

GOOD PRACTICES IN RESPONDING TO DOMESTIC VIOLENCE: A COMPARATIVE STUDY



Development of this publication was supported through UN Women programme “Standards and Engagement for Ending Violence against Women and Domestic Violence in Bosnia and Herzegovina” financially supported by the Swedish International Development Cooperation Agency (Sida).

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CIP - Katalogizacija u publikaciji
Nacionalna i univerzitetska biblioteka
Bosne i Hercegovine, Sarajevo

343.54/.55

MANN, Lori

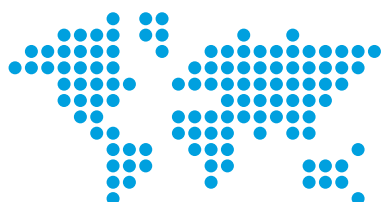
Good practices in responding to domestic violence : a comparative study /
[Lori Mann]. - Sarajevo : UN Women, CO in BiH, 2019. - 48 str. : graf. prikazi ; 30 cm

Bibliografija: str. 48 ; bibliografske i druge bilješke uz tekst.

ISBN 978-9926-8355-3-8

COBISS.BH-ID 27369990

GOOD PRACTICES IN RESPONDING TO DOMESTIC VIOLENCE: A COMPARATIVE STUDY



Sarajevo, 2019



FOREWORD

Good practices in responding to domestic violence: A comparative study provides an overview of available comparative information from four selected countries in order to show various approaches and models of action in cases of domestic violence. Pursuant to internationally recognised good-practice initiatives, two countries in the European Union (Austria and Spain) and two countries of the Western Balkans (Albania and Serbia) were selected.

From 2013 ratification of Istanbul Convention to the present, BiH Gender Equality Agency of the Ministry of Human Rights and Refugees and UN Women have extended support to the relevant institutions in order to ensure response and assistance to victims of gender-based violence.

Considering that Agency for Gender Equality of BiH is currently developing the standards for implementation of Istanbul Convention, this Comparative study constitutes a significant resource which will help the identification and operationalisation of the best practices in the implementation of the said Convention.

Solving the problem of domestic violence requires a long-term commitment, significant human and financial resources, capacity building and political will to achieve the standards of Istanbul Convention and ensure efficient response to violence against women by using good practices of other countries.

Different options provided by this Study, will help BiH Gender Equality Agency to choose the best approach in responding to violence that will be tailored to current needs and circumstances in Bosnia and Herzegovina.

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I INTRODUCTION

With the aim of assisting the Agency for Gender Equality of Bosnia and Herzegovina in supporting responsible government bodies to advance minimum standards in ensuring response and assistance to victims of gender-based violence, good practices were analyzed across four countries, two EU Member States (Austria and Spain), and two non-EU States within the Western Balkan region (Albania and Serbia). Countries were selected based on internationally recognized good-practice initiatives.

Albania has adopted municipal-level Coordinated Community Response Systems (CCRS), and a digitalized online system used for case management and monitoring purposes.

Austria was the first European country to adopt emergency barring orders (EBOs) and protection orders (POs), as well as to establish nine provincial-level, State-funded violence prevention centers, one in each province.

Serbia has established several protocols setting forth minimum services standards for police response, multi-sectoral coordination, and has recently passed a Law on the Prevention of Domestic Violence.

Spain has developed a model, comprehensive response to violence against women, which

includes specialized gender-based violence courts, and a national coordination mechanism with detailed protocols on inter-agency coordination and risk assessments.

This report provides a detailed, technical description of national programmes and initiatives that have been recognized internationally as good practice. It provides comparative information from the other four selected countries, where such information was available, in order to demonstrate distinct approaches and models. The aim is to provide diverse options to assist relevant actors in Bosnia and Herzegovina in selecting the best approach tailored to their current needs and circumstances in line with international standards.

For each practice, after setting forth the relevant international standards based on the Istanbul Convention, the UN Guidelines on Essential Services Package, jurisprudence from the European Court of Human Rights (ECtHR) and Council of Europe Guidelines, the flagship best-practice initiatives are described, comparing like models, where good practice exists in more than one country¹. Challenges to implementing each good practice model are also noted, including deviations from international standards as well as practical barriers to implementation.

1 Discrepancies in the quantity and detail of information on each practice was contingent upon the information made available to the public.

II EMERGENCY BARRING ORDERS AND PROTECTION ORDERS

2.1. International standards

A State's duty to protect victims of gender-based violence derives from the due diligence obligations set forth under Article 1 of the European Convention of Human Rights (ECHR)², and under Article 5 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), among other international instruments. The due diligence standard requires States to **prevent, investigate, punish** and provide **reparations** for human rights violations, including all forms of gender-based violence³.

With regard to protection, Article 52 of the Istanbul Convention provides:

Parties shall take the necessary legislative or other measures to ensure that the competent authorities are granted the power to order, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Measures taken pursuant to this article shall give priority to the safety of victims or persons at risk.

As aptly described by the Council of Europe, the concept of EBOs requires a “paradigm shift”.

Rather than asking victims to seek a place of safety from violence. It shifts that burden to the perpetrator, who is ordered to leave the

residence of the victim or person at risk and not to contact her or him⁴.

Although Article 52 requires the adoption of such measures, it leaves the modalities to the State's discretion. EBOs are not intended to function as a replacement for an array of other measures, such as arrest, detention and prosecution. At the same time, Article 52 must be read in conjunction with Articles 50, 51 and 53, which require immediate response by law enforcement, risk assessments and the availability of longer-term protection.

Emergency barring orders can be characterized by their **immediate application** and their **short-term duration**. As defined in the Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence (hereinafter “Explanatory Report”), the term “immediate danger” in Article 52 refers to situations in which harm is imminent, has materialised and is likely to reoccur⁵. EBOs are to be imposed for “a sufficient period of time,” which generally ranges from 10 days to 4 weeks.

An EBO constitutes a protective measure, and thus its issuance should not be contingent upon the commission of an offence, nor linked to proof of criminal responsibility. As the Explanatory Report details, the Istanbul Convention obliges States “to ensure the possibility for victims to obtain a restraining or protection order whether or not they choose to set in motion any other legal proceedings”⁶.

2 Opuz v. Turkey, (2009) (finding that the State's failure to protect against and adequately investigate domestic violence may constitute a violation of Articles 2, 3 and 8 of the Convention (the right to life, prohibition of torture and right to respect for private and family life, respectively). [helpful to add additional information, e.g., Court or mechanism that issued the decision, so readers can find underlying sources]

3 See also, CEDAW General Recommendation 28.

4 Council of Europe, Emergency Barring Orders in Situations of Domestic Violence: Article 52 of the Istanbul Convention, 2017, p. 43.

5 Council of Europe, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 210, 2011, para 265.

6 Explanatory Report, para 273, (noting that many victims may not be ready to press criminal charges).

EBOs can be issued by the police, a court or another designated authority. The EBO can also be qualified under civil, criminal or administrative law. The Istanbul Convention does not specify which institution should be responsible for the issuance of the EBO, though in most countries it falls to the police, given their protection mandate, and that they are operational 24/7. The issuance of an EBO should not require that an application be initiated by the victim. EBOs should be issued at no cost to the victim. Article 62 of the Istanbul Convention further calls for cross-border recognition of court-ordered protection orders⁷.

The scope of protection set forth in Article 52 is limited to covering: a) the victim's home or temporary residence (including shelters); and, b) general no contact orders. Many countries have extended the protection to the victim's children, if any, thus covering schools or childcare facilities.

EBOs must be monitored by: police patrols, initiating contact with the victim and electronic monitoring for perpetrators prone to violating an order or for high-risk victims. The Convention requires that States "ensure that the existence of a restraining or protection order may be introduced in any other legal proceedings against the same perpetrator. The aim of this provision is to allow for the fact that such an order has been issued against the perpetrator to be known to any other judge presiding over legal proceedings against the same person."⁸ Violations of EBOs or protection orders should result in criminal or administrative sanctions. Fines are viewed as counter-productive as they may be paid for out of the family budget, and are not an effective deterrent.

International best practice establishes referral pathways for multi-sectoral assistance to victims. The Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence foresees the possibility of making an exception to confidentiality requirements where there is imminent risk to the life or health of the patient, but does not foresee the obligation of service providers to report cases of violence to law enforcement

7 EU Directive 2011/99/EU on the European Protection Order and EU Regulation 606/2013/EU on mutual recognition of protection measures in civil matters complement the Istanbul Convention.

8 Explanatory Report, para 274.

actors⁹. Victims should have access to services unconditioned on their participation and engagement with law enforcement.

Finally, with regard to the rights of the perpetrator, it should be underscored that the perpetrator's temporary inability to access his/her right to property and private and family life cannot supersede the victim's right to life, and the right to physical and mental integrity¹⁰. The priority is to be placed on the victim's safety and that of his/her children. The EBO issued in a particular case should be proportionate, as reflected by a risk assessment. It should also be subject to due process and judicial review. That is, the order should be issued in writing, and contain both the content and duration. If the perpetrator is not heard on the spot by the police, he or she should have the right to be heard promptly. Perpetrators should also have the right to appeal a barring order, but without suspensive effect.

2.2. Austria

Austria was the first country in Europe to introduce EBOs in 1997. It adopted a gender-neutral approach to ensure that an EBO can be issued for every person in immediate danger of violence, men and women. However, a gendered approach is reportedly adopted in the law's implementation, given that victims are predominantly women. The law covers same-sex relationships.

The Violence Protection Act provides that emergency barring and restraining orders can be issued in response to a physical attack, the threat of a physical attack or any behavior that "seriously impairs the psychological integrity of another person"¹¹. If the life, health or freedom of a person is threatened, the police must effect the eviction; there should be no scope for discretion in this regard. It covers current and former spouses and partners, as well as family members, irrespective of cohabitation.

9 Explanatory Report, paras 146-148.

10 See, Goekce and Yildirim v. Austria, CEDAW, 12:1:5, 2005, (stating that "the perpetrator's rights cannot supersede women's human rights to life and physical and mental integrity"). [these may have been the correct spellings in Turkish; I just changed it to the spelling used by the CEDAW committee in the decisions]

11 Article I, Violence Protection Act, paras 1, 2.

Police issue EBOs in Austria as an administrative measure; they last for 14 days¹². Notably, the duration of the barring order is fixed, and does not depend upon the decision of the individual police officer in each case. EBOs are issued *ex officio* in the acute phase of immediate risk. This policy aims to relieve the victim from the burden of having to consent to the measure.

As a preventive measure, EBOs are issued when facts indicate imminent danger to the life, health or freedom of a person. In Austria, the EBO issuance remains completely separate from the criminal investigation process. EBOs are thus issued even if there is no solid evidence of a crime. However, if a violent act has occurred, the police are additionally required to file a report for the purpose of prosecution, as all incidents of physical injury must be prosecuted pursuant to the Criminal Code.

In Austria, the EBO can apply to the victim's home, or a shelter, and the surrounding area. It also covers schools and childcare facilities if children are endangered. It does not contemplate general contact bans, nor protection for the victim at his/her workplace.

The duration of the police-issued EBO can be extended from two to four weeks if the victim applies for a civil law protection order, which can last up to 12 months¹³. Civil courts deliver a decision on the victim's application within four weeks to ensure no gap in protection. The longer-term civil protection order allows for the possibility of issuing a general contact ban, unless this runs counter to "the profound interests" of the perpetrator¹⁴.

As noted, longer-term civil law protection orders can be requested by the victim to extend beyond the two-week period covered by EBOs, or can be issued independently of an EBO. Both EBOs and civil protection orders are cost-free¹⁵. Civil protection orders can be

extended until the termination of any related proceedings, including divorce. The extension of longer-term civil protection orders is left to the decision of the victim, fostering his or her agency. However, if the victim is a minor, the non-violent parent or the Youth Welfare Office can make an application on his or her behalf.

Reporting violence to the police by professional service providers is mandatory, including for adults. Multi-agency case conferences can be held for particularly serious or repeated cases.

Police provide victims with a document explaining their right to apply for a judicial protection order within two weeks of the issuance of the EBO. They are also informed about where to get help. Police notify the provincial intervention centre within 24 hours on all incidents involving violence against women, domestic violence and stalking. Police also submit a report on the EBO to the family/civil court, along with any key to the residence confiscated from the perpetrator. Conversely, the court informs the police if a civil law protection order is issued, given the police's role in enforcement. The police are also required to inform the Youth Welfare Office whenever children are involved in the violence.

The EBO is subject to review by an administrative legal service within 48 hours. Perpetrators barred from a joint residence have a right to collect their personal belongings. They are provided with a leaflet informing them of their rights. It includes the following information:

- the content of the barring order, delineating the prohibited area;
- sanctions for violations of the order;
- emergency accommodation options if s/he does not have a place to stay;
- contact information for seeking help;
- his/her obligation to provide an address where a judicial order can be served, and the consequences for not doing so (namely, that a judicial order will come into force without him or her being notified).

Perpetrators have the right to administratively appeal the order, with no suspensive effect. A successful appeal can result in compensation. Victims do not have the right to appeal, and are not party to the perpetrator's appeal.

tion orders, which are rarely invoked. Criminal protection orders cannot be applied immediately as there are no fast-track courts.

12 At the outset, the EBO was issued for seven days, the law was later changed to extend the EBO to 10 days. It was revised again to the current 14-day period.

13 Provincial intervention centres provide assistance to victims in applying for the civil law protection order. (Provincial intervention centres are discussed in more detail, below).

14 GREVIO, Report submitted by Austria pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Assessment Report: Austria), 2016, para 172, (noting that the "profound interests" of the perpetrator have not been defined).

