

Prevention, Protection and Prosecution of the Gender-Based Violence in EaP countries REPORT



Preface

The survey is to study the national responses to domestic violence and gender-based violence and in the six EaP countries - Armenia, Azerbaijan, Georgia, Belarus, Moldova and Ukraine and promote policy dialogue and regional cooperation for implementation of international and regional norms in this respect.

Domestic violence and gender-based violence remains a serious problem for the entire EaP region. The CEDAW Committee in its follow up recommendations recommends to all EaP countries the urgent improvement in addressing domestic violence and gender-based violence and ratification of Istanbul Convention.

The Istanbul Convention is the most advanced legal instrument in the world to combat violence against women and to promote women's human rights. The Parties to the Convention are obliged to prevent violence and protect victims, including through granting the police powers to remove the perpetrator from his or her home in situations of immediate danger, setting up a sufficient number of easily accessible shelters and crisis referral centres, and providing free 24/7 specialized helplines.

The Convention is the first treaty to adds value to the International legal framework by providing a legally-binding definition of violence against women as a violation of human rights and a form of discrimination against women. It sets the standard by defining the obligation of states "to prevent, investigate, punish and provide reparation for acts of violence perpetrated by non-state actors" (article 5 Paragraphe 2)¹

Also, state parties have to introduce a number of new offences where they do not exist. These may include: psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilization. In addition, state parties need to ensure that culture, tradition or so-called "honour" are not regarded as a justification for any of the above-listed courses of conduct.

The establishment of an independent expert group (GREVIO) responsible for the monitoring of the implementation of the Convention by the parties is one of the most important provisions of the Convention.

The Council of Europe is a key player in pushing forward the agenda of ratification/implementation of the Istanbul Convention and setting the bar highest in these areas.

At present, we are all going through difficult times when it comes to defending human rights and gender equality. Though, history has shown that such values as equality, inclusiveness, diversity, tolerance, and promotion and protection of human rights has always outlived very strong illiberal regimes and populist movements.

Regional collaboration and cooperation of women's human rights defenders, working for the same basic goal in various countries is the viable strategy for the success of elimination of violence against women.

¹ Istanbul convention <https://rm.coe.int/168046031c> p.9



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

Methodology

Gender Equality Network Eastern Partnership within the framework of the project: "Developing the joint advocacy plan of the EaP Forum, EaP National Platforms for the promotion of the prevention, protection and prosecution of the gender-based violence in EaP countries and the implementation/ ratification of Istanbul Convention" has conducted a survey that aimed study of the state responses to gender-based violence and domestic violence in EaP region.

The research methodology on the status of implementing policies to eliminate GBV and DV was outlined and the questionnaire developed by Dr Lia Nadaraia. The study was conducted by the member organisations of GeNEP: in Armenia - by Women's Resource Center Armenia, in Azerbaijan - by Women's Association for Rational Development, in Belarus - by Organization of Popular Education ABF Belarus, in Georgia - by "Women's Political Resource Center" Georgia, in Moldova - by Regional Association Mothers of Large Families and Women-Entrepreneurs of Gagauzia – NGO "Vesta" and Ukraine - by Center "Women's Perspectives".



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

LEGISLATIVE FRAMEWORK AND THE STATE POLICIES ON PREVENTION, PROTECTION AND PROSECUTION OF THE GENDER-BASED VIOLENCE AND DOMESTIC VIOLENCE IN ARMENIA

Women's Resource Center, Armenia
Yerevan 2019

Research is developed by Nvard Piliposyan



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



Content

INTRODUCTION	7
Background of the report	7
Scope of the Report	7
Notes on Methodology	7
LEGISLATIVE FRAMEWORK AND POLICIES	8
GBV and DV regulations in Armenian legislation	8
State Institutions that deal with GBV and DV in Armenia	9
PREVENTION	9
Trainings of professionals on GBV and DV	9
Regularly run awareness-raising campaigns on GBV and DV	10
Gender equality and non-violent conflict resolution issues coverage in teaching material of educational institutions	10
Treatment programs for perpetrators of domestic violence and for sex offenders	11
Government's work with NGOs	11
Involvement of the Media and private sector in eradication of gender stereotypes	11
PROTECTION	12
Powers of the Police to remove a perpetrator of domestic violence from his or her home: Statistics per year	12
Easy access to clear and concise information for victims of DBV and DV on available services, in a language they understand	12
Number of shelters for victims of GBV and DV in Armenia, their management and location	12
Availability of 24/7 telephone helplines available statewide and free of charge	13
Availability of easily accessible rape crisis or sexual violence referral centers: their quantity and management	13
Issues of definition and criminalization of various forms of violence against women as well as domestic violence	13
Are psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage; forced abortion, forced sterilization and Femicide criminalized after the adoption of GBV or DV legislation?	13
PROSECUTION	13
Work against "Honor" crimes	13
Effectiveness of investigation of allegations of GBV and DV in your country	14
Evaluation of the work of Law enforcement agencies in respect to DV and GBV	14
Carry out judicial proceedings in a manner that respects the rights of victims	14
Information about the convention of Council of Europe and the obstacles for ratifying the Istanbul Convention in Armenia	14
CONCLUSION	15

List of abbreviations



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

GBV – Gender Based Violence

DV - Domestic Violence

RA – Republic of Armenia

CEDAW – UN Convention on the Elimination of All Forms of Violence Against Women

UPR – Universal Periodic Review

Istanbul Convention - Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence

UNDP – United Nations Development Fund

CoE – Council of Europe

EU – European Union

ECHR – European Convention on Human Rights

ECtHR – European Court of Human Rights



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world

INTRODUCTION

Background of the report

Gender-based violence (GBV) is a grave violation of human rights. GBV against women is violence directed against a woman because she is a woman or that affects women disproportionately². Domestic violence (DV) is a form of physical, sexual, psychological or economic violence that occurs within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim³.

GBV is a global phenomenon. During recent years Armenian Government took legislative measures to prevent DV in Armenia. Particularly, the Law on Prevention of Violence in Family was adopted in 2017 and Istanbul Convention was signed in 2018. However, women in Armenia continue to suffer from negative gender stereotyping and different forms of gender-based violence. According to the Femicide Report of the NGO Coalition Stop Violence against Women in 2016-2017 in Armenia 12 cases of Femicide were registered.⁴

In 2018 Armenian elected new Parliament and new Government was formed as a result of so called “Velvet Revolution”.⁵ New Government seems to be more open and sensitive to the issues of GBV and DV and is ready to cooperate with civil society to improve legislative framework and policies on DV.

Scope of the Report

Within the scope of this research GBV and DV are addressed according to the definitions, mentioned above. Victims of GBV and DV can be not only women, but also men and children. However, in the scope of this Report GBV and DV against women are addressed more specifically.

The aim of the Research is to illustrate legal framework and policies of the Republic of Armenia on the issues of prevention, protection and prosecution of GBV and DV.

Notes on Methodology

The Research is conducted using the methodology of desk study of the legislative framework and policies and deep interviews with Government representative from the Ministry of Labor and Social Affairs, Member of Parliament and Independent gender expert. Focus group with participation of gender experts from EaP platform was quite limited in the number of participants, so only the results of deep interviews are considered for the purposes of this Research. Media coverage, reports of local and international NGO-s are also used as sources for the Research.

² Council of Europe Convention on preventing and combating violence against women and domestic violence Article 3 (d) available at: <https://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/090000168008482e>

³ Ibid Article 3 (b).

⁴ Coalition to stop Violence against Women <http://coalitionagainstviolence.org/hy/publication/femicide2018/>

⁵ See more on developments after Velvet Revolution https://hkdepo.am/up/docs/Armenia_Briefing_Book_Velvet_Revolution_and_Political_Developments_September%2013_2018.pdf

LEGISLATIVE FRAMEWORK AND POLICIES

GBV and DV regulations in Armenian legislation

Armenian legislation on gender equality and domestic violence is quite limited. In 2013 Law on Provision of Equal Rights and Equal Opportunities for Men and Women⁶ (hereinafter Gender Equality law) was adopted. While Gender Equality law has definition of “gender”, “gender discrimination” and “gender stereotypes” it does not cover the issues of gender based violence.

However, absence of the term in legislation was not an obstacle for having 2011-2015 Strategic Action Plan To Combat Gender-Based Violence⁷ and national action plans for each year from 2011 to 2015. After the adoption of the Gender Equality law and so called “Gender hysteria”⁸ Government decided to use the term “sex” instead of “gender” and National Action Plan on Gender Based Violence from 2014 was renamed as National Action Plan on Sex Based Violence.⁹ Armenian New Government on May, 2019, published the new Draft of Gender Policy Strategy and Action Plan 2019-2023, which includes also specific actions regarding VAW and DV.¹⁰

“Prevention of Family Violence, Protection of Persons Subjected to Family Violence, and the Restoration of Family Cohesion”¹¹ (hereinafter DV law) was adopted in 2017. DV law uses term “Violence in the family” instead of the term “Domestic violence” and defines it as physical, psychological, sexual, economical violence and neglect within the members of the family. Family members, according to the law, are husband and wife (including in non-registered so called “factual marriage”), ex-husband and ex-wife, parents (including step parents, adoptive parents and foster parents) etc. The fact of sharing an apartment or leaving together is not essential for the law. However, Armenian DV law does not cover intimate partner violence per se¹².

Armenian Constitution has provisions on legal equality of women and men (Article 30), on prohibition of discrimination (Article 29), on human dignity (Article 23) etc. According to the Constitution, the practice of the bodies operating on the basis of the ratified international treaties on human rights, shall be taken into account when interpreting the provisions concerning basic rights and freedoms enshrined in the Constitution.¹³ Armenia acceded to CEDAW in 1993 and to its Optional Protocol in 2006. Armenia is also a party to the ECHR since 2002 and subject to the jurisdiction of the European Court of Human Rights (EctHR). Armenia signed Istanbul Convention in the beginning of 2018 and Government

⁶ RA Law on Provision of Equal Rights and Equal Opportunities for Men and Women, adopted on 20.05.2013, available in Armenian online at <https://www.arlis.am/DocumentView.aspx?DocID=83841>

⁷ http://www.un.am/res/Gender%20TG%20docs/national/2011-2015_GBV_strategic_plan-Eng.pdf

⁸ <https://armenianweekly.com/2013/09/20/the-gender-equality-law-hysteria-in-armenia/>

⁹ <https://www.arlis.am/DocumentView.aspx?DocID=89727>

¹⁰ <https://www.e-draft.am/projects/1712/about>

¹¹ “Prevention of Family Violence, Protection of Persons Subjected to Family Violence, and the Restoration of Family Cohesion”, available in English, non-official translation <https://www.refworld.org/pdfid/5a6b2e274.pdf>

¹² Ibid, Article 4

¹³ Article 81 of Armenian Constitution, amended by 2015
<https://www.arlis.am/DocumentView.aspx?docid=108723>



representatives mention that Armenian Parliament will start the process of ratification as soon as possible¹⁴.

State Institutions that deal with GBV and DV in Armenia

According to the Gender Equality Law, Gender Equality Council had to be formed. The Rules of Procedure of the Council, adopted in 2015, state that the goal of the Council shall be coordination of implementation processes of strategic and tactical programs aimed at the issues inter alia related to gender-based discrimination and violence and at their regulation in all areas of public policy and at all levels of public administration.¹⁵ The Council was formed in 2015¹⁶, however it is not functioning properly.

Institutions dealing with DV are much more diverse. According to the DV law (Article 13), bodies and special institutions with mandate to prevent violence within the family and protect victims of violence within the family are: 1) Ministry of Labor and Social Affairs; 2) Police; 3) National Competent Executive Authority for education; 4) National Competent Executive Authority for healthcare; 5) Guardianship and trusteeship bodies; 6) Special institutions providing support to victims of violence within the family, including support centers and shelters. State and local authorities within the scope of their competences shall support the fight against violence within the family and collaborate in this area with the competent authorities.¹⁷

According to the DV law, the Council on Prevention of Violence in Family is formed, which is a consultative body to the Ministry of Labor and Social Affairs and provides to the latter recommendations on the national strategy for prevention of violence within the family, programs deriving from the strategy, legislative reforms, public awareness activities and other issues. In the Council there are also representatives from different state institutions and NGO-s. The first Council was formed in late December, 2018.¹⁸

PREVENTION

Trainings of professionals on GBV and DV

Trainings on raising awareness and gender sensitivity of Police officers, investigators, lawyers, prosecutors and judges have been providing in Armenia with financial support of international organizations (UN, CoE, OSCE previously) since the beginning of 2000s. However, more extensively the trainings were conducted after the adoption of the DV law. The law itself has provisions on the mandatory necessity of the trainings¹⁹ for the employees of shelters and support centers, for the police officers, especially on the issues of identifying the “immediate danger”, for the teachers and for doctors. With the support of CoE trainings were conducted for law enforcement representatives, police, prosecutors and judges. UNFPA also conducted trainings for professionals with the human resources of local NGO-s.

¹⁴ <https://hetq.am/en/article/103510>

¹⁵ Rules Of Procedure Of The Council On Issues Of Equality Between Women And Men In The Republic Of Armenia, http://www.un.am/up/file/Rules%20of%20Procedure%20of%20the%20Council_English.pdf

¹⁶ <http://www.un.am/up/file/Composition%20of%20the%20Council%20-%202015.pdf>

¹⁷ See 10 above

¹⁸ <https://www.e-gov.am/decrees/item/19679/>

¹⁹ Articles 14, 15, 16, 17 of the DV Law see 10 above





Chamber of advocates which offer trainings for the advocates (practicing licensed lawyers) didn't provide any training on the topic of DV or GBV since the adoption of the Law²⁰. President of the Chamber was publicly claiming that the draft law should not be adopted²¹ and has recently published his opinion on the unconstitutionality of Istanbul Convention²². This may be one of the reasons that these topics are not covered in additional training topics for advocates. Meanwhile, according to the law, victims of domestic violence have the right to seek free legal aid from the public defender's office (article 41 (5)(16) of the Law on Advocacy²³), which is a structural part of the Chamber of advocates.

Trainings for teachers and doctors are not provided yet, as there are no manuals on the materials they should be informed of. Representatives of the Ministry of Health and Ministry of Education mentioned during the Conference on Domestic Violence in May, 2019, that their agencies are working on the development of the procedures and materials for trainings.

Regularly run awareness-raising campaigns on GBV and DV

There are no state organized and regularly run awareness-raising campaigns on GBV or DV in Armenia. During the period of the adoption of the DV Law (2017)²⁴ Ministry of Justice was doing a media campaign for the advocacy of the importance of the law. Ombudsman's office in Armenia is doing awareness raising activities and trainings in the regions of Armenia since 2018. However, since the beginning of 2000s the main awareness raising activities have been conducted by NGO-s working in the field.

Gender equality and non-violent conflict resolution issues coverage in teaching material of educational institutions.

Educational materials in public schools do not cover Gender equality and non-violence conflict resolution issues. Academic courses on human rights and Healthy lifestyle have vague referrals to the issues of equality before the law, equality of men and women, reproductive and sexual rights. However, there are even textbooks that reiterate gender stereotypes and traditional roles of men and women.²⁵ During the Conference on Domestic Violence, Deputy Minister of Education Arevik Anapiosyan mentioned that the Ministry is working on the review of the textbook materials in public schools to make them more gender sensitive and less discriminative²⁶.

²⁰List of the topics of trainings for advocates available in Armenian:

<http://www.advocates.am/%D5%A3%D6%80%D5%A1%D5%A4%D5%A1%D6%80%D5%A1%D5%B6/%D5%BE%D5%A5%D6%80%D5%A1%D5%BA%D5%A1%D5%BF%D6%80%D5%A1%D5%BD%D5%BF%D5%B4%D5%A1%D5%B6-%D5%A2%D5%A1%D5%AA%D5%AB%D5%B6.html>

²¹ <https://www.aravot.am/2017/10/10/912570/>

²² <https://www.tert.am/am/news/2019/05/30/ara-zohrabyan/3012479>

²³ <https://arlis.am/DocumentView.aspx?DocID=123043>

²⁴ See as an example:

<https://www.facebook.com/mojarmenia/videos/vb.117883984992205/1452479011532689/?type=2&theater>

²⁵ Gender roles in Armenian textbooks for elementary schools, R.Tsaturyan 2012, available in Armenian, https://www.osf.am/wp-content/uploads/2014/01/Gender_roles_in_primary_school_textbooks-2012.pdf

²⁶ See more <http://coalitionagainstviolence.org/hy/6928/>





Treatment programs for perpetrators of domestic violence and for sex offenders

On the basis of the DV Law in November, 2018, RA Minister of Labor and Social Affairs adopted the program and procedure of the rehabilitation of the perpetrators of DV²⁷. However, as during the interview²⁸ mentioned Eleonora Virabyan, Chief Specialist of the Women Issues Department of RA Ministry of Labour and Social Affairs, funds from the state budget are not allocated for this program yet and she personally thinks, that in the situation of lack of budget, services provided to the victim should be prioritized. She also informed, that till now there was only one case, when perpetrator applied to the support center asking for rehabilitation. According to her, the possibility of referring perpetrators' rehabilitation programs to the State Probation Service of Ministry of Justice is being discussed now. There are no rehabilitation programs for sex offenders who are not perpetrators of domestic violence in Armenia.

Government's work with NGOs

Unlike the previous government, Armenian new government works closely with NGOs. Recently, the Draft of Gender Policy Strategy and Action Plan 2019-2023 was widely distributed and discussed with civil society organizations. DV conference, representatives of NGO-s are involved in the DV council. In May, 2019, National Conference on the Challenges and Opportunities of Prevention of Domestic Violence in Armenia, was organized by UNDP, RA Ministry of Labor and Social Affairs in cooperation with Coalition to Stop Violence against Women.²⁹ Representatives of NGO-s, working in the field of Women's Rights are involved also in the Council on Prevention of Violence in Family, which is currently working on the Strategy against Domestic Violence.

Involvement of the Media and private sector in eradication of gender stereotypes.

Media has a crucial role in eradication of gender stereotypes. Unfortunately, public media with high coverage has not been involved in the issues of gender equality and elimination of violence. These issues are covered only by several independent electronic media.

Member of Parliament Gayane Abrahamyan mentioned during the interview,³⁰ that media has essential role for right communication with the people on social issues. She mentions about the absence of legal tools to stop private media, especially TV channels, from broadcasting domestic violence scenes and reproducing gender stereotypes. Ms. Abrahamyan, mentioned, that amendment to the law on media are being prepared and they shall follow to include also provisions that would give us possibility to challenge the content which reproduces gender stereotypes.

New members and the head of the Council of Public TV and Radio Company of Armenia also mentioned the readiness to cooperate with civil society on the development of new programs and projects. However, the concrete topics that would be selected are not announced yet.

Involvement of business in eradication of gender stereotypes is quite limited in Armenia yet. Institute of Social Corporate Responsibility is not developed in Armenia and businesses

²⁷ <https://www.arlis.am/DocumentView.aspx?DocID=126674>

²⁸ From deep interview with Eleonora Virabyan which took place on 11.06.2019

²⁹ <https://armenia.unfpa.org/en/news/national-conference-domestic-violence-armenia-%C2%A0challenges-and-opportunities>

³⁰ From deep interview with Member of Armenian National Assembly (Parliament) from My Step political fraction which took place on 07.06.2019



prefer to make benevolent donations rather than work on gender stereotyping issues. However, there are several examples of involvement of business in gender equality issues.³¹

PROTECTION

Powers of the Police to remove a perpetrator of domestic violence from his or her home: Statistics per year

According to the DV law from June 30, 2018, the Police is granted the power to use 2 kind of measures in cases of DV: warning and emergency intervention (Article 5). The latter means that Police is entitled inter alia to remove perpetrator from his or her home for no more than 20 days. Warning decision should be made, if this was the first report and there is no imminent risk of violence (Article 6). According to the information, provided by Police representative during the National Conference in May, From June 30, 2018 till May, 2019, around 1600 cases of DV were reported.³² During the first 5 months of 2019, 695 cases were reported. Representatives of Women's Support Center, Ngo, working with victims of DV are concerned that in 75% of cases warning is used as a protective measure instead of emergency intervention³³, while warning has no positive effect, it is just making the perpetrator more violent.

Easy access to clear and concise information for victims of DBV and DV on available services, in a language they understand.

According to the DV law (Article 15) Police has the obligation to inform the person who has reported DV about his or her rights, to refer to the respective support center, if it is necessary. Support centers (Article 19) have the obligation to inform to the person, who applied to the center in a language the person understands (for the persons with disability in the way, accessible for them) about his or her rights and the procedures of seeking and getting protective measures. As the work of the support centers has quite short history (they started operating from the beginning of this year) there is no available monitoring or other data to evaluate the real effectiveness of these provisions.

Number of shelters for victims of GBV and DV in Armenia, their management and location

Currently only 1 shelter by NGO Women's Support Center is operation in capital Yerevan. According to the information, provided during the interview with Eleonora Virabyan, another shelter is planned to be opened by All-Armenian Fund. There are no Government run shelters in Armenia yet. There are 6 support centers in 3 main marzes of Armenia operating now. According to the Government plan till 2023 support centers shall be opened in all the marzes of Armenia.

