

## MONITORING REPORT

on

### Sexual and Gender-based Violence in the Context of International Protection in the Republic of Bulgaria in 2014

#### (Executive summary)

#### 1. Purpose and scope of the research<sup>1</sup>

The present research aims to gather updated information and data on the sexual and other types of gender-based violence in relation to the refugee status determination (RSD) procedure, the accommodation conditions, and the ability for integration in the Republic of Bulgaria. It is based on an analysis of the national policies and practices applying the gender approach, as well as on a comparative approach based on the international universal, regional standards and the standards of the EU. The results of the research will be used by UNHCR and the partnering organizations and institutions in the country in support of their efforts to prevent sexual and other forms of gender-based violence (GBV) and to promote effective protection of victims of such violence. Apart from serving as a new basis for support for establishing a dialogue between all stakeholders and institutions, the study will serve to present and suggest a common position and approach for modernizing the standard operating procedures (SOPs) adopted to counter this phenomenon.

#### 2. Definition

The GBV is a violence against an individual based on his/her gender. It represents a violation of the fundamental right to life, freedom, security, dignity, equality between men and women, freedom from discrimination, and the right to physical and mental integrity. GBV reflects and reinforces the inequality between men and women. The GBV and the violence against women are often interchangeably used, because in most cases the GBV is committed by men towards women and girls. International documents and national legislations confirm that men and boys may also fall victim to such violence. The current report focuses on the violence against women and girls owing to the frequency, the specificities and the intensity of the violence against them.

In the framework of the Council of Europe the violence against women based on gender is defined as “violence that is directed against a woman because she is a woman or that affects women disproportionately” (Art. 3. d).<sup>2</sup> Violence against women is understood as a “violation

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<sup>1</sup> The current report has been prepared by Genoveva Tisheva and Anna Nikolova, independent experts, and commissioned and funded by the UNHCR-Bulgaria.

<sup>2</sup> Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), <http://www.coe.int/t/dghl/standardsetting/convention-violence/> (accessed on 1 February 2015).

of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life” (Art. 3. a).<sup>3</sup>

Although it is difficult to distinguish between the different types of such violence since they often accumulate and are not mutually exclusive, GBV includes but is not limited to:

- domestic violence; sexual harassment, rape, sexual violence during conflict and harmful customary or traditional practices such as female genital mutilation, forced marriages and honour crimes;
- trafficking of women, sexual and economic exploitation, forced prostitution and violations of human rights in armed conflicts (in particular murder, systematic rape, sexual slavery and forced pregnancy);
- forced sterilization, forced abortion, forced use of contraceptives, female infanticide during pregnancy, and prenatal gender selection.

A large scale research of the European Union Agency for Fundamental Rights dated March, 2014 established that the GBV is widely spread in the EU Member States, where 33% of the women in the EU have experienced physical and/or sexual violence after the age of 15, 22% have experienced physical and/or sexual violence by their partner; 5% of all women have been raped.<sup>4</sup> For Bulgaria the research shows that 28% of the women have experienced physical and/or sexual violence, given that the women in this country still find it harder to talk about such violence. The proportion of women in Bulgaria who have experienced sexual abuse in childhood is relatively high.

When it comes to GBV violence, it should be underlined that some social groups are at a particular risk of violence. Some of these vulnerable groups, for example, are women from minorities, migrant women and refugee women, women in institutions and disabled women, women in situations of an armed conflict. In particular, migrant and refugee women in Bulgaria are at an increased risk of violence and multiple discrimination. Their access to services and their right to financial support from the state are often limited especially when their status is undetermined or when they are undocumented.

### **3. Methodology of the research**

The research examines the access to information and the attitudes in the refugee communities towards the sexual and gender-based violence (SGBV), the existing social, legal, and health services and the access to them, as well as the training and the participation of the women. The aim of the research is the creation of a framework for reference for the prevention of sexual and other types of GBV in the context of international protection and updating the standard operative measures for prevention and response to SGBV.

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<sup>3</sup> Ibid.

<sup>4</sup> European Union Agency for Fundamental Rights, Violence against women: an EU-wide Survey, [http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14\\_en.pdf](http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14_en.pdf) (accessed on 30 January 2015).

#### **a. Qualitative research via focus groups and in-depth interviews with women most of whom are asylum-seekers**

A questionnaire was developed in order to enable a quality analysis of the gathered information. It was used flexibly and was adapted to the conditions of the study and the attitudes in the concrete group. The participating women were selected in advance according to the main criteria of the researchers – to be in the course of their RSD procedure since on the one side, this is the biggest group of women accommodated in in the centers, and on the other, they do not enjoy the rights of the Bulgarian citizens for access to services in cases of SGBV. It was important for the researchers that the women were participating in the groups of their own accord. The organization of the groups was assisted by the psychologists and the social workers and experts of the State Agency for Refugees (SAR) centers, as well as representatives of the Council of Refugee Women. The focus groups were with a duration of about an hour - hour and a half; afterwards individual in-depth interviews were held on specific cases of women who volunteered for this. Some of these women were additionally referred by the researchers for consultations depending on their needs.

In total, six focus groups were held: four focus groups in Sofia – two in the Registration and Reception Center (RRC) Sofia (Ovcha Kupel) and the Temporary Accommodation Center (TAC) Voenna Rampa, as well as two focus groups in RRC Harmanli. Overall 72 women took part in the focus groups; most of the women were Syrian and part of them were of Kurdish origin. About half of the women were with their children or with some of their children. 22 women were additionally interviewed and heard individually.

The interviews were conducted in Sofia and Harmanli in the period of September-December 2014. The purposes of the focus groups were: to identify the main risks and forms of sexual violence and other types of violence, based on gender; to identify the most vulnerable groups of women; to identify of the tendencies in the attitudes and the needs of the asylum-seeking women in regard to sexual and other forms of gender-based violence; to identify the barriers impeding the women to talk about such violence and to file complaints; to identify any existing mechanisms, counselling services and support provision in cases of such violence against women who are in an RSD procedure in Bulgaria; to identify other problem areas in the protection of this group of women, in connection with the problem of sexual and other forms of gender-based violence.

In Sofia 55 women were included in the research through the conduction of a total of four focus groups. Most of the women were asylum-seekers and a small part of them were beneficiaries of international protection (BIPs). 16 of them were included via in-depth interviews. The average age of the women in the groups was 35-38 years old; most of the women were married with 3 to 4 children of different ages on average (some were with 6 to 7 children). There were a lot of young women aged between 20-26 years old with two or more children. Some of the even younger women were accompanying their relatives. There were also pregnant women.

It happened that in some of the groups women were coming out of curiosity after the beginning of the focus group and were staying. In the centers there were signs of curiosity on the part of men in these women's gatherings. The length of the stay of the women in the

centers varied between 10-60 days for the asylum-seekers and BIPs from Syria and lasted more than year for the asylum-seekers from Africa. Most of the Syrian women have escaped their country of origin with their families. Some of the women left their children and other relatives in Syria and were predominantly counting on family reunification in another European country. There were also non-accompanied asylum-seeking and refugee women who also wanted to reunite with their families in other countries. The women from the African countries were in RSD procedures but were in Bulgaria without their families. The participants were coming from the following countries – predominantly from Syria, some of Kurdish origin, as well as from Iraq, Algeria, Tunisia, and Egypt.

In RRC Harmanli two focus groups with 17 women from Syria in total and 6 in-depth interviews were conducted.

As a result of the interviews some women were concretely assisted as they were in need of consultation and referral to health care; also, a commitment was undertaken for the provision of psychological counselling. As a result of the research, 14 women have sought psychological help for cases of violence.

#### **b. Semi-structured in-depth interviewees with experts-representatives of the related institutions and organizations**

The quality research method was used in the first place for the examination of the attitudes among psychologists and social workers from SAR and NGOs, who are most closely working with the asylum-seekers. Also, the research encompassed the attitudes among other SAR representatives and representatives from the Agency for Social Assistance (ASA) – social workers in the sphere of child protection, social protection, heads of the territorial structures of the ASA and their respective departments.

In total 6 such interviews were conducted on the basis of questionnaires prepared by the researchers and encompassing topics such as: understanding and experience with gender-based violence in the refugee communities; identification of such violence; determining factors; reaction and type of actions taken in cases of SGBV; opinion on the access to and the effective use of the available social services; actions for preventive work with the women and the refugee communities as a whole; need for training on the topic.

#### **c. Research on the Bulgarian and international documents**

In the framework of the research were presented and analyzed the mandatory standards and policies and the international case-law practice. There is an overview of the SOPs, as well as examinations of reports, research and other publications, related to the topic of SGBV in the context of international protection.