15 Austrian law also contemplates criminal protec-

EBOs automatically cover children under the age of 14 living in a family home from which a perpetrator is barred, whether directly or indirectly affected by the violence.

Police are required to actively monitor compliance with the EBO, specifically checking within the first three days to ensure that the perpetrator has not returned to the victim's home. Breaches of the EBO result in an administrative fine of up to 500€. Repeated violations can result in arrest. Citizens have the right to file a complaint about police measures with an independent authority or court.

Police have specialized domestic violence units, as well as specialized units at the managerial level to monitor and evaluate interventions.

Challenges

While Austria's system for issuing EBOs constitutes a model in Europe, it faces several challenges. Protection linked to places, rather than to the victim creates the potential for gaps, and the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) has indicated its preference for no-contact bans. It further appears that emergency barring and protection orders are not de facto issued on the basis of psychological violence, due to evidentiary difficulties¹⁶.

GREVIO has also observed that while the "highly developed system of protection orders" keeps women safe, it "masks the lack of an effective criminal justice response to domestic violence cases"¹⁷. Criminalization could enable the police to intervene more quickly, although the consequent arrest and incarceration (and potential stigmatization) could impede reporting of the violation by the victim.

While cooperation is strong between the police, intervention centres, family/civil courts and the Youth Welfare Office, cooperation with the health and criminal justice sectors could be strengthened. Mandatory reporting for services providers contravenes international standards. Regarding the civil penalties for a violation, fines are not recommended as they are usually drawn from the family budget, thus penalizing the victim and other family members as well. Administrative fines do not have a strong

deterrent effect, especially as the fines are imposed long after the violation has occurred¹⁸.

2.3. Spain

Spain has established one of the most advanced normative frameworks in the world for addressing gender-based violence, and is continuously cited internationally as an example of good practice in the field. In 2004, Spain established a comprehensive, gender-specific legal framework for addressing intimate partner violence¹⁹, which entailed inter alia, the creation of specialized gender-based violence courts. These specialized courts are located in all regions of Spain, are operational 24/7, and enable the judge to impose a wide range of protection measures: criminal, civil (including family law) and social protection.

Applications for protective measures are filed ex officio by police and prosecution authorities. They are automatically issued in cases involving criminal gender-based violence convictions. The issuance of the order lies exclusively within the competence of the special court judge, who can also issue an order sua sponte, that is, on his/her own motion, without the filing of a request. Victims, family members of the victim, the police, social support organizations (public and private) and specialized prosecutors within the public prosecutor's office can all request a protection order²⁰. Social welfare, health and other professionals are under a mandatory obligation to report incidents of violence to police or prosecution authorities.

Protection orders²¹ must be issued within 72 hours of a request. Within 72 hours, the judge summons the parties for a hearing

18 Austrian NGO Shadow Report to GREVIO, 2016, p. 82.

19 Act 1/2004 of comprehensive protection measures against gender violence. Article 1 states: "The object of this Act is to act against the violence which, as a manifestation of discrimination, the situation of inequality and the relations of power of men over women, is carried out against the latter by their spouses or ex spouses or who are or have been their partners by means of a similar relation of affection, even though they have not lived together". All forms of domestic violence were criminalized in the Penal Code in 1989.

20 In practice, the highest percentage of cases, 72.9%, is reported by the victims themselves; 13.8% are initiated by the police. The lowest percentage of complaints (2%) is initiated by healthcare professionals.

21 Act 27/2003 of 31 July.

16 GREVIO, Baseline Assessment Report: Austria, 2017, para 174.

17 GREVIO, Baseline Assessment Report: Austria, 2017, p. 7.

with the public prosecutor. As an in-court protection measure for victims, hearings with the perpetrator and victim(s) are conducted separately. Affected children are also heard separately²².

While the perpetrator should be present at the hearing for the protection order, the proceedings can be conducted in absentia, if he cannot be found²³. If the perpetrator fails to appear, the judge can turn the summons into an arrest warrant. In situations involving immediate risk to the victim, police are obliged to arrest the perpetrator and to maintain him in custody until the order is issued (within the 72 hour period).

In contrast to Austria's gender-neutral framework, the orders are issued to protect women from intimate partner violence, that is, by spouses, ex-spouses or men with whom they have had romantic relations, irrespective of cohabitation. The law does not cover intimate partner violence occurring in same-sex relationships. Protection orders are issued at no cost to the victim.

The law contemplates two types of protection orders: criminal and civil. Protection orders linked to criminal proceedings can include:

- Prison;
- Restraining orders;
- Prohibition to communicate;
- Prohibition to return to the scene of crime or the victim's residence;
- Seizure of weapons or other dangerous objects²⁴.

Civil protection orders provide for:

- Awarding the use and enjoyment of the dwelling;
- Restrictions on the conditions of custody, visits and communication with children;
- Provision of maintenance²⁵;

22 Article 544 ter.4, Code of Criminal Procedure. The Code of Criminal Procedure also contemplates video-conferencing as an in-court protection measure.

23 Three conditions must be met to issue a protection order in absentia: a) the urgency of the matter is justified; b) the alleged person can challenge the order either by appeal or at the subsequent hearing; and, c) the subsequent hearing is held within a short delay.

24 Article 2(6), Act 27/2003 on protection orders.

25 In cases where gender-based violence is alleged and a child maintenance order has been issued but no payments are made, the government guarantees payment of the allowance out of the social benefits guarantee fund. Ar-

- Child protection measures to avoid danger or injury²⁶.

Protection orders can thus consist of a general no contact ban, barring the perpetrator from the victim's home, preventive custody of the perpetrator, granting the victim preliminary custody of the children, suspending the alleged perpetrator's parental authority, custody, guardianship and visitation rights and ordering maintenance payments to ensure children's well-being, among other dispositions. In general, criminal measures are applied more often than civil measures.

The geographical scope of the order remains at the discretion of the judge and, in contrast to Austria, can include the victim's workplace²⁷. A minimum of 500-meter ban is suggested in order to facilitate swift police response, and to avoid visual contact between the parties as well. Electronic monitoring enables immediate notification of a violation, and is frequently used for perpetrators who have breached an order. Violations of protection orders constitute a criminal offence in Spain. Significantly, the Criminal Code punishes the infringement of the protection order by the aggressor, not by the victim²⁸. At the same time, the judge may adopt new measures that impose greater limitations on the aggressor. Prior protection orders are taken into consideration in all relevant criminal or civil proceedings²⁹.

Interim protective measures remain in effect for up to 30 days, until a final decision is taken by the judge to affirm, amend or revoke the order³⁰. Protection orders may be maintained beyond the issuing of a final judgment in a case, and during the process of any appeals lodged³¹.

Article 19, Organic Act 1/2004.

26 Article 2(7), Act 27/2003 on protection orders.

27 Action and Coordination Protocol of the Security Forces and the Judicial Bodies for the protection of victims of domestic and gender-based violence [Protocolo de Actuación de las Fuerzas y Cuerpos de Seguridad y de Coordinación con los Órganos Judiciales para la protección de las víctimas de violencia doméstica y de género].

28 Art. 468 of the Spanish Criminal Code criminalizes the infringement of a protection order and is punishable by 6 months to one year of prison. Specifically for domestic violence cases the law foresees prison from 3 months to one year, or community work from 90 to 180 days. The consent of the victim is not relevant when determining the sanction for the infringement.

29 Article 61, Organic Act 1/2004.

30 Article 2(7), Act 27/2003 on protection orders. The interim protective measures can be prolonged at the request of the victim.

31 Article 69, Organic Act 1/2004 on Comprehensive

Criminal protection measures can last up to five years for minor crimes, 10 years for serious crimes and 6 months for petty offences.

A simplified standard application form is available in municipal and social services offices, police stations, the special courts and NGOs. It is available in Spanish, the other official languages in Spain (Basque, Catalán, etc.), English and French. As noted above, Spain allows limited third party applications, such as by the victim's family, which can be submitted to diverse social service organizations or governmental bodies, in addition to the police or the specialized court, fostering the accessibility of the procedure. As noted above, the law mandates that social protection agencies and civil society organizations with information concerning incidents of violence to report them to the police or specialized court, which is then obliged to issue, ex officio, a protection order.

The victim has the right to be heard by the court, which is not bound by her requests. A significant percentage (approximately 30%) of victims' applications for protection orders are denied each year. Perpetrators have the right to appeal an order, and the right to be heard by the court on the matter. The appeal does not have suspensive effect³².

The victim is notified of the issuance of a protection order, and of the conditions it imposes, by the judge, who also notifies the perpetrator and the relevant implementing authorities³³. Within 24 hours of its issuance, the notification is transmitted electronically, by fax or express mail. In addition to security bodies, social assistance, legal, health and psychological support services are also notified, depending on the needs of victims in a specific case. An integrated system of administrative coordination has thus been established, in order to facilitate these communications. (Inter-agency coordination is described in more detail, below).

The victim's receipt of comprehensive assistance³⁴ (psycho-social support, legal assistance and representation, and expert

witness support, financial aid³⁵, educational and vocational skills training, and housing) is conditioned upon her reporting the violence to the authorities³⁶. It is the court that informs the relevant service providers of the protection order and the victim's right to access services. The services offered to victims of intimate partner violence are compatible with those provided to victims of sexual violence, in line with the standard set forth in the Istanbul Convention³⁷.

The protection order is recorded in the Central Register for the Protection of Victims of Domestic Violence, which is managed by the Ministry of Justice. It can be accessed by family and criminal courts, the public prosecutor's office, the police, Government delegations and sub-delegations, and autonomous communities through designated points of contact, in order to ensure effective implementation throughout the State for both temporary and final orders³⁸. The Central Register is also used for monitoring purposes.

A Monitoring Committee³⁹ on the implementation of the law governing protection

Protection Measures against Gender Violence, (such extended measures must be explicitly set forth in the judgment).

32 Article 44, Organic Act 1/2004 on Comprehensive Protection Measures against Gender Violence.

33 Article 1(8), Act 27/2003 on protection orders.

34 Article 19(2), Organic Act 1/2004 of 28 December.

35 Article 3(5), Act 1/1996 on Free Legal Aid exempts victims from paying legal fees if they otherwise qualify for free legal aid. They can be assisted at the outset for free in urgent matters, and if they do not qualify, will have to subsequently pay the attorney's fees. The Action and Co-ordination Protocol of the Security Forces and the Judicial Bodies for the protection of victims of domestic and gender-based violence requires bar associations to establish on-call duties to ensure that lawyers are available 24/7 for urgent representation needs.

36 Article 2(5), Act 27/2003 on protection orders. The conditioned access to assistance has been a subject of debate in Spain, and in some regions the laws have been amended to provide access to those rights without requiring criminal intervention.

37 Act 35/1995 of 11 December on Aid and Assistance to Victims of Violent Crimes and Crimes against Sexual Liberty

38 Article 1(10), Act 27/2003 on protection orders. Royal Decree 513/2005 provides access to autonomous communities, Government delegations and sub-delegations. The General Council of the Judiciary maintains an updated list of the designated coordination points and provides full information with their modifications or updates to the Ministries of Justice, Employment and Social Affairs and the Interior, as well as to the Public Prosecutor's Office and the High Court of Justice, the Central Registry and the investigating courts of the relevant autonomous community.

39 The Monitoring Committee includes participation by representatives of the General Council of the Judiciary, the Ministries of Justice, Labour and Social Affairs, and Interior, autonomous communities with competence in the field of justice, the Public Prosecutor's Office, the General Council of Lawyers, the National Bar Association, and the Federation of Municipalities and Provinces.

orders was established, which has prepared several protocols to guide the implementation of protective orders as well as mechanisms for inter-agency cooperation and the application form.

The Protocol for the implementation of the protection order for victims of domestic violence, sets forth the criteria for coordination between the judiciary, law enforcement and other government bodies in the security, legal, psychological, health and social areas as requested by the victim.

The Action Protocol for the Security Forces, including coordination with the Judicial Bodies covers the communication and coordination system between police and judicial bodies to ensure effective victim protection. The Protocol requires police to intervene upon learning about facts that could constitute domestic violence. It requires that they:

- Inform the victim of her right to legal assistance in accordance with Annex 1 of the Protocol;
- Immediately and exhaustively take the victim's statement, and witnesses where relevant;
- In the event that there are indications of a criminal offence, urgently collect information from the neighbours, family members, co-workers, classmates, social services, victim care offices, etc. on the existence of any previous maltreatment by the suspect, as well as his personality and possible addictions;
- Check the existence of prior police interventions and/or complaints in relation with the victim or the suspect, any antecedents of the latter and possible injuries of the victim reported by the medical services; and,
- Check the existence of protection measures ordered previously by the judicial authorities in relation with the persons involved. For that purpose, and in all cases, the existing data recorded in the Central Register for the Protection of Victims of Domestic Violence is to be consulted.

Once the facts and the risks are assessed, a decision is made on the necessity to adopt specific measures aimed at the protection of life, physical integrity and the rights and legitimate interests of the victim(s) and their relatives. In this respect, the police may adopt the following measures in cases of extreme

urgency:

- Personal protection that, depending on the level of risk, may include permanent protection, 24 hours per day, by the police;
- Information / training on the adoption of self-protection measures;
- Ensuring that the victim is informed in a clear and accessible manner of the content, implementation and effects of the protection order, as well as of the social services, victim care offices and coordination points that she may have at her/his disposal.