³¹See for example, Hackaton against Gender Based Violence <https://coalitionagainstviolence.org/en/6716/>

³² <http://coalitionagainstviolence.org/hy/6928/>

³³ Ibid

Availability of 24/7 telephone helplines available statewide and free of charge

Armenia doesn't have Government run 24/7 telephone helplines statewide and free of charge. NGO Women's Support Center has hotline for DV victims and Sexual Assault Crisis Center – for victims of sexual violence. WSC gets around 2000 calls a year.³⁴

According to Eleonora Virabyan, hotline of the Ministry of Social Affairs 114 receives calls on DV issues and now they are planning to train call center specialists to answer also calls from DV victims and to refer them properly to support centers. Also the hotline of the Ministry of Emergency Situations 911 receives calls and they are planning to have specific trainings also for them.

Availability of easily accessible rape crisis or sexual violence referral centers: their quantity and management

There are no state run rape crisis or sexual violence referral centers in Armenia. Only one NGO, Sexual Assault Crisis Center provides psychological and legal assistance to the victims of sexual violence³⁵.

Issues of definition and criminalization of various forms of violence against women as well as domestic violence

DV law defines physical, sexual, psychological, economical violence and negligence as forms of domestic violence (Article 3). Definitions of psychological and economical violence are not very comprehensive, they do not include all forms of controlling behavior. However, the adoption of DV prevention law was not accompanied by amendments in criminal code. No additional, gender specific crimes were added to the RA Criminal Code. Despite the suggestions of civil society representatives, domestic violence wasn't added as an aggravating circumstance for crimes already existing in Criminal Code.

Are psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage; forced abortion, forced sterilization and Femicide criminalized after the adoption of GBV or DV legislation?

As mentioned above, no new crimes were introduced in Armenian Criminal Code after the adoption of the law. Armenian legislation lacks of criminal regulations for stalking, FGM, forced abortion, forced sterilization and Femicide. There are general crimes that may cover some of the actions, mentioned above, e.g. murder, causing harm to the health of the person, kidnapping of the person, etc. However, specific regulations are absent. The only amendment in criminal procedures after the adoption of the DV law was introduction of ex officio mechanism for the crimes of Domestic Violence.

PROSECUTION**Work against “Honor” crimes**

There are no official or non-official statistics on honor crimes in Armenia. Honor crimes are more associated with Muslim culture, which is almost absent in Armenia. Honor crimes are not identified as key problem in Armenia.

³⁴ <https://www.youtube.com/watch?v=Uf5838eDtpY&feature=youtu.be>
<http://coalitionagainstviolence.org/hy/6898/>

³⁵ www.saccarmenia.org



Effectiveness of investigation of allegations of GBV and DV in your country.

GBV and DV regulations are new and not properly implemented yet. DV law was adopted only 1,5 years ago and is in force fully only from the beginning of this year. GBV is not properly regulated in legislation. Investigation of allegations of GBV and DV in Armenia cannot be assessed satisfactory. This is admitted also by state bodies working in the field, who mention that a lot of work still needs to be done. Women continue to suffer violence and during the recent one year we already have a case of femicide by the person to whom emergency intervention order was already implemented.³⁶

From the other side, the international organizations and local NGOs have expressed their concern about the low level of reporting of incidents of violence against women. In its recent concluding observations also the CEDAW Committee “remains concerned about under-reporting of acts of gender-based violence against women by victims and the resulting lack of data” (CEDAW Committee 2016: 5).

Evaluation of the work of Law enforcement agencies in respect to DV and GBV

During the interview, MP of Armenian Parliament Gayane Abrahamyan also mentioned that in her opinion the work of Law enforcement agencies in respect to DV and GBV are not satisfactory. They need more trainings and raising of gender sensitivity. Most of the civil society organizations working in the field share this opinion.

Carry out judicial proceedings in a manner that respects the rights of victims

Despite the fact that significant amount of trainings were organized for the judges on the issues of GBV and DV, monitoring of DV cases continue to reflect non-sensitive approach by judges.

Information about the convention of Council of Europe and the obstacles for ratifying the Istanbul Convention in Armenia

There is a lot of manipulation and false information about Istanbul Convention in Armenia. Some people spread information that ratification of Istanbul Convention will legalize same-sex marriages and adoption of children by gay couples. This is a sensitive issue for the society and it is very easy to manipulate with people's emotions. Historical problems of Armenia with Turkey is also used to claim that as the Convention is called “Istanbul Convention” it is a danger to our nation brought by Turkish Government. All these manipulations do not leave place for healthy discussions on the real issues and problems that Istanbul Convention addresses. As mentioned above, Government on the level of the Minister of Labor and Social Affairs has already announced its readiness to start the process of ratification of the Convention.

From the other side, advocates and lawyers, who usually are struggling for human rights in line with civil society, are relatively passive in Armenia. Particularly, president of Chamber of Advocates publicly announces that Istanbul Convention is in contradiction with the notion of family in our Constitution, as allows same sex partners to benefit from the same protective measures as for the family members.

According to the MP from Governing fraction Gayane Abrahamyan the main obstacles for ratification process are intentional manipulations with patriarchal stereotypes and insufficient developed institutions working on GBV and DV. Gender experts mention that lack of political will is not essential obstacle now, Government is eager to start the process of ratification and governing party in the parliament will most probably support them.

However, manipulations and patriarchal culture and stereotypes are a serious obstacle to the process.

³⁶ <https://www.evnreport.com/raw-unfiltered/domestic-violence-an-imperfect-law-and-enduring-stereotypes>





EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern Partnership 

CONCLUSION

Armenia is on the beginning of its path of struggle with GBV and DV. Thanks to the work of local and international NGO-s a significant part of the population have admitted that DV and GBV are an issue in Armenia that need to be dealt with. However, both legislative framework and policy regulations are far from being effective for protection of women from GBV and DV. Armenian legislation needs significant changes to be in consistent with Istanbul Convention requirements.



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

REPORT

ON LEGISLATIVE FRAMEWORK AND THE STATE POLICIES

ON PREVENTION, PROTECTION AND PROSECUTION

OF THE GENDER-BASED AND DOMESTIC VIOLENCE

IN AZERBAIJAN

Prepared by Shahla Ismayil



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world

About the Report	3
Abbreviation	4
Introduction	5
Part 1. Prevention	5
Part 2. Protection	5
Part 3. Prosecution	13
Conclusion	17

About the Report

This report has been prepared on the request of *Moldova-based Regional Association Mothers of Large Families and Women-Entrepreneurs of Gagauzia "Vesta"* – NGO "Vesta" within the project “*Developing the joint advocacy plan of the EaP Forum, EaP National Platforms for the promotion of the prevention, protection and prosecution of gender-based violence in EaP Countries and the implementation/ratification of the Istanbul Convention*” with the financial support of European Union.

The report is based on the information, collected through 3-month desk-research, Focus Group Discussion with civil society representatives and 3 Key Informant Interviews, held in Baku, Azerbaijan. The aim of the research was to reveal the measures implemented by the state parties (and other actors of the society) to prevent, protect and prosecute gender-based violence and domestic violence in Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. The report is developed in coherence with the structured questionnaire, which was a part of the assignment.

The research had certain limitations in time and variety of verification tools, therefore, the research is mainly qualitatively driven, and however, some quantitative data has also been used to supplement the qualitative study, to allow for more reliable and deeper insights into the existing situation.



EASTERN PARTNERSHIP
Civil Society Forum



Abbreviation

BSU	Baku State University
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CSO	Civil society organisation
DV	Domestic violence
EU	European Union
GBV	Gender-based violence
GFP	Gender Focal Point
GONGO	Pro-governmental NGO
IOM	International Organisation of Migration
MG	Monitoring Groups on Domestic Violence
MLSP	Ministry of Labor and Social Protection
NGO	Non-governmental organisation
NGO Council	Council on State Support to NGOs under the auspices of the President of Azerbaijan Republic
SCFWCA	State Committee on Family, Women and Children's Affairs
VAW	Violence against women
WARD	Women's Association for Rational Development



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



Introduction

Violence against women is a global phenomenon that constitutes grave violation of fundamental human rights of women as well as restricts their equal and full participation in society. The phenomenon represents an obstacle to the development and maintenance of a stable and equitable nation. Gender-based violence (GBV) and domestic violence (DV) take place in all societies both at the time of war and peace; it is based on devaluation of women's lives and coercion.

In Azerbaijan, which continues to strive for stability and progress, it has become clear that the issue of violence against women has yet to be fully acknowledged and addressed by both the Government of Azerbaijan and other stakeholders through funding and program development. Although the Law on Prevention of Domestic Violence was adopted in 2010 in Azerbaijan and a series of measures are being undertaken by the government to protect and promote women's rights, there is still no holistic and comprehensive approach at the level of prevention, protection and prosecution.

The concluding observations and recommendations of the UN CEDAW Committee, issued to the government of Azerbaijan in March 2015 (latest review of Azerbaijan was held on 18 February 2015) contained 7 concrete recommendations in relation to GBV and DV for implementation before the end of 2018.

PART 1. Prevention

1.1. How does the Law regulate GBV and DV in Azerbaijan?

The Law on Prevention of Domestic Violence in Azerbaijan, adopted in 2010, defines and regulates actions aimed at prevention from violence committed through abuse of close relative relations, current or past cohabitation and its negative legal, medical and social outcomes; provision of legal assistance and social protection of persons aggrieved from domestic violence; as well as eradication of conditions giving rise to domestic violence.

This Law defines the below measures to be taken in case of domestic violence:

- provide victim with immediate medical aid, temporary shelter in a support center, clothing and food at public expense, as well as forward information to the relevant executive authority for conducting a course of psychological rehabilitation;
- ensure prevention of violence and its non-recurrence, and provide for security of the victim during the examination;
- decide about issuance of a protective order;
- serve a person who has committed actions associated with domestic violence a warning of non-recurrence with explanation of responsibility established by law and give a short-term protective order to the victim;
- take actions to protect rights and legal interests of juveniles suffering from domestic violence;
- apply to the court for termination or restriction of parental rights of a person who has committed actions associated with domestic violence in the manner established by law.

1.2. Which State Institutions deal with GBV and DV in Azerbaijan?

The State Committee on Family, Women and Children's Affairs (SCFWCA) is a key institution to ensure achievement of gender equality. SCFWCA has an active role in reviewing



legislation, policies and state programs to mainstream gender equality³⁷. Notably, the Committee participated in the elaboration of *Azerbaijan-2020: Look into the Future Development Concept* to ensure that gender quality was included as a cross-cutting theme. The Concept states that: “The main direction of the state policy in this sphere will be to take measures to prevent gender violence, create equal opportunities for women and men on the labour market, promote women at work and expand their opportunities to occupy leading positions.”³⁸

Azerbaijan’s so-called State National Women’s Machinery also includes Gender Focal Points (GFPs) since 2000, assigned to each ministry and government agency to support the gender mainstreaming into the respective institution.

Besides, in 2015 there were established DV Monitoring Groups (MG) under local Executive Authority offices, that was a significant step in the right direction. While the existence of infrastructure is acknowledged, some serious concerns remain in the area of MG operation, monitoring criteria, transparency, accessibility, availability, efficiency, existence of performance indicators.

In addition, MGs are performing their operations in the unfavorable legal environment – the work of MGs are not stipulated by the legislation, moreover, the Law on Gender Equality (2006) and Law on Domestic Violence (2010) still lack the mechanisms for implementation, even Action Plans for implementation do not exist. The work of MGs is regarded as the public initiative and is not paid from the budget, that add up the challenges for the lack of resources. The other institution with jurisdiction over gender equality issues is the Commissioner for Human Rights (or Ombudsperson). Women who face violations of their rights may bring their complaint to the Ombudsperson. The Ombudsperson, who has oversight of the implementation of human rights provisions, can receive and investigate complaints of human rights violations by individuals and legal entities.

1.3. Are trainings of professionals on GBV and DV conducted in Azerbaijan? – If yes, who provide the trainings? (Government, NGOs International organisations, UN agencies)

The training courses for professionals (judges, police, social counsellors) on GBV and DV are conducted, however, the conducted training is not regular or systematic. There is little information about the conducted training by the government (no possibility to monitor and evaluate the efficiency of such training courses, if any). Furthermore, various training courses on gender-related issues as well as human rights protection mechanisms are conducted for GFPs of state institutions to improve their understanding of women’s rights protection.

Meanwhile, there is significant reduction of all types of activities, including the capacity-building activities, by the international or national NGOs. The reason for that is the shrinking space for civil society in Azerbaijan, made through the restrictions in legislation, that automatically deteriorates the financial viability of the organisations and the impact on the scope of activities. The efforts of UN agencies in this regard are also occasional, as the implementing partners of UN projects in Azerbaijan used to be predominantly NGOs.³⁹

³⁷ State Committee for Family, Women and Children’s Affairs (SCFWCA). Republic of Azerbaijan. 2013. CEDAW: Fifth periodic report of States parties. New York

³⁸ Azerbaijan-2020: Look into the Future Development Concept. Republic of Azerbaijan. 2016.

³⁹ Focus Group Discussion with representatives of civil society, 02 July 2019



1.4. Are there regularly run awareness-raising campaigns on GBV and DV in Azerbaijan? – If yes, who provide the campaigns (Government, NGOs International organisations UN agencies)

State agencies are putting special emphasis on awareness-raising programs, seeing it as a major way to eliminate violent behavior against women. While the importance of awareness-raising activities can hardly be denied, such an approach that focuses solely on raising awareness ignores the complexity of structural factors behind violent behavior, which are embedded within historical, political, and economic contexts. These include the politics of sexism and male supremacy.

Awareness-raising alone reduces violence to a cultural problem, occurring largely due to the 'backwardness' of Azerbaijani men who should be educated and given awareness-raising trainings to stop beating their partners and wives to death. Another dominant approach, which is interrelated with the emphasis on raising awareness, are the attempts to explain gender-based violence by claiming that 'women themselves do not know their rights'. Such an approach, in turn, individualises the responsibility for the violence and attributes, it to the victims themselves and their ignorance.

Nevertheless, a variety of awareness-raising initiatives are conducted in Azerbaijan, with the initiative of government, UN agencies and NGOs. One of the most persistent initiatives is the 16-Days Campaign against Violence against Women, which embraces different and multiple awareness-raising activities that are usually organised jointly by UN agencies in cooperation with the government, NGOs and media outlets on the importance of prevention and protection of GBV in Azerbaijan.

1.5. Are issues such as gender equality and non-violent conflict resolution included in teaching material of educational institutions in Azerbaijan?

There is no discipline on gender equality or non-violent conflict resolution in school curriculum in Azerbaijan. The only higher education institution having the gender equality in curriculum is Baku State University (BSU), which has the Gender and Applied Psychology Department and the discipline on gender equality as well as studies on Ombudsman are included in curricula of all faculties of BSU. Besides, there is the Gender Department at the National Academy of Sciences of Azerbaijan.

1.6. Are there treatment programs for perpetrators of domestic violence and for sex offenders introduced in Azerbaijan? If yes, who provide the trainings? (Government, NGOs International organisations UN agencies)

Currently there are no treatment programs for perpetrators of domestic violence and for sex offenders in Azerbaijan.

1.7. Does the Government work closely with NGOs?

No, the government does not work closely with NGOs, especially after 2014. As a matter of fact, there has always been the tension in relations of the state and non-governmental sectors. But in 2014 there happened the cruel crackdown on civil society in Azerbaijan; repeated amendments have been made to the Law on Grants, Law on NGOs, Law on Registration of Legal Entities and State Registry as well as to the Code on Administrative Offenses of Azerbaijan significantly limiting the legal operation environment for civil society in the country. Moreover, there started an unprecedented wave of investigations in the offices of national and foreign CSOs with subsequent interference into the activities of the organisations, freezing of bank accounts, and unjustified refusals for registration of the grant contracts. The year 2014 witnessed extreme state measures in the form of arrests of leaders of



several CSOs (all human rights organisations) or travel bans for the leaders and activists of some CSOs as well as journalists⁴⁰. The shrinking space for civil society has become one of the most acute issues in the country; numerous international organisations and governments urged the government of Azerbaijan to improve the situation in the area of registration, operation and funding of NGOs, however, no improvement at the legal level has been made so far.

Thus, the government has very biased approach to the NGOs in general with the exception of a group of the so-called GONGOs. Similarly, the sectors, working closely with the government (such as academic or business sectors) are reluctant to cooperate with NGOs, except for a few trusted ones.

As a matter of fact, the deterioration of the legislative environment for civil society downgraded the work of international organizations and UN agencies in Azerbaijan too, as the amendments affected the donor's operation and funding conditions too. Over 50 international organizations, including OSCE, Save the Children, World Vision, IREX, NDI and others closed down their offices in Azerbaijan. The UN agencies, which are the remainders of the international community in the country, operate with NGOs based on service

1.8. Is the media and private sector involving in eradication of gender stereotypes?

Since the mainstream media constitutes one of the major sources of information on violence, and plays a significant role in shaping public opinion on this issue, there is no predominant gender-sensitive approach in the media. On contrary, very often women are presented in the media as inherently vulnerable and helpless, they are also usually blamed for being maltreated by men. Journalists do their best to satisfy readers' curiosity in seeking answers to the question on "what has she done wrong to deserve this?"

Besides, various types of media outlets and journalists seek to classify violence against women into different categories, depending on the relationship of the survivor/victim with the perpetrator. Thus, if a crime is committed by a husband, it is termed as an act of 'family tragedy'. Whereas, if the act of violence is committed by a lover, then it is termed as a 'love crime'. This depoliticises the issue and isolates crimes against women from the wider political and socio-economic context, creating favorable conditions for such crimes.

Violence against women is also misused for sensationalist media representations: 'Journalists tend to play up the extraordinary, dramatic, tragic, etc. elements in a story to enhance its newsworthiness'. In some instances, the perpetrators of violence were 'out of control' while committing the crime due to either being 'mentally sick' or having consumed alcohol. Such a representation contributes to the opinion that any particular instance of violence is an aberration or exceptional case, shielding readers from the acknowledgement of 'the role they, as society, had in altering the patriarchal systems that would permit such behaviors'.⁴¹

As to the private sector, there exist certain unwritten restrictions in the private sector, that undermine the sound legislative protection of working women's rights in comparison with public sector. For example, some employers in small private companies avoid hiring newly married women, because they do not want to provide paid maternity leave (formal employment), look for a substitute (informal employment) or allow mothers of small children

⁴⁰ See CSO Sustainability Index Reports for 2014, 2015, 2016, 2017, USAID.

⁴¹ Violence Scale: Femicide in Azerbaijan. WARD, 2017

to take time off work if a child gets sick. Questions about pregnancy or marriage plans are asked during job interviews, and are believed by most respondents to negatively impact the chances of women candidates. It is important to note, that such treatment violates the Article 7 of national Law on the Guarantees of Gender Equality (Equality between Men and Women), which prohibits unequal treatment in employment.⁴²

PART 2. Protection

2.1. Is the granted the power to remove a perpetrator of domestic violence from his or her home: if yes what is the statistics of granting protective orders to offenders of GBV and DV per year in Azerbaijan?

The Law provides for short-term (30 days) and long-term (30–180 days) protective orders. However, a long-term order is predicated on the prior issuance and violation of a short-term order, and authorities rarely issue short-term protective orders. Even when issued, protective orders have little effect and are “basically a piece of paper.”⁴³

Implementation of these orders is poor due to resistance and lack of knowledge on the part of systems actors. There is lack of guidance, such as protocols and trainings, in this area.

Executive authorities are local state committees appointed to handle non-criminal matters. Under the Law, they issue warnings, grant short-term protective orders, and apply to the court for long-term protective orders. Short-term protective orders are rarely effective because the responsibility to issue them lies with the local executive authority, rather than law enforcement. Domestic violence is a public safety issue, and law enforcement—rather than executive authorities—should be charged with responding to and investigating these cases. While law enforcement can work together with local executive authorities, primary responsibility should lie with police.⁴⁴

Police is granted the power to remove the perpetrator, but the number of the issued protective orders is so few, that women’s rights lawyers keep mentioning the lack of usage of this tool. Safety of the survivors remains to be a problem, as the authorities, when issuing protective order, may be reluctant to order an offender out of the home because of his property rights.⁴⁵

2.2. Do survivors of GBV and DV have easy access to clear and concise information on available services, in a language they understand. If yes, who provides the information? (government, NGOs, international organisations, UN agencies)

Survivors of GBV and DV can obtain information about the available services in a few non-governmental NGOs, working on GBV and DV. Usually, this information is in Azerbaijani language, but rarely some organisations, such as Women’s Association for Rational Development (WARD) also has this information in other languages, when serving to non-Azerbaijani migrants.⁴⁶

⁴² *Gender Assessment Report, Women in the Private Sector of Azerbaijan: opportunities and challenges, 2018, Swiss Cooperation Office and UNDP, 2018*

⁴³ *Focus Group Discussion with representatives of civil society, 02 July 2019*

⁴⁴ *Key Informant Interview, 03 June 2019*

⁴⁵ *Key Informant Interview, 04 June 2019*

⁴⁶ “Women’s Rights: 50 answers to 50 questions”, “Domestic Violence: 50 answers to 50 questions”, “Early Marriages: 50 answers to 50 questions”, WARD’s publications in 4 languages (Azerbaijani, English, Russian, Farsi), since 2008

However, there is a need for a more holistic and comprehensive approach as there is lack of service provision and coordination. For example, the Ministry of Labor and Social Protection of Azerbaijan (MLSP) is mandated to provide social protection (including certain social benefits/allowances to the survivors of domestic violence), to provide them with jobs and relevant training to enter new professions, and to establish support centers and to provide temporary shelters for the survivors of domestic violence. However, the MLSP accredited ten NGOs to provide social services to the survivors of domestic violence and advises to refer to their website for additional information on this matter. The procedure to receive the accreditation is biased and non-transparent. Moreover, the accredited organisations experience difficulties with the lack of resources (infrastructure and funding) to provide the due service to the survivors of DV.⁴⁷

2.3. How many shelters are there for victims of GBV and DV in Azerbaijan? How many shelters are run by Government and how many by NGOs? Where are they located in: big cities, regional centers, rural areas?

