

**Group of Experts on Action against Violence
against Women and Domestic Violence
(GREVIO)**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**Comments submitted by Montenegro
on GREVIO's final report on the implementation
of the Council of Europe Convention
on preventing and combating violence
against women and domestic violence
(Baseline Report)**

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Comments of the Government of Montenegro on GREVIO's final report

I. Purposes, definitions, equality and non-discrimination, general obligations

Definitions (Article 3)

Pursuant to the Law on Gender Equality, proposed by the Ministry for Human and Minority Rights, gender-based violence shall mean an act that causes or may cause physical, mental, economic or sexual harm or suffering, as well as a threat of such acts which seriously impede a person's enjoyment of his rights and freedoms in public or private life, including domestic violence, incest, rape and human trafficking.

The term "violence against women" shall mean a manifestation of a historically conditioned uneven relations of powers between men and women, which often brings woman into a discriminatory position against man.

The Law on Protection against Violence is protecting women, because they are the most frequent victims of violence.

Montenegrin criminal legislation defines all forms of violence against women through different criminal offenses prescribed by the Criminal Code of Montenegro, all in accordance with the Istanbul Convention. However, criminal legislation does not specifically define the term of woman as a victim, but all criminal offenses may be committed both to the detriment of women and opposite gender, with the exception of criminal offenses that by their nature may only be committed against woman as a victim (e.g. unlawful termination of pregnancy referred to in Article 150 of the Criminal Code of MNE and female genital mutilation referred to in Article 151a of the Criminal Code of MNE, etc.).

Fundamental rights, equality and non-discrimination (Article 4)

The Strategy for Social Inclusion of Roma and Egyptians for the period 2016-2020, has been aligned with the European Framework for National Roma Integration Strategies, recommending that the social inclusion of Roma and Egyptians, inter alia, should include "respect of gender issues". The Strategy is focusing particular attention on Roma and Egyptians in childhood age and women, being identified as marginalized categories in the European Framework for National Roma. The measures proposed in this direction are specifically designed to address issues in the area of health care, education, employment, housing, etc.

In accordance with the Action Plan for Chapter 23 and the Action Plan for the Implementation of the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020 for 2017 in cooperation with relevant institutions and non-governmental organizations, the Ministry of Human and Minority Rights implemented eight educational workshops for parents of Roma and Egyptian children, children, Roma activists, civil servants on protection against domestic violence and juvenile forced marriages among the Roma and Egyptian population.

Educational activities were conducted in Tivat, Kotor, Berane, Bijelo Polje, Pljevlja, Herceg Novi, Nikšić and Podgorica. The activity involved 110 pupils and 150 members of the Roma and Egyptian population.

The Ministry for Human and Minority Rights, in accordance with the Action Plan for Chapter 23 and the Action Plan for the Implementation of the Strategy for Social Inclusion of Roma and Egyptians in Montenegro 2016-2020 for 2017 in cooperation with relevant institutions and non-governmental organizations, implemented twelve campaigns in Roma and Egyptian settlements in Ulcinj, Bar, Tivat, Kotor, Budva, Cetinje, Berane, Bijelo Polje, Pljevlja, Herceg Novi, Nikšić, and Podgorica addressing the problem of violence against women and forced child marriages. On this occasion, information flyers were distributed in the Montenegrin, Roma and the Albanian languages.

The Law on amendments to the Law on the Prohibition of Discrimination ("Official Gazette of Montenegro", no. 42/2017") was adopted by the Parliament of Montenegro on 29 June 2017, being fully aligned with the EU acquis, i.e. relevant Directives. The amendments to the Law have introduced new grounds of discrimination (gender reassignment and intersex features) and the definition of practices that are not considered discrimination, enhancing the provisions governing discrimination in access to goods, commodities and services, upbringing, education and professional training, work and employment, membership in a political, trade union or other organization. The Law is explicitly also setting forth the prohibition on race, color, national and ethnicity in the areas of education, work, employment, occupational choice, professional training, social protection, social benefits, health protection and housing. The Law also regulates discrimination of children; expanding the Ombudsman's competences and tightening the penal policy. The new article enumerating proceedings not constituting discrimination is significantly facilitating the application of the Law by the Ombudsman, as well as the judicial authorities.

II. Integrated policies and data collection

Comprehensive and co-ordinated policies (Article 7)

The Istanbul Convention focuses on gender-based violence, covering various forms of violence against women occurring in different contexts. This also includes the family, but is not limited to it, it rather also applies to the wider community, armed conflicts, human trafficking, migrations, asylum, etc., and therefore its scope is exceeding the national laws regulating the domestic violence area. In developing the Strategy for the Protection against Domestic Violence, the focus remains of the family violence and violence against women when they are part of the family and when they are subjected to violence by the family member(s). The basis for this is provided in the Criminal Code and the Law on Protection against Domestic Violence, since these laws represent the sources of these rights, being in line with the Istanbul Convention.

In Montenegro, acts of violence outside the domestic one (migrations, asylum, acts of war, etc.) have been regulated by other laws and related strategies (Law on the Prohibition of Trafficking in Human Beings, Law on Asylum, etc., while acts of war are regulated by international regulations ratified by Montenegro).

Simultaneously with the development of this Strategy, the Ministry of Health, with the support of the World Health Organization, initiated the development of the Strategy for the Prevention and Protection against Abuse and Neglect of Children, including, inter alia, the domestic violence area.

In February 2015, the first Programme for the Implementation of the Plan of activities for achieving gender equality for the period 2015-2016 was adopted, elaborating in details the activities in the area of domestic violence. The second Plan of activities for achieving gender equality for 2017-2021 was adopted in February 2017.

The adoption of the Law on Social and Child Protection in May 2013, and amendments from January, July and August 2015, has established a new framework in Montenegro for providing social protection services and a framework for their monitoring through the Social Welfare Information System. When it comes to domestic violence, this system provides the possibility of recording all relevant data on cases of domestic violence from all other systems. However, other systems collect and process data in accordance with set legal obligations, thus it is very difficult to reconcile data and to systematically monitor the manner and how efficiently the state provides protection against violence. A single database will be defined within the amendments to the current Protocol on actions in domestic violence cases. In the accession negotiations between Montenegro and the EU, a number of issues related to violence against women and domestic violence have been covered by the Chapters 23, 24 and 19, thus the EU will monitor quantitative and qualitative progress indicators in the forthcoming period, at least from three angles – a) respect for human rights, b) efficiency in protecting these rights by institutions, and c) access to justice and legal protection of victims.

The standards set out in the Istanbul Convention fully correspond to the standards of the aforementioned Chapters, integrating the standards established by the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the UN Convention on the Rights of the Child (CRC).

The areas, objectives and indicators of progress in the Strategy are defined to correspond, to the greatest extent possible, to the areas and objectives of the Istanbul Convention, the Action Plan for Chapters 23 and 24, Recommendations of the CEDAW Committee and the CRC Committee. Furthermore, during the development of this document, considered was also the set of indicators for monitoring the implementation of the Istanbul Convention, which was developed in 2014 within the project of the coalition of civil society organizations from 5 countries supported by the EU. Indicators in the Strategy are defined in a manner enabling clear follow up of already mentioned aspects that the EU will monitor in the accession process.

In defining objectives and activities, the objectives and activities of the aforementioned strategies and action plans were taken into account for the purpose of avoiding overlapping. However, as these strategies and action plans have different implementation dynamics and different validity periods, it is necessary for the competent ministries to have continuous communication, so that activities do not duplicate.

The Ministry for Human and Minority Rights and UNDP - within the framework of the IPA II Programme “Support to Anti-Discrimination and Gender Equality Policies”, in the area of combating violence against women and domestic violence, reached an agreement with the Ministry of Labor and Social Welfare and the Ministry of Internal Affairs to pursue amendments to the Protocol on actions in domestic violence cases in order to align the multidisciplinary response to the case-management system in the Social Work Centers and to create conditions for keeping a single database of domestic violence cases. Preparations are pending.

Within the aforementioned Protocol, the manner of functioning of multidisciplinary teams will also be changed, and will function in the future on the principle of a “case conference”, involving only those who are familiar with the case from the outset and who will lead the case to the end.

Financial resources (Article 8)

All institutions and ministries engaged in combating violence against women and domestic violence are allocating funds from their regular budgets for activities related to the protection of victims of domestic violence, raising awareness campaigns, amendments to laws, trainings for civil servants, employees, etc.

Non-governmental organisations and civil society (Article 9)

The Law on Non-Governmental Organizations (“Official Gazette of Montenegro”, nos. 39/11 and 37/17) neither recognized nor the last amendments from 2017 introduced a “licensing regime for NGO’s” because the Constitution of Montenegro guarantees the freedom of association without authorization, only with the registration with the competent authority. Thus there are no licenses.

The conclusion that the “changes to the Law on Non-Governmental Organizations limit the overall percentage of the revenues from games of chance which are made available to NGOs upon application. It also introduces an annual cap of 5000 euros per organization” is unclear since the financing from the games of chance is regulated by the Law on Games of Chance, and not by the Law on NGOs. We are neither familiar with the cap amount of 5000 euros per organization for managing NGOs, nor that this obligation has been prescribed or even regulated in last 10 years by any regulation.

Regarding the NGOs financing, it should be emphasized that not a single document, including the European Charter of Human Rights, imposes an explicit obligation on the state to finance non-governmental organizations (NGOs) or the right of NGOs to be financed from public sources.