### **4. Dissemination, risks and community attitude to issues of SGBV**

#### **a. Attitude of the community towards issues of SGBV**

The problem of sexual violence and other forms of gender-related violence is posed for a first time in such a concentrated manner in front of the asylum-seeking and refugee women. The subject of GBV is relevant to the women and the majority of them express their willingness and readiness to discuss the topic. Many of the women come with readiness and even bring their children; they also follow with interest the work in the group till the end. They are interested in information on the existing of organizations for the protection of the right of the women in the whole country. These conversations reinforce the interest of the women on the subject by predisposing them to share what may have happened to them in their countries of origin. The women need more time on the issue in order to start sharing more freely. The subject is difficult for discussion as it concerns deeply intimate relations and attitudes, and sometimes concerns old traumas and taboos; the mere fact that there is such an interest on the subject proves the clear need for the continuation of the discussion on the issue. Regardless of whether the women did or did not share a lot about their situation or just listened to the general conversation, almost all of them shared that they felt calmer and relaxed after the meeting which is and indicator for the therapeutic effect and the usefulness of the meetings for all participants.

Most of the women manifest restraint while speaking about cases of violence in their country of origin and during their escape, regardless of the form of the violence. The women almost unanimously share that it is not accepted and even allowed to talk openly to others about the experiences sexual-based violence in their communities and families. This applies to the women from Syria, who are the majority among the women participating in the groups, as well as to the women from the region of North Africa who participated. Very often the women themselves cannot recognize a certain behaviour as violence against them, such as, for instance the pressure for marrying someone of somebody else's choice (arranged and forced marriages), especially if this behaviour is a norm in the women's families, extended families, and communities. The previous statement is also confirmed by the interviews with the experts in the centers.

Most the refugee women from Syria are accompanied by their families, children, and husbands or other relatives which hinders the possibility of speaking and sharing about conflicts, problems, domestic or other interpersonal violence in this environment. The women are concerned that even the discussions in the group may harm them and what was shared can come to light despite the fact that ensuring confidentiality was declared from the outset as a basic principle. Hence, the women who decide to speak up, remain for individual talks. Some of the women even share that the men in their families and communities are more competent on the subject and could talk more freely on these issues.

In all groups there are women who state that they can speak freely on the topic. Most of them are younger women, even girls, who came with their relatives in the focus group. The women refugees who came alone to seek asylum in Bulgaria and are without their families are also more willing to talk; these are, for example, widows or older women who expect to reunite with their children in other European countries.

The shared stories and the behaviour of respect towards the rules imposed by the men in the community demonstrate reconciliation with the women's secondary role. However, the

course of the research reveals attitudes of non-acceptance and criticism to women's unequal treatment and the GBV.

The stories shared by the majority of the Syrian women are indicative of the common tendency for the restriction of women's freedom of expression, choice of education, choice of partner, social and public realization. The family obligations are imposed as a priority for the women and the activity most frequently practiced by the women is named as "occupation housewife".

According to the information of the interviewees, a relative exception are the women of Kurdish origin – they have a right to social life to a greater extent, the good education is considered as a virtue, and the social relations are not restricted, as long as the requirement of decency in terms of clothing is met. In relation to the children's upbringing, however, the man is the one imposing his rules. This statement is supported by examples from the personal lives of the women, illustrating that the father forbids the children "to listen" to their mother which downplays the mother's role in the children's upbringing, destroys her parental authority and demonstrates a degrading treatment.

The mother-in-law is stated to have an influential role in the family structure and relations in cases of conflicts within the family and the couple, even after fleeing the country of origin. The social life and the external relations of the women are not tolerated in the community. A common practice is the isolation of the woman in another room when the family has guests. The right to participate freely in conversations with people outside of the family community is often restricted.

The women, especially the ones interviewed in Harmanli, state that the GBV is widely spread in their community. Except for the human trafficking phenomenon, the Syrian women identify and confirm with their stories the wide dissemination of almost all forms of GBV.

The women point three distinctive problems: domestic violence, sexual violence, which is closely linked to honour crimes, and forced marriages. The phenomenon of "child-abuse" is defined as rather rare in the community. At the same time the data from the individual interviews are indicative of the practice of this violence as a disciplinary measure and as such it is not identified as a form of violence. Significant examples are also the early marriages of girls who are 12-13 years old.

Most of the women share about violence by their spouses (domestic violence) experienced when they were still living in Syria. The violence continues also after the relocation of the family in another country, in this case Bulgaria. Despite the women's critical attitude towards the violence, however, they remain in the abusive relationship and do not seek help due to shame and mostly because of their conviction that not only would they not receive help, but they would also become subject to additional accusations. The interviewed women do not have enough information on the right to protection from violence and or the places/services that they can turn to.

Living in an abusive environment and due to the lack of understanding on the problem and the limited access to information, the only possibility for the women is to share their problems with their relatives and close women in the circle of their parent's family.

#### **b. Types of domestic violence in the countries of origin**

The sexual violence and the inextricably linked honour crimes are identified as particularly serious forms of violence. The interviewed women state that the war in their country is a powerful factor for the acts of sexual violence. However, quite often the perpetrator of the sexual abuse is an acquaintance or a family member.

Both support seeking and prosecution of sexual abuse committed against women and girls are rare. The women share that there are judgments against perpetrators of sexual violence against women but despite proving the guilt of the perpetrator, the victim is discriminated and punished by her community. According to the unwritten law of the community a woman or a girl who has suffered from sexual violence will wear the "the stigma of shame" till the end of her life. Furthermore, this stigma is transferred over the whole family of the victim. This is the reason for the frequent cases of murder of the victim as a sole way for the preservation of the family.

Alongside the sexual violence by a perpetrator outside of the family, some stories on incest were shared. Another widespread form of GBV in the community is the forced marriage. The choice of partner is frequently up to the father of the girl.

The terrorist movement DAESH<sup>5</sup> operating in Syria is considered as a common threat of serious GBV in all of its forms in the country of origin. Some women mention the terroristic organization as risk of persecution of women and girls who are their relatives and did not manage to escape.

The predominant forms of sexual violence among the women from Africa are genital mutilation, forced marriages, domestic violence.

#### **c. GBV in the course of fleeing**

Offences and threats are often addressed to the women in the course of their flight from the countries of origin. In one of the cases, a woman lodged a written complaint against the behaviour of an employee of the General Directorate "Border Police", but does not have information on the result of the undertaken actions. In another case, a young woman shares about an offensive and degrading search and undressing also at the crossing of the border.

#### **d. Attitudes of the community to SGBV**

The data from the conducted interview is indicative of the fact that the attitude of the community towards GBV and the violence itself continues in the refugee center and after the establishment in the host country. The women who find the courage to complain from the

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<sup>5</sup>The Arab name for ISIS.

continuing violence in practice in the host country remain with the abusive partner and the experts do not report a case in which a woman in an RSD procedure separated from her abusive spouse.

The high levels of stress, provoked by the change of the way of life and the separation with relatives and close ones, has a special place as a factor unlocking violence. Furthermore, the tension caused by the uncertainty about the future is an additional factor that stimulates aggression. The continuous and exhausting procedures in the course of the RSD procedure, and the uncertainty regarding the final result of the asylum-seeking provoke high levels of stress and anxiety which unlocks acts of violence.

The interviewed women and the staff in the centers share the opinion that many of the men make efforts to curb their aggressive intentions since such behaviour would hinder the main goal, i.e. obtaining refugee or humanitarian status. Such unnatural behaviour for them hides risks of sudden reactions after the prolonged withholding of the aggressive impulses.

In this sense, the change of their behaviours is of a temporary character and there is a risk of serious incidents of violence at a later stage.

A prerequisite for violence are the conditions in the center themselves – there are too many people accommodated in one room, inadequate living conditions, the ethnic and language difference, the lack of enough private space.

There is no information on identified cases of women and girls who were trafficked in the host country.

#### **e. Attitudes of the host community**

Part of the interviewees share that they were treated rudely and with disparagement, including by the security staff in the center. The single women accommodated in the RRC share that they feel more endangered and discriminated against than the women who reside there with their husbands. The ones who show greater freedom with their clothing and social relations are discussed and criticized and sometimes offended.

Last but not least the women regard as problem the violence and discrimination outside of the centers, and the attitude of the local citizens. The dark-skinned women become victims of racist attacks by skinheads. Some of the women complain to the police, which in many of the cases states that it is unable to assist them for one reason or another.

#### **f. Bulgaria as a EU member-state protecting women's rights**

A tendency emerged during the groups and the interviews, according to which Bulgaria is considered an important first EU country which the women reach after the escape, and a starting point in the seeking of protection and a better life. The women themselves have, even if limited, information that the women victims of violence can receive protection in the EU countries.



This is valid for almost all of the participating women, especially for the younger ones who hope that they will learn and find out more about their rights as women, gender equality, and protection against violence in Bulgaria; also they want to free themselves from the restrictions and stereotypes pursuing them from their country of origin. Some of the younger women share that they already feel freer upon the influence of the clothes of the women around them. Some of the women consider to unveil themselves more and to take away the headscarves in the process of integration.

