist support services that form part of a multi-agency co-operation structure; and
- f) identify children who may have been exposed to domestic violence or other forms of gender-based violence against women and girls and require further support.

Montenegro failed to fulfill even the priority recommendations regarding the establishment of systemic support of health professionals to victims of sexual violence. Although the Protocol on Treatment, prevention and Protection against violence against Women and Domestic Violence clearly defines steps that should be taken by health workers in cases of violence, in practice women encounter many problems.

For example, when turning for help, due to injuries caused by violence, women are not provided with privacy and are expected to state the reason for turning to the health institutions upon admission to the institution. The admission rooms are also **waiting rooms**, which puts the woman in a situation where she has to talk about violence in front of many people. Privacy is not fully ensured even during the examination itself. In institutions that deal with emergency health care, the organization of the space is usually such that several people are examined in one room, which implies the circulation of personnel who are not involved in a specific case. The emergency center in Podgorica, following the NGO requests, introduced certain measures in 2020, in order to respect the privacy of the victim, but they are applied sporadically and mostly depend on the awareness of the medical staff performing the examination.

Also, contrary to the Protocol, women with experience of violence do not **have priority during examination**, but are forced to wait in line for examination, which often takes several hours. Injuries are often **not recorded with sufficient care**, which has consequences on evidence collection for the subsequent judicial procedures.

Through our support service work, we noticed that **centers for social work** do not undertake all the actions required by laws and regulations. Cases of violence are approached **passively, only at the advisory level**, without sufficient examination of the victim's needs and the involvement of other institutions. These findings are continuously supported by our periodical research on the *Satisfaction of women with experience of violence with services provided by centers for social work and*

*specialized CSOs*.<sup>108</sup> Victims are not sufficiently informed (less than 30% of them stated that they were informed of their legal rights) and included in the support process. When it comes to support in regarding children, only 39% were informed about the possibility of obtaining a temporary arrangement for entrusting and seeing children, 14% about the possibility of psychosocial support for children, 13% were informed about the possibility of determining supervision measures (in 8 cases a measure was also determined) 13.64% of respondents were informed about the possibility of restriction or deprivation of parental rights of the perpetrator of violence<sup>109</sup>. In 4 cases, the Center for Social Work initiated proceedings for partial deprivation of parental rights. No proceedings have been initiated for the complete deprivation of parental rights.

21. Please provide information on the procedures in place for the documentation and collection by actors of the public health sector of forensic evidence concerning victims of domestic violence, victims of sexual violence, including rape, and victims of female genital mutilation.

The following case example illustrates the procedures in place for the documentation and collection by actors of the public health sector of forensic evidence concerning sexual violence:

In October 2021, a gynecologist from the main public health center in Podgorica refused to perform an urgent examination of a rape survivor, stating that he did not have the necessary approval to perform the medical examination. This incident provoked widespread criticism by women NGOs<sup>110</sup> The Association of Gynecologists of Montenegro responded by claiming the doctor made a mistake when he refused to examine the patient<sup>111</sup>. The association highlighted the lack of protocols for medical examinations of survivors of rape or sexual violence. The relevant Protocol on acting of health institutions in cases of sexual violence has not yet been adopted.

22. Are all women victims of violence, irrespective of any of the grounds listed in Article 4 paragraph 3 of the Istanbul Convention, in particular asylum-seeking women, refugee women, migrant women, women from national or ethnic minorities, women with irregular residence status, women with disabilities and LGBTI women, able to benefit on an equal footing from existing healthcare services? Please describe any measure taken to reduce legal or practical barriers to their accessing regular healthcare services.

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<sup>108</sup> More on this link: [https://womensrightscenter.org/izvjestaj\\_zadovoljstvo\\_uslugama\\_2022/](https://womensrightscenter.org/izvjestaj_zadovoljstvo_uslugama_2022/) and also <https://womensrightscenter.org/izvjestaj-o-zadovoljstvu-zena-sa-iskustvom-nasilja-u-porodici-uslugama-koje-pruzaju-centri-za-socijalni-rad-i-specijalizovane-nvo/>

<sup>109</sup> The research included 66 respondents, users of the services of 4 women's non-governmental organizations, who in the previous 12 months turned to the Center for Social Work for help.

<sup>110</sup> <https://fenjertv.me/sigurna-zenska-kuca-u-crnoj-gori-ne-postoji-protokol-o-postupanju-institucija-u-slucajevima-seksualnog-nasilja/>

<sup>111</sup> *ibid*

The information WRC collected from partner NGOs supporting trans-gender persons<sup>112</sup> and persons with disabilities<sup>113</sup> showed a shortage of support services, healthcare in particular.

The crisis caused by the COVID-19 infection pointed to many challenges in terms of access to health care due to overloading the health system. The hormone therapy with estradiol for transgender women was further aggravated by the crisis, so they were no longer able to procure the necessary medicines<sup>73</sup>.

One of the examples of institutional discrimination of transgender women in the healthcare system is the case of ridicule of a trans woman in the Health Center Podgorica in 2019, and disclosure of her personal data, making this case the first reported but not isolated case<sup>74</sup>.

Of all the sectoral analyses of the relevant ministries, only two included the LGBTI community as the target group<sup>87</sup>. In the field of health, especially in the field of HIV / AIDS prevention, the LGBTI community is included only through the target group "men who have sex with men (MSM)", which shows a complete lack of recognition of transgender women as a vulnerable group regarding HIV.

Healthcare institutions remain inaccessible for women with disabilities, and the situation has not changed since the last report. This is particularly related to access to sexual and reproductive health, as only three gynecological chairs are available in the whole country, and some equipment is broken and not repaired<sup>75</sup>.

According to WNGO practice, health care costs acted as a barrier for noncitizens and those lacking identification documents to access regular prenatal care. Roma and Balkan-Egyptian women often had insufficient access to healthcare education, resulting in high-risk deliveries outside of healthcare institutions. NGOs noted Romani and Balkan-Egyptian women had limited access to gynecologists, obstetricians, or doctors.

Romani and Balkan-Egyptian women able to access these services often reported discriminatory treatment, including verbal harassment. Women outside these communities also reported verbal harassment when accessing reproductive health services. NGOs noted that such harassment was often unreported due to inadequate survivor support mechanisms. NGOs reported that, depending on the location, there was one gynecologist per 5,000 to 8,000 women, which affected women's access to routine health services during pregnancy and childbirth<sup>114</sup>.

23. Please provide information on the measures in place to facilitate the identification and care of victims of violence against women in institutions for persons with disabilities and for the elderly as well as for those in closed reception facilities for asylum-seekers and to respond to their safety and protection needs.

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<sup>112</sup> NGO Association Spectra

<sup>113</sup> NGO Association of Youth with Disabilities

<sup>114</sup> Excerpt from the 2022 Country Reports on Human Rights Practices: Montenegro, at: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/montenegro>



Data from the *Report on the work of facilities for accommodation of adults with disability and elderly persons in Montenegro for 2022*<sup>115</sup>, stated that accommodation facilities are legally obliged to establish procedures for dealing with violence cases. However, the report states that the institution's internal team did not record any cases of violence against beneficiaries in 2020, 2021 and 2022. These data, or the lack of them, open the question of the ability of professional workers to identify and act in cases of violence against the elderly and adults with disability in these institutions, particularly concerning violence against women, and if they consider violence as an integral part of institutional care.

.24. Please provide information on how the authorities ensure that different groups of women and girls, *inter alia* women with disabilities, Roma women and other women belonging to national or ethnic minorities, migrant women and intersex persons are fully informed, understand and freely give their consent to procedures such as sterilization and abortion.

According to a 2021 study by the Centre for Investigative Journalism Montenegro (CIN-CG), women from the general population in maternity wards regularly experienced non-consensual birthing practices, including episiotomies, enemas, abdominal compressions, and shaving of the pubic area, which calls into question the treatment of women from vulnerable categories of society.

Trans persons are still required to undergo sterilization to change gender markers in their personal documents. The Law on legal gender recognition based on self-determination is not adopted yet, although it was foreseen for this year.

## **Article 22: Specialist support services**

25. Please describe the type of specialist support services dedicated to women victims of the forms of gender-based violence covered by the Istanbul Convention (e.g., stalking, sexual harassment and domestic violence, including their digital dimension, female genital mutilation, forced marriage, forced sterilization, forced abortion), including those specialist support services providing:

- a) shelters and/or other forms of safe accommodation
- b) medical support
- c) short- and long-term psychological counseling
- d) trauma care
- e) legal counseling
- f) outreach services
- g) telephone helpline
- h) other forms of support (e.g. socio-economic empowerment programs, online assistance platforms etc.)

Montenegrin legislative framework does not recognize the specialist services for the victims of gender-based violence and, hence, the official sources do not provide reliable information about the available services. For the purposes of this report, we

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<sup>115</sup> The report was published by the Institute for Social and Child Protection in June 2023, at: <https://www.zsdzcg.me/images/Biblioteka/2023/IZVJE%C5%A0TAJ%20ZA%20SMJE%C5%A0TAJ%20STARIH%20ZA%202022.%20GODINU%20 KONACNO%2026%20jun.pdf>



have identified the services (centers) that provide specialist services following the standards of the Istanbul Convention, whose work we are directly familiar with and whose work has been recognized as competent, by the female beneficiaries that participated in 2022 WRC survey on specialized services. Those are SOS Hotline for women and children victims of violence Bijelo Polje, SOS Nikšić, and SOS Plav, while in Podgorica there are: Montenegrin Women's Lobby, Women's Safe House, SOS Podgorica, as well as Women's Rights Center that provide psychological counseling, psychotherapy, legal aid and legal representation, support of the confidential person and mediation in contacts with institutions. These specialist services for women who experienced gender-based violence are available **in only five (5) out of twenty-four (24) municipalities**, and they are led by non-governmental organizations, which are mainly financed by foreign donors. The emergency (crisis) accommodation for women and children that was announced for several Montenegrin municipalities by the Ministry of Labour and Social Care<sup>19</sup> on the occasion of the first GREVIO report, was not realized.

There are two shelters for women who have experienced domestic violence in Montenegro. Both mentioned shelters are located in the area of the central region of Montenegro, one is located in Podgorica and another one in Nikšić. According to the latest report (2021) WAVE (Women Against Violence Europe) network, *WAVE Country report 2021, Women's Specialist Support Services in Europe and the impact of COVID-19 on their provision*<sup>116</sup>, the existing two shelters in Montenegro have the total accommodation capacities for thirty-nine (39) women. According to WAVE twenty-three (23) places are lacking, i.e. 37%.

There is no specialized shelter for women victims of human trafficking and sexual exploitation in Montenegro. Until the 1st of August 2019, the shelter for human trafficking victims was within the competence of the Ministry of Interior. The Ministry financed the shelter, which was led by the female activists of the non-governmental organization „Montenegrin Women's Lobby“ since 2004. After that, the service of the accommodation of human trafficking victims was transferred to the competence of the Ministry of Labour and Social Care<sup>23</sup>. In December 2019, the non-governmental organization „Institute for Social and Education Policy“ received the license for the provider of accommodation services, i.e. the shelter solely for human trafficking victims. As of that moment, all victims of the mentioned criminal act have received priority accommodation in this specialized Shelter. However, in certain periods, the number of victims who were accommodated in the Shelter was higher than allowed. Adults of different sexes were accommodated together and also children over 14.<sup>117</sup> In 2022, the manager of the shelter was accused of exerting violence against minors situated in the trafficking shelter. The two minor victims had filed a complaint with the local police. While the state prosecution initiated an investigation against this employee of the shelter, the Ministry of Labor and Social Welfare (MLSW) did not suspend the anti-trafficking shelter's license and funding and continued to refer two child victims and allocate funding to the shelter until the grant ended in December

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<sup>116</sup>WAVE Country report 2021, Women's Specialist Support Services in Europe and the impact of COVID-19 on their provision, <https://wave-network.org/wave-country-report-2021/>

<sup>117</sup> Monitoring and evaluation of the policies aimed at curbing human trafficking in Montenegro 2018 – 2020 <https://womensrightscenter.org/monitoring-i-evaluacija-politika-za-suzbijanje-trgovine-ljudima-ucg-2018-2020/>

2022. This case was addressed by several NGOs and media<sup>118</sup> and harshly criticized in the 2023 EC Report<sup>119</sup> and the State Department TIP Report causing Montenegro to drop to Tier 2 observation list<sup>120</sup>. This shelter was closed in 2022 when the funding was spent.