The Action Protocol further provides for accessible and continuous communication between the victim(s) and the corresponding security corps, as well as their immediate access to all the necessary data to assess the risk at any moment. For that purpose and whenever possible:

- The implementation of protection orders will be assigned to personnel specially trained in assistance and protection of the victims of domestic violence;
- The victim will have access to a direct and permanent phone number in order to reach the assigned personnel to obtain individualized attention;
- The victim will benefit from technical mechanisms that allow a swift, fluent and permanent communication with the corresponding security forces and bodies, whenever the circumstances of the case and of the victim so require.

It also regulates how protection orders are monitored. The police and the judiciary actively monitor protection orders. In practice, specialized police units within the National Police, the Guardia Civil and the police in the autonomous provinces of Catalonia, the Basque Country and Navarra⁴⁰ monitor the effectiveness of protection orders. However, these specialized units are only available in the major cities. Any incident that affects one of the components of the system, such as the entry of the aggressor in the exclusion zone or his getting closer to the victim and the zone of exclusion while losing signal, are considered as serious incidents. The police protection mechanism is activated whenever the bracelet is broken, taken off or separated from its GPS,

40 Autonomous communities coordinate the police at all levels, including the local police in smaller cities and villages.

as well as when the battery dies. The victim is informed of any incident that may occur during the validity of the protection order. She is always able to push the “panic” button whenever she thinks that the aggressor is acting illegitimately. In these cases, the Control Center immediately contacts the victim to assess the situation and adopt the relevant measures⁴¹.

The Protocol for coordination between civil and criminal jurisdictions for the protection of victims of domestic violence establishes criteria for the effective coordination between both jurisdictions, which is intended to:

- Provide the victim with a comprehensive framework of protection, preventing the existence of conflicting resolutions;
- Provide family courts with adequate knowledge of the actions taken by pre-trial investigation courts in matters of domestic violence;
- Enable the family court to adopt a resolution within the legal time limit on the ratification, modification or revocation of the civil measures agreed in a protection order.

Challenges

Despite its highly advanced normative framework, in practice the Spanish system continues to face several challenges. The mandatory reporting requirement for social service and health professions in Spain conflicts with the UN Guidelines on Essential Services Package, which prohibits mandatory reporting of individual cases between coordinating agencies, except in cases of imminent danger, child victims or particularly vulnerable victims⁴². Furthermore, conditioning access to services and assistance to the criminal justice process contravenes international standards.

Some of the judges in the specialized courts reportedly lack the necessary gender sensitivity and specialized training. The courts are highly formalized, characterized by distance between the victims and judicial actors. Victims are not always treated as protagonists in the process. In contrast with the process in Austria, they are not given as much agency.

⁴¹ Control Centers are operational 24 hours a day, 365 days a year.

⁴² UN Essential Services Package for Women and Girls Subject to Violence, Module 5, Coordination and Governance of Coordination, Chapter 3, Essential Action 1.2.

Women who request protection orders are required to establish proof of the abuse, and the evidence provided is not always sufficient, including the production of medical certificates. Thus, due to evidentiary issues and limited investigations, ongoing violence is explicitly recognized in less than 5% of the cases; in almost 60%, the case is treated as a single incident of abuse.

In approximately 30% of the cases, perpetrators are acquitted, most often due to the victims' refusal to provide evidence⁴³. The victim's withdrawal of participation is common to the cycle of violence, and should also be considered in light of the mandatory, ex officio prosecution policy.

2.4. Serbia

Serbia passed a Law on the Prevention of Domestic Violence in 2016. The Law takes a gender-neutral approach, and covers domestic (family) violence as well as intimate partner violence⁴⁴. It establishes two forms of emergency barring orders: a) the temporary eviction of the perpetrator from the dwelling; and, b) the temporary prohibition of contacting and approaching the victim⁴⁵. Additional measures are contemplated in cases involving criminal offences, such as barring the perpetrator from additional locations⁴⁶. Anyone is permitted to report violence to the police or a prosecutor pursuant to the law, and professionals are under a mandatory reporting requirement, subject to a fine for non-compliance⁴⁷.

Although the Law remains silent as to victim's requests for protection, the General Protocol of Conduct and Cooperation of Institutions, Bodies and Organisations in Situations of Violence against Women within the Family and in Intimate Partner Relationships provides that social workers from the center for social work can request a civil protection order on

⁴³ Article 416 of the Criminal Procedure Code provides the right to not give evidence against a family member.

⁴⁴ Article 3, Law on the Prevention of Domestic Violence.

⁴⁵ Article 17, Law on the Prevention of Domestic Violence.

⁴⁶ Article 23, Law on the Prevention of Domestic Violence.

⁴⁷ Articles 13, 22, 36, Law on the Prevention of Domestic Violence.

the victim's behalf. The victim, the victim's legal representative, the prosecutor or custody authority can also request protection orders. Similar to the Law, according to the Protocol, professionals in the social protection, health and education fields are required to report incidents pertaining to domestic violence to law enforcement authorities⁴⁸. Civil protection orders are regulated under the Family Law.

The Law contemplates specially trained police, prosecutors and judges. When violence is reported to the police, the "competent police officer" is to be informed "without delay." Any police officer is charged with bringing the alleged perpetrator to the police station for questioning. The perpetrator can be held at the station for up to eight hours, without clarifying if the limit applies to instances in which the perpetrator has committed a crime⁴⁹. The perpetrator has the right to be represented by a lawyer.

Under Article 15 of the Law, the "competent police officer" is charged with questioning the perpetrator and other police officers only for the purpose of conducting a risk assessment and imposing an EBO. Significantly, the provision does not reference interviewing the victim for the purpose of determining risk⁵⁰. The victim's perspective and subjective feelings of fear are included as an element of the risk assessment under Article 16. (The risk assessment is addressed in more detail, below). The risk assessment is to be immediately submitted by the police to the public prosecutor's office, social welfare center and coordination committee when there is a finding of imminent danger. The same process applies if the assessment finds no imminent risk of danger, without the requirement for immediate submission, however.

The duration of the EBO is for 48 hours. It can be extended by the court for up to 30 days. The law requires the order to contain the following information:

- the name of the authority issuing it;
- data on the person that the emergency measure is imposed against;
- the type and duration of the emergency measure being imposed;
- the date and hour of the emergency measure's imposition; and,
- the obligation of the person against whom it was imposed to contact, upon its expiry, the police officer who imposed it⁵¹.

The police are required to notify the perpetrator, the victim, the social welfare center and the coordination committee of the issuance of the order. The public prosecutor is required to review the risk assessment and order, and if the assessment is confirmed, submit the order, the police risk assessment and his/her own assessment, to a court within 24 hours. The basic court then has 24 hours to issue a decision confirming the order, or denying it as ungrounded, based on the evidence provided by the public prosecutor via the police⁵².

Violations of protection orders constitute a misdemeanor offence, subject to imprisonment for up to 60 days⁵³. Law enforcement and judicial officers are subject to disciplinary sanctions if they do not comply with their obligations under the Law.

The perpetrator has the right to remove personal belongings from the dwelling under police escort. The perpetrator and the public prosecutor have a right to appeal the basic court decision, without suspensive effect. The appeal must be forwarded to a higher court within 12 hours. Pursuant to Article 20: "The higher court may reject the complaint and confirm the decision of the basic court, or adopt the complaint and amend the decision of the basic court. It cannot rescind the decision of the basic court and return the case to the basic court for repeated procedure."

Challenges

Serbia's Law on the Prevention of Domestic Violence contains numerous gaps. Principally,

48 Ministry of Labour, Employment and Social Policy, General Protocol of Conduct and Cooperation of Institutions, Bodies and Organisations in Situations of Violence against Women within the Family and in Intimate Partner Relationships, p. 22.

49 Article 14, Law on the Prevention of Domestic Violence.

50 Indeed, Article 15 indicates that the competent officer shall interview other police should the perpetrator not be available, and provides for the possibility of interviewing the social welfare centre, further underscoring the explicit absence of the victim from the process.

51 Article 17, Law on the Prevention of Domestic Violence.

52 See, Articles 18, 19, Law on the Prevention of Domestic Violence.

53 Article 36, Law on the Prevention of Domestic Violence.

it fails to put the victim at the center of the process. Although Article 31 empowers the victim to participate in the development of his or her individual plan of protection, the text remains ambiguous as to whether this involves EBOs and/or the 30-day court-ordered protection order. The victim is hardly referenced in the provisions outlining the procedures, and there is no explicit provision entitling him/her to be heard on the matter. The duration of the EBO, 48 hours, is extremely short. Its extension for up to 30 days by a court also constitutes an extremely limited duration.

Empowering “anyone” to report domestic and intimate partner violence to police and prosecutors, coupled with the ex officio implementation of the law could have the adverse effect of endangering victims, as they are best positioned to know the possible outcomes of law enforcement intervention.

Police reportedly do not always immediately respond to reports of violence, which is dependent on “their assessment of the ‘veracity’ of the caller and the severity of the situation”. Problems were noted in particular in police response to ongoing, long-term violence⁵⁴. However, they do reportedly collect evidence at the scene for the purpose of prosecution.

2.5. Albania

Albania adopted a Law on Measures against Violence in Family Relations in 2006⁵⁵. According to GREVIO, Albania takes a gender-sensitive approach, framing its efforts to combat violence against women within the wider policy context of combating discrimination against women and achieving gender equality⁵⁶. Reportedly, the wider public reportedly lacks a gendered understanding of domestic violence, which is viewed primarily as a by-product of low socio-

economic development.

The Law on Measures against Violence in Family Relations takes a gender-neutral approach, and does not cover non-cohabitating partners⁵⁷. Similarly, an amendment to the Criminal Code established the crime of domestic violence, which is defined as:

The beating and any other act of violence against a person who is a spouse, former spouse cohabitant or former cohabitant, kin or in-law of the perpetrator of the criminal offense, leading to the violation of the physical, psychosocial and economic harm is punishable by up to two years of imprisonment. Serious threats of murder or serious injury against the person who is a spouse, former spouse, cohabitant or former cohabitant, kin or in-law of the perpetrator of the criminal offense, leading to the violation of his psychological integrity, is punishable by up to three years of imprisonment. Intentional injury against the person who is a spouse, former spouse, cohabitant or former cohabitant, kin or in-law of the perpetrator of the criminal offense who has caused temporary incapacitation for work of longer than nine days is punishable by up to five years of imprisonment. The same offenses, committed in a repeated manner or in the presence of children are punishable by one up to five years of imprisonment⁵⁸.

The Law on Measures against Violence in Family Relations foresees emergency and longer-term protection orders issued by the Family Section of the District Court. The length of the emergency protection order is at the discretion of the Court. A protection order can be sought without the prior issuance of an emergency protection order. The emergency protection order remains valid until the issuance of a protection order. The Law foresees providing the victim “with the protection of a policeman in life endangering cases”⁵⁹.

Victims can report violence to the following authorities: police, local government authorities (commune or municipality), public health centres and district courts. Social service, police, and family members can also solicit protection orders and emergency protection orders on behalf of both adult and minor victims, without

54 Autonomous Women’s Center and The Advocates for Human Rights, Implementation of Serbia’s Domestic Violence Legislation, 2017, p. 16.

55 Law No. 9669 of 18 December 2006.

56 However, at the same time, GREVIO has noted that “other forms of violence against women, such as forced marriage, forced abortion, sexual violence including rape and sexual harassment, have not been prioritised in the design and implementation of policies”. GREVIO, Baseline evaluation report on legislative and other measures giving effect to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, 2017, para 6, (Baseline Evaluation Report: Albania).

57 See, Article 3, Law No. 9669 of 18 December 2006.

58 Article 130/a, Criminal Code of Albania.

59 Article 8(3)(ç), Law No. 9669 of 18 December 2006.

reference to the consent of adult victims⁶⁰. Any person who witnesses violence is also entitled to report the violence to the above-listed authorities. Petitions are recorded in a special register. Victims have access to free legal aid to assist them in soliciting a protection or emergency protection order. Both types of orders are issued free of charge.

Police are required to investigate incidents of suspected or alleged cases of domestic violence *sua sponte* (on their own initiative), and provide a copy of the incident report to the victim. The Law penalizes the failure of authorities to implement its provisions with criminal sanctions⁶¹.

Like Spain, the Law in Albania contemplates an extensive set of protection measures that can be included within an order, including: refraining from violence against the victim or other family members, a ban on contacting the victim, removal from the victim's residence, workplace or children's schools; the seizure of weapons; maintenance support; restricted child visitation rights, and the mandatory participation in rehabilitation programmes for the perpetrator and/or the victim, among other provisions⁶².

The criteria for the issuance of an emergency protection order is comprised of the following three elements:

- a. There is sufficient basis to believe that the defendant (perpetrator) has committed or threatened to commit an act of family violence
- b. The defendant (perpetrator) presents a direct and immediate threat to the security, health or well-being of the victim or of their family members
- c. Issuance of the emergency protection order is necessary to protect the security, health and welfare of the victim or their family members who are protected through this order⁶³.

The emergency protection order can be issued *in absentia*, that is, in the absence of the perpetrator. An appeal of the emergency protection order can be lodged within five days of its issuance. Appeals do not have suspensive effect. The Court will then schedule a hearing on the issuance of a protection order, which can annul, maintain or amend the emergency barring order. Notification of the court's decision on the order is issued within 24 hours. The District Court must hold a hearing on the request for a (non-emergency) protection order within 15 days of the petition, and is required to make a decision on the issuance of the order within 48 hours. The Law sets forth the types of evidence that can be presented in soliciting a protection or emergency protection order. The court can issue the protection order for up to 12 months, with the possibility of an extension. The parties, the police and social welfare services are notified of the order within 24 hours. An appeal must be lodged within 15 days of its issuance⁶⁴.