### **Conclusions and recommendations:**

The problem of sexual violence and the other forms of gender based violence, GBV, definitely deserves more and in-depth consideration in the context of the international protection in Bulgaria during all of its stages – from crossing the border, through the accommodation stage, and in the course of the possible integration of refugees. This problem should underpin policies and mechanisms for the protection of refugee women; there should be programs for protection against sexual and gender-based violence which are especially targeting such women and their families. This question should enter into strategies, plans and programmes on a state level; in addition, the standard operating procedures should be reviewed and developed towards a broader, real, and financially resourced protection of women who are in an RSD procedure with a more varied range of services and NGOs representing these women in the country.

The patriarchal and gender stereotypes are quite strong and deeply rooted in the communities and the families of the refugee women; consequently, when assistance is provided, these stereotypes should be studied and known. Therefore, the field staff should be specialized in the questions of violence and women's rights, as well as in the general knowledge of the respective legal systems and customs, so that support can be provided, even when refugee women are just passing through the territory of the Republic of Bulgaria. When organizing and planning the services for support and assistance, the whole families should be considered and targeted, along with the other members of the respective communities.

In identifying and referencing gender stereotypes as a main reason for GBV in the respective communities, one should avoid stereotyping the communities themselves and stigmatizing the respective women, since the last can lead to additional isolation and re-victimization of the victims. The GBV and the gender stereotypes are distinctive for all societies. The specific manifestations of these occurrences should be known and pointed out mainly for the identification and effective intervention and protection of the victims of violence.

Specialized socio-psychological, legal, and information services should be provided directly to the refugee women due to the extremely delicate and intimate character of the sexual violence problem and the other forms of GBV. These services should be available and offered by trained personnel from the very beginning – from crossing the border, in and during the stay at the temporary accommodation centers, as well as during the integration process in Bulgaria. Given the traumas experienced in their country and during fleeing the country of origin, the services for women should accompany the psychological services for overcoming

the trauma. Since many women reside in the centers with their children, these services should be combined with services for children.

In order to overcome the language obstacles, quality translations/interpretations should be provided, when possible by women interpreters, if the concerned women request it. The illiterate women should also be supported.

Apart from this, respectful treatment, respect for the human dignity and the rights of the refugees should be ensured on all levels; the improvement of the conditions in the reception centers should be continued; attention should be paid and discrimination, racism, and xenophobia should not be allowed and be sanctioned in the society. All of this poses the question of the careful selection of the human resources, on the basis of criteria such as sensitivity and dedication, as well as the question for the qualification and the training of the staff that meets and works with refugees and asylum-seekers on all levels.

## **5. Granting international protection in Bulgaria on the grounds of GBV**

The women were asked if they or their close-ones, or acquaintances tried to use the GBV or the threat of GBV against them in their country of origin as a ground for receiving international protection in Bulgaria; almost all of them, and specifically the women from Syria, responded negatively.

In some of the cases of domestic violence, the sexual violence and the violence in its other forms is a leading reason, alongside with the escape due to military actions, for fleeing the home country and moving to Bulgaria. The observation of the authors is that in spite this, the women are afraid to refer (also) to their experience or the serious risk of sexual or gender-related violence as a form of persecution against them. The women doubt that this would help their RSD procedure in Bulgaria.

Another reason for the reluctance to rely on reasons related to SGBV is that the interviewed women were at no point asked since their entry in Bulgaria for problems with sexual violence and other forms of gender violence exercised against them. An exception is mentioning the risk of violence by the DAESH group in Syria and the women who mentioned this circumstance upon their entry consider that this was not taken into account even as a risk for SGBV in their RSD procedure. The cases of women from Africa are exceptions when it comes to sharing about violence.

Representatives of an organization providing legal aid to the asylum-seekers in Bulgaria state that they are not aware of cases in which women were granted status on the basis of violence and persecution on gender grounds. From what was shared by a SAR representative it was confirmed that there is not information about women who received status on such grounds.

There is not enough information on the mechanisms and the possibilities for granting protection status to women on the GBV grounds on the part of the respective state employees and in the provision of services in connection to the protection of women during the RSD. These women need procedural guarantees that their vulnerability will be taken into

consideration in the RSD procedure alongside with the provision of information on their rights and motivation for sharing the undergone violence.

### **Conclusions and recommendations:**

In all cases it follows that the women refugees should have complete information on their rights and abilities, including for granting international protection on the grounds of GBV. The concerned information should be provided in the framework of the RSD procedure and aim at actively motivating the individual to share about the violence during the interview, for example through conducting the interview in the presence of a close-one, of specially-trained psychologists, and the inclusion of a same-sex interpreter. There should be specialized and trained employees and experts on all stages from entering the country through the way to obtaining international protection. Consequently, a specialized training on the topic should be provided for the decision-making employees.

Furthermore, amendments in the Bulgarian legislation should be carried out for the achievement of synchronization with the European standards and documents – the EU law, as well as more specifically the recently entered into force Istanbul convention of the Council of Europe (which is not yet signed by the Republic of Bulgaria).<sup>6</sup> The persecution and the GBV follow to be considered as grounds for the provision of status according to the international and the individual circumstances of the women.

## **6. Provision of services to women in RSD**

The majority of the women residing in the country who are still in an RSD procedure (as well as the irregularly residing ones), remain outside of the perimeter of the social services and the social assistance, regardless of the risks they face, including the risk of GBV. The asylum-seeking women share that from their entry in Bulgaria up until now they were not offered and provided with active informative, psychological, and social services on the topic. The women respond negatively when asked whether they themselves have sought assistance from the staff in the centers and from external experts about problems, connected to violence and the discriminatory attitudes against them.

### **a. Psychological, social, information and legal services**

Two social workers and two psychologists are available at RRC-Harmanli. The situation in the centers in Sofia, where the research was conducted, is similar. The small number of the staff engaged with the social and psychological issues of the refugees is striking. In Harmanli two of them are external experts – one social worker from the Bulgarian Red Cross (BRC) and a psychologist from the ACET NGO, who provides consultations twice a week. In Sofia the appointed psychologists and social workers/experts employees of SAR are also assisted by consultants from NGOs, such as the psychologists from ACET and the BRC social workers. The total number of the engaged social workers and psychologists is as in the center in Harmanli.

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<sup>6</sup> See note 2.

The main problem is the language barrier. The communication with the accommodated people in the centers in Sofia is realized via interpreters, who are secured by experts from BRC and CRW but are not enough. In all of the centers there is a lack of women interpreters. At the same time, the staff notes that the discussion of topics such as discrimination, violence, sexual health are connected to experiences and cultural barriers which frequently remain lost for the translation and the messages cannot always be entirely and correctly perceived by the specialists.

The actions of the social workers are primarily guided towards the numerous and daily social needs and cares for the refugees and the asylum-seekers. They work under a great load and pressure. The main commitments narrow down to addressing domestic difficulties, referrals to doctors, conducting individual discussions, dealing with conflicts related to dissatisfaction with the conditions in the accommodation center (in particular food, overcrowding, etc.). It can be concluded that due to their great load, the psychologists and the social workers in the centers can hardly cover and also respond to the more particular need of consultations of the refugee women, including on topics of GVB.

The main questions and needs of the asylum-seekers are directly related to the RSD procedure. Similar issues constitute the highlights which the foreigners put forward during their meetings with the specialists, and their questions are directly linked with the upcoming interviews as an essential part of their RSD procedures. The staff in the centers share that they experience difficulties in speaking with the refugees on other topics due to the foreigners' preoccupation with the "refugee status" topic and the numerous inquiries and requests related to meeting the basic daily needs.

According to the information of a psychologist in RRC Harmanli, during the individual meetings the men adhere to the subject of "granting status" and inevitably guide the conversation in this direction, while some women are willing to share personal experiences and seek professional support. In the course of the study two women shared with the psychologist at the accommodation center about problems connected to domestic violence.

Among the interviewed women in the centers in Sofia only few had used the services of a psychologist due to some other problems of their own. From the interviews with the women and the psychologists from the centers it became clear that the cases of violence and GBV came to light exactly in the framework of such consultations. The staff in the centers (psychologists and social workers) confirmed that at the moment of the research in practice no cases of GBV were identified and their assistance and intervention was not sought in direct relation to the violence.

The interviewed staff recognizes the seriousness of the problem and the need for securing the access to legal and social services. The sensitivity and the experience of the psychologists are of significant importance for predisposing the women to speak about these sensitive issues, as well as for the identification of this hidden phenomenon.

The social workers and psychologists in Harmanli recognize the main forms of violence – physical, sexual, and psychological, but have difficulty in defining the phenomenon of "gender-based violence." Except for the domestic and sexual violence, no other forms are

mentioned such as forced marriages, honour crimes, genital mutilation, human trafficking, sexual harassment at the workplace, and others.

