Women's Rights in Western Balkans

STUDY

Abstract

This study, commissioned by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the FEMM Committee, entitled Women’s rights in Western Balkans, analyzes the countries: Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Kosovo*, Montenegro and Serbia and is executed so as to address the following issues: 1. Economic-social factors relevant to women’s rights, 2. Violence against women (VAW), including membership of the Istanbul convention and 3. Sexual and Reproductive Health and Rights (SRHR) and LGBTI rights.

*In this study all references to Kosovo, its territory, institutions or population, shall be understood in full compliance with UN Security Council Resolution 1244 and without prejudice as to the status of Kosovo.
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LIST OF ABBREVIATIONS

BIH  Bosnia and Herzegovina
CEDAW Convention on the Elimination of all Forms of Discrimination Against Women
CoE  Council of Europe
CRPM Centre for Research and Policy Making
CSE  Comprehensive Sexuality Education
CSO  Civil Society Organization
EU   European Union
FBIH Federation of Bosnia and Herzegovina
FYROM Former Yugoslav Republic of Macedonia
GEL  Gender Equality Law
GRB  Gender Responsive Budgeting
ICPD International Conference on Population and Development
LAP  Local Action Plan
LGBTI Lesbian, Gay, Bisexual, Transgender, Intersex
NAP  National Action Plan
NGO  Non-Governmental Organization
OSCE Organization for Security and Cooperation in Europe
SFRJ/SFRY Socialist Federative Republic of Yugoslavia
SOGI  Sexual Orientation and Gender Identity
SRE  Sexual and Reproductive Education
SRHR  Sexual and Reproductive Health and Rights
UNDP United Nations Development Program
**UNFPA**  United Nations Population Fund

**WHO**  World Health Organization

**WHRD**  Women Human Rights Defenders
EXECUTIVE SUMMARY

Background

Study on *Women's rights in Western Balkans*, pertaining to countries: Albania, Bosnia and Herzegovina, Former Yugoslav republic of Macedonia, Kosovo\(^2\) Montenegro and Serbia, should as a part of outlining a background consider two important sets of circumstances. First, a relatively recent historical context which all these countries share in: they have for the better part of the second half of the 20th century had a political and socio-economic regime of real socialism. Given the ruling ideology (Marxism), they have granted women political rights and more importantly offered access to free education, and, equally importantly, an incentive to enter the labour market. These systemic changes, which, in the countries in question, took place from the end of the WWII and established a system which unwaveringly ruled until 1989. It left a lasting mark on the reality as well the expectations regarding the rights of women on many generations, as well as for generations to come. In that context, another consideration is that introducing rights of women (as part and parcel of an ideology) is that the socio-economic framework in the countries in question was a predominantly rural population with strong stereotypes of gender roles, based on traditional values of a patriarchy. In that context any systemic changes, initiated from top to bottom, did not even conceive of the significance of the private sphere - and hence did not even attempt to tackle it - nor did they produce any substantial lasting effect on gender stereotypes.

Bearing that particular 20th century framework in mind, we need to consider the second set of circumstances, which brought about changes in the aftermath of 1989 events. Five out of six countries in question (with the exception of Albania) were a part of the Socialist Federative Republic of Yugoslavia (SFRJ/SFRY). As is well known, Yugoslavia broke up, 1991-1992, in a series of wars, which were a strong revival of patriarchal, national and ethnic loyalties. Four of the countries now included in this research, were engaged in armed conflict (with each other) in different periods throughout 1990s: Serbia, Montenegro (in 1990s one country), Bosnia and Herzegovina and Kosovo. (Macedonia did not take part in these conflicts). In these armed conflicts women’s rights throughout Western Balkans were brutally and severely violated. Gender based violence, sexual harassment, mass rapes of women, ethnic cleansing and genocide accompanied by revival of patriarchy in the whole region were the reality of the wars fought in the 1990s.

After signing peace treaties (1995, 1999) countries are in their respective processes of what is commonly referred to as transition. These states, some formed after armed conflicts with an aim to dismantle the system of real socialism and build a society of respect of human rights including women’s rights, recognized the accession process to EU as a path toward a stable future. In order to make progress, women’ rights are one of the key issues, as women are an obligatory human resource in this process, organized not only within institutions, but also as civil society groups, non government organizations, especially women’s groups, and human rights defenders.

The study, Women’s Rights in Western Balkans, is grounded in the aforementioned, but is based on the current status of women’s rights and turned towards the future.

\(^2\)All references to Kosovo, its territory, institutions or population, shall be understood in full compliance with UN Security Council Resolution1244 and without prejudice as to the status of Kosovo.
Aim

The aim of this study is to present a comprehensive report on the current status of women’s rights in the six countries of Western Balkans, with a view to political, socio-economic rights, sexual and reproductive health and rights, LGBTI rights, as well as the problem of Violence of Women (VAW) and a focus on effective policy recommendations ensuing from the study.

- The study *Women’s rights in Western Balkans*, pertaining to countries: Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Kosovo*, Montenegro and Serbia executed so as to address the following issues: 1. Economic-social factors relevant to women’s rights, 2. Violence against women (VAW), including membership of the Istanbul convention and 3. Sexual and Reproductive Health and Rights (SRHR) and LGBTI rights, has been based on local and regional expertise and is a result of comprehensive team analysis.

- Main points of departure which provide the framework for analysis are the Convention for the Elimination of all Forms of Discrimination Against Women (CEDAW) and the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention). The processes of accession to the European Union, in which all the said countries are engaged in, albeit in the different stages, have also been a point of consideration.

- Analyses have shown that the main legislative framework in the countries of Western Balkans has been set, by the CEDAW and Istanbul Conventions, as well as series of relevant laws which all the countries have adopted during the last decade (e.g. Law/s on Gender Equality), although there still remain some legislative steps which need to be taken. In addition to this, the countries in question have, for the most part adopted Gender Equality Strategies, and Action Plans which are to advance the policies of gender equality.

- However, the main obstacle in the next stages of aiming at the status of gender equality is the process of implementation. This process is seriously undermined by the economic and social deprivation which is a reality in the whole region and consequently has the biggest effect on the socially vulnerable, the marginalized, the minorities.

- Another obstacle in the implementation process - some exceptions noted - is that, for the most part, gender equality issues do not have the full institutional support, necessary for these complex processes. Additionally, the process of implementation, especially in the rural areas of the region, is burdened with the traditional patriarchal customs and values, within which the subordinate positioning of women is welcome.

- Recommendations are that the European institutions, as well as all national governments in the region offer substantial support to the processes of implementation and include within their support mechanisms full cooperation with, and more reliance on civil society, NGOs, and Women Human Rights Defenders.
GENERAL INFORMATION

KEY FINDINGS

• Study Women’s rights in Western Balkans has resulted in reaching comprehensive and complex conclusions on Western Balkans, a region of deteriorating socio-economic conditions and volatile political situations, which mostly effect vulnerable groups, especially women whose marginalized position intersects with other aspects of their discrimination (violence, denial of sexual and reproductive rights, access to gender sensitive education, etc.).

• The legislative framework and the EU accession processes provide basic points of departure for the potential resolve of the conditions of social vulnerability and deprivation. However, strategies must be developed and concrete steps taken in order for the implementation of the laws which guarantee gender equality to be effective.

• Research and the ensuing study entitled Women’s rights in Western Balkans, is a comprehensive exploration, for analytical purpose broken down into analyses of following three critical issues: 1. Economic-social factors relevant to women's rights, 2. Violence against women (VAW), including membership of the Istanbul convention and 3. Sexual and Reproductive Health and Rights (SRHR) and LGBTI rights. Each analysis unfolds into a myriad of questions, such as legislative frameworks, concrete policy issues, findings concerning violations on women's rights, recommendations, and, reached out for contributions from six countries of Western Balkans: Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Kosovo*, Montenegro and Serbia. Therefore researching Women’s rights in Western Balkans presented an extensive project which was designed to be completed within a very short period of time.

• In order to organize the complete research process it was planned that each of the three themes should result in its own thematic report. These reports were assigned to researchers, who constructed questionnaires within each of the three themes addressed in the project and then for the responses to the questionnaires they engaged country experts from six countries of Western Balkans: Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Kosovo, Montenegro and Serbia. These responses constructed country reports, based on which thematic reports were written. Thematic reports are presented in the three chapters which this synthetic report consists of.

• Methodological approach was grounded in desk research, which in turn, reflected documents, institutional reports from the local and the international community, as well as reports and research results from civil society, women's groups, shadow reports etc. This approach gives a voice to country experts as well as to thematic experts and is geared towards as inclusive analysis as was under the conditions and time limitations possible.
1. ECONOMIC AND SOCIAL FACTORS RELEVANT FOR WOMEN’S RIGHTS

KEY FINDINGS

• This overview of women’s social and economic rights, including political participation, with data on the educational processes, in the countries of Western Balkans shows that the countries in question, while sharing a part of their recent history, and hope for the better future, are in fact, all in a volatile economic position, with parts of its population facing unemployment and risk of poverty. This makes for very difficult living conditions and complicated circumstances geared towards changes, for vulnerable groups, especially those traditionally discriminated against as women have always been, and still are. The issues addressed here are very complex and require, besides a stable legislative framework, highly developed strategies for implementation of gender equality laws, as well as a continuous support system from the international community, especially European one.

1.1. Introduction


The basis for this is that all countries in question have ratified CEDAW (Albania in 1993, Former Yugoslav Republic of Macedonia, 1994, Montenegro, 2006, Bosnia and Herzegovina (BiH), 1993 and Serbia, 2001) with the exception of Kosovo*. Also, all the said countries are in some stage of the process of accession to the European Union (EU), which is why they are attempting to align their legislation with EU. Importantly, these processes should be considered as a support system for the advancement of women’s rights in Western Balkans. Albania, applied in 2009, candidacy status since 2014; FYRO Macedonia candidate for accession 2005; Montenegro applied in 2008, candidacy status since 2010 and now in the process of negotiations; Serbia applied 2009, candidacy status since 2012 now in the process of negotiations; Bosnia and Herzegovina and Kosovo* are potential candidates and have signed stabilization and Association Agreement (SAA): BiH, signed in 2008 (entered into force 2015) and Kosovo* initiated 2014 (entered into force 2016).

Social and Economic factors that are relevant to women’s rights will be presented through the following indicator, legislation of the countries of Western Balkans, political participation of women in the institutions of the system, as well as the activities of civil society and Non Government Organizations (NGOs); economic factors, and education.

1.2. Legislation

In all the said countries their respective Constitutions in some form guarantee equal rights between women and men, equal protection for everybody before the law, based on a regulation that no one shall be discriminated against on grounds of “...sex, race, colour, language, religion, political or other

*In this thematic report, all reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.
opinion, national or social origin, association with a national minority, property, birth or other status.” (emphasis added, Article II – section 4. of the Constitution of Bosnia and Herzegovina). Serbia (Article 21), and FYRO Macedonia (Article 23) also forbid discrimination based - among other properties - on sex. As opposed to this Albanian (Article 18/2) and the Constitution of Kosovo (Article 24) emphasize that no one can be discriminated against based on gender. Kosovo also includes anti discrimination specification based on sexual orientation. Both Serbia (Article 15) and Montenegro (Article 18) first and foremost guarantee equality between women and men and state their commitment to developing policies of equal opportunities. The use of the terms sex or gender is relevant, since the use of the term gender is preferable for the exercise of rights, based on the meaning of the concept of gender, which emphasizes social construction and thereby allows for individual self determination, as opposed to a predetermined identity based on sex, which, in turn is usually grounded in traditional roles.

According to the Gender Equality Law (GEL) from 2003, revised in 2010, of Bosnia and Herzegovina (BiH) ‘sex’ also encompasses ‘gender’ identity: “Sex represents biological and psychological features that differ human beings to persons of male and female sex, and also denotes gender as sociologically and culturally conditioned difference between persons of male and female sex…”4 This law enabled formation of the first gender mechanisms in Bosnia: FBiH and RS Gender Centers and the BiH Agency for Gender Equality (2004), and, together with the Law on Prohibition of Discrimination of BiH5 from 2009, revised in 2016, provide legal framework for gender equality in BiH.

Also, importantly, Macedonian Constitution does not mention women and men specifically, neither speaks of gender equality but refers to ‘individual citizen’. Marital status, pregnancy, gender identity and sexual orientation have not been enlisted as grounds for discrimination. The Constitution in (Art. 42), notes that "The Republic particularly protects mothers, children and minors. A person under 15 years of age cannot be employed. Minors and mothers have the right to particular protection at work". At the same time, in a neutral language, the Constitution proclaims the freedom to procreate "It is a human right freely to decide on the procreation of children" (Article 41).6 without confirming women’s reproductive rights.7

In Albania: besides CEDAW Convention which is ratified since 1993 a Law on Gender Equality in Society was passed in 2018. Kosovo has also adopted in 2004 a Law on Gender Equality, in 2004, a Law on Protection against Discrimination,9 and also a Law on Protection against Domestic Violence, adopted in 2010.10 In Macedonia the Law on Equal Opportunities for Women and Men was for the first time adopted in 2006. In 2012, this law extended the list of grounds for discrimination and it harmonizes Macedonian legislation with the one of the EU. The objective of this Law is “to establish equal opportunities of women and men in the political, economic, social, educational, cultural, health, civil and any other area of social life; and any other sphere of the social life” (Article 2).11

4The Official Gazette of BiH, number 32/10.
5The Official Gazette of BiH, number 59/9, 66/16.
7Marija Risteska, country expert from FYR Macedonia, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.
11Law on Equal Opportunities for Women and Men, Official Gazette no.6/2012, available online: http://mtsp.gov.mk/content/word/LEOWM_6_12_EN2.doc

In addition to this, most countries have passed laws taking into consideration more specific instances of inequalities between men and women, especially the laws which establishing grounds for a full economic independence of women. In Albania it is the *Labor Code* (2015), or *Family Code* (2003) which should provide protection for women’s property rights. In Montenegro these rights are protected by *The Labour Law* which “prohibits direct and indirect discrimination against jobseekers and employees on grounds of their sex, birth, language, race, religion, skin colour, age, pregnancy, health condition, that is, disability, nationality, marital status, family responsibilities, sexual orientation, political or other belief, social background, property status, membership in political and trade union organizations or some other personal feature.” (Article 5). There is also *The Employment Law* which “guarantees equality to the unemployed persons in exercising their right to employment...” Serbia has adopted a *Labor Law* (first passed in 2005; and then amended in 2009; 2013/4; 2017) and also the *Law on Prevention of Harassment at Work* (2010).

In addition to the above, all Western Balkan countries in the course of ratifying the Istanbul convention have passed laws combating violence against women (Albania, The Law on Measures against Violence in Family Relations (2016); Montenegro, *Law on the Protection against Domestic Violence* (2010), ensures the protection of domestic violence survivors and penalization of perpetrators; etc.)

However, legislative structures, albeit for the most part, safeguarding and promoting women’s rights sometimes still work towards maintaining certain legal restrictions in women’s rights (for example, certain ranks in the military). Sometimes, these restrictions are articulated in more complex ways: such as supporting protective measures, which can present a restriction on women’s choices. For example in Montenegro, *Labor Law* stipulates that a woman working in the field of industry and construction cannot be assigned to work at night (Art.15). In Kosovo, *Labour Law* prohibits the night shifts and hard physical work for pregnant and breastfeeding women.

To conclude, the following assessment of the legislative framework *and its limitations* in Bosnia and Herzegovina certainly applies to all the countries of Western Balkans: "Although the legal framework is solid, as well as the policy framework which continues to be developed, there is a huge discrepancy between laws and their application in practice, so that numerous problems regarding the effective implementation of gender equality mechanisms still persist." This has led to the formation of the European Convention on the Elimination of All Forms of Discrimination against Women (1979), which obligates state parties to adopt all measures necessary to abolish discrimination against women and to incorporate gender equality principles fully into national legislative frameworks.