However, it is undisputed that non-governmental organizations express, communicate and advocate citizens' opinions and interests and assist state administration authorities by launching, creating and monitoring public policies, which also shapes a public interest in financing NGOs projects and programs through which NGOs can participate in the implementation of public policies. In the light of the above, states, including Montenegro, prescribe modalities of financial support to NGOs, being primarily earmarked for the implementation of their projects. This means that the cooperation of state administration authorities and NGOs through financial support for projects and programs of NGOs, i.e. implementation of the competition for allocation of funds for NGO projects, may be considered as an instrument of implementing public policies in cooperation with non-governmental organizations. In other words, competitions are becoming an instrument-tool for the implementation of public policies, and NGOs that propose corresponding projects for the implementation of these policies and receive funds from public sources, are being considered the implementers of these public policies.

Normative prerequisites for cooperation between state administration authorities and non-governmental organizations in addressing issues of public interest with the financial support of the state to the projects and programs of these organizations have been defined by the amendments to the Law on Non-Governmental Organizations (“Official Gazette of Montenegro”, no. 37/17) and the adoption of subordinate legislations regulating in details this area.

The normative framework governing the financing of NGOs projects/programs, updated in 2017 and 2018, consists of the following:

Law on Non-Governmental Organizations, Decree on financing projects and programs of non-governmental organizations in the areas of public interest (“Official Gazette of Montenegro”, no. 13/18) and the Rulebook on the contents of the public competition for the allocation of funds for financing projects and programs of non-governmental organizations, format and content of the application to the public competition (“Official Gazette of Montenegro”, no. 14/18). The aforementioned and other regulations can be found on the webpage of the National Office for Cooperation with NGOs www.nvo.mju.gov.me and the webpage of the Ministry of Public Administration www.mju.gov.me.

The law defines the support of the state to non-governmental organizations through the provision of financial resources in the budget for projects and programs of non-governmental organizations, also setting forth that the support to NGOs can also be envisaged through other laws and by introducing tax and other incentives. The aforementioned Law defined areas of public interest, and the Law on Amendments to the Law on Non-Governmental Organizations of June 2017 has established a new model for financing programs and projects of NGOs that is the subject of this Manual.

The Law prescribes the lowest percentage of allocating funds for funding projects and programs in the areas of public interest (at minimum 0.3% of the current annual budget), then the percentage of funds for funding NGO projects and programs in the field of protection of persons with disabilities (0.1% of the current annual budget), setting forth as well the lowest amount of funds for co-financing and inter-financing of programs and projects of NGOs (at least 0.1% of the current annual budget), amounting at 0.5% of the current budget as the guaranteed minimum allocation for NGO projects.

The Law prescribes uniform criteria for the allocation of the aforementioned funds, manner of selecting and work of independent evaluators who need to score proposed projects and programs, the method of determining the ranking list of the scored projects or programs, the manner of issuing and publishing the decision on allocation, obligation to sign the contract on the allocated funds and the obligation of the state administration authorities to submit annually to the Ministry of Public Administration reports on the financing of projects and programs, on the basis of which the Ministry is devising a consolidated report that should be submitted to the Government within the prescribed deadline. The law prohibits multiple financing and stipulates that the program or project can be financed from the budget of Montenegro only on one basis.

Areas of public interest are considered: social and health care, poverty reduction, protection of persons with disabilities, social care for children and youth, assistance to elderly people, protection and promotion of human and minority rights, rule of law, civil society development and volunteerism, Euro-Atlantic and European integration of Montenegro, institutional and non-institutional education, science, arts, culture, technical culture, environmental protection, agriculture and rural development, sustainable development, consumer protection, gender equality, fight against corruption and organized crime, fight against addiction diseases and other areas of public interest determined by a special law (Article 32 paragraph 2 of the Law).

The Decree is defining in more details the procedure for financing projects and programs of non-governmental organizations by prescribing the criteria and method of scoring projects or programs in priority areas of public interest and the field of protection of persons with disabilities implemented by non-governmental organizations, the method of compiling the list of independent evaluators and the amount of compensation for their work, more detailed contents of the contract on the method of payment and use of funds, reporting and supervision over the implementation of projects or programs, as well as the manner of devising reports on financing projects or programs of non-governmental organizations.

The Rulebook prescribes the content of the public competition for the allocation of funds for financing projects and programs of NGOs, form and content of the application for a public competition.

The decision of the Government of Montenegro in the current for the subsequent calendar year is determining the priority areas and the amount of funds that will be allocated for the projects and programs of non-governmental organizations.

The state administration authorities that recognize the strategic priorities and the possibility of NGO's contribution in its implementation, by 1 June of the current for the subsequent year, submit to the Ministry of Public Administration a proposal for providing funds for financing projects and programs of non-governmental organizations, with sectoral analysis developed on the basis of strategic and planning documents or regulations in the relevant area of public interest and a report on consultations conducted with non-governmental organizations, in accordance with the regulations on consultation of the interested public. Thus, sectoral analyzes represent the basis for determining the priority areas and the necessary funds for financing projects/programs of non-governmental organizations from the state budget in the next year.

In the area of protection from violence against women and domestic violence, sectoral analysis will be developed in the current for the subsequent year.

As for the SOS Nikšić, the state will also continue financing the service this year.

Pursuant to amended Law on Non-Governmental Organizations, recognized priority areas refer to the protection of human and minority rights and freedoms and gender equality, and accordingly, the Ministry of Human and Minority Rights has allocated the total of EUR 1,033,537 for financing NGO projects based on the Budget Law for 2018, of which EUR 220,000 have been earmarked for the projects in the gender equality area. This is the first time that a significant amount has been allocated in this area. NGOs are also involved in the IPA 2014 EU funded Project "Support to Anti-discrimination and Gender Equality Policies", and implemented in partnership with the UNDP Office and the Ministry of Human and Minority Rights. NGOs are carrying out project activities in the area of women entrepreneurship and fight against violence. Four NGO representatives are a part of the National Council for Gender Equality and three representatives are members of the Commission for the Implementation of the Action Plan for Gender Equality for the period 2017-2021.

In the Operational team for combating domestic violence and violence against women, there are several representatives of NGOs dealing specifically with violence against women and domestic violence, actively participating in the work of the Team.

It is worth mentioning that NGOs are very important partners to all institutions engaged in violence against women and domestic violence. Numerous trainings, workshops, researches, analyzes have been conducted together with NGOs.

The Law on Social and Child Protection stipulates the procedure for licensing service providers in the social and child care system. It is also stipulated that professional workers employed by service providers must pass a professional examination and obtain a license.

The Ministry of Labor and Social Welfare has established a Commission for taking professional examination in social and child care and has organized examinations since 30 October 2017.

The Ministry of Labor and Social Welfare has established a Commission for taking professional examination in social and child care and has organized examinations as of 30 October 2017.

Pursuant to the Law on Social and Child Protection, adopted was the Rulebook on more detailed conditions for issuing, renewing and revoking of the license for the performing social and child care activities ("Official Gazette of Montenegro", no. 34/15), stipulating more detailed requirements for to be fulfilled by the service providers for the purpose of obtaining the license. Professional workers shall take the professional exam at the Ministry of Labor and Social Welfare, and after passing an accredited training program at the Institute for Social and Child Care, these professional workers shall obtain the license. If the institution of the licensed professional worker has fulfilled the minimum prescribed standards, it may obtain the license for pursuing activities.

This procedure also applies to NGOs because they also provide services to victims of domestic violence. The reason for the introduction of licenses and the main objective of licensed service providers is to provide high quality services to victims of domestic violence. The state will financially assist all legal entities and organizations fulfilling minimum standards and who have a license for the provision of services in a way that will give a certain amount of money, per victim of violence, for the provision of these specialized services. Any victim of domestic violence or women who are victims of violence can choose which institution, physical person or NGO to address in case of violence and even outside the Center for Social Work, but all of them have to inform the Center for Social Care that the event occurred in order for the Center to provide a comprehensive support and assistance, and in order for the victim of violence to exercise all rights in the domain of social protection. The process of licensing these NGOs is pending, and they will have the opportunity to provide specialized support services to victims of violence. Such NGOs will also be covered by the Protocol on actions, prevention and protection against domestic violence cases and will be part of the Social System that addresses violence against women and domestic violence.

The Center for Social Work or any other institution will adhere to the institute of the "confidential person", and the state will also strengthen the capacities of civil society organizations to implement this institute in accordance with the Law on Protection against Domestic Violence. In accordance with this Law, a confidential person may be a member of the family, a person from a body, an institution, a non-governmental organization and another legal entity, or another person in whom the victim has trust, whereby it is necessary to inform all who work in the field of protection against violence.

In addition, Montenegro will also have a unique database and all institutions shall be obliged to report victims of violence to enable its proper functioning.

Co-ordinating body (Article 10)

The Ministry of Interior has established an Operational Team for Combating Domestic Violence and Violence against Women, the objective of which will be to strengthen the capacities of the police in terms of training the maximum number of police officers for work with children.

The Team will review the current practice and analysis of specific cases; determine further guidelines for proceeding and improvements in the area of prevention and combating domestic violence. This body will function on the principle of strengthening coordination and establishing a unified practice. Furthermore, the Team will be targeting weaknesses in the work of competent institutions and trigger changes.

Cooperation on prevention, information exchange, education, reporting and prosecution, as well as assistance and protection of victims will represent priorities in the work of this Team.