Violations of protection orders and emergency protection orders constitute criminal offences, and criminal and civil sanctions are applicable. Articles 320 and 320a of the Criminal Code cover preventing the enforcement of court decisions and the failure to execute the court decision without grounded reasons, respectively. Article 320 contemplates the sanctions of a fine or up to two years imprisonment; Article 320a foresees the same penalties for State authorities who fail to execute an order, with the increased penalty of three years imprisonment if the failure to execute can be attributed to a bribe. Article 606/3 of the Civil Procedure Code foresees fines for bailiffs failing to execute court orders.

60 Article 13, Law No. 9669 of 18 December 2006.

61 Article 8(5), Law No. 9669 of 18 December 2006.

62 See, Article 10(1)(a)-(m), Law No. 9669 of 18 December 2006.

63 Article 19(1), Law No. 9669 of 18 December 2006.

64 The Law makes no reference as to whether the right to appeal resides with the perpetrator and/or the victim. In this regard, both the request of the order and its issuance are *ex officio*, and are not dependent upon the request of the victim, although he or she has the right to be heard during the proceedings.

Challenges

One NGO report to GREVIO indicated several challenges, including that police reportedly mediate domestic violence cases, the lack of interview rooms in police stations, and that insufficient information and documentation by police has resulted in the courts denying requests for protection orders. Delays and failure to execute protection orders and emergency protection orders were also noted due to weak cooperation between police, the bailiff's office and the social services directorate⁶⁵.

As noted above, empowering “anyone” to report domestic and intimate partner violence, coupled with the ex officio implementation of the law, could have the adverse effect of endangering victims, as they are best positioned to know the possible outcomes of law enforcement intervention.

⁶⁵ Ana Ruci, Bringing the Istanbul Convention to the local level: Albania, 2017.

III RISK ASSESSMENT

PROTOCOLS

3.1. International standards

The ECtHR has established positive obligations for States to protect citizens from human rights violations committed by non-State actors, including in the private sphere. Specifically, Articles 2 and 3, protecting the right to life and the prohibition on ill-treatment, respectively, enjoin “the State to take appropriate steps to safeguard the lives of those within its jurisdiction,” and “to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual”.⁶⁶ It has specifically held that:

*A positive obligation will arise where it has been established that the authorities knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk.*⁶⁷ (Emphasis added).

In this regard, the Istanbul Convention requires States to “ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide co-ordinated safety and support,” taking into account all stages of the investigation, protection measures and possession of, or access to, firearms by the perpetrator.⁶⁸

The ECtHR has developed a two-pronged standard for assessing whether States have met their positive obligations under Articles 2 and 3: a) whether the authorities knew or ought to have known of the violence to which

the victim had been subjected and “the risk of further violence;”⁶⁹ and, b) “if so, whether all reasonable measures had been taken to protect her and to punish the perpetrator”.⁷⁰ In this regard, risk assessments constitute a practical tool for determining “the existence of a real and immediate risk”.

In the Case of B. v. Moldova, the Court found that “the authorities did not make an analysis of whether the seriousness and number of attacks which the first applicant had suffered on the part of V.B. and the seriousness of the first allegation of rape had required to pursue the criminal investigation”.⁷¹ The Court further noted the failure of the State to take into consideration the subsequent incidents and the ongoing episodes of violence. It found that “the domestic courts should have taken into consideration the factual developments which had taken place after the [relevant court] had been adopted, namely the two additional attacks by V.B. [the perpetrator]”.⁷² Based on the finding that the authorities had failed to assess the evolving risks, the Court held that Moldova had violated Article 3 of the Convention.

The need for a protective order and other safety measures must thus be assessed on a regular basis. It is important to remember that there are several situations that can raise the level of risk, such as separation or divorce, a court hearing and child contact, among others. The aim of using risk assessment tools is to prevent further violence. The assessment of risk and identification of safety measures should be conducted continuously: from the first meeting with the victim all the way to a possible sentence, and sometimes also in connection with the perpetrator’s release from prison. The risk assessment has to be conducted in close

66 Case of Branko Tomašić and Others v. Croatia, Application no. 46598/06, 2009, paras 49, 50; see also, Mudric v. The Republic of Moldova, Application no. 74839/10, 2013, para 40.

67 Case of Branko Tomašić and Others v. Croatia, Application no. 46598/06, 2009, para 51.

68 Article 51, Istanbul Convention.

69 Case of B. v. The Republic of Moldova, Application no. 61382/09, 2013, para 51.

70 Case of B. v. The Republic of Moldova, Application no. 61382/09, 2013, para 51.

71 Case of B. v. The Republic of Moldova, Application no. 61382/09, 2013, para 54.

72 Case of B. v. The Republic of Moldova, Application no. 61382/09, 2013, para 56.

co-operation with the victim. It is also important to ensure the safety of and need for protection measures for children involved in domestic violence cases at all stages of investigations and judicial proceedings. The Istanbul Convention leaves the risk assessment methodology to the discretion of the States. Yet, it is recommended that first responders especially focus on risk factors such as:

- violence;
- threats;
- escalation;
- violation of protection orders;
- alcohol and/or substance abuse;
- psychological problems.⁷³

EBO violations should constitute a risk factor, requiring stronger measures.

Risk assessment protocols function not only as a life-saving tool, but as a means of ensuring the efficient and effective use of limited resources by distinguishing between levels of risk. When the police come into contact with a victim exposed to domestic violence, their main task is to ensure victim safety. They have a range of measures they can use in non-urgent situations, from advising the victim on practical safety measures they can implement themselves, such as removal of the nameplate on the door, inserting a peephole in the door, installing safety locks, using different routes to and from work, locking car doors when driving, among others, in addition to more comprehensive measures such as protection orders.

Not all countries have yet adopted risk assessment protocols in domestic violence cases. For example, risk assessments have not yet been integrated in police response or the process for issuing EBOs or protection orders in Albania.⁷⁴

3.2. Spain

The police in Spain are obliged to use two risk-assessment tools to guide any protection employed in diverse situations pursuant to the Police Protocol to evaluate the level of risk of

⁷³ See, Council of Europe, Preventing and Combating Domestic Violence against Women: A learning resource for training law enforcement and justice officers, 2016, p. 40.

⁷⁴ GREVIO, Baseline Evaluation Report: Albania, 2017, para 181.

violence against women in the cases covered by Organic Act 1/2004. The first form identifies the exposure to a reoccurrence of violence. It lists the following indicators of violence:

- physical violence-with or without visible injury;
- sexual violence;
- the use of firearms, hazardous tools or other objects when attacking the victim(s);
- intimidation, threats of physical/mental harm addressed at victims;
- an increase, intensification of and/or repeatability of violent incidents or threats;
- mental violence used by the perpetrator against victims; damage caused at the place of residence, damage to property;
- the non-observance of protection orders issued by the court;
- a breach of the principles of serving a court-ordered sentence;
- provocative and/or disregarding behaviour of the perpetrator towards authorities, police officers, or other persons representing police services or justice bodies, as well as towards the victim in the presence of the above-mentioned persons;
- previous conflicts with the law, in particular involving the use of violence;
- the consumption of alcohol, drugs or other psychoactive substances by the perpetrator;
- the perpetrator shows jealousy and/or obsessive behaviour towards the victim;
- clear problems, inflammatory points in the couple's relation;
- employment and/or financial problems of the perpetrator;
- previous attempts and/or suicidal tendencies.

Additional indicators, not on the list, can be added by the officer filling out the form.

The form also requires the police to specify the source of information and to evaluate among four levels of risk: extremely high, high, average and low. If the officer filling out the form believes the risk to be different from the one automatically generated by the form, the degree of risk can be increased. There is no option for the officer to reduce the level of risk from that automatically generated by the form. Each degree of risk has a corresponding date at which the situation should be reassessed, as follows:

- extremely high = 72 hours;

- high = 7 days;
- average = 30 days;
- low = 60 days.

After the imposition of court-ordered protection measures, a second form is used to monitor the ongoing evolution of risk within the deadlines established according to the level of identified risk (see above). It also assesses the effectiveness of the court-ordered protective measures applied. It is to be used periodically as the case evolves.

The indicators of this form include:

- the perpetrator has no possibility to harm the victim; he is in prison or a closed centre of different nature, left the country, or because of the state of health is physically unable to use violence;
- the perpetrator left the victim; he does not persecute the victim, has changed his place of residence far from the victim, abides by the preventive measures adjudged by a court, together with electronic supervision measures (wearing appropriate bracelet);
- from the moment of proceedings' initiation the perpetrator has behaved in a calm, controlled manner; he accepts the situation; he does not show willingness to take revenge on the victim or persons from her social environment;
- the perpetrator demonstrates full respect towards the law, police officers, or other persons representing police services or justice bodies;
- the social situation, financial and professional situation of the perpetrator is stable;
- the perpetrator shows remorse, has pangs of conscience, voluntarily takes part in classes or corrective therapy;
- the victim may count on support from her social environment in terms of safety;
- the victim has changed her place of residence, which remains unknown to the perpetrator;
- there have been no additional incidents since the last risk evaluation;
- the perpetrator ran away, is in hiding or is in an unknown place;
- the perpetrator shows jealousy and/or obsessive behaviour towards the victim;
- the perpetrator has previously attempted suicide and/or demonstrates suicidal tendencies, mental illnesses, psychological problems, addiction to alcohol, drugs or other psychoactive substances;

- the victim does not abide by the agreed-upon safety principles, (e.g., prohibition to contact the perpetrator), electronic supervision, shows the desire to withdraw complaints, changes her testimonies, wants to withdraw from the preventive measures;
- the victim is in a relationship that the perpetrator does not accept and/or really wants to force the victim to break this relationship;
- the victim has mental problems, psychiatric problems and/or is addicted to alcohol, drugs or other psychoactive substances;
- in the socio-familial environment of the victim there is a person related to him or the perpetrator who constitutes a real threat to her mental integrity.

Again, additional indicators can be added by the assessing officer.

Pursuant to the Action Protocol of the Security Forces and Bodies, including Coordination with the Judicial Bodies for the Protection of the Victims of Domestic and Gender Violence, depending upon the level of risk, the following compulsory measures should be undertaken:

Level 1 (low risk):

- Providing the victim permanent contact telephone numbers (24 hours) for the nearest police bodies;
- Sporadic telephone contacts with the victim;
- Informing the aggressor that the victim has police support for her protection;
- Recommendations on self-protection and ways to avoid incidents;
- Accurate information on the mobile remote assistance service.
- Level 2 (medium risk): Application of the mandatory measures for Level 1 plus:
 - Regular monitoring at home, workplace and entrances and exits of schools;
 - Accompanying the victim in as many proceedings, either judicial, administrative or for assistance, as is required;
 - Training the victim in self- defense measures;
 - Seeking to provide the victim with a mobile terminal (i.e., remote assistance service).
- Level 3 (high risk): Application of the mandatory measures applied for Level 1 and 2 plus:
 - Continuous surveillance of the victim during the urgent levels of threat, until the circumstances of the offender are no longer considered an imminent threat;

- Encouraging the victim to move to a support centre or to the home of a relative if she has not done so yet, at least during the first days and especially if the offender has not been arrested;
- Sporadic control of the aggressor's movements.

In case of discrepancies between the police protection measures agreed by the court and those which result from the police risk assessment, the measures decided by the court will always prevail and the judicial authorities will immediately be informed about the existing discrepancies in order to agree what it is most appropriate.

Challenges

As the cycle of violence often results in victims retracting their statements, withdrawing their complaints and refusing to testify against family members after filing complaints, sometimes several times, the Istanbul Convention (Article 55(1)) and international best practice requires that investigations and prosecutions should be conducted *ex officio*. As indicated in the UN Essential Services Package for Women and Girls Subject to Violence: Justice and Policing requires ensuring that: "the primary responsibility for initiating prosecution rests with the justice service provider and not with the victim/survivor".⁷⁵ In light of this general challenge, Spain's comprehensive and systematic approach is commendable.

3.3. Austria

The implementation of systematic risk assessment and safety management measures has begun in Austria, but questions remain as to whether a standardized set of procedures exists country-wide to protect and support women victims of violence from repeat and severe violence, including femicide.

The Ministry of Interior in Austria has developed a risk-assessment tool for use by law enforcement agencies, standardizing the assessment of risk in domestic violence cases (SALFAG). Following a trial run in three provinces, it was evaluated, further fine-tuned

and introduced in 2016.⁷⁶ However, according to an NGO shadow report to GREVIO, SALFAG was not developed to assess lethal risk, and has not yet been fully evaluated and scaled.⁷⁷

Multi-agency risk assessment procedures through regular meetings or case conferences (MARACs)⁷⁸ have also been introduced as pilot projects within a few Provincial Intervention Centres in cooperation with Provincial Police Directorates in high-risk cases.⁷⁹ The aim is to implement specific actions quickly in order to increase safety levels for victims through close and regular collaboration between different institutions working in the area of family violence. Further objectives are to share the responsibilities between the involved organisations, to become aware of specific endangerments and to understand the differing results of assessments.

Members of the police, the violence protection centre, the court, and the public prosecutor's office meet once a month or bi-monthly. Depending on the case, the list of invited institutions is extended to other organisations (e.g., Youth and Family Office, a women's shelter). In each MARAC session about three cases, which can be raised by any participant, are reviewed. The members discuss what each organisation can do to improve the victim's situation and how to coordinate these measures.

All of the information required for safety and security purposes is exchanged initially in regular meetings, before targeted actions aimed at protecting victims are decided upon. A case conference can only proceed if the victim consents and if the victim is represented by a victim safety organization. With due regard to the data protection of victims, within a case conference only categories of danger and coordinated measures for their protection can be discussed. Initiated in Vienna, MARACs are currently being replicated in additional districts and provinces. Some violence protection centres carry out less formalised multi-agency case conferences (MACCs) on an as needed basis, with the same participating institutions.