### 1.3. Political Participation of Women

The assumption imbedded in the basic data on the political participation of women is that women - and even vulnerable groups which women intersect with (Roma, women with disabilities, women living below the poverty line) - have an unquestionable, legally undeniable right to vote. However, this right is not implemented in a straightforward manner as it appears. In Bosnia and Herzegovina, the
turnout among female part of the electorate is continually lower when compared with turnout among man\textsuperscript{20}

**Table 1 : Turnout 2002-2014 disaggregated by gender**

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<tr>
<td>Total turnout</td>
<td>55.5</td>
<td>46.8</td>
<td>55.31</td>
<td>55.28</td>
<td>56.52</td>
<td>56.51</td>
<td>54.47</td>
</tr>
<tr>
<td>Turnout woman</td>
<td>48.46</td>
<td>47.64</td>
<td>48.42</td>
<td>49.07</td>
<td>49.17</td>
<td>49.28</td>
<td>49.26</td>
</tr>
<tr>
<td>Turnout man</td>
<td>51.54</td>
<td>52.36</td>
<td>52.38</td>
<td>50.93</td>
<td>50.83</td>
<td>50.72</td>
<td>50.74</td>
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**Source:** CIK, 2015\textsuperscript{21}

Importantly, special emphasis is to be placed on the repeated response from all the other countries that there is no information available on gender segregated data about the turnout of women voters. Moreover, in Serbia and Kosovo, there is no data readily available even when it comes to registered women voters.\textsuperscript{22} The assumption for the exercise of this basic political right is the data, not only on the registered voters, but also on the gendered break down on voters' turn out.

Research from FYROM Macedonia (relying on Centre for Research and Policy Making - CRPM) offers general data on voters' numbers, but regarding gender sensitive figures just offers estimates ("half of voters are women"), and reports that the state electoral commission does not publish precise data on voters disaggregated by gender. On the other hand, Montenegro does have this data, namely there is 50.15% of women who are registered to vote.\textsuperscript{23}

The complete lack of data availability in Serbia, Kosovo and Montenegro is especially disconcerting when the issue are the vulnerable groups, minorities, Roma, disabled. Only the "Centre for Research and Policy Making - CRPM has an estimate that a percentage of Roma registered to vote is 36000 - and, again, half of those are estimated to be Roma women. On the latest Parliamentary elections, (2016) around 12000 Roma voted and half of them are estimated to be Roma women who actually vote".\textsuperscript{24}

Certain conclusions may be drawn from reports from Albania, “Some officials informed the OSCE/ODIHR EOM that voters from the Roma community still face practical barriers in terms of voter registration due to a variety of factors, including lack of official documentation and less stable residency”.\textsuperscript{25} Regarding local elections, “…in some cases Roma and Egyptian voters reported having witnessed the distribution of fuel vouchers or cash by persons known to be affiliated with the two largest political parties. At times, effective voter participation was restricted more by poverty, a lack of identity documents, and, occasionally, language difficulties”.\textsuperscript{26}

\textsuperscript{20}Alina Trkulja, country expert from Bosnia and Herzegovina, authorized unpublished report on Social and Economic factors relevant to women's rights, 2018.
\textsuperscript{21}Centralna izborna komisija, „Izborni pokazatelji 2002.-2014.„, Sarajevo, 2015, p. 12.
\textsuperscript{22}Upon request for information on gender break down of registered voters, the response from SORS, chief of the Department of social indicators, judicial and gender statistics, the response was only local municipalities have access to voters lists.
\textsuperscript{24}Marija Risteska, country expert from FYR Macedonia, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.
\textsuperscript{26}LOCAL ELECTIONS 21 June 2015 OSCE/ODIHR Election Observation Mission Final Report, 2015. (Some OSCE/ODIHR EOM interlocutors considered the ALL 1,200 fee for issuing identity documents prohibitive and others reported examples of political parties paying for identification cards for Roma voters in an attempt to influence their vote). https://www.osce.org/odihr/elections/albania
On that note, one of the recommendations of OSCE/ODIHR included in the report on the local elections in Albania from 2015 was that CEC and other stakeholders could organize a comprehensive in-person voter education programs tailored to the needs of the Roma and Egyptian communities.27

Using the existing legislative mechanisms and EU accession processes for the advancement of their political participation and activism, women in Western Balkans have been making certain progress. Considering relatively recent data on some of the comparable election results in national parliamentary elections, Albania has in 2017 elected 39 women (28%) as representatives in its Parliament.28 Parliament of Bosnia and Herzegovina elected, 21% percent of women representatives.29 Women make up 32.5% of the members of the Kosovo Parliament. There are currently 46 women members of parliament in Macedonia out of 120, and thereby they hold 38 % of the parliamentary seats. In Montenegro, seats held by women in the national parliament are 23%. 30 Number of women in the Parliament of Serbia is 85 (34%).

For Albanian local governing structures in 2007 and 2011, 10% and 12.2% of women were elected, but in 2015, the number of women represented locally increased and reached 34.80 % (555 out of 1595) of local council seats.31 Similarly, in Bosnia and Herzegovina, the percentage of elected women in local councils in FBiH in the local elections increased in 2016 to 18,7%, since in 2012 it was 14,3 %. Now, in the municipal/city councils and assemblies of municipalities/cities in BiH, every fifth term belongs to women.32 In Montenegro, women are represented in local governments by 26.52%33

The overall problem in political representation of women, which all these countries share is that there is no representation whatsoever of women whose marginalized political position intersects with other aspects of their vulnerability (socially vulnerable, Roma, disabled, LGBTIQ, minorities).

As opposed to these positions of marginalization and discrimination some women have reached the positions of political decision making. In Serbia, formally, the highest decision making positions are currently held by women, Ana Brnabić (pronounced Brnabich) is the Prime minister and Maja Gojković (pronounced Maya Goykovich) is the head of the Parliament. In Serbian government from 21 minister's positions women hold 4: Ministries of Construction, Transport and Infrastructure; Ministry of Justice, Ministry of EU Integration; minister without the portfolio, but responsible for issues on Demography and Population Policy.

Furthermore, in Albania, women are heading the Defense Ministry, the Ministry of Health and Social Protection, the Ministry of Justice, Ministry of Culture, the Ministry of State for Protection of Entrepreneurship, the Ministry of Education and Sport. Also, composition of Albanian Parliament after 2017 election is: 41 women are members of Parliament, one woman is Spokesperson of Parliament, and three women are chairs of Parlamentarian Commission34.

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29 Statistički podaci: Stranačka struktura - Parlamentarna skupština BiH (2014.)
31 Marsela Dauti and Geldona Metaj, “Gender Quotas and Women’s Substantive Representation in the Local Councils of Albania”. This research report is issued on 2017. It is commissioned by United Nations Development Programme (UNDP) in Albania, with the financial support of the Government of Sweden, available at: http://www.al.undp.org/content/dam/albania/docs/ENGLISH.pdf
32 ASBIH, Man and women in Bosnia, 2017, 97.
In Bosnia and Herzegovina two women should be singled out, by name, since they have occupied the highest decision making positions: Borjana Krišto (pronounced Boryana Krishto) and Željka Cvijanović (pronounced Zhelyka Zviyanovich). Borjana Krišto was the president of the Federation of Bosnia and Herzegovina (indirectly elected) from 2007 to 2011. And from 2014-2018, she was the Deputy-President and then a President of the parliamentary assembly (within the regular rotation in the State presidency). Željka Cvijanović was the Prime minister of Republika Srpska from 2013 until October 2018, when she was elected president of Republic of Srpska. 35 There were no woman members of the State Presidency and there were no women presidents or deputy presidents of the Council of Ministers on the state level.36

In Kosovo, also one woman is to be singled out by name, Atifete Jahjaga (pronounced Yahyaga), a woman President of Kosovo from 2011-2016. She was the first non-partisan candidate and the youngest women to become the head of the state. Macedonia also had one Deputy Prime Minister.37

Some of the high positions, such as heading Ministries are held by women. In Bosnia on the state level, two ministries run by women are Ministry for Human Rights and Refugees and the Ministry of Defence. Kosovo, one woman is holding the position of a minister, namely the Ministry of European Integrations. In the current Macedonian government four women hold the positions of ministers (Defense, Justice, Labor and Social Policy, one minister without the portfolio, in charge of Foreign Investments).38 Macedonia has had women ministers of defense and police for many years. Currently women manage 40% of the total budget of the country.

In Montenegro, women ministers run 18% of the government by an allocation of 0.66 % of national budget to ministries that are led by women. They are heading Ministry of Economy, Ministry of Science, Ministry of Public Administration (and one women is a minister without portfolio).39 But, “[i]importantly, ministerial positions are mainly determinated by their political affiliation i.e. relation to the ruling party DPS (Democratic Party of Socialists)”40 One may deduce that the expectations following from these high decision making positions are not necessarily the betterment of women, or, for that matter any other marginalized vulnerable group, but party loyalty or just basic loyalty to the existing system/political regime.

Following from the above quoted explicit assessment from Montenegro, the complete data on women holding the highest positions of decision making (such as in Serbia) should be assessed carefully so as not to deduce that these facts, in and of themselves, mean that the decisions made by the women in question are necessarily in the best interest of all the other women, and especially not necessarily in the interest of those who belong to other vulnerable groups and are consequently always less privileged.

Presence of women in local governing structures may be more conclusive as to the perspective of substantial political changes for women in the Western Balkans. Mayors in Albania “In the competition for mayor 17 women candidates participated, 9 of them won which means that women run around 15% of the country municipalities”41.

40 Paula Petričević, country expert from Montenegro, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.
41 The Coalition for Free and Fair Elections and Sustainable Democracy, Final Report, Monitoring of Local Elections, June 21, 2015, in Albania,p.29, available at:
In Bosnia and Herzegovina there were 417 candidates for mayors, only 26 were women, or 6.2%. Consequently, only six women mayors were elected from the 142 local government units in BiH. Kosovo women are underrepresented in local governments, with only 4.4% and no women mayors. In Macedonia, four women are mayors, and in Montenegro, out of 23, only 2 women are mayors.

Access of women to political decision making positions, women, representing the interests of women as a vulnerable, politically marginalized group is even more conclusive when attempting to highlight the data on political representation of vulnerable groups. Namely, in Albania, there is no data on vulnerable groups local or parliament, in Bosnia and Herzegovina: there are no woman from vulnerable groups in the state parliament. In Kosovo: no women from vulnerable groups are part of the local governments. In the Kosovo Parliament, there is no MP woman from vulnerable groups. In Montenegro, there are no representatives from vulnerable groups in local government, and, in national parliament, also none.

Quotas: The only measure taken to improve the participation of women in the decision making positions and governing structures that is legally binding and implemented in the countries of Western Balkans is the quota system.

In Albania, in 2008 the Law on Gender Equality in the Society introduced a quota system, as well as penalties for all the political parties if they do not comply with this regulation. Kosovo has also, when passing the Law on General Elections included a 30% quota, both, for municipal and national assemblies. However, although this measure has increased the number of women in the elections, the 30% gender quota is not in keeping with the Law on Gender Equality that requires 50% gender representation in legislative, executive and judiciary bodies and other public institutions.

FYRO Macedonia introduced in 2002 the Law on Elections and, its mandatory provision was to ensure the less represented gender on the lists of candidates. The Law on Elections was improved in 2006 (namely specifying that every third person on the list must but be of less represented sex), and the participation of women increased to 35% in 2008. In 2016 prior to the Parliamentary elections a change of the Law on Elections was made to increase the quota to 40 percent reinforced with a provision that “if a political party fails to meet the quota requirement, the list shall be rejected” (Electoral Code, Article 67 [1-4]).

In Montenegro, Law on amendments to the Law on Election of Councilors and MPs (Art. 39a) from March 2014, stipulates the obligation for political parties to ensure at least 30% of candidates on the candidate list for mayoral elections.

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43Law No. 9970, dated 24.07.2008 “On gender equality in the society”, Article 15 “Participation in the decision-making process”: “Equal gender representation in all bodies of the legislative, executive, and judicial system and other public institutions is achieved when: a) a representation of more than 30 per cent for each gender is achieved, including their steering bodies; b) equal respect is ensured for both genders in the competition procedures and criteria for being appointed to these bodies; c) an inclusion of more than 30 per cent of each gender is achieved for each gender in the list of candidates for local elections; c) inclusion of no less than 30 per cent for each gender is ensured for each gender in the lists of candidates presented by the political parties for the parliamentary elections; d) inclusion of more than 30 per cent for each gender is ensured in the local and parliamentary election administration bodies”.
46Law on Gender Equality, Article 6.
48The Law on Election of Counsellors and Members of Parliament (Official Gazette of the Republic of Montenegro, no. 4 of 18 February 1998, 5/98, 17/98, 14/00, 18/00, 9/01, 41/02, 46/02, 45/04, 48/06, 56/06, Official Gazette of Montenegro, no. 46 of 16
list from the underrepresented sex. Following these measures, the number of women in the Parliament increased from 17% in 2012, to 23% in 2016.

The states of Western Balkans did not institutionally put through any measures - other than quotas - for increasing the participation of women in the political decision making bodies. However, women organized themselves through interparty coalitions, especially in their respective Parliaments (FYRO Macedonia, Kosovo/Women’s Caucus). In Montenegro the project “Support to the anti-discrimination and gender equality policies” established a Women Political Network, and important cross parties network which works toward an increasing the scope and strength of women’s decision making.

In Serbia two laws, one on parliamentary elections in 2004 and the second on the local elections in 2007 introduced the quota system, stating that at least 30% of the candidates must be of a sex with less representation. In 2011 the Law was amended so as to guarantee the 30% representation of the underrepresented sex. In FYRO Macedonia “political parties took advantage of weakness in the legal provision on a minimum 30% representation of both genders, by putting their women candidates on non-winning positions on the Candidate Lists. Thus, in spite of the introduction of positive measures, representation of women in the Assembly has not increased satisfactorily”.

Political parties, not only in FYROM, but also in other countries circumvented the aim of the legislative measures by placing 30% of women on the lists, but following the elections, not on the actual parliamentary or seats of local political bodies. This was followed by corrections and legal specifications.

### 1.4. Civil Society Organisations

The legislative structures in the countries of Western Balkans guarantee the right to establish, organize and pursue the goals of human rights through civil society, Non-Governmental Organizations (NGOs), among which women’s groups have for decades carried out, and very much still do, a significant part of this work. As civil society is, among other things grounded in basic right of any democracy - the right to assembly - all the countries of Western Balkans unequivocally recognize that right in their respective Constitutions (FYRO Macedonia, Kosovo etc.)

There are corresponding and adequate legal frameworks in place which allow for establishing and developing activities of civil society. For example, in 2010 the government of the Republic of Macedonia adopted a Law on Associations and Foundations, which was amended the following year. The law in Macedonia, as in some other countries of Western Balkans, regulates an accessible procedure for establishing a civil society organization. In Kosovo Law on Freedom of Association recognizes two legal forms for NGOs: associations and foundations and they are registered by the Ministry of Public September 2011, 14/14, 47/14, 12/16), Article 39a: "In order to exercise the gender equality principle, there shall be at least 30% of candidates on the candidate list from the underrepresented sex. Among each four candidates in the candidate list order (the first four places, the second four places and so on until the end of the list) there shall be at least one candidate who is a member of the underrepresented sex.

Candidate lists not meeting the requirements referred to in paras. 1 and 2 of this Article shall be deemed to contain shortcomings in respect of its publishing, and the list submitting entity shall be invited to remove the shortcomings from the list, in conformity with this Law.

The election commission shall refuse to publish candidate lists of candidate list submitting entities that do not remove shortcomings referred to in para.3 of this Article, in conformity with this Law.”


Marija Risteska, country expert from FYR Macedonia, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.

Constitution of the Republic of Kosovo, Article 44.

Administration. In Albania laws, all passed in 2001, such as On Non for Profit Organizations Registration, or On Non for Profit Organizations regulate the establishment as well as the activities of NGOs.