The team will focus on developing mechanisms for timely and adequate response, primarily police, and other institutions; assessing capacities and suggest key changes; strengthening of confidence and transparency of the police.

The team will focus particular attention on the follow up of trainings and further education of the representatives of the institutions interrogating and hearing the victims in order to proceed with greater sensitivity and to provide greater support to victims of domestic violence, as well as to propose measures against perpetrators. In the light of the above, devised will be a plan for the organization of specialized and targeted training on identifying and assessing the risks of violence, as well as on the evidencing and documentation of cases of violence.

The activities of the Operational Team will continuously follow up the problems of domestic violence. A dialogue with all entities working with victims in the area of information exchange and knowledge of the history of violence will be intensified. In this manner, we will contribute to a greater implementation of the Law on Protection against Domestic Violence and more efficient protection of the victim.

The Coordination Board will monitor and evaluate policies and measures aimed at preventing and combating all forms of violence covered by the Council of Europe Convention on the Prevention and Suppression of Violence against Women and Domestic Violence, coordinate the collection of data in accordance with Article 11 of the Convention, conduct analyzes and seek information, explanations and reports from the competent state authorities and other relevant institutions on issues related to the implementation of the Convention.

In the light of the above, the roles have been segregated to the operational part, i.e. part covering the implementation of the Law, the Protocol and the Istanbul Convention, on the one hand, while the Coordination Board will monitor and analyze policies and measures.

Data collection and research and surveys (Article 11)

In accordance with Article 34 of the Law on Protection against Domestic Violence, the Ministry of Human and Minority Rights has published data from various sources on cases of domestic violence for 2017. This statistic was provided as an annex to the Report on the implementation of the Plan of activities for achieving gender equality for 2017, adopted by the Government in the first quarter of 2018.

In the context of amendments to the Protocol on the actions, prevention of and protection

against domestic violence, the manner of functioning of a single database will also be defined. The development of the Protocol was initiated under the Program Support to Anti-Discrimination and Gender Equality Policies, implemented by the UNDP in cooperation with the Ministry of Human and Minority Rights, with the financial support of the Delegation of the European Union to Montenegro. A single database will link all relevant institutions dealing with violence against women and domestic violence. In addition to other institutions the Centers for Social Work, Police Administration, Courts, and Prosecution Service will also be linked to the database. In this way, we will have all reported cases in one place, sorted by gender, geographical position, type of violence, type of measures taken and each case will be monitored from the reporting of violence to possible judicial decision. This way of functioning will make it easier for all these institutions to monitor both victim and perpetrator, whereas all institutions will be equally involved in the cases of violence. Meetings with representatives of the Ministry of Interior and Police Administration are held on a regular basis and this is the first step towards finding solutions for a single database.

Courts are compiling their statistics from PRIS. Judicial information system is used by all courts for the cases monitoring, some aspects of case management and communication with clients. PRIS also collects comprehensive statistics that are included in annual court reports.

Bearing in mind that court statistics serve to facilitate the functioning of an efficient judicial system, it is very important to modernize PRIS and work on its further development and improvement, and this need is recognized in the strategic documents, the Judicial Reform Strategy and the ICT Strategy.

The ICT Strategy of the Judiciary is dedicated to the development and improvement of the judicial information system as a unique system of courts, the State Prosecution Service, Prison Institute and the Ministry of Justice. An effective and standardized statistical reporting system will be offered, in which the data will be based on various criteria and methodologies.

Particular attention will be paid to data monitoring when it comes to the criminal offenses of domestic violence and violence against women, where all the data will be classified according to: age and gender of the victim, relation of the victim and the perpetrator, place of violence commission, type of violence, data on children as victims/witnesses of violence, etc.

The focus on having complete information system will be one of the priorities in the forthcoming period, which is one of the conditions for closing Chapter 23, the last one that awaits us before joining the EU.

In the first submitted state report, for the criminal offenses covered by the Istanbul Convention, a general statistical summary is given by type of court decisions, including the structure of the convicting decisions. This general overview was made for the purpose of having a more concise presentation of the status of play.

PRIS enables us to monitor a court case from the very beginning to the end, providing us detailed statistical reports on various indicators, including: total number of active cases, number of completed and uncompleted cases, type of decision (convicting, acquitting and dismissing), as well as the type of fixed punishment when it comes to convictions. Therefore, the conclusion of the GREVIO Committee regarding the number of judgments for any of the above criminal offenses may not be drawn as such, especially due to the fact that the summary overview of judgments for all criminal offenses committed on the basis of individual statistical reports.

Population-based surveys

In the following period, Montenegro will carry out surveys among most vulnerable categories of the society.

III. Prevention

Awareness raising (Article 13)

Pursuant to its adopted Strategies and Action Plans, Montenegro will continuously carry out the awareness raising campaigns.

Education (Article 14)

With the objective of addressing the needs of children, schools, society, in the school year 2005/06 we have launched the Program "School without Violence - Safe School Environment" in cooperation with the UNICEF Office in Montenegro. The Program is designed for students, teaching and extracurricular staff, parents and the overall community with the aim of reducing and preventing violence among students. After analyzing the results, we have concluded that the Program did not capture adequate number of schools and that they need to be encouraged to apply. Thus, in 2014, direct communication and call to schools were intensified, and as an effect, the application was extended to around forty primary schools (prevailing number). In the previous period, we conducted numerous trainings for school staff, resulting in the development of a Working Manual, Booklet for parents and the Questionnaire of peer violence assessment.

When addressing item 78, we are pointing out that this is not a course but the subject program. The curriculum for cross-curricular subjects (primary and secondary schools), including also gender equality, was made available on the website of the Institute for Education.

With the objective of improving professional capacities, a four-day seminar for 26 participants (one representative from each kindergarten and three resource centers) was held - a multi-dimensional, individualized approach to learning and the overall development of children of pre-school age. We have included a topic that addressed gender equality "Why is gender equality important to us?". As an additional value, a framework package for the realization of activities in preschool institutions was developed and implemented. Pursuant to the principle of the so-called peer and cascade learning in which participants of the seminars are conducting the trainings for the staff of their institutions - figures show that through this form of education passed 1152 educators, professional associates, representatives of the management of all kindergartens.

In addition, targeted training was carried for the kindergarten staff: Importance of preventing prejudices and stereotypes at an early age: persona doll.

On the occasion of the 16 days of activism in combating violence against women with the UN system in Montenegro and the NGO "Prazan prostor", organized was an interactive theater performance designed for the 3rd and 4th grades students of high school. The first round covered 4 schools: Grammar Schools: Podgorica, Berane, Kotor and Secondary Art School in Cetinje. Up to 300 students participated.

Training of professionals (Article 15)

In Montenegro, training of judiciary is carried out within the Center for training in judiciary and state prosecution, which as an independent organization with the status of a legal entity, established as of the entry into force of the Law on the Center for training in judiciary and state prosecution of 17 October 2015.

Training for judges and state prosecutors is organized and implemented as an initial and in-service training. The objective of the training is the acquisition and improvement of knowledge, skills and competences enabling independent, impartial, professional and efficient performance of the function of judges and state prosecutors in accordance with the principles of independence and autonomy and ethical standards of profession.

When it comes to the activities of the Center, on the basis of the In-service Training Program for 2017, the Center conducted three trainings annually related to this area for judges and prosecutors, with a special focus on the misdemeanor judges having the most cases in this area. When training on protection against domestic violence is concerned, a special emphasis is placed on the Istanbul Convention as well as the practice of the European Court of Human Rights in Strasbourg when it comes to the difference between the criminal offense and the misdemeanor offense of the domestic violence.

The in-service training program for judges and state prosecutors in 2018, proposed by the Program Council of the Center, and adopted by the Center's Steering Committee, envisaged the minimum of two two-day trainings on this topic.

Furthermore, in accordance with the Center for the training in judiciary and state prosecution, and the new concept of initial training, which has been implemented as of March 2017, the Initial Training Program for candidates for judges and state prosecutors, and especially the Initial training program for candidates for misdemeanor judges, has introduced special training days dedicated to this topic. In addition, these programs include training on the protection of the rights of the child, the prohibition of discrimination, trafficking in human beings, and the aspects of protection under the ECHR (European Convention on Human Rights) and the case law of the ECHR (European Court of Human Rights) in Strasbourg.

Preventive intervention and treatment programmes (Article 16)

- Programmes for perpetrators of domestic violence

Persons deprived of their liberty with psychiatric and psychosomatic disorders at the recommendation and instructions of doctors may be placed in hospitals with psychiatric wards, the Clinic for psychiatry of the Clinical Center of Montenegro and the Special Hospital in Dobrota. Health care practitioners and healthcare providers in providing health services are obliged to treat these and other patients in accordance with the Protocol on the actions of health workers and healthcare associates towards patients, as well as arrested patients receiving medical treatment, without any form of discrimination, i.e. coercive, forcible or inhumane behavior. Psychiatric patients under the observation may not be placed in inhumane manner, and the accommodation is made exclusively on the basis of a psychiatrist's report, whereas forcible placement is possible only in situation in which a patient is expressing the aggression at the level that may endanger his own life, or that aggression can cause negative consequences for the environment and community, which, of course, must be supported by a psychiatric report that it is an extremely aggressive person.