For identification purposes the specialists mainly count on behavioural indicators – depressive conditions, displays of shame, avoidance of contacts with the social workers on the part of the woman or prohibition of such contacts by the man. These indicators cannot be interpreted unambiguously and even if they lead to the hypothesis of experienced violence, they are not followed by an intervention for providing support. This is a finding of the social workers in the centers themselves, who upon interviews report it as a fact and as a disadvantage in the work.

The RRC staff considers there is a need for more frequent visits to accommodation spaces in order for the identification of the cases of violence and for undertaking actions for the support of the victims. However, there is not enough time and human resources for covering of all individuals and cases.

In the course of the conducted interviews the question on women's trust in the social workers and psychologists came forward. Since the refugees perceive them as staff and part of the SAR system, they feel dependent on the institution which is competent for granting protection.

In case of an incident of violence and an inquiry for help from the injured woman/girl, the actions of the staff would be orientated in two directions: on the one hand, seeking assistance from SAR, the security in the center or the police, and on the other, intervention – crisis consulting, information of the rights of the victim. The staff mentions the separation of the victim and the perpetrator in different rooms as a possible action, if the victim requests it. At the same time, there is a doubt that the women in the center would follow such a safety plan because of concerns that in this way they will be accused and rejected by their community.

The social workers and the psychologists in Harmanli do not feel sufficiently prepared for reactions and interventions in such situations. The leading factor is the initiative of the victim, who can receive consultation and referral only if she openly declares her problem and seeks help.

However, such cases fall into the sphere of exception, taking into consideration the above mentioned range of barriers, attitudes, and passive behaviour, which is typical of the victims of prolonged domestic violence and sexual abuses.

In cases of violence in the centers in Sofia, the women were referred to consultations with a doctor-psychologist, as well as with a psychologist of the specialists in center ACET. Most of the women have many children and this makes them especially vulnerable since such women would be inclined to remain silent in cases of violence due to the fear that the violence may reflect on the children. Furthermore, the encouragement of sudden decisions in these closed spaces and conditions hides risks of intensification of violence and recurrences.

There are observations that in some cases the psychologists and the social workers are inclined to attempt to reconcile both sides in cases of violence. Regardless of whether in the end the woman will remain or not with the perpetrator, the previously mentioned approach hides a serious risk of reinforcing the victim's sense of shame and isolation and affirming the traditional attitudes and feelings of helplessness.

Hence, one of the experts voiced the necessity for supporting actions and services for empowering the women which can continue in the process of eventual integration. Such actions could be empowering for education, preparation for work and a greater economic independence.

Currently in some of the centers the social workers and the psychologists have the understanding and the abilities that the initiative and the actions against such violence should be undertaken only in cases of severe violence and violence against children.

In the course of the focus groups and the interviews it becomes clear that the women would share much more about their problems, if they had information and specialized SGBV services were offered. Such a gender approach would also entail the development of specialized social and psychological services.

The majority of the accommodated women in the center in Harmanli state that they do not know who they can turn to for help. They are not acquainted with their rights and the legal mechanisms in force for protection against violence. This is also valid for the women in the centers in Sofia. The police are the sole institution identified as counteracting violence.

The women with a longer stay in the centers have information on the legal services, provided by the NGOs representatives in the SAR centers but they have not turned to them for support in cases of GBV. Apart from that, it should be noted that at the moment there are no organizations, working in the sphere of GBV which provide specialized legal services in the refugee centers.<sup>7</sup>

Almost half of the interviewed women in the center in Harmanli are not aware that there are social workers and psychologists in the center. The access to information is to the greatest extent limited due to the language barrier, the cultural factors, and the gender stereotypes. It is highly possible that the hypothesis that during the conducted preventive discussions, as well as during the planned interviews/focus groups in the present research, there was no participation from women who are under the most serious control, limitations, and isolation on the side of the partner and/or the community.

In contrast to the staff in Sofia that participated in UNHCR trainings, the staff in Harmanli have not participated in trainings on the issues of GBV and do not have enough information on the possibilities for legal protection and social services. There are no supervisions of the team of specialists in the center in Harmanli.<sup>8</sup>

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<sup>7</sup> See the website of the Alliance for Protection against GBV, <http://alliancedv.org/>.

<sup>8</sup> Such data has not been collected in Sofia.

In the course of the conducted interviews the staff requested different topics on which the employees would like to acquire competence. The broad spectrum of topics covers the rights of women and children, the legal mechanisms for protection against violence, the existing social services and the way to access them. A need for building up the skills for intervention in cases of violence is identified, which on its own requires a continuous, thorough and a practical oriented training activity. The main needs are directed towards building skills for the identification of violence against women and children, the assistance mechanism in steps, a detailed familiarization with the authority of the competent institutions and the role of NGOs. The staff in the centers state the necessity for development of competences which would facilitate the communication with the victims and the perpetrators, the approach towards the children and the witnesses and the crisis interventions after experienced violence.

In the framework of the conducted meetings the women declared needs and readiness for participation in preventive and educational programs on the problems of GBV. The interviewees stated the necessity for educational programmes of topics, connected to equality of women and men; sexual health; women's reproductive rights; protection and prevention of all forms of violence, based on sex; courses for acquiring of parental skills, etc.

#### **b. Healthcare services, hygiene and reception conditions**

When sharing their attitude towards GBV many women also start speaking freely about their other problems, such as health issues, problems related to their reproductive rights and problems with accommodation in the centers, as well as hygiene in the accommodation facilities.

A considerable part of the women complain from the conditions in the centers, namely that men from other communities can enter into their rooms and bother them; that the hygiene does not respond to their and their children's needs. The concrete factors mentioned for creating an unpleasant environment are the living and the material conditions – the common premises, the poor quality of the food, the lack of hot water, the conflicts for the accommodating in rooms with better living conditions, etc.

Some of the women have an urgent need for a gynecologist. Given the large number of women in the centers and despite the covering of the health insurances of the asylum-seekers from the state budget, at the time of the research in the centers in Sofia there was no appropriate specialist who could examine them and prescribe a possible treatment. Some of the women expressed a concern that there is no one who can prescribe them appropriate contraceptives. The women with ill children and children with disabilities also share problems with doctors, medicines, and inappropriate food.

Some women with chronic illness (cardiovascular, hormonal, and pulmonary) complain that there is no one who can prescribe them medicines or can renew their prescriptions. The chronic illnesses worsen during the stay in the centers in cases when the women need to wait longer for the outcome of their RSD.

Furthermore, women who used the services of a psychiatrist or a psychologist working in the centers, express satisfaction from their work with them; as a result, they report having achieved some relief of their condition.

### **c. Preventive programmes for men in the communities**

The women identify the need for specialized work in the form of consultations, discussions and sessions with the men from their communities. The crisis situation, the escape and the situation of seeking asylum, the waiting, the insecurity, the expectations that the men will deal with the situation and their responsibility for the family and the children can adversely affect the men and incite their aggression.

In addition, there is a necessity for working with the communities as a whole, given the identified greater role of the community in cases of GBV on women refugees.

There is no information on the conduction of discussions and consultations with men in the centers both preventively and in cases of violence. The authors would like to note that there is a need for systematic work with the men on the question, not solely during campaigns against violence against women.

#### **Conclusions and recommendations:**

Specialized information should be provided on the forms of SGBV, the risks and the characteristics of the violence, and the offered and available services for support to the refugee and asylum-seeking women. It would be useful if special information materials on the available services are prepared on the topic in the respective languages which can be also used by women in an RSD procedure in Bulgaria. It is necessary not to rely on women's self-initiative but to aim at informing the women on these issues in a language they can understand.

In the same time, in the centers and the places where women's integration is realized group discussions and individual sharing and consultations on their rights as women also in cases of GBV should be provided. There is a need for the establishment of places where women from the refugee communities can meet and discuss their problems among each other.

Information sessions and sessions with men and other representatives of the respective communities should be secured and carried out on a regular basis. Specialists who are working on this topic in the framework of programs of protection against violence should be secured so that they can carry out group and individual consultations in the cases of expressed aggressive behaviour and violence against women, as well as courses for dealing with anger and aggression.

At the same time women's motivation and services for their empowerment should be developed, alongside with securing education, work, and profession, for the achievement of economic independence. This would allow both an exit from the situation of aggression and an option, if it is so desired, for remaining and integrating in Bulgaria. In order to come out of the situation of aggression, the women should be supported with socio-psychological,



and juridical interdisciplinary service packages, combined with empowering on the different stages and levels of seeking protection.

A coherent legal framework and information on the refugees' healthcare and health insurance rights have to be both secured. If possible, quality interpretation should be provided about the access to health services and doctors who speak the refugee women's native or other common languages.