In BiH the basic law regulating the work and activities of civil society organizations is the Law on association and foundations of Bosnia and Herzegovina. However, here "... procedure for registering an organization is very complicated and lengthy. Some restrictions exist when it comes to implementing activities in public space..." But, on the other hand, there are no restrictions when it comes receiving funding from donors.

In some countries there have been no (direct) attacks on CSOs, NGOs or Women’s Human Rights Defenders (Albania, Kosovo) whereas in some of the countries in Western Balkans certain limitations in the activities of the civil society are noticeable. For example, in Bosnia and Herzegovina, although there were no recent cases of banning of protests related to women’s rights, but an LGBTI march against violence planned for the International Day against Homophobia, Biphobia and Transphobia had to be cancelled and the freedom of assembly of LGBTI persons was violated in 2017 when the Ministry of Transport of Sarajevo Canton did not issue a permit for the march protesting the violence against LGBTI persons. Importantly, the implementation of laws has to be strengthened to ensure their full security and dignity. Certain groups, journalists and LGBTI rights defenders, remain at risk.

In Serbia, there are some civil society organizations which are important as Women’s Human Rights Defenders (WHRD) concerned with LGBTIQ rights, transitional justice and issues of dealing with the recent past, especially concerning the official policies of Serbia in the 1990s, as well as organizations confronting religious fundamentalism and taking a secularist standpoint. All these groups are unequivocal advocates of women’s rights. The assessment is that these organizations do work in a hostile political climate. WHRDs involved in transitional justice and dealing with the past in Serbia have been continuously subjected to hate speech, death threats, harassment and defamation. Women founders and leaders of CSOs working with these issues are usually accused of being foreign spies and for receiving money from foreign governments to criticize the state government (...). In 2016, following the commemoration of the 15th anniversary of war crimes of Serbian forces against Kosovar Albanians, organized by the CSO Women in Black in Belgrade, spokesperson of the antiterrorist unit of the Military Intelligence Agency (MIA) Radomir Počuča incited hooligans on his Facebook profile to “deal” with Women in Black. Thereupon, ultra-right group Zavetnici held a protest in support of Radomir Počuča, against Woman in Black, in front of their office.

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53Law on Freedom of Association in non-governmental organisations, available at: https://www.kuvendikosoves.org/common/docs/ligjet/Law%20on%20freedom%20of%20association%20in%20NGO.pdf, Article 5 and Article 9.2.
54Law nr. 8789, Law nr.8788, Law Nr.8781.
55Zakon o udruženjima i fondacijama Bosne i Hercegovine ("Službeni glasnik BiH, broj 32/01); With amendements in: “Službeni glasnik BiH", broj 42/03; “Službeni glasnik BiH", broj 63/08; “Službeni glasnik BiH", broj 76/11.
56Alina Trkulja, country expert from Bosnia and Herzegovina, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.
57EU Progress report for BIH 2018, pg. 20.
59Čehajić-Čampara, Maida, Analiza sigurnosnog rizika u radu braniteljica ljudskih prava i aktivistica protiv rodno zasnovanog nasilja u Bosni i Hercegovini – studije slučaja (5), Fondacija lokalne demokratije, Sarajevo, mart 2018.
60https://www.frontlinedefenders.org/en/location/bosnia-herzegovina
62Ibid.
Significant and a metaphor for the overall assessment of the effect of the enormous work of the civil society, especially women’s feminist, antinationalist and pacifist groups throughout the region, is the Peer Review Assessment Report from Montenegro (2016), where it was noted that Gender Equality Department that operates within the Ministry of Human and Minority Rights, has heavily “informally outsourced” the implementation of its mandate to civil society. Moreover, failed to provide any form of financial compensation (in the form of grants, for instance) to women’s NGOs for the work they performed. It is almost a truism in the whole region and in the countries of Western Balkans that women’s activist groups have for decades undertaken the responsibility in the domains where the institutions have failed.

1.5. Economic Factors

The position of women is built on their economic independence, the indicators of which are grounded primarily in the factors of belonging to an active population, paid work and employment, ownership of properties and exercising the right to inheritance. In the countries of Western Balkans women have been engaged both as a part of the labor force and also traditionally, in unpaid work of child rearing, care giving and housework.

Therefore in the third millennium, in all the countries of Western Balkans the data unequivocally indicates that men belong to the active part of the population more than women and that the percentages of employed women - and therefore, women who are actually payed for their work - are smaller than those of men. According to the Labor Market surveys of 2017, in Albania 50.3% of female population, aged 15-64 years, are employed, as opposed to the 64.3% of employed male population in the same age group. The age groups of employed women who have an even smaller percentage are those from 15 to 25 years (24.5%). As in other countries of the region, the employment rate of women rises with the higher level of education; so, the employment rate of women with primary school is 38.8% with secondary school is 41.8% and with the university diploma is 62.2%. But, “[o]n a positive note, the 2017 World Economic Forum Gender Gap Index report showed that Albania improved compared to 2016 (rising from a ranking of 62 to 38 of 144 countries)”

Women in Kosovo have a low participation in the labor force and high unemployment. In 2018, the whole inactive labor force is estimated 60.8%, within which 83.4% are women and 38.6% are men. The most serious problem in Kosovo is the youth unemployment rate. In the age group of 15-24 unemployment is the highest, 54%. Women of working age are active in the labor market with only 16.6%, compared to 61.4% of working-age men, and only 11.8%, of women are employed compared to 45.5% of employed men. In Kosovo, women are mainly employed in the education, health and trade

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63 Source: Peer Assessment Report by Ivana Roagna was result of Peer review mission on the capacity of the Ministry of Human Rights Podgorica conducted on March 22-26 2015, and March 2016. It is not publicly available, the research called upon the Law on free access to information.


sectors (51.2 %). As opposed to this men are mainly employed in the sectors of trade, construction, and manufacture (42.4 %).  

Unemployment rate among women with primary education is 26.3%, among women who have completed secondary education is 39.5%, while 15.5% of women with university degrees are unemployed; finally, women with no school diploma are fully unemployed.

Statistics in FYRO Macedonia show that only 39.1 percent of the total labor force is female, but the percentage of women who belong to the inactive population is even more of problem (64.3%).

"Gender difference in career choice persist, where women tend to choose medicine (80%), humanities (70%), natural sciences and mathematics (57%), while men choose technical and technological sciences (63%), biotechnology (53%) sciences (50%). Women are often found performing jobs that are considered to be close to the work they perform in the households (they work in the textile, service sector, education and social work). Hence, there exists a horizontal segregation (across sectors), but also a vertical segregation (within sectors) whereby women are usually employed to execute the lower level jobs and the higher, better-paid and senior positions are almost exclusively filled by men. Jobs like sales assistants, technicians, professionals and clerks are mostly delegated to women. Women's share in the managerial, and senior job positions was only around 24% in 2017."

In Montenegro out of total number of labor force (active population), there are 55.6% men, and 44.4% are women, while 59.3% of inactive persons are women and 40.7% are men. The overall employment rate of the working age population was slightly lower than in 2017, 39.4% for women and 50.5% for men. The existing policies and projects aimed at encouraging women's participation in the labor market yielded limited results, as women labour force continues to be less active in working and seeking employment than men. Generally speaking, activity rates are lowest in the northern region of Montenegro (38.8% for women and 41.7% for men). There is 42% of inactive women with primary education, 11.8% with secondary and 7.4% with university level of education. The employment rate is the highest where women with a university diploma are concerned, 34.7%. Only 7.1% of women with a primary school and 5.9% with a secondary school are employed. Women without a school diploma are employed only by 1.4%.

According to 2015 study *Women and Men in Montenegro*, women made only 22% of legislators, senior officials and managers in the country. Instead of taking an upward trend, over the years the percentage of women in high level positions has actually decreased from 30.8% in 2011 to 25% in 2013. Absence of women from high level managerial positions continued also in those sectors where they constitute an overwhelming majority of employees. For example, in the education sector women make a majority of employees (74.2% in total). However, when it comes to decision making positions (directors of schools), women constitute an absolute minority, except in pre-school institutions.

According to information provided by the Ministry of education, in elementary schools there are 117

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71Ibid., p.10.
74Marija Risteska, country expert from FVR Macedonia, authorized unpublished report on Social and Economic factors relevant to women's rights, 2018.
79Women and Men in Montenegro from 2015, p. 64
male and 44 female directors, and in high-schools 40 male and 8 female directors. Women make 70.6% of employed persons in health and social work sector, 74.2% in education sector and 55.8% in other social and personal services.

One of the most serious indicators of the persistent discrimination of women is the gender pay gap; a standing recommendation for overcoming this problem is gender sensitive budgeting. In some countries of Western Balkans both, the problem as well as the potential solution have been addressed, but in some countries the additional problem is a lack of data about the issue. For example, in Montenegro, the last periodical study Women and Man in Montenegro from 2016 has no indicators on gender pay gap at all. The last data on gender pay gap is from 2013, when it was 13.9 percent. There is no data if the pension gender pay gap exists at all, or if gender pay gap can be analyzed by age, level of education. Also in Kosovo, there is no research on gender pay gap, but there are indicators that it does exist. The data available, is that the salaries of men are 5.9% higher compared to women’s. "There is a pressing need to research and report on gender pay gap across industry and economic activity, level of education, and age." In Bosnia and Herzegovina, no systematic official data on gender pay gap exists, although some research has been done. According to one (unclear sources) there is a significant pay gap in Bosnia and Herzegovina. It claims the following: "The analysis of wage differences shows significant gender differences in all wage classes, with the exception of the highest and lowest wage classes. Regarding the differential amounts, the largest difference in wages is found in the category of persons without a degree, where the difference is € 88.50 in favor of men. The wage gap is reduced as the education level goes up so that at the level of secondary school diploma the gap is € 57.60. Women with a university degree earn on average 92 per cent of net wages of their male colleagues." Another perhaps more reliable research establishes that „There is a visible gender difference in the hourly wages in favor of men that is persistent across levels of education, age groups, occupations and industries“. This research further claims that: „the gender hourly wage gap is estimated at 9% of the average hourly-wage of a male worker (KM 3.9 for men against KM 3.5 for women)….Across industries and occupations the pattern is also largely in favor of men, with some minor nuances. While across occupations, men always earn more per hour than women, across industries there are some exceptions.”

For Albania statistical data on the unemployment rate of both men and women based on their level of education and age has been established. Regarding the gender pay gap, there is no specific data by

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81Ibid
86Vjolcja Krasniqi, country expert from Kosovo, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018
the level of academic education, but, there is a gender pay gap identified by economic activity and profession between men and women, which in turn may be linked to the level of education of both. Regarding the pensions, “46.6% of people benefiting from urban pensions are women. The gender ratio for rural pension beneficiaries significantly differs, of whom 62.9% are women.”

In FYRO Macedonia, comparing the female/male net wage, in 2002 and 2006 the (gender) pay gap has been widened in the following sectors: agriculture, manufacturing, electricity, construction, hotels and restaurants, real estate and education. The difference in the net wage between men and women is the highest in the sectors construction, and hotels and restaurants (10118 and 9997 denars respectively) which is in fact almost as high as the average wage in these sectors. One explanation for this extremely high difference in wages between men and women in the hotel sector is that women are mainly employed in the lower paid positions which can be supported by the fact that in 2008 out of 247 employers in this sector only 25 were women, while the number of female unpaid family workers was higher than the number of male unpaid workers. Another important observation is the fact that in 2007 the share of seasonally engaged women in agriculture was 63% out of the total number of seasonally employed workers in this sector.

Strategies for confronting the gender pay gap are based on gender sensitive budgeting. In Montenegro that strategy is not yet present on the national, but it is acknowledged on the local level, since some municipalities have already allocated funds for implementing their local action plans (LAPs). However, no report on implementation or evaluation of LAPs’ results has yet been publically presented.

It appears that in Macedonia, not only is this strategy present, but it is also in the process of implementation, as a Strategy for introducing of Gender Responsive Budgeting (SGRB) in the Republic of Macedonia (2012-2017) It strengthens mechanisms for gender mainstreaming and related budgets through establishment of the National Coordinating Body for GRB. The program is implemented for a three years period. The assessment of the process of introduction of GRB shows that six Ministries used gender-responsive budgeting to conduct gender analyses of specific programs and submitted gender budget statements to the Ministry of Finance with their 2014 and 2015 budget requests. At local level, the MLSP coordinates efforts with UN Women to build capacity for GRB.


In BiH Gender Equality Law regulates gender equality which also includes a gender approach budgetary issues. The latest Gender Action plan was adopted for period from 2013-2017, and it specifies the implementation of the GRB under strategic goal 2. Despite this, BiH did not put GRB on its agenda.

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93 APAGE, p. 24.
95 Involves identification of a program, gender analysis of the program and determination of gender objective, adoption of gendered measure, formulation of gender sensitive output indicators and allocation of budget for implementation; monitoring of implementation by generating gender disaggregated statistics.
96 Ministry of Labour and Social Policy, including the State Employments Agency, Ministry of Agriculture, Forestry and Water Management, Ministry of Health, Ministry of Culture, Ministry of Justice and Ministry of Information Society and Administration
97 The local level capacity building encompasses twenty local self-government units: Aerodrom, Veles, Bitola, Bogdanci, Bogovinje, Novaci, Gjorce Petrov, Kochani ,City of Skopje, Kriva Palanka, Sveti Nikole, Gostivar, Strumica, Ohrid, Tetovo, Centar, Shtip,Gaibaba, Mavrovo, Rostushe, andKumanovo.
The Strategic Plan for introduction of Gender Responsible Budget into the Budget of the FBiH 2013-2015 included the program for development of small and medium-sized enterprises in FBiH, providing incentive for development of entrepreneurship of women. In 2016, the Federal Ministry of Development, Entrepreneurship and Crafts allocated 350,000 KM as an incentive to female entrepreneurs.99

In Albania, The National Strategy and Action Plan on Gender Equality 2016-2020 is a crosscutting strategy and its National Action Plan’s implementation is related with several budgetary programs. The Strategy is implemented by 8 Ministries100 and 7 budgetary institutions,101 political parties, and religious communities that are funded by the state budget. Under the frame of the General Gender Budgeting, during in 2017, the Ministry of Health and Social Protection, in cooperation with the Finance Ministry and with the support of UNWOMEN, under the frame of the project “General Gender Budgeting in Public Finance” organized training with specialists of the budgets.102

Another parameter for the economic and social rights for women are the issues of property and ownership, as well as inheritance. These issues regulated first and foremost through legislative measures cannot be implemented without confronting the traditional patriarchal customs which have always privileged male beneficiaries.

In terms of property, in Montenegro women own only 4% of the houses, 8% of the land, and 14% of houses and there is no data on women who have bank accounts/savings in their own name. Women entrepreneurship represents only 9.6 percent of the total number of registered entrepreneurial companies. Bearing in mind that the country’s overall economic program relies on the development of entrepreneurial potential, this data on women’s minor part in entrepreneurship is a cause for concern.103

In Macedonia, the law considers spousal property to be a common (Art.205). However, in practice the contract for acquiring the property is made on the name of one of the spouses (usually the man with a paid job) and then registered in public books under his name. As such, the right to the property acquired in a marriage to be registered as joint property is not effectively enforced. Also, in practice wives have no say if the property is given as collateral or is leased, neither can they personally profit of such property transaction if the property is not registered under both names. In FYR Macedonia, land ownership averages 16 % for women. Property owners in Macedonia are five times more likely to be male than female, according to the FAO-World Bank study.