Participation of the private sector and the media (Article 17)

Despite the steps outlined above and some progress achieved in combating the sensationalistic approach of individual media, there is a room for improving reporting on rape and domestic violence cases so that they are complete, objective and balanced. In the light of the above, within the framework of future activities, training of journalists has been planned in order to bring them closer to the phenomenon of violence against women and domestic violence.

IV. Protection and support

General obligations (Article 18)

As already stated in previous comments, within the IPA II Program “Support to Anti-Discrimination and Gender Equality Policies”, in the area of combating violence against women and domestic violence, an agreement has been reached with all relevant institutions to amend the Protocol on procedures in domestic violence cases, in order to improve the multidisciplinary/multisectoral approach in cases of violence against women and domestic violence. The development of the new Protocol on actions in domestic violence cases is in progress. The new Protocol will improve and speed up the actions of the competent institutions. The new Protocol will involve NGOs and the Protector of Human Rights and Freedoms, in addition with the existing Center for Social Work, Police Administration, health institutions, prosecution and judiciary.

In addition, the Ministry of Health formed a working body tasked with the development of the Protocol on preventing violence against children, which is planned to be adopted by the end of 2018, with the engagement of experts in this field.

Information (Article 19)

In accordance with the Protocol on procedures in domestic violence cases, all institutions are obliged to inform victims of violence of assistance available to them. First of all, the Centers for Social Work inform the victim about the rights and manner of exercising the rights (competencies procedures of the Centers for Social Work, with the measures and actions that the Centers will carry out in pursuing protecting the safety of victims and children).

In the forthcoming period, in cooperation with the Gender Equality Department, the general public and professionals in the relevant services will be informed about the obligations stemming from the

Istanbul Convention on the possibilities of Using the institute of “confidential person”, as well as strengthening capacities of civil society organizations for the implementation of the institute of “confidential person” in accordance with the Law on Protection against Domestic Violence.

Moreover, the Council of Europe Convention on the Prevention and Suppression of Violence against Women and Domestic Violence, which Montenegro ratified among the first ones, obliges the state to take the necessary measures to promote changes in the social and cultural patterns of behavior of women and men in order to eradicate prejudice, traditions and other practices that are based on the idea of inferiority of women and stereotypical roles of women and men.

In addition, in the light of respecting the standards on the right to information of witnesses and victims, in March 2017, the Supreme Court of Montenegro issued an amended and updated edition of the Information of witnesses/victims of the domestic violence or family and human trafficking. The information was devised as a result of the cooperation of the Supreme Court and the NGO Center for Women's Rights, and its goal is to provide clear and understandable information about the rights and obligations of victims appearing as witnesses in the court proceedings in cases of domestic violence and trafficking in human beings. The Information provides answers to questions concerning protection in court proceedings and support provided by the victims/witnesses support services. These services operate in all misdemeanor, basic and higher courts in Montenegro, thus it also contains the contacts of responsible persons who can be contacted by witnesses and victims for information and support during the proceedings in which they are witnesses.

The Association of Judges of Montenegro has developed a brochure on the right to free legal aid and information leaflets delivered to all basic courts, Centers for Social Work and post offices. In addition, these brochures and leaflets are placed in the visible places of the listed institutions in order to be available to the beneficiaries of free legal aid.

Within the framework of the measures foreseen by the Judicial Reform Strategy for the period 2014-2018, the Association of Judges of Montenegro, in cooperation with the NGO Center for Democratic Transition, published five informative brochures in the period from 1 January to 1 October 2017, one of which covers the topic of free legal aid distributed to citizens through info panels in all Montenegrin municipalities. The objective was to raise public awareness of the institute of free legal aid.

The first state report on the application of the Istanbul Convention addressed the establishment of the Witness/Victim Support Service in all courts, publication of improved edition of the Victim/Witness Information when it comes to the domestic violence cases. In addition, in order to further train employees in these services, in September 2017, in cooperation with NGO Center for Women's Rights, two-day training was organized with the objective of perfecting the knowledge and skills necessary for providing various types of services to victims. At this seminar, the persons in charge of supporting the victims and witnesses from the Montenegrin courts had the opportunity to expand their knowledge and acquire practical knowledge and skills necessary to work with victims and witnesses of domestic violence, human trafficking and criminal offenses against sexual freedom, as well as to exchange experiences with colleagues and become informed about the organizations providing long – term support to these victims. They also had the opportunity to become familiar with the skills needed to prevent burn out in performing this complex duty.

Being aware of the fact that further efforts are needed to improve the human and technical capacities of the Support Service, in order to provide effective and effective support to victims, all courts have been given guidelines for the future development of the Victims and Witnesses Support Service, as follows:

- Continuous investment of efforts is required to improve the work of the Service and to "fight for their place";
- Strengthening the capacity of the Service (professionally and technically);
- Ensure visibility of the Services and services they are providing through various forms of communication (media, meetings, promotion, etc.);
- Permanent referral of victims and witnesses to the Information to Victims and Witnesses;

- Strengthening the awareness of victims about the possibilities of free legal aid;
- Each victim requires a special treatment tailored to her/his special characteristics and needs;
- For the further development of the Service, an understanding of the issues by various actors in the system is essential;
- The sensibility of employees providing support is crucial to gaining the trust of the victim. At times, only the presence of a person of trust following up the victim through the procedure means a lot;

Regular holding of meetings, networking and cooperation with other institutions is pivotal.

The Montenegrin judiciary accepts the GREVIO Committee's recommendation that it is necessary to provide a greater flow of information on support services and legal measures, and that measures should be taken to familiarize victims of violence with the possibility to exercise this right, or raise awareness of the victim about their legal rights. Accordingly, further activities will be undertaken.

General support services (Article 20)

In the professional practice, it is not always possible to separate the need for the protection of children and their mothers. It is worth mentioning that the witnessing violence against the mother is perceived as a manifestation of violence against juveniles. Both children and women are provided with continuous support through counseling interviews at the Centers for Social Work, and children and mothers are referred to additional specialized support services based on the assessment of the case managers. Children are referred to the Development Counseling Center, Center for the Rights of the Child, Parents Association, Family Counseling Center, while women victims of violence are always referred to the additional support of non-governmental organizations engaged in women's rights, but also in the Family Counseling Center where support is currently being provided with the Center for Social Work in Podgorica to five women victims of violence.

Women are always, without exception, referred to free legal aid, Safe Women's House, they have been provided with the information about their rights. Plans are being developed always in cooperation with victims, and the risk is assessed based on precisely defined instruments and in cooperation with other institutions.

Montenegro has applied through TAIEX for the training of the case managers at the Centers for Social Work, and the TAIEX has approved this project which is expected to start in the upcoming period.

Specialist support services (Article 22)

In accordance with the Gender Equality Action Plan 2017-2021, the Ministry of Labor and Social Welfare is in the process of conducting an analysis of the need to establish the most urgent services for victims of domestic violence envisaged by the Istanbul Convention. On the basis of this analysis, all in accordance with the Strategy for the Protection against Domestic Violence 2016-2020 and Articles 20 and 22 of the Istanbul Convention, the Ministry of Labor and Social Welfare, with help of UNDP Montenegro, will, in the forthcoming period, develop a national plan for the promotion of general support services in accordance with the Istanbul Convention, as well as a national plan for the promotion of specialized support services for victims of violence in accordance with the Istanbul Convention and the

recommendations of the Council of Europe Study on Minimum Standards for Specialized Services, all in cooperation with other relevant ministries.

Shelters (Article 23)

In accordance with the Law on Social and Child Protection and the Decree on the Organization and Manner of Work of the State Administration, the tasks of accreditation of training programs and licensing of professional workers in the social and child protection have area been entrusted to the Institute for Social and Child Protection.

The implementation of the training according to the accredited program will provide for the improvement of the quality of professional development in social and children's protection, triggering the improvement of the quality of service provision to beneficiaries.

In the process of obtaining a license, as well as its renewal, a certificate of successful completion of the accredited training program may be used as evidence.

Pursuant to the aforementioned, the Institute has so far issued 4 time barred calls for accreditation of the basic training program, one of which was devoted to the protection against domestic violence and violence against children. On this occasion, the following two programs obtained accreditation: Program of the Humanitarian organization "Decje srce" from Belgrade – "Basic Training for Protection against Domestic Violence and Violence against Children" and SOS helpline for Program for Women and Children Victims of Violence from Podgorica – "Basic Training Program for professional workers, professional associates and members of multidisciplinary teams for protection against domestic violence and violence against children. "

Currently, following a continuously open and general public call, we received additional two applications - "Invisible witnesses and double victims: Link between violence against women and child abuse" and "Assessment and management of security risks in situations of violence in partner relationships and in the family", which will be professionally assessed in reference to the fulfillment of the accreditation standards by the Commission for accreditation of the training programs.

So far, in the licensing process, the Institute has issued licenses for a total of 67 professional workers.

Telephone helplines (Article 24)

The National SOS helpline for victims of domestic violence is a specialized service, free of charge, anonymous and available 24/7 throughout the overall territory of Montenegro. The number, structure, and geographical distribution of the call is supporting this.

Since the establishment of the National SOS helpline for victims of domestic violence, in September 2015, the line is coordinated by the SOS helpline for women and children victims of violence Nikšić. SOS helpline Nikšić is women's NGO with 20 years of experience working with women who have experienced gender-based violence. In its work, the helpline applies a gender-based approach and provides assistance to women who have experienced all manifestations of violence and their children. Activists of the SOS helpline Nikšić, who have been engaged as consultants at the National SOS helpline, have specialized knowledge in the area of gender-based violence and women's human rights. If the National SOS helpline receives an application for suspicion in forced marriage, rape, sexual harassment or persecution, consultants are providing support and assistance needed to women who have experienced these manifestations of violence. In line with women's assessment and

consent, the SOS helpline refers to existing services, whether state or non-governmental.