⁷⁵ See, UN Essential Services Package for Women and Girls Subject to Violence: Guidelines for Essential Justice and Policing Services: Element 4.2

⁷⁶ GREVIO, Report submitted by Austria pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), 2016.

⁷⁷ Austrian NGO Shadow Report to GREVIO, 2016, p.80.

⁷⁸ Multi-agency risk assessment conference.

⁷⁹ GREVIO, Baseline assessment: Austria, para 170.

In Styria, risk assessment is mainly done by the violence protection centre on the basis of DyRIAS (Dynamic Risk Assessment System),⁸⁰ an IT-based system that is highly respected for its thoroughness. Law enforcement agencies and prosecution services frequently order pre-trial detention on this basis.

Challenges

No federal funding is provided to MARACs, and cooperation with the criminal justice system is not fully functional. The approach remains not fully systematized or available country-wide.

3.4. Serbia

The recently passed Law on the Prevention of Domestic Violence in Serbia requires the competent police officer to perform a risk assessment, which is a fundamental component of the process for issuing a protection order. Article 16 of the Law on the Prevention of Domestic Violence contains the elements to be considered to determine the risk. It states, in relevant part:

In conducting risk assessment, particular account shall be taken of whether the possible perpetrator committed domestic violence before or immediately before risk assessment and whether [he or she] is prepared to repeat it, whether the possible perpetrator threatened with murder or suicide, has weapons, is mentally ill or abuses psychoactive substances, whether there is a conflict over custody of a child or over the manner in which personal relations between the child and the parent who is a possible perpetrator are maintained, whether an emergency measure has been imposed or a domestic violence protection measure determined against the possible perpetrator, whether the victim experiences fear and how the victim assesses the risk of violence.

Although the final element for consideration under Article 16 refers to victims' experiences of fear and their assessment of the violence, Article 15 does not explicitly provide for interviewing the victims in the assessment determination process; rather, it only makes reference to interviewing the perpetrator, other police officials and the social welfare center.

Prior to the passage of the Law in 2016, risk factors were incorporated into the Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, developed in 2013 with the support of UNDP, UN Women and UNICEF.⁸¹ The Protocol lists the following questions to be asked by police officers receiving reports of domestic violence by phone:

1. Where the violence is (address, apartment number)
2. Who they are talking to (victim, witness, family member)
3. What has happened (is the violence in progress at the time of the call)
4. If someone is hurt (if yes, whether they need emergency medical assistance)
5. Who the reported person is, whether they are there, if not, where they are
6. Who the victim is (if she is in immediate danger)
7. Whether weapons have been used, whether there has been threat with weapons, where the weapon is now
8. If the reported person is under the influence of alcohol or opiates
9. Whether there are children present (how many children, what ages, whether they are safe)
10. If violence has occurred before (if the police have intervened before)
11. Whether there is a court measure in force for protection against violence.⁸²

The Protocol also establishes a list of the most widely recognized risk factors that can be used in an assessment. It identifies the following as the most common risks:

- The perpetrator of violence has access to, is using or is threatening to use weapons.
- Prior history of domestic violence and escalation of violence.
- There are court orders in place and a history of violation.
- The perpetrator has criminal history (not necessarily related to acts of domestic violence).
- There is alcohol or drugs abuse or suspicion

⁸¹ Although not specifically a risk-assessment tool, the Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women functions as a standard operating procedure, entailing questions designed to assess immediate risks.

⁸² Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, 3.1.1., Reporting domestic and intimate partner violence against women by telephone call.

⁸⁰ See, <http://dyrias.com/en/>. [describe what this is]

of mental disorders or illness.

- Suicide threats or attempts (by the perpetrator and/or the victim).
- Victim's feeling of fear and her opinion about the risks of future violence.
- Unemployment and financial issues.
- Current problems in intimate partner or family relations (e.g., announced leaving the partner, divorce, property, custody or visiting rights over children and similar).
- If there are children present, whether they have been or might be hurt.
- Threats to victim, her family, or friends.
- Coercion of sexual intercourse.
- History of jealous behaviour of the perpetrator in relation to the victim, stalking or harassment of the victim by former partner.
- Other indicators of potential relevance: victim isolation (social or geographic), reluctance to leave the apartment/house, lack of (or weak) language skills or no citizenship, certain types of disability or chronic conditions, pregnancy, victim's age and similar.⁸³

Significantly, the Protocol (which preceded the adoption of the Law) contains a more expansive list of risk factors than those currently contemplated by the Law.

The Protocol underscores the high potential risk to the officer in responding to domestic violence cases, as well as to the victim. It places specific emphasis on the need to temporarily confiscate any weapons, and "the motion for permanent confiscation shall subsequently be given."⁸⁴ The Protocol also notes, with respect to risk to the victim, that "[d]uring police intervention, it should be kept in mind that there is fear of retaliation with the victim and fear of what will happen during the next encounter."⁸⁵

The Protocol places the emphasis on evidence of physical violence at the crime scene for determining whether a crime took place,

83 Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, 3.2., Referral of police officers and their arrival to the scene of domestic and intimate partner violence.

84 Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, 3.2., Referral of police officers and their arrival to the scene of domestic and intimate partner violence.

85 Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, 3.2., Referral of police officers and their arrival to the scene of domestic and intimate partner violence.

without addressing psychological violence or threats of violence, which are common to domestic and intimate partner violence. It does indicate that police should also submit:

reports on previous reports of violence to the police, reports on prior sentences (misdemeanors or criminal offences), record of existing protection measures against domestic violence issued by the court (Family Law) and their violation, as well as information and documents from other sources, such as the reports of the centre for social work or organisations specialised in providing support to victims of domestic violence.

In cases where no prosecutorial action is taken, victims have the option of filing a private complaint.

The Protocol provides for a risk-assessment to be undertaken by responding police officers, prior to and upon their arrival at the scene of the violence, as first responders. Neither the Law, nor the Protocol contemplate the need to assess evolving risks. With respect to linking the risk assessment to protection measures, the Protocol states:

The police officer shall consider all relevant issues for the assessment of the victim's safety, as well as the safety of other family members and discuss with them the measures of their safety. In cases when there is risk of repeated victimisation, the police officer shall warn the victim about the potential risk to her or potentially her child.

In high risk cases, or if the victim asks to move to a shelter/safe house for domestic violence victims, the relevant centre for social work shall be asked to consider and initiate measures for urgent assistance to the victim and family members under threat.⁸⁶

The Law fails to detail the manner in which the envisioned protection measures will be enforced. Under both the Law and the Protocol, it appears to be the responsibility of the centers for social work to ensure victim safety.

Challenges

The Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate

86 Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, 4, Victim safety and referral to protection system.

Partner Violence against Women, effectively lists the relevant factors to consider when evaluating existing threats. No provisions within the Law or the Protocol are designed to require the assessment of evolving risks. The Protocol's entry into force prior to the Law, and the inconsistencies between them can generate confusion as to their application in practice.

In truly urgent situations of violence, it might not be possible to obtain the full scope of this information as foreseen by the list to be used if cases reported by telephone.

According to a Serbian NGO:

With regard to telephone reports, police appear to be implementing some portions of the Police Protocol, including those that relate to collecting information. Officers from at least four police stations reported that they ask the recommended questions from the Police Protocol, including questions about victim safety, presence of weapons, details about the event, and the parties' history of violence.⁸⁷

The NGO further reported that police were not always engaging in risk assessments.

87 Autonomous Women's Center and The Advocates for Human Rights, Implementation of Serbia's Domestic Violence Legislation, 2017, p. 16.

IV NATIONAL-LEVEL COORDINATION

4.1. International standards

Article 10 of the Istanbul Convention requires States to establish one or more official bodies responsible for the coordination, implementation, monitoring and evaluation of policies to combat the forms of violence covered by the Convention. At the same time, Article 10 is to be read in conjunction with Article 9 (the requirement to establish effective cooperation with civil society organizations) and Article 11 (the requirement to collect disaggregated statistical data and to support research).

Effective national coordination functions not only between the relevant ministries, bodies, civil society organizations and other stakeholders at the national level. Depending on existing national governance structures, inter-agency cooperation is also necessary between local service providers, and at the intermediate (provincial, regional or entity) level. Significantly, cooperation and coordination must also occur between the levels. That is to say, both horizontal and vertical collaboration are necessary. Effective sub-national involvement requires: 1) a clear mandate for coordination at the sub-national level; and 2) the creation of joint-steering committees inter-linking the national and sub-national levels.

Article 10 encompasses four main functions: 1) coordination; 2) implementation; 3) monitoring, and 4) evaluation. While these functions can be performed by a single or multiple bodies, it is important that a **dedicated body** is established to execute them.

Establishing an effective inter-agency coordination mechanism requires: time, technical expertise, the early involvement of all key actors and political will. A dedicated body requires staffing and an **adequate budget**. Structures without the necessary resources remain generally ineffective.

Specifically, establishing the **position of a coordinator** to drive the process is considered

essential, as well as tying the coordinator to a high administrative level. At the same time, it is important to consider that the higher the level of the body (or the coordinator), the greater distance from the realities driving victims' needs, thus potentially compromising that the measures adopted will reflect those needs.

The Istanbul Convention includes an obligation to ensure civil society participation in efforts to combat violence against women. In addition to, and based upon, their work providing direct services to victims, NGOs can offer important data and expertise to governmental actors on these issues. Their participation in coordination mechanisms offers policymakers critical insight into the needs of victims; conversely, it provides NGO actors with important access to public policymakers as representatives of the needs and rights of this vulnerable constituency.⁸⁸ Accordingly, they should be involved in both national coordination mechanisms as well as in the development, implementation and evaluation of policies.⁸⁹

NGOs commonly complain of pseudo-participation as they are unable to see their efforts reflected in State policy, often due to the lack of transparency. In this regard, the Council of Europe has issued a code on good practices for CSO participation in the decision-making process, which identifies four levels of participations: information sharing,

88 The Explanatory Report emphasizes that in many States “the overwhelming majority of services for victims of domestic violence, and also services for victims of other various forms of violence against women, are run by non-governmental or civil society organisations. They have a long tradition of providing shelter, legal advice, medical and psychological counselling as well as running hotlines and other essential services.” Explanatory Report, para 68.

89 Council of Europe, Implementing Article 10 of the Council of Europe Convention on preventing and combating violence against women and domestic violence—establishing national co-ordinating bodies, p. 8. The Explanatory Report notes that “Article 9 refers only to NGOs and civil society active in combating violence against women, this should not prevent Parties from going further and supporting the work that is carried out by NGOs and civil society focusing on domestic violence in its wider scope.” Explanatory Report, para 69.

consultation, dialogues and partnerships. It highlights the principles of trust, accountability and transparency.⁹⁰

Worst-case practices involve ad hoc contact with NGOs, which tends to be biased towards the needs of State bodies. Good practice includes providing NGOs with a fixed position in the national coordination mechanism, their participation in working groups and their involvement in developing meeting agendas and work planning. For NGO participation to be effective, the coordination mechanisms must operate with a transparent and formal structure. In some countries, NGOs work within a State-created and funded advisory board. In others, ministry staff coordinates work with an NGO network.

When structuring NGO participation, national-level umbrella organizations or those involved in lobbying are best placed to participate at the national (and/or at the entity level, in Bosnia and Herzegovina). At the same time, the exclusion of smaller groups can result in the inadequate representation of the perspectives of under-represented populations (such as Roma or persons with disabilities). CSOs should have some input as to which groups participate, and not be wholly State-selected.

The function of monitoring involves observing how effectively measures are implemented at the national, regional and local levels. As defined by the Explanatory Report:

The monitoring task bestowed upon these bodies is limited to the monitoring of how and how effectively policies and measures to prevent and combat all forms of violence covered by the scope of this Convention are being implemented at the national and/or regional and local level. It does not extend to monitoring compliance with the Convention as a whole.⁹¹

Monitoring is linked to the requirements to collect and analyze data and support scientific research as set forth in Article 11, as well as to the need for evaluations.

With respect to evaluations, and the link to data

90 Council of Europe, Code of Good Practice for Civil Participation in the Decision-Making Process, available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016802eed5c>.

91 Explanatory Report, para 71.

collection, the Explanatory Report provides the following guidance:

the evaluation of policies and measures which these bodies are mandated to carry out comprises the scientific evaluation of a particular policy or measure in order to assess whether it meets the needs of victims and fulfils its purpose as well as to uncover unintended consequences. This will require robust administrative and population-based data, which Article 11 obliges Parties to the Convention to collect. For this reason, bodies created under this article are also assigned the task of co-ordinating the collection of the necessary data and to analyse and disseminate its results.⁹²

GREVIO recommends that evaluations be outsourced to an independent body, outside of the administrative structure, such as to an academic or research institution, to avoid any conflict that can arise when the same agency responsible for implementing measures is also responsible for evaluating their efficiency and effectiveness.