It is important to note that, in the previous couple of years, the state of Montenegro and, especially, the former Ministry of Labour and Social Care, insisted on **licensing NGO services** so that they would enter the social and child care system and get state funding. However, for the majority of licensed women's organizations, the social care system failed to provide financial sustainability, but it imposed institutional control and additional costs.

**The state of Montenegro must provide quality conditions for recovery to women who have experienced violence, through the partnership with specialist services and their stable financing. The state must provide equally geographically distributed specialist support services so that all women in Montenegro would have equal access to them. It is necessary to provide a crisis center for women victims of sexual violence.**

26. Which type of specialist support service includes child psychologists or other professionals specialized in supporting children who have been exposed to domestic violence, including violence perpetrated by one parent against the other?

According to the information, the Women's Rights Center received from the beneficiaries who have children, such services do not exist. In Podgorica, children are mainly referred to the Center for Autism and the Counseling Center within public medical institutions. The experience of our beneficiaries indicates that professionals in these institutions generally do not put in the report a well-grounded suspicion of direct violence, not to mention situations where the child witnessed violence. When it comes to scheduling appointments, they are mostly scheduled once a month, which is insufficient in such situations. A particularly worrying practice, of which the WRC is aware, is that these institutions rarely initiate proceedings against fathers who fail to bring their children to the mandatory appointments. The lack of child support in overcoming the trauma of violence is a matter of big concern.

27. Do specialist support services exist that cater to the specific needs of migrant women and girls or those belonging to national or ethnic minorities who are victims of violence against women, including women and girls seeking asylum and those granted refugee or international protection status?

No, there are no such services, but above mentioned women's NGO services provide support to all women who seek support.

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<sup>118</sup> A series of articles about this case were published by daily "Pobjeda": Article "A criminal case was established against Mitar Radonjić", published on July 29<sup>th</sup>, 2022 at: <https://www.pobjeda.me/clanak/formiran-krivicni-predmet-protiv-mitra-radonjica>

<sup>119</sup> European Commission's Country Report 2023, page. 17

<sup>120</sup> See more at URL: <https://www.state.gov/reports/2023-trafficking-in-persons-report/montenegro/>

## **Article 25: Support to victims of sexual violence**

28. Please indicate if any of the below services are available in your territory:

- a) sexual violence referral centers (e.g. specialist support services offering immediate medical care, forensic examination and crisis intervention to victims of sexual violence);
- b) rape crisis centers (e.g. specialist support services offering long-term counseling, therapy and support to victims of sexual violence regardless of whether the sexual violence occurred recently or in the past);
- c) any other specialized services offering short-term and/or long-term medical, forensic and psycho-social support to victims of sexual violence.

There is no crisis center in Montenegro, which would provide the services of medical and forensic examination to women and girls who experienced sexual violence, as well as support in the case of traumas and counseling. The medical exam is performed in the Clinical Center or in general hospitals. The examination is performed by a practicing physician, which does not guarantee sensitive support and, sometimes, it does not guarantee adequate collection of evidence.

The experience of the Women's Rights Center beneficiaries shows the lack of trauma-informed response while reporting violence. Our female beneficiary was left to wait alone in one of the police offices, immediately after the act of rape, while the inspectors on duty were questioning the perpetrator in another room. After that, she was referred to a medical examination and she was not informed by the inspector either about the possibility of free legal aid or about the services provided by the women's NGOs. She was alone in the Clinical Center as well, although she could have been provided the accompaniment of a confidant person, which is offered by the specialized women's organizations. She was informed about the work of the Women's Rights Center only in the Clinical Center by the practicing psychiatrist and referred to us for psychological assistance and legal aid. There are no specialized psychologists in the medical (health) system for this kind of trauma, but a victim is referred to a regular procedure maintained by the community health centers.

The community health centers are, mainly, overbooked and, hence, counseling often lasts for a shorter period and it is available once a month, which is not sufficient for overcoming a deep trauma after having experienced the act of rape.

In another case, the Social Work Center sent girls, victims of sexual exploitation, to the shelter for human trafficking victims, which was maintained by the CSO Institute for Social and Education Policy. Besides circumstances explained in the previous parts of this report (misuse of state funds and alleged violence committed by shelter's management towards its beneficiaries), there were other shortcomings: accommodation was inadequate, the girls share the space with children who have experienced some other form of exploitation (e.g. a beggary) and who did not have understanding for this kind of trauma; a considerable risk of breaching anonymity and exposure to additional victimization, having in mind that certain children in the shelter had a telephone contact with their parents or other family members and they could disseminate information from the shelter in their own language (Roma language or Albanian language, which the expert female employees do not understand); such a type of shelter, although this is not precisely defined by the Rulebook, should have a

full-time employed male and female psychologist, so that the girls who have been victimized in multiple ways would receive adequate support, which was not the case.

SOS line specialized in the problem of sexual violence started to operate in 2019 and the services it provides include counseling and psychological support.

**It is necessary to establish, as soon as possible, a crisis (emergency) center for the victims of rape or the centers for sexual violence victims, which would ensure the services of a medical and forensic examination, support in the case of traumas and counseling; It is necessary to provide a higher number of shelters for women and children victims, with equal geographical coverage. All children should be accommodated in the shelter with their mothers, regardless of their sex and age. Continuous financing of the specialist services should be ensured, under conditions that are equal to those founded by the state. A specialized shelter for women victims of human trafficking and sexual exploitation needs to be established, as well as a specialized shelter for women and girls victims of forced marriage.**

29. Please provide information on the number of such services and the number of women and girls supported annually.

WRC does not possess such information.

30. Please indicate the procedures and time frames for collecting and storing forensic evidence in cases of sexual violence (e.g. existence of protocols, use of rape kits) in the relevant services.

There are no such protocols. See also the response on question 28.

31. Please describe any applicable access criteria for the use of these services (e.g. affiliation with a national health insurance, residence status, prior reporting of the case to the police, other).

WRC does not possess such information.

### **Article 31: Custody, visitation rights and safety**

32. Please indicate whether under national law incidents of violence covered under the scope of the convention must be taken into account in the determination of custody and visitation rights of children. If this is the case, please clarify to what extent these provisions:

- a) explicitly list domestic violence as a criterion to be taken into account when deciding on custody and/or visitation rights in the applicable legislation. If so, please clarify whether this criterion is/has been applied in practice in the determination of both custody and visitation rights;
- b) acknowledge the harm that witnessing violence by one parent against the other has on a child;

- c) ensure that custody with the non-violent parent is preferred over foster care;
- d) foresee the screening of civil proceedings related to the determination of custody or visitation rights for a history of domestic violence among the parties;
- e) foresee that judges conduct risk assessments or request the disclosure of risk assessments drawn up by law enforcement agencies or other competent stakeholders for victims of domestic violence, to take them into account and determine the best interest of the child in the context of custody and visitation decisions.

Family law judges carry out their duties concerning divorce, child custody, and visitation without any formal regulations or bench guides for cases involving domestic violence. However, the Constitution of Montenegro guarantees that international conventions, including the Istanbul Convention, have a higher legal significance than national legislation. Besides that, the Family Code of Montenegro, the Law on Protection from Domestic Violence, the Criminal Code of Montenegro, as well as the Protocol on Handling, Prevention and Protection from Violence against Women and Domestic Violence, provide clear steps to all institutions responsible for protection from domestic violence and can be considered to be useful mechanisms for deciding in the best interest of the child.

The aforementioned Protocol, in the part that refers to courts, clearly prescribes: 10a) Basic courts before which divorce proceedings are conducted or decisions concerning children (temporary measures, guardianship) are made are obliged to obtain information from the criminal and misdemeanor courts on whether any criminal or misdemeanor proceedings are led against parents, guardians, or family members for acts of domestic violence.

However, family judges do **not actively screen for domestic violence** and tend to overlook the harms that domestic violence imposes in these cases and instead make custody and visitation decisions without taking domestic violence into account.

Professional CSW workers, who are usually the best acquainted with family issues and the manipulations of a violent parent, do not dare to express their observations clearly in the opinion they deliver to the court, so they refer the court to psychological and psychiatric experts. On the other hand, experts lack knowledge about the specifics of domestic violence, so they rely on standard personality and intelligence tests from which they conclude that the violent parent is equally competent to take care of the children. In some cases, it happens that experts do not understand the symptoms of complex trauma that long-term exposure to violence leaves on a woman, so they declare her an inadequate parent.

In one case of the Women's Rights Center, the child was entrusted to the father until the end of the proceedings, as a temporary measure, due to the assessment of the expert. Although the mother proved to be adequate during the controlled visits, and

all subsequent visits to psychologists and psychiatrists showed that no psychopathology was noticeable, the experts remained to their original opinion.

Children witnessing violence are completely unprotected. Usually, after the separation of the parents, even when the mother gets custody of the children, a system is not set to ensure the safety of children who are witnesses of violence or encourage their recovery through support for the non-violent parent and supervision over the exercise of parental rights by the violent parent. If the child is not a direct victim of physical violence by the father, contact takes place without control and the child's fear of the father can be interpreted as instruction by the mother. Our practice confirms that courts rarely issue protection measures to children and often pressure non-violent parents (usually mothers) to ensure regular visitation to violent fathers, who often use the opportunity to threaten, intimidate and sometimes harm their ex-partners and children during the visitation and contacts.

In one of the WRC cases where the child was exposed to violence during unsupervised contact, the judge refused to suspend the execution of the court verdict even though there was medical documentation and information that the prosecution was conducting an investigation. In this case, the judge considered that there is no reason to prevent contact between the father and the child because there is no legally binding judgment confirming that the child suffered violence, and for judgments confirming that violence was committed against the mother and the protective measures that were imposed on that occasion, the judge pointed out that he considers that "they are without significance since the restraining order measures were not imposed on the child". In these decisions, the court rigidly interpreted the Convention on the Rights of the Child, based on the right of the child to have contact with both parents, without taking into account that the aforementioned Convention also puts the best interest of the child before exercising this right. Despite requests that until the end of the investigation of domestic violence, the contact be stopped or take place under supervised conditions, the mother of the child was sentenced to 15 days in prison for refusing to hand over the child.

A risk assessment is not made in cases of custody. As already partially explained, the practice of the Women's Rights Center warns of a series of omissions that occur in institutions when deciding on custody and/or visitation rights as well as different interpretations of the best interests of the child by the courts.

Very often, the intention of the violent parent to control the ex-partner through the children is not recognized, so the children's refusal to have contact with the mother can be seen as the mother's inadequacy, and the children's indoctrination or emotional blackmail to make such statements **remains ignored**.

Additionally, when one parent disputes contact of a child with the other parent, institutions do not perceive this as violence against children. In certain cases, it occurs



that experts from the Center for Social Work and experts recognize this, but the judge still holds the belief that the child's opinion should be respected and taken into account, regardless of whether there are serious indications that the child expresses his opinion **under pressure or fear**.