This organization has well developed infrastructure and human resources. Among other things, the organization has shelter for women who have experienced of gender-based violence, provides legal and psychological counseling. All services are based on the concept of empowerment and approach geared by women's needs and based on their strengths. It is well-networked with other women's organizations and shelters, and has intensive cooperation with the institutions of the system.

The SOS Niksic agrees that the title of the service "National SOS Line for Victims of Domestic Violence" should be changed into the "National SOS helpline for Domestic Violence and Violence against Women", which will also be proposed to the Ministry of Labor and Social Welfare, for the purpose of reaffirming the real significance of the helpline and to align it with the Istanbul Convention.

The existence of local SOS helplines is in itself already significant, especially for the local communities where they are based. However, the aforementioned local services (we are making a reference to smaller SOS helplines, such as SOS Bijelo Polje, SOS Berane, SOS Plav, SOS Ulcinj) are faced with ongoing challenges with limited resources and practice. This particularly affects their ability to be available to users in terms of working hours, hired staff, workspace, and known helpline. Consequently, local helplines are often out of function due to the aforementioned reasons, etc.

Support for victims of sexual violence (Article 25)

In line with the Strategy for the protection from domestic violence and Articles 23 and 25 of the Istanbul Convention, the Ministry of Labor and Social Welfare has planned to open shelters and crisis centers in the forthcoming period, in line with the analysis of the needs of establishing the most urgent services for victims of violence. Shelters for victims of violence are planned to be opened in the central and northern parts of Montenegro. In accordance with the aforementioned Convention, a shelter should be available per every 200,000 inhabitants, and we will have a total of three shelters in the territory of Montenegro. Crisis centers are planned in the southern part of Montenegro, in municipalities that due to their geographical location are unable to efficiently use shelter service, as well as in the north, in Plav and Petnjica, and it has been also planned to open shelters for victims of violence in the north of Montenegro, and to include in the system the current shelters of NGOs as soon as they obtain licenses. It is important to note that these services will be provided exclusively by licensed service providers. In February 2018, a crisis center in Herceg Novi was opened because this municipality is remote from other municipalities in which shelters will be opened.

All shelters and crisis centers in the territory of Montenegro will receive victims of violence regardless of the manifestation of committed violence.

Protection and support for child witnesses (Article 26)

It is not common for Montenegrin courts to have a child witness in criminal proceedings for crimes of domestic violence, sexual harassment or other forms of violence. However, there are situations where based on other evidence it cannot be determine whether a person committed a criminal offense, in these situations there are no material traces indicating to a criminal offense, and the court, as a final measure, uses the hearing of juveniles who are victims of criminal offenses. When this is necessary to establish important facts, the child only testifies in the presence of professional persons, psychologists, pedagogues the social

workers. If a child is heard before an authorized prosecutor in the pre-criminal procedure or investigation, child's statement is read at the main hearing, for the purpose of child protection. During the hearing of children as witnesses in criminal proceedings, in accordance with legal solutions, a due care is especially taken that during the hearing of a juvenile, especially if the child sustained a damage by a criminal offense, to conduct the hearing with care and to avoid the possibility of adversely affecting the psychological state of the juvenile, and if necessary, the hearing of a juvenile is carried out with the assistance of a psychologist or other professional. Moreover, the child interrogated as a witness has the right to testify in a separate room before a judge and a court recorder, whereas the prosecutor, accused person and the defense attorney may watch the procedure from another room, with the possibility to ask questions to the witness, which contributes to the child's ability to overcome the possible fear from hearing, and to provide freer and more complete statement that will help to clarifying the criminal case.

On the other hand, the misdemeanor courts seek to ensure that children - witnesses of violence are allowed to testify in court without the presence of a perpetrator of violence. When it comes to children who are victims of violence, their needs are taken into account and their rights guaranteed with special protection measures, since the child will be more exposed than an adult and more intimidated, thus protection measures must pay due attention to the best interests of the child and that the child does is not interrogated in the same room with the perpetrator and the misdemeanor courts are adhering to these ruled. Furthermore, in order for the child to understand the ongoing misdemeanor proceedings, and in order to be properly informed and have the knowledge of the outcome of the proceedings, the misdemeanors courts are engaging court experts (psychologists, pedagogues and social workers) in accordance with legal regulations, who are obliged to assess whether the child's expressed opinion is appropriate to his/her age, and to evaluate the child's emotional and social maturity, degree of judgment, logic, understanding, the clarity of the statement, and the assessment of possible, and the extent, of parent's influence. In general, misdemeanor courts are paying maximum degree of attention and protection to the children - witnesses of violence.

We point out that one of the most important novelties in the Family Law is that in proceedings relating to family relations, the court may, if it deems that it requires the intensity of the conflict between the child and the parent or between the parents, appoint a child support person to the child younger than 14 years of age without his / her consent, and a child over 14 years of age with his / her consent. The support person is appointed from the list of support persons established by the Ministry of Justice (Article 317v). Support persons are persons of the appropriate profile, and the Family Law prescribes the conditions that must be met by a support person (Article 317g). The support person is obliged to carefully and conscientiously take care of the personality and interests of the child, to build a relationship of trust with the child, to acquaint him with his / her rights, to provide information about the case, the course and the possible outcome of the proceedings, as well as to explain to the child the possible consequences of expressing opinions child. In addition, the duty of a support person is, with the consent of the child, to impress his opinion, to attend a hearing where the child is interviewed, or directly express an opinion, and to explain to the child the content of the decision and its consequences (Article 317 lj).

In the dispute for the protection of the rights of the child and in the dispute for the exercise of parental rights, if the court finds that the child as a party is not legally represented in the appropriate manner, he is obliged to appoint a temporary representative from the ranks of lawyers from the list of lawyers who have passed the training for representation of children in proceedings from family-legal relations, carried out by the Ministry of Justice (Article 357, paragraphs 2 and 3).

Reporting (Article 28)

As already mentioned, the objective of the Protocol on actions, prevention of and protection against domestic violence is to establish and encourage the establishment of multidisciplinary cooperation with clearly defined procedures of each system individually.

The Protocol is designed to adhere to the basic principles stemming from all conventions and laws referred to in the Strategy for the Protection against Domestic Violence and relates to the comprehensive protection of the family against violence.

The Protocol regulates the joint operation of all systems during the implementation of laws and conventions, as well as the obligation to take the necessary measures to ensure the organization, equipment and education of a sufficient number of specialized experts dealing with domestic violence issues.

Pursuant to the Protocol, all healthcare institutions are obliged to report suspicion of violence to the police immediately, to fill in the prescribed form on possible physical injuries and the perpetrator of violence, to speak with the victim of violence with due care and refer them to the Center for Social Work, as well as to inform the support centers about the situation, i.e. secondary health care. They must inform the Center for Social Work and the Police immediately. As part of the amendment of the existing Protocol, the actions of the competent institutions will be swifter and the victims will have easier access to all institutions.

The development of the Protocol in case of violence against children is pending.

IV. Substantive law

1. Civil remedies against the state – ensuring due diligence (Article 29)

Oversight over the work of the Police is provided by parliamentary, civil and internal control. Parliamentary control of the Police is carried out by the working body of the Parliament - Security and Defense Committee.

The civilian control of the Police is carried out by the Council for Civilian Control of the Work of the Police.

Internal control of the Police is carried out by a special organizational unit of the Ministry. During 2017, two complaints of citizens were recorded on the work of police officers working in combating domestic violence, but none resulted in the imposition of a light or serious breach of official duty.

Compensation (Article 30)

Data from practice are indicating that the compensation for damages is rarely obtained during the criminal proceedings, because it leads to lengthy proceedings, and therefore the injured party is regularly referred to the civil procedure in order to obtain adequate compensation. This is because the compensation of damage is contingent upon the appropriate medical expertise, which leads to the lengthy proceeding. Therefore the recommendation of the GREVIO Committee is accepted that, in order to overcome the problems in practice, relating to the lengthy procedures for obtaining compensation for the victims of violence, it is desirable to introduce a state compensation, as recommended by the Istanbul Convention. The Law on the Compensation of Victims of Crimes of Violence, adopted by Montenegro in 2016, provides for the possibility of compensation for damage from the state, and the opinion that its application should not be contingent upon the entry of

Montenegro into the European Union is also supported.

The Law was the subject of the European Commission's expertise and was assessed as a good one. Directive 2004/80 with which the Law was aligned with, envisaged the application of the Law to the EU Member States, while Montenegro has other mechanisms for the compensation of damages prior to its access the EU.

Custody, visitation rights and safety (Article 31)

The court may issue a decision restricting the right of the child to maintain personal relations with the parent with whom he/she does not live, if there are reasons for limiting or depriving parental rights or in case of domestic violence (Article 63, paragraph 3).

When deciding on the exercise of parental rights and the manner of maintaining personal relations with another parent, the court shall ensure that the exercise of parental rights and the maintenance of the personal relations of a child with another parent is not jeopardizing the safety of the child or victim (Article 363, paragraph 4).