Article 19 of the Law on Domestic Violence provides for the establishment of rehabilitation centers at the expense of the government, including shelters for survivors of domestic violence. The SCFWCA established eleven support centers for children and families in the regions of Aghdam, Gabala, Goranboy, Goygol, Hajigabul, Ismayilli, Saatli, Sabirabad, Shuvalan, Zaqatala and Zardab. However, none of these provide shelter to survivors of domestic violence. According to the SCFWCA's website, the scope of activities of these centres is limited, with awareness-raising activities being the primary focus.

Among ten NGOs accredited by MLSP of Azerbaijan for the provision of social services to survivors of domestic violence, only two are running shelters – one in Baku and another one in Ganja. One of them and the most wide-known is “Clean World – Aid to Women” Public Union, which provides the following services:

- Rehabilitation and Reintegration Center for victims of trafficking;
- Intervention Center for survivors of DV;
- Psychological Center;
- Legal Clinic for survivors of GBV;
- 24/7 telephone helpline for survivors of GBV.

Another further organisation provides shelter to women subjected to violence – it is in fact a children's organisation, originally providing shelter to children, however, under certain conditions the organisation also provides shelter to women with children. Two more organisations (one in Baku and another in Sumgait) have run shelters in the past, but have been recently forced to cease their operations due to the lack of financial support and are now providing legal and psychological assistance to survivors of domestic violence. Two of these organisations, both of which are based in Baku, are no longer very active since their heads have received job offers from other government agencies. This complicates their involvement and work with these organisations. The remaining three organisations (two in Ganja and one in Baku) provide either psychological or legal counselling, or a combination of both, depending on the availability of funds.

All three shelters, and an organisation in Sumgait, specialised in the provision of psychological and legal assistance to GBV survivors, experience great difficulties due to the

⁴⁷ Key Informant Interview, 04 June 2019



problem of under-funding. These organisations mainly function thanks to personal donations and in-kind help provided by some international organisations such as the International Organisation of Migration (IOM). The latter also covers the costs of providing legal services at the shelter in Ganja. None of these organisations receive any financial aid from the government, except for one organisation in Ganja, which was able to receive some support from the Council on State Support to NGOs under the auspices of the President of Azerbaijan Republic (NGO Council), however, all these resources were dedicated to paying for rent. It is worth noting that two of the organisations that provide shelter services are compelled to make payments for renting accommodation that they use as shelters. One of these organisations has on several occasions appealed to the local executive authority requesting that they allocate a building for the shelter, to no avail. Other than rental expenses, all of these organisations also incur utility costs and the electricity bill alone can sometimes reach as much as 260 AZN⁴⁸ (while the national living wage for 2019 is 180 AZN).

Moreover, the legal amendments, made in 2014, 2015 and 2016 significantly limited NGO access to foreign funding. Given that the scope of funding that can be provided by the governmental agencies is limited and that government grants are to a great extent subject to the recipient's loyalty to governmental policies, many NGOs have seen funding shortfalls. As a consequence, they have been forced to limit the scope of their activities. This applies to women's organisations too, therefore, the activities are mostly non-sustainable and fragmentary.

2.4. Are the 24/7 telephone helplines available state wide and free of charge in Azerbaijan?

There is no state-run telephone helpline specifically for survivors of DV or GBV, however, there is a number of emergency telephone helplines available state wide and free of charge in Azerbaijan, namely the 24/7 telephone helplines for fire (101), police (102), ambulance (103), gas (104), electricity (199), State Migration Service (919), Ministry of Emergency Situations (112). As a rule, survivors of GBV and DV call to 102, i.e. police to seek for assistance.

From NGOs, only NGO Clean World – Aid to Women has 24/7 hotline for survivors of GBV and DV.

2.5. Are there easily accessible rape crisis or sexual violence referral centers? If yes, how many? How many shelters are run by Government and how many by NGOs.

Currently there is no rape crisis or sexual violence referral center run by the government. For more information about the shelter see Question 2.3.

2.6. Does the law define and criminalises the various forms of violence against women as well as domestic violence in Azerbaijan?

No, non-criminalisation, specifically of such forms of violence as domestic violence, stalking and marital rape restricts women's access to justice. The Law on Domestic Violence does not guarantee immunity (this is evidenced by the fact that even in spite of the received "warrant of protection" women are subjected to domestic violence). There is no specific offence of domestic violence in the criminal law legislation, even if in CEDAW's General Recommendation No. 19(24)(r), the Committee declares that states parties are obligated to adopt laws against family violence and abuse.

⁴⁸ *Violence Scale: Femicide in Azerbaijan. WARD, 2017*



It should be noted that the Criminal Code includes several crimes such as deliberate murder (Article 120), causing someone to commit suicide (Article 125), deliberate causing of serious harm to health (Article 126), deliberate causing of less serious harm to health (Article 128), torture (Article 133), threat to murder or causing of serious harm to health (Article 134), rape (Article 149), and violent actions of a sexual nature (Article 150). Many domestic violence crimes would fall under one of these categories. However, it would be more effective for the prevention and prosecution of domestic violence to include it in the Criminal Code as a specific crime or at least as an aggravating circumstance to any other crimes.

2.7. Has the state introduced a new offense where they do not exist in past including:

- **psychological and physical violence;**
- **sexual violence and rape;**
- **stalking, female genital mutilation;**
- **forced marriage;**
- **forced abortion;**
- **forced sterilization;**
- **Femicide**

Azerbaijani legislation had the *forced sterilization* as an offense from the past; the offenses of *psychological and physical violence* (only at the level of domestic violence) and *forced marriage* were newly introduced in 2011.

The remaining *sexual violence and rape, stalking, female genital mutilation, forced abortion, femicide* are not reflected in the legislation as offences.

PART 3. Prosecution

3.1. What work is provided against “Honor” crimes

There exist strong and persistent positive perceptions of “honor” crimes in Azerbaijan and “prisoners of honor”, e.g. a man, who killed his wife for adultery or a son, who killed his mother for dating another man after his father’s death or a father, who killed his daughter for spending night away from home, are well-respected in prisons with the label of “a reputable killer”. Unfortunately, the society is still more likely to maintain the ‘traditional thinking’ as the patriarchal attitudes in the society dominate.⁴⁹

But a more dangerous part of this issue is that media also largely supports the “honor crimes” by publishing such articles in a sympathetic tone. Since journalists are socialised within dominant patriarchal structures and ideologies, they contribute toward the normalisation of sexist oppressive attitudes towards women, including through their reports on extreme instances of violence against women (VAW).

Besides, the images accompanying news reports on murders of women and extreme instances of VAW tended to either normalise violence by desensitising readers to violence or sexualising and eroticising VAW. In the first case, news reports were presented in a dramatic way by accompanying them with key images portraying injuries and blood. When images of a victim were not available, news reports were accompanied by violence stock photos. According to several studies, continued exposure to such violent images ‘decreases empathy as a part of the desensitisation process’ (Mrug, Madan, Cook, and Wright, 2015: 3). De-

⁴⁹ Key Informant Interview, 03 June 2019

sensitisation is defined as the diminished emotional and physiological responsiveness following repeated encounters with violence (Fanti and Avraamides, 2011). This, in turn, results in decreased levels of sympathy with the victims and reduces the probability of offering them help. In sum violence becomes normalised for the society and its images no longer have a mobilising impact upon public collective consciousness.⁵⁰

Only a few remaining women human rights organisations continue working against “honor crimes” mostly through awareness-raising (with society) and public advocacy (with the government).

3.2. To what extent is effective investigation of allegations of GBV and DV in Azerbaijan?

Unfortunately, there is not a very effective system of investigation of allegations of GBV and DV in Azerbaijan and the reasons are partially lying in the problems of the Rule of Law, i.e. there is no fair trial in the country. While another part preventing the effective investigation is the closedness of the families to reveal the cases and to share with all the details, often regarding them as family issue in cases of DV especially, which is a solid obstacle for investigation as well as for getting the justice for the cases.

3.3. How will you evaluate the work of Law enforcement agencies in respect? (promoting violence, unsatisfactory, satisfactory good and excellent)

Unsatisfactory

3.4. Does they carry out judicial proceedings in a manner that respects the rights of victims in Azerbaijan?

The men-dominated law enforcement agencies do not always carry out the judicial proceedings in a manner that respects the rights of survivors in Azerbaijan. Partially it happens for the lack of knowledge and due skills to communicate with survivors accordingly; partially it is related to the dominance of gender-based stereotypes and perceptions that the law-enforcement try to assign to the case, e.g. “calm down” the women to tolerate the issue as it is a family affair and “everything happens in the family, there is no need to immediately complain to police”.⁵¹ Much also depends if this case happens in the capital or regions, as apparently rural women experience more taboos and restrictions in the local communities when everyone knows everyone. Although there are reported the cases when some policemen track families where DV occurred; predominantly the police, the overwhelming majority of whom are men, also is more likely to scrutinize women’s behavior rather than the violent actions of the perpetrators.⁵²

3.5. Are you informed about the convention of Council of Europe?

Although, there is little awareness of the Istanbul Convention in society in Azerbaijan, generally, the women’s rights community is well-informed about the Istanbul Convention of the Council of Europe. WARD is one of the organisations, which has been advocating for the signature and ratification of the Istanbul Convention by the Azerbaijani government; that has also been reflected in Concluding Observations and Recommendations of the UN CEDAW Committee to Azerbaijan from the latest review of Azerbaijan on 18 February 2015. As a matter of fact, out of 6 EaP countries Azerbaijan is one of the two remaining ones (the second

⁵⁰ *Violence Scale: Femicide in Azerbaijan. WARD, 2017*

⁵¹ *Focus Group Discussion with representatives of civil society, 02 July 2019*

⁵² *Ibid.*

is Belarus), that neither signed, nor ratified the Istanbul Convention so far and the women's rights organisations and defenders in Azerbaijan keep raising this issue with the government. The issue was also approached by the Azerbaijan National Platform of EaP Civil Society Forum, which in 2018 addressed the letter to the President of Azerbaijan with the request to ratify Istanbul Convention.

3.6. What are the obstacles for: signing/ratifying the Istanbul Convention in Azerbaijan? (luck of political will from the national government, reluctance to provide financial resources for implementing the provisions of convention, Patriarchal culture/ stereotypes, corruption, passive civil society and insufficient developed institutions working on GBV and DV?)

The major obstacle for signing and further ratifying the Istanbul Convention is the lack of political will, that is mainly related to the reluctance of the government of Azerbaijan to undertake a new set of international commitments. Azerbaijan is already facing the urgent calls to be more respectful to its international commitments in front of numerous international and multilateral institutions, especially the ones in relation to the human rights issues. In addition, the implementation of the Istanbul Convention is costly, especially the part in relation to the establishment and maintenance of the adequate infrastructure, including the shelters, might be a burden for Azerbaijan, which has entered the so-called "post-oil" period and did not manage to adequately diversify the economy for the high level of corruption in the country. Yet another reason is the lack of enabling environment of the work of civil society in Azerbaijan, that would fail to contribute to the implementation if the Istanbul Convention is ratified, as after the 2014 CSO crackdown in the country the civil society is largely damaged and does not have sufficient resources for sustainable operation.

However, from the information obtained from the SCFWCA, some necessary arrangements to sign and further ratify the Istanbul Convention in the near future has been undertaken, although there will be some reservations on the implementation of some articles of the Istanbul Convention.⁵³

Meanwhile, the women's rights organisations keep advocating on the commitments of the government (current and future), e.g. in addition to the Istanbul Convention, the government also plans to adopt the National Action Plan under UNSCR 1325, the first draft of which was prepared by WARD in cooperation with the government in 2017 and has been modified repeatedly ever since. It is expected that the NAP 1325 will have been adopted by the end of 2019.

⁵³ Key Informant Interview, 05 June 2019



Conclusion

In Azerbaijan over the past 2 decades, several very important steps have been taken for promoting gender equality agenda. The state women's machinery has been formed and the legislative base of Azerbaijan in terms of gender equality has been strengthened. The Gender and Applied Psychology Department at BSU has been opened and discipline on gender equality is being taught in all the faculties of BSU. The Gender department has been functioning at the National Academy of Sciences.

However, despite all the taken steps, there are still many gaps in ensuring the gender equality in practice and eliminate GBV and DV in Azerbaijan.

First of all, there should be implemented holistic and comprehensive approach to raise awareness in general to eliminate the gender-based stereotypes and patriarchal attitudes that limit the opportunities of women and girls. The general course on gender equality and non-violent conflict resolution should be introduced at all educational institutions at all levels (pre-school, school, high school, universities) of the country as well as the conduct of broad educational activities throughout the country, preferably at the state level in cooperation with women's NGOs is highly recommended.

Second, the implementation of the existing legislation and further improvement of the related laws should be ensured. Thus, the legislation of Azerbaijan should fully comply with UN standards, domestic violence offences should be incorporated into criminal law legislation. New offences on forced sexual violence and rape, forced abortion, femicide should be introduced to the legislation. The Istanbul Convention should be signed and further ratified by the government of Azerbaijan without further delay.

Third, the National Action Plans on the implementation on the Law on Gender Equality and the Law on Domestic Violence should be developed and adopted. The NAP under UNSCR 1325 should be adopted as soon as possible too.

Fourth, the infrastructure for survivors of DV and GBV should be strengthened and further developed, i.e. creating state-managed hotlines and maintaining official statistics (although formally the Database System is created, it is not working well yet) on major issues (domestic violence, trafficking, etc.) can be a big step forward to ensure gender equality in the country. Also, specific treatment programs for perpetrators of DV and for sex offenders should be introduced in Azerbaijan. In parallel, it is important to allocate sufficient resources for capacity-building of the professionals (e.g. police, judges, social counselors) to conduct their duties with respect to survivors of DV and GBV.

Furthermore, it is highly recommended to ensure the well-coordinated institutional work, namely, namely to coordinate interagency responses among the health, social protection, police, and justice sectors. Once created, the referral mechanism should create guidelines on identification of DV, trainings, capacity-building, and link all the agencies together in the response to domestic violence.

Overall, to fully eliminate the GBV and DV it is necessary to promote gender equality, ensure its institutional mainstreaming, solve the problems of women's employment and increase the level of women's representation in the political and public life of the country. Increasing women's economic independence is a key prerequisite for women's empowerment and participation.

Finally, these and other problems can be solved by the Azerbaijani government only with the proper involvement of all interested parties, in particular, in cooperation with the country's



civil society. Therefore, the creation of favorable conditions for registration, work and financing of NGO sector in Azerbaijan, is one of the fundamental conditions for the elimination of GBV and DV in the country. Therefore, it is extremely important to keep the advocacy on favorable operation environment for donors and NGOs in Azerbaijan high in agenda, as without the support of civil society it is not realistic to advocate properly and further to implement the Istanbul Convention after ratification. Neither it is possible to have the proper level of awareness-raising, monitoring, reporting, advocacy and networking activities without the substantial input of civil society, namely the women's rights organizations and women human rights defenders. Thus, the cancellation of all amendments, made after 2013 to the Law on NGOs, Law on Grants, Law on Donation and Administrative Code of Azerbaijan Republic, should be advocated and achieved.



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

**Review of measures implemented by state bodies and
other stakeholders to counter domestic violence and
gender-based violence in the Republic of Belarus,
including preventive measures, protection of victims and
prosecution of aggressors.**



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



Introduction

This review was prepared as part of a study aimed at examining the situation of domestic and gender-based violence in Eastern partnership countries. The study was implemented in the framework of the project "Developing the joint advocacy plan of the Forum of the EaP, the EaP National Platforms for the promotion of the prevention, protection and prosecution of the gender based violence in the EAP counties and the implementation/ ratification of Istanbul Convention".

The review includes analysis of publications on the topic of domestic violence, analysis of sites of stakeholders. Interviews and consultations were conducted with stakeholders (UNFPA, NGO, BNP, EAP CSF, gender expert community), there six people took part.

Context

The system of combating domestic and gender-based violence in Belarus continues to be developed. This applies both to the legislative framework of the Republic of Belarus and to the system of assistance and the practice of prosecuting aggressors.

For the first time the problem of violence against women was raised in Belarus in 1994 during the International Congress "Women – family – society". After some time, the country began to create the first help lines, crisis centers, shelters, to conduct the first research. Social and international organizations have taken on a significant part of the burden of providing assistance to women victims of domestic violence. Then the problem of domestic violence was recognized by the state, the first "crisis" rooms for victims of domestic violence and victims of human trafficking began to open in the Republic. In 2002, an attempt was made by women's organizations to initiate discussions on the need for a special Law on the prevention of domestic violence. For the first time at the legislative level, the concept of "domestic violence" appears in the Law of the Republic of Belarus "On the basics of crime prevention" (10.11.2008), where it is defined as intentional actions of physical, psychological, sexual nature of a family member in relation to another family member, violating his rights, freedoms, legitimate interests and causing him physical and (or) mental suffering.

The main achievements of the Republic of Belarus in combating domestic violence are the following:

A mechanism of interdepartmental cooperation of specialists has been developed in providing assistance to victims of domestic violence at the district level. The practice of issuing protective orders has been introduced. A model of work with male aggressors, which includes an algorithm of actions for individual and group work with family aggressors as a part of a comprehensive work to combat domestic violence in the country. A network of "crisis" rooms has opened at the state territorial centers of social services to assist victims of domestic violence. The work of a network of non-profit organizations was supported that work in this direction. A hotline for victims, and a website on combating domestic violence was launched: www.ostanovinasilie.org. An assessment was made of the country's readiness and capacity to accede the Istanbul Convention on preventing and combating violence against women and domestic violence.

In 2016-2018, the country came very close to the development of a separate specialized law on the prevention of domestic violence. Within the framework of the ICC project, the Ministry of internal Affairs established a working group to study the best international



experience of existing legislation and law enforcement practice for the development of the Concept of Law and the project of Law on prevention of domestic violence.

All this work was facilitated by the joint efforts of like-minded people representing different state institutions, public associations, independent experts. In addition, during 2012-2018 financial resources were raised and international technical assistance projects were implemented aimed to improve the national capacity to combat domestic violence.

The main problems that stakeholders face in implementing these activities are:

The country does not yet have a separate law on domestic violence. There is no state body responsible for coordinating efforts to combat domestic violence at the national level. The growing number of "crisis" rooms does not yet correspond to the development of their potential. The understanding, interpretation and therefore the provision of assistance to victims of domestic violence vary from one area of the country to another, demonstrating the lack of a systematic approach. The leading role at the national and at the regional level belongs to the Ministry of internal Affairs and the Ministry of labour and social protection. Other government agencies are less involved.)

Capacity-building programmes for specialists, realized to respond appropriately on domestic violence often face obstacles such as high staff turnover, too wide a range of responsibilities and a lack of awareness of legal measures and existing practical assistance tools. There is a need for further specialization of services, in particular, that meets the needs of groups such as the elderly, people with disabilities. There is no defined circle of specialists and organizations that could carry out corrective work with male aggressors.

Legislation

The Republic of Belarus does not yet have a separate law on the prevention of domestic violence. The norms of the Criminal code and the code of the Republic of Belarus on administrative offences are aimed at not prevention, but at eliminating the consequences of the incident, and begin to act after the fact of committing violence. The Belarusian state has no right to interfere in private life before the fact of committing violence at the stage of its prevention.

At the moment, the solution to the problem of domestic violence in the Republic of Belarus is regulated by the following legal documents:

1. Constitution of Belarus;
2. Criminal code of the Republic of Belarus;
3. Code of the Republic of Belarus on administrative offences;
4. Marriage and family code of the Republic of Belarus;
5. Civil Code Of The Republic Of Belarus;
6. Law of the Republic of Belarus "On the basics of crime prevention»;
7. Law of the Republic of Belarus "On social services".

A complete list of normative legal acts regulating the activities of the internal Affairs bodies for the prevention of domestic violence can be found in the Collection of normative legal acts regulating the activities of the internal Affairs bodies for the prevention of domestic violence, prepared within the framework of the international technical assistance project "Improving the national capacity of the state to combat domestic violence in the Republic of Belarus" (2014).