In a specific case, despite the proposals of experts and all other indicators that children suffer emotional violence from their father, the Basic Court issued a verdict according to which the children are entrusted to the care of the father, allowing limited contact with the mother. After we filed an appeal and sent the case back for a new decision, the custody decision remained the same, while the children's contact with the mother was slightly expanded. After that, we declared the revision to the Supreme Court of Montenegro, which rejected it as unfounded. In November 2021, a Constitutional appeal was submitted. A year later, the Constitutional Court issued a decision rejecting the Constitutional appeal as unfounded. In its explanation, it is stated that the lower courts acted correctly based on the child's opinion, which was not proven to be authentic through the process, which was the subject of appeals before all court instances. In the explanation of the verdict of the Constitutional Court, it is stated that "the opinion of the children could not be ignored, regardless of the statement of the court experts that the opinion is a consequence of the contaminated views of the father".

In practice, there are often cases where a violent parent **files false reports** against the mother, for violence against the child. Proceedings based on false reports of the perpetrator take too long, which then allows the perpetrator to dispute contact with the mother, namely "in the best interest of the child".

The case illustrating this conclusion is the following in which B. endured brutal physical violence during her marriage, prompting her escape with the children and a custody verdict in her favor. The father, previously disinterested in the children, escalated threats and hate speech after learning about her new partner. In January 2022, the older boy went to his place for winter vacation (the younger one refused to go) and since then the father has not returned him. A few days after he took over the child, he filed a complaint against B for child abuse and used that as an excuse not to return the child. The child is also instructed to say that he suffered violence from his mother and stepfather. The psychological forensic expert hired for this case gave an opinion that the statements of the children cannot be taken as evidence because there is a significant probability that their memory is distorted by external inputs.

Such institutional discrimination against women and children violence survivors during custody trials encouraged perpetrators to abduct children from their mothers, with at least **10 cases known to WRC that show the pattern**, where mothers were not able to see their children for longer periods (for years in some cases) despite executive court decisions. These cases reveal the failure of the system to enact Istanbul Convention standards and GREVIO Recommendations from 2018, that require the

protection of children witnesses, due diligence, and an integrative approach of the system in handling victim protection during custody cases.

Finally, there is no protocol on the implementation of the execution where the children are handed over to the mother, and the other parent or guardian is taken to the execution of the prison sentence, which would ensure the least possible traumatization of the children and protect them from the abuses of the enforcement debtor. In several cases known to WRC, institutions did not react to the abuse of children and the exposure of their trauma to the public, which encouraged other perpetrators to follow the same method. Ultimately, the institutions themselves have to do much more to protect their representatives from threats, which is why most of them withdraw and are not ready to act in the best interest of the child for fear of retaliation from the abusive parent.

**State must ensure that members of the judiciary and experts receive adequate mandatory training on the requirement to take gender-based violence into account in child custody cases and to give priority to the prosecution of crimes over family reconciliation, to adequately punish gender-based violence against women and prevent its recurrence; State must ensure that experts on gender-based violence against women are systematically heard in child custody proceedings; State must take the necessary measures to ensure a systematic exchange of information between the competent misdemeanor courts and family courts on existing or past protection measures in family law cases; State needs to adopt the Protocol on the implementation of the execution where the children are handed over to the non-violent parent.**

33. Please describe the measures in place to ensure that judges, court-appointed experts and other legal professionals:

- a) have sufficient knowledge of the law and understanding of the dynamics of intimate partner violence, including the psychological impact of witnessing violence on the child;
- b) duly take into account victims' grievances in cases of domestic violence and hear children victims/witnesses, where applicable, in the determination of custody and visitation rights;
- c) are informed of the unfoundedness of notions of "parental alienation or analogous concepts that are used to overshadow the violence and control exerted by perpetrators of domestic violence over women and their children.

Answers to the previous question also relate to this one.

34. Please provide details on the procedures in ensure that the competent court for family-related issues cooperate/ communicate with other relevant bodies/professionals, including, but not limited to, criminal courts, law-enforcement

agencies, health and education authorities and specialist women's support services when taking decisions on custody and visitation or when offering family law mediation. Please specify whether the law provides a legal framework for any of the procedures in place.

WRC received the information about the case where the judge issued a conditional prison sentence to a woman victim of intimate partner violence, who couldn't bring her sick child to see the father, even though she provided accurate medical records about her child's sickness. In another case, the President of Montenegro approved the proposal of the Ministry of Justice to pardon a convicted family abuser, who was sentenced to 30 days in prison after not adhering to numerous executive court decisions aimed to ensure the contact of his former wife with their minor children. He was previously convicted of family violence against his former wife and blocked her contact with their minor children for more than three years. After being pardoned by the President, in the repeated court proceedings to change the custody decision in 2022, the court again granted custody over the children. The court's decision was supported by the opinion of experts who did not take into account all the above-mentioned circumstances and relied on the opinion of the children, without checking their authenticity. Moreover, the father transferred the children to another school without the mother's consent. According to recent information about this case, the process for partial deprivation of parental rights has been initiated against the father. Still, institutions decided that children should not be assigned to the mother, even though her behavior towards children is adequate. They decided to place them in the state institution/home for neglected/orphaned children. Contact with the mother has not been established yet.

This case and the President's pardon for the father perpetrator provoked protests from women's CSOs<sup>121</sup> but also encouraged perpetrators to not respect the court decisions. WCSOs requested a special session of the Government to be held and this and other similar cases to be considered. They raised the concern of such a decision of the President that encouraged illegal behavior and disrespect for court decisions to the detriment of children and discouraged all mothers who struggle to contact their children following court decisions<sup>122</sup>. They also stated that by this act, the state committed outrageous institutional discrimination against women and children who

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<sup>121</sup> More info on this at URL: <https://www.slobodnaevropa.org/a/podgorica-protest-nasilje-u-porodici/31343835.html>

<sup>122</sup> The Line Ministry, at that time headed by now acting Prime Minister Milojko Spajić, declared as non competent for the granted pardon and framed the President's decision as a political maneuver, while the employee of the center for social welfare responsible for the numerous omissions in specific cases was allegedly dismissed. However, our findings are that she was just removed to another municipality. More about the case see at following links. <https://rtcg.me/vijesti/drustvo/326818/djukanovic-pomilovao-boskovic-ministarstvo-se-ogradjuje.htm> ni <https://rtcg.me/vijesti/drustvo/326854/pomilovanje-uz-postovanje-procedura.html>; <https://www.vijesti.me/vijesti/drustvo/558179/slucuj-boskovic-pripravnoj-radnici-otkaz-rukovoditeljica-kazniena-novcano>

are victims of violence and violated legally binding international standards<sup>123</sup>. This case also showed the absence of multi-sector cooperation, as the Ministry of Justice and the President did not take into account the long-standing efforts of the court to allow contact between mother and children, acquitting him of guilt. In addition, in public announcements, the institutions distanced themselves from their responsibility and transferred it to others. WNGO requests were not met to date. At the time this report is finished, the new protests are organized by the WRC.

35. Please provide detailed information on the procedures in place (including, if applicable, the relevant personnel used, the specific infrastructure available), in the exercise of custody and visitation rights, to:

1. eliminate the risk for the abused parent to be subjected to further violence;
2. eliminate the risk for the child to witness or experience violence;
3. ensure that the responsible personnel are trained and that the facilities are suited to enable safe supervised visitation.

When adjudicating on the contacts of parents with children, especially when determining how the child will be handed over, the risk of partner violence is not taken into account. The practice which allows that the CSW professional services are tasked with overseeing the handover of the child by the judgment itself does not exist, nor does it take place in their premises, except when it comes to controlled contacts. If there are any protective measures in force that protect the mother from meeting the abuser, she must, in order to protect herself from the abuser, find a way for one of her relatives to hand over and take over the child. If the decision is to see the child under controlled conditions, this is overcome in such a way that she comes to the premises after the abuser and leaves first, which does not guarantee that the meeting will not take place in the parking lot of the Center for Social Work or near this institution.

In WRC practice, there are cases where CSW experts required the mother to be present during the entire controlled visit, in the next room and through the glass to monitor the contact. The reason for this is that the child was upset during the contact and afraid of the father, as he/she previously witnessed violence and was a victim, and because during the earlier supervised contacts, the father's verbal violence against him took place. On that occasion, the retraumatization of the woman wasn't taken into account, nor the fact that protective measures were in force, according to which they should not be at that distance. We informed the Ministry of Labor and Social Welfare about this case, which initiated the procedure of supervising the professional work of the CSW. That procedure is ongoing.

Due to personnel changes in CSW and a large influx of new professional workers, we notice that many have insufficient knowledge about the dynamics of violence and the

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<sup>123</sup> More info on this at URL: <https://www.slobodnaevropa.org/a/podgorica-protest-nasilje-u-porodici/31343835.html>

risks it carries for children. Records from supervised contacts are very short and often do not contain information that is of key importance for the further action of the institutions to protect the child. In the already mentioned case, where the child suffered violence from the side of the father during unsupervised contact, the executive judge ordered two probationary meetings under controlled conditions before sentencing the mother to prison. This, in addition to representing retraumatization for the child, was also an opportunity for the abuser to influence the child who had not yet been heard in the criminal proceedings. Despite the warning that professionals need to be with the child all the time, that did not happen, so the father grabbed the child's hand and shouted at her that the violence did not happen and that she was making it up. The mother found the professional workers outside the contact room, and when the child heard it, she ran crying and told her mother what had happened. Professional workers of the CSW submitted minutes to the executive judge, in which it is stated that the contacts went "orderly, without any inconvenience", which was one of the arguments the judge used to justify his insistence that the contacts take place smoothly.

36. Please indicate whether national provisions foresee the withdrawal of parental rights in criminal sentences if the best interest of the child, which may include the safety of the victim, cannot be guaranteed in any other way.

According to Women's Rights Center research conducted in 2022,<sup>124</sup> the Center for Social Work initiated proceedings for the partial deprivation of parental rights of the perpetrator of violence in one case, and in 2 cases for the complete deprivation of these rights. However, follow-up on these cases is not known to us. The case when the Center for Social Work initiated the proceedings for deprivation of parental rights is known to us through media (social networks). It is a case against the father, who abused the system for three years and prevented the children's contact with the mother, which will be discussed in more detail later in the report. In this procedure, a temporary measure was adopted, by which the children are transferred to a home for neglected children until the end of the procedure, even though the mother is a competent parent who wants to take care of the children.

There is also little or no progress in informing women about the possibility of initiating procedures for limiting and depriving the perpetrators of violence of parental rights, as well as in informing women on the possibility of determining the measure of parental supervision of the perpetrator of violence. When asked whether the experts of the Center for Social Work informed them about the possibility of limiting or depriving the perpetrators of parental rights, as many as 34 or 69.39% out of total number of respondents answered negatively<sup>125</sup>. According to the same research, during 2022

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<sup>124</sup> WRC research *Satisfaction of women experiencing gender-based violence with the services of the Center for social work and specialized non-governmental organizations*.

<sup>125</sup> Information was obtained within the Women's Rights Center research *Satisfaction of women experiencing gender-based violence with the services of the Center for social work and specialized Non-governmental organizations*, conducted in 2022.

the Center for Social Work initiated proceedings for the partial deprivation of parental rights of the perpetrator of violence in one case, and in 2 cases for the complete deprivation of these rights. However, follow-up on this case is not known to us.