The fact of committed violence is certainly taken into account when deciding on family disputes. The Centers for Social Work in their reports are indicating that the family was previously observed, that there was violence and that the applications filled resulted in rendering judgments. After that, the court ex - officio obtains the aforementioned judgments, and requests the Center, or expert team, to provide a special opinion on the eligibility of parties for pursuing parental right being pivotal for bringing the decision on guardianship. Moreover, if one of the parties informs the court that there have been incidents of violence, the court ex - officio is obtaining the documentation attesting such violence.

Moreover, judges, if they assess in each particular case that it is necessary, for the safety of women and children victims of violence, are issuing orders for supervised visitations.

In the end, there seems to be a positive conclusion that judges in this direction should be reminded through the compulsory trainings of the existence of these institutes, such as supervised visitations.

Domestic violence

In the first paragraph (171) of the aforementioned Report, it is stated that there are two specific offenses of domestic violence as a misdemeanor offense prescribed by the Law on the Protection of Domestic Violence; while Article 220 of the Criminal Law, entitled "Domestic Violence", states that they are the same crimes of equal criminal character. This conclusion of GREVIO is unfounded, since the criminal offense referred to in Article 220 of the Criminal Law and the misdemeanor referred to in Article 36 of the Law on the Protection of Domestic Violence do not represent the same commission act. Specifically, contrary to the conclusion of GREVIO, it has been explained that the misdemeanor offense is a milder form of various types of violence (whether psychological, physical, sexual, etc.), while the criminal offense entails behavior that represents serious violence, followed by injury or impaired psychological integrity, exceeding a degree required for the existence of a misdemeanor offense. Therefore, these are not the same acts and consequences of the commission of misdemeanor offense and the criminal offense. It is precisely one of the fundamental differences between the misdemeanor offense and the criminal offense, which refers to the conclusions referred to in item 173 of the Report (that there is no uniform criterion that is consistently applied, in order to underline the difference between the misdemeanor offense and the criminal offense) .

In addition, as it has been explained earlier, if the situation arises to provide the evidence of the injury sustained by the victim before the misdemeanor court, then this court will submit case files to the prosecution in charge, taking over the case in respect of the criminal offense referred to in Article 220 of the Criminal Code of MNE. The fact that very few cases have been referred to the prosecution in order to pursue prosecution is a clear indication that the prosecutors are providing proper qualification when deciding whether any behavior is to be considered a criminal offense or a misdemeanor. This speaks in favor of the existence of unified criteria for distinguishing between these two forms of punishable offenses. The fact that the prosecutor is familiar with the concrete case by telephone and that the prosecutor gives binding orders to the police does not in any way diminish the professional and legal conduct of both the prosecutor and the police officers. After being informed of the event, the prosecutor gives a binding oral order to the police, which actions and measures to take and what evidence to collect. Having examined all the circumstances of the case, the prosecutor is giving the qualification of such conduct, subject to the aforementioned criteria. It should also be noted that the formulation in the Report "that even serious cases of physical violence are treated as a misdemeanor, leaving only cases of extreme injuries and brutality for prosecution pursuant to the Criminal Code" is absolutely groundless when it comes to the current status of play. No such case was ever mentioned in the Draft, nor did the representatives of the Misdemeanor Court highlight such information, which could lead to this conclusion. It has been also stated that prosecutors do not always assess the available evidence or require additional evidence to be collected before they qualify an offense as a misdemeanor or criminal offense are unacceptable for the Montenegrin Prosecutor's Office, since all prosecutors give clear and precise orders to the police after being informed of the incident, and after a careful and versatile evaluation of the collected evidence give a view on the qualification of a particular behavior.

Sexual violence, including rape (Article 36)

The Montenegrin Criminal Code has been harmonized with the Istanbul Convention resulting in introduction of a new form of criminal offense "conclusion of voidable marriages". Specifically, anyone who incites or brings another person abroad to conclude a marriage by using force or threat, shall be punished by a prison term of three months to three years.

One of the measures for the implementation of the Strategy for Protection against Domestic Violence for 2016-2020, implies the development of an act that will specify the actions of the competent institutions in cases of identification and prosecution of child marriages and extramarital communities.

In the light of the above, early this year, with the support of the UNICEF, the Ministry of the Interior, for the purpose of implementing obligations stemming from the Strategy for the Protection against Domestic Violence (2016-2020), related to the processing of cases of early marriages, adopted Guidelines for actions of relevant institutions in cases of identifying and processing children's marriages and extramarital communities, with the objective of improving the protection of children from violence. This document constitutes an additional tool in the action of all relevant institutions, entailing a number of steps that each authority can and should undertake when finding out that the children's extramarital community has occurred.

Guidelines for actions and processing of cases of child marriages and extramarital communities have a clear objective, which is to give recommendations to competent institutions and employees, who will act in situations related to the emergence of child marriages.

Bearing in mind the specificity and complexity of these issues that are the subject of this act, a multispectral approach was required in order to develop comprehensive material that would assist the employees in the institutions acting in these situations, as well as the victims of the aforementioned marriages or extramarital communities.

The document consists of an overview of national and international legislation governing this area, indicators for identifying this phenomena and specific steps that each institution involved in the system should and could take.

In these cases, the police acts as in other cases in which the children are involved, which means urgently, cautiously and with due care. In case of knowing about the existence of a child marriage, the Center for Social Work will be informed, possibly the Office for Combating Trafficking in Human Beings (if it is suspected that a child is a victim of trafficking in human beings). The police officer is obliged to inform the victim about the sheltering options, with the possibility of obtaining free legal aid, as well as with the right to choose a person who will attend all procedures and actions related to protection (confidential person).

The Guidelines for actions and processing are strengthening the cooperation of state authorities directly involved in the combating illegal marriages. Through clearly defined operational procedures, which are defined in the Guidelines, the obligations of these institutions have been specified in details by the law.

Sexual harassment (Article 40)

Articles 5 and 6 of the Labor Law ("Official Gazette of Montenegro", Nos. 49/08, 59/11, 66/12, 31/14, 53/14 and 4/18) stipulates that direct or indirect discrimination of a person seeking employment and an employed person, on the grounds of gender, birth, language, race, religion, colour of skin, age, pregnancy, health condition, or disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social background, financial status, membership in political and trade union organizations or any other personal feature shall be prohibited. Direct discrimination, pursuant to this Law, shall include any treatment based on any of the grounds referred to in Article 5 of this Law whereby a person seeking employment and an employed person is placed in a less favorable position in comparison to other persons in the same or similar situation. Indirect discrimination, pursuant to this Law, exists when a certain provision, criterion or practice places or would place a person seeking employment and an employed person in a less favorable position in comparison to other persons on the basis of his or her particular characteristic, status, orientation or belief.

Article 8 prohibits harassment and sexual harassment at work and in relation to work.

Harassment, pursuant to this Law, shall include any unwanted conduct based on any of the grounds referred to in Articles 5 and 6 of this Law, as well as harassment through audio and video surveillance, intended to or actually undermining the dignity of a person seeking employment, and an employed person, creating an intimidating, hostile, degrading or offensive environment.

Sexual harassment, pursuant to this Law, shall include any unwanted verbal, non-verbal or physical conduct intended to or actually undermining the dignity of a person seeking employment, and an employed person in the sphere of sexual life, creating an intimidating, hostile, degrading, embarrassing or offensive environment.

An employee may not suffer harmful consequences in case of reporting, or witnessing harassment and sexual harassment at work and in relation to work pursuant to paragraphs 2

and 3 of this Article.

On the other hand, the Law on the Prohibition of Harassment at Work ("Official Gazette of Montenegro", No. 30/12) stipulates that the Law shall regulate the rights, obligations and responsibilities of employers and employees in terms of prevention of harassment at work or related to work, as well as other issues of importance to the prevention and protection against mobbing. This Law shall apply to cases of harassment and sexual harassment, in accordance with the provisions regulating the labor issues.

You can find these Laws on the website of the Ministry of Labor and Social Welfare. Moreover, sexual harassment is prescribed by the Law on the Prohibition of Discrimination as a special form of discrimination and a sanction has been prescribed by this Law.

Harassment and Sexual Harassment is established by the Law on the Prohibition of Discrimination (Official Gazette of Montenegro, No. 046/10, 040/11, 018/14, 042/17). For this type of discrimination, the misdemeanor responsibility is established as well as a certain range of fines Depending on the subject of responsibility. Given the established misdemeanor responsibility and the clear definition of sexual harassment in all spheres as a specific form of discrimination, there was no need for incrimination in the Criminal Code.

Sanctions and measures (Article 45)

Regarding the observations of the GREVIO Committee, relating to the sanctions and measures imposed by the misdemeanor courts, we find that the findings of the Committee are fully funded and that they are the result of a comprehensive analysis of the work of each authority involved in the domestic violence problem, as well as the work of the misdemeanor courts. GREVIO is accurately indicating that it is necessary to introduce sanctions that are effective, proportionate, generating deterrent effect from committing violence, and as stipulated in Article 41 of the Istanbul Conventions, and that the sanctions imposed by the misdemeanor courts are light, implying pecuniary fines and a prison term sentence of a maximum of 60 days. Nevertheless, we are emphasizing that these punishments are prescribed by Article 36 of the Law on Protection against Domestic Violence, and that the previous practice has shown that the misdemeanor courts are efficient in resolving cases in the area of the Law on Protection against Domestic Violence.