The number of women entrepreneurs in the Republic of Macedonia is around 18%. The majority of women entrepreneurs in the Republic of Macedonia, own and manage micro enterprises and have from one to nine employees. Thus, 32.5% of women entrepreneurs run micro businesses, and 27.5% of the respondents manage small or medium-sized enterprises, while only 12.5% of women entrepreneurs in the Republic of Macedonia run large businesses with over 250 employees.104

99CEDAW/C/BIH/6, par.167.
101Albanian School of Public Administration, Department of Public Administration, Agency for the Support of Civil Society, INSTAT, School of Magistrates, Office of the Judicial Budget Administration, the Assembly of Albania.
It has been estimated that women’s property ownership of Kosovo entrepreneurs is 15%.\(^{105}\) There is a lack of gender disaggregated data on bank accounts and savings. In Kosovo, 13.4% of all registered businesses are women-owned enterprises. The vast majority of them (99.9%) are micro-enterprises comprised of 1-9 employees. On average women-owned businesses have 3.07 employees in contrast to 5.27 employees in the men-led businesses.\(^{106}\) 2.7% of women are self-employed and have also employees and 11.5% of women are self-employed with no employees.\(^{107}\)

In Bosnia and Herzegovina, “15% of all homes are owned by women...”\(^{108}\) In Albania, the Legal Assessment Tool\(^{109}\) shows that women and men are mostly treated equally by law, in terms of the same right to inheritance, co-ownership and are not discriminated against through legislature, but implementation of these laws is very much still lacking - in the domain of property inheritance.

“The most serious deprivation has happened related to the hereditary rights. Being not entitled as co-owners, it has been impossible for the women to make with their own will a testament. Meanwhile the husband who holds the title of all the property has the right to determine the disposition of the property. Legal presumption of co-ownership is not taken into consideration enough in such a case. From the point of view of legal inheritance, the women have recognition and implementation of gender equality standards in the judicial process, lost and are still losing properties in a considerable way, because the legal inheritance becomes available entirely on the basis of the hereditary title. As a consequence, the wife loses half of the property that she owned on the basis of the legal presumption, and, unjustly she is equated with the children in the property inherited from her husband”\(^{110}\). Also, “[i]n practice the transcription of the inheritance certificate in the Immovable Property Registration Office is done by transferring the property on behalf of all the heirs, in equal parts without taking into consideration the fact that the property was in co-ownership of spouses.”\(^{111}\).

Without stability in property rights the economic independence of women also loses stability, “....denial of the rights of women happens in cases of obtaining bank loans, because they cannot be presented as borrowers, but only as complementary to their husbands’ will in bail contracts.”\(^{112}\) Despite that, “the number of women owners or administrators of businesses in manufacturing and service sector has increased in 2017. The number of businesses with women owners or administrators is greater in the Service Sector than in the Production Sector, 36.3% and 16.1% respectively... In 2017, the distribution of active enterprises by region indicates that enterprises with women owners or managers are largely concentrated in Tirana region (35.6%).”\(^{113}\).


\(^{106}\) Kosovo Gender Profile, p.17.


\(^{110}\) CLCI, SHADOW REPORT Submitted to the 64th session of CEDAW, 2016, p.11

\(^{111}\) Arta Mandro, “Të drejtat pronësore të grave, rasti i Shqipërisë” (The property rights of women. Case of Albania), Tirana, 2013, page 65.


\(^{113}\) NSTAT Men and Women 2018, p.99.
In Montenegro, the legal background of inheritance is in keeping with the principle of equal rights. So, for example, *The Law on Inheritance*\(^{114}\) knows no difference between sons and daughters and Article 11 explicitly stipulates to that effect. Although there is no data available concerning women voluntarily renouncing their right to inheritance, the fact that they own less than 25\% of real estate (4\% of the houses, 8\% of the land, and 14\% of houses in Montenegro) indicates undoubtedly an asymmetry in inheritance practices.

Although by law all children (and surviving spouse) inherit equal shares of the estate of the deceased, the tradition in Macedonia is for the females to marry and move away while the male siblings to stay living in the house of their parents. The law on succession beside promoting a gender equality regime of inheritance in the same time is providing incentives for those siblings living in the entire or part of the estate to be natural heirs of the property, whereas the others who do not live on the property have the right to renounce the succession. In practice this has built an impression that the sons who continue to live with parents have the right to succession of parent’s property, whereas the daughters who are married away from their parent’s houses are expected to renounce their share of inheritance. This tradition is not only present in Macedonia, but throughout the countries of Western Balkans, and is especially prevalent in the rural parts of these countries.

The Kosovo Constitution guarantees equal rights regarding inheritance.\(^{115}\) *The Law on Inheritance* also grants equal rights on inheritance to women and men.\(^{116}\) However, traditional customs give primacy to male over female descendants in matters of inheritance. Also, there are no clear legal procedural rules to safeguard gender equality and non-discrimination in this respect. In addition to the tradition and customs, the information on women’s legal rights on inheritance is lacking.\(^{117}\) There are no available statistics and data on women who voluntarily renounce their right to inheritance of property. However, there is a strong indication that women renounce their inherited property to brothers and uncles very frequently.\(^{118}\)

In Bosnia and Herzegovina there is no evidence that women renounce their inheritance rights in favour of a male relative. No research has been conducted thus far, but this issue is not part of the public debate and was not raised as an issue in previous years, as opposed to the situation in Montenegro and some other neighbouring countries. “General estimate is that this right is largely respected in Bosnia and Herzegovina and that prevalence of women renouncing their right to inheritance for male relatives if, and when exists is actually very low. This can, to some extent, be related to the fact that Islam, widely present in the country, prescribes equal inheritance to men and women.”\(^{119}\)

Poverty is an overall problem for countries of Western Balkans, effecting severely whole populations. For example, in Kosovo the estimate is that 17.6\% of the population lives in poverty (€1.82 per adult per day) and an estimated 5\% lives in extreme poverty (€1.30 per adult per day). Similarly in the neighboring in Macedonia, about 21.5 percent of Macedonia’s population is below the poverty line, which means more than 450,000 Macedonia citizens are suffering from poverty. Approximately 9.1 percent of Macedonia citizens live on less than two dollars every day, and in the past 15 years, a total of 600,000 citizens have chosen to emigrate. In Kosovo, there is not a always a precisely gender desegregated data on poverty. According to some sources, the gender relevant data states that 18\% of women live in poverty compared to 17.2 \% of men. Therefore, the poverty rate is slightly higher

\(^{114}\)Official Gazette of Montenegro, No. 74/2008, 05/12/2008.

\(^{115}\)Constitution of the Republic of Kosovo, Article 7.


\(^{117}\)EULEX, p. 3.

\(^{118}\)USAID, p. iv.

\(^{119}\)Alina Trkulja, country expert from Bosnia and Herzegovina, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.
Policy Department for Citizens’ Rights and Constitutional Affairs

among female headed households. But the troublesome information is that 52% of those who live in poverty are employed in some capacity. However, no gender disaggregated data on employment among the people living in poverty is available.

In 2004 the European methodology assessment of poverty was introduced by conducting the household budget survey. The survey on income and living conditions in Bosnia and Herzegovina has still not been conducted, so BiH measures poverty by consumption expenditure of households, which is calculated from the Household Budget Survey. This survey was conducted in Bosnia and Herzegovina in 2004, 2007, 2011 and 2015, but the methodology is not fully adequate for gender analysis because essentially there is no gender segregation of data and not much can be concluded on women and poverty or feminisation of poverty from it. According to the data from the BiH Household survey in 2011, women lead households have 20.3 % of level of poverty, compared to 16.2 % lead by men.

Another relevant report from 2017 stated that single mothers are exposed to greater risk of poverty and are not properly protected by the State. In BiH, there is no accurate data on the number of single parents raising their children, without any participation of the second parent. It is estimated that the percentage of single parent families in BiH are between 10% and 15%, of which 70-85% are single mothers. The status of single mothers is not suitably recognized in legislature. Although avoiding payment of child support is a criminal offence, about 70% of parents (read: mostly fathers) do not pay child support, while only 6% fulfill this obligation regularly. In 2017, the Institution of Human Rights Ombudsman of BiH had 172 cases concerning disregard for children’s rights, of which one third related to complaints for nonpayment of child support.

Similarly, according to the conclusions of the Shadow Report on the Healthcare field case of Albania, submitted to the United Nation’s Committee on the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 2016, the main causes of mortality among women are reported to be cardiovascular diseases and neoplasia. The insufficient awareness and [lack of] access for women to services are the main obstacles to receiving healthcare services. Despite some improvement of health and nutrition of mothers’ and children’s health, there are inequalities linked to age, gender, ... socio-economic status, place of residence, geographical area. There is an evident lack of integrated services, resulting in critical health gaps that limit the effectiveness of SRH programs, compromise human health and fuel the stigma and discrimination against vulnerable groups.

One of the indicators of poverty and risks of poverty is unpaid work which women are engaged in. “The average number of hours spent on unpaid domestic work for women is 5:43 hours, and for men the average hours are 2:06 hours.” When fully assessing this what should also be considered is that effectively, “[w]eekly hours of work for the employed women are in total 39.0 hours per week.” Yet, there is no gender sensitive data on poverty risks for Albania. Also, for Bosnia and Herzegovina, the only available and relevant data shows that the share of the total unpaid housework in 2017 (including work in agriculture) is still very much a burden mostly women take with a total share of 70.4 % compared to only 29.6 by men.

Women in Kosovo definitely carry an unequal burden of unpaid housework. They sleep less than men, watch TV less, have less hobbies than men, do less purchase than men, and spend less time on education related activities. However, that data indicates that women spend little more time on personal care compared to men.126 Women lack childcare as since childcare centers and pre schools are severely limited in human and spatial resources. An estimate is that only 15.5% of children in Kosovo have access to childcare. Care services are predominantly located in Prishtina, leaving women in rural areas with no access to childcare.127 As women are unemployed, they have the highest share of the burden of housework, they are faced with lack of childcare and depend on family members to provide unpaid care services.128 Considering these indicators altogether leads to a conclusion that not only women have almost no mobility - especially women living outside Prishtina - but also that women from rural parts of Kosovo belong to a vulnerable group who share a high risk of poverty.

In FYRO Macedonia women spend three times more time on household activities compared to men, and have less free time. Time use survey data indicates that the use of time has not improved significantly from 2009 to 2014 (when the survey was last conducted). Women bear the burden of domestic activities, spending three times more (even four times more in rural areas) time on housework compared to men. While women spend one hour less in paid employment compared to men, men still have one hour more free time, especially during weekends, confirming the feminist argument that employed women work a ‘second shift’ at home.129

Having a child additionally burdens women in particular by increasing their time spent on domestic activities, while reducing the free time. For men, having children is only linked to increased time at paid employ. The fact that time spent by women on domestic activities starkly rises for the age group of women aged 25-44, while it reduces for men of the same age-group; paints a picture of a patriarchal family where the woman almost completely takes over the care for children, but also other family members. This indicates that the traditional gender roles are rather dominant within the society, and get strengthened with entering into partnership/marriage and especially with having children.

Traditional gender roles are strongly held by nearly half of women, especially ones belonging to non-majority communities. Findings from a recent study indicate that “women themselves make strong distinction between the gender roles within the household, and in the society in general”130 Almost half of women (respondents) agreed with the socially conservative views that while ‘it is good to work, women prefer to take care of the home and the children’, and more than half support the myth that ‘it is better for a pre-school child if the mother doesn’t work’. These beliefs are found to be more frequently held by women from non-majority communities and by economically inactive women. Consistent in their beliefs, women tend to be socially active mainly in the realm of the family, considering this to be their role, while the activity outside of the community – role of men. 131 Number of services and opportunities (including education, employment opportunities or services, banks, posts etc.) are not available in close proximity of rural areas and thus use of transport services represent essential mean to reach those services.

128Vjollca Krasniqi, country expert from Kosovo, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.
130http://www2.unwomen.org/~/media/field%20office%20eca/attachments/publications/country/fyr%20macedonia/nat_research_female_labo...?la=en&vs=936
131Marija Risteska, country expert from Macedonia, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.
In Montenegro, a UNDP research from 2012 states that “women in Montenegro spend 3.7 hours per day, on average, performing household and family duties, while men deal with the same activities only an hour and a half; in case of married couples, average number of hours that women spend dealing with household and family duties even increases from 3.7 to 4.5, while regarding men, the number of hours remains unchanged. Out of the total number of population claiming that they never perform household and family duties (11% of the population), 96% are men!\(^{132}\)

Regardless of the legal framework which unequivocally supports the independence of women, without recognizing and acknowledging their full potential in terms of assessing their work as paid, there is little that can be done towards the rights of women in Western Balkans.

1.6. **Education**

The right to education - being the *sine qua non* of women's rights - is in the legislation of the countries of Western Balkans not only fully recognized but also, to a large extent, supported and consequently implemented, according to the availability of resources. However, the problem of the implementing the access to education exists when minorities, especially Roma are concerned.

Educational systems in these countries all have preschool, primary, secondary and university stages of horizontal educational process, and although they may differ in the number of school years assigned to some stages, primary education is usually compulsory. Albania, Bosnia and Herzegovina, Serbia, Montenegro - all have as a part of their legislation that compulsory education starts at the age of 6 years and lasts until the age of 15 (usually covering primary school and the lower secondary school). Macedonia extends this requirement for compulsory education to the age of 17/19.\(^{133}\)

The legally binding requirement of compulsory education is why the enrollment and attendance of primary schools is mostly 98% and over. There has been in decrease in the total numbers of enrolled children (e.g. FYRO Macedonia, Serbia) but not in gender percentages, which points to the issues of demography. In Kosovo, Montenegro, Bosnia and Herzegovina there is a slight gender disproportion of enrolment and attendance of boys and girls in primary schools. For example, in Montenegro, primary school attendance, (for the 2015/16 school year) is girls – 47.7 %; boys – 52.3 %.\(^{134}\)

In Bosnia and Herzegovina this trend is noted even from 2012. The enrolment of children for the period 2012-2017 is as presented:\(^{135}\)

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\(^{132}\) [http://www.me.undp.org/content/montenegro/en/home/library/social_inclusion/WomenPolitics.html](http://www.me.undp.org/content/montenegro/en/home/library/social_inclusion/WomenPolitics.html), p. 84.


\(^{134}\) MONSTAT 2016, p. 50.