The legislative base of the Republic of Belarus regulating the issues of domestic violence:

According to the National action plan for gender equality in the Republic of Belarus for 2017-2020, the legislation on combating domestic violence is improving. In addition to the existing concept of "domestic violence" and the competence of the state bodies and organizations for the prevention of domestic violence in the Law of the Republic of Belarus of 4 January 2014 "On the basis of activities on crime prevention" (the national legal Internet portal of the Republic of Belarus, 15.01.2014, 2/2120) included a new measure of individual prevention of offences, and the imposition of protection orders. The Ministry of the interior and the Ministry of labour and social protection have implemented international technical assistance projects with the support of the United Nations population Fund (UNFPA) on gender-based violence. Within the framework of these projects, considerable work has been done on the preparation of the concept of the Law on the prevention of domestic violence. The development of this law was included in the 5th national action plan. Thanks to the joint efforts of stakeholders (UNFPA, MIA, civil society organizations), the concept was prepared and it was expected that the law will be adopted in 2018. However, the bill was rejected after criticism of the head of state. This was preceded by a wave of indignation from a number of religious and Pro-life organizations.

Currently, the dialogue of stakeholders on domestic violence and changes in the legislation of the Republic of Belarus continues. Thus, on March 26, 2019, a round table on assistance to victims of domestic violence was held in Minsk with the participation of the Belarusian Orthodox Church, the Roman Catholic Church in Belarus and the state administration of the Republic of Belarus. The meeting was organized with the support of the United Nations population Fund (UNFPA) in the Republic of Belarus to exchange experiences on practical mechanisms for assistance to victims of domestic violence, as well as to resume dialogue on improving the legal framework. The event was attended by representatives of the Ministry of internal Affairs of the Republic of Belarus, the Ministry of labour and social protection of the Republic of Belarus, the Belarusian Orthodox Church and the Roman Catholic Church in Belarus.

Civil society has not remained indifferent to the situation with the adoption of the law on combating domestic violence. Initiative group "March, baby!" self-organized on the very day when the Concept of the law on combating domestic violence was criticized by the President of the Republic of Belarus and automatically pushed into the back drawer. In a closed group "March, baby!" Facebook were added 2,000 people in two days. A collective petition was created for the development and adoption of universal bill on combating domestic violence in the Republic of Belarus of an effective, which was signed by more than 3,500 people to the 16.06.2009. In early June, a representative of the initiative met with foreign Minister Vladimir Makei on the importance of drafting a law to combat domestic violence in Belarus. The action team proposes:

- Establish a working group in Parliament to draft a bill to combat domestic violence
- Include in the plan for the preparation of draft laws for 2020 the development of a comprehensive law on the prevention of domestic violence
- Invite the UN special Rapporteur, Dubravka Simonovich, to rapport on violence against women, its causes and consequences.

Institutional environment

The law of the Republic of Belarus "On the basics of crime prevention" establishes the legal and organizational basis for the prevention of crimes related to domestic violence and establishes the main forms of participation of state bodies (organizations), other organizations and citizens in the implementation of this activity.

Chapter 1. Art. 17. Basic preventive measures to prevent domestic violence

- Local Executive and administrative bodies, in cooperation with the internal Affairs bodies, health authorities, state health organizations, education authorities, educational institutions, labour, employment and social protection bodies, social service institutions and other organizations, take measures to identify and eliminate the causes of domestic violence and the conditions conducive to it, organize activities to assist victims of violence.

Local Executive and administrative bodies, in cooperation with the internal Affairs bodies, education authorities, educational institutions, labour, employment and social protection bodies and other organizations, provide information and education on the prevention of domestic violence, organize training, retraining and advanced training of specialists in the prevention of domestic violence.

- Local Executive and administrative bodies take decisions on the establishment of state organizations and their structural units to provide temporary shelter services to citizens affected by domestic violence, and take measures, if necessary, in accordance with the procedure established by the Council of Ministers of the Republic of Belarus, to provide temporary accommodation for citizens against whom a protective order has been issued.

- Social service institutions, other state organizations and their structural units that provide social services to citizens affected by domestic violence keep records of data on assistance to citizens affected by domestic violence, compile, systematize and analyze the information received.

- The internal Affairs bodies, in cooperation with social service institutions, other state organizations, their structural units that provide social services to citizens affected by domestic violence, state health care organizations, educational institutions, organizations that operate the housing stock and (or) provide housing and communal services, within their competence, carry out preventive measures to identify the facts of domestic violence and citizens who commit domestic violence.

- The internal Affairs bodies keep records of offences committed by family members against other family members, compile and systematize the information received.

- Prosecutor's offices, internal Affairs bodies, local Executive and administrative bodies, other state bodies, state health organizations, educational institutions in order to protect the rights, freedoms and legitimate interests of children within their competence shall prepare materials for the adoption in the prescribed manner of decisions on the recognition of citizens with limited legal capacity, on the removal of a child without deprivation of parental rights or deprivation of parental rights, on the use of coercive security measures and treatment of citizens, suffering from mental disorders (diseases).

The internal Affairs bodies and the Prosecutor's office explain to citizens who have suffered from domestic violence their right to apply for a criminal case or an administrative offence, inform them about the organizations in which assistance is provided to victims of domestic violence, as well as within their competence, prepare materials for the adoption of decisions



on bringing citizens who commit domestic violence to administrative or criminal responsibility in accordance with the established procedure.

- State health organizations provide medical and psychological assistance to citizens affected by domestic violence, notify other subjects of crime prevention in accordance with their competence about the committed violence in the family, provide information on citizens affected by domestic violence and citizens who have committed domestic violence, who are provided with medical care in accordance with the established procedure.

Protocols of interdepartmental cooperation between labour, employment and social protection bodies, internal Affairs, education and healthcare organizations have been approved in all regions of Belarus. Recommendations on the organization of work with victims of domestic violence have been developed and sent to the committees on labor, employment and social protection of regional Executive committees, Minsk city Executive Committee. The protocols of interdepartmental interaction include public organizations as equal partners.

Prevention

Training on gender-based and domestic violence is conducted in accordance with the National plan of action for gender equality, as well as within the country programmes of United Nations agencies – the United Nations development Programme (UNDP), The United Nations children's Fund (UNICEF) and the United Nations population Fund (UNFPA) for 2016-2020.

According to the National plan of action for gender equality, materials on the basics of gender knowledge have been introduced into the subject of training courses for civil servants, managers and specialists of the education system, social protection, health care, law and other areas. However, this work needs to be improved. The National plan provides implementation of measures for improving the level of competence of specialists from educational institutions on gender issues, expertise of gender textbooks. Information on gender equality will be included in the developed textbooks being on subjects. According to p. 42. Annexes of the National action plan for gender equality in the Republic of Belarus for 2017-2020. (Activities of the National action plan for gender equality in the Republic of Belarus for 2017 – 2020), it is planned to include in the plans (programs) training of employees of internal Affairs bodies, lawyers, judges, prosecutors the study of prevention and combating gender-based violence (with emphasis on domestic violence). Executors - Ministry of internal Affairs, Ministry of justice, Supreme Court, Prosecutor General's office, National bar Association, UNICEF, UNFPA.

Training of public officers on gender-based domestic violence is regularly provided through international technical assistance projects supported by UNFPA. The organizers of a number of training events for civil servants are public organizations within their own programs and projects.

As part of the implementation of international technical assistance projects on combating gender-based violence by the Ministry of the interior and the Ministry of labour and social protection, with the support of UNFPA, a large-scale awareness-raising campaign was carried out with the participation of cultural figures and famous athletes, and a nationwide hotline for victims of domestic violence, info line on safe migration and the prevention trafficking of persons. Preventive actions "Stop violence", "Safe neighborhood", a special complex event "Life" were also widely discussed in the media. The Republican preventive action "House



without violence!“ and the information campaign ”16 active days against domestic violence“ take part in information campaigns with the participation of state bodies, public associations and international organizations. Government agencies, NGOs, UN structures.

With the support of the United Nations Children's Fund (UNICEF), the Ministry of education of the Republic of Belarus has published a manual for teachers of General secondary educational institutions "Early prevention of domestic violence" . The manual presents the development of two cycles of training sessions on the prevention of domestic violence for students in the 10th and 11th grades of General secondary education. The manual consists of two sections. Each section includes 4 topics of training sessions. Section 1. The cycle of training sessions for students of 10th grade institutions of General secondary education Theme 1. "Conflicts in the family (and not only)" Theme 2. "Say No to domestic violence!" Topic 3. "Teenagers today – parents tomorrow" Theme 4. "Children and cyberspace" Section 2. The cycle of training sessions for students of the 11th grade institutions of General secondary education. Theme 1. "Interaction in conflict" Theme 2. "Family without violence" Theme 3. "Secret of happiness" . Theme 4. "Real danger in the virtual world."

On the website "Stop violence!"(<http://ostanovinasilie.org/>), created and supported within the framework of the UNFPA in a project "Improving the national capacity of the state to counter domestic violence in the Republic of Belarus", a number of materials posted on the topic, including the results of studies, analytical reviews and manuals for specialists. More than 15 publications on domestic violence and violence against women published in the Republic of Belarus are presented on the website of the National library of Belarus in the list of references to the thematic book exhibition "Violence against women: problems and ways to overcome" (2016).

Systematic work on the development of a model of therapy for aggressive men in the Republic of Belarus was launched in 2013 within the framework of the international technical assistance project "Development of the national capacity of the Republic of Belarus to combat domestic violence in the context of achieving gender equality", implemented by UNFPA together with the Ministry of labour and social protection. In 2017, this work was continued within the framework of the international technical assistance project "Strengthening of national capacity in the field of combating gender-based violence (with emphasis on domestic violence) in the Republic of Belarus", implemented jointly with the Ministry of internal Affairs of the Republic of Belarus with the support of the UK Government.

Within the framework of these projects, a national model of integrated work with male aggressors has been developed. The model includes the basic document of intersectoral cooperation, which contains a complete sequence of actions for specialists from the territorial center for social services, employees of social service institutions, health care, education, employees of internal Affairs. The correctional programme for male aggressors is based on the Duluth model and is based on the conviction that domestic violence is the aggressor's choice. The work with the victim and the aggressor is carried out comprehensively. The issue of interaction between services and organizations and the quality of joint work is essential here, in order to ensure the safeness of the victim (this is an absolute priority of such programs).

In Minsk, correctional work with male aggressors, based on the National model, is carried out in the state institution "Minsk city center for social services for families and children". Individual work has been started since 2015, and group work has been started since 2016.

Correctional work is also carried out in Grodno, Brest, Baranovichi, Kobrin district, Borisov district, Volkovysk district. The experience of correctional work is also broadcasted in other territories. Specialists are trained in the principles of National work and methods of work with male aggressors. However, in many localities, there is a lack of resources and expertise to organize such work in a systematic manner.

Within the framework of the international technical assistance project "Strengthening national capacity in the field of combating gender-based violence (with emphasis on domestic violence) in the Republic of Belarus", a manual "Analysis of experience of working with male aggressors was published, who shows violence against their loved ones in the Republic of Belarus". The manual describes the principles and methods of working with male aggressors in accordance with the National model. The manual also outlines the difficulties faced by the implementation of the National model of work with male aggressors in Belarus, a number of recommendations is being developed.

Public associations are actively involved in the prevention of domestic violence, some of them are included in the protocols of interdepartmental interaction as equal subjects (for example, Public Association "radislava", International public Association "Gender perspectives", International public Association "Understanding", MOO SOS-Children's villages). Cooperation with partner structures and organizations is based on the protocols of interdepartmental cooperation on assistance to victims of domestic violence, approved by the Executive committees. The Protocol defines the mechanism of interaction of officials, as well as the procedure for providing assistance to victims of domestic violence. In the event of an emergency situation when it is necessary to obtain information about the aggressor and transfer the information to the partner organization that works with the victim of violence, the reference to the Protocol of interaction significantly speeds up and simplifies communication with public service employees. The existence of a Protocol of interaction greatly simplifies communication with ordinary employees of partner organizations and state officers, for example, in the organization of preventive measures and the organization of informing employees from organizations about the specifics of the correctional program for aggressors.

The network of non-profit organizations for combating domestic violence was established within the framework of the international technical assistance project "Improving the national capacity of the state to combat domestic violence in the Republic of Belarus". The main objective of its activities was to strengthen the influence of non-profit organizations of the Republic of Belarus in preventing and combating domestic violence at the national and regional levels through strengthening partnerships and consolidating efforts to address the problem of domestic violence. As of August 2013, the network consisted from 19 organizations.

Currently, the network has been transformed into a "Platform" for advocacy of the interests of victims of domestic violence. Five women's non-profit organizations have come together to attract attention to the problems that make it difficult to solve domestic violence. The PLATFORM is an expert community of organizations working in the field of prevention of violence against women and domestic violence, engaged in advocacy of women's interests.

The Belarusian national platform of the Eastern partnership civil society Forum is also a platform for advocacy, including on the topic of gender equality and combating domestic violence. The EAP CSF BNP adopted a Gender policy at the last conference and plans to hold meetings with a wide range of stakeholders to discuss joint advocacy actions on this topic.

Media and gender stereotypes.

As a part of the implementation of technical assistance projects by the Ministry of the interior and the Ministry of labour and social protection, a large-scale media awareness-raising campaign has been carried out.

The discussion of various aspects on the exploitation of gender stereotypes and the use of hate speech in the media has been quite intense in the activist and journalistic communities in Belarus over the past few years. Thanks to mainly activist projects, the relationship between social exclusion practices, gender-based violence and the work of "words that hurt" in the media becomes more clear. Such initiatives and projects as "Journalists for tolerance", media Criticism, YSU center for gender studies, DOTYK, MAKEOUT, Identity and law – not only made the problem of using the language of hostility visible in the media space, but also drew media attention to the importance of applying the principles of gender-sensitive journalism in practice.

Protection of victims of domestic violence in the Republic of Belarus.

For a more successful response to domestic violence and protection of victims are introduced new elements of the legislation, such as protection orders. More than 5.5 thousand protective orders were issued in 2018. About 90 % of the issued prohibitions are associated with the order of the offender to leave the jointly occupied living space for a period from 3 to 30 days. In addition, on the initiative of the Ministry of internal Affairs, since January 31, 2018, changes have been made in the legislation: now, if the aggressor violates the order, administrative responsibility includes a punishment up to 15 days of arrest.

Art. 31. A restraining order

Protective order is the establishment of a citizen who has committed domestic violence, restrictions on the Commission of certain actions.

The protective order is applied after the issuance of the decision on the imposition of an administrative penalty for an offense under articles 9.1, 9.3, 17.1 of the Code of the Republic of Belarus on administrative offenses committed against a family member, a citizen to which the official warning was provided on the bases of paragraphs from the third to fifth part of the second part of Art. 26 of this Law is issued. In this case, the protective order is applied within a year after the announcement of such an official warning, for which preventive registration is carried out on the grounds provided in paragraphs three to four of part two of Art. 28 of this Law.

A protective order shall be issued to a citizen in written form by the head of the internal Affairs body or his Deputy within three days from the date of getting the decision to impose an administrative penalty for an offense under articles 9.1, 9.3, 17.1 of the Code of the Republic of Belarus on administrative offenses committed against a family member.

The protective order to the citizen concerning whom it is taken out, it is forbidden:

to make attempts to find out the place of stay of the citizen (citizens), the victim (victims) from violence in a family if this citizen (citizens) is (are) in the place unknown to the citizen who has committed violence in a family;

to visit the location of a citizen (citizens), the victim (victims) of domestic violence, if the citizen (citizens) is temporarily (are) outside of the joint residence or place of stay with a citizen, in respect of which a protective order is issued;

to communicate with a citizen (citizens), victims (victims) of domestic violence, including by phone, using the global computer network Internet.

A protective order, with the written consent of an adult citizen (citizens) who has suffered from domestic violence, obliges a citizen who has committed domestic violence temporarily to leave the common dwelling with a citizen (citizens) who have suffered from domestic violence and prohibits the disposal of common joint property.

The protective order with establishment of the duty and the ban specified in part five of this article is coordinated by the relevant Prosecutor in the absence of the written consent of the citizen (citizens), the victim (victims) from violence in a family if this citizen (citizens) is (are) depending on the citizen concerning whom the protective order is taken out, or for other reasons is not capable (capable) independently to protect the rights and legitimate interests.

Website "Stop the violence!" www.ostanovinasilie.org it is an information platform for citizens who find themselves in a situation of domestic violence: victims and aggressors, as well as all those who are not indifferent to this problem. The resource contains contacts of organizations providing assistance to victims and aggressors, the legislative framework governing the issues of solving the problem of domestic violence in Belarus and other countries. This resource provides an opportunity to ask a question to a psychologist and a lawyer and get an answer within 24 hours, as well as to get acquainted with the experience of specialists working on this problem through the blog on the website.

Website www.ostanovinasilie.org it was created as part of a joint initiative of UN agencies "16 active days against violence against women" and for several years functioned as a blog. The resource has been improved during the implementation of international technical assistance projects "Improving the national capacity of the state to counter domestic violence in the Republic of Belarus" and "Developing the national capacity of the Republic of Belarus to counter domestic violence in terms of achieving gender equality". The administrator is the public Association "Belarusian Association of young Christian women".

In the system of labour, employment and social protection bodies of the Ministry of labour and social protection of the Republic of Belarus, a network of non – stationary social service institutions has been established and is being developed, represented in each administrative region by the territorial centre for social services (TSSS) - 146 TSSS. There are also 2 city centers of social services for families and children in Minsk and Gomel.

According to the Approximate regulations on the Territorial center of social service of the population approved by the Resolution of the Ministry of labor and social protection of Republic of Belarus of 17.09.2007 N 114, in structure of the Centers offices of social adaptation and rehabilitation are provided. The Centers provide psychological and legal assistance to victims of domestic violence, as well as social support. In order to provide assistance to persons in crisis (threat to health and life condition, in conflict with other family members subjected to psycho-physical violence, victims of trafficking), in the Department of social adaptation and rehabilitation to create a "crisis room".

"Crisis room" - a specially equipped room of the Center, full of all kinds of housekeeping equipments (if possible with a separate entrance) and designed to provide, if necessary, persons in crisis, temporary stay. It is possible to stay in such centers for up to 10 days or more if the centre's management gives permission. In addition to victims of domestic violence, social orphans, victims of economic violence or others in need often live in the crisis room, such as in the city of Moscow. Gomel, where the decision of the local authorities was settled family, which burned down the house. As of January 1, 2019, there are 132 "crisis" rooms in the Republic.

In addition, shelters have been established in the Republic by public associations and religious organizations. Thus, under the Union of sisterhoods of mercy of the Belarusian Orthodox Church there is a shelter in Lida (Grodno region), in Minsk there is a shelter of NGO "Radislav". Public Association "SOS-Children's village" gives shelter to women with children in Mogilev, Borovlyany and Marina Gorka.

Information on the work of crisis rooms is available on the websites of state institutions. Contact phone numbers and descriptions of the centers' services can be found on the websites of the regional Executive committees. The national hotline for victims of domestic violence 8-801-100-8-801 was opened on August 13, 2012 on the basis of the international public Association "Gender perspectives" within the framework of the international technical assistance project "Improving the national capacity of the state to combat domestic violence in the Republic of Belarus". Consultants of the line render the qualified psychological, legal, social and information help to any adult who is exposed to domestic violence. The hotline receives phone calls daily from 8 to 20 hours. On Tuesdays and Saturdays on the line is on duty lawyer, the rest of the days is a psychologist. The call to the hotline is free of charge from a landline. You can also call subscribers of mobile operators to the number 8-801-100-8-801. In this case, the call is paid according to the tariffs of connection with the fixed network.

Information stands and websites of health care organizations contain information about the medical consequences of violence, about the possibilities of state health organizations that provide psychiatric (psychotherapeutic, psychological) assistance in the prescribed manner, about the structural units of the psychiatric service, where you can get the necessary psychiatric (psychotherapeutic, psychological) assistance, about the possibility of obtaining emergency psychological assistance by phone "Helpline".

In each region of the Republic and the city of Minsk organized and operates an emergency psychological assistance service by phone "Helpline", emergency psychological assistance by phone is free of charge, anonymously.

The problem of violence is defined in the current legislation of Belarus as a General problem without taking into consideration the specifics of domestic or gender-based violence.

Belarus has criminal and Civil codes, the Code of administrative offences, which contain a number of articles defining measures of responsibility for the implementation of unlawful acts of violence against the person – bodily harm, rape, torture, murder. However, practice shows that some forms of violence are not actually criminalized if they are committed in the family. For example, if a man raped a woman – he is brought to justice, but if he committed sexual violence against his wife, then both in the public consciousness and among law enforcement officers this problem is not taken seriously. In other words, certain types of violence prohibited under criminal or administrative law, if committed within the family, are treated differently from those committed outside the family. This circumstance actualizes the need to adopt special legislation on the prevention of domestic violence.

There are no such concepts as forced marriage, forced abortion, persecution, sexual harassment, which are necessary for the protection of victims of gender-based violence in Belarusian legislation. Some of these phenomena, such as forced marriage, female circumcision, are not inherent in the culture of Belarusian society, but there are certain ethnic groups that face this problem. So far, Belarus has not been confronted on a large scale with new types of gender-based violence, such as female circumcision, forced marriage, honour killings, as far as the influx of migrants who are carriers of such phenomena is currently not large.

Prosecution of aggressors.

The Council of Europe Convention on preventing and combating violence against women and domestic violence of 2011 (Istanbul Convention) is an international reference point for Belarus in this regard. Violence against women and domestic violence is described here as a violation of human rights, discrimination on the basis of gender. The Convention places family violence in the category of absolute crimes for which the consent of the victim is not required to initiate a process.