References to Article 31 are also included at the beginning of this report and relate to the initiatives to make interventions on the Law on Amendments to the Law on Protection from Domestic Violence

### **Article 48: Prohibition of mandatory alternative dispute resolution processes or sentencing**

#### **Criminal law:**

37. Please provide information on the measures taken to ensure that mandatory alternative dispute resolution processes are prohibited in criminal proceedings related to cases involving the different forms of violence against women covered by the Istanbul Convention<sup>126</sup>.

Legal measures against alternative dispute resolution processes or sentencing are thoroughly explained in the state report. However, existing analysis<sup>127</sup> shows that although progress has been made in imposing this type of punishment, there are still some shortcomings. Namely, in the period from 2017 - December 2020, 31 sentences of community service were imposed for the domestic violence offender, even in cases where the person was previously convicted for the same criminal offense. When imposing a sentence of community service, the court often takes as a mitigating circumstance the fact that the injured party did not join the criminal prosecution. It is not rare that the victim asks the court for a lighter sentence as well as situations when the victim reports domestic violence for the first time and the defendant is a person with no previous convictions, even though the circumstances of the case show that he has committed this form of violence before. Another alternative sanction that courts issue in cases of domestic violence is a suspended sentence with protective supervision, even though the application of this type of sanction is extremely rare in the practice of our courts. Of the 11 verdicts in which the basic courts imposed a suspended sentence with protective supervision in the last six years, and which were submitted to the Parole Office, one is from 2020, three are from 2021, and seven are

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<sup>126</sup> In its baseline evaluation reports GREVIO has consistently referred to the statement of December 2017 by the European Association for Psychotherapy (EAP), which draws attention to the fact that the concepts of “parental alienation syndrome” (PAS) and “parental alienation” (PA) are unsuitable for use in any psychotherapeutic practice. This statement by the EAP, which is made up of 128 psychotherapy organisations from 41 European countries, acts as a guiding principle for European psychotherapists. Moreover, in February 2020 the World Health Organisation (WHO) published its new draft International Classification of Diseases, 11th Revision (ICD-11) and confirmed that it had removed parental alienation from index term in the final ICD-11. See also the Platform of Independent Expert Mechanisms on Discrimination and Violence against Women (EDVAW Platform) statement of May 2019 “[Intimate partner violence against women is an essential factor in the determination of child custody, say women’s rights experts](#)”.

<sup>127</sup> Simonovic V. “Penal policy and the application of alternative sanctions in Montenegro, CEMI 2022, at:<https://cemi.org.me/storage/uploads/T1a4DmZzPxJlsorrxaBEbY230CndNQXmTWAzL7Ln.pdf>



from 2022. The criminal offense for which this measure was imposed was in all cases the same - domestic violence.

The imposition of a sentence of house arrest in cases of domestic violence is also contrary to the provisions of Article 36a para. 3 of the Criminal Code. However, there are still cases that these sentences are imposed at the expense of effective prevention. In one case from 2018<sup>128</sup> the Basic Court in Podgorica issued a judgment to a domestic violence offender, a spouse who lived in the same household with the injured party - his wife. He was sentenced to 5 months of house arrest in the family home for criminal acts of violence in the family and illegal possession of weapons and explosive substances (Art. 403, paragraph 2 of the CC).

In another case<sup>129</sup> from 2020, the Basic Court in Rožaje, considered that the sentence of house arrest for 4 months is adequate for the criminal offense of illegal sex actions related to child abuse (Art. 208 par. 1. in connection with Art. 206 par. 1) The prosecutor requested a penalty of 8 months in prison.

CEMI's analysis from 2020<sup>130</sup> showed that in 1 case a plea agreement for Illicit sexual acts and adultery with a child (Art. 208 and Art. 206 CC) was concluded before the Basic court in Podgorica, while 3 plea agreements for domestic violence were concluded before the Basic Court in Bijelo Polje, and the other two before the Basic court in Podgorica.

## **Articles 49 and 50: General obligations and immediate response, prevention and protection**

40. Please describe the human, financial and technical resources provided to law enforcement agencies to diligently respond to and investigate all cases of violence against women, including their digital dimension.

Regular contact with the police showed us that they are understaffed and have very weak technical capacities to combat violence against women and domestic violence. They often complain about the lack of fuel in police vehicles, and the small number of employees in the department, while the situation is even worse in small towns. In the capital Podgorica, there were even 17 reports of violence per day during 2023, and the police have only one lawyer who is in charge of writing misdemeanor requests. Police usually represent cases before the Misdemeanor Court, even though the police officers are not lawyers. This also explains the very low number of appeals against misdemeanor verdicts submitted to the High Misdemeanors Court by police, as representatives of the prosecution. It often happens that they do not appear at the hearing because they are on another referral. The prosecutor's office is usually not involved in misdemeanor cases, although the police state that the presence of a

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<sup>128</sup> Business code K 468/2018

<sup>129</sup> K 18/2020

<sup>130</sup> <https://cemi.org.me/storage/uploads/avdQUx27iuH6XjMvjZByts2wdi3sZwiWoLPCbikt.pdf>

prosecutor in the police station would make their work significantly easier and more efficient.

41. Which measures have been taken to ensure that the premises of police stations are accessible and suitable for receiving and interviewing victims of violence while ensuring their privacy? Is it possible to report cases of violence against women elsewhere than in police stations, including through digital means?

In practice, the only way the police ensure privacy is to enable the victim to make a statement in a separate room, out of sight of the perpetrator, although in smaller places it still happens that they meet in police premises. The police always insist that the women come to the police to file a report, even if they previously sent it electronically or called the emergency services to come to the scene.

42. Please explain whether specialist police/prosecution units exist to investigate and prosecute violence against women and specify:

- a) which forms of violence against women they are competent for;
- b) whether such units exist in all police/prosecution districts throughout the country.

A specialist police unit for domestic violence exists only in the Capital City of Podgorica, but the same unit also deals with juvenile delinquency and does not possess sufficient capacities for both referrals.

43. Please describe any measures taken to ensure a swift investigation into and effective prosecution of cases of violence against women and domestic violence such as prioritization through fast-tracking, benchmarking, or other initiatives, without compromising the thoroughness of the investigation.

Domestic violence cases are prioritized by the Law on Domestic Violence which provides for shortened misdemeanor procedures. The mandatory risk assessment form helps the police to assess the degree of risk and implement the procedure accordingly. However, it is not applied in all police stations, nor are all police officers familiar with this tool, as shown by recent interviews that the Women's Rights Center had with the police. A useful tool is also the *Instructions of a general nature for handling cases for the criminal offense of violence in the family and the family community*<sup>131</sup> for prosecutors, which is described in the answer to question number 16 of this report.

44. Are any measures taken to encourage women and girls who experience any of the forms of violence against women covered by the Istanbul Convention to report incidents of violence to the authorities? Please provide examples of any measures taken to instill confidence in law-enforcement officials, including those aimed at addressing any language or procedural difficulties they encounter when lodging complaints, in particular those of migrant women, asylum-seeking women, women

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<sup>131</sup> The Instruction was drafted by the WRC and adopted by the Supreme State Prosecutor.

with disabilities, women with addiction issues and other women and girls at risk of intersectional discrimination.

Besides campaigns led by women NGOs and international organizations, described in response to question 9 of this report, WRC is not familiar with any other measures taken to encourage women and girls who experience any of the forms of violence against women covered by the Istanbul Convention to report incidents of violence to the authorities. On the contrary, the most recent cases of femicide which exposed numerous failures of institutions, as well as cases of double charges, had a deterrent effect on the victims.

There are individual examples of dedicated individuals who try to directly apply the Convention standards, such as the late president of the misdemeanor court in Cetinje, Judge Ivan Popovic, who independently equipped the room for the reception of victims and made it possible for them not to meet the perpetrators, unlike in most of the misdemeanor courts in the country, who do not own such premises.

45. Please indicate whether protocols/standard operating procedures or guidelines for police officers are in place providing guidance on how to receive reports, interview victims, investigate and collect evidence in cases of rape and sexual violence, domestic violence, psychological violence, stalking, sexual harassment (including their online manifestation), forced marriage, female genital mutilation and forced sterilisation/abortion. Please provide information on how the authorities ensure the comprehensive collection of evidence beyond the victim's testimony.

There are no such protocols in place. Besides the victim's testimony, the police use medical evidence, when available, witness testimonials, photographs of injuries (often of bad quality, black and white when printed), electronic communication, forensics of mobile devices in cases of stalking or illicit distribution of private photos, videos or similar.

46. Please describe the efforts taken to identify and address all factors that contribute to attrition (the process whereby cases drop out of the criminal justice system) in cases of violence against women and domestic violence.

The efforts taken to identify and address all factors that contribute to attrition in cases of violence against women and domestic violence are scarce. There is an overall lack of awareness of the need to perform similar analyses. In support of this claim, at the training, we often hear criticism of the victims because they give up on the cases.

47. Please indicate if legislative or other measures have been taken to issue a renewable residence permit to migrant women who have become a victim of any of the forms of violence covered by the Istanbul Convention if the competent authority considers that their stay is necessary for the purpose of their cooperation in investigation or criminal proceedings.<sup>3</sup>

### **Article 51: Risk assessment and risk management**

48. Please describe any standardized and mandatory risk assessment tools in use by all relevant authorities in all regions for forms of violence against women such as stalking, violence committed in the name of so-called honor and domestic violence

and to what extent these tools are being used in practice to assess the lethality risk, the seriousness of the situation and the risk of repeated violence to prevent further violence. Please specify whether the following elements are considered as red flags when carrying out the risk assessment:

- a) the possession of or access to firearms by the perpetrator;
- b) the filing for separation/divorce by the victim or the break-up of the relationship;
- c) pregnancy;
- d) previous acts of violence;
- e) the prior issue of a restrictive measure;
- f) threats made by the perpetrator to take away common children;
- g) acts of sexual violence;
- h) threats to kill the victim and her children;
- i) the threat of suicide;
- j) coercive and controlling behavior.

In 2018, the Protocol on Treatment, Prevention and Protection against Violence against Women and Domestic Violence was supplemented with a risk assessment form that contains all listed elements revealing high-risk factors. However, not all relevant authorities in all regions are using this tool for all cases of violence covered by the convention. It is mainly used for domestic violence cases. Even in cases when the tool was used, institutions often relativize the findings, as based on the victim's belief about her vulnerability. One such example that showcases a common procedure, is the 2021 femicide case of a 19-year-old Š.B. who was killed on September 30, 2021, in the yard of her house, by her ex-partner I. Đ, who on that occasion seriously wounded her father and put her mother and grandmother in danger, after which he fled. S.B. reported I.D. for violence that happened a month before her murder, but there was also a history of violence during their extramarital community. WRC collected case files through the Operational Team and conducted the case analysis. The findings are as follows:

**-Inadequate risk assessment** - The authorities in the police stated in their announcements that the risk assessment they conducted showed a moderate to high risk. However, by the mentioned risk assessment document, the indicators of a high risk of new violence are clearly stated. In addition, the previous criminal records of I.Đ. indicated a history of violent behavior, association with criminal activities and the possibility of possessing a weapon, all of which the police had records. Apart from the above, the police did not obtain information about the history of partner violence and did not acknowledge the witnesses. All this indicates that, even though the police did a risk assessment, it failed to adequately assess the actual risk to the victim.

**-The victim did not receive all the necessary information about her rights** - The victim was not informed about the right to free legal aid, as well as the possibility of being accompanied by a confidential person. The procedure before the court was not explained to her, which is why she did not know what was expected of her at the hearing before Misdemeanor Court.

- Although the **minor sister** of the victim was present during the reported incident, the police failed to treat her as a victim/witness of the event and did not include her in the Request for Initiation of Misdemeanor Procedure.