\(^{135}\) Agency for Statistics of BIH, Men and women in Bosnia and Herzegovina 2017.
However, in Kosovo this gender disproportion, as slight as it may be, persists throughout all the stages of the horizontal educational process. Enrollment in preschool elementary/primary school by gender is 45.9% girls and 54.1% boys,\textsuperscript{136} and enrollment in primary education by gender is 48.4% girls and 51.6% for boys.\textsuperscript{137} Enrollment in secondary education is 48.9% for girls and 51.1% for boys.\textsuperscript{138} In bachelor and MA studies the gender ratio is 49% women and 51% men.\textsuperscript{139} But importantly, at the university level of BA and MA studies, in 2014 more women than men graduated from the University of Prishtina, the largest university in Kosovo.\textsuperscript{140}

The data pointing to the high percentages of enrolment of young women and their successful completion of higher education is also present in FYRO Macedonia. In 2017 the number of enrolled female students was 31,669 or 55.6%. The participation of women in the total number of recipients of the Masters of Science diploma in 2017 was 58.5%. The number of young women who have successfully received their PhD during 2017 was 123 candidates or 58.9% of the total number of doctorates in 2017.\textsuperscript{141}

In Bosnia and Herzegovina, the same trend is present: in the academic year 2017/2018, there were 47,020 women and 35,906 men enrolled students. In the academic year 2017/18 there were 11,360 students enrolled in MA, MSc and specialisation studies, out of which 6,889 were women. However, in PhD studies it becomes apparent that the highest acknowledgement is still predominantly male: enrolment was 856 in total, out of which 374 were women and 482 were men, and this is the only level of education where the proportion of men is significantly higher than women.\textsuperscript{142}

In Serbia, the higher education system also points basically to the similar tendencies of persisting gendered structures in undergraduate university programs: in 2010 - 2013 women 55- 56 % ; men 44-45 % with the an important difference: here the number of enrolled students, teaching staff, and finally

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|c|c|c|c|}
\hline
 & Predskolsko obrazovanje & Osnovno obrazovanje & Srednje obrazovanje \\
& Pre-school education & Primary education & Secondary education \\
& Djevojčice & Djeca & Učenice & Učenici & Učenice & Učenici \\
Girls & Boys & Female pupils & Male pupils & Female pupils & Male pupils \\
\hline
2012/2013. & 8958 & 9.859 & 148.585 & 156.296 & 82.242 & 84.420 \\
2013/2014. & 9383 & 10.497 & 147.238 & 154.895 & 77.468 & 78.882 \\
\hline
\end{tabular}
\caption{Enrollment by gender and level of education in Kosovo (2012-2017).}
\end{table}

\textsuperscript{137}Ibid., p. 20.
\textsuperscript{138}Ibid., p. 23.
\textsuperscript{139}Women and Men in Kosovo, 2016, p.38.
\textsuperscript{140}Kosovo Agency of Statistics, Education Statistics in Kosovo 2015-2016, available at: http://ask.rks-gov.net/media/1658/statistikat-e-arsimit-n%C3%AB-kosov%C3%AB-2015-2016-m%C3%AB-30062016-versioni-i-fundit.pdf, p.89.
\textsuperscript{141}Education and Science; State Statistical Office; http://www.stat.gov.mk/ [accessed on 18th of October 2018].
\textsuperscript{142}Agency for Statistic of BiH; Demography and Social Statistics: Education Statistics, Year XIII Sarajevo, 31.10.2018. Number 2
successful graduates is showing a rise in the percentages of women, but the decision making positions are still predominantly male.\textsuperscript{143}

In terms of enrollment and attendance in Serbia, in preschool in 2011-2013 girls: 48-49\% ; and, boys 51-52 \%. The same trend continues where the enrollment and attendance into primary school is concerned, for example, in 2016 48,2\% girls, and 51,7\% boys. This gender disproportion in primary school enrollment and attendance can be a cause for concern and further research so as to exclude interventions based on selected birth control (has been noted in some rural parts of Serbia). Drop out data, in Serbian schools is slightly, by 0,5\%, bigger for boy, than girls.

The data on the drop-out rate in Western Balkan countries is either unavailable or not easily accessible (e.g. Montenegro). It is particularly significant because it pertains to the minorities, socially vulnerable groups, ethnic groups who are stereotyped and discriminated, most notably, the Roma population in all the countries of the region. This problem is increased on a gender basis, since it is traditionally expected that the boys have a priority to family resources and hence, education. In Macedonia, assessing primary schools, the estimated average national dropout rate is 2\%. However among children from Roma and rural Turkish communities this rate is as high as 10\%.\footnote{144} "This is mainly due to lack of easy access to schools in rural areas, poorer quality of teaching in schools attended by Roma and rural Turkish children, traditional attitudes towards the education of girls, early marriage for girls as well as the work in the grey economy for boys."\textsuperscript{145}

In Bosnia and Herzegovina, research on the reasons for early school drop outs (2018) state that risk factors are socially vulnerable families with parents who had only some education, are unemployed and lack basic financial means. Children where parents are with (mental) disabilities, and those from families with a record of domestic violence are particularly vulnerable. Another factor is the inaccessibility of educational facilities (schools located far from home). Children with disabilities, children without adequate parental care and Roma children are also considered to be at risk of successful completion of even compulsory education.\textsuperscript{146} The report of the Council of ministers of BiH on Social inclusion in 2016 enlists the same reasons and conditions, listing in particular children with disabilities, Roma children and children from families with low income as particularly vulnerable. To emphasize, "In short, poverty and discrimination are the main reasons for early school dropouts."\textsuperscript{147}

One of the most important problems, with far reaching consequences is the existence of ethnically segregated schools. In Bosnia and Herzegovina, "the overall educational system, just as the country itself, is ethnically “segregated”, in particular with the existence of the three ethno-national curricula whose implementation essentially discriminates children from Constituent peoples when they are a minority in a certain federal or administrative unit in BiH... The so called 'Two schools under one roof' as an example of ethnic segregation of children within schools. And it still persists in a number of schools...Educational system analyses show, that this segregation serves as the reproduction of ethno-nationalist elites and does little to promote critical thinking, equality, inclusion and provide for human rights education."\textsuperscript{148}

\footnote{143}{Milica Miražić, MA, Prof Ivanka Popović at al, Gender Equality Audit Report, in TARGET (Taking a Reflexive Approach to Gender Equality for Institutional Transformation) 2018.}
\footnote{144}{https://www.unicef.org/tfyrmacedonia/media_10157.html}
\footnote{145}{Marija Risteska, country expert from Macedonia, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.}
\footnote{146}{Zecević, Ivana. Local action research on scale and causes of education dropout, Save the Children, 2018.}
\footnote{147}{Alina Trkulja, country expert from Bosnia and Herzegovina, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.}
\footnote{148}{Alina Trkulja, country expert from Bosnia and Herzegovina, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.}
In Albania, as a part of implementing the “National Plan for Zero Abandonment 2009-2013”, priority is given to the education of pupils of compulsory schools among the young disadvantaged groups while supporting the women of these groups.149

Critical requirement and condition for long term changes in the position of women is not only if girls and women have access to education, but what are the contents of the educational programs they will follow and learn from. Therefore, one of the key issues is the representation of gender roles in the curricula. In many instances the institutional research on these issues does not exist, or if at all present, it does not affect the gender educational policies. Gender sensitive language as a requirement is not addressed. The outcome is that stereotypical gender roles where women are marginalized and discriminated against are imbedded in the curricula and textbooks and thus serve to continue re-establishing traditional gender roles.

For example, in Montenegro, even relevant research on this issue does not exist. There was only one study on gender stereotypes in primary school textbooks150, but these textbooks are no longer in use. Also, no such courses or programs in the fields of women’s studies or gender studies exist (nor, Roma studies, disability or, queer studies. There is only one-semester subject: Gender Studies, on MA program for Social Work (Faculty for Political Sciences, Podgorica) and recently University of Donja Gorica (UDG) from Podgorica offers a program on Gender Studies.

Similarly, in FYRO Macedonia, one research of the gender roles in textbooks shows that traditional stereotyped roles are predominant in the textbooks. Gender equality training is not a required for teachers. The teachers have been ad-hoc trained on gender equality but there is no systematic introduction of gender equality in teacher training.

In Kosovo, research on the content analysis of school textbooks has revealed that gender roles in subjects such as biology, civic education and psychology, heteronormativity is dominant. Textbooks foster traditional gender roles, reinforce gender stereotypes, and are not freed of discrimination on the grounds of gender, ethnicity, age and disability.151 University study programs have been slow in integrating gender and diversity. Currently, gender studies have comprised courses at BA and MA level in the faculty of philosophy, education, and art as mandatory or elective ones. There is no MA degree program on gender studies. Also, Roma studies, disability studies and queer studies are not available. In Albania, master studies in gender are available and in some universities of Albania the students have the possibility to attend lectures or courses in women’s, studies/gender, and studies/feminist theory.

In Bosnia and Herzegovina, the analysis of the textbooks for lower grades of primary school in the Federation of BiH in 2013 show that very few moved from the traditional binary divisions man-woman, father-mother. Any critique of inherited patriarchal views, on which the discriminatory divisions of gender roles are based, is more of an exception than a rule. Illustrations show women as mothers and teachers, while men are busy in front of computers, or driving. While girls have decorations in their hair and carry flowers, boys run around and play football.152 Another research from 2016, which analysed textbooks in use in the Kanton of Sarajevo showed that women are underrepresented in all textbooks, for all grades and for all school subjects and the illustrations support gender stereotypes. Family is still presented exclusively as the traditional one (mother, father, children), while household related

150Research was conducted by ANIMA – Centre for Women and Peace Studies: https://pdfs.semanticscholar.org/f0c9/d974e9becfa99aca3f962c739e8f426047b8.pdf
152Begagić, Lamija. Žena, majka, učiteljica, Školegijum, 2013.
activities are assigned to women exclusively. The use of masculine form as generic for both men and women is omnipresent. 153

Indeed, according to NGOs, “Bosnia and Herzegovina has failed to indicate the gender stereotypes and promote gender equality through educational strategies, curricula, and systematic training of education workers, or to carry out broader action aimed at removing gender stereotypical and discriminatory content in textbooks for all levels of education. Informal training programs on gender stereotypes, violence, gender equality and women’s human rights are implemented by civil society organizations, without the insured continuity and over a defined scope, directly dependent on the support of international organizations and funds.” 154

In Bosnia and Herzegovina so far there has been no analysis on gender equality education in higher education system of BiH related to the university programs, especially programs that educate those who will become teachers later on. The only program in the formal education, the MA programme for Gender Studies at the Center for Interdisciplinary studies of the University of Sarajevo, mentioned by the Gender Equality Agency in the CEDAW report in 2018 as a “positive example of introducing gender equality in higher education”, was in fact closed some years ago because of the lack of institutional support and lack of financial assistance which would enable its implementation. One cycle of PhD level Gender studies at the Center for Interdisciplinary Studies was implemented in the meantime, but without ensuring institutional and financial support for its implementation, new generations will not be enrolled. Positive example is one of the MA programmes of the Global Campus of Human rights, the European Regional MA Programme in Democracy and Human Rights in South East Europe, implemented by the University of Sarajevo and University of Bologna, where courses on Gender and nationalism, Women’s rights and economic globalisation and International instruments for protection of women’s rights are taught among others. The GCRS and the Faculty of Law in East Sarajevo organized the third “Gender Equality School” so far completed by 43 students 155.

In Serbia, Women’s and Gender Studies programs exist since 1992, but as unaccredited, albeit a program recognized by the student population and feminist activist organizations. It has been organized by the Center for Women’s Studies, an NGO and besides introducing scholarly programs and a comprehensive educational program on issues of women’s rights and relevant feminist theories - consisting of teaching, research and publishing - it was also a part of the political opposition to the nationalist military politics of Serbia throughout the 1990s. 156 After the democratic changes in the year 2000, Center for Women’s Studies was instrumental in setting up an accredited program of Gender Studies at the University of Belgrade. This program includes at all three levels of higher education: undergraduate Studies (elective and compulsory courses), Masters Degree - full program Graduate academic studies. MA in Gender Studies, PhD Studies (elective courses). 157

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154 Report of civil society organizations on implementation of the concluding observations and recommendations of CEDAW committee for Bosnia and Herzegovina 2013–2017.

155 Alina Trkulja, country expert from Bosnia and Herzegovina, authorized unpublished report on Social and Economic factors relevant to women’s rights, 2018.


1.7. **Recommendations**

1. Quotas should be implemented systematically, through the establishment effective mechanisms for their application and be increased to 50%;
2. Ensure more reliable statistics produced on regular basis that would allow objective assessment of present state, but also of the impact of measures stipulated by laws and strategic documents;
3. Develop grant schemes for research on gender equality and women in politics;
4. Improving accessibility and quality of services especially in rural areas to stop the trend of depopulation of the villages from women;
5. Promoting equal roles in the household between men and the woman so that women would have more free time to be engaged in societal, political and economic initiatives;
6. Extending the network of child care institutions;
7. Increase enrollment in preschool education;
8. Improve institutional capacities – spatial as well as human in preschool education;
9. Implement affirmative action measures for Roma children;
10. Conduct research on gender roles in curricula and textbooks in primary and high school education;
11. Conduct qualitative research on the behavior of teachers and students from a gender perspective;
12. Conduct research on hidden curricula from a gender perspective;
13. Introduce compulsory courses in women/gender studies in undergraduate university curricula.
2. VIOLENCE AGAINST WOMEN

KEY FINDINGS

- All countries of Western Balkans (with the exception of Kosovo*) ratified the Istanbul Convention, introduced significant legislative changes and adopted comprehensive policies to combat violence against women. Harmonisation of legislation with the Convention has not been achieved yet.

- Prevalence of domestic violence against women is high throughout the region, while rates of reporting violence to institutions are extremely low. Murders of women in the context of domestic/intimate partner violence seem to occur frequently but are not adequately documented; preventive measures are necessary.

- Policies and measures to prevent and combat VAW, including national action plans as well as protocols regulating duties of professionals and inter-institutional co-operation are focused on domestic violence; other forms of violence covered by the scope of the Convention are neglected.

- Essential specialist services for victims are under-developed and their sustainability is jeopardised; funding by central or local governments is rarely provided. Co-operation with women's NGOs (that are the main service providers) needs to be strengthened. There is an urgent need to establish forms of specialist support for victims of sexual violence: rape crisis centres or sexual violence referral centres.

- Comprehensive policy recommendations to improve the situation are provided.

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (henceforth: the Istanbul Convention) is used as a general framework in this thematic report on violence against women. As all analysed countries of Western Balkans ratified the Convention (with the exception of Kosovo*), and thus accepted the obligations stemming from it, their policies and practices are compared using the selected provisions of the Convention as a common framework. Terms “violence against women” (henceforth: VAW) and “domestic violence” are used throughout the report in the meaning defined in the Article 3a and 3b of the Convention, respectively.

The Istanbul Convention is the first European legally binding instrument that sets up standards in the areas of prevention, protection of victims, prosecution and punishment of perpetrators and it also...

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158 Note: Biljana Brankovic wrote this thematic report on violence against women in her personal capacity as an Independent Researcher – Consultant; not in her official capacity as a member of GREVIO. Attitudes and opinions expressed in this report should not be, therefore, attributed to GREVIO as a whole.


160* In this thematic report, all reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

161 “Violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life (Istanbul Convention, Article 3a).

162 “Domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim (Istanbul Convention, Article 3b).
represents the most far-reaching international treaty to tackle violence against women and domestic violence. The Convention recognises violence against women as a form of discrimination and a serious violation of human rights; it also emphasises that violence against women is deeply rooted in the inequality between men and women. It is based on “4Ps” approach; four “pillars” of the Convention are Prevention, Prosecution, Protection, and (integrated) Policies. As clarified in GREVIO163 report on Austria164, the Convention contains a comprehensive set of provisions, including far-ranging preventive and protective measures as well as a number of obligations to ensure an adequate criminal justice response to such serious violations of human rights. It covers new ground by asking that root causes of VAW (such as gender stereotyping, traditions harmful to women and general manifestations of gender inequality) be addressed165.

The Istanbul Convention is a complex, progressive, unprecedentedly comprehensive and potentially effective instrument. As clarified by President of GREVIO Feride Acar166, “While this Convention squarely rests on the moral and analytical framework of CEDAW and its General Recommendation No. 19, it also gives a set of new ‘teeth’ to CEDAW by translating its principles into a set of concrete, binding provisions”.

2.1 European Parliament Position on the Istanbul Convention

The European Parliament has consistently taken a strong stance on the issue of violence against women, and has repeatedly called for EU accession to the Istanbul Convention and for its ratification by individual Member States. In advance of being requested formally to consent to the EU’s conclusion of the Convention, Parliament is currently considering the matter. It adopted an interim resolution on 12 September 2017, based on a report prepared jointly (under Rule 55) by the Civil Liberties (LIE) and Women’s Rights (FEMM) Committees, which welcomed the signing of the Convention by the EU and urged the Council to speed up EU ratification, but also raised concerns about the scope of EU accession167. Further, members of European Parliament called on the member states of EU that have not ratified the Istanbul Convention to do so168.

2.2 Methodological Note

This thematic report is based on a desk review of available published sources on legislation, policies and practices of the analysed countries and the comparative analysis of national research reports in six countries of Western Balkans. A comprehensive set of pre-defined indicators169 was created for the purpose of establishing a common framework for a comparative, across-country analysis. The indicators were derived from the provisions of the Istanbul Convention, GREVIO questionnaire on legislative and other measures giving effect to the provisions of the Convention170, and GREVIO reports

163 The Istanbul Convention sets up a monitoring mechanism to assess the level of implementation of its provisions by State Parties. The Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) is an independent human rights monitoring body mandated to monitor the implementation of the Convention by the Parties.
165 Ibid.
169 Brankovic, B. (2018). Template for National Reports on Violence against Women, created under this project (Manuscript).
170 GREVIO (2016). Questionnaire on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), Adopted by GREVIO on 11 March 2016, GREVIO/Inf(2016)1, available at: https://rm.coe.int/16805c95b0
on the implementation of the Convention in Austria\textsuperscript{171}, Denmark\textsuperscript{172}, Albania\textsuperscript{173}, Montenegro\textsuperscript{174}, and Turkey\textsuperscript{175} (in which standards of the Convention have been further elaborated).