Appropriate services related to the reproductive rights of refugee women should be established, such as providing regular information and advice for women and girls on these issues in an understandable language, organizing discussions and sessions with the men from their communities, providing consultations and medical examinations from gynecologists, regular provision of contraceptives and others.

Special attention should be paid to the measures for women with gynecological problems and chronic illnesses, and to those who need to remain longer in the SAR accommodation centers. These women should be monitored and referred to specialists.

The mothers of children with health issues and disabilities should also be subject to special protection. The living conditions need to be improved in the centers so that the hygiene (such as the availability of hot water, the maintaining of good hygiene and the disinfection in the rooms of the centers) can correspond better to the needs of the refugee women as women and also to those of their children and families.

The frontline specialists and the social workers should be provided with regular training for response and guidance. It is recommended that the employees in the centers are trained on identification and adequate intervention in cases of violence, and prevention. Criteria and mechanisms for identification should be set in place for working with women and children who are vulnerable and at a greater risk. There is a need for specialization of registration officers, interpreters, psychologists, including from NGO, so that violence and persecution on the grounds of sex is detected among the refugee women.

The specificity of the violence against women in the various communities should be known and taken into account; hence there must be specialized questionnaires, other than the general questionnaires, like the ones on trauma, for instance. Interventions for the different groups should be provided, alongside with the specialization of psychologists and the appropriate protection. There must not be mediation in cases of expressed forms of gender-based violence; the additional isolation and re-victimization of the women should also be avoided.

Specialized services and the access to such should be introduced for refugee women in cases of GBV; these services should consist of interdisciplinary services, including as a minimum socio-psychological consultations, legal counselling, options for separate accommodation, including with children, in crisis shelters.

Children being the most vulnerable group to violence should be safeguarded by appropriate measures, such as regulating their rights and the adoption of a relevant mechanism which includes safeguarding their accommodation and guardianship.

## **7. Additional services for protection against GBV to refugee women living on external addresses**

According to the legislation on the provision of social services, women who are in an RSD procedure are formally left outside of the social services system and the social support in Bulgaria regardless of the risks from violence.

The experience of the state institutions concerned with the protection of victims of violence is connected to direct work with Bulgarian citizens, primarily women and children.

The interviewed employees of the territorial units of the ASA, the Directorates for "Social Assistance" (DSA), recognize the lack of specialized services for women refugees, affected from different forms of GBV and the lack of readiness for work with this target group.

The problem of providing protection and services to refugee women who suffered from violence is connected to a variety of difficulties and challenges – lack of the needed documents and information, undetermined origin, cultural differences. The perspectives for reintegration are unclear after the termination of the service's usage whose provision is limited with legally defined deadlines.

The interviewed representatives of the social services are acquainted with the essence of the of "gender-based violence" phenomenon and have experience primarily in the sphere of child protection and domestic violence over women of age/adult women and elderly people.

The social services for the victims are the main points for the provision of support and protection. The DSA social workers refer the victims of violence towards the functioning crisis and consulting centers in the country, most of which are run by NGOs. The consulting services with different thematic focus are also offered in some wide-profile social services such as the Community support centers, the Centers for social rehabilitation and integration, as well as the "Mother and Baby" units, where the main activity is connected to prevention of children abandonment. The adult women victims of trafficking receive protection and services in two Temporary shelters for victims of trafficking – structures of the National Commission for Combating Human Trafficking with the Council of Ministers.

There is no established practice in regard to the protection and referral of refugee women and girls to services. The exceptions are the single accommodation cases (primarily of children) in the crisis centers. The child protection measures are applied by the "Child Protection" units of DSA as per the location of the child/children in risk. The lack of practice for referral of women and children towards the consultancy centers is primarily due to the difficulties related to the language barrier – a problem faced by the staff of the state structures for child protection and the crisis centers' teams, assisting the accommodated clients.

The staff of the ASA territorial units declared their need for training on topics connected to the specifics of the GBV against refugees.

In the course of this research, including during the interviews with representatives of state institutions such as SAR, it was noticed that the integration of refugees is the weakest link in the whole context of international protection in 2014. The existing on paper strategies and plans do not have a focus on the situation of women and girls who are asylum-seekers and BIPs. This applies to the National Strategy in the Area of Migration, Asylum, and Integration (2011-2020), National Strategy on Migration and Integration (2008- 2015), 2013 Action Plan on the implementation of the National Strategy on Migration, Asylum and Integration (2011-2020), National Programme for Integration (2011-2013).

In this relation the National Strategy for Integration of BIPs (2014-2020) should also be mentioned. The strategies and the programs for integration for the whole 2014 were not secured with specific measures and funds. There is a concern that after 2013 and at the time of the research there is still no integration program. In this way SAR cannot exercise its competences in regard to the integration of BIPs in accordance with the Law on Asylum and Refugees (LAR).<sup>9</sup> The process of integration is not a sole responsibility of SAR but of numerous other institutions through their respective departments, which, however still do not recognize their roles and competences in the process.

Information on the cases and the specifics of the GBV among women BIPs is complicated due to the above mentioned deficit of the integration system.

## **8. Resources of NGOs, dealing with GBV**

The NGOs remain the main resource for the protection of the rights and support of refugees. This fact is confirmed in the interviews with the staff at the refugee centers and of the social support system staff. This also applies to the issues of GBV among refugees. The interviewed representatives of the institutions identify the organizations of the civil society as main units from which help can be sought and to which the victims can be referred.

Most NGO consulting centers in the country developing programmes for social, psychological, and legal support of women victims of GBV are not financed via a state-delegated budget. Such centers are more flexible with regard to the provision of services and have a qualified team with extensive experience in working with victims of violence. Despite that so far difficulties connected to the language barrier, the cultural differences, and the need for various requirements for the provisions of legal aid and protection hinder the provision of quality and effective support to refugee women in this sphere. There is also a lack of information and specialized legal aid on the part of protection against GBV.

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<sup>9</sup> See Art. 53 of the Law on Asylum and Refugees: Article 53. The State Agency for Refugees shall: 1. organise the reception and temporary placement of aliens having applied for status or received protection in the territory of Bulgaria and, in cooperation with the Bulgarian Red Cross and other non-governmental organisations, provide them with assistance to adapt to Bulgarian conditions; organise Bulgarian language courses and vocational training courses. <http://www.legislationline.org/documents/id/6242> (accessed on 1 February 2015).

Apart from the socio-psychological and legal consultations for the victims, the organizations also develop programs for working with perpetrators of violence. The greater part of the organizations also manage and develop the crisis center service for women and children, victims of violence. Such centers are managed by organizations in Varna, Burgas, Silistra, Pleven, Pernik, Ruse, and Dupnitsa. The total capacity of the organizations of the Alliance for protection from gender-based violence centers is 100 places.

Similarly to the teams of specialists in the refugee centers and the state social institutions, the NGOs report few cases of care and protection of refugees. The organizations mention experience with migrant women and their children, victims of violence and traffic which can be used also in the work with refugee women.

The NGOs state that there is a necessity for a thorough knowledge on the refugee problem and additional specialization of the teams of social workers, psychologists, and jurists. In view of the multidisciplinary approach in the work on these cases, there is a need for training of experts from all key sectors on state and local levels, and the civil sector.

The NGOs underline the necessity for the implementation of specialized programs for working with refugees victims of violence at all stages and at all levels of protection and integration, as well as a comprehensive strategy for combating, prevention and protection of GBV.

## **9. International legal framework for protection against GBV in the context of international protection**

The international legal framework relevant to the issues of refugees and those seeking international protection in the broadest sense does not contain specific provisions on the protection against violence and persecution on the grounds of sex. This gap is to be filled-in by the application and the practice of application of the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), an international act which is in force in Bulgaria since 1982.<sup>10</sup>

The Committee on the Elimination of Discrimination against Women, composed of 23 international experts in the field of women's rights, monitors the implementation of the Convention, makes recommendations to the state parties and adopts general recommendations on specific issues of gender equality.

Three of the major cases of the Committee related to violence against women are against Bulgaria, as is the case of Isatou Jallow concerning violence against a woman from Gambia and her child. A brief summary of the case and the decision is provided below due to the connection with the topic of the study.

### ***Isatou Jallow***

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<sup>10</sup> UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> (accessed on 31 January 2015).

Isatou Jallow moved from Gambia to Bulgaria after marrying A.P., a Bulgarian national. Once in Bulgaria, A.P. allegedly became abusive toward Jallow and subjected her to physical and psychological violence, including sexual abuse, and attempted to force her to take part in pornographic films and photographs. He reportedly also abused their daughter, M.A.P.