- **Not all security checks were carried out**, such as a search of the defendant's place of residence, which would have determined whether he possessed a weapon, which had to be taken from him. This is especially because it is a returnee who has already been held responsible for violent behavior and the victim stated serious threats to her life in her report. In the request submitted to the Misdemeanor Court, the police did not propose protective measures under the Law on Protection from Domestic Violence.

**Police failed to prevent escape and to conduct immediate arrest I.Đ.**, after the crime was committed. After an unsuccessful three-day police search, I.Đ. was arrested only when he turned himself in to the Police.

**The State Prosecutor** showed a lack of promptness in directing the police investigation and dismissed the case after not finding the elements of the criminal offense, without a security assessment of the reported person, and insight into his criminal records. The prosecution did not ask for other evidence, such as witness statements, and assessed without direct communication with the victim, based on telephone communication with the police. After the statement, the prosecution excluded itself from further proceedings in this case, leaving the case to the police.

**Misdemeanor Court** had several omissions after police initiated the misdemeanor. The acting judge failed to inform the victim about the right to free legal aid. The judge did not allow the victim to be accompanied at the trial by a confidant person - the father, even though she requested it and even though she has that right according to the Law on Protection from Domestic Violence. The judge did not allow the victim to avoid meeting the perpetrator, so the victim had to be in the courtroom and to give her testimony in close proximity to the defendant and his lawyer, which made her feel intimidated and unsafe, which ultimately affected her testimony in court.

In the aforementioned case, the court made an acquittal decision, without the victim being informed about it, but she believed that a protective restraining order had been issued in the proceedings. The victim never received a written decision on the decision of the Court for Misdemeanors, but this decision was obtained only after her murder at the request of the Operational Team for the Suppression of Violence against Women and Domestic Violence.<sup>132</sup>

49. Please specify how effective cooperation is ensured between the different statutory authorities and specialist women's support services in making risk assessments and whether the risks identified are managed by law enforcement

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<sup>132</sup> The first hearing in this case was scheduled for May 31, 2022. year, but the hearing was held for the first time only on March 20, 2023. years. All scheduled hearings in this period, of which there were a total of 5, were postponed. Three times the defendant's defense attorney did not attend the hearing. One hearing was postponed due to the withdrawal of a member of the Council, and one was postponed because a week earlier, the prosecutor had dismissed the case. The procedure is still ongoing.

agencies based on individual safety plans that also include the safety of the victim's children.

Such cooperation is usually initiated by women's support services in cases of high-risk assessment, but risks are rarely managed by law enforcement agencies based on individual safety plans. Most of them do not include the safety of the victim's children, as explained in the article related to Custody and Visitation of this report.

50. Please describe the efforts made to analyse retrospectively all cases of gender-based killings of women, in the context of domestic violence and other forms of violence against women to identify the existence of possible systemic gaps in the institutional response of the authorities to prevent such acts in the future.

There are no such official efforts despite 4 femicides that happened in 9 months, in the period 2021-2022, followed by the numerous requests of women NGOs that even offered their own expertise to support such analysis.

### **Article 52: Emergency barring orders**

51. Have any legislative or other measures been taken to introduce and/or amend the legal framework governing emergency barring orders to align it with the requirements of Article 52<sup>133</sup>? If yes, please specify whether:

- a) emergency barring orders may remain in place until a victim can obtain a court-ordered protection order to ensure that gaps in the protection do not arise;
- b) support and advice are made available to women victims of domestic violence in a proactive manner by the authority competent to issue an emergency barring order;
- c) children are specifically included in contact bans issued under the emergency barring order;
- d) any exceptions to contact bans are made and in which circumstances.

There have been no significant developments in this area since the last reporting cycle. The new draft legislation introduced some novelties but none of them are related to emergency barring orders.

52. Please provide information on the measures taken to enforce emergency barring orders and on responses to any violations of such orders.

No such measures have been taken since the last reporting cycle.

The application of emergency barring orders and responses to any violations of such orders remained weak. Only 10 measures were imposed by the court before starting the misdemeanor procedure (within 48 hours of submitting the request to the court), which makes up only 0.5% of all cases handled by the misdemeanor courts in 2023.

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<sup>133</sup> This question refers to the obligation contained in Article 59, paragraph 3. State parties that have entered a reservation in respect of Article 59 may reply to this question but are not required to do so.



This data indicates that the system rarely uses available emergency measures to protect victims<sup>134</sup>.

### **Article 53: Restraining or protection orders**

53. Have any legislative or other measures been taken to introduce and/or amend the legal framework governing restraining and protection orders to align it with the requirements of Article 53? If yes, please specify whether:

- a) restraining or protection orders are available – in the context of criminal proceedings and/or upon application from civil courts - to women victims of all forms of violence covered by the Istanbul Convention, including domestic violence, stalking, sexual harassment, forced marriage, female genital mutilation, violence related to so-called honor as well as digital manifestations of violence against women and girls;
- b) children are specifically included in protection orders;
- c) any exceptions to contact bans are made and, if so, in which circumstances these may be made.

The Criminal Code of Montenegro<sup>135</sup> prescribes 11 security measures, that are directed at the perpetrator of violence, and which aim to prevent the perpetrator from committing criminal acts.<sup>136</sup> The previous Criminal Code stipulated that a Restraining order and Eviction order could be imposed if the perpetrator was sentenced to prison or a fine. This provision was amended by the new Criminal Code of Montenegro<sup>137</sup>, so to include also the perpetrators who were sentenced to a suspended sentence and to work in the public interest<sup>138</sup>.

The *Direction for Parole* - an organizational unit of the Ministry of Justice of Montenegro, is responsible for the implementation of the electronic surveillance of the security measures. It also supervises the implementation of probation sentences. The implementation of security measures is defined by Article 152 of the Law on the Execution of Prison Sentences, Fines and Security Measures<sup>139</sup> and the Regulation on the Closer Method of Implementing the Security Measure of Restraining Order<sup>140</sup>, which for the first time introduced an electronic surveillance device.

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<sup>134</sup> WRC Analysis of the penal policy in GBV cases 2023.

<sup>135</sup> Criminal Code of Montenegro, "The Official Gazette of RoM", 70/2003, 13/2004, 47/2006 and " The Official Gazette of MNE", 40/2008, 25/2010, 32/2011, 64/2011 – another Law, 40/2013, 56/2013, 14/2015, 42/2015, 58/2015 – another Law, 44/2017, 49/2018, 3/2020, 26/2021 - correction, 144/2021 i 145/2021)

<sup>136</sup> Criminal Code of Montenegro, Article 66 Purpose of safety measures

<sup>137</sup> Criminal Code of Montenegro was adopted by the Parliament on December 15 2023

<sup>138</sup> Article 68, paragraph 6 Draft Law on amendments and supplements of the Criminal Code

<sup>139</sup> Law on execution of prison sentences, fines and security measures ("The Official Gazette of MNE", 36/2015, 18/2019, 145/2021 and 3/2023)

<sup>140</sup> Regulation on the Closer Method of Implementing the Security Measure of Restraining Order ("The Official Gazette of MNE", 40/2019), entered into force since 27/07/2019

Electronic surveillance in the process of implementing the security measure *Restraining Order* officially started in May 2022, when the first electronic tracking device was installed.

54. Please provide information on the measures taken to enforce protection orders and on responses to any violations of such orders.

Statistical data of the Direction covering the period from July 27, 2019, when the Regulation entered into force until October 31, 2023 show that after the introduction of electronic surveillance, the number of imposed security measures Restraining Order has increased. Thus, in 2019, only one measure was imposed, and in 2022 as many as 66. The total number of imposed Restraining orders in this period was 124. The tabular representation per year can be found below:

Type of court case	2023 (until 31/10)	2022	2021	2020	2019	Total
Security measure Restraining Order	29	66	14	14	1	124

However, comparative data from the Supreme Court show that this number is still significantly lower compared to the total number of sentences for domestic violence with which this measure can be imposed (imprisonment and fines<sup>141</sup>).

Namely, the data show that from 2019 to the end of 2022, 295 prison sentences and fines<sup>142</sup> were imposed in concluded domestic violence cases (Article 220 of the CC), and only 39 restraining orders. Therefore, it is evident that the courts do not impose a restraining order often enough, that is, they imposed it in only 13% of domestic violence cases in which imprisonment and fines were imposed.

In January 2020, the Ministry of Justice published a Report on the implementation of security measures Restraining order and Removal from an apartment or other residential space<sup>143</sup> for the period from 2013 until 2020, which was created based on the data provided by the Supreme Court of Montenegro. The Report states that **three** restraining orders were issued in 2019, while according to the Direction's data, **only one** such measure was issued in the same year. The difference between the data of the Supreme Court found in the aforementioned report and the data of the Direction for parole<sup>144</sup> can imply the lack of communication between basic courts and this Direction, that is, failure to fulfill the obligation from Article 77a, paragraph 4 of the Criminal Code, which obliges the competent court to notify the Directorate of

<sup>141</sup> Article 68, paragraph 6 Criminal Code of Montenegro

<sup>142</sup> Data obtained from the Supreme Court of Montenegro for the purposes of "Analysis of penal policy in cases of gender-based violence 2019-2022", Women's Rights Center, February 2023.

<sup>143</sup> Report on the application of security measures of restraining order from Article 77a of the Criminal Code and security measures of removal from an apartment or other residential space from Article 77b of the Criminal Code, Ministry of Justice of Montenegro 2020.: <https://www.gov.me/dokumenta/e1123ab5-4611-4fb7-8476-4f1493793d76>

<sup>144</sup> Data from the Direction for Parole of the Ministry of Justice on the number of imposed security measures restraining order for the period of 27/07/2019 until 31/10/2023. submitted to the Women's Rights Center on 3/11/2023

the legally imposed measure. We believe that it would be immensely important to analyze if the records for other years (2020-2023) are harmonized to ensure a regular exchange of data between the courts and the Direction on the imposed security measures.

The Direction's statistical data, which cover the period from July 2019 to October 2023, further show that the Restraining order was imposed in cases for three criminal acts, namely: *Violence in the family and family community* (Art. 220 of the CC), for which as many as 61 percentage of the total number of restraining orders were imposed, then *Endangering safety* (Article 168 of the CC) – 15% of measures and criminal offense of *Persecution* (Article 168a of the Criminal Code of Montenegro) - 11 percent of all imposed restraining orders. Convicted persons are in 95% of cases male by gender, and victims are mostly women (79%), while 3% of cases in which victims are both women and men.

However, **the data show that these procedures need to be further improved and brought closer to the victims of violence.** Namely, the consent of the damaged parties (those affected by violence) to be monitored with electronic surveillance existed in only 23 (19%) of a total of 124 cases in which a restraining order was imposed, and by the end of October 2023, control of the restraining order through electronic surveillance was carried out in only 14 subjects.

In the remaining 9 cases in which there was the consent of the damaged parties, monitoring devices were not installed due to the unavailability of 7 convicted persons (they were in prison, a health facility or the police could not find them at the request of the Ministry of Justice and bring them for an interview to execute the measure), and because of the refusal of 2 convicted persons to sign the program of execution of the measure and to install a monitoring device on them.