### 2.3 Topics Addressed In the Study

Considering the fact that the Istanbul Convention is a complex and extremely comprehensive instrument, a comparative analysis how countries of Western Balkans implement all of its provisions is outside of the scope of this report. The report therefore addresses the following (selected) topics, which are assessed (based on desk research and analysis of national reports) as particularly relevant in the region of Western Balkans:

1. A brief overview of recent legislative changes - those that occurred after respective countries ratified the Convention;
2. Findings on the most atrocious form of VAW (murders of women in the context of domestic/intimate partner violence), with a focus on measures to be undertaken to prevent such murders in the future;
3. Prevalence of domestic violence against women and rates of reporting of such violence to institutions for victims’ protection;
4. Existence of comprehensive policies on VAW – whether countries in the region have developed National Action Plans or similar policy documents aimed at ensuring a holistic response to VAW, and whether such documents have been supplemented with necessary mechanisms for a successful implementation (such as, a budget allocation, measures to enable the coordination between all relevant actors, timely reporting and effective monitoring/evaluation of the implementation);
5. Whether protocols or other similar documents have been developed in order to: a) guide professionals in institutions in dealing with cases of VAW, and b) ensure an effective multi-agency response to VAW, and if so, how these documents have been implemented in practice;
6. The role of women’s NGOs in preventing and combating VAW and ways to improve their position;
7. Whether the essential specialist services for victims have been established, including shelters, state-wide telephone helplines, and support for victims of sexual violence.

\begin{footnotes}


\end{footnotes}
2.4  Ratification of the Istanbul Convention as a “Catalyst” for Legislative Changes

It is important to emphasise that Albania, Bosnia and Herzegovina, Montenegro and Serbia were among the first 10 countries – members of Council of Europe that ratified this treaty, and thus contributed to its entry into force176.

Table 2: The Istanbul Convention - Status of ratification by countries of Western Balkans

<table>
<thead>
<tr>
<th>Country</th>
<th>Signature</th>
<th>Ratification</th>
<th>Entry into force</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>19/12/2011</td>
<td>04/02/2013</td>
<td>01/08/2014</td>
</tr>
<tr>
<td>Bosnia and Herzegovina (BiH)</td>
<td>08/03/2013</td>
<td>07/11/2013</td>
<td>01/08/2014</td>
</tr>
<tr>
<td>Montenegro</td>
<td>11/05/2011</td>
<td>22/04/2013</td>
<td>01/08/2014</td>
</tr>
<tr>
<td>The Former Yugoslav Republic of Macedonia</td>
<td>08/07/2011</td>
<td>23/03/2018</td>
<td>01/07/2018</td>
</tr>
<tr>
<td>Serbia</td>
<td>04/04/2012</td>
<td>21/11/2013</td>
<td>01/08/2014</td>
</tr>
</tbody>
</table>

Source: [Chart of signatures and ratifications of Treaty 210, Council of Europe Convention on preventing and combating violence against women and domestic violence](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/210/signatures?desktop=false)

By ratifying the Istanbul Convention, countries of Western Balkans demonstrated a political will to address violence against women. One of the aims of this report is, however, to determine whether this initial step has been followed by meaningful actions towards implementing the standards of the Convention in practice, for example, by harmonising domestic legislation with its provisions. Therefore, the specific objective of this section is to identify legislative changes that occurred after the ratification.

Albania improved its legislation on domestic violence; the amended Law on Measures against Violence in Family Relations entered into force in September 2018179. The Law No.47/2018 grants protection to victims by the police as soon as they report the case; they will no longer have to wait two days to receive a protection order, but can be placed to shelter immediately.180 It also extends protection to women and girls in intimate relationships, who have no formal ties to the perpetrator, such as marriage or cohabitation.181 Further, the new Law No.22/2018 on Social Housing in Albania specifies victims of domestic violence as beneficiaries of social housing services182 and thus expands their possibilities for gaining economic independence. Similarly, the amended Albanian Criminal Procedure Code No.35/2017 stipulates for the first time special procedural rights of the victims of sexual violence during criminal proceedings, while a new Law on Free Legal Aid Provided by the State introduces special provisions on legal representation of victims of domestic violence.183

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176 The Convention entered into force on 1 August 2014, after 10 ratifications including eight member states of Council of Europe.
177 In reading the text that follows, it should be kept in mind that Kosovo* is not legally bound by the requirements of the Istanbul Convention.
180 Ibid.
182 Ibid.
183 Ibid.
Bosnia and Herzegovina also introduced relevant legislative changes upon ratification of the Convention.\textsuperscript{184} For example, in amendments to the Criminal Code of BiH (adopted in May 2015), changes were made in definitions of rape and other forms of sexual violence committed as crime against humanity or war crime against civilian population, which were harmonised with international standards, including the Convention.\textsuperscript{185} Changes were introduced at the entity level legislation as well (Federation BiH and RS - Republic of Srpska). Criminal Code of RS was amended – definitions of criminal offences related to sexual violence were harmonised with the Convention, although full compliance has not yet been achieved, especially related to marital rape.\textsuperscript{186} Further, laws on protection against domestic violence in both Federation BiH and RS were amended, providing for enhanced protection of victims and improved mechanisms for co-ordinated actions of institutions in situations of domestic violence, as required by the Convention.\textsuperscript{187} Brcko District, as a special administrative unit within BiH, adopted the new Law on Protection against Domestic Violence in February 2018, aimed at improving protection of victims and specifying institutions responsible for support and protection.\textsuperscript{188}

Amendments to the Criminal Code of Montenegro in 2017 brought significant changes – entirely new criminal offences were introduced: female genital mutilation, forced sterilisation and stalking, while substantive changes were made in relation to the crime of rape.\textsuperscript{189} Some of these changes were not entirely aligned with the Convention.\textsuperscript{190}

In the amendments to the Criminal Code, which were adopted in 2017, Serbia criminalised stalking as a separate criminal offence; similarly, three other new criminal offences were introduced through previous amendments, namely, forced marriage (in the Serbian Criminal Code, this offence is called “forced conclusion of marriage”), female genital mutilation (“mutilation of female genitals”), and sexual harassment, as clarified in the report of Government of Serbia to GREVIO\textsuperscript{191}. Furthermore, the new Law on Prevention of Domestic Violence in Serbia,\textsuperscript{192} which was adopted in 2016 and came into force in 2017, was aimed at ensuring an urgent, timely and effective protection of victims of domestic violence and other criminal offences, which are explicitly listed in the Law, such as stalking, numerous sexual offences and trafficking in human beings.\textsuperscript{193} This Law introduced emergency barring orders into Serbian legislation for the first time, including a temporary removal of the perpetrator from the family home, and prohibition of contacting the victim or approaching her. In this context, it should be clarified that, in line with the Convention, the emergency barring orders are considered as particularly relevant for an efficient protection of victims. The Convention, as elaborated in the Explanatory report (paragraph 264) establishes an obligation of equipping the competent authorities with the power to

\textsuperscript{184} Trkulja, A. (2018). National research report on violence against women in Bosnia and Herzegovina, created under this project (Manuscript).
\textsuperscript{185} Ibid.
\textsuperscript{186} Sarajevski otvoreni centar (2017). Krivična djela silovanja i ostalog seksualnog nasilja u Bosni i Hercegovini. Sarajevo: Sarajevski otvoreni centar.
\textsuperscript{187} Trkulja, A. (2018), op.cit.
\textsuperscript{188} Agency for Gender Equality of BiH, \url{https://cssplatform.org/improving-protection-women-victims-violence-brcko-distrikt-bih-unaprijedenje-zastite-zena-zrtava-nasilja-u-brcko-distriktu-bih}
\textsuperscript{189} Raičević, M. (2018). National research report on violence against women in Montenegro, created under this project (Manuscript).
\textsuperscript{190} Ibid.
\textsuperscript{191} Council of Europe, \url{https://rm.coe.int/grevioinf-2018-9/16808c1a4e}
\textsuperscript{192} Zakon o sprečavanju nasilja u porodici, Službeni glasnik Republike Srbije, 94/2016.
\textsuperscript{193} In addition to victims of domestic violence, the Law on Prevention of Domestic Violence in Serbia applies to victims of 17 other criminal offences, as well as of “other criminal offences that result from domestic violence”.

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order a perpetrator of domestic violence to leave the residence of the victim and to bar the perpetrator from returning or contacting the victim.\textsuperscript{194}

FYRO Macedonia ratified the Convention recently (in March 2018). It entered into force as regards to FYROM in July 2018. No significant changes in legislation, aimed at harmonisation of domestic laws and regulations with the standards of the Convention, have been made since the ratification.\textsuperscript{195}

It can be concluded that relevant and far-reaching legislative changes were introduced in Albania, Serbia, Bosnia and Herzegovina, and Montenegro upon these countries ratified the Istanbul Convention.

Although these countries have made significant steps in recent years towards achieving harmonisation of their legislative provisions with the requirements of the Convention, numerous gaps have also been identified. Countries of Western Balkans should yet adopt substantial amendments in order to fully harmonise their legislative framework with the Convention.

A comprehensive overview of legislative provisions in countries of Western Balkans cannot be provided under the scope of this report, as mentioned above; however, illustrations of gaps in legislation can be made, using examples from Albania and Montenegro, since in these countries GREVIO recently conducted baseline evaluation of the implementation of the Convention.

GREVIO\textsuperscript{196} assessed that Albania built a solid legal framework to address domestic violence, but the remaining gaps include the lack of specific offences related to psychological violence and forced sterilisation, the absence of restraining or protection orders for victims of forms of violence other than domestic violence, and the lack of legislative measures aimed at assuring that incidents of violence are taken into account when determining custody and visitation rights (Article 31 of the Convention). It was further assessed\textsuperscript{197} that forms of psychological violence may be prosecuted in cases of domestic violence (as the legal definition of the latter includes all acts of violence, including threats of death or other serious injury, resulting in a violation of the victim’s psycho-social integrity; however, in the legal practice, domestic violence is never prosecuted on the basis of psychological violence alone, with the exception of threats which however constitute a minority of cases\textsuperscript{198}. In addition, Albanian legislation does not meet requirements of the Convention when it comes to criminalising all forms of non-consensual acts of a sexual nature, including rape, since the provision on rape includes a force-based definition and accordingly, the victim has the burden of proving violence/resistance - where the victim is unable or unwilling to demonstrate resistance, this can lead to cases of rape going unreported or unprosecuted.\textsuperscript{199} With respect to legal regulations on forced marriage, GREVIO\textsuperscript{200} concluded that the

\textsuperscript{194}The rationale behind the necessity to introduce emergency barring orders into legislation of State Parties is clarified in the Explanatory report to the Istanbul Convention (paragraph 264) in the following manner, “In situations of immediate danger, the most effective way of guaranteeing the safety of a domestic violence victim is by achieving physical distance between the victim and the perpetrator. In many cases, this requires one of the two to leave, for a certain period of time, the joint residence or the perpetrator to leave the victim’s residence. Rather than placing the burden of hurriedly seeking safety in a shelter or elsewhere on the victim, who is often accompanied by dependant children, often with very few personal affairs and for an indefinite period of time, the drafters considered it important to ensure the removal of the perpetrator to allow the victim to remain in the home”.

\textsuperscript{195}Risteska (2018). National research report on violence against women in FYROM, created under this project (Manuscript).


\textsuperscript{197}Ibid.

\textsuperscript{198}Ibid.

\textsuperscript{199}Ibid.

\textsuperscript{200}Ibid.
Albanian Criminal Code criminalises this type of violence in line with the Convention, but prescribed penalties (fine or up to three months imprisonment) are too lenient, while the conditions in which a forced marriage may be declared void or annulled are quite restrictive. It further encouraged the Albanian authorities to introduce a specific criminal offence of female genital mutilation (although such an offence is largely alien to Albanian practices and traditions, an influx of asylum seekers, however small, might result in a need to identify such victims), as well as a criminal offence of forced sterilisation. GREVIO also concluded that provisions related to sexual harassment in the Labour Law, the Criminal Code and law regulating anti-discrimination are harmonised with the Convention, however, it noted a serious concern due to a fact that these laws have scarcely, if at all, been applied in practice.\(^{201}\)

In its report on Montenegro, GREVIO\(^{202}\) welcomes the introduction of important legislation; emphasising that the most prominent example is the Law on Domestic Violence Protection, which stands central in the Montenegrin approach to combating domestic violence. It introduces a misdemeanour offence of domestic violence with the main aim of allowing statutory agencies to respond more efficiently to domestic violence, as the avenues available under the Criminal Code had been widely considered unsatisfactory. Importantly, it introduces, for the first time, emergency barring and restraining orders as well as other important rights for domestic violence victims, such as the right to legal aid.\(^{203}\) Recent amendments to the Criminal Code ensure the criminalisation of other forms of violence against women as required by the Convention, namely stalking, female genital mutilation and forced sterilisation.\(^{204}\) However, GREVIO also raised serious concerns regarding the use of both misdemeanour and criminal offence of domestic violence in practice, as follows.\(^{205}\) First, there are no uniform criteria that are being applied consistently to distinguish between a misdemeanour offence and a criminal offence of domestic violence. It has been brought to GREVIO’s attention that frequently even serious cases of physical violence are charged under the misdemeanour offence.\(^{206}\) Further, the disparity between the sanctions imposed by the two laws raises questions regarding the effectiveness of parallel sanctioning regimes. The Law on Domestic Violence Protection gives rise to either a fine or a maximum prison sentence of 60 days. In practice, most perpetrators receive a fine of 150 euros and a suspended sentence. The criminal offence of domestic violence, however, carries a fine or a prison sentence of up to one year – a much more dissuasive sanction. Victims and legal professionals have expressed their dissatisfaction with this discrepancy and advocate for penalties under the misdemeanour offence that better reflect the gravity of the acts in question, are more aligned with the types of sanction imposed for other misdemeanour offences and that avoid creating a hierarchy of domestic violence offences.

It can be, therefore, concluded that comprehensive analyses conducted by GREVIO in Albania and Montenegro revealed serious gaps in legislation in these countries, implying that the harmonisation with the Istanbul Convention has not yet been achieved.

In order to clarify the importance of preventing and combating VAW in the Western Balkans, available information on femicide (as the most serious form of VAW) will be presented first.

\(^{201}\) Ibid.


\(^{203}\) Ibid.

\(^{204}\) Ibid.

\(^{205}\) Ibid.

\(^{206}\) Ibid.

\(^{207}\) Ibid.
2.5 Domestic/Intimate Partner Violence with Lethal Consequences

Femicide or gender-based killing\textsuperscript{208} of women is the most atrocious form of VAW. In Europe, the most frequent form of femicide is the killing as a result of domestic/intimate partner violence. The Istanbul Convention does not use the term “femicide”, however, this phenomenon is addressed under the Article 35 on psychical violence; the Explanatory report\textsuperscript{209} (paragraph 188) clarifies that the term “physical violence” refers to a bodily harm suffered as a result of the application of immediate and unlawful physical force, and it encompasses also violence resulting in the death of the victim.

Femicide is, unfortunately, widespread in the Western Balkans, and this section is aimed at providing an overview of available data.