Belarus has not yet ratified the Istanbul Convention. The problem is solved by a set of legal acts, the Foundation of which is the Law "On the basics of crime prevention", adopted in 2014 (hereinafter – the Law).

Article 1 of the Law defines the concept of "domestic violence" – intentional actions of physical, psychological, sexual nature of a family member in relation to another family member, violating his rights, freedoms, legitimate interests and causing him physical and (or) mental suffering. Further, article 17 of the Law establishes the main preventive measures – to identify the facts, to summarize and systematize information, to take measures to identify and eliminate the causes of domestic violence. There are four direct measures of prevention in the Law: preventive conversation, official warning, preventive registration, protective order.

The definition of domestic violence, which is given in the Belarusian legislation, reduces the number of persons who may suffer from domestic violence, and does not distinguish such form of violence as economic. The aggressor can be prosecuted under certain articles of the administrative and criminal code (hereinafter-the CC), depending on the type of the committed act and its severity.

Most often are used such articles of the CC, connected to domestic violence:

- Art. 147 "Intentional infliction of grievous bodily harm»;
- Art. 149 "Intentional infliction of less serious bodily harm»;
- Art. 153 "Intentional infliction of light bodily injury»;
- Art. 154 "Torture»;
- Art. 186 – "Threat of murder, infliction of grievous bodily harm or destruction of property".

Statistics indicate the following number of crimes related to domestic violence: about 2.5 thousand crimes per year. If we talk about serious crimes – murders, serious injuries, almost every third or fourth crime is committed by loved ones who live together.

From the crimes, related to domestic violence, about 80% are classified as not representing a greater public danger or less serious. These are cases of private or private-public prosecution. Here is a requirement of the victim to bring the offender to justice. If there is no such requirement, there will be no punishment, people can reconcile at any stage of criminal process up to the resolution of a sentence. So people, having reached to injuries, death threats, shed all responsibility.

Cases of private prosecution – a criminal case, which is initiated by the person affected by the crime, or his representative, by filing out in the district (city) court an application for committing a crime against him.

In other words, the woman acts as an investigator and prosecutor in one person, in other words, actually she exercises the powers of the criminal prosecution body: she must collect arguments confirming the guiltiness of the person in the execution of the crime, witnesses statements; apply for the appointment of an examination, bear court costs, etc.

In such cases, the absence of a victim (private prosecutor) during the judicial proceedings causes the termination of the criminal proceedings. In addition, the case of private prosecution may be terminated in the situation of a reconciliation with the offender, which happens in most cases.

The situation in cases of private prosecution is also aggravated by the fact that the victim is not always ready to apply to law enforcement agencies to protect her rights. However, in those cases when a woman still decides to do so, there is a new "barrier". So, if there are signs of Art. 153 of the CC "Intentional infliction of light bodily damage" this means, that criminal proceedings may be instituted by the injured themselves by going to court.

Article 153 of the CC is a vivid example of physical violence, the consequences of which are not only injuries, but also post-traumatic stress. A woman who has suffered from a socially dangerous act, in addition to the fact that it is necessary to cope with the above consequences, it is also necessary to perform procedural actions to collect evidence, write a statement to the court, defend her position in court, while receiving another psychological trauma due to the newly experienced situation of domestic violence.

Private prosecution in situations of economic violence.

According to the CC, some offences against property relate to cases of private prosecution if committed by family members, close relatives of the victim or other persons whom she reasonably considers to be close. Among such compositions:

- "Theft" (Art. 205 of the CC);
- "Fraud" (Art. 209);
- "Theft of a vehicle" (art. 214), etc.

In these cases, it is even more difficult for a woman to bring the perpetrator to justice. So, in addition to the fact that she needs to make a correct application to go to court, you need to know which court she needs to apply to. In the statement it is necessary to state also all circumstances of a crime; data on the person who committed it, and the proofs confirming guilt of the person in Commission of crime; the list of the persons who are subject to a call in court session as witnesses; data on the translator, the expert, the expert and other persons who need to be called in court session. In addition, it is necessary to assess the property that was stolen or damaged depending on the committed act. All this requires sufficient legal knowledge and additional material costs.

Thus, in most cases, it becomes a stumbling block for women in the protection of their rights, because she may not have enough money. Or a woman, comparing the monetary costs of litigation with their income and the need to provide for children and themselves, can simply abandon litigation.

The time resource also plays a role in this case. Thus, it is almost impossible to collect all the necessary evidence, taking into account their own work, housekeeping and childcare. Given this, women are more likely to just leave things as they are, and do not address.

Most of the offences are private prosecution cases for which the aggressor can be prosecuted. On the base of the analysis of the types of criminal charges in the courts, as well as taking into account the specifics of cases of domestic violence, it can be noted that the consideration of cases of domestic violence as a private prosecution is a serious legislative obstacle for the protection of women from domestic violence. This obstacle is manifested in the following.

1. Often in private prosecution cases, it is not physically possible for a woman to prove the guilt of the aggressor. It happens due to the fact, that victim, in most

cases, lives together with the aggressor during this period of time and, as a rule, has economic dependence on him (is on maternity leave, has a joint housing with the aggressor or does not have the right of ownership at all in the occupied apartment / house, etc.). This dependence increases the likelihood of not completing the case. Moreover, in such circumstances, the situation of domestic violence can also worsen and lead to even more aggravating consequences (deep psychological trauma; physical disability; death, etc.).

2. Another important factor in resolving such cases is the low level of legal literacy of the victim. Largely due to ignorance of their rights, administrative procedures, legislation, etc. leads to the fact that the latter does not even attempt to go to court, and, moreover, the conduct of the case of private prosecution.
3. The initiation and conduct of a private prosecution case entails certain material costs that may not be feasible for the victim. For example, the services of a lawyer; application; valuation of property; examination, etc.
4. In addition, it is necessary to take into account the time spent on the collection of evidence; presence at court sessions. After all, a woman may simply not have free time due to the introduction of domestic work, child care, work in principle.
5. The above-mentioned circumstances together lead to repeated psychological traumatization of a woman (living with the aggressor in the same house; meeting with him at court sessions).
6. The transfer of cases of domestic violence from private prosecution to private-public or public prosecution would make the protection of women more effective (for example, at the time of the inspection of the crime and the court sessions, a woman could undergo a course of social rehabilitation, receive legal assistance: to clarify the procedure for divorce, division of property, the procedure for collecting alimony, etc.), on the one hand. On the other hand, it would save the victim from unnecessary contact with the aggressor; she would not have to assume the role of a criminal prosecution body. Changes in legislation on the subject would allow women to speak about their situation in the family and not be afraid of being denied assistance and protection.

The participation of the Ministry of internal Affairs in international technical assistance projects and the active role of the Ministry in the preparation of the concept of the draft law on combating domestic violence shows a high level of their interest in solving the problem. Respondents from international organizations and civil society organizations working with the problem of domestic violence in Belarus confirm the high level of interest of law enforcement agencies in solving the problem of domestic violence.

However, the lack of adequate legislation, the lack of resources and the necessary infrastructure to protect victims and isolate aggressors, the imperfect system of administrative penalties (fines), as well as the lack of qualified professionals to work with both victims and aggressors, does not make the work of the internal Affairs bodies effective, although some progress has been observed.

Prospects for signing the Istanbul Convention.

In the framework of the international technical assistance project, implemented by UNFPA jointly with the Ministry of interior and other national partners, was the analysis

of the willingness and the ability for countries to accede to the Istanbul Convention. The analysis showed that there are no significant obstacles to possible accession in the existing legislation. Lawyers see 12 gaps in the legal regulation of the problem. In particular, the definition of "domestic violence" should be expanded to include former spouses (cohabitants) and close relatives, and the concepts of "economic violence" and "threat of violence" should be introduced. National legislation does not define a single coordinating body responsible for monitoring and evaluating policies and measures to prevent and combat all forms of violence. The possibility of issuing a protective order immediately after the first case of domestic violence should be strengthened. Required to regulate the development and application of treatment programmes in respect of persons who have committed acts of domestic violence, with the goal of preventing them from committing repeated acts of violence, etc.

Respondents believe that these gaps in legislation can be addressed. The issue is the political will, as well as the creation of a positive public opinion on the need for Belarus to join the Convention, which will allow a more effective and comprehensive approach to combating domestic violence. Respondents also note the problem of possible criticism and opposition from the Pro-life organizations, which in many European countries opposed the signing and accession to the Convention.

Suggestions of respondents on advocacy.

Respondents believe that it is important to continue to work together and cooperate with all possible stakeholders, continuing to create a critical mass of people who are not indifferent to the problem and are ready to take part in the solution. According to respondents, the following questions require joint promotion:

- continue improving the mechanism of interdepartmental interaction of all interested institutions in the provision of assistance to victims of domestic violence, including the use of risk assessment the escalation of violence, the use of protection orders, the work of the national hotline and institutions, providing the opportunity for the temporary residence of the victims
- continue work to improve the legal and regulatory framework for the prevention of domestic violence and the provision of assistance to victims
- to develop specialized services for elderly citizens exposed to domestic violence, to ensure access to services for people with disabilities
- to develop work with men who commit violence against their loved ones by strengthening the capacity of public associations and religious organizations, paying attention to an integrated approach in work and interaction with institutions working with affected women, children and their close environment
- to continue awareness-raising activities aimed at drawing public attention to the problem of violence against women and domestic violence, forming an intolerant attitude to this phenomenon, focusing on different target audiences, such as young people, elderly citizens, etc.
- continue awareness-raising activities aimed at changing existing stereotypes and social norms regarding the role of men and women in society and the family, as the existing distribution of responsibilities for the upbringing of children and household management, the predominance of women in the areas of health, education, culture and services contributes to the consolidation of a model of behavior, when a man is given the



EASTERN PARTNERSHIP

Civil Society Forum



EaP | Eastern Partnership 

role of the main earner of the family, and a woman is given the role of caring for children and elderly members of the family, housekeeping.

Respondents from the BNP of the EAP, CSF also see their role in developing cooperation with international structures, paying attention to the problem of domestic and gender-based violence in Belarus at the international level (for example – the situation with the adoption of the law on combating domestic violence from representatives of civil society to the Minister of foreign Affairs of the Republic of Belarus at the meeting in Brussels on the 10th anniversary of the Eastern partnership and the subsequent meeting with the Minister on this issue in Belarus), participation in regional advocacy campaigns. Currently, the EAP CSF considers the topic of combating domestic and gender-based violence as one of the priorities and intends to continue working in this direction in cooperation with a wide range of stakeholders.



This project is funded by the European Union.



**National Endowment
for Democracy**

Supporting freedom around the world



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

**LEGISLATIVE FRAMEWORK AND THE STATE POLICIES ON PREVENTION,
PROTECTION AND PROSECUTION OF
THE GENDER-BASED VIOLENCE AND DOMESTIC VIOLENCE IN
GEORGIA**

Report is prepared by Women's Political Resource Center,

Tbilisi, 2019



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world

Introduction

Georgia declares that fighting domestic violence and gender-based violence and promotion of gender equality in the country, is the top priority for the Government of Georgia, as well as for the legislative branch. It has become the 23rd country to ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence - Istanbul Convention which defines and criminalizes all forms of violence against women, including domestic violence, which affects women disproportionately.

On May 25, 2006, the parliament of Georgia adopted the law of Georgia "On prevention of Domestic Violence Protection and Assistance of Victims of Domestic Violence" followed with the relevant amendments on implementation mechanism. For that time, the law was an innovative step in legislation, as before, there were no specific measures to protect citizens from violence at homes. The awareness about the law was not prevalent enough in population, therefore reporting to police was quite a law.

In 2014, Georgia has signed the Istanbul Convention, on 4 May 2017, the Parliament of Georgia reaffirmed its commitment by endorsing its ratification and by adopting milestone legal framework.

The harmonization of the Georgian legislation to the requirements of the Istanbul Convention was comprised of two stages. At the first stage of the harmonization process - in 2014, the Government of Georgia adopted 11 legal amendments. For the second stage aiming at the ratification of the Istanbul Convention, 25 relevant laws were amended.

In accordance with the legislative amendments, the scope of the legislative framework on domestic violence expanded and now it covers violence against women in general, taking into consideration the gendered nature of domestic violence and addressing the phenomenon of violence against women in a holistic manner.

GREVIO will publish its first observations regarding Georgia later this year. As Georgia has only recently ratified the convention, the report on Georgia will be prepared at a later stage.

The scope of research

Women's Political Resource Center conducted a survey in Georgia. It included the desk research, the qualitative interviews with the important stakeholders and the focus group with the members of the Gender Subgroup of the EaP Civil Society Forum Georgian National Platform. The interviews were conducted with the Head of Gender Department of the Public Defender Office, the Head of the State Fund for Protection and Assistance of (Statutory) Human Trafficking, the Deputy Director of Human Rights Protection Department under Ministry of Internal Affairs, Advisor of Mayor Tbilisi for Gender Equality Issues. Also, in the research participated GRAVIO expert Lado Mkervalishvili in a personal capacity.

Desk research

Gender equality international and national legal framework.

Georgia has an extensive international legal framework on Domestic violence and gender-based in place, the most important are:

The Convention on the Elimination of All Forms of Discrimination Against Women " (CEDAW) ⁵⁴ in 1994 and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence - "Istanbul Convention", which was Signed in 2014, ratified and entered into force in 2017.

The Constitution of Georgia of 1995 prohibited discrimination on the bases of Sex in Article 14. The new Constitution of Georgia adopted in 2018 guarantees Non-discrimination and Gender Equality between Women and Men in Article 11. ⁵⁵

The Law on the Elimination of Domestic Violence Protection and Support of Victims of Domestic Violence was adopted in 2006 and amended in 2016⁵⁶.

The violence against women is defined as "any act of gender-based violence that results in, or is likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life."

The Law of Georgia on Combatting Human Trafficking adopted in 2006. It was updated in 2012 and 2015.

The State Fund for protection and assistance of (Statutory) victims of Human Trafficking was established by the Law of Georgia on Combatting Human Trafficking in 2006. The fund operates via 2 shelters for victims of Human Trafficking in Tbilisi and Batumi, 5 shelters for victims of Domestic Violence in Tbilisi Signagi, Kutaisi and Gori and Batumi and the hotline for Sexual Assault.

In 2014, In the framework of the harmonization process of the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, significant legislative amendments have been developed in Georgia which were introduced to 1. Criminal Code 2. Civil Procedure Code, 3. Administrative Procedure Code 4. Law of Georgia on Elimination of Domestic Violence, Protection and Support of Victims of Domestic Violence, 5. Labor Code, 6. Law of Georgia on Legal Aid, 7. Code of Local Self- Government, 8. Law on Patients' Rights, 9. Code of Imprisonment, 10. Law of Georgia on Medical Activities, 11. Law of Georgia on Public Service, 12. Law of Georgia on Legal Status of Aliens and Stateless Persons, 13. Law of Georgia on General Education, 14. Law of Georgia on Higher Education, 15. Law of Georgia on Lawyers, 16. Law of Georgia on Police, 17. Law of Georgia on Weapons. According to the requirements of the Council of Europe Convention on preventing and combating violence against women and domestic violence, the scope of the legislative framework on domestic violence expanded and now it covers violence against women in general, taking into consideration the gendered nature of domestic violence and addressing the phenomenon of violence against women in a holistic manner. One of the important

⁵⁴ www.ohchr.org/documents/professionalinterest/cedaw.pdf

⁵⁵ <http://parliament.ge/ge/kanonmdebloba/constitution-of-georgia-68>

⁵⁶ matsne.gov.ge/ka/document/view/26422?publication=14



amendments concerns simplification of the issuance procedures for restrictive orders. Furthermore, the Criminal Code of Georgia criminalized acts such as Forced sterilization (Article 133¹);⁵⁷ Female Génital Mutilation (Article 133²)⁵⁸; Forced marriage (Article 150¹)⁵⁹; stalking (Article 151¹)⁶⁰, a new edition has been created for rape (Article 137)⁶¹ and against sexual liberty and inviolability (chapter XXII) and the relevant sanctions. The Criminal Code of Georgia has added new Article 53¹⁶² (punishment for aggravating circumstances), according to which the crime is committed to the race, color, language, sex, sexual orientation, gender, gender identity, age, religion, political or other opinion, disability, nationality, nationality, ethnic or social belonging, origin, property The intimidation of the responsibility for all relevant crimes envisaged by this Code is the motive of intolerance or other grounds that may be related to the title or place of residence or place of discrimination. In the same article, the second part - the crime of one family member by another family member, in grave condition of the minor or his presence, with particular cruelty, weapons or weapons threat, abuse of power, is an aggravating factor in this Code provided with all the relevant crimes.

From the amendments made to the Criminal Code of Georgia, it is noteworthy the new norms that have been added to Article 151¹ - according to which the person pursuant the other person and illegally inspected the person, his / her family or close relative, or make unwanted communications by telephone, electronic or other means causes a person's mental anguish According to the first part of Article 151¹ of the Criminal Code of Georgia, the above action shall be punishable by public service for a period of one hundred twenty to one hundred and eighty hours, or imprisonment up to two years.

According to the second part of the same article, if the same action is committed by an offender towards the juvenile, the vulnerable, the disabled person or the pregnant woman, in a group, repeatedly, misusing official position, the sanction will result in a deprivation of liberty for two to five years.

Georgia prevents gender inequality and demographics challenges caused by prenatal sex selection. The regulation No. 01-74 of the Minister of Health and Social Affairs of Georgia, restricts the termination of the pregnancy for the selection of sex.

Just recently, in 2019, the parliament adopted a law against sexual harassment with 102 votes in favour and 0 against.

The Law formulates the définition of sexual harassment and regulates sanctions for this offence.

The Labor Code of Georgia defines Sexual Harassment as:

‘Undesirable sexual behaviour towards a person aims or/and tarnishes his/her dignity or creates an intimidating, hostile, degrading or abusive environment for him/her.’ Using words of a sexual nature, showing one’s genitals, any type of verbal or non-verbal actions of a sexual nature will be considered sexual harassment. Creating an abusive or hostile environment at

⁵⁷ matsne.gov.ge/ka/document/view/3664456?publication=0#DOCUMENT:1;

⁵⁸ matsne.gov.ge/ka/document/view/3664456?publication=0#DOCUMENT:1;

⁵⁹ [/ matsne.gov.ge/ka/document/view/4382866?publication=0#DOCUMENT:1](https://matsne.gov.ge/ka/document/view/4382866?publication=0#DOCUMENT:1)

⁶⁰ matsne.gov.ge/ka/document/view/4206681?publication=0#DOCUMENT:1;

⁶¹ [/matsne.gov.ge/ka/document/view/4206681?publication=0#DOCUMENT:1](https://matsne.gov.ge/ka/document/view/4206681?publication=0#DOCUMENT:1);

⁶² matsne.gov.ge/ka/document/view/4382866?publication=0#DOCUMENT:1





work to force someone into a sexual relationship will also be punishable as sexual harassment.

Penalty for Sexual harassment varies from 300 GEL up to 10 days' imprisonment, including more strict financial and administrative penalties (up to 1000 GEL and corrective work for one month).

The state institutions on Gender Equality, Violence against Women and Domestic Violence.

Government of Georgia recognized that efforts against violence require a concerted interagency policy. In this regard, the Inter-Agency Commission on Gender Equality, Violence against Women and Domestic Violence has been established in 2017⁶³. The commission is a policy-making body tasked with coordination and monitoring of Government Agencies involved in the implementation of the National Action Plan on the Measures to Combat Domestic Violence in Georgia (2018-2020). It unites representatives of Ministries as well as the Public Defender's Office, the Legal Aid Service, the Public Broadcaster, the Gender Equality Council of the Parliament, the Supreme Court and Geostat. The Commission mandate covers gender equality, violence against women and domestic violence, the implementation of the UN Security Council resolutions on Women, Peace and Security and women's empowerment. It is noteworthy that the Commission is a coordinating body envisaged in Article 10 of the Istanbul Convention.⁶⁴

The Commission functions through Gender equality focal points in 49 municipalities. The Gender Focal position is a permanent and mandatory institutional mechanism, which was introduced in 2016.

The Commission promotes awareness on WHR and gender equality through the public broadcaster.

The Gender Department of the Public Defender's Office of Georgia is formed in 2013⁶⁵. The gender department:

- Investigates failure of state agencies to respond effectively on prevention, protection and prosecution of violence against women and responds to Individual complaints on violence against women;

- Monitors implementation of NAP on violence against women;

- Conducts awareness raising for relevant state agencies and civil society on VAW Georgia.

The Human Rights Protection Department⁶⁶ is formed to respond and investigate domestic violence, hate crime, violence against women, human trafficking, crimes committed by/towards minors and those based on discrimination established under the Ministry of Internal Affairs in 2018.

Employees of the Department monitor the investigation process through the electronic case management system (CRIME CASE). In case the employee of the Department reveals gaps or problems in the dynamics of the investigation process after consultancy with co-workers

⁶³ <http://georgia.unwomen.org/en/news/stories/2017/08/interagency-commission-now-operational>

⁶⁴ //rm.coe.int/168046031

⁶⁵ <http://ombudsman.ge/geo/departamentis-shesakheb>

⁶⁶ police.ge/ge/shinagan-saqmeta-saministros-adamianis-uflebata-departamenti



decides on the future course of action. Cases of misconducts or neglects are forwarded to the General Inspection of the Ministry for further response.