In November 2008, A.P. called the Child Protection Department in an attempt to stop Jallow from breastfeeding M.A.P. Social workers learned of A.P.'s abuse and his practice of keeping pornographic photos all around the family home during their onsite visits. They called the police and advised Jallow to seek refuge but provided no guidance about where or how to do so. The authorities took no measures to protect Jallow and M.A.P. from further domestic violence and sexual abuse. Jallow found refuge for several days in an NGO-run shelter, but A.P. later found her and forced her to return to the family home.

In March 2009, prosecutors refused to continue investigating the alleged domestic violence due to insufficient evidence. Jallow was at no time interviewed by the authorities. Despite being called to the family home on numerous occasions and evident risks to Jallow and M.A.P, police only issued oral warnings to A.P.

In July 2009, A.P. filed an application with the Sofia Regional Court alleging that he was a victim of domestic violence and requesting an emergency protection order. The Court refused the application. A.P. filed a second application for an order, which the Court granted, along with temporary custody of M.A.P. The order was granted solely on the basis of A.P.'s statement. In granting the application, the Court did not consider the allegations of domestic violence that Jallow had made against A.P. Authorities did not provide Jallow with information about M.A.P.'s whereabouts or her condition, despite repeated requests.

In December 2009, the Court dismissed A.P.'s application for a permanent protection order due to a lack of evidence. However, the emergency order remained effective owing to an appeal filed by A.P. Authorities again refused Jallow access to her daughter and did not provide her with information about M.A.P.'s whereabouts or condition. Jallow later agreed to a divorce by mutual agreement, including to numerous unfavourable conditions, because she thought it was the only way to regain custody of her daughter.

In November 2010, Jallow submitted a communication to the Committee on the Elimination of Discrimination against Women (CEDAW Committee) on behalf of M.A.P. and herself in which she alleged violations by Bulgaria of articles 1, 2, 3, 5 and 16(1)(c), 16(1)(d), 16(1)(f) and 16(1)(g) of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Jallow claimed that Bulgaria had failed to provide effective protection against domestic violence and sanction A.P. for his behaviour. Jallow also claimed that the State party did not consider domestic violence to "be a real and serious threat", had failed to adopt effective measures to address gender-based violence against women, and had discriminated against her on the basis of sex/gender. In addition, Jallow claimed *inter alia* that her ability as an illiterate migrant woman to access justice and other necessary services was limited in Bulgaria.

#### *Failure to investigate allegations of domestic violence*

The CEDAW Committee determined that Bulgaria violated articles 2(d) and 2(e) of CEDAW, read in conjunction with articles 1 and 3, when it failed to investigate allegations that A.P. had committed domestic violence against Jallow and her daughter. The CEDAW Committee condemned the authorities' actions in limiting their investigation to A.P.'s pornography collection and their failure to interview Jallow about the alleged domestic violence.

### *Failure to take violence allegations into account in awarding emergency protection order and temporary custody and failure to provide information about child's whereabouts and condition*

The CEDAW Committee found that the Sofia Regional Court had failed to take allegations of domestic violence into account in awarding an emergency protection order and temporary custody to A.P. The Court had also failed to remove the emergency order even after A.P.'s application for a permanent order was rejected. In the Committee's view, these actions, together with the State's failure to inform Jallow properly about M.A.P.'s whereabouts and her condition, violated articles 2(b) and 2(c) of CEDAW, read in conjunction with articles 1 and 3.

### *Gender stereotyping and equal rights within marriage and family relations*

The CEDAW Committee determined that Bulgaria had failed to protect Jallow's rights to equality within marriage and as a parent and to treat her daughter's interests as paramount, in violation of articles 5(a), 16(1)(c), 16(1)(d) and 16(1)(f) of CEDAW.

The CEDAW Committee explained that Bulgaria's actions, including issuing A.P. an emergency order, were based on stereotypes concerning the roles of women and men within marriage, according to which men are perceived to be superior to women. The authorities' reliance on these stereotypes caused them to base their actions on the statements and actions of A.P. and to disregard Jallow's allegations of violence. It also meant that they ignored Jallow's vulnerable position and disregarded evidence concerning the disproportionate impact of domestic violence on women.

The CEDAW Committee urged Bulgaria to compensate Jallow and M.A.P. for violating their rights under CEDAW. It also recommended that the State Party adopt measures to ensure that women victims/survivors of domestic violence, including migrant women, have effective access to justice and other services (e.g., translation services). It also called on the State Party to provide regular training on CEDAW and the Optional Protocol and to adopt legislative and other measures to ensure that domestic violence is taken into account in the determination of custody and visitation rights of children.

The three Bulgarian cases decided by the Committee have developments that occurred in the end of 2014, such as the compliance of the Bulgarian state with the recommendations for the payment of compensations to the victims, including in the case of *Jallow*. The payment of compensations on the base of decisions of UN Convention Bodies represents a precedent for Bulgaria.

An important UN document that needs to be taken into account in determining the policies and measures for women in RSD procedure is the *UN Security Council Resolution 1325 (2000) on women, peace and security*.<sup>11</sup>

## **10. Regional standards and EU standards on protection against GBV violence**

The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), to which the Republic of Bulgaria is a state party, is a founding document for the

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<sup>11</sup> UN Security Council Resolution 1325 (2000) on women, peace and security, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf> (accessed on 1 February 2015).

protection of women against gender-based violence.<sup>12</sup> A development of the practice of the Court in Strasbourg can be observed during the last two years on the implementation and interpretation of the ECHR in cases of violence against women. The Bulgarian cases which contribute to the practice of the Court in Strasbourg on cases of sexual and domestic violence are *M.C. v. Bulgaria* (2004) and *Bevacqua and S. v. Bulgaria* (2008). In the first case of *M.C.*, concerning sexual violence, the Court came up with a groundbreaking judgment, declaring that Bulgaria violated Art. 3 and Art. 8 of the Convention due to ineffective investigation and persecution of rape of innocent girl. According to the Court the states have to establish criminal law provisions effectively punishing rape and have to apply them in practice through effective investigation and prosecution.

In the second case the Court for a first time declares that Bulgaria violated Art. 8 of the Convention because of a failure to take effective measures to protect the complainant, who is a victim of domestic violence, as the responsible authorities have not dealt in a reasonable time with the custody of her minor son, who witnessed the violence.

This practice continues with the judgment in *Meirelles v. Bulgaria* (2012), which refers to a migrant woman from Brazil, a victim of domestic violence. The court found a violation of Art. 8 of the ECHR only in relation to the custody issue, but not on the violence suffered by the applicant.

#### *Ivana Meirelles*

The applicant, Ivana Meirelles, is a Brazilian national who was born in 1986 and lives in Bulgaria. In 2005 she started to live with a Bulgarian man. In 2007 she gave birth to a child, and her partner recognised his paternity. Ms Meirelles claimed that she had been subjected to physical and psychological violence by her partner from the outset of their relationship, and by his family after the child's birth. On 9 September 2009, she had been expelled from their shared flat, in application of a judicial decision based on an attestation by her partner, who had accused her of domestic violence against him and the child. On the following day he had applied to have her deprived of her parental rights, arguing that since the child's birth she had failed to look after him, and that he and his parents had provided the care required by the child, without her help. Relying in particular on Article 8, Ms Meirelles claimed that the Bulgarian authorities had breached her right to respect for family life, in that her request for interim measures allowing her to visit the child had not been, in her view, examined promptly.

The Court in Strasbourg found a violation of Art. 8, indicating that the initial refusal to appoint interim measures was arbitrary and recalled that in previous decisions it has emphasized that for provisional measures aiming to keep the relationship a child-parent to be effective, such measures should be taken immediately, as the lack of contact for longer periods of time can have irreversible consequences for the relationship between the child and the parent who does not live with him.

According to the European Court of Human Rights the delay is objectionable, since the authorities failed to prove sufficient attention and concern to act with due diligence during the respective period. The Court recalled that it has found a similar breach before in another Bulgarian case.

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<sup>12</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms, [https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/Convention\\_ENG.pdf](https://ec.europa.eu/digital-agenda/sites/digital-agenda/files/Convention_ENG.pdf) (Convention for the Protection of Human Rights and Fundamental Freedoms) (accessed on 1 February 2015).

The newest regional standard is the Council of Europe Convention on preventing and combating violence against women and domestic violence, the so-called Istanbul Convention.<sup>13</sup> The Convention was established on 11th May 2011 in Istanbul and so far has been signed by 21 member states and ratified by 16 member states and entered into force as of 1<sup>st</sup> August, 2014.<sup>14</sup> Its monitoring mechanism (GREVIO) will ensure that the Convention is applied and will provide an opportunity for the obtaining of information from the civil society and the national institutions on human rights. Unfortunately the Istanbul Convention is not even signed by the Republic of Bulgaria and so the country has not expressed even political obligation towards this highest standard in Europe against violence against women.