The GREVIO Committee is rightly indicating that the additional training should be carried out in order to fully apply the principles set out in Article 46 of the Istanbul Convention.

Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

As for the obligation of mediation in domestic disputes, the notion referring to the obligation is clearly misunderstood. Specifically, pursuant to the Family Law, the judge is obliged to refer the case to mediation, whereas the parties, in accordance with the basic principle of voluntary mediation, decide themselves whether they will accept mediation or not.

the Mediation Center is very surprised by the observations given in this item. It is not clear who is forcing the judges to refer domestic disputes, in which violence is evident, to mediation. There is only a question, having in mind the practice of the EU member states, which manifestations of violence have eliminatory character when it comes to the referral to mediation. We are of the opinion that the provision of the Family Law in this part is

ambiguous thus providing wider scope.

The conclusion that some mediators believe that mediation is mandatory and that they are persistently to scheduling meetings is not based on grounds. Mediators underwent very good training and we can truly claim that they are performing their tasks in a high quality manner and in the interest of the parties. When it comes to informing the parties in domestic disputes in general, they are informed by the mediators with the mediation institute, principles, procedure, etc. Mediators are not tasked to advise, influence, make decisions, but in domestic disputes where there is no recorded domestic violence to foster communication among the parties and encourage them to, whenever possible, make a decision on mutual satisfaction and in the best interests of their children. Even domestic disputes not entailing family violence are rather exhausting, thus the mediators are not insisting on extending the procedures unless there is a basis for it, but if they see that there is no basis for further prolongation, they are terminating the procedure themselves.

The applicable statutory decision under Article 326 of the Family Law provides that mediation in disputes relating to the divorce on a lawsuit filed by one of the spouses will not be carried out in cases where there are circumstances indicating the existence of any form of domestic violence, a novelty prescribed by the amendments to the Family Law August 2016. It is important to point out that the very nature of the mediation procedure is based on voluntariness, which means that the same procedure should not be implemented in cases where voluntariness does not exist, and now, after the legal obligation, mediators are obliged to interrupt the mediation procedure if there are circumstances that point to some form domestic violence. The said legal norm is clear, and therefore, if there is a practice of mediating in family disputes and divorce proceedings in which there is a history of domestic violence, it is necessary to interrupt it.

VI. Investigation, prosecution, procedural law and protective measures

Immediate response, prevention and protection (Article 50)

As we have already stated several times through the comments, the Protocol on actions, prevention of and protection against domestic violence is under development, and this Protocol will establish a single database of all institutions engaged in violence against women and domestic violence.

The role of the prosecution services and the judiciary

Misdemeanor courts impose the following protective measures: prohibition of harassment and stalking, restraining order, removal from the apartment, mandatory treatment of alcohol dependence, and psychosocial treatment, and mainly the police is in charge for the execution of these measures. These measures are pursued for the purpose of protecting the victim from further violence, and to eliminate the consequences of the violence. Protective measures can be imposed even before the initiation of the misdemeanor procedure, while the victim undertakes to initiate a misdemeanor procedure within five days from the date of requesting the protection measure, and if it fails to do so, the approved protective measures will be terminated, which is in contradiction with the requirements of Article 53 of the Istanbul Convention, which clearly requires to make a distinction between the victim's right to protection and holding the perpetrator liable. GREVIO has been justify urging the Montenegrin state authorities to provide emergency protection measures for all victims of domestic violence, irrespective of whether the victim will initiate a misdemeanor procedure or

not.

Concerning emergency measures in criminal proceedings for domestic violence crimes (comment 232 and 233 of the Draft Report), the current legal solutions are not enabling these measures to be imposed, and they may be imposed upon the termination of the proceedings, i.e. following the rendering of the judgment. Such legal solution is probably not in the best interest of the victim, and consideration should be given to the possibility of amending legal solutions to allow judges to pronounce such measures at the outset and in the course of the criminal proceedings, because the urgency of such measures is of crucial importance. Criminal proceedings can sometimes last for several months and all this time the victim can be exposed to various forms of torture and pressure by the perpetrator precisely because of the conduct of the procedure that is usually initiated by the victim, which should not be permitted.

For these reasons, GREVIO urges the Montenegrin state authorities to provide protection measures regardless of the initiation of the misdemeanor procedure, as well as to all victims of violence, even those in the criminal proceedings.

Risk assessment and risk management (Article 51)

See the part relating to the Protocol on actions, prevention and protection against domestic violence.

Emergency barring and protection orders (Articles 52 and 53)

Misdemeanor courts impose the following protective measures: prohibition of harassment and stalking, restraining order, removal from the apartment, mandatory treatment of alcohol dependence, and psychosocial treatment, and mainly the police is in charge for the execution of these measures. These measures are pursued for the purpose of protecting the victim from further violence, and to eliminate the consequences of the violence. Protective measures can be imposed even before the initiation of the misdemeanor procedure, while the victim undertakes to initiate a misdemeanor procedure within five days from the date of requesting the protection measure, and if it fails to do so, the approved protective measures will be terminated, which is in contradiction with the requirements of Article 53 of the Istanbul Convention, which clearly requires to make a distinction between the victim's right to protection and holding the perpetrator liable. GREVIO has been justify urging the Montenegrin state authorities to provide emergency protection measures for all victims of domestic violence, irrespective of whether the victim will initiate a misdemeanor procedure or not.

Concerning emergency measures in criminal proceedings for domestic violence crimes (comment 232 and 233 of the Draft Report), the current legal solutions are not enabling these measures to be imposed, and they may be imposed upon the termination of the proceedings, i.e. following the rendering of the judgment. Such legal solution is probably not in the best interest of the victim, and consideration should be given to the possibility of amending legal solutions to allow judges to pronounce such measures at the outset and in the course of the criminal proceedings, because the urgency of such measures is of crucial importance. Criminal proceedings can sometimes last for several months and all this time the victim can be exposed to various forms of torture and pressure by the perpetrator precisely because of the conduct of the procedure that is usually initiated by the victim, which should not be permitted.

For these reasons, GREVIO urges the Montenegrin state authorities to provide protection

measures regardless of the initiation of the misdemeanor procedure, as well as to all victims of violence, even those in the criminal proceedings.

Regarding the protective measure of removal from an apartment or other place of living, we are emphasizing that the need for rendering this measure is assessed in each specific situation, whereas the determining factor is the fact that the risk of the accused person-violent person staying in the same apartment or other living space with the victim, because of the threat of reoffending.

Legal Aid (Article 57)

The Law stipulates that the right to free legal aid shall have a victim of domestic violence or family violence and trafficking in human beings, as well as a victim of domestic violence in accordance with the law regulating the protection against domestic violence.

Please note that this refers to raising awareness about this legal possibility, and thus the Association of Judges published a brochure on free legal aid that has been distributed to citizens through info counters in all Montenegrin municipalities. Moreover, the Bar Association, in daily direct contact with citizens and through the participation of lawyers in various television shows is referring the citizens wishing to exercise/protect certain rights to the Law on Free Legal Aid as a normative framework for access to justice, regardless of financial possibilities.

VII. Migration and asylum

Residence status (Article 59)

Montenegro adopted the new Law on Foreigners enshrining international standards and actions to foreigners' equivalent to the member states of the European Union. The application of the Law started off on 4 March 2018. Article 45 of this Law prescribes an autonomous residence, being defined as follows: "temporary residence permit for family reunification may be extended where the Montenegrin citizen has deceased, as well as in the event of the dissolution of marriage that lasted continuously for at minimum three years in Montenegro. The permit is extended or issued to a child who has attained the age of majority, where he fulfills the requirements referred to in Article 43 paragraph 1 items from 1 to 8 of this Law, and if he had an approved temporary residence in Montenegro for a continuous three – year period for family reunification.

Although, at first glance, it seems that in family relations the temporary residence status of women and children is linked to the status of a husband in terms of family reunification, which in cases of violence against women and domestic violence may be contrary to the interests of the victim and her children, there is a legal possibility for the individual consideration of the status of family members in relation to their individual circumstances and the provision of autonomous residence status, according to the autonomous residence requirements. The basic principle is to ensure that the victim does not remain in a violent marriage or relationship due to fear of losing the temporary residence status or expulsion, or protection of the victim. A victim of violence residing in the country on the basis of marriage or family reunification shall not lose the temporary residence status if the husband loses his temporary residence status. She may submit an autonomous residence request for temporary residence. This legal possibility is prescribed by Article 52 of the Law on Foreigners (temporary residence for humanitarian reasons) prescribing that a temporary

residence permit for humanitarian reasons may be issued, inter alia, to a foreigner presumed to have been the victim of a crime of trafficking in human beings or a victim of a crime of domestic violence or family violence or, in particular, justified reasons of humanitarian nature (events of force majeure, critical illness, permanent disability and other justified cases the circumstances of which speak of their humanitarian character) . Of course, these cases, i.e. migrant women, victims of gender-based violence and women and girls who, due to forced marriage abroad, lost their temporary residence status in Montenegro, can regain this status in Montenegro, since they certainly represent justified cases of humanitarian character. In this way, quality, effective and credible mechanisms for the protection of victims of violence have been created, when it comes to their right to reside in Montenegro.