The Department serves as a consultative body for the police. Also, provides communication with civil society and other involved agencies.

In 2019, the Department is undergoing enlargement and transformation into Human Rights Protection and Quality Monitoring Department ensuring high-level protection of human rights as well as improved quality of investigation on crimes committed against life and health including domestic and gender-based violence.

The risk assessment and monitoring mechanism on Domestic Violence was elaborated by the department in 2018. The mechanism helps police to identify risks coming from an offender and respond properly. For this aim, the mechanism defines three levels of risk: low risk, risk of re-abuse and risk of lethality. According to the defined risk level, the police officer decides which measures of restriction is to apply against the offender.

The Ministry of Internal Affairs has elaborated monitoring mechanism of efficiency of the restrictive orders. The mechanism provides instruction to the police to monitor obedience and requirements of restrictive order, via keeping close communication and conducting visits to the victim and the offender.

The Ministry works to establish a GPS monitoring system (electronic bracelets) that will be applied to high-risk offenders. Currently, the multidisciplinary working group is drafting relevant legislative amendments on the use GPS monitoring system that aim to better, protect the victims of domestic violence.

The witnesses and the victim coordinator service has been recently established in the Ministry, to support the victims of domestic violence and avoid re-victimization.

The capacity building of the professionals working on violence issues, especially police is an important direction of work of the Ministry of Internal Affairs - it closely cooperates with international and local non-governmental organizations and conducts training of specialization for the investigators and police officers on VAW.

Moreover, the Ministry of Internal Affairs widely coordinates legislative initiatives on the thematic issues with civil society.

In various stages, state agencies of Georgia conduct public awareness-raising campaigns on the gender-based violence matters.

After ratification the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence - "Istanbul Convention" the number of reports to the police has increased, which signifies the rise of awareness on Domestic Violence and that social trust in the law enforcement agencies (see fig.1)

Fig 1.

Years	Number of Issued restrictive Orders	% of violation of restrictive orders	Number of cases launched on the facts of domestic violence
2017	4370	7%	2828,
2018	7646	6%	5620
2019	3554		



A restraining order is an act issued by an authorized official of a police force, which regulates violence in case of domestic violence and introduces temporary measures for the protection of victims before submitted to the court for approval within 24 hours.

The Protective Order is the act of an administrative court proceeding by the first instance court (judge), in case of domestic violence, the temporary measures to protect victims of violence. These measures are not applicable if the criminal prosecution is initiated against the person and the imprisonment has been imposed on him as a preventive measure.

In addition, the non-governmental organizations and citizens are involved in the monitoring of the cases and provide the notices to the police.

The criminal justice system has a powerful role in preventing domestic violence against women and responding to it effectively. It sets the standard for unacceptable conduct and sends a strong message to society that impunity regarding violence will not be tolerated. The Criminal Justice system through responding effectively to acts of gender-based violence, including domestic violence, contribute to transformative change in mentalities, attitudes, as well as social and cultural practices. The convention, calls upon the Contracting States to collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the Convention and support research in this field and analyse effects of incidences and conviction rates.⁶⁷

Prosecutors Office report that the rate of reporting domestic violence by victims/survivors and the rate of launching criminal prosecutions have increased significantly, as a result of the preventive measures and the improvement of prosecutorial supervision.

The Prosecutor's Office reports improvements in detecting different forms of violence, as well as determining systemic violence and the identification of gender-based discrimination motive in violence against women⁶⁸.

According to the Supreme Court, the application of international standards to Domestic Violence cases has risen and the number of appeals on domestic violence has annually increased to the courts. The Supreme Court cases reveal that women, children, disabled persons and elderly people are more vulnerable to domestic violence and face a higher risk to become a victim.⁶⁹

Shelters.

The Government regularly improves access to services for victims/survivors of Domestic or Sexual Violence. Currently, there are 5 State-funded Shelters (in 5 different regions) and 5 crisis centres for the victims of domestic violence. Victims of Domestic Violence are provided with shelter, psychological, legal and medical assistance.

The monitoring showed that most of the beneficiaries are satisfied with shelter services and positively evaluated the efforts of the administration and personnel; the beneficiaries feel safe and constantly supported in the shelter.

The access of victims of violence to the protection and assistance services show that gender-based violence is still justified by the public and victims of domestic violence have the sense of vulnerability and injustice in the process of escaping violence. For some victims,

⁶⁷ rm.coe.int/16800d383a

⁶⁸ chief-prosecutors-office-of-georgia-presents-analysis-of-cases-of-violence-against-women-and-girls

⁶⁹ supremecourt.ge/files/upload-file/pdf/saertashoriso-standartebis-asaxva-ojaxshi-zaladobis-saqmeebshi



communication with law enforcement agencies is a big challenge, caused by the lack of trust. The situation is further complicated by the fact that victims of domestic violence are often unable to get comprehensive information from the law enforcement agencies on the protection and assistance mechanisms available in the country.

Like in previous years, medical examination of victims upon admission to the shelter is problematic, as the examination is mostly limited to an oral inquiry, which cannot identify the cases of tuberculosis or sexually transmitted diseases and thus poses risks to other beneficiaries.

The limited number of psycho-social rehabilitation, educational and employment programmes, and/or their absence, is still a problem in the shelters. In addition, the infrastructure of the facilities is not adequate.

It is important for the shelters to promote victims' education, which would enable them to enrol in the employment programmes and get ready to live independently. It is obvious that the cooperation of shelters with NGOs and service provider organizations is crucial for victim rehabilitation/integration.

Georgia ensures free of charge hotlines for the victims. Emergency hotline 112 operates 24/7 and ensures prompt response on violence. Consultative hotline 116006 (also free of charge, run by ministry of health 24/7) provides consultation to the victims on 8 different languages. Operators of the hotlines permanently receive refreshing trainings⁷⁰.

Civil Society Organisations.

CSOs play a vital role in addressing violence against women in Georgia. There are improved frameworks for effective partnership between the government and the non-governmental organizations and local community groups. CSOs play an essential role in design, implementation, coordination, monitoring and evaluation of policies and services relating to DV and GBV. Advocacy by women's groups coupled with public interest litigation is the catalysts of reforms in the area of elimination of violence against women in Georgia.

According to CSOs, there is the rise of awareness on DV and GBV in the country that is indicated in a rise in numbers of reporting to police. Non-Governmental organizations also point on the advancement of the governments institutional capacity to deal with DV and VAW. Especially, the work of the police and the court system became more efficient in in detention and prosecution of Domestic violence⁷¹.

Though CSOs are critical to work of so-called "Soft Powers" - and social and educational interventions in prevention, protection and prosecution of DV and GBV. Ministry of Internally Displaced Persons from The Occupied Territories, Labour, Health and Social Affairs of Georgia and Ministry of Education, Science, Culture and Sport of Georgia have a little contribution to the strategic development of policies against DV and GBV. They lack internal policies and capacity training of personal/teachers.⁷²

The CSOs are critical to the following issues:

⁷⁰ <http://ombudsman.ge/res/docs/2019051715551159482.pdf>

⁷¹ <http://georgiatoday.ge/news/10381/IDFI-Releases-Domestic-Violence-Statistics-in-Georgia-2013-2018>

⁷² focus group meeting 20.05.2019



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

Intersectional Discrimination is not addressed comprehensively - LGBTI, disabled women, ethnic and religious minority women are not present in the agenda, experiencing the lack of integration and other barriers.

Gender sensitive policies are lacking comprehensive understanding by different public entities.

Coordination of policies need improvement by Inter-agency Commission on Gender Equality, Violence against Women and Domestic Violence.



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

REPORT
of the findings of Research of Legal Framework
on Gender Based Violence and Domestic Violence
in the Republic of Moldova

Chisinau, 2019



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



Background

The gender-based violence and violence against women remains a serious problem for the entire EaP region. The CEDAW Committee in its follow up recommendations recommends to all EaP countries (Ukraine, Armenia, Georgia, Belarus, Moldova and Azerbaijan) the urgent improvement in addressing GBV and domestic violence and ratification of Istanbul Convention.

The Project “Developing the joint advocacy plan of the EaP Forum, EaP National Platforms for the promotion of the prevention, protection and prosecution of the Gender based violence in EaP Countries and the implementation/ratification of the Istanbul Convention” is directed to examine legislative frameworks and the state policies regarding prevention, protection and prosecution of the gender-based violence (GBV) and domestic violence (DV) in 6 the EaP countries (Ukraine, Armenia, Georgia, Belarus, Moldova and Azerbaijan) and develop the joint advocacy plan for the Eastern Partnership Civil Society Forum and the Eastern Partnership Civil Society National Platforms for the promotion of the implementation/ratification of the Istanbul Convention in the EaP region.

One of the project's objective is to examine legislative frameworks and the state policies regarding prevention, protection and prosecution of the gender-based violence and domestic violence in 6 the EaP countries (*Ukraine, Armenia, Georgia, Belarus, Moldova and Azerbaijan*).

According to the project's document the qualitative research was realized in Moldova (May-June, 2019). The similar research was organized in all partners' countries. The research was realized in partnership by NGO “Vesta” and PA “Gender-Centru”.

Methodology

Research was realized by using different methods:

- General Desk review of main national documents on DV issues
- Organization of the focus group and the deep interviews with participation of the gender experts of the EaP National Platform, with government officials, CSO representatives, independent gender experts (14 persons) (list of participants attached)
- Focus group and interviews were organized based on structural questionnaire (attached).

** The research findings were presented at the International Conference in Comrat, 19-20 June, 2019; Round table in Comrat on 15 July, 2019.*

As general results, we can mention the following: despite of the existing strong a legal and regulatory framework on DV, there are many challenges with its implementation related to the lack of financial resources, staff turnover, insufficient intersectoral cooperation and persistent gender stereotypes, insufficient specialized services for different categories of DV/GBV victims.

In order to promote the ratification of Istanbul Convention, the large public awareness campaign should be organized in Moldova, also in others partners' countries; the Georgia positive experience in the field should be analyzed and extended. The common advocacy activities in all partners' countries should be organized.



I. GENERAL OVERVIEW OF SITUATION IN MOLDOVA IN THE FIELD OF GBV AND DOMESTIC VIOLENCE

According to International Standards, the state has an ongoing obligation to undertake measures required to protect its citizens, including by ratifying international treaties aimed at protecting fundamental rights and liberties, as well as by adjusting its legislation to the provisions of these treaties.

In the Republic of Moldova, according to the latest study⁷³:

- Almost one in five women aged 18-74 indicate that they have experienced physical and/or sexual violence at the hands of a non-partner since the age of 15
- One in three women aged 18-74 who have ever had a partner indicate that they have experienced physical and/or sexual violence at the hands of an intimate partner
- Psychological violence at the hands of a partner has affected more than seven in ten women aged 18-74 who have ever had a partner
- Nearly half of women aged 18-74 have experienced sexual harassment since the age of 15.

In order to establish a legal framework for the activity of preventing and combating domestic violence and a mechanism of reporting and settling cases of violence, on 1 March 2007, the Parliament of the Republic of Moldova adopted *Law No. 45 on preventing and combating domestic violence*⁷⁴. By adopting the law, the state demonstrated its commitment to ensure elimination of domestic violence and, at the same time, it recognized the severity of this social problem.

Adoption of the national legal framework against domestic violence was an important step towards ensuring observance of the international treaties in the field and, in fact, marked the beginning of the process of harmonizing the national legislation with international and European human rights standards.

Since the adoption of the law, the legal framework regulating prevention and fight against domestic violence was amended four times by:

- Law No. 109 of 04.06.2010 on amendment and completion of certain legislative acts;
- Law No. 167 of 09.07.2010 on amendment and completion of certain legislative acts;
- Law No. 196 of 28.07.2016 on amendment and completion of certain legislative acts;
- Law No. 79 of 24.05.2018 on amendment and completion of certain legislative acts.

The major amendments were made by Law 196/2016⁷⁵. They had the objective to adjust the national legislation to the provisions of the Istanbul Convention. The amendments were determined by the recommendations made in the first analysis of compatibility of national legislation with the provisions of the Convention developed in 2013 by the Women's Law Centre with support from UN Women Moldova. The amendments established criminal liability for other forms of violence, including psychological and economic violence;

⁷³ OSCE-led Survey on Violence against Women WELL-BEING AND SAFETY OF WOMEN. Moldova Results Report, 2019

⁷⁴ LEGE Nr. 45 din 01.03.2007 cu privire la prevenirea și combaterea violenței în familie
<http://lex.justice.md/md/%20327246/>

⁷⁵ LEGE Nr. 196 din 28.07.2016 pentru modificarea și completarea unor acte legislative
<http://lex.justice.md/md/366648/>

The Law was adopted due to large advocacy campaign organized by National Coalition "Life without violence within family".



introduced the emergency barring order issued by police as a temporary measure to protect victims of domestic violence by removing the aggressor from the house; introduced contravention liability for violation of the emergency barring order implying a sanction of fine or contravention arrest from 3 to 10 days; introduced criminal liability for failure to execute measures in the protection order issued by the court implying a punishment in the form of community service or imprisonment for up to 3 years; extended the definition of family member to also include intimate partners and divorced couples living separately; exempted victims of domestic violence from the state fee for the application for a protection order; etc.

Notwithstanding all these positive developments, there are still numerous gaps in the legislation and its implementation. Thus, the Report on costing of domestic violence and violence against women in Moldova⁷⁶, highlighted that the response to domestic violence in general is scant and not at all systemic. The efforts made by authorities are focused on mitigating the effects of violence and not on preventing them. The highest costs are borne by the health sector, particularly for the hospital treatment of victims. The second highest spending is that of the justice sector and the lowest costs are borne by the social assistance sector. It should be noted that in 2012–2016 more than EUR 81,450 or about MDL 1,550,970.90 have been paid in reparations by the Moldovan Government to women victims of violence based on the European Court of Human Rights judgments. The figures clearly show that the private funding covers what the government fails to cover in terms of services. Thus, 60% of social services are covered by non-governmental organizations. It should be noted that the victims' contribution to covering attorney services exceeds four times the state's contribution. Victims also bear a great share of the health expenses; consequently, the costs borne by victims exceed 1.5 times the state's contribution. Over 30% of the services that are listed as essential in the international standards do not exist in Moldova or are not efficient. The main gaps in the general service provision in Moldova include gaps in provision of: 1) social assistance and especially social aid for victims of domestic violence, economic empowerment and social housing; 2) mental health and psychosocial long-term support; and 3) access to state-funded legal counselling and representation.

The Report on monitoring of court proceedings⁷⁷ highlighted that in most cases victims continue to be subject to discrimination and re-victimization in their interaction with the justice system. Victims are not provided with the minimum safety conditions in the courts. Lack of respect for victims, expressed through delays and frequent postponement of court hearings, as well as review of cases beyond the statutory deadline, is a common practice. In most cases, victims of domestic violence do not benefit from qualified legal assistance in the courts, while judges are not used to informing them about their right to state guaranteed legal aid.

The impunity of aggressors and the state's primary concern for their rights are still a problem that endangers the safety and life of victims of domestic violence. Therefore, during court proceedings, the victim often witnesses a discriminatory attitude as compared to the treatment of the aggressor, non-observance of procedural rights, inability of the system to provide the victim with effective remedies against intimidation and discrimination. This

⁷⁶ Report on costing of domestic violence, Women's Law Centre, UN Women Moldova, 2017.

⁷⁷ Report on monitoring of court proceedings in cases of domestic violence, sexual violence and trafficking in human beings, Women's Law Centre with support from US Embassy in Moldova, 2018.



situation is largely due to the preconceived and stereotypical approaches of professionals resulting from the misunderstanding or the reluctance to accept the specific character of these facts, which are clearly different from others by the incomparable vulnerability of the victim, also due to the inequality between the aggressor's position and that of the victim.

Considering these and other gaps still prevailing in the state's response to cases of domestic violence, as well as the state's commitment and orientation towards European democratic values expressed, among others, through signature on 6 February 2017 of the Istanbul Convention, the second analysis of compatibility of the national legal framework with the provisions of the Convention was conducted⁷⁸.

Based on mentioned above exercise, different recommendations how to improve legal framework, service provision to victims of DV and GBV and others were provided.

As important priority remain the advocacy campaign focused on ratification of Istanbul Convention by the Parliament of the Republic of Moldova.

II. MAIN FINDINGS OF FOCUS GROUP AND INTERVIEWS

The purpose of the research was to reveal the measures implemented by the Republic of Moldova at national level by the state and civil societies organizations/other actors of the society to prevent, protect and prosecute GBV and DV phenomena. In the survey were participated the representatives of the Department for ensuring gender equality between men and women policy from Ministry of Health, Labour and Social Protection⁷⁹ and civil society organizations, experts (14 participants: 12 women and 2 men).

In according with the structure of the questionnaire interviewees first answer on 2 general questions and next questions were devised and refers to prevention and protection actions for GBV and DV.

All respondents mentioned as a law that regulates DV phenomenon – the Law nr.45/2007 on preventing and combating domestic violence. The actions of GBV phenomena are the part of criminal and administrative codes.

The mentioned State Institutions that deal with GBV and DV at national level were:

- Police
- Persecutors Office
- Probation service
- Social/health/education institutions
- Local public authority
- Courts

⁷⁸

<http://cdf.md/files/resources/141/CDF%20Summary%20of%20the%20analysis%20of%20compatibility%20ENG%20Web.pdf>

⁷⁹ The mentioned department is a specialized body at national level which is dealing with the development, amendment and expertise/endorsement of the national legislation in the area of equality between men and women, preventing and combating violence against women, including domestic violence and human trafficking.

In Prevention chapter of the questionnaire interviewees provided the following information related to:

1. Are trainings of professionals on GBV and DV conducted in your respective country?

All respondents confirmed organization of different trainings of professionals on GBV and DV in Moldova.

According to the Government representatives, the Government in collaboration with civil society organizations, UN agencies and international organizations organized many different *trainings of professionals* on DV/GBV issues. At the same time, was mentioned that The National Institute of Justice organized the continuous training courses related to Human rights, Woman's rights, Judicial practice on examination of causes related to DV, for judges, prosecutors, judicial assistants, prosecutor's consultants, probation counsellors and others who act in the justice sector.

Also, development of different training materials and books for the professionals were mentioned.

Government and NGOs' representatives mentioned organization of different trainings on DV issues for members of Multidisciplinary teams at rayon level working in DV field (representatives of police social assistance, health, education and other sectors, Public Authority).

At the same time, despite of the positive trends in capacities building of professionals on DV issues, the majority of respondents mentioned some challenges: staff turnover, insufficient intersectorial cooperation, lack of Multidisciplinary teams at community level, low functionality of some Multidisciplinary teams at rayon level.

2. Are there regularly run awareness-raising campaigns on GBV and DV in your respective country?

All respondents mentioned organization of different awareness-raising campaigns on DV in Moldova. The awareness-raising campaigns are provided by key-ministries, NGOs, International Organizations (OSCE Mission to Moldova, Oak Foundation etc.), UN agencies. Between most popular are including: 16 Days of Activism against Gender-Based Violence Campaign, #metoo, Red my lips campaign, etc.

In the frame of mentioned above campaign different tools were used: TUCANO café debates, round tables, pictures and photos exhibitions, Radio and TV debates and broadcasters etc.

At the same time, NGOs representatives and experts stressed attention on importance to focus more attention on needs of specific target groups (victims of DV, potential abusers, vulnerable groups etc.)

3. Are issues such as gender equality and non – violent conflict resolution included in teaching material of educational institutions in your respective country?

All respondents specified different examples in the field.

The Government representatives and NGOs, experts indicated that the issues such as gender equality and non – violent conflict resolution is included:

- in the curricula for professionals, as a police, doctors and social assistance/workers,
- also in the school curricula (there are several non-compulsory subjects which address this topics). Updated Curricula and didactical materials on Education for health in the school contain special Module on DV/GBV prevention.

In the frame of Moldova State University, special Master Program on Family Cancellation with focus on DV issues should be mentioned.

At the same time, more qualitative materials needed.

4. Are there treatment programs for perpetrators of domestic violence and for sex offenders introduced in your respective country?

All respondents mentioned the activity of Center for DV abusers' rehabilitation in Drochia.

The Government representatives specified the following points:

- at national level we developed legal framework for counseling programs of the perpetrators of DV
- developed specialized services for them. Such services are provided in 4 districts by the state and NGOs. Also the probation service work with perpetrators referred to them in accordance with our legislation.

Experts mentioned that such subjects are included in the training's curricula only for special professionals such as probation officers, police officers. Moreover, psychologists and social assistance who are hired in specialized social services for perpetrators have in their trainings those topics too.

The elaboration of special training Manual for professional who work with perpetrators (Drochia Center, 2017) with support of Oak Foundation should be mentioned.

NGOs representatives recommended to organize special Training Center for professionals who work with perpetrators.

5. Does the Government work closely with NGOs?

The participants provided the positive answer concerning the partnership and collaboration between the Government and NGOs. The Government representatives highlighted that the collaboration is institutionalized by the law, becoming for state organizations mandatory in order to develop the collaboration with NGOs in the process of elaboration, implementation and monitoring of the legislation and strategical country/sectors documents.