The employees of the Direction state that the complete program of electronic surveillance depends on the consent of the damaged parties, but that they often refuse the electronic surveillance because they are uncomfortable carrying a mobile device, they think that it could disrupt their daily activities, they feel that the control of institutions is directed on them instead of perpetrators of violence, etc. **Therefore, it is extremely important that this program is implemented by people who understand the concept of trauma, respect the principle of confidentiality and possess the ethics, sensibility, knowledge and skills for conducting conversations with victims of gender-based violence.**

**Since communication with this vulnerable category is a novelty in the proceedings of employees in the Direction, it is extremely important that all 10 employees who deal with the implementation of electronic surveillance receive this type of training, or that these positions are foreseen through systematization.** Non-governmental organizations that provide specialized support to women who have survived violence can make an important contribution to a better understanding of their position and perspective. The employees of the Direction state that during the implementation of other measures under their jurisdiction, they had the opportunity to encounter gender-based violence and they stated that this support would be most important for them in the initial stages of criminal proceedings, in terms of informing women about the advantages of electronic surveillance, if it is determined.

The following example particularly shows how important it is to raise awareness and know the principles of working with victims of partner violence and the messages communicated to them, often even unintentionally, either verbally or nonverbally.

Through practice, it is also noticed that, although there is a positive trend of more frequent imposition of these measures compared to the previous period, **the victims are not aware of their existence**. In none of the cases that appeared during the info sessions, the damaged parties were not informed by the institutions about the existence of these measures before WRC got involved in the procedure. In one case, even the police officers who are in charge of monitoring this measure were not informed about it.

*One of the WRC's beneficiaries was not satisfied with the electronic monitoring program, as she felt that police officers who conduct monitoring were more focused on her and her movement than on the movement of the perpetrator. This is because the officer of the Direction for Parole in the Ministry of Justice, called her when the mobile device she was carrying was in idle mode (since she was at work), to check if she was even carrying it. She also said that there is no special telephone line for reporting these breaches, so she needs to explain in detail the situation to the police, and neither police patrols come to the specific place. She also believes that the employees in the Direction are not sensitive enough to work with traumatized persons, since their calls are short, with a bureaucratic tone, and happen only in working time (meaning until 4 pm).*

**In order to ensure efficiency the courts need to immediately inform the Direction for Parole of the Ministry of Justice, about issuing of the restraining order, in accordance with the Criminal Code ; Ministry must organize the twenty-four-hour work of the Direction for Parole; Victims must be informed about their contact person in the Direction and make sure that, whenever possible, the same officer communicates with the her in order to create a relationship of trust; Damaged party must be informed about possible situations when she would be contacted and, in consultation with her, agree on a method and channel of communication that will prevent secondary victimization; Specialized training for employees in the Direction for work with victims of gender-based violence need to be provided; Role of the Direction for Parole in monitoring the security measure of the Restraining order needs to be promoted; There is need to strengthen the cooperation of the Direction for Parole with specialized support services for women who have experienced violence, with the aim of informing women about the advantages of electronic surveillance; it is necessary to ensure electronic monitoring of protective measures imposed in misdemeanor proceedings, in accordance with the Law on Prevention of Domestic Violence**

#### **Article 56: Measures of protection**

55. Please provide information on the measures taken to ensure the following:

- a) that the relevant agency informs the victim when the perpetrator escapes or is released temporarily, at least when they or their family might be in danger (paragraph 1 b);

This is not a regular practice, more an exception.

- b) the protection of the privacy and the image of the victim (paragraph 1 f);

There were several breaches of the victim's privacy, known to WRC. In one case, the media published the testimony of a child about violence in the family of which he was a witness, and the victim was his mother. The court failed to exclude the public during this hearing, and the journalist violated the Code of Ethics and published a complete testimony with the full names of the parents who live in a small town where everyone knows each other. WRC wrote to media ombudsperson, who found a violation. The Portal offered to publish an excuse, but the woman refused so that the child would not be exposed again. The Portal removed the article.

In another case, a media portal published pictures and medical reports of a rape victim, who was a minor at the time of the incident, and at the time of publication was still attending high school in a small town. This was done to put pressure on her to give up her testimony in the retrial for rape, which has been going on for more than 2 years. The family appealed to the court and filed a private lawsuit against the Portal with a request to the court to issue a temporary measure to stop the writing of the disputed Portal, the court rejected that request because it prejudices the outcome of the proceedings. The articles are still online, but the link is not provided due to respect for the victim's privacy.

- c) the possibility for victims to testify in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies, where available (paragraph 1 i);

Such possibility is mainly provided to minors in several courts that possess the technical equipment , but very rarely to adult violence survivors.

- d) the provision of appropriate support services for victims so that their rights and interests are duly presented and taken into account (paragraph 1 e).

The results of the WRC research *Women's violence survivor's satisfaction with services provided by centers for social work and specialized CSOs-2022*<sup>145</sup> showed that women violence survivors are not allowed to actively participate in the planning of activities initiated by the center for social work for their rehabilitation, but are assigned a passive role to comply with the pre-prepared Individual Plan. When it comes to the attitude of professionals towards women who have experienced violence, the majority of respondents describe their behavior as kind but passive. From the answers to the open questions, it is concluded that women with experience of violence may perceive this passivity as support for the perpetrator of violence or fear of him, which may have negative implications for their recovery. The passivity of centers for social work, in the sense of proposing temporary arrangements for entrusting children and determining supervision for the perpetrator of violence, indicates that children who are witnesses/victims of partner violence are not the focus

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<sup>145</sup> More info at URL: [https://womensrightscenter.org/izvjestaj\\_zadovoljstvo\\_uslugama\\_2022/](https://womensrightscenter.org/izvjestaj_zadovoljstvo_uslugama_2022/)

of the actions of centers for social work, which increases the risk of being exposed to violence or abuse, after the separation of parents.

### **Part III: Emerging trends on violence against women and domestic violence**

56. Please provide information on new developments since the adoption of GREVIO's baseline evaluation report on your country concerning:

- a) emerging trends in violence against women and domestic violence, including its digital manifestations (types of perpetration, groups of victims, forms of violence)
- b) emerging trends in domestic case law related to violence against women;
- c) emerging trends in the allocation of funding and budgeting by your state authorities;
- d) innovative approaches to primary prevention, for example, new target audiences and means of communication, public/private partnerships, etc.
- e) emerging trends related to access to asylum and international protection for women victims of violence against women.

a) Hate speech against women, and digital violence expanded in Montenegro in recent years, and affected particularly women politicians and women's rights defenders, but also the freedom of expression of women and their activity withdrawal from the public space. Digital violence in the form of *misuse of someone else's video, photograph, portrait, audio recording or file with sexually explicit content* is also widespread. The seriousness and extent of this form of violence is illustrated by the data from 2021 when three groups were exposed on the Telegram social network, in which more than tens of thousands of individuals from the Western Balkans region exchanged explicit videos and photos of women and girls without their consent<sup>146</sup>.

b) emerging trends in domestic case law related to violence against women;

### **Aggravating and mitigating circumstances**

Based on the analyzed sample of 30 legally binding judgments passed in 2023, in criminal proceedings for the criminal offense of violence in the family or family community (27% of the total number of legally resolved cases during the reference period) the following conclusions can be drawn:

In general, courts refer to mitigating circumstances more often than to aggravating circumstances, a trend that continues year after year.

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<sup>146</sup>The largest EX YU Balkan Room included over 36.000, and the second largest around 25.000 active members. The content of the groups alarmed the public, given that they operated both as intermediary channels for prostitution and as platforms for the distribution of images and videos obtained by extortion or abuse of the trust of partners with whom they were in emotional relationships, of course without their knowledge. The fact that cases of child pornography were also found among the aforementioned groups is particularly disturbing.

In earlier reports, it was stated that courts often in their decisions state that the defendant is a "father" or a "family man" or a "parent" as a mitigating circumstance, which practice continues in this reporting year. This is a cause for concern, as in a large number of cases, the courts unjustifiably treat certain circumstances as mitigating, while not adhering to international standards.

Out of a total of 30 analyzed verdicts, in as many as 13 cases (43%) when sentencing the defendant, the courts appreciated his personal circumstances, by which they understood: that he is a family man, the father of minor children.

There are only 2 positive examples in which the circumstances concerning the defendant's family life, from the court's point of view, cannot be considered as mitigating for the reason that the defendant was found guilty precisely because of a criminal offense directed against marriage and family.

The courts considered as a mitigating circumstance the fact that the injured party did not join the criminal prosecution in a total of 9 cases (30%). Such statements should not be taken into account by the court, which is obliged to determine whether the defendant is guilty and to determine the appropriate sanction based on the law and the circumstances of the case. Good practice can be observed in only one case in which, according to the court's opinion, the victim's attitude cannot be a mitigating circumstance due to her dependent position in relation to the defendant.

It was observed that in some cases (all four cases or 13%) the courts refer to international standards, especially the Council of Europe Convention on the Prevention and Suppression of Violence against Women and Domestic Violence, especially in the application of aggravating circumstances. This leads to the conclusion that courts generally do not refer to international standards and the practice of the European Court when passing judgments in domestic violence cases.

When it comes to the application of aggravating circumstances, a high percentage of returnees can be observed among the perpetrators of the criminal act of violence in the family or family community. Namely, from the total sample (30 verdicts), the previous conviction of the defendants was noted in half of the cases (15), which means that every other defendant was a returnee, and in 5 cases a special returnee, convicted for the same criminal offense, and in 10 cases convicted for a different crime. A high percentage of returnees is an indicator of the ineffectiveness of the imposed sentences.

Furthermore, the absence of aggravating circumstances in the analyzed decisions is often observed (a total of 6 cases).

### **The issue of double-charging the victim and the perpetrator**

There are more cases of double charges and double arrests where criminal proceedings are initiated against the perpetrator and the victim since the primary aggressor is not distinguished from the victim. Recently, a victim was convicted to two years in prison for an attempt of murder for acting in self-defense against her husband who had a long history of previously reported but not prosecuted family abuse. Consequently, he received a three-month prison sentence in home conditions for family violence. Such alarming practice needs to be urgently reviewed and suspended.



In another case, the long-time head of the misdemeanor court, who was a candidate for the position of judge of the Constitutional Court, found the victim of sexual violence, who defended herself from the attacker, guilty of violating the Law on Public Order and Peace, and issued her a warning with the obligation to pay half of the court costs. The acting judge considered that the violence committed by the victim could not be treated as self-defense because she did not call the police at the immediate time of the attack.

**c) NGOs founded by perpetrators and corrupted state funding of services for vulnerable groups**

An alarming example of the possible corruption and a system failure in the area of social protection of vulnerable groups and CSO funding is the case of the CSO Institute for Social and Educational Policy (ISEP), an abundantly state-funded CSO, led convicted criminal offender of violent behavior, combined with a criminal offense - unlawful deprivation of liberty of two minors. He was sentenced to a single prison term of four months in 2014, and again in 2018, for three months. He was also known for publicly attacking women CSOs and for leading the recent public gatherings of the family violence perpetrators<sup>147</sup>. In July 2022, he was also reported for violence against children accommodated in the state-funded anti-trafficking shelter led by ISEP. The outcome of the case is still unknown, even though the media reported that the prosecution initiated criminal charges against Radonjic<sup>148</sup>.

Back in March 2022, the media pointed out a systemic flaw in the regulations related to licensing of provision of social services, that do not stipulate that obtaining a license requires an extract from the criminal records<sup>149</sup>.

The then Ministry of Finance and Social Welfare, then led by the current Prime Minister Milojko Spajić, allocated 100,000 euros to ISEP, for the year 2022, for the provision of two social services, even though, as it was written in the judgments of the Basic Court in Bar and the Higher Court from Podgorica, the ISEP manager was convicted for violent behaviour towards minors in 2014, and against woman in 2018<sup>150</sup>. The Ministry justified this decision by the fact that he received the license for the shelter back in 2019. Besides this, ISEP received state funding from the Ministry of Human and Minority Rights and other state sources as well, for projects in the area of minority rights, LGBT rights, gender equality and the rights of persons with disabilities.