The recommended, non-exhaustive list of guidance on data collection and categories to be mainstreamed into official gathering of statistics include the following:

- regular collection of data over time;
- collection of data on all forms of violence covered by the Convention;
- collection of other relevant data, which depending on the State, may include data collected from statistics compiled by health care services, social welfare services, law enforcement agencies, NGOs and the judiciary;
- collection of data on the federal, regional and local levels; and,
- collection of data that is disaggregated by sex, age, type of violence, relationship between victim and perpetrator, geographical location and other factors that a State deems relevant, such as disability.⁹³

It is widely recognized that improving data

92 Explanatory Report, para 71.

93 Council of Europe, Implementing Article 10 of the Council of Europe Convention on preventing and combating violence against women and domestic violence—establishing national co-ordinating bodies, p. 29. For more information on this issue, see Council of Europe study, Administrative data collection on domestic violence in Council of Europe member states, (EG-VEW-DC(2008)Study).

collection is a long-term and constantly evolving process. Improving the underlying data basis is crucial. Increasing the transparency of procedures also yields important information. Developing a comprehensive data collection system requires developing an overall strategy, with input from research institutions and those working at the grassroots level. It involves the following components:

- conducting a comprehensive inventory of current data collection practices;
- developing a universal system of indicators;
- a central coordinating body to steer the process;
- definition of responsibilities at each level; and,
- ongoing training.

Data from civil society organizations should be included, particularly from shelters and hotlines, insuring privacy protections. Furthermore, transparency is essential, requiring that data be shared with the public. Regular reporting on data keeps the issue of gender-based violence in the public eye, and provides valuable feedback on any challenges concerning policy implementation as well as on emerging trends. Finally, the collection and storage of data must comply with Council of Europe data protection standards to ensure confidentiality and respect for privacy.⁹⁴

In sum, guidelines on the implementation of States' obligations under Article 10 signal several criteria for effectiveness:

- Involvement of the highest levels of government in the mechanism;
- involvement of all ministries addressing the subject;
- inclusion of NGOs;
- an appropriate degree of authority;
- a corresponding mandate;
- appropriate human and financial resources;
- coordination on the horizontal and vertical levels.

4.2. Spain

As observed by the Council of Europe, Spain has established a comprehensive organizational framework for combating violence against

⁹⁴ Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

women, characterized by a "high degree of regulation, through laws, decrees and procedural rules, particularly with respect to co-ordinating structures and tasks".⁹⁵ In addition to its comprehensive nature, its structure, which foresees coordination across Spain's complex regional governments, could be of significant relevance to Bosnia and Herzegovina.

Organic Act 1/2004 establishes two institutional structures: the Delegation on Violence against Women and the State Observatory on Violence against Women.⁹⁶ These bodies perform all of the functions required by Article 10 of the Istanbul Convention. Both function under the auspices of the newly-named Ministry of Labour, Migration and Social Security.⁹⁷ The Delegation is located within the Ministry; the State Observatory is a collegial body attached to the Ministry. The Chair of both bodies is the State Secretary for Social Services and Equality. The State Observatory is charged with providing expert advice to the Delegation.

The Delegation is charged with developing policies and with coordinating the relevant bodies to ensure effective policy implementation. It receives an annual budget of approximately 26 million Euros and maintains approximately 30 staff. It is led by the Government Delegate, who is nominated by the Spanish Council of Ministers by Royal Decree. There are two Deputy Directorates, one for Inter-institutional Coordination, the other for Sensitization, Prevention and Knowledge, charged with compiling statistics and conducting research.

The Deputy Directorate for Inter-institutional Coordination oversees the regional implementation of policies. It meets once a year with representatives from Spain's autonomous communities in a Conferencia Sectorial. The Deputy Directorate for Sensitization, Prevention and Knowledge is responsible for generating specialized, harmonized statistics across all involved ministries with the support of the National Institute of Statistics. The process for developing cross-agency data synchronisation started in 2006, and was the effort of extensive

⁹⁵ Council of Europe, Implementing Article 10 of the Council of Europe Convention on preventing and combating violence against women and domestic violence—establishing national co-ordinating bodies, p. 13.

⁹⁶ Articles 29, 30, Organic Act 1/2004 on Integrated Protection Measures against Gender-based violence.

⁹⁷ The Ministry was recently renamed when Pedro Sanchez assumed office in June 2018.

lobbying by the Delegation. All ministries involved in its co-ordinating mechanism now generate specialised statistics, with the support of the National Statistics Institute.

The State Observatory⁹⁸ has two rotating vice Chairs: one representing one of the 17 governments and autonomous communities in Spain; the other, an NGO representative. The aim is to foster direct representation from the regional level, and to ensure the inclusion of the NGO perspective. The State Observatory meets once or twice annually, including all the ministries, regional governments, CSO representatives and scientific experts. State Observatory members form working groups to address specific concerns, produce reports about developments and evaluate the measures and policies implemented. It also issues annual reports.

The State Observatory has established an extensive set of indicators on gender-based violence data collection, the System of Indicators and Variables on Gender-Based Violence. Members of the State Observatory organised seminars and meetings with the institutions that are involved in combating gender-based violence and encountering victims in order to engage them in planning and carrying out data collection.

4.3. Albania

Inter-agency cooperation in Albania takes place on multiple levels, “some more institutionalized than others”.⁹⁹ The Ministry of Social Welfare and Youth (MoSWY) is charged with the coordination and implementation of laws and policies to combat violence against women. Other responsible authorities include: local government unites and the Ministries of Interior, Health, Justice and Education and Science.

98 A second Observatory on Domestic and Gender-based Violence is attached to the General Council of the Judiciary within the Ministry of Justice, with participation from the Ministry of the Interior, the Ministry of Health, the Public Prosecutor’s Office and the General Council of Spanish Lawyers (Colegio de Abogados). This Observatory compiles judicial statistics and improves coordination among member institutions. It publishes those statistics quarterly and sends them to courts across the country. The Observatory also participates in the State Observatory, described above.

99 GREVIO, Baseline Evaluation Report: Albania, para 29.

MoSWY is charged with: drafting and implementing national strategies; funding and co-funding projects; supporting the establishment of support structures and the entire necessary infrastructure for meeting the needs of victims, including financial assistance, and medical and social services; organizing trainings for MoSWY staff and the local and central levels, and the staff of CSOs licensed to provide services; the collection of statistical data; the creation of rehabilitation centres; licensing CSOs; public awareness raising; and the establishment of a national social service centre. The Ministry of Interior is charged with creating units specialized in responding to domestic violence cases, and providing training to those units.

MoSWY is supported by the National Council on Gender Equality, which functions as an advisory body, comprised of the deputy ministers of nine line ministries and three civil society representatives. The National Council functions at a high administrative level, and is charged with reviewing draft legislation and programmes, making policy proposals and performing monitoring and evaluation. NGOs are represented within the National Council on Gender Equality. CSOs also participate in inter-agency working groups, formed to address particular aspects of domestic violence response, as well as in international reporting efforts, such as reports to GREVIO.

Albania has developed indicators and statistical data collected with contribution by line ministries that are responsible for the implementation of national and international obligations to measure the progress of its national and international commitments and the execution of gender equality programmes. MoSWY centralises and analyses data related to violence against women,¹⁰⁰ in close cooperation with the Institute of Statistics (INSTAT), based on harmonised indicators on gender equality and the status of women that were developed in 2011 with the support of UN Women. (See Annex IV).

INSTAT produces an annual publication, available on-line, *Women and men in Albania*, containing data on rates of crime, by sex of victim, with a specific reference to the offence of domestic violence. It also elaborates data on

100 Data generated at the local level of municipalities is centralised by the local gender equality employees, who transmit them to the MoSWY.

the rate (per 10,000 inhabitants) of women who denounce domestic violence per major city and on the percentage of total murders caused by domestic violence.

Challenges

GREVIO expressed concern regarding the purely advisory role of the National Council on Gender Equality and its consequent ability to obtain commitment from political decision-making bodies. It recommended that the National Council on Gender Equality be given decision-making powers, as well as the dedication of human and financial resources. GREVIO also recommended that evaluations be conducted by an independent institution.¹⁰¹

With regard to data collection, GREVIO has underscored the lack of information collected on the relationship between the perpetrator and the victim, and the fact that almost no data is collected on other forms of violence covered by the Convention.¹⁰²

101 GREVIO, Baseline Evaluation Report: Albania, paras 33, 36.

102 GREVIO, Baseline Evaluation Report: Albania, para 40.

V SUB-NATIONAL COORDINATION

In contrast to national-level coordination mechanisms, which aim to ensure a high-level commitment to the issue, to create a coherent law and policy framework across all relevant sectors, to monitor their effective implementation and to allocate sufficient resources, among other duties, sub-national coordination mechanisms are essential for working with victims and perpetrators, in order to ensure the effective and timely provision of protection and assistance through the establishment of referral pathways. As noted above, vertical coordination between the national and sub-national levels is also necessary for the effective functioning of both.

5.1. International standards

Inter-agency coordination constitutes a core element of an effective response to violence against women and girls, necessary for ensuring a comprehensive multi-sectoral approach. Thus, the establishment of inter-agency coordination mechanisms at not only the national, but also sub-national levels is required by Article 10 of the Istanbul Convention, particularly at those levels responsible for the implementation of measures.¹⁰³ The UN Essential Services Package for Women and Girls Subject to Violence elaborates guidelines for inter-agency coordination and the governance of such coordination.

At the most practical level, a coordinated approach to multi-sectoral service provision fosters effectiveness, including a greater capacity to recognize victims' multiple needs. Clarification on the division of roles and responsibilities between institutions and agencies enables each agency to focus on its area of expertise. A coordinated approach also fosters increased efficiency, as limited resources

can be pooled and any duplication of efforts is reduced. Increased efficiency and effectiveness result in greater overall impact and reach, especially when compared to organizations working in isolation. Participants should have a common vision and understanding of gender-based violence and the principles underlying service provision.

Effective inter-agency cooperation requires close cooperation and communication across sectors, necessitating the use of protocols, agreements and memoranda of understanding. Shared protocols result in transparent communication. Information sharing across agencies also reduces the number of times a victim is required to tell her story, limiting the potential for re-traumatization. Shared data systems support case management, ensuring the appropriate response in individual cases, and serve as a source of information for monitoring results and evaluating programmes. International standards place victims at the center of interventions and institutional responses. Integrated care models foster the holistic treatment of health, sexual health and psycho-social needs. The establishment of minimum standards fosters consistent levels of care.

According to the UN Guidelines, local-level coordination of essential services require the establishment of a formal structure composed of representatives of the justice, social services and healthcare sectors, as well as representatives of civil society, including those representing marginalized groups. The mechanism should require that participating representatives have decision-making authority for their agencies, and the roles and responsibilities of each agency should be clearly defined, including chairing arrangements and terms of office. The decision-making process should also be defined, as well as accountability and complaint resolution processes. An inter-agency tracking system enables service providers to follow victims as they move through the system. However, the mandatory reporting of individual cases across

103 "Regarding the tasks of implementation, monitoring and evaluation this body should be in existence on the respective level of a Party's structure which is responsible for the carrying out of the measures. This means that in a federal government structure it may be necessary to have more than one body." Explanatory report, para 70.

agencies should be prohibited, except in cases of: imminent danger, child victims and/or special vulnerabilities.

Good governance requires adequate human and financial resources to be allocated to inter-agency coordination at the local level, including support for the work of CSOs. It also requires that stakeholders be held accountable in carrying out their obligations, including not only for coordination and response, but also for monitoring and oversight. External audits can foster agency accountability. Local inter-agency networks operating on the ground have an important role to play in feeding critical information into higher-level policymaking processes.

5.2. Austria

Austria has established Domestic Violence Intervention Centres in all nine provinces, to provide proactive, comprehensive support. These centres are run by NGOs and are fully funded by the State. They offer multi-sectoral services, coordinating with the criminal justice system, police, civil court, health system, social services, women's services, child protection, probation, and CSOs working with specific populations, such as migrants.

Intervention Centres take a proactive approach, reaching out via phone to contact victims, who may not seek assistance on their own due to fear or depression. Victims can freely accept or reject offers of assistance. One of the core tasks of the Intervention Centers is to conduct a risk assessment to plan for necessary safety measures in cooperation with the victim, including whether a temporary move to a shelter is necessary in addition to the issuance of a protection order.

Intervention Centres provide victims access to legal aid, and accompany them in court for legal proceedings. Because escaping situations of violence is almost never a short-term process, Intervention Centres provide for medium and long-term counseling. The Centres contact victims three months after any domestic violence-related intervention. On-going contact facilitates victims calling on the Intervention Centre in case of an emergency, and sends an important signal to the perpetrators that the family's case is being monitored.

Intervention Centres are also a point of contact

for financial aid and housing. They can quickly obtain social welfare assistance for victims financially dependent upon the perpetrators, without lengthy administrative procedures. Social housing is also available, including for immigrants.

Anti-violence training for perpetrators is also offered by Intervention Centres, involving weekly group sessions that last 32 weeks. The majority of participants do not attend voluntarily, but rather, pursuant to a court order.

Challenges

Ensuring that Intervention Centres are accessible and can provide the necessary assistance to women with special needs remains a continuing challenge.¹⁰⁴

5.3. Albania

Local referral mechanisms, operating at the municipal level, constitute the centerpiece of Albania's coordinated multi-agency response to violence against women.¹⁰⁵ As one of the few countries in the region to establish local-level inter-agency coordination mechanisms, it serves as a best practice for the region.

With the support of international organizations, 29 out of 61 municipalities have established a Coordinated Community Response System (CCRS), with the aim to cover all municipalities by 2020.¹⁰⁶ They are structured on three pillars: i) a steering committee responsible for policy direction, chaired by the mayor; ii) a multi-disciplinary technical team charged with case-management; and, iii) a local coordinator for domestic violence, usually the Gender Equality Employee, who leads and coordinates the technical team and the referrals.

¹⁰⁴ GREVIO, Baseline Evaluation Report: Austria, p 13.

¹⁰⁵ Article 1(a), Law No. 966/2006 On measures against violence in family relations; and Council of Ministers Decision No. 334, On the establishment of the national referral mechanism for the treatment of domestic violence cases and its way of functioning, 17 February 2011. The CCRS was initially developed as a pilot project in five regions with support from the UN Trust Fund on Ending Violence against Women. Its expansion to additional regions was supported by UNDP and other donors.