Gender-based asylum claims (Article 60)

As of regaining its independence in 2006, Montenegro has become a member of various international instruments on the protection of refugees, including the Convention on the Status of Refugees from 1951, and has strengthened efforts in exploring durable solutions for internally displaced persons. Today, Montenegro is predominantly a transit country, and therefore is a host to very few asylum seekers and refugees. According to the state authorities, the number of women who have applied for asylum in Montenegro as of 2007 amounts to the total of 803. The conditions and procedures for asylum and temporary protection have been determined by the Law on International and Temporary Protection of Foreigners, adopted in 2017.

Although gender-based violence has not been particularly recognized as a basis for persecution leading to the right to asylum or international protection (Articles 3 and 23 of the Law on International and Temporary Protection of Foreigners), GREVIO welcomes the legal requirements for considering applications based on membership in a particular social with group, with due respect of the features pertaining to the gender identity, including sex (Article 23 paragraph 3). In addition, physical, psychological and sexual violence, as well as “persecutions that are particularly related to the sex”, according to Article 24 paragraph 2 items 1 and 6, are individually referred to as the “acts of persecution”. GREVIO considers that such a classification unconditionally means that women seeking asylum and subject to certain forms of gender-based violence have the right to seek asylum based on membership in a particular social group.

Moreover, GREVIO notes that under Article 10 of the Law on the International and Temporary Protection of Foreigners, persons who are victims of “rape or other serious forms of psychological, physical or sexual violence (such as victims of female genital mutilation), have been qualified as “vulnerable groups”, but it is not certain whether members of this group benefit from any special protection and/or support measures.

According to state authorities, the asylum procedure takes up to 90 days, and a new Reception center for up to 80 refugees has been open in 2014. GREVIO welcomes the development of the gender-based admissions procedures, such as the provision of separate accommodation for single males and females, or providing special care to victims of gender-based violence. Other victims of gender-based violence have been provided with certain procedural safeguards, such as exemption from detention at the border or in the transit area upon their arrival (Article 36). In addition, they are placed in separate accommodation facility and notified of their right to apply for asylum individually - in addition to those applied by a spouse or any other male member of the family. As far as providing support, they also have access to health facilities (Article 66 paragraph 2), and they are offered accommodation and financial support until they are sufficiently able to take care of themselves (Article 77 paragraph 2). However, GREVIO notes that there are no specific gender-related guidelines, aimed at raising awareness among asylum-seekers on the needs of certain protection

required by refugee women who are victims of gender-based violence or are in danger of becoming the victims thereof.

As far as the interpreter is concerned, refugees have the right to request interviews with government officials and with the help of an interpreter of the same sex, although this would be difficult to secure in practice due to the large number of necessary languages.

The most important national legal documents regulating issues of international protection are the Constitution of Montenegro, which in principle proclaims the right to asylum and the new Law on International and Temporary Protection of Foreigners, governing this right in more details, and the application of which has started off on 1 January 2018. The international protection area has also been regulated by subordinate legislations brought in this area.

This Law sets forth the principles, conditions and procedure for granting international and temporary protection to a foreigner seeking international protection, rights and obligations of foreigners seeking international protection, asylum seekers, foreigners under subsidiary protection, foreigners under temporary protection, as well as the conditions and procedure for the annulment and termination of asylum, subsidiary and temporary protection.

International protection of a foreigner seeking international protection includes asylum and subsidiary protection.

Asylum is granted to a foreigner seeking international protection, who is outside the country of his origin, and owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is unable or, owing to such fear, is unwilling to avail himself of the protection of that country

Subsidiary protection is granted to a foreigner seeking international protection, who does not qualify for asylum, if substantial grounds have been shown for believing that, if returned to the country of origin, he would face a real risk of suffering serious harm, and who is unable, or, owing to such risk, unwilling to avail himself of the protection of that country

The definition of a refugee in proceedings on requests for international protection in Montenegro has been generally interpreted with awareness of possible gender aspects, pursuant to which the refugee status is determined in a precise manner. With this interpretation, the refugee definition also includes gender-based requirements for international protection.

Therefore, the Law on International and Temporary Protection of Foreigners is defining the term "social group" and explicitly stipulates that membership to a particular social group may also be based on the genus of a foreigner seeking international protection, including gender identity and sexual orientation. This unconditionally means that women seeking asylum and subjected to certain forms of gender-based violence have the right to seek international protection based on membership in a particular social group.

Furthermore, this Law also includes a number of principles that provide gender sensitive actions to foreigners seeking international protection. These principles, as well as the principles that applied in the previous Law on Asylum, include, inter alia, a guarantee that men and women, or each applicant for international protection, are separately examined during the proceedings, which is a rule, and which is very important in all, especially in cases where women are victims of domestic violence or when there are other reasons of assuming that family members do not want to bring forward their personal circumstances in front of each other, as the basis of persecution on which international protection requests are based.

First of all, these persons were informed that the proceeding is fully confidential and that all

the facts and circumstances collected during the proceeding constitute confidential information. The examination takes place without the presence of family members, except in exceptional situations when an asylum official estimates that it is necessary for other members of the family to be present. The examination takes place under conditions in which confidentiality of information is ensured. This is especially important and special conditions have been created in Montenegro, i.e. special rooms intended for the examination of these persons, and in this way it was possible to present in a comprehensive manner the reasons for seeking international protection. Officials are skilled enough to consider general and personal circumstances related to the request, such as the cultural origin of the applicant, gender, vulnerability. Examination of juveniles is conducted in a manner best convenient manner to the children. Moreover, during the examination, the officials of the Asylum Directorate provide applicants with an opportunity to present information that supports their international protection requirements, including the ability to provide the necessary clarifications. In particular, process leaders have in mind that gender and cultural norms can affect the overall course of the examination.

In this way it is ensured that the asylum procedure, in particular the examination, is conducted in an atmosphere that fosters confidence and promotes a sense of security, especially in cases where women apply for international protection.

Searching and understanding information about the country of origin is essential for bringing correct and lawful decision. Decision makers clearly know what information they need to bring a fact-based decision on a request for international protection. When choosing a source for the purpose of researching, the COI are relying on the widest range of information coming from different international, national and non-governmental sources, having in mind that the political and ideological context within which the authorities or organizations that have published the report on a particular situation can differ significantly. By using different types of sources, a comprehensive picture of the subject under investigation is obtained. When analyzing the information collected, decision makers are aware of their responsibilities when using information from which the outcome of a particular case can depend. Such information reflects the real situation on the ground at the time of the search. Therefore, the procedures used are country-of-origin reports that have been updated and relate to the time period closest to the decision-making one.

Reference to the relevant sources in the decision making also gives legitimacy to the reasoning of the decision and confirms the correctness of the established factual situation and the decisions made, which legal argumentation is corroborated by relevant evidence from valid sources.

Process leaders are paying particular attention to the requests for international protection based on gender-based violence, and that credibility is an important aspect of determining refugee status, and in such cases the credibility assessment is carried out in a particularly sensitive way.

Although the number of requests for international protection based on persecution is small, special consideration is paid to the guidelines of the United Nations High Commissioner for Refugees on gender – related persecutions under Article 1A (2) of the 1951 Convention on the Status of Refugees and its Protocol of 1967.

Within the Project “Assistance to specific target groups of UNHCR”, the United Nations High Commissioner for Refugees has opened a Social Center in which educational workshops and other activities for children and adults are organized.

The Ministry of the Interior, in cooperation with the United Nations High Commissioner for Refugees, organizes training of the officials of the Directorate for Asylum, Directorate for reception and accommodation of foreigners, Directorate for foreigners, migrations and

readmission and the Regional Units for Civil Status and Personal Documents on the topic “Guidelines of the High Commissariat of the United Nations for Refugee regarding persecution based on sexual orientation in the context of Article 1A (2) of the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol “and the granting of residence to migrant women, victims of gender-based violence.

The objective of the workshop is to raise awareness about the needs of certain protection of women seeking asylum and who are victims or at risk of gender-based violence.

The Ministry of Interior is providing reception and accommodation to the foreigners seeking international protection. Within the Ministry of Internal Affairs, a special organizational unit was established - Directorate for the reception and accommodation of foreigners seeking international protection. This Directorate carries out activities related to the reception and accommodation of foreigners seeking international protection; providing assistance in exercising the right to social protection, health care, education, humanitarian aid, legal assistance, work and other legally prescribed rights; cooperation with the United Nations High Commissioner for Refugees, other international organizations and institutions, Red Cross of Montenegro and other organizations and institutions engaged in the protection of refugees; assistance in family reunification; tasks related to the provision of psycho-social assistance; organization of educational, training and other programs, etc. As far as the reception and accommodation is concerned, special attention is being paid to vulnerable groups, being provided with the full access to the relevant rights prescribed by the Law on International and Temporary Protection of Foreigners. They are entitled to psychosocial help and counseling, all with the aim of establishing a relationship of trust, with active listening of persons and understanding their situation, helping them to hear and feel themselves with an in-depth understanding of their problems.

In addition, the Ministry of the Interior is planning the development of the Information for women that will include information on the asylum procedure itself, but will also address other specific topics such as health, equality between men and women, domestic violence, problem of female genital mutilation, human trafficking, etc., all with the objective of empowering and better protecting women, especially asylum seekers.

In this way, broader guidelines for determining refugee status are being developed, which will be distributed to relevant entities involved in the system of international protection of foreigners, as well as to seekers and beneficiaries of this protection.

Although the arrival of these persons in Montenegro is the best proof of the existence of interpersonal trust, tolerance and peace, Montenegro will use its best endeavors in ensuring support to refugees, accepting them as time passes as its own citizens.