In an attempt to prevent the newsroom's interest in the systemic failure of the institutions, after previously contacting the journalist, the ISEP founder also called the editor-in-chief of Pobjeda who published the articles about ISEP. The next day, the Pobjeda newsroom received a letter from Radonjic's lawyer, who asked editor in chief to prevent the publication of the story, but with no success<sup>151</sup>. Meanwhile, Radonjic

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<sup>147</sup> The speech of Mitar Radonjic, former director of ISEP:

[https://www.youtube.com/watch?v=fG8QSy\\_SgfQ](https://www.youtube.com/watch?v=fG8QSy_SgfQ)

<sup>148</sup> Article "A criminal case was established against Mitar Radonjić", published on July 29<sup>th</sup>, 2022 at: <https://www.pobjeda.me/clanak/formiran-krivicni-predmet-protiv-mitra-radonjica>

<sup>149</sup> <https://www.portalanalitika.me/clanak/alarm-za-drzavu-osudivani-nasilnik-brine-o-zrtvama-nasilja>

<sup>150</sup> <https://www.pobjeda.me/clanak/alarm-za-drzavu-osudivani-nasilnik-brine-o-zrtvama-nasilja>

<sup>151</sup> <https://www.pobjeda.me/clanak/neuspjesan-pokusaj-ukrivanja-tragova>

shut down 30 of 33 CSOs he registered at the end of 2021, which Pobjeda also pointed out.

After the media reports, in April last year, this issue was dealt with by the Parliamentary Committee for Gender Equality, which adopted the conclusion that it would monitor the reaction of the Ministry of Finance and Social Welfare.

The former President of the Committee, MP Božena Jelušić, said then that the licensing regulation for NGO social services providers, needs to include mandatory criminal record checks of responsible persons in NGOs, and that the Committee will monitor whether the Ministry will initiate such normative changes.

The then coordinator of the Directorate for Social Care and Child Protection said that "they are willing to incorporate this norm into the new law".

However, the announced changes in legal solutions are still missing. This is evidenced by the published Register of Licensed Service Providers, as well as the fact that ISEP, under the new name "Women's Association" has already collected about 56,000 euros of state funds<sup>152</sup>. Namely, in December 2022, the Ministry approved 31,768.81 euros for the project "Together for the prevention of violence against women and children", and 24,300 euros for the implementation of the "Together for the prevention of violence against children and youth" project.

Just before the aforementioned decision of the Ministry to allocate funding, CSO ISEP closed the shelter for victims of trafficking after spending the state funds in the amount of 200.000 Euro, changed its name to "Women's Association" and continued to operate under the new "brand".

However, in the Register of Licensed Service Providers published by the Ministry of Labour and Social Welfare on January 25 2023, on the Government's website, it was written that the ISEP changed its name to the CSO "Women's Association", and that the Ministry issued a decision (by which changed the name of this service provider) on December 20<sup>th</sup>, after the public call for CSO funding, while the rest remains unchanged. This meant that the old license issued for anti-trafficking shelter remains valid until December 2025. The Register also showed this NGO "inherited" another license for SOS line for children, adults and the elderly who are victims of abuse, neglect, domestic violence and exploitation. This second license, given that it was issued on January 27, 2022, continues to be valid until 2028. The irregularities in the work of ISEP found by the social inspection remained unaddressed<sup>153</sup>.

#### **Part IV: Administrative data and statistics**

57. Please provide annual statistics for two complete calendar years prior to receiving this questionnaire on administrative and judicial data on:

- a) the number of reports, investigations opened, prosecutions, final convictions secured and sanctions imposed in respect of all forms of violence against women and domestic violence covered by the Istanbul Convention;

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<sup>152</sup> Based on the decisions of the Ministry of Labour and Social Welfare on the distribution of funds for the financing of non-governmental organization projects in the Protection against Violence against Women and Violence into the Family and for Social care for children and youth.

<sup>153</sup> <https://www.pobjeda.me/clanak/inspekcija-trazila-nadzor-strucnog-rada-ministarstvo-od-oktobra-bez-odgovora>

- b) the number of emergency barring orders issued by the competent authorities, the number of breaches of such orders, and the number of sanctions imposed as a result of these breaches;
- c) the number of protection orders issued, the number of breaches of such orders and the number of sanctions imposed as a result of such breaches;
- d) data on the number of decisions issued by family courts on custody/visitation/residence of children that have expressly taken into account incidents of domestic violence.

## THE DATA ON CRIMINAL PROCEEDINGS FOR DOMESTIC VIOLENCE (CC ARTICLE 220)

**In 2022**, the courts finalized 191 out of 427 family violence cases they had in their work. The minimum duration of court trials was 2 days, the maximum duration was 827 days, and the average duration was 102 days. Out of 191 resolved cases, criminal sanctions were imposed in 114 cases. Of that, half were fines (55.07%), followed by warning measures, i.e. conditional sentences, which made one-third of the imposed criminal sanctions (35.75%), while security measures imposed with a final judgment made only 9.18% of the total number of imposed criminal sanctions. Out of that, the security measure Eviction from the apartment or other living space (Article 77b of the CC of Montenegro) was imposed only once, and the Restraining order (Article 77c of the CC of Montenegro) was imposed in 18 cases, which is twice as many as in 2021, but still less than 10% of resolved cases. The data for the period 2109-2022 showed that the courts imposed the measure of Eviction from an apartment or other living space only 5 times in 4 years, and only once in 2022, meaning that this important mechanism for the protection of victims and prevention of violence was very rarely applied. When it comes to the type of punishment, in the overall structure of criminal sanctions imposed in 2022 (114), prison sentences were imposed for 103 defendants, fines in four cases, and community service for seven defendants. The average prison sentence at the level of all courts was 4 months. Verdicts based on a previously concluded plea agreement were issued in a total of 10 cases.

**In 2023**, the competent courts issued a total of 113 verdicts out of a total of 399 pending cases (of which 270 were received in 2023). The longest trial lasted 741 days, while the shortest recorded duration was 16 days. The average duration of all court trials for criminal cases of domestic violence was 120 days. A total of 140 criminal sanctions were imposed, of which 62 were prison terms (44%), 2 fines (1%) and 6 community service sentences (4 %), while suspended sentences were imposed in 35 cases (25%). The courts issued 35 security measures, 11 of which were Restraining orders (Article 77b of the Criminal Code of Montenegro) and the rest were mandatory treatment measures for alcoholics (7), mandatory psychiatric treatment at liberty (5), mandatory psychiatric treatment in a healthcare institution (7), confiscation of weapons (3), mandatory treatment of alcoholics and drug addicts (1), and expulsion of foreigners from the country. (1). During 2023, the courts did not in any case impose a security measure of Removal from an apartment or other residential space (Article 77b of the Criminal Code of Montenegro).

## THE DATA ON MISDEMEANOR PROCEDURES (Law on Protection from Domestic Violence)

**The 2022** data for 11 months (January 1 - December 1) showed that the misdemeanor courts had a total of 2,060 cases related to the Law on Protection from Domestic Violence, of which 610 were transferred from 2021, and 1,450 new cases (in 2021 there were 2176 cases).

81.95% of procedures lasted up to 6 (six) months, 9.2% up to 1 (one) month, while 8.85% of procedures lasted for up to 2 (two) years.

In 2022, the misdemeanor court completed 66.17% or 1,363 cases, in which they issued 441 fines, 135 imprisonments, 294 conditional sentences, 75 warnings, 11 educational measures, in 10 cases the request was rejected, in 54 cases the proceedings were suspended, in 283 cases acquittals were made, while 60 cases were resolved in another way.

The fines dominated, making one-third of all decisions (32%), suspended sentences made one-fifth of all decisions (21,6%), while prison sentences are still handed down in a much smaller percentage- only 10% of all court decisions. The average prison sentence was 30 days. One-third of completed cases (29.93%) included acquittal decisions, rejections, suspensions of proceedings and cases resolved in some other way. The above data confirms concerns about a penal policy that failed to ensure proper protection.

The data showed that misdemeanor courts issued a total of 672 protective measures<sup>154</sup>, which made 46% of all resolved cases, a slight increase compared to the previous year when that percentage was 30%.

Restraining orders made only one-third of the total number of imposed protection measures (31.55%), Eviction orders only 16.82%, the protection measure Prohibition of harassment and stalking made 38.7%, addiction treatment and psychiatric treatment made 12.80%, while the measure of mandatory Psychosocial treatment is seldom imposed (0.15%) because there are still no adequate conditions for its implementation.

Compared to previous years, there is a slight increase in the number of eviction and restraining orders and prohibition of harassment and stalking. However, the information on how many of these measures were issued in an urgent procedure (48 hours from the submission of requests to the misdemeanor) is lacking.

**In the period from January 1, 2023, to November 20, 2023**, the misdemeanor courts had a total of 2,108 cases. Most misdemeanor proceedings are completed within 6 months. Specifically, in 2023, over 80% of completed cases were completed within this time frame. A smaller number of cases (between 7.66% and 9.22%) lasted between 6 months and one year, while the duration of misdemeanor proceedings longer than one year was recorded in 4.96% to 8.85% of cases at the level of misdemeanor courts in Podgorica, Bijelo Polje and Budva. Misdemeanor courts completed a total of 1,285 cases during the reporting period. The most frequent sanctions are fines (28.87%), warning measures and educational measures. Conditional convictions make up a significant share of 23.81%, while warnings are

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<sup>154</sup> This data should be taken with reserve. Misdemeanor courts mainly add up the number of all imposed measures, not the number of cases (or the number of perpetrators) in which measures were imposed. Through our practice, we have seen that several measures are usually imposed on one person (for example, the restraining order almost always goes with the ban on harassment and stalking).

present in 6.69% of all completed cases. Rejection of requests makes up 1.32% of decisions. One-fifth of the cases (20%) ended with an acquittal decision of the court. The procedure was suspended in 4.75% of cases. A small percentage of cases (3.50%) were resolved in another way. When it comes to prison sentences, they account for 9.73% of court decisions, which leads to the conclusion that misdemeanor courts impose prison sentences to a lesser extent compared to other types of sanctions. Prison sentences range from 10 to 60 days, with the average length less than one month (27 days). In 2023, the misdemeanor courts completed 1,285 cases and imposed 697 protective measures (54% of all completed cases), of which 228 Restraining orders (18% of all completed cases), 106 Evictions from the apartment and other living space (8%), 260 Prohibitions of harassment and stalking (20%), 6 Mandatory psychosocial treatments (0.4%) and 97 Measures of psychiatric and addiction treatment (7.5%).

Only 10 measures were imposed by the court before starting the misdemeanor procedure (within 48 hours of submitting the request to the court), which makes up only 0.5% of all cases handled by the misdemeanor courts in 2023. This data indicates that the system rarely uses available emergency measures to protect victims.

## APPENDIX

**Table: Initial and in-service training (education or professional training)**

As stated in Article 15 of the Report, the most significant training and education for professionals working in the field of gender-based and domestic violence are provided by specialized women NGOs. Women’s Rights Center initiated and organized the first trainings on the standards of the Istanbul Convention and the standards of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), which became regular annual curricula for the judicial training, conducted by the Center for Training in Judiciary and Prosecution. The following table presents the most significant education organised in the period from 2019 to 2023.