¹⁰⁶ National Strategy on Gender Equality. The Strategy also aims to increase the number and type of available specialised support services by more than 50%.

Members of the steering committee include representatives from:

- The police;
- The district court;
- The district prosecutor's office;
- The regional education directory;
- The public health directory;
- Head of the municipality's structure for social services;
- The commune's structure for social services;
- The bailiff's office;
- The prefecture;
- Chairmen of the communes in the administrative territory of the municipality;
- The relevant employment office;
- Heads of non-profit organizations that deal with issues of domestic violence;
- Heads of centers/shelters established for victims of domestic violence in the local government unit or county in whose jurisdiction these units fall;
- Religious institutions that provide services for domestic violence victims;
- Head of the district's chamber of advocates.

The referral mechanisms thus bring together a wide array of representatives from the relevant authorities and civil society, and are composed of representatives from: municipalities; the police; the courts, including prosecutors and bailiffs; health offices; employment offices; educational offices; and NGOs specialised in violence against women. Whichever member of the mechanism the victim first contacts will set the process in motion by referring the victim to the local co-ordinator and/or the other members of the system.

The multi-disciplinary technical team is established by a decision of the steering committee. The team is comprised of technical staff of the members of the steering committee as well as representatives of the child protection unit, local gender equality employees from the local government, and professionals including lawyers, psychologists, or others. The technical team is charged with the following duties:

- a. follow the case to ensure the provision of assistance according to the needs of individual victims, ensuring their referral to appropriate service providers;
- b. coordinate and supervise the provision of services;
- c. case management;
- d. convey data on concrete cases to the head

- e. of the technical multi-disciplinary team;
- e. monitor and report to the steering committee on the coordination of the activities of institutions of responsible authorities at the local level;
- f. ensure that the secrecy of victims' personal data is preserved.

A local coordinator, who is the representative of the social services office, is assigned to every municipality, charged with case management, coordination and referrals. The local coordinator leads the multi-disciplinary team, by organizing team meetings. The coordinator reports to the steering committee. The CCRSs will eventually be incorporated into a national referral mechanism, which is also designed to provide protection and assistance to victims of human trafficking.

The services provided address immediate issues, including healthcare, shelter and protection, including protection orders, as well as longer-term needs, such as: psychotherapy, assistance with children, divorce procedures and reintegration. Specialised NGOs participate in the multi-disciplinary technical teams as set forth in formal protocols at the local level. The duty of the MoSWY to support NGOs is also clearly spelled out in the domestic violence law.

In order to ensure better follow-up in all cases, the Ministry of Social Welfare and Youth (MoSWY), supported by UNDP, has set up an innovative on-line system to track domestic violence cases nation-wide.¹⁰⁷ Only specifically trained professionals have access to the system at the central and local level. So far, personnel of the MoSWY have been trained in 27 municipalities. The system tracks the victim's referrals as well as information pertaining to the perpetrator. The system disaggregates data by: age, ethnicity, immigration status, location and employment status, among other categories.

In municipalities equipped with the digitalised online system for registering cases of domestic violence:

transmission of anonymised data is automatic and data can be accessed by all the actors of the co-ordinated community response in the municipality. The digitalised online system also serves as a case-management tool to monitor progress and follow individual cases

107 Mechanism for Coordination and Referral of Domestic Violence Cases, Council of Ministers Decision 344 17/2/2011.

from their inception to their final conclusion. It further serves to assess the effectiveness of local actors' response to domestic violence, to measure progress in the implementation of gender equality policies and to fine-tune policies and measures taken at the local level.¹⁰⁸

The local coordinator, or gender equality employee, is responsible for collecting and reporting the data online.

Albania recently developed a set of harmonized indicators to guide data collection on gender equality and domestic violence. The indicators covering domestic violence are attached, below, as Annex IV.

Challenges

GREVIO has identified several challenges to the effective functioning of local-level inter-agency cooperation: weak links in the referral mechanisms, frequent staff turnover, particularly following political elections, the lack of a comprehensive set of services in some locations, and the absence of a legal basis for multi-agency cooperation on other forms of violence against women. It also noted the lack of effective inter-agency cooperation on data collection.¹⁰⁹

GREVIO has signaled the following weaknesses of the referral mechanisms: "the lack of proper enforcement by bailiffs of emergency barring orders and protection orders, inadequate responses from the courts' system and an insufficient implication of healthcare professionals, including forensic experts."¹¹⁰ One CSO report to GREVIO identified the provision of services as the weakest element of Albania's implementation of the Istanbul Convention, as services and shelters are not yet available throughout the country. The absence of financial resources and budgetary allocations were noted as the primary barrier. CCRSs in some localities discontinued services once the project support concluded.¹¹¹

While tracking systems should prevent double counting of victims who are referred to more than one service provider, local coordinators face challenges in cross-checking and consolidating data with other CCRS members, in particular with the criminal justice sector (police, courts and prosecutors), which report data at the regional or prefecture level. Furthermore, their work load leads to frequent delays in updating data.¹¹²

Despite their formal integration into referral networks, the dependency of Albanian NGOs on international funding raises the issue of long-term sustainability. Recent increased governmental spending to support shelters was praised by GREVIO.¹¹³

108 GREVIO, Baseline evaluation report on legislative and other measures giving effect to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, 2017, para 85.

109 GREVIO, Baseline Evaluation Report: Albania, paras 83, 85, (noting the lack of evidence that victims of rape, sexual violence and stalking are directed to the referral mechanism for assistance and support).

110 GREVIO, Baseline Evaluation Report: Albania, p. 8.

111 Ana Ruci, Bringing the Istanbul Convention to the local level: Albania, 2017.

112 Analysis of the functioning of the Coordinated Community Response at the local level in Albania, 2015, p. 7.

113 GREVIO, Baseline Evaluation Report: Albania, para 31.

VI PERPETRATOR PROGRAMMES

6.1. International Best Practices

In order to respond to individual men who use physical, psychological, economic or sexual violence against women, Article 16 of the Istanbul Convention requires States parties to set up or support two separate types of programmes: those targeting domestic violence perpetrators to teach them “to adopt non-violent behaviour in interpersonal relationships with a view to preventing further violence and changing violent behavioural patterns,” and others for sex offenders. Both must ensure that “the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programmes are set up and implemented in close co-ordination with specialist support services for victims”.¹¹⁴

Such programmes must encourage perpetrators to take responsibility for their actions and examine their attitudes and beliefs towards women. This type of intervention requires skilled and trained facilitators. Participation in these programmes may be court-ordered or voluntary. In practice most perpetrators participate only upon a court order. Significantly, such programmes can influence a victim’s decision to stay with or leave the abuser, and/or provide the victim with a false sense of security. Thus, priority consideration must be given to the needs and safety of victims.

Sex offender programmes are specifically designed to treat convicted sex offenders in and outside of prison, with a view to minimising recidivism. Programmes for domestic violence perpetrators and sexual violence perpetrators are often administered separately. The Council of Europe has identified several types of programmes being implemented in Member States:

- treatment programmes delivered within

prison (for both sexually violent men and domestic violence perpetrators);

- probation-led behavioural change programmes for convicted perpetrators (mainly for domestic violence perpetrators and implemented by voluntary associations);¹¹⁵
- community-based behavioural and attitude change programmes delivered by non-governmental organisations (NGOs) and other agencies that have links to the criminal justice system (mainly for domestic violence perpetrators, for example where referral from the criminal justice system may then be a condition for dropping criminal charges);
- community-based behavioural and attitude change programmes delivered by NGOs and other agencies that have no link to the criminal justice system (mainly for domestic violence perpetrators).¹¹⁶

The majority of existing domestic violence perpetrator programmes take a cognitive-behavioural or psycho-educational approach to perpetrator treatment. They often use a combination of group and individual work to help perpetrators understand their abusive behaviour and recognise their active role in the use of violence. Programmes explore with perpetrators the consequences of their abusive behaviour in terms of its impact on their partner (and children), aim to increase empathy, accountability and motivation to change, and challenge gender stereotypes and hostile attitudes towards women. Evidence from programmes in Europe and the U.S.

115 In several States these are also open to non-convicted perpetrators given the small number of perpetrators who are actually convicted. As noted in the UN Essential Services Package for Women and Girls Subject to Violence: Justice and Policing: “Studies across the globe illustrate that the vast majority of perpetrators face no legal consequences. Only a minority of cases of violence against women is ever reported to the police and an even smaller percentage of reported cases result in charges laid against a perpetrator, and in only a small fraction of those cases is there a conviction,” pp. 6-7.

116 Council of Europe, Domestic and Sexual Violence Perpetrator Programmes: Article 16 of the Istanbul Convention, 2014, p. 8.

114 Article 16, Istanbul Convention.

suggests that perpetrator programmes “can have at least some moderate success in terms of reducing the severity and/or frequency of violence against women”.¹¹⁷

emphasized that the paramount objective with respect to such programmes is the safety of women and children.

6.2. Spain

In Spain, the Contexto Programme operates as a community-based intervention programme for men convicted of domestic violence offences to reduce the risk factors and increase protective factors for interpersonal violence against women, taking into account four levels of analysis: individual, interpersonal, situational and macro-social. It is based on the widely used framework recommended by the World Health Organisation, which is structured on the ecological model initially developed by Lori Heise. Three indicators are used to predict intervention success: i) an increase in perpetrators’ perceived severity of violence (related to their attitude towards acceptability of violence towards women); ii) an increase in assumed responsibility for their violent behaviour; and, iii) a reduction in the risk of recidivism.¹¹⁸

6.3. Albania

In Albania, NGOs provide rehabilitation programmes for perpetrators, which are in embryonic stages. Perpetrator rehabilitation programmes are not provided by any public institution in Albania.

Challenges

GREVIO observed that perpetrator rehabilitation programmes in Albania are not based on best practice models, as they provide family counseling/therapy and mediation. In this regard, it noted that “family counseling, mediation or reconciliation and anger management are not appropriate responses in domestic violence services in general and work with perpetrators in particular”.¹¹⁹ It

117 Council of Europe, Domestic and Sexual Violence Perpetrator Programmes: Article 16 of the Istanbul Convention, 2014, p. 11.

118 For more information, see, Council of Europe, Domestic and Sexual Violence Perpetrator Programmes: Article 16 of the Istanbul Convention, 2014, p. 23-25, and www.uv.es/contexto/.

119 GREVIO, Baseline Evaluation Report: Albania, para 70 and n.80.

VII CONCLUSION

Addressing domestic violence requires a long-term commitment, significant human and financial resources, capacity building and the political commitment of central and local governments. Guided by the standards articulated in the Istanbul Convention, Member States of the Council of Europe continue to make progress in the development of the institutional framework necessary to ensure effective response to domestic violence and other forms of violence against women and the provision of assistance to victims. Yet, some States have made more advances than others.

All four States included in this study have adopted mandatory reporting requirements for public agencies involved in domestic violence response in contravention of the Istanbul Convention. Coupled with *ex officio* investigations, prosecutions and protection measures, mandatory reporting can override the individuality and reduces the victim to an object, rather than a subject of the system, removing all agency in the process. It is important to recall that the victim often knows best when to report violence, in light of the phase of violence, the imminence of the harm and other factors, such as the well-being of children held in joint custody, of which the reporting agent may be unaware.

Many States continue to face obstacles in effectively addressing psychological and economic violence, given the evidentiary difficulties. In the worst of cases, national legal and policy frameworks fail to fully address psychological and economic violence, and national practice recognizes violence only in cases resulting in severe physical injury.

In developing a system to respond to domestic violence and provide assistance to victims, it is important to align policies as closely as possible with international standards, even if the *de facto* implementation of such policies remains slow. Most important in this regard is ensuring the application of the underlying principles: a gender-sensitive, victim-centred and human rights-based approach. Failing to incorporate these principles into any system will only require future amendments to the law and policy framework, and a waste of resources in subsequently retraining police, prosecution, courts and service providers on the correct application of the law. Indeed, it is this “paradigm shift,” often a drastic one in highly patriarchal cultures, to adopt a gender-sensitive, victim-centred approach (rather than focusing on the perpetrator) that remains the most difficult barrier to the effective implementation of domestic violence law and policy in many States.

Annex I - Checklist for implementing emergency barring orders

From Council of Europe, Emergency barring orders in situations of domestic violence: Article 52 of the Istanbul Convention, 2017

- It allows the competent authority (police or other) to take action to protect victims and persons at risk of domestic violence, as soon as the authorities are notified of the violence or its imminence.
- It is issued following a thorough assessment of risks and danger posed to the victim or person at risk by the perpetrator.
- It prohibits the perpetrator to enter the victim's residence or contact the victim, as appropriate.
- It can also be issued without the victim or persons at risk taking action (ex officio).
- If a confirmation of the EBO is required, it can be obtained within a short time after being issued.
- It is available at no cost to the victim or person at risk.
- Its duration is sufficient to establish a safe situation for the victim or person at risk.
- It protects the victim or person at risk in their home (even if it is a temporary residence and even if the perpetrator is the owner of the place), but also in public places and at work.
- It protects the victim's children while at school and/or in childcare facilities.
- It protects victims and persons at risk without discrimination on any ground in particular:
 - undocumented migrants (i.e. no requirement for the victim to prove for the purposes of obtaining an EBO that she/he resides in the host country on legitimate grounds);
 - property status in relation to the residence concerned (this should not be an eligibility requirement for an EBO).
- It is without prejudice to the rights of the defence and the perpetrator's right to a fair trial, as established in Article 6 of the European Convention on Human Rights.
- The perpetrator has the right to challenge the EBO (without a suspending effect) before the competent authorities, and appropriate legal remedies are available to him/her in case the appeal is successful.
- Appropriate monitoring measures are in place (e.g. electronic monitoring) to ensure that the person against whom the EBO was issued keeps the physical distance to the victim or person at risk prescribed by the order.
- Its violation carries an appropriate sanction.
- Successive protection measures are available to the victim or person at risk (such as judicial protection orders) that can be applied immediately after the EBO expires, so that no gap in the protection arises.
- The EBO forms an integral part of a comprehensive system of protection and support measures for victims of violence against women and domestic violence.