The Convention provides a comprehensive framework for preventing femicide. It includes the due diligence principle, which represents one of the overarching principles of the Convention (Article 5\textsuperscript{210}). The due diligence principle implies an obligation of State Parties to organise their response to all forms of violence covered by the scope of the Convention in a way that allows relevant authorities to diligently prevent, investigate, punish and provide reparation for such acts of violence. The Article 5 reflects the case-law of the European Court of Human Rights. In its landmark case of domestic violence (\textit{Opuz v. Turkey, 2009}), the Court established a positive obligation of the State to protect the right to life (in line with Article 2 of the European Convention on Human Rights). This positive obligation requires state authorities to display due diligence, for example by taking preventive operational measures, in protecting an individual whose life is at risk\textsuperscript{211} (paragraph 58). Failure to do so incurs state responsibility. In order to understand the positive obligation of the state to protect the right to life, it is revealing to refer to case-law of European Court of Human Rights, “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” (European Court of Human Rights, \textit{Branko Tomasic v. Croatia, 2009}, paragraph 51\textsuperscript{212}).

Consequently, in the aftermath of femicide, it is crucial to clarify whether state authorities have had prior knowledge of the woman’s exposure to violence\textsuperscript{213}, since this “paves the way” to establishing accountability – it can be determined whether a perpetrator is known, arrested, and brought to justice. Further, if the case of VAW was reported to institutions before the woman was murdered, it could (and should) be examined whether the state institutions knew, or should have known, that woman’s life was at risk, and whether all appropriate measures were undertaken by authorities to protect the woman’s

\textsuperscript{208} The former UN Rapporteur on Violence against Women (Manjoo, 2012) highlighted that different forms (manifestations) of gender-based killings/femicide include killings as a result of intimate-partner violence, sorcery/witchcraft-related killings, honour-related killings, armed conflict-related killings, dowry-related killings, gender identity- and sexual orientation-related killings, and ethnic- and indigenous identity-related killings. The resolution adopted by the UN General Assembly in 2015 (A/RES/70/176) urges states to reduce the risk of gender-related killings of girls and women through early intervention and risk assessment, as well as by exercising due diligence to prevent, investigate, prosecute and punish it.

\textsuperscript{209} Council of Europe (2011). Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence, available at: https://rm.coe.int/16800d383a

\textsuperscript{210} The Istanbul Convention, op.cit.

\textsuperscript{211} Explanatory report, op.cit.

\textsuperscript{212} European Court of Human Rights, https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentid=09000016805a32ac

\textsuperscript{213} Such data are often unknown; for example, Baldry (2008) asserts that every year in Italy, on average, 100 women are killed by their partners or former partners, but it is not known how many of them were previously abused by their partners. The fatality review was carried out and revealed that up to 70% of all cases had a prior history of violence.
life, in line with the due diligence principle. Based on common police/crime statistics, it cannot be determined if the murder of the woman is gender-based (if it occurred due to domestic violence, and not due to robbery, for example). While sex of the victim and the perpetrator are often recorded, the relationship between the victim and the perpetrator is not, so it cannot be determined if the murder happened in the context of domestic/intimate partner violence. Therefore, in order to analyse femicide, it is essential to collect data in a manner defined in Article 11 of the Convention, as well as to collect information whether the woman reported violence to institutions prior to being murdered. Only then, it is possible to analyse if a particular case of murder could have been prevented, such as, if state institutions for victims’ protection possibly failed to undertake necessary measures to protect the woman, such as to issue an emergency barring order, to enable placing the woman into shelter, etc. This type of analysis could contribute to a potential prevention of femicide in the future, by identifying possible gaps in interventions undertaken by different institutions in the chain of protection (the police – social services – prosecution – courts).

Having in mind that femicide cases are „hidden” in commonly available crime statistics, the UN Special Rapporteur on VAW, Dubravka Šimonović has launched the initiative to establish “Femicide Watch” or “Gender-related killing of women Watch” – to create bodies at the national, regional and international level that should collect data on femicide/gender-based killing of women and girls. Such bodies are needed in the region of Western Balkans.

In countries of the Western Balkans, femicide represent a serious problem; however, it is difficult to present reliable data, due to above-mentioned reasons. As official data are often unknown or unpublished, women’s NGOs often collect data on femicide by analysing media reports.

In its report to GREVIO, Government of Serbia provided data on women (older than 14 years) - victims of criminal offences resulting in death: murder, aggravated murder, serious bodily harm and domestic violence (data on the relationship between the victim and the perpetrator are not recorded, so it cannot be determined if murders occurred in the context of domestic/intimate partner violence or due to other reasons, such as robbery). In the Table 2, these official data are presented alongside those collected by the women’s NGO Network, which has continuously gathered data on women killed in the context of domestic/intimate partner violence, using media reports. The Network reported that in total 251 women were killed by the partner, ex-partner or other member of the family in Serbia in the period 2010-2017.

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215 As a minimum requirement, recorded data on victim and perpetrator should be disaggregated by sex, age, type of violence as well as the relationship of the perpetrator to the victim, geographical location, as well as other factors deemed relevant by State Parties such as disability (Explanatory report to the Istanbul Convention, paragraph 76).
218 Council of Europe, https://rm.coe.int/grevioinf-2018-9/16808c1a4e
Table 3: Women victims of femicide in Serbia: Comparison of official data on homicides and NGO data on women killed in the context of domestic/intimate partner violence (based on media reports221)

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of women (older than 14 years) – victims of criminal offences resulting in death (Ministry of Interior)</th>
<th>Number of women – victims of femicide (Network Women against Violence)</th>
<th>Number of women who reported violence to institutions prior to being murdered</th>
</tr>
</thead>
<tbody>
<tr>
<td>2014</td>
<td>40</td>
<td>27</td>
<td>7</td>
</tr>
<tr>
<td>2015</td>
<td>31</td>
<td>35</td>
<td>17</td>
</tr>
<tr>
<td>2016</td>
<td>40</td>
<td>33</td>
<td>8</td>
</tr>
<tr>
<td>2017</td>
<td>26</td>
<td>26</td>
<td>11</td>
</tr>
<tr>
<td>Total</td>
<td>137</td>
<td>121</td>
<td>43</td>
</tr>
</tbody>
</table>

Created using the following sources: Ministry of Interior of Serbia; in: State report to GREVIO, 2018 and Annual reports of the Network Women against Violence for the period 2014-2017

Although interpretation of the above-presented data must be done with caution, the Table 2 seems to lead to a relevant conclusion that the majority of murders of women in Serbia occurred in the context of domestic or intimate partner violence. It can be also assumed that at least some of murdered women (possibly) could have been saved, since many of them asked protection from institutions.

In case of other countries of the Western Balkans, presenting official records alongside NGO data on femicide was not possible. Available (incomplete or scarce) data, provided by women’s NGOs or official institutions, are presented below222.

In BiH, as written in the national research report223, Agency for Gender Equality and the Ministry of Human Rights and Refugees have recently initiated the establishment of the watchdog body "Femicide Watch" to monitor gender-based killings, collect and analyse data to identify the key causes and omissions that lead to killing of women. No comprehensive data on such cases were thus far being collected by the state institutions.224 The Gender Centre of RS monitors and analyses cases of femicide, in order to define future steps to prevent this form of VAW; Ministry of the Interior of RS reported that 88 women, mostly victims of domestic/intimate partner violence, were killed in the RS between 2000 and 2015, while NGO Foundation United Women Banja Luka, using media reports, recorded 14 femicide cases in 2015225. In BiH, 39 women were killed in 2015, 39 in 2014, 32 in 2013 and 39 in 2012226. In Kosovo, three cases of femicide were recorded in 2016; and four in 2017.227

In Albania, data on femicide are collected by the State Police; the Ministry of Health and Social Protection includes such data in the reports on the implementation of the Strategy on Gender Equality

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221 In such a manner, a minimum number of femicide cases can be determined (it should be assumed that some cases of murdered women were not reported in media). Similarly, the number of women who reported violence to institutions represents the minimum number (journalists sometimes do not report if the woman asked help from institutions).

222 A reader should keep in mind the following: based on official crime statistics, it is often difficult to examine if murders of women were a result of domestic/ intimate partner violence. On the other hand, based on NGO reports, it cannot be always determined if they refer to femicide or to all murders of women (NGOs sometimes include in their analyses all murders of women, rather than only those that occurred in the context of domestic/intimate partner violence).


224 Ibid.

225 Ibid.

226 Ibid.

227 Krasniqi, V. (2018). National research report on violence against women in Kosovo, created under this project (Manuscript).
in Albania or in reports to international treaty bodies.\textsuperscript{228} Official data on “homicide in the family” indicated that nine women and five men were killed in 2017\textsuperscript{229}.

No state institution collects data on femicide in Montenegro.\textsuperscript{230} One NGO, Women’s Rights Centre\textsuperscript{231}, through analysis of media reports revealed that 22 women were killed in the period 2011-2018, mostly, by the partner or male member of the family (only in three murder cases, there was no family or partnership relation between the victim and the perpetrator. However, a positive development occurred in 2018, when the Ministry of Interior established the Operational Team for Combating Violence against Women and Domestic Violence, after women’s NGOs organised a street protest, claiming that the police failed to prevent femicide and protect women\textsuperscript{232} (See in the text that follows: A case of femicide in Montenegro).

In Macedonia, women’s NGOs used official data on murders of women, which indicated that 70 women were killed in the period 2008-2016, and managed to identify 53 of them by using media reports on murders in the indicated period; further, data regarding these cases were required from courts, in order to analyse whether perpetrators were punished.\textsuperscript{233}

\textbf{A case of femicide in Montenegro\textsuperscript{234}}

\textit{A woman who was murdered in 2017, repeatedly reported to the police threatening messages by her husband, after she left him. In a small town where they lived, people knew about violence she and her children suffered for many years. The perpetrator was sent to a psychiatric hospital. The woman reported to the police that somebody is stalking her, but the police again did not take seriously her claims. The institutions failed to inform the woman when the perpetrator left the hospital. Soon after, he murdered her in the street, by a weapon. No public official was held responsible, although women’s NGOs organised street protests in Podgorica\textsuperscript{235}, demanding an investigation on this and other similar cases.}

It can be concluded:

1. Countries in the Western Balkans that are State Parties to the Istanbul Convention are responsible to collect data on femicide/gender-related killings of women and girls, taking into account obligations specified in the Article 11 of the Convention. These countries should establish monitoring mechanisms that would collect reliable data on femicide and suggest measures for its prevention.

2. Each and every case of homicide in the context of domestic/intimate partner violence should be comprehensively analysed, with the aim to develop policies to prevent cases of femicide in the future. Analyses of this kind have been applied in the United Kingdom and may serve as an example\textsuperscript{236} that countries in the Western Balkans can follow. As stated by GREVIO in its report

\textsuperscript{228} Bozo and Anastasi (2018), op.cit.
\textsuperscript{229} Ibid.
\textsuperscript{230} Raičević, M. (2018), op.cit.
\textsuperscript{231} Ibid.
\textsuperscript{232} Ibid.
\textsuperscript{234} Raičević, M. (2018), op.cit.
\textsuperscript{235} Women’s Rights Centre, \url{http://womensrightscenter.org/me/aktuelnosti/protestna-šetnja-”danas-bi-bile-među-nama”/}
\textsuperscript{236} As specified in the GREVIO report on Turkey (2018a), paragraph 35, "In the United Kingdom, it is common practice to conduct a Domestic Homicide Review (DHR) – a multi-agency review of the circumstances in which the death of a person aged 16 or over has, or appears to have, resulted from violence, abuse or neglect by a person to whom they were related or with whom they were, or had been, in an intimate personal relationship, or a member of the same household as themselves. Since 13 April 2011 there has been a statutory requirement for local areas to conduct a DHR following a domestic homicide
on Turkey, the question arises as to whether at least some of the victims of gender-based killings might have been saved if proper, immediate and efficient measures of protection had been applied to protect women whose lives were at risk, including, but not limited to, an immediate police intervention, a proper risk assessment, an urgent enforcement of emergency barring orders, preventive detention, and the like.

2.6 Why is it Important to Combat Violence Against Women in the Western Balkans?

The Istanbul Convention, in Article 11(2) creates an obligation to conduct population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of this Convention. The Explanatory report further clarifies the purpose of such research: it is essential that Parties base their policies and measures to prevent and combat such forms of violence on state-of-the-art research and knowledge in this field. Research is a key element of evidence-based policy-making and can thus contribute greatly to improving day-to-day, real-world responses to violence against women and domestic violence by the judiciary, support services and law enforcement agencies.

Research studies conducted in the region revealed high prevalence rates of domestic violence against women and girls, and very low rates of reporting violent incidents to institutions (the police, Centres for Social Work, health institutions, etc.). It should be kept in mind that prevalence rates could not be compared across countries of the Western Balkans, due to differences in methodology and definitions of violence that were used in the surveys, as well as due to dissimilarities in sampling techniques and other factors. Nevertheless, the results are indicative and disturbing.

Recent research on prevalence, costs, attitudes of general population and multi-disciplinary response to domestic violence, which was conducted in Montenegro in 2017 on a sample of 2000 women aged 15 to 65 years revealed that 38% of them were exposed to psychological violence at least once in their lifetime (16% of them survived such a violence 12 months prior to research). Further, 17% of women survived some form of physical violence in their lifetime (3% of them - in the last 12 months); 7% of women were exposed to sexual violence (life-time prevalence), and 3% of them in the last 12 months. As much as 24% of women were exposed not to one, but to various forms of violence. Women victims rarely report violence to institutions, but mostly turn to friends and other close persons for help. Out of those women who survived physical violence, only 18% of them decided to report it to institutions. The rates of reporting are the lowest in cases of sexual violence; only 1% of women who survived this form of violence (which was defined in the research as “forcing into a sexual intercourse”) decided to report that meets the criteria. This statutory obligation is established under the Domestic Violence, Crime and Victims Act (2004). For the key findings of an overview of Domestic Homicide Reviews in the UK, see: Home Office (2016) Domestic Homicide Reviews: Key Findings from Analysis of Domestic Homicide Review, www.gov.uk/government/uploads/system/uploads/attachment_data/file/575232/HO-Domestic-Homicide-Review-Analysis-161206.pdf. Definition of domestic homicide in this overview includes victims killed by a partner/ex partner or a relative or by someone else living with the victim at the time of the killing. Data presented in the overview were extracted from the Home Office Homicide Index, which contains detailed information about each homicide recorded by police in England and Wales. It is continually updated with revised information from the police and the courts (information from the Homicide Index is published annually, in the Office for National Statistics series: Focus on: Violence and Sexual Offence).”

238 Explanatory report to the Istanbul Convention, op.cit.
239 Ibid.
it to institutions, and even 74% of them have never told about these experiences to anyone, including institutions, friends and family\(^{241}\).

In Albania, a simultaneous family-based population survey and a survey on domestic violence were carried out by Albanian Institute of Statistics (INSTAT) and UNDP in 2013 on the sample of 3589 families and women, aged 18 to 55.\(^{242}\) Results showed\(^{243}\) that 58.2% of women have experienced psychological violence in their marriage/intimate partnership at least once in their lifetime, and 52.8% of them experienced such violence within the 12 months prior to the research. Moreover, prevalence rates for physical violence in marriage/intimate partnership were as follows: 23.7% (life-time prevalence) and 14.7% (12 months prior to research). Further, 7.9% of women experienced sexual violence in their marriage/intimate partnership at least once in their lifetime, while 5% of them have survived this form of violence in the last 12 months\(^{244}\). Help-seeking behaviour of abused women was examined and it was revealed that only 8.4% of women who ever experienced domestic violence, and 7.1% of those who suffered from domestic violence in recent months asked for help from institutions or informal sources of support (family, friends, etc.\(^{245}\)). For example, a very small proportion of women decided to report violent incidents to the police (16.8% of those who have experienced violence at least once in their lifetime; and 14.1% of those who were exposed to it recently). Similarly, only a small percentage of “ever” and “currently” abused women sought help from doctor/medical professional (14.8% and 15.6% respectively). Proportion of women who turned to social services was the lowest (11.2% of “ever” abused and 1.1% of those abused in the last 12 months\(^{246}\)). In the report on the implementation of the Istanbul Convention in Albania, GREVIO\(^{247}\) was particularly alarmed about prevalence data showing that very few victims - less than 10% - seek help. It warned against widespread misconceptions about VAW in Albania, emphasising that general public lacks a gendered understanding of VAW, and tends to view violence restrictively as a by-product of low socio-economic development: many professionals share this attitude as well\(^{248}\). GREVIO\(^{249}\) also warned against any belief which would reduce violence against women to a poverty issue and purport that only women of a low socio-economic status are susceptible to violence. Such a misconception would ignore widespread evidence that violence is pervasive across all levels of society and that it is not affected by economic wellbeing\(^{250}\).