Professionals	Do they benefit from initial training on violence against women and domestic violence?	Is this training mandatory?	Are training efforts supported by guidelines and protocols?	Who funds the training?	Please describe the content and the duration of the training
Officials of the support services for victims and witnesses	<b>YES</b>	<b>YES</b>	<b>YES</b>	The training was organized with the support of the European Union, within the regional project “Balkans Act NOW! – BAN III.	<i>SUPPORT TO ASSISTANCE SERVICES FOR VICTIMS AND WITNESSES - PSYCHOLOGICAL FIRST AID AND REFERRAL (2019)</i>  WRC organized training dedicated to the education of employees of the aforementioned services, to provide quality and effective support to victims of domestic violence, human trafficking and crimes against sexual freedom
Representatives of all institutions involved in the system of protection against violence				The training was carried out as part of the project “Stopping violence against women in the	<i>SERIES OF ACCREDITED TRAININGS ON VIOLENCE AGAINST WOMEN AND CHILDREN (2019) - WRC organized a series</i>

<p>against women and domestic violence passed the training.</p> <p>70 participants</p>				<p>Western Balkans and Turkey: Applying the law, changing attitudes”, which is implemented by UNDP and UN WOMEN, with the financial support of the European Union, and in cooperation with the Ministry of Labor and Social Welfare and the Institute for Social and Children protection</p>	<p>of 3 trainings accredited by the Ministry of Labour, Employment, Veterans and Social Affairs of Serbia and the Institute for Social and Child Protection of Montenegro, according to the certified program of the Autonomous Women’s Center from Belgrade</p>
<p>Lawyers and counselors of Montenegrin courts</p> <p>approx. 100 participants</p>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<p>TRAINING IMPLEMENTED IN PARTNERSHIP WITH THE COUNCIL OF EUROPE (2021-2022)</p>	<p><i>TRAINING IMPLEMENTED IN PARTNERSHIP WITH THE COUNCIL OF EUROPE (2021-2022)</i> - WRC organized 4 trainings for lawyers and 2 trainings for the Services for the support of victims and witnesses of criminal acts, which were attended by over 100 lawyers and counselors of Montenegrin courts.</p>
<p>Representatives of institutions</p>	<b>YES</b>	<b>YES</b>	<b>YES</b>	<p>The trainings were implemented</p>	<p><i>MULTI-SECTORAL RESPONSE TO VIOLENCE</i></p>



that are included in the system of protection against violence				within the regional project "Institutionalization of quality rehabilitation and integration services for victims of violence", which was financed by the Austrian Development Agency.	<i>AGAINST WOMEN AND VIOLENCE IN THE FAMILY (2022)</i> - During 2022, WRC held two two-day trainings for around 40 representatives of institutions that are included in the system of protection against violence.
40 participants					
17 judges	<b>YES</b>	<b>YES</b>	<b>YES</b>	Center for Training in Judiciary and State Prosecution, in cooperation with the Center for Legal Aid in the Protection of Human Rights in Europe - AIRE Center from London	<i>Training "Protection from domestic violence and gender-based violence with emphasis on the Istanbul Convention" (2023)</i> Center for Training in the Judiciary and State Prosecutor's Office in cooperation with Women's Rights Center
50 Representatives of institutions/organizations that work directly with migrants and refugees	<b>YES</b>	<b>YES</b>	<b>YES</b>	The project "Strengthening the support system in order to reduce the risk of domestic violence and human trafficking" which is supported by UNICEF Montenegro	<i>WRC Training "AVAILABLE SUPPORT MECHANISMS FOR WOMEN AND CHILDREN VICTIMS OF DOMESTIC VIOLENCE AND HUMAN TRAFFICKING" (2023)</i> - The goal of the training is for representatives of institutions/organizations that work directly with migrants and

					refugees to gain knowledge about gender-based violence, domestic violence including violence against children and human trafficking, as well as about available protection mechanisms against both types of violence. In addition, there was talk about how to deal with trauma and how to provide gender-sensitive support to victims.
20 police officers	<b>YES</b>	<b>YES</b>	<b>YES</b>	Embassy of France in Montenegro	<i>Training on prevention and suppression of violence against women and domestic violence</i> WRC in cooperation with the Police Academy and the Ministry of Internal Affairs (2023)

## APPENDIX II - WRC RECOMMENDATIONS TO THE DRAFT LAW ON PROTECTION FROM FAMILY VIOLENCE

1) WRC: Authorities who have direct information about violence in a family in which a child is involved as a witness, **are obliged to report** without delay, not only to the Center for Social Work but also to the *Court in whose jurisdiction is the decision on custody and parents' visitation rights*. *The court is obliged to ensure that the decision on the exercise of custody visitation rights does not endanger the rights and safety of the victim or children.*

This proposal is aligned with *Article 26* and *Article 31 of the Convention* and GREVIO recommendations. It is also in line with the Montenegrin **Family Law**<sup>155</sup>, which prescribes the obligation of the guardianship authority to take measures to protect the rights and well-being of the child, among which are supervision over the exercise of parental rights but also the initiation of proceedings for the limitation and deprivation of parental rights *ex officio* if there is a danger of abuse of parental rights or the danger of gross neglect of parental duties<sup>156</sup>.

**Ministry of Justice rejected this recommendation with the statement that “it is not aligned with the Family law and the principles of the civil procedure according to which the exercise of parental rights is decided”.**

2) WRC: Protective measures should be supplemented with provisions that prohibit the **perpetrator of violence from possessing or purchasing firearms**. Measures to prevent the possession and purchase of firearms should be implemented **automatically** in every case of domestic violence, to reduce the risk or prevent serious consequences of violence, such as we had in several cases of domestic violence that resulted in the killing of the victim or her family members.

**Ministry of Justice rejected this recommendation with the statement that this matter is subject to the regulations on weapons.**

3) WRC: If the misdemeanors' court assesses that the victim or members of her family are at risk of further violence, it may *impose a protective measure before starting and during the proceedings, without delay, and no later than within 24 hours from the time of receipt of the request.*

Practice has shown that misdemeanor courts **rarely impose protective measures** before starting court proceedings, looking for evidence of the justification of such a measure, which is not in accordance with the legislator's intention to act *preventively*

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<sup>155</sup> The Law recognizes domestic violence as one of the reasons why the court can issue a decision on separating a child from its parents or on limiting the child's right to maintain personal relationships with a parent with whom he does not live. This law also stipulates the obligation of the court to, when making a decision on the exercise of parental rights and the manner of maintaining personal relations with the other parent, take care that the exercise of parental rights and the maintenance of personal relations of the child with the other parent does not endanger the safety of the child or the victim.

<sup>156</sup> Abuse of rights exists especially if "the parent physically, sexually or emotionally abuses the child; exploits the child by forcing him to work excessively, or to work that endangers the child's morals, health or education, or to work that is prohibited by law; encourages the child to commit criminal acts; develops bad habits and tendencies, etc".

*and to provide emergency protection* in cases of immediate danger to the victim or her family members. In addition, in practice, it is not uncommon for minor offenses courts to issue a decision on emergency protection measures with delay due to the **lack of promptness of the centers for social work to submit an opinion** on the justification of the measure on time. The assessment of the risk to the safety of the victim and her family members, based on a form that is already in use, should be valid and sufficient proof of the justification of the imposition of protective measures, so the courts must pass them without delay. We reminded that, in a well-known case of femicide, in which the police assessed a high risk, the misdemeanor court failed to impose protective measures. WRC believes that changes to this article can contribute to more efficient protection of victims. We reminded that in this sense GREVIO, in its report on Montenegro, appealed to the Montenegrin authorities "*to provide urgent protection measures for the immediate protection of all victims of domestic violence, regardless of the indictments by the prosecutor's office or the initiation of misdemeanor proceedings by the victims*". (par. 233). GREVIO also strongly encouraged the Montenegrin authorities to ensure that emergency protection measures are effectively applied by all relevant authorities.

**Ministry of Justice rejected the recommendation with the statement that it is not possible to carry out all the necessary actions within 24 hours.**

4) WRC: The decision on the imposed protective measure will be submitted by the misdemeanor court without delay to the authority or institution competent for enforcement<sup>157</sup>.

**The recommendation was denied with the statement that due to objective impossibility, a deadline must be prescribed for the delivery of the decision on the imposed protective measure.**

5) Women's Rights Center proposed a new paragraph to Article 31: *Before issuing a decision on the termination of the imposed protective measure, the court for misdemeanors is obliged to obtain a new risk assessment for the safety of the victim or her family members.*

The updated risk assessment will provide the court with valid information on whether the immediate danger to the victim or his family members has been eliminated and whether it is necessary to extend the protection or propose new measures.

**The Ministry of Justice denied the proposal stating that the appropriate preconditions for such a proposal to be implemented have not yet been created.**

6) Women's Rights Center proposed a new paragraph to article 36: When deciding on a fine, the misdemeanor court will take into account the ability of the perpetrator of violence to fulfill his financial obligations to the victim or joint children<sup>158</sup>.

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<sup>157</sup> In this way, the Law would provide alignment with Article 53, paragraph 2 of the Istanbul Convention, which requires that protective measures be "available for immediate protection.

<sup>158</sup> This would provide alignment with Article 48 paragraph 2 of the Istanbul Convention, which aims to prevent other unintended consequences that legal measures may have for the victim.

Perpetrators of domestic violence are often the only earners in the family and are therefore the only source of probably limited/small family income. When the perpetrator of violence is ordered to pay a fine, which is often the case in practice, it affects the family income or his ability to pay alimony and can result in a difficult financial situation for the victim and dependent family members, most often children. Therefore, such a measure can indirectly punish the victim. Our proposal should ensure that no sentence imposed by the court on the perpetrator of violence may indirectly lead to financial difficulties for the victim. It is important to emphasize that this is not inconsistent with the independence of the judiciary and the individual approach to sanctions.

**The Ministry of Justice denied the recommendation stating that “it is not possible to clearly determine on the basis of which the ability of the perpetrator of violence to fulfill financial obligations to the victim or joint children will be proven”.**

The Ministry of Justice also did not accept but stated that *it will reconsider increasing* the range of penalties for misdemeanor liability of another person, as we suggested. Recent practice shows that it is necessary to additionally ensure that authorities and institutions dealing with protection against violence comply with the obligation of due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the Istanbul Convention (Article 5, paragraph 2).

7) Finally, WRC recommended that the Law predicts establishing a Commission for monitoring and improving the work of the authorities of misdemeanor and criminal proceedings and the execution of sanctions for protection against domestic violence with a detailed explanation of its duties.

**The Ministry of Justice rejected it with the explanation that it was not the subject of the Law on Protection of Domestic Violence.**

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## About Women's Rights Center

NGO 'Women's Rights Center' (WRC), based in Podgorica, was founded in 2012, based on the founders' long-term experience in providing support to women victims of domestic violence and other violations of women's human rights.

### Goals

- Promotion of women's human rights and gender equality;
- Empowering women survivors of family violence/partner violence through counseling, psychological and legal support;
- Connecting with other organizations/institutions dealing with the protection and promotion of women's human rights.

### Programs

#### ADVOCACY PROGRAM

Advocacy and monitoring implementation of policies in the field of gender equality and women's human rights;

#### SUPPORT SERVICES FOR WOMEN WHO EXPERIENCED GENDER-BASED VIOLENCE PROGRAM

Initial counseling and support of the women's advocates;  
Representation before institutions and free legal support;  
Psychological counseling.

#### CULTURE PROGRAM

Cultural, artistic, and educational activities to promote feminist and anti-fascist principles and encourage activism through creative work.

### Mission

Women's Rights Center is a non-profit, non-party aligned, non-religious organization that fights for the suppression of all forms of violence against women and their access to justice, developing gender equitable democratic practices and cooperation with all relevant domestic and international actors in Montenegro.

### VISION

GENDER EQUALITY, ACCESS TO JUSTICE AND SOCIETY WITHOUT VIOLENCE AGAINST WOMEN – OUR REALITY