Annex II - Tables on comparative system

Differences in emergency barring order (EBO) scheme				
	Austria	Serbia	Spain	Albania
EBOs issued by	Police	Police	Judges of specialized VAW courts	District Court, Family Section
EBOs	ex officio	ex officio	ex officio	ex officio
Length of EBO	14 days	48 hours, extension to 30 days	30 days for interim orders	court's discretion; until the issuance of a protection order
Violation of EBO	administrative fines; arrest only after repeated violations	misdemeanor, imprisonment up to 60 days	arrest and detention from 3 to 6 months, community service	criminal offence, fines or up to two years imprisonment
Reviewed	within 24 hours	within 24 hours by prosecutor, then review by judge within 24 hours	within 30 days	within 20 days
Scope	home and schools only	home, no contact ban	extensive scope: home, schools, no contact ban, workplace	extensive scope, including no contact ban

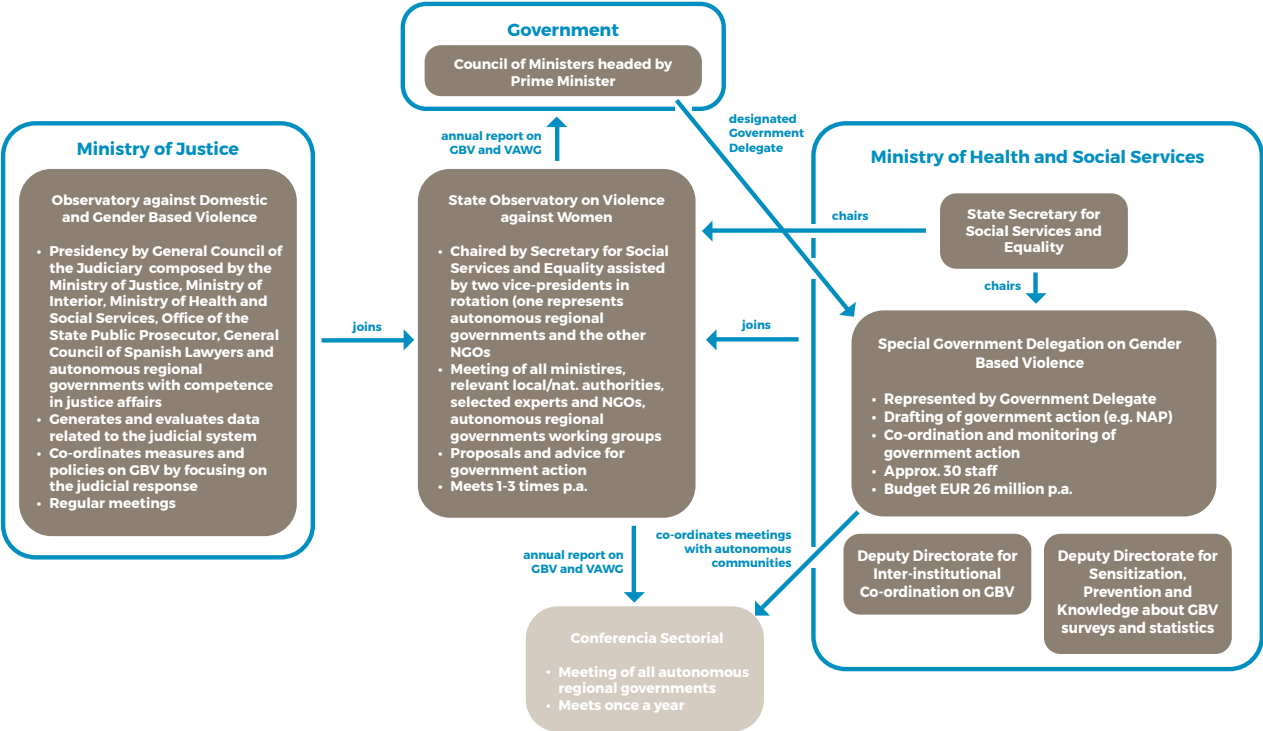
Differences in risk assessment methodologies			
	Austria	Serbia	Spain
Systematic implementation	not country-wide	no	yes
Methodology	case conferences	assessment list	assessment forms with ratings
Assigned institution	multi-agency; IT-based system in Styria	police	police
Ex officio	no, victim's consent required	yes	yes

Differences in national coordination mechanisms				
	Austria	Serbia	Spain	Albania
High-level involvement	not country-wide	no	yes	yes
All relevant agencies involved			yes	yes, but key institutions only advisory
Civil society participation	case conferences		yes	yes, but in an advisory manner
Systematized data collection system	multi-agency; IT-based system in Styria	police	yes	yes
Sub-national involvement	no, victim's consent required	yes	yes	
Financial resources			yes	no
M&E performed by independent body			quasi-independent body	no

Differences in sub-national coordination mechanisms				
	Austria	Serbia	Spain	Albania
Formalized referral pathways	yes	yes	yes	yes, but not country-wide
CSO participation	yes	yes	yes	yes, CSO work not funded by State
Mandatory reporting	no	yes	yes	yes
State funding	yes		yes	yes, but limited
Programmes for perpetrators	yes	?	yes	yes
Data collection and tracking system	no	no	yes	yes, not operational country-wide

Annex III - Organizational chart of Spain's National Coordinating Mechanism

Bodies involved in the national Co-ordinating Mechanism under Article 10 of the Istanbul Convention in Spain



Annex IV - Indicators for data collection on domestic violence: Albania¹²⁰

Obligations under international commitments, (CEDAW, SDGs, ECtHR, Council of Europe, etc):

1. Number of recorded cases of DV, disaggregated by type, sex, age, education, status of employment, civil status, nationality, minority and residence (rural/urban) [number]
2. Number of women victims of DV accessing physical and psychological support, by region, age, education level, marital status and profession [number]
3. Ratio of DV cases reviewed by courts and the number of protection orders and emergency protection orders issued [percentage]
4. Number of immediate protective measures taken to assist abused women/girls by types: (legal, urban/rural, accommodation in shelters, police action, NGO assistance) [number]
5. Proportion of national and local budgets allocated to support monitoring and awareness raising on domestic violence [Albanian Lek]
6. Number of youth victims of violence accessing support services within schools/educational institutions [number]
7. Number of disabled young girls and boys that are victims of DV, accessing support services within schools/educational institutions [number]
8. Number of registered cases of abuse within educational institutions, disaggregated by type, sex, residence and age [number]
9. Proportion of state/local budget allocated to prevent and combat domestic violence [%]
10. Proportion of national and local budget allocated to support provision of services to victims of DV, disaggregated by institution [%]

Commitments:

A. Improved monitoring on the prevalence and scope of DV in Albania

1. Number of municipalities which have established referral systems to support victims of domestic violence, by region [number]
2. Number of periodic studies on domestic violence [number]
3. Number of recorded cases of DV, disaggregated by type, sex, age, education, status of employment, civil status, nationality, minority and residence (rural/urban) [number]
4. Proportion of national budget allocated to support monitoring and awareness raising on domestic violence [%]
5. Proportion of local budgets (Bashkia and Qarku) allocated to support monitoring tools on DV and raising awareness on DV [%]

B. Awareness among society, including an emphasis on youth, that domestic violence is unacceptable and that there is support for people to make well-informed decisions

1. Number of recorded cases of DV, disaggregated by type, sex, age, education, status of employment, civil status, nationality, minority and residence (rural/urban). [number]
2. Number of women victims of DV accessing medical physical and psychological support, by region, age, education level, marital status and profession [number]
3. Number of awareness raising campaigns within educational institutions about DV [number]
4. Number of registered cases of abuse within educational institutions, disaggregated by type, sex, residence (rural/urban) and age [number]
5. Number services provided to violated/abused pupils assisted, by type (psychologists, medical, financial, etc.) [number]
6. Number of youth victims of violence accessing support services within schools/educational institutions [number]
7. Number of training courses offered to teachers on non-violent approaches and how to handle and identify cases of DV among the students [number]

120 Excerpted from Harmonized Indicators on Gender Equality and the Status of Women in Albania, 2011.

8. Number of violated/abused pupils assisted by Psychologists/social workers of educational institution by sex, urban/rural, age [number]

C. Establish policies, legal frameworks and institutional processes to respond to the needs of victims of domestic violence;

1. Number of national/local units/structures dealing with elimination of DV by types of organization (police, judiciary, health, education, social protection etc) [number]

Key issues:

A. Coordinated response of state and non-state organizations to support victims of Domestic Violence

1. Number of municipalities which have established referral systems to support victims of Domestic Violence [number]
2. Number of municipalities with established system of monitoring prevalence of DV [number]
3. Number of national/local units/structures dealing with elimination of DV by type of organization (police, judiciary, health, education, social protection etc) [number]
4. Number of immediate protective measures taken to assist abused women/girls by types: (legal, accommodation in shelters, police action, NGO assistance) [number]

B. Justice system has processes, capacities and infrastructure in place to effectively implement the DV Law

1. Ratio of DV cases reviewed by the courts and number of protection orders and emergency protection orders issued [%]
2. Number of protection orders and emergency protection orders issued, by region [number]
3. Number of judges and prosecutors enrolled in continuous education training courses on DV Law and GE in the School of Magistrates [number]
4. Number State Police officers trained on the implementation of DV Law, using standard procedures for handling and protecting victims [number]
5. Number of women and girls victims receiving free legal advice and support [number]
6. Number of measures taken by State Police officers to protect victims of domestic

violence, such as counseling, application for protection orders, referrals to the prosecutor [number]

Commitments:

A. Establish policies, legal frameworks and institutional processes to respond to the needs of victims of domestic violence

1. Proportion of state/local budget allocated to prevent and combat domestic violence [%]

Key Issues

A. Coordinated response of state and non-state organizations to support victims of Domestic Violence

1. Proportion of state/local budget allocated to prevent and combat domestic violence [%]

Commitments

A. Upgrading institutional capacities and services to provide support to victims of Domestic Violence

1. Number of measures taken by the state to assist abused people, by types of measures, and by 12 regions [number]
2. Functioning national shelter
3. Number of municipalities providing toll-free numbers for victims of domestic violence
4. Number of women and girls victims of DV accessing free legal services [number]
5. Number of centres (private and public) providing services for victims of violence by source of support [number]
6. Number of beds/places available in Centres providing support to victims of domestic violence, disaggregated by 12 regions [number]
7. Number of centres offering social and rehabilitation services to the victims of violence as well as perpetrators of violence, disaggregated by 12 regions [number]
8. Number of NGOs working on elimination of domestic violence, disaggregated by 12 regions [number]
9. Proportion of local budgets (Bashkia and Qarku) allocated to support provision of services to victims of DV, disaggregated by region [%]
10. Number of women victims of DV accessing physical and psychological support, by

region, age, education level, marital status and profession [number]

11. Number of women and girls victims of DV who receive social protection (such as Economic Aid and subsidized housing) and financial support [number]
12. Proportion of national budget allocated to support provision of services to victims of DV, disaggregated by institution [%]
13. Number of violated/abused pupils assisted by Psychologists/social workers of educational institution by sex, urban/rural, age [number]
14. Number services provided to violated/abused pupils assisted, by type (psychologists, medical, financial, etc.) [number]
15. Number of youth victims of violence accessing support services within schools/ educational institutions [number]

Bibliography

- Analysis of the functioning of the Coordinated Community Response at the local level in Albania, 2015.
- Austrian NGO Shadow Report to GREVIO, 2016.
- Autonomous Women's Center and The Advocates for Human Rights, Implementation of Serbia's Domestic Violence Legislation, 2017.
- Council of Europe, Administrative Data Collection on Domestic Violence in Council of Europe Member States, 2008.
- Council of Europe, Code of Good Practice for Civil Participation in the Decision-Making Process.
- Council of Europe, Domestic and Sexual Violence Perpetrator Programmes: Article 16 of the Istanbul Convention, 2014.
- Council of Europe, Emergency barring orders in situations of domestic violence: Article 52 of the Istanbul Convention, 2017.
- Council of Europe, Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, CETS 210, 2011.
- Council of Europe, Implementing Article 10 of the Council of Europe Convention on preventing and combating violence against women and domestic violence—establishing national coordinating bodies, 2016.
- Council of Europe, Preventing and Combating Domestic Violence against Women: A learning resource for training law enforcement and justice officers, 2016.
- European Commission, Standardized tools of domestic violence risk assessment—European examples: Handbook for police officers, 2014.
- GREVIO, Report submitted by Austria pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, 2016.
- GREVIO, Baseline evaluation report on legislative and other measures giving effect to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, 2017.
- GREVIO, Report submitted by Austria pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report), 2016.
- Harmonized Indicators on Gender Equality and the Status of Women in Albania, 2011.
- Ana Ruci, Bringing the Istanbul Convention to the local level: Albania, 2017.
- UNDP, UN Women, UNICEF, Multi-sectoral Cooperation—Institutional Response to Violence against Women, 2013.
- Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, Serbia

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