NGOs are members of the different groups/councils established in the GBV and DV areas at national or local level. For example, MHLSP is coordinating interministerial Council in the field of preventing and combating domestic violence where NGOs are the members. At local level, in some communities there are some multidisciplinary teams which is dealing with DV cases where local NGOs also are members.

Mentioning existing positive cooperation between the Government and NGOs, CSOs representatives specified the importance to push the practice to offer state's funds to the NGOs' programs.

6. Is the Media and private sector involving in eradication of gender stereotypes?

All respondents recognized the Media' crucial role in the eradication of gender stereotypes. In this regard there were conducted multiple campaigns within last 10 years.

Government representatives and experts mentioned the involvement of some media organizations in monitoring of gender equality principles of media content.

At national level couple of programs were supported by the UNWomen country office for media agencies. First program/project was focused on the developing of the self-evaluation capacities of media agencies to analyze their products from gender dimensions. Second program "Click for Gender Equality" was dedicated for journalists from online, print and TV media from Moldova to increase their knowledge about gender equality, gender-sensitive language, sexism, feminism, harassment, preventing and combating violence against

women, as well as on how to reflect on gender equality issues. A great initiative of this program was the competition for Gender Equality Trophy organized for professionals from online, print and TV media who promote gender equality.

At the same time, NGOs' representatives recognized that biases and gender stereotypes, as well as other practices based on traditional roles of women and men, are major barriers to women's empowerment, since they maintain women's diminished status in the society and family life, which often leads to such negative phenomenon as violence against women, domestic violence, sexual harassment, etc.

Protection chapter of the questionnaire reveals:

7. Is the Police granted the power to remove a perpetrator of domestic violence from his or her home: if yes what is the statistics of granting protective orders to offenders of GBV and DV per year in your respective country?

All respondents mentioned that police have this competence to remove a perpetrator of domestic violence from his or her home only for DV cases (Law 45).

The Government representatives, provided statistical data regarding protective measures (collected by police), that are following:

- -The police issued in 2018 – 3877 emergency restraining orders for family aggressors, and in 2017 – 2161.
- the courts were issued 666 protecting orders for victims of domestic violence 2018.
- In 2017 – 878 protecting orders were issued by courts and referred to the police for monitoring.

8. Do victims of DBV and DV have easy access to clear and concise information on available services, in a language they understand. If yes, who provide the information?

According to Government representatives' opinion - DV victims and some of GBV victims have easy access to clear and concise information on available services, in a language they understand, because all the stockholders (from both side: Governmental agencies which have this responsibility to prevent and combat DV and NGOs working in this area) have the responsibility to inform them.

GBV victims only partially of them, because now we should start the process of harmonization of our legislation to Istanbul Convention and the most mentioned behaviors recognized as a crime we should transpose at national level and develop specialized services for them.

But in general, national legislation on the criminal procedure includes the obligation for criminal investigation officers and prosecutors to inform the victims of their rights during the process. Additionally, the law 137/2016 introduces such obligation for social departments that work with the rehabilitation of them.

At the same time, NGOs representatives mentioned that despite of the progress in the field, there are some gaps: many women victims of DV, especially in rural area, have insufficient information about their rights on protections, what are the services on victims' protections, especially on legal aid.

9. How many shelters are there for victims of GBV and DV in your respective country?

All respondents mentioned that currently, in Moldova, there are 7 shelters for victims of domestic violence which are financed from state budget and 1 shelter run and financed by NGO. The shelters are located in following cities: Chişinău (2 shelters), Bălţi, Cahul, (big cities), and Căuşeni, Hînceşti, Drochia, Anenii Noi – rayon/regional centers.

At the same time, experts stressed attention that according to international standards – Istanbul Convention – there are not sufficient services.

10. Are the 24/7 telephone helplines available state wide and free of charge in your respective country?

All respondents mentioned “La Strada” hotline.

The Government representative specified that Moldovan Government is contracting from the NGO “La Strada” the Trust Telephone Service for Women and Girls o 8008 8008. This service has been created and works to help and provide support to women and girls in the Republic of Moldova who are confronted with violence in the family or become victims of sexual abuse.

11. Are there easily accessible rape crisis or sexual violence referral centers?

All participants recognized that in Moldova there are not specialized services such as rape crisis or sexual violence referral centers. The Government representatives specified that victims of sexual violence have been assisted in the centers for DV.

Experts and NGOs representatives stressed attention on importance of such services.

12. Does the law define and criminalizes the various forms of violence against women as well as domestic violence in your respective country?

All respondents mentioned that according to the Law on preventing on combating domestic violence no. 45/2007, there are 5 forms of domestic violence: physical, psychological, economic violence, sexual violence and spiritual violence.

13. Has the state introduced a new offense where they do not exist in past - including:

- *psychological and physical violence; sexual violence and rape;*
- *stalking, female genital mutilation; forced marriage; forced abortion;*
- *forced sterilization; femicide.*

All respondents recognized that in Moldova, are criminalized most of mentioned behaviors, with exception of separate crime focus on female genital mutilation and forced marriages, that are incorporated in the framework of another crime.

The Government representatives specified that in this case during the investigation process and qualification of the crime it is taking into consideration thus aspect of violation of women rights but under other crimes.

The recently amendments (in 2016) introduced stalking as a new administrative contravention/ misdemeanor.

14. What work is provided against “Honor” crimes?

All participants mentioned that in Moldova there are not Honor crimes (no statistical data).

The Government representatives recognized that at the moment they developed national report of compatibility of the national legislation with the Istanbul Convention and planned to develop the draft law of amendments our legislation in the aim to harmonize it with the provisions of convention.

15. To What extent is effective investigation of allegations of GBV and DV in your country?

All participants recognized that during last years some progress was made in the process of investigation of allegations of GBV and DV.

At the same time, there are still some challenges which need to be addressed. In this regard was conducted sectorial analysis which it is included in the described situation of the national strategy in this area (the majority of respondents participated in the consultation process). On bases of it was revealed important issues related to the attitudes and stereotypes shared by actors in the chain of justice together with the gaps in the implementation of the legal provisions.

All mentioned that National strategy on DV includes concrete objectives for this sector. From NGOs' perspective is not enough.

The Government representatives recognized that they are in the process to amend national legislation third time, in order to make more effective the mechanism of investigation and allegation also.

16. How will you evaluate the work of Law enforcement agencies in respect?

All participants appreciate the work of Law enforcement agencies as a satisfactory.

At the same time, the participants mentioned that the DV issues can be solved only in common efforts. It is not only police responsibility.

17. Does the carry out judicial proceedings in a manner that respects the rights of victims in your country?

The participants mentioned that the Report on the monitoring of trials on cases of domestic violence, sexual violence and trafficking in human beings developed by A.O. "Women's Rights Center" in collaboration with Global Rights for Women (GRW), with the support of the Criminal Justice Section and Law Enforcement of the US Embassy in the Republic of Moldova under the project "Strengthening the Judiciary and prosecutors to cases of domestic violence in Moldova ", concluded that our justice system registered certain progress in this area.

But despite of positive evidence, the justice system continues to face with some problems as following: the conditions for the exercise of the act of justice, the victim of the crime are still marginalized, because the activity of the criminal investigation and judicial review bodies of the case does not demonstrate a priority concern for the insurance of the representation of the victim / party injured in the trial, their protection and rehabilitation aspect.

NGOs' representatives and experts stressed attention on following situation: Victims' possibilities of get recovery assistance as well as evidence necessary to claim damages remain very limited. The victim also faces many difficulties in the process of assessing the severity of bodily injuries or a health, caused by offense. The transparency of the trial process is not adequately ensured.

18. Are you informed about the Convention of Council of Europe?

All the interviewees mentioned that they are informed with the previsions of the Convention of Council of Europe.

NGOs' representatives mentioned that during the elaboration and consultation process of the National Strategy on DV the provisions of the Convention of Council of Europe were analysed.

19. What are the obstacles for: signing/ ratifying the Istanbul Convention in your respective country?

Everyone was informed that on February 6, 2017 the Republic of Moldova, signed the Council of Europe Convention on preventing and combating the violence against women and domestic violence.

The Government representatives specified that: in order to prepare the country for the ratification of the Istanbul Convention, the Government approved the first policy document in this area - the National Strategy for Preventing and Combating Violence against Women and Family Violence for 2018-2023 and the Action Plan for 2018 -2020 (Government Decision No 281 of 03.04.2018). The strategy is based on the four-pillar approach of the Istanbul Convention: Prevention, Protection, Punishment and Integrated Policies. It aims at ensuring a systematic approach to the phenomenon of violence against women, including domestic violence, in order to diminish this phenomenon and ensure an effective response of the law enforcement bodies in cases of violence.

Also, MHLSP in partnership with civil society organization drafted the Analytical and Comprehensive Report on the Compatibility of Moldovan Legislation with the Istanbul Convention, including the Report on Compatibility of National Criminal Laws on Sexual Offenses with International Standards in the Field. On bases of this report the Government are planning this year to draft a law for amending national legislation and prepare country for ratification.

At the same time, the NGOs representatives mentioned some concerns about the possible involvement of the church and politicians in the process. Opponents promote the idea that signing the Convention will lead to the legalization of homosexual couples in Moldova.

CONCLUSIONS:

Considering these and other gaps still prevailing in the state's response to cases of domestic violence after the latest amendments to the domestic violence legislation, as well as the state's commitment and orientation towards European democratic values expressed, among others, through signature on 6 February 2017 of the Istanbul Convention, there is a strong need to focus efforts on efficient implementation of legislation and advocate the ratification of Istanbul Convention.

The commitment of the Republic of Moldova to ratify the Istanbul Convention is expressed in the Agenda of Association between the European Union and the Republic of Moldova as a result of signature on 27 June 2014 of the Association Agreement with the European Union, which is the main instrument aiming to bring the Republic of Moldova closer to European standards.

In addition, the objective to ratify the Convention was specified in several national policy documents, such as the National Human Rights Action Plan for 2018–2022 approved by the Decision of the Parliament No. 89 of 24.05.2018⁸⁰ and the National Strategy to prevent and combat violence against women and domestic violence for 2018–2023 and its Action Plan from 2018–2020 approved by Government Decision No. 281 of 03.04.2018.

In order to promote the ratification of Istanbul Convention, the large public awareness campaign should be organized in Moldova, also in others partners' countries; the Georgia

⁸⁰ There is no information about implementation.



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

positive experience in the field should be analyzed and extended. The common advocacy activities in all partners' countries should be organized.



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



EASTERN PARTNERSHIP
Civil Society Forum



EaP | Eastern
Partnership 

REPORT ON PREVENTION, PROTECTION AND PROSECUTION OF THE GENDER-BASED VIOLENCE AND DOMESTIC VIOLENCE IN UKRAINE

Report is prepared by Centre “Women’s Perspectives”



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world



How Law regulates GBV and DV in your respective country?

During the last three years, many laws regulating GBV and DV have been adopted in Ukraine. This has been linked to the preparation of national legal framework for the ratification of the Istanbul Convention. A number of draft laws, regulations, orders and directives have been prepared.

On November 17, 2016, the Ukrainian Parliament – Verkhovna Rada – has failed to ratify the Istanbul Convention. Nevertheless, many national norms that were harmonised with the Convention have been adopted.

By June 2019 the legal framework regulating GBV and DV in Ukraine consists of two key Laws:

- **Law of Ukraine on Ensuring Equal Rights and Possibilities of Women and Men** (2005)
- **Law of Ukraine on Preventing and Combating Domestic Violence** (2018)

Different aspects and forms of GBV and DV are also regulated by the provisions of:

- **Civil Procedural Code of Ukraine** (amendments on restraining orders 2018)
- **Criminal Code of Ukraine** (criminalization of DV and different forms of GBV 2019)
- **Criminal Code of Procedure** (restraining measures in criminal cases)
- **Code of Administrative Offences** (Article 173-2 on administrative offence of DV and GBV)
- **Cabinet of Ministries of Ukraine, Ministry of Internal Affairs, Ministry of Social Policy and other Ministries Orders on rules and regulations of cooperation between responsible bodies, protective orders and risk assessment etc.** (2018-2019)

The Law on Equal Rights and Possibilities defines the term “violence based on sex” and the Law on Domestic Violence defines “domestic violence”. Both laws regulate how the respective types of violence should be prevented and combated.

Along with the Law on Domestic Violence, the Ukrainian Parliament has adopted the **Law on Making Amendments to the Criminal Code and the Criminal Code of Procedure**. It was meant to meet the requirements of the Istanbul Convention. The Law came into force on January 11, 2019, except for the amendments to Article 67 of the Criminal Code that went into effect on 7 January 2018 (those concerned aggravating circumstances).

The key issues addressed by those amendments are criminalisation of DV of repeated nature (by adding Article 126-1 on “Domestic Violence” to the Criminal Code) and amending Articles 152 and 153 of the Criminal Code. The latter define rape and sexual violence via the absence of free consent and deal with DV of sexual nature.

Article 67 of the Criminal Code now includes the aggravating circumstances related to DV. The Code was also complemented with Section XIII-1 “Restrictive Measures”, which can be applied to perpetrators during the criminal proceedings.

Note that Ukrainian legislator prefers the term “violence based on sex” to the term “gender-based violence”. There is a noticeable tendency of replacing the phrases, which include the word “gender”, with the phrases including the word “sex” in the existing laws and new bills (the reasons for this are explained in the answer to question 19). Since the meaning of the terms “gender-based violence” and “violence based on sex” is largely overlapping, we will talk about GBV where Ukrainian law uses the term “violence based on sex”.



Which State Institutions deal with GBV and DV in your respective country?

The special body responsible for preventing and combating GBV and DV in Ukraine is the **Ministry of Social Policy**.

Other responsible bodies include local administration and local council, police, offices for children's affairs, educational and health-care institutions, courts.

Prevention

1. Are trainings of professionals on GBV and DV conducted in your respective country? If yes, who provides the trainings? (Government, NGOs, International organizations, UN agencies)

Since the first Law on violence in the family entered into force in 2002, there were trainings on DV conducted for the police. These trainings are mostly conducted by NGOs, organised or supported by regional organisations (European Union, Council of Europe, OSCE), the United Nations Population Fund and Ukrainian non-governmental organisations.

In recent years there have been many international projects active in Ukraine that provide for the police trainings on the subjects of gender equality and DV. These projects have been supported by the European Union, Council of Europe, OSCE, CIDA, SIDA and others. There is also the project "POLINA" introduced in many cities (POLINA is abbreviate from Ukrainian phrase "Police against violence"). According to this project, there are specially trained policepersons who respond only to the calls related to domestic violence.

Besides the police trainings also provided for social services, children's rights services, etc, but on a smaller scale.

2. Are there regularly run awareness-raising campaigns on GBV and DV in your respective country? If yes, who provides the campaigns (Government, NGOs, International organizations, UN agencies)

During 2010-2011 there was a massive European Union project introduced in Ukraine, "The communication component against violence". Many informational events and campaign took place in the country which were aimed at different target groups (victims, perpetrators, communities, passer-by's, youth etc.). A number of Ukrainian celebrities joined the project. There was a lot done to raise awareness about the problem of violence against women.

A lot of informational events and campaigns took place in 2015 with the support of the Council of Europe. Those promoted the idea of how necessary it is to ratify the Istanbul Convention. The parliamentarians, government, representatives of regional administrations, media and NGOs were all involved in the project.

Center "Women's Perspectives" and other regional and local women's NGO conducted informational and advocacy actions in the frame of **16 Days of Activism against Gender-Based Violence** since 2001.

Ukraine has joined the **16 Days of Activism against Gender-Based Violence Campaign** than 15 years ago.

In support of this civil society initiative, the **UN Secretary-General UNiTE to End Violence against Women campaign** calls for global action to increase awareness and galvanise advocacy efforts. The UN Country Team in Ukraine has brought together around 75

partners in 2018 to support the campaign. Various events were organised to raise awareness and take action to end gender-based violence across the country.

3. Are issues such as gender equality and non-violent conflict resolution included in teaching material of educational institutions in your respective country?

The Ministry of Education and Science adopted the **Plan to implement the principles of gender equality in education** (2009). It provides for the lesson on gender equality to be taught in general education schools every year.

Additionally, the Ministry of Education and Science of Ukraine has set up several **expert gender committees**: on preschool education, intermediate education, vocational education and higher education. These bodies conduct gender assessment of textbooks and develop a plan of integrating gender aspects into education plans.

The Methodological Guidance on Preventing and Combating Violence has also been adopted by the Ministry of Education and Science in 2019. It concerns violence in family and school setting, which includes bullying.

Unfortunately, some **anti-gender initiatives** have also become prominent in schools in recent years. This primarily concerns the lessons on Christianity, which are technically non-compulsory, but in practise, students find it difficult to refuse attending them.

4. Are there treatment programs for perpetrators of domestic violence and for sex offenders introduced in your respective country? If yes, who provides the trainings? (Government, NGOs, International organizations, UN agencies)

According to the Law on Domestic Violence, perpetrators of domestic violence can be kept under preventive supervision by the police or be required to undergo the special programme. Such programme is aimed at developing non-aggressive patterns of behaviour and eradication of discriminatory ideas about men and women.

The responsible bodies for the programme are local administration and local council. The court may require the perpetrator to undergo the programme for the period of three months to one year. The Criminal Code establishes criminal liability for avoiding the programme for perpetrators.

The training for perpetrators should be provided by the members of the Centres of Social Services, which operate under the Ministry of Social Policy. With the involvement and financial assistance of regional donor organisations (OSCE, Council of Europe) the Ministry has adopted a few model correction programmes. These programmes exist on a regional level and the local administrations should develop and adopt their local programmes.

Unfortunately, the model programmes are of questionable quality. For instance, they mostly lack the motivational unit while in many other countries the motivational unit takes up about one third of the programme.

In practice, it is very rare for the Centres of Social Services to conduct the correction programmes. This is mainly because of a lack of specialists who could provide these services and the fact that they often have to combine the work with DV perpetrators with many other responsibilities. Some NGOs have started to conduct the training themselves, including the psychotherapy associations and organisations that are working with the alcoholics.

At the same time, the regional administrations do allocate money for these treatment programmes. For example, in Lviv region the same amount of money is allocated for the work with perpetrators as for the work with victims (a hundred thousand hryvnias for each). In the meantime, there is no shelter for female victims in Lviv (while the funds are allocated for the work with perpetrators).



5. Does the Government work closely with NGOs?

Sometimes the government does work closely with NGOs. It invites them for round-table meetings, conferences, parliamentary hearings, working and expert groups etc. Often the government does this since it may be under pressure from international donors. Other times the government itself realises the expert potential of NGOs. In either case, the NGOs do most of the work while the government only reports on what has been done.

In July 2018, the Ministry of Social Policy discussed implementation of the Law on Domestic Violence with 52 NGOs and 9 international organisations. The United Nations Population Fund supported the event. These discussions were taken into consideration when adopting the **State social programme on preventing domestic violence and violence based on sex until 2023** (adopted in 2018).

6. Is the media and private sector involved in eradication of gender stereotypes?

Unfortunately, the way in which media covers violence is rather discriminatory. The common idea is that “the woman was guilty herself”. In addition, articles on “how the woman can prevent violence” are published. The problem of toxic masculinity as a root cause of violence against women is not yet articulated in the media. This is aggravated by glorification of tough masculinity due to the armed conflict in the Eastern Ukraine.

In 2017-2018, there was a study on how gender is discussed in Ukrainian media (supported by the Ministry on Foreign Affairs). According to the study, only about 0,3% of articles in the press discuss gender issues and 0,7% of articles deal with domestic violence. Gender stereotypes are common in media, especially in the Jokes section.

The study concluded that the number of media materials focused on gender issues in Ukraine should be increased and their quality should be better.

There is the non-governmental **Industrial Gender Committee on Advertising** operating in Ukraine. It has the power to impose fines for sexist, discriminatory advertising. The body collects complaints and compels the owners to remove the advertisement in question.

Protection

7. Is the police granted the power to remove a perpetrator of domestic violence from his or her home? If yes, what is the statistics of granting protective orders to offenders of GBV and DV per year in your respective country?

According to the **Law on Domestic Violence**, police can remove a perpetrator of domestic violence from his or her home by issuing immediate protective order. The safety of the victim takes precedence regardless of the perpetrator's property rights on their common place of residence. Thus, the perpetrator has to leave the victim's place of residence for up to 10 days even if he owns this place.

According to Article 25 of the Law on Domestic Violence, the protective order can be issued by the police if there is a direct threat to the victim's life or health. Its aim is to stop domestic violence immediately and prevent it from continuing or reoccurring. The protective order can include the following measures:

- obligation to leave the victim's place of residence;
- prohibition of entering and staying in the victim's place of residence;
- prohibition of any contact with the victim.

The police may apply force if the perpetrator refuses to leave the victim's place of residence.

The Procedure for Issuing Protective Orders for the Perpetrators was adopted by the Ministry of Internal Affairs on July 1, 2018. However, only in April 2019 the Ministry of



Justice together with the Ministry of Social Policy have adopted the **Procedure of Risk Assessment of DV**, which is essential for issuing protective orders. Thus, only recently has the police started to issue protective orders and distance the perpetrators from the victims.

To our knowledge, there is no publicly available statistics on granting protective orders yet.