The international legal framework relevant to the issue of violence against women who are in RSD procedure has a tendency of expansion and covering a wide range of cases of violence against these groups of women. The greater vulnerability of these women is taken into account and the state-parties have obligations for care and specific services. Nevertheless, there are still no sufficiently clear provisions obliging the countries on the protection of women's rights against persecution based on gender and the protection of their rights in cases of separation and divorce. These are the main reasons, alongside with the common reasons, for the women from these vulnerable groups to not share about the violence against them and often against their children.

The authors recommend that Bulgaria ratifies the Istanbul Convention at the earliest opportunity so that there are clear obligations also for Bulgaria in cases of GBV in the context of international protection. In parallel with the ratification of the Convention, it is also recommended to proceed with the harmonization of the Bulgarian legislation, policies and practices with the requirements of the EU legislation, including the latest directives: the Procedural Directive 2013/32/EU<sup>15</sup> and Directive 2013/33/EU on reception<sup>16</sup>, both of which should soon be transposed.<sup>17</sup> Furthermore, specialized services should be developed for the protection of refugee women and migrant women against GBV in addition to the provision

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<sup>13</sup> See note 2.

<sup>14</sup> As of 22 February 2015.

<sup>15</sup> Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection, <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32013L0032> (accessed on 1 February 2015).

<sup>16</sup> Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 laying down standards for the reception of applicants for international protection, <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1440583439246&uri=CELEX:32013L0033> (accessed on 1 February 2015).

<sup>17</sup> Other relevant EU standards in the area of prevention and response to GBV include: Directive 2011/95/EU of the European Parliament and the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted; Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings; Directive 2004/38/EC of the European Parliament and the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States; Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification; Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection; Directive 2011/36/EU of the European Parliament and the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims; Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, with a period for transposition by 15<sup>th</sup> November 2015.



of training for state representatives and all of the participants in the process of international protection.

### **11. National legislation and policies for protection against GBV in the context of international protection**

Protection against sexual and other forms of GBV in all of its forms can be sought by everyone on the territory of the Republic of Bulgaria, regardless of the nationality and the citizenship and whether they are legally residing or not.

The Law on Protection from Domestic Violence (LPDV) establishes a tool for protection of victims of domestic violence in Bulgaria, by allowing them to apply for protection to the District Court. Article 2 of the law defines domestic violence as any act of physical, sexual, psychological, emotional or economic violence, and the experience of such violence, forced restriction of privacy, personal freedom and personal rights committed against persons who are in family relation which are or have been in a family relationship or *de facto* marital cohabitation. Mental and emotional abuse of a child is considered any domestic violence committed in the presence of the child.

Access to justice under the law is easier for the victims as it provides that in the absence of other evidence, the court shall issue a protection order based solely on the statement of the victim and the allegations described in the application for protection against violence and relating to the domestic violence. If a protection order is issued, the defendant must pay a fine ranging from 200 to 1,000 BGN (between 100 and 500 EUR). The judge may order one or more of the measures for protection from domestic violence enshrined in the LPDV, as follows:

1. obliging the perpetrator to refrain from acts of domestic violence;
2. removal of the offender from the jointly occupied dwelling for a period determined by the court;
3. banning the offender from approaching the victim, the dwelling, the workplaces and the places for social contacts and leisure of the victim under terms and conditions determined by the court;
4. temporarily determining the child's residence with the victim parent or the parent who did not commit the violence, under terms and conditions determined by the court if this does not contradict the interests of the child;
5. obliging the violence perpetrator to attend specialized programs;
6. referring the victims to rehabilitation programs.

The problem area is still the rare prosecution under the criminal law and the relatively low criminality of the cases of domestic violence which should be considered crimes. This is also due to the fact that the light and average injury that occurred between spouses and relatives is a privately prosecutable offense, under which the victim may file a complaint within 6 months. This poses considerable challenges to the victims of domestic violence who are dependent on or are under the control of the perpetrator; most often such victims do not file complaints out of fear. It is necessary that these crimes are validated as common criminal offenses prosecuted by the state.

## 12. Relevant legislation relating to international protection

The Law on Asylum and Refugees of 2002 contains provisions relevant to the problem of sexual violence and gender-based violence.<sup>18</sup> It defines the procedures for granting international protection, including asylum, refugee status, humanitarian status and temporary protection, to foreigners on the territory of the Republic of Bulgaria; in addition, it sets their rights and obligations. In particular, refugee status in the Republic of Bulgaria shall be granted to a foreigner who has a well-founded fear of persecution due to his/her race, religion, nationality, membership of a specific social group or political opinion and/or belief, who is outside his/her country of origin, and who, for those reasons, cannot or does not wish to avail him/herself of the protection of that country or return thereto. Under the law, prosecution shall refer to any breach of fundamental human rights or any set of actions leading to a breach of fundamental human rights that are severe enough in their nature or persistence. Persecution actions may involve physical or mental violence, statutory, administrative, police or judiciary measures which are discriminatory or are applied for the purposes of discrimination, including punishments for evading military service. The persecution may be carried out by a government authority or organization which such state cannot or does not wish to counteract effectively. The spouse of a foreigner who has been granted refugee status and their children who are minors or under-age and are not married shall also be considered refugees.

The authors would like to point out that under this setting of the refugee status there is a lack of explicit provision that GBV, suffered by women in their country of origin, can be considered as persecution and to justify the granting of the status. Without this explicit clarification it is unlikely that many of the forms of GBV mentioned by women can be identified as persecution.

According to the law, humanitarian status shall be granted to a foreigner forced to leave, or to stay outside his/her country of origin because of facing a real danger of serious harm in such state, such as death penalty or execution; torture or inhuman or degrading treatment, or punishment; severe and personal threats to his/her life or his/her person as an individual with civil legal status as a result of violence arising out of situations of an internal or international armed conflict.

This form of international protection alongside with the type of temporary protection can be both used in the recently increased situations of migration due to internal conflicts. However, its setting does not provide enough reliable guarantees for protection against GBV. While torture, inhuman or degrading treatment are all indicated as grounds, to the best knowledge of the authors of this report there are no cases of granting of international protection on the basis of GBV.

## 13. Standard Operating Procedures on SGBV

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<sup>18</sup> See note 9.

The existing Standard Operative Procedures (SOPs) for prevention and responses to sexual violence and gender-based violence, enacted in 2007, are a good document, containing principles and mechanism for interaction and coordination of all stakeholders. Regardless of this positive characteristic, this mechanism is already overtaken by reality and by the international and internal standards in the field of GBV. Since the rules are outdated, they are probably also ineffective and not used in the interventions of the specialists.

On the basis of the main points in the current SOPs, in the part of the provision of psychological help, the procedures could be extended and updated by incorporating the following more specified actions:

- Identification and training on issues of GBV for NGOs, working with asylum-seekers and BIPs, establishing the contact with social service providers or institutions engaged in response actions/interventions in cases of violence;
- Introduction of the principle for securing women interpreters and the development of their competence on SGBV issues and approach in communication with the victims;
- Training of the staff of SAR's RRCs on their skills for identification in the provision of support in crisis, referral and concrete actions in situations of violence in the accommodation centers;
- Training of the staff of the social service providers on issues related to the refugee issue as a whole, religious, cultural and other characteristics of the various refugee communities;
- Flexible and timely actions of the institutions and the NGOs in the provision of protection and crisis intervention, including immediate accommodation in protected sites such as the Crisis Centers, temporary shelters for victims of trafficking, or the "Mother and Baby" Units;
- Specification of measures for further support after the recovery of victims and the integration process in accordance with the individual needs of the persons concerned;
- Support groups of refugee women victims of violence;
- Expansion of the package of preventive programs through the inclusion of topics such as gender equality, reproductive rights of women, responsible parenting, children's rights, etc;
- Adaptation and implementation of specialized programs for perpetrators of violence.

As for the legal services, upon actualization of the legal framework, which the rules and mechanism are based on, specialized training should also be provided for the ones intervening and for the provision of specialized legal assistance and the support at the earliest stage. Embracing the gender approach and the proactive approach to the protection of women's rights in the RSD procedure should be the basis of the work on individual cases. The legal counselling and legal aid should be regarded as an integral part of the social and psychological services for victims of GBV.

#### **14. Legislation on social services related to protection against GBV**

As a rule the following categories can benefit from the rights under the Social Assistance Act: foreigners with long-term or permanent residence in Bulgaria; foreigners who have been

granted asylum, refugee status or humanitarian status; and foreigners enjoying temporary protection and persons for whom this is provided for in international treaties to which Bulgaria is a party. Therefore, the use of these social benefits and services by persons seeking international protection is not specifically regulated.

The social services in the country are decentralized and the municipality is the body which initiates the development of specific types of social services on a local level on the basis of preliminary studies and analysis of the needs in the community. The management of the social services is entrusted to the mayors of the municipalities, who in turn may announce competitions for provision of social services from external suppliers. They are entered in the register kept at the ASA.