Besides the protective orders issued by police, there is another new measure to ensure the safety of victims of domestic violence. This is a restrictive order issued by the court. The law defines a restrictive order, such as a court-imposed measure of temporary restriction of rights or imposition of obligations on a person who committed domestic violence aimed at ensuring the safety of a person who has suffered from domestic violence.

For the restrictive order victim of domestic violence should apply to the court. In the case of domestic violence against the child legal representatives of the child, relatives of the child, as well as the guardianship body can apply for the restrictive order. During the 1,5 year of these norms operation there are already some cases in judicial practice when in the case of violence against children from the side of one of the parents or both parents, the guardianship authority applied for the issuance of a restrictive order in court.

The procedure for issuing restrictive orders is provided for by Chapter 13 of the Civil Procedure Code of Ukraine.

A restrictive order determines one or more measures for the temporary restriction of the rights of the offender or the imposition of duties on him:

- 1) the prohibition to stay in a place of joint residence with the victim;
- 2) elimination of obstacles in the use of the joint property or private personal property of the victim;
- 3) restriction of communication with the child-victim;
- 4) the prohibition to approach a certain distance to the place of residence, study, work, and other places frequent visits by the victim;
- 5) the prohibition in person and through the third parties of tracing a victim if she is at her discretion in a place unknown to the offender, to persecute her and in any way to communicate with her;
- 6) the prohibition of correspondence, telephone conversations with the victim or contact with the person through other means of communication personally and through third parties.

The court decides on specific measures to restrict rights or impose obligations on the offender by the circumstances of the case and statements filed by the victim.

A decision to issue a restrictive order is made based on the risk assessment.

The restrictive order is issued for a period of one to six months and may be extended, depending on the circumstances of the case based on risk assessment for another 6 months.

The court fee is not paid upon applying.

The court examines a case regarding the issuance of a limitation order no later than 72 hours after receipt of the application. However, in practice, these terms are not always respected due to the need for the offender to properly report on the time of the trial and the related delays.

The main problem identified with restraining orders cases is that court often refuses to issue the order that prohibits perpetrator to stay in a place of joint residence with the victim if he is owner or co-owner of the housing and does not have alternative housing.

The other problem identified during 1,5 years practice is the execution of court decisions. There are no law provisions on execution of court cases on restrictive orders. So, if perpetrator refuses to leave the place of victims' residence police and other bodies does not



have the authority to evict him from the housing. The only thing they can do to open the criminal proceeding on not-execution the restrictive order and bring the perpetrator to court. But still, it is not a solution for the victim as perpetrator remains in the housing.

8. Do victims of GBV and DV have an easy access to clear and concise information on available services, in a language they understand? If yes, who provides the information? (Government, NGOs, International organizations, UN agencies)

The Law on Domestic Violence obliges all the institutions that the victims may approach (schools, hospitals, local administrations, police, social services etc.) to provide information about the available services for them. Often they provide no information. NGOs, on the other hand, provide victims with most of the information available.

“Procedure for conducting and documenting the results of a medical examination of victims of domestic violence or persons who are likely to be affected by domestic violence and providing them with medical assistance” was approved by the Order of Ministry of Health of Ukraine February 01, 2019. According to it, medical institutions have clear rules for informing victims about the services available, as well as informing policy and other responsible bodies about the domestic violence case. Every medical hospital should have a person responsible for domestic violence to ensure effective work with victims as well as communication with police and responsible bodies. The procedure also includes guidelines for medical staff on how to identify domestic violence victims, in particular, children, and how to provide medical help for victims, in particular in cases of sexual violence.

There is information for victims of GBV and DV on several websites. These include the campaign **Break the Cycle**, supported by UNFPA, and **Speak against Violence**, supported by UNFPA and UNICEF. The websites are rozirvykolo.org and bezpekavdoma.com and the information is available in Ukrainian.

9. How many shelters are there for victims of GBV and DV in your respective country? How many shelters are run by Government and how many by NGOs? Where are they located: in big cities, regional centres, rural areas?

In 2018, the government adopted the **Model regulation on shelters for victims of GBV and DV**. Today there is at least one shelter for female victims of DV in every region of Ukraine. Usually those are the shelters funded by the international donors and handed over to regional administrations. There are also shelters run by women's rights NGOs. For example, there is one shelter in the capital region, which was established by an NGO with the financial support of the European Union. Now it is run by the local council. Similar shelters are being opened in other regions with the support of UNFPA and other actors.

Unfortunately, there is not enough space for women in these shelters. The shelters will rarely house a woman from a different region, with no documents or with children. Usually the shelters are in regional centres on big cities only.

10. Are the 24/7 telephone helplines available countrywide and free of charge in your respective country?

There is a free 24/7 national helpline aimed at preventing domestic violence, human trafficking and gender discrimination. The short number is **116 123** (for mobile phones).

There are also some local helplines for victims established in different regions of the country.

11. Are there easily accessible rape crisis or sexual violence referral centres? If yes, how many? How many shelters are run by the Government and how many by NGOs?

To our knowledge, there are no rape crisis or sexual violence referral centres in Ukraine.





12. Does the law define and criminalise the various forms of violence against women as well as domestic violence in your respective country?

Since January 2018, the Criminal Code criminalises domestic violence.

Other crimes concerning violence against women include sexual violence and rape, forced abortion and sterilisation as well as forced marriage. See more detailed p.13

13. Has the state introduced new offenses, where they did not exist in past, including:

- psychological and physical violence;
- sexual violence and rape;
- stalking, female genital mutilation;
- forced marriage;
- forced abortion;
- forced sterilization;
- femicide.

There was no criminal liability for domestic violence in Ukraine until 2018. Other newly introduced crime is forced marriage. Additionally, there were recent amendments to the articles on sexual violence and rape. Sex without the victim's voluntary consent is now regarded as rape. Earlier, the use of force was central to considering the sexual act as a crime. The detailed information about the recent amendments to the Criminal Code and the Criminal Code of Procedure follows.

Domestic violence

Article 126-1 of the Criminal Code of Ukraine provides for the criminal responsibility for domestic violence. The latter is defined as an intentional and persistent infliction of physical, psychological or economical violence. It can be inflicted on a (former) spouse or another person with whom the perpetrator is/was in a family or close relationship. Such actions must cause physical or psychological suffering, damage to health, inability to work, emotional dependence or the deterioration of victim's quality of life.

Aggravating circumstances

Aside from criminalising domestic violence, an important change was the expansion of aggravating circumstances that are taken into account while determining the perpetrator's punishment. Article 67 of the Criminal Code was supplemented by the following aggravating circumstances:

- 3) ... the crime being committed on the ground of sex;
- 6) ... the crime being committed towards an underage person or in his or her presence;
- 6-1) the crime being committed towards the spouse or the former spouse or another person who is or was in family or close relationship with the perpetrator.

Thus, if the court considers the case concerning the infliction of injuries by a husband or partner (Article 125), these circumstances must be taken into account while determining the punishment.

The mitigation of responsibility for the actions committed by the victims of DV towards their perpetrator

Since the measures taken by the police or courts are often ineffective in protecting the victims from DV, women may find themselves in a situation when they have to protect themselves



and their children on their own. It is not uncommon that a woman who has been suffering from violence for an extended period inflicts injuries on the perpetrator or even kills him. The analysis of the courts practice demonstrates that the bodies of pre-trial investigation and the courts usually do not take into account the history of DV and its impact on the woman while determining her crime and punishment. The amendments to the Criminal Code are meant to deal with this problem.

Article 66 of the Criminal Code was supplemented by the following mitigating factors:

7) the crime being committed due to an extreme emotional disturbance caused by the cruel, inhuman or degrading treatment as well as when this behaviour by the perpetrator is persistent.

Additionally, there were amendments made that require accounting for previous persistent violence and cruel treatment while classifying the offence and determining punishment for murder and infliction of serious injuries caused by victim of DV to the perpetrator.

Previously, Articles 116 and 123 of the Criminal Code provided for responsibility for actions committed while being in a state of extreme emotional disturbance that has been suddenly caused by illegal violence, persistent abuse or heavy grudge. This provision led to the practice when the husband who had murdered his wife having learned about her infidelity was treated as if he acted “in a state of extreme emotional disturbance”. He would thus receive a more lenient punishment according to Article 116.

On the other hand, if a woman had killed her husband after a long period of DV committed towards her, her actions would have been qualified according to Article 115 and she would have got a heavier punishment.

The revised version of Article 116 of the Criminal Code provides for a more lenient punishment for murder that has been caused by the cruel, inhuman or degrading treatment as well as when this behaviour by the perpetrator is persistent. The maximum punishment here would be 5 years of imprisonment while the punishment for regular murder would be from 7 to 15 years of imprisonment.

Article 123 of the Criminal Code (regarding the serious injuries) was also revised and now reads in a similar way as above.

Restrictive measures in criminal proceedings concerning DV

There were some provisions added to the Criminal Code aimed at protecting victims of DV while the perpetrator is being prosecuted. According to Article 91-1 the court can apply one or more restrictive measures towards the perpetrator of DV such as:

- prohibition of staying in the same place as the victim of DV;
- restriction on communicating with the child-victim or child-observer of DV;
- prohibition of approaching the place of residence or stay of the victim of DV by a certain distance;
- prohibition of any contact with the victim of DV, including via other persons;
- referral to the programme for perpetrators or probation programme.

There is criminal responsibility envisaged for those who intentionally do not comply with these measures.

Sexual violence and rape

Probably the most important amendments to the Criminal Code concern the criminalisation of sexual acts without the victim's free consent. The approach to understanding sexual violence has thus change significantly. Previously, the law reflected the existing ‘rape culture’ in the society. This worldview normalises and justifies sexual violence while putting the

blame on a woman. “It’s her fault” is a typical response to sexual violence crimes in a society with a “rape culture”.

Before, it was only possible to hold a person accountable for sexual violence if it was proven that the perpetrator:

- a) used force;
- b) used threats;
- c) exploited the victim’s vulnerable state.

During the pre-trial investigation an emphasis was put on whether the victim was actively resisting the acts of violence and whether her behaviour complied with the “moral norms of society”. Obviously, that was a serious violation of women’s rights and discrimination regarding their access to justice, as well as the reason for this type of crimes remaining latent. Now we are moving towards the “consent culture” and regard consent as a major marker for whether the sexual acts are legitimate. According to the Note to Article 152 of the Criminal Code, consent is believed to be free if it is a result of a free will of a person with due regard for the accompanying circumstances.

This definition is not perfect and it calls for additional clarifications in order for it to be applied effectively. There is much criticism regarding the new law, as it is difficult to prove the lack of consent. Besides, women are blamed for misusing this law and falsely accusing men of committing rape. Such a situation reflects the society’s tolerance for sexual violence and traditional putting the blame on a victim. In other words, the “rape culture” is still very much alive.

Thus, the task of the new law is not only to hold the perpetrators accountable and protection of victim’s rights, but also the shift in understanding sexual violence and change of attitudes regarding this grave violation of women’s rights.

The revised Article 152 of the Criminal Code defines rape as acts of a sexual nature in a form of vaginal, anal or oral penetration of another person’s body with genitals or any other object without the victim’s free consent.

The criminal code also recognises a separate crime of sexual violence. Article 153 defines it as engaging in any forced acts of a sexual nature, not involving the penetration of another person’s body, without the victim’s free consent.

Both of these Articles provide for a bigger responsibility for the crimes committed in relation to a spouse or another person with whom the perpetrator is or was in family or close relationship. We can see that the gravity of the problem of sexual domestic violence is recognized on a legislative level. The reason for this is not only the need to provide judicial protection for the victims according to the state’s responsibilities under international treaties. The law also aims at changing society’s attitudes towards sexual violence in a family or relationship, fighting stereotypes and decreasing the tolerance for sexual domestic violence.

Forcing to engage in a sexual intercourse

The new law also amended Article 154 of the Criminal Code, providing for criminal responsibility for forcing a person to engage in a sexual intercourse with another person without the former person’s free consent. Before the amendment, there was a responsibility only for the actions mentioned if the victim is financially or professionally dependent on the perpetrator.

Other types of GBV

Aside from rape and other forms of sexual violence, the Criminal Code of Ukraine provides for responsibility for other types of GBV in accordance with the Istanbul Convention. These include:

- murder linked to rape or sexual violence;
- intentionally inflicting serious injuries that caused genital mutilation, termination of pregnancy or irreversible face mutilation;
- forced abortion or sterilization;
- forced marriage.

According to the court judgements analysis, conducted by the NGO Centre “Women’s Perspectives” in 2016, many judgements concerned Article 115 since the murder was related to the rape of a female victim (there is a separate responsibility for this kind of offence). In such cases the punishment for a crime of murder is higher.

Female genital mutilation or irreversible face mutilation are not widespread in Ukraine. However, the number of such incidents (especially acid attacks) is increasing. There is no separate crimes for these in the Criminal Code, but they can be the attributes of intentionally inflicting serious injuries, which is recognized under Article 121.

Forced abortion and forced sterilization

Previously, the Criminal Code provided for the responsibility for abortion conducted illegally. The amended Article 134 envisages the responsibility for forced abortion without the victim’s free consent.

The Article now also provides for responsibility for forced sterilization without the victim’s free consent.

Forced marriage

In Ukraine, a forced marriage is traditionally a way to “solve the problem” in cases of rape and undesired pregnancy, especially if a victim is underage.

The Criminal Code was supplemented with Article 151-2 providing for responsibility for forcing a person into a marriage or to remain in a forced marriage along with related acts.

Therefore, the Criminal Code amendments (made in accordance with the Istanbul Convention) are meant to ensure the protection of victims of different kinds of GBV and bringing the perpetrators to justice.

GBV as an aggravating factor

The criminal Code was supplemented with the responsibility for different kinds of GBV. In addition, the list of factors that are aggravating the punishment for a crime has been complemented with such a factor as committing a crime on the grounds of sex.

Restrictive order

Besides the criminal responsibility for one’s crimes, the law envisages a way to protect the victim, which is issuing a restrictive order. According to the Law of Ukraine on Ensuring Equal Rights and Possibilities of Women and Men, the restrictive order in the cases of violence on the grounds of sex is issued in the same way as restrictive order in the cases of domestic violence.

In 2018, Article 120 of the Criminal Code was amended and now it provides for criminal responsibility for driving a person to suicide or attempting suicide that is a consequence of

the victim's cruel treatment, blackmail, persistent humiliation or persistent illicit forcing her to actions against her will, pushing to suicide or other acts that may help her commit suicide. The responsibility for such acts is restriction of liberty or deprivation of liberty.

Prosecution

14. What work is conducted against “honour” crimes?

Honour crimes are not prevalent in Ukraine. Thus, not much work is being conducted against them.

Nevertheless, some local initiatives try to raise awareness about this problem. Unfortunately, the traditional communities where the problem of honour crimes is more relevant oppose these initiatives. Those are some religious communities, national communities (the Romani, Crimean Tatars), families with women with disabilities. Since those are usually groups that are discriminated against, the work in this field requires sensitive approaches and instruments. It is important not to isolate these groups further and not to cause more harm to the women suffering.

15. To what extent is investigation of allegations of GBV and DV effective in your respective country?

Investigation of allegations of GBV and DV are not always effective. Sometimes police officers themselves lack understanding of these types of violence and put the blame on a victim. Personal prejudices and the experience with violence often negatively affect the quality of investigation and bringing the perpetrator to justice. In addition, they often cause harm to women, traumatising them and putting the blame for DV on them.

The situation is slowly changing after the adoption of the new Law on Domestic Violence. This is a progressive law and the police officers are now trained to act according to it.

16. How will you evaluate the work of law enforcement agencies in this respect? (promoting violence, unsatisfactory, satisfactory, good and excellent)

The work of law enforcement agencies is gradually improving. When comparing to the situation 20, 10 or even 5 years ago, we can see that the quality of services and the level of understanding the problem have significantly improved. Perhaps this change is slower than desired, but the level of protection of women's rights is still the highest since Ukraine gained independence.

There have been two laws on domestic violence, laws on gender equality and fighting discrimination, criminalisation of DV, measures against the “consent culture”, introduction of protective orders. Many procedures oblige the state officials to work towards eradicating DV and report on the measures taken. Their work may be formal and of lower quality at times, but the positive changes are still obvious.

17. Are the judicial proceedings carried out in a manner that respects the rights of victims in your respective country?

The judicial proceedings are supposed to respect the rights of victims. However, the court often suggests that the victim reconciles with the perpetrator instead of passing a fair judgement to hold the perpetrator accountable.

18. Are you informed about the Convention of Council of Europe?

Yes. Ukraine signed the Istanbul Convention on **November 7, 2011**.

A lot of work has been done to prepare the country to ratifying the Convention. Unfortunately, there was significant opposition from the Ukrainian Council of Churches and

right-wing initiatives. They started an extensive campaign that would make the ratification of the treaty impossible.

The new elections to the Ukrainian Parliament are planned soon. The former Parliament was not able to ratify the Convention and the work towards this goal should be started anew. This is because there is no procedure of considering the bills that were introduced by the former parliament. Those bills must be introduced anew.

19. What are the obstacles for signing/ratifying the Istanbul Convention in your respective country? (lack of political will from the national government, reluctance to provide financial resources for implementing the provisions of convention, patriarchal culture/stereotypes, corruption, passive civil society and insufficiently developed institutions working on GBV and DV)

Although Ukraine signed the Istanbul Convention as early as November 2011, it has not ratified it yet. The main stumbling block for the legislators was the word “gender” used and defined in the Convention (Article 3). Right before the ratification of the Istanbul Convention, the “antigender initiatives” undertook several lobbying campaigns. Those comprised of “visible” mass appearances in media, advertisement, propaganda at public events as well as “personal” influencing of legislators convincing them not to vote for the treaty’s ratification.

The main entity objecting to the ratification is the Ukrainian Council of Churches. The Council is especially concerned about the word “gender” used in the Convention. In its opinion, the Convention may become an instrument of promoting new gender roles and same-sex relationships. Those, according to the Council, would threaten the institution of the family in Ukraine.

Some of the current goals of “antigender initiatives” were voiced on one of the regional “Forums for the Family”. The targets for the influence included teachers, medical professionals (on whom they try to impose the pro-life approach) and youth.

Despite this opposition, Ukraine has made the aforementioned amendments to the Criminal Code and the Code of Criminal Procedure in 2018 to implement some of the provisions of the Istanbul Convention.

22 June, 2019

Comrat, Republic of Moldova

Rezolution of Gender Network of Eastern Partnership on the implementation/ ratification of the Istanbul Convention

We, Members of Gender Network of Eastern Partnership / representatives of the member CSOs of the EaP National Platforms of Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine in the frame of the project “Developing the joint advocacy plan of the EaP Forum, EaP National Platforms for the promotion of the prevention, protection and prosecution of the gender-based violence in EaP countries and the implementation/ ratification of the Istanbul Convention” have reviewed the state responses to domestic violence and gender-based violence in the EaP region, recognized the urgent need of the involvement of the EaP Forum in advocacy on the implementation/ ratification of the Istanbul Convention.

Recalling that on the 9th Annual Assembly of EaP CSF, in 2017, that took place in Tallinn, GBV was identified as a key problem for an entire region, which needs urgent and comprehensive addressing from both - the Governments of EaP countries and the civil society.

Recalling that The 10th Annual Assembly of EaP CSF Resolution on gender policies and updates, of 2018, also underline the importance of the fight against GBV and domestic violence.

Recalling that the CEDAW Committee recommends to all EaP countries (Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine) the urgent improvement in addressing domestic violence and gender-based violence and ratification of Istanbul Convention.

Bearing in mind that the Istanbul Convention is the most advanced legal instrument in the world to combat violence against women and the first treaty to add value to the international legal framework by providing a legally-binding definition of violence against women as a violation of human rights and a form of discrimination against women.

Emphasizing that the parties to the Istanbul Convention are bound to prevent domestic violence and protect victims from the perpetrators and immediate danger and that it sets the standard by defining the obligation of states “to prevent, investigate, punish and provide reparation for acts of violence perpetrated by non-state actors”.

Emphasising that the Istanbul Convention urges the state parties to introduce a number of new offences where they do not exist, which include: psychological and physical violence, sexual violence and rape, stalking, female genital mutilation, forced marriage, forced abortion and forced sterilization. It urges state parties to ensure that culture, tradition or so-called “honour” are not regarded as a justification for any of the above-listed courses of conduct.

Recognizing that the Council of Europe is a key player in pushing forward the agenda of ratification/implementation of the Istanbul Convention and setting the bar highest in these areas.

Bearing in mind that CSOs are playing a vital role in the rights-based agenda in the region. The development of cross-regional initiatives and actions is equally important as local policies and services. Together with the support from bilateral and international organizations the work of CSOs is the catalysts of reforms in the area of elimination of violence against women and domestic violence.



This project is funded by the European Union.



**National Endowment
for Democracy**
Supporting freedom around the world

Emphasising that the resistance of late, reactionary, populist movements hamper positive transformation of women's role in society and is an obstacle for freeing social and political environment from gender-based discrimination and violence.

Bearing in mind that regional collaboration and cooperation of women's human rights defenders, working for the same basic goal in various countries is the viable strategy for the success of elimination of violence against women.

Gender Network of Eastern Partnership decides to remain actively occupied of the matter of elimination of gender-based violence and the implementation/ ratification of the Istanbul Convention.