Currently, the register contains a total of 29 non-governmental organizations providing social services in support of the victims. 22 organizations are registered to provide residential care services, and 7 for advisory services. The activities of the NGOs working in the field of combating violence and trafficking are subject to a regulation by the Ministry of Justice and the National Commission for Combating Trafficking in Human Beings, and in cases where their activities are aimed at providing services to children also to the State Agency for Child Protection.

According to the acting normative framework at the moment the "Crisis Center" is the sole specialized service delegated by the state and designed for women victims of domestic violence and human trafficking. In accordance with the obligations of ASA for the provision of methodical help to the providers of social services, a Methodical handbook for the delivery of the "Crisis center" social service was elaborated in 2012. It systemizes the minimal requirements for delivering the service such as: conditions for setting and functioning, standards for management and quality of work; requirements for the personnel and the facilities; mechanisms for planning, monitoring, evaluation, and more.

All of the provided services seem well-set and differentiated. However, they are not accessible for asylum-seekers, but are available only to BIPs. Furthermore, these services are irregularly or under financed and the municipal and state institutions cannot provide them with sufficient capacity. Concrete obstacles on the way for BIPs in accessing these services are the language barrier, the lack both of interpreters and financial security.

The authors believe that apart from resolving the common problems via the existing social services, it is necessary that specialized services are established for refugee and migrant women, who have suffered from GBV. Such services have to be consistent with the women's specific needs, cultural characteristics and language barriers. They consider that the special laws for social services in practice do not protect the foreigners and migrants, including those in an RSD procedure, from different and less favorable treatment (for a concrete example see the case of *Jallow* above).

The authors highlight the following main recommendations to the national legal framework: improving the legal protection of women and girls against gender-based violence, including criminal law defense for the achievement of compliance with the Istanbul Convention; clear inclusion of GBV as a basis for possible granting of refugee or humanitarian status in

accordance with the standards of the EU and the Council of Europe; harmonization of the legislation and the practice on the rights of asylum-seekers and BIPs to protection with the European, regional and other international standards; recognition of the specific rights of women in the process of granting of international protection in cases of violence, such as the right to access to social services, information in accessible language, justice, interpreter/translator, and health services.

## 15. Key Research Findings

Several key conclusions can be drawn in accordance with the discussed problem areas in the present report:

The issue of GBV is relevant and raised interest in the women, accommodated in the SAR centers. The greater part of them expressed willingness and readiness to speak on these issues. The problem of sexual and GBV is posed for the first time in an open discussion with the asylum-seeking women. This topic triggers free discussing also on other important topics for them such as health problems, reproduction rights, problems with accommodation and hygiene in the centers, specific problems of women with chronic illnesses, sick children and children with disabilities.

GBV in all of its forms is widespread in the countries of origin, and accompanies the process of crossing borders and continues after the settlement in the reception country and the RRCs. The conditions in the centers and the tension due to the unknown future stimulate further the displays of aggression. In addition, women are often subject to discrimination, racism, and xenophobic actions on the part of the local population.

Several risk groups are clearly outlined in respect of sexual violence and other forms of GBV. These are the unaccompanied minors, single mothers, who can become subject to human trafficking, women residing alone in the accommodation centers, as well as women with disabilities and other illnesses. Dark-skinned women are exposed to additional risks, connected to discrimination, racism, and violence in combination with hate crime directed towards them.

The patriarchal and gender stereotypes in the communities and the families of the refugee women are very strong and deeply rooted. The restrictions on the personal freedom and the possibility for expression of opinion are widely spread and are rather considered as a norm in the community. The social life and the social contacts are not tolerated. Sharing of problems connected to violence against women and seeking help are both unacceptable. Furthermore, such behaviour is reprehensible by the community and is associated with the risk of rejection of the victim, punishment, re-victimization and further humiliation.

The phenomenon of "child abuse" often remains unidentified. The data from the conducted research are indicative that it is practiced as a disciplinary measure and thus it is not recognized as a form of violence. The women affected by GBV fear that under the unwritten laws of the community the raising of children will be entrusted to the father-perpetrator of violence. Although they are not aware of the national legislation on protection of children, the women expressed concerns that the local authorities would also encourage such actions,

because the man is economically stable, enjoys the support of the family community and therefore has significantly more resources for childcare than a mother who has no financial autonomy and is rejected by the community. These fears place additional barriers to their willingness and need to seek guidance and assistance.

In some cases, however, Bulgaria is considered as important country and entry point on the road to seeking protection and a better life. When they are heading to a country in the EU, the women are hoping for a change in their situation of violence. In some of the cases the domestic violence is a leading reason (together with fleeing due to military actions) for leaving the home country and their settlement in Bulgaria. Still, none of the interviewed women did refer to violence in seeking international protection in the country due to a lack of knowledge on their rights, fear, and mistrust in the actions of the Bulgarian institutions.

A powerful factor, placing a barrier against the willingness for seeking support and protection against violence, is the fear from authorities and organizations with regard to which the victims and their families are in a dependent position given the lodged asylum requests. In the course of the research there was no case identified in which the women have invoked violence and persecution when applying for international protection. No institution posed in front of them questions connected with sexual violence and other forms of GBV. The lack of information and clarification on their rights in an accessible language, the mistrust and the dependent position in regard to the institutions further isolate the group at risk and deprive it of the opportunity to be adequately referred to protection services, legal, social, and psychological support.

The access to information is to a greatest extent limited by the language barrier, cultural factors, and gender stereotypes. Along with the need for services and direct work for offering assistance to the victims, the need for preventive action and themed discussions is identified.

It is necessary that programmes on the topic of “violence, based on gender” are implemented and that they are intended for men, accommodated in the reception centers; similarly, there is a need for educational programmes on topics, connected to the equality between men and women, sexual health, women’s reproductive rights and other.

What emerges clearly is the lack of specialized services for victims of different forms of GBV that take into account factors such as religious and cultural differences, the specific status of foreigners in the country, potential risks and problems associated with the subsequent integration process, etc. The issue is not dealt with in a systematic manner in the RSD process. There is a necessity for training of specialists on the problems of GBV, identification of the victims, and provision of adequate support and guidance. The great part of the asylum-seekers residing in the country remain entirely outside of the perimeter of the social services and the social support (accessible for the Bulgarian citizens and the BIPs), regardless of the risks to which they are exposed, including the GBV risks.

The employees in the accommodation centers have difficulties in identifying the violence and the communication with the victims with the aim of providing support. Serious obstacles are the language barrier, the deficit of women-interpreters, the RCC staff’s lack of knowledge, the attitudes of mutual distrust between the staff and the accommodated refugees. The

NGOs remain the main sources for provision of support and protection for the victims. The refugee women express their preference for debating on topics and problems connected to GBV, women's rights, and sexual health with experts who are outside of the SAR system since the women do not connect them with their current RSD procedures and hence do not feel dependent on them.

At the same time, the NGOs also register problems, connected to the language barrier and the shortage of information and expertise on the refugee issue as a whole. The important role of the NGOs is identified in relation to working with refugees and other specialized NGOs for services; also there is a need for effective mechanisms for targeting and engagement of the state in the provision of services and the subsequent integration process. The existing SOPs are outdated and surpassed by the new realities and standards and hence are ineffective; there are no observed processes of renewal of the public policies in this area.

Alongside the need for specialized legal, social, and psychological services for the victims of violence, the medical services needed in such cases are also insufficient. There is a shortage of social workers and psychologists in the centers, with a view to covering a broader spectrum of needs of the residents. The specialized trainings on the topics are few; there is a lack of a deep and focused approach within the preparation of the personnel in the centers for concrete actions in cases of violence against the accommodated women and girls. The need for the implementation of specialized programs for working with refugee victims of violence is clearly outlined as well as a comprehensive strategy for combating, prevention and protection.

With regard to the legal framework the conclusion is that there are still no sufficiently clear regulations obliging the states to protect women's rights against persecution, based on gender, and for the protection of their rights in cases of separation and divorce. Nevertheless, the existing EU, universal, and regional standards set the basis and the possibility for the improvement of the national legislation. It is highly recommended that the Istanbul convention is ratified as an international instrument going furthest in the protection of this group of women against violence. In addition, harmonization is needed with the EU directives, including the Procedural and the Reception Directives, both of which should have a recent period of transposition. Improving the legal framework, especially in the criminal justice area, for protection from violence against women and girls seeking international protection will contribute to the improvement of the situation of the considered group of women.

It is necessary that the legislation recognizes the specific women rights of international protection in cases of violence, as well as the practical application of the current legislation guaranteeing the right to information in an accessible language, access to justice, to health and interpretation services with clear provisions which do not contradict. The realization of the refugee women's rights in practice is essential together with improving the system of social services for meeting these women's specific needs.