The study on prevalence and characteristics of domestic violence in BiH was carried out on a nationally-representative sample of 3300 households in 2013.\(^{251}\) Findings\(^{252}\) indicated that psychological violence was the most prevalent: 41.9% of women respondents experienced this form of violence during their lifetime, and 10.8% of them - in the last year. Prevalence rates for physical violence were the following: 24.3% (lifetime prevalence) and 2.4% (in the last 12 months). Sexual violence was experienced by 6% of women during their adult life, while 1.3% women were sexually abused in the last year. Most often, the perpetrators of violence were their former or current partners (in 71.5% of the cases). Prevalence rates were the same in the sub-sample of healthy women and women with disabilities. Women from

\(^{241}\) Ibid.
\(^{242}\) Bozo and Anastasi (2018), op.cit.
\(^{244}\) Ibid.
\(^{245}\) Ibid.
\(^{246}\) Ibid.
\(^{248}\) Ibid.
\(^{249}\) Ibid.
\(^{250}\) Ibid.
\(^{252}\) Ibid.
rural areas were disproportionally affected. Other relevant findings include the following: women respondents often do not perceive themselves as victims, and they rarely, if ever, turn to institutions to ask for help. For example, 58.4% of women who experienced physical violence in the last year said that they did not perceive themselves as victims of physical violence. Further, in most cases, women expressed an opinion that victims should seek some form of support from relevant institutions, but only 5.5% of women subjected to violence actually sought this support. Particularly alarming finding was that, in the majority of cases, women victims did not contact institutions or organizations because they felt they needed no help. Other reasons included that they did not know which institution to contact, due to fear, shame, and low trust in institutions. The survey further showed that women who asked for help sometimes did not receive a proper support in relevant institutions, in accordance with the principle of full protection of women. Cases were registered in which the police and health care workers treated woman as “provokers” of violence, incidents were not reported and women were not referred to the appropriate institution or organization.

A survey, carried out in Kosovo on a sample of 1315 adult Kosovars of all ethnic groups (51.6% women and 48.4% men) was aimed at measuring awareness, attitudes, and incidence of domestic violence. Results indicated that 68% of women and 56% of men reported they had suffered some form of domestic violence in their lifetimes. Men reported experiencing violence from their parents, while women suffered violence from both parents and partners. Attitudes toward violence were examined in detail. The idea that domestic violence is “a normal part of any relationship and society in general accepts that violence happens sometimes” was accepted by 29.9% of respondents. Similarly, 31.3% of respondents believe that domestic violence is “a family matter, so neighbours should not report it to the police”, while 21.1% of them (22.1% of women and 20.1% of men) agree that “sometimes it is OK for a husband to hit his wife”.

In Serbia, the latest prevalence survey on domestic violence against women was conducted in 2010 on a sample of 2500 women from Central Serbia aged from 18 to 75. Psychological violence was the most frequently reported: 48.7% of women experienced this form of violence in their lifetime, and 31.8% of them – in the last 12 months, followed by physical violence (21.6% and 10.1%, respectively). Only 3.8% of women reported being subjected to sexual violence in their lifetime, and 1.2% of them survived this form of violence in the last 12 months prior to the research (it should be noted that “sexual violence” was defined in the research as “a forced sexual intercourse”). The research included questions on knowledge and attitudes towards institutions responsible for victims’ protection. Women mostly expressed an attitude that victims should ask for institutional assistance, but their knowledge of available sources of support was very weak - when asked to name responsible institutions, only one third of respondents quoted Ministry of Interior and Centres for Social Work. A very small percentage of women (10%) actually asked for institutional help when they were faced with domestic violence. Instead of asking for support of the institutions, women more often tried to leave the household (30.6%), divorce or separate from the husband/partner (30.0%) or asked for informal help (25.6%) of

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253 Ibid.
254 Ibid.
255 Ibid.
257 Ibid.
258 Ibid.
259 As explained by the researchers, the sample was representative for the population of women 18–75 years old in Serbia without Vojvodina and Kosovo (Babovic et al, 2010).
261 Ibid.
their family, relatives, friends and neighbours. Out of a very small proportion of women who asked for help of the police or Centres for Social Work, only one fifth of them assessed that these institutions helped them significantly. The number of women who asked for institutional assistance was too small for quantitative analysis; nevertheless, data indicated examples of serious misconduct, such as a physician not asking for the cause of injuries or a police officer who warned the victim “not to behave provocatively.”

National survey on incidence and prevalence of domestic violence in FYRO Macedonia was carried out in 2012 on a sample of 2100 individuals (56.3% women and 43.7% men). The results will not be presented here, because the survey had major methodological shortcomings – privacy during the interviews was not ensured; researchers described that two, three, four or (even) five or more persons were present in the households in the time of the interview, but claimed that this situation did not have a significant impact on low prevalence rates that were obtained in the survey.

Based on findings of the surveys summarised above, the following can be concluded.

1. Prevalence of domestic violence against women is high across the region of Western Balkans, while rates of reporting violence to institutions are very low, especially, in cases of sexual violence.

2. Further, it should be emphasised that surveys on prevalence that were carried out so far were focused on domestic violence only, while other forms of violence covered by the scope of the Convention were not examined, such as, for example, stalking, forced marriage, sexual violence and sexual harassment. It should be also noted that some surveys tended to follow the intergenerational definition of domestic violence rather than a gendered one. Some of the studies (for example, the one in FYRO Macedonia) did not follow methodological rules that should be considered a good practice. It would be useful to conduct prevalence surveys in the Western Balkans according to the common methodology, in order to produce comparable results. Officials of OSCE decided to replicate in the OSCE region violence against women survey that was carried out by European Union Agency for Fundamental Rights across the 28 EU Member States. However, the results of replicated survey/surveys are not yet available.

3. There is not enough data on prevalence of different forms of VAW among groups of women who are or might be exposed to intersectional discrimination, such as women with disabilities, rural women, elderly women, migrants and asylum-seeking women, minority women, especially Roma, and other groups of marginalised/vulnerable women. It can be assumed that women from marginalised groups rarely report violence to institutions, due to fear of discrimination, fear of retaliation by the perpetrator, and an insufficient trust in institutions. Available sources indicate that Roma women face difficulties when they seek institutional help.

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262 Ibid.
263 Ibid.
265 The explanation of the researchers is as follows, “The main conclusion is that although we must accept the fact that privacy was not ensured in most of the interviews, the impact that this had, at least from the data available in the survey and the statistical tests carried out, is that it cannot be singled out as the main reason for the low physical and sexual prevalence obtained. In our view, this is rather influenced by the sample size from a purely statistical point of view” (Poposka, Rikalovski and Villagomez, 2012: 29).
266 Ibid.
In Montenegro, GREVIO\(^{268}\) noted that stereotypical beliefs about Roma and Egyptian women often result in insufficient responses from the authorities, and that forced marriage, a prevalent form of gender-based violence among the Roma and Egyptian community, is considered to be a norm or a custom specific to their group, hence a cultural practice that does not necessarily entail the state’s responsibility to act. Similar concerns were identified by Roma women’s NGOs in Serbia.\(^{269}\) In report on Albania, GREVIO\(^{270}\) stated that limited data exists regarding violence against women and vulnerable group of women in Albania, although more than one report provides information concerning the heightened difficulties they encounter in reporting violence and accessing adequate protection and support services. In Albania, disadvantaged and marginalised groups of women include in particular older women, Roma and Egyptian women, women with disabilities, migrant women, lesbian, bisexual and transgender women, as well as asylum seeking women.\(^{271}\)

### 2.7. Comprehensive Policies on VAW: Steps Towards Accountability of the State

The Istanbul Convention is clearly based on gendered understanding of VAW. Such an understanding represents one of its over-arching principles. Article 6 of the Convention requires State Parties to ensure that gender perspective is applied not only in designing measures aimed at implementing its provisions, but also in evaluating their impact; further, it obliges the States to promote and implement policies aimed at achieving equality between women and men and at empowering women\(^{272}\) (paragraphs 61-62). Obligations defined in the Article 6 also extend to all other articles of the Convention.\(^{273}\)

Chapter II of the Convention further sets out the core requirement for a holistic response to VAW: the need for State-wide, effective, comprehensive and co-ordinated policies sustained by the necessary institutional, financial and organisational structures.\(^{274}\) Therefore, one of essential obligations of the States is to develop clearly defined, targeted policies aimed at combating all forms of violence covered by the scope of the Convention. Such policies may take a form of a national action plan or other comprehensive policy document.

Having in mind the requirements of the Convention explained above, countries may take an approach to specifically address all forms of VAW in a comprehensive NAP, or to integrate this subject into a general policy document, such as a NAP on Gender Equality. However, baseline evaluation of the implementation of the Convention by State Parties carried out by GREVIO so far indicate an intriguing trend: national action plans in many countries often address gender-based violence in a title of policy documents/NAPs, but are de facto focused on domestic violence exclusively, or primarily.


\(^{271}\) Ibid.

\(^{272}\) Ibid.

\(^{273}\) Ibid.

Albania may be seen as an example of such an approach. As assessed by GREVIO, Albania’s response to VAW has widely incorporated a gender sensitive approach by recognising such violence as gender-based discrimination and linking policies and measures to combat VAW with measures to promote equality and women’s empowerment. Thus, both types of measures tend to be developed under comprehensive strategies and action plans treating VAW and discrimination as a single policy problem. This dual approach is essential in effectively tackling VAW and conforms to the approach taken by the Istanbul Convention in its Article 6. Whilst the strategic aims and goals of these policy instruments often target gender-based violence as an umbrella concept encompassing all forms of VAW, their specific outcomes remain however very much focused on domestic violence. Other forms of VAW, such as forced marriage, forced abortion, sexual violence including rape and sexual harassment, have not been prioritised in the design and implementation of policies.

Having in mind the above, the specific objectives of this section are to assess the following:

1. Whether countries of the Western Balkans have developed strategies that include all forms of violence covered by the scope of the Convention;
2. Whether mechanisms for an effective policy-making and policy implementation have been put in place – do NAPs in these countries include: specific objectives, clear indicators for measuring progress in fulfilment of these objectives, a budget allocated for the implementation, a precise plan how to establish coordination between different implementers, a well-defined monitoring and evaluation plan, and finally, publicly available reports on the implementation (See: Table 3).

Regarding the scope of strategies (which forms of VAW are covered), the following results are obtained.

1. Not all analysed countries have a currently-valid national action plan that specifically addresses VAW;
2. It is difficult to provide a general assessment whether such plans tackle all forms of violence covered by the scope of the Convention (if all forms are addressed through specific policies targeting each of them, or are included only in a title). One of the strategies tackles VAW within a more general policy document on gender equality (in Albania), two strategies address domestic violence only (in Montenegro and Kosovo) while BiH and FYRO Macedonia have developed strategies for the implementation of the Istanbul Convention (the latter was adopted only recently). Serbia had the strategy that (in the title) included domestic and intimate partner violence only, but its measures covered some other forms of VAW as well, such as sexual violence outside the family. This strategy, however, expired in 2015, and a new one has not been developed yet.

Bosnia and Herzegovina can be seen as an example of promising practice in this area. This country took a pro-active approach - it developed a strategy for the implementation of the Istanbul Convention in 2015, only a year upon ratification. In addition, strategies focused on domestic violence were developed on entity level: in Federation BiH (for the period 2013-2017), and in RS (2014-2019).

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276 Ibid.
277 Ibid.
278 The objectives of the Framework Strategy for the Implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2015-2018) in BiH are to: 1. Provide comprehensive, effective and inclusive prevention of violence against women and domestic violence; 2. Set up a multidisciplinary and coordinated protection system for victims of violence against women and domestic violence in accordance with the Istanbul Convention; 3. Enhance the requirements for sanctioning perpetrators of violence against women and domestic violence and ensure victims’ access to justice; 4. Enhance the framework for development and monitoring of the integrated and gender-sensitive policies for preventing and combating violence against women and domestic violence (Trkulja, 2018).
279 Ibid.
further assessed in the national report on BiH\(^{280}\), a specific value of the National Framework Strategy is its comprehensive approach and attention to preventing and combating all forms of VAW, not just domestic violence, which is the case with strategies at the entity level.

FYRO Macedonia has just recently adopted the NAP for the Implementation of the Istanbul Convention\(^{281}\). As clarified in the national report, it is foreseen that financial sources will be obtained from foreign donors, the responsible ministry and local self-governments, however, the NAP does not include a specific assessment how much any of the planned measures will cost.\(^{282}\)

The Government of Kosovo launched in 2017 the National Strategy that tackled domestic violence only, and covered the five-year period (2016-2020). It includes well-developed measures and activities, a list of government bodies/institutions responsible for the implementation, as well as a clear coordinating mechanism. As clarified in the national research study\(^{283}\), the reports on the implementation of the ongoing Strategy are not available yet, but the evaluation of the previous strategy indicated that it was only partially implemented\(^{284}\). The evaluation revealed the following problems: a weak implementation of existing legislation and standards, including a limited use and follow-up of protection measures foreseen by the Law; the lack of efficient co-ordination and information sharing mechanisms among relevant agencies and institutions; the lack of specialised services for victims and passivity on the part of social services when dealing with such cases; financial unsustainability and understaffing of services, including shelters; the lack of empowerment programs for women victims; the lack of perpetrator programmes; the lack of systematic data collection by the police, judiciary, health and social services; reconciliatory and victim-blaming attitudes of professionals working with victims.\(^{285}\)

In Albania, measures related to combating gender-based violence and domestic violence are included in the general Strategy on Gender Equality and the corresponding NAP (2016-2020).\(^{286}\) GREVIO, in its report on Albania\(^{287}\) provided a general assessment that there is a need for measures expanding beyond the scope of domestic violence, whilst viewing the specificities of each form of violence against women through the common lens of gender-based violence.

Montenegro has the Strategy for Protection from Domestic Violence (2016-2020).\(^{288}\) As assessed by GREVIO,\(^{289}\) although the title refers only to domestic violence, its definition of gender-based violence is based on that of Article 3, paragraph d of the Istanbul Convention. However, its measures seem to address VAW only in as far as it happens within a family context. As such, it does not yet present the type of comprehensive and co-ordinated policy that the Istanbul Convention calls for, which would capture and address all forms of VAW.\(^{290}\)

As mentioned, Serbia does not have a currently-valid strategy on these issues. The implementation of the previous Strategy, which covered the period 2011-2015, was thoroughly analysed by the

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\(^{280}\) Ibid.

\(^{281}\) Risteska (2018), op.cit.

\(^{282}\) Ibid.

\(^{283}\) Krasniqi (2018), op.cit.

\(^{284}\) Ibid.


\(^{286}\) Bozo and Anastasi (2018), op.cit.


\(^{288}\) Raicevic (2018), op.cit.


\(^{290}\) Ibid.
The following results were revealed. The previous Strategy resulted in significant changes in preventing and combating VAW and domestic violence, including: a) The adoption of General and Special Protocols that regulated obligations of each institution responsible for victims’ protection; and b) Development of multi-sectoral cooperation of all relevant actors. The challenges encountered during the implementation were related to a lack of coordination and mechanisms for monitoring the implementation; the Strategy was not accompanied with the Action Plan and there was no meaningful budget provided by the Government to support the implementation.

Regarding the second analysed issue (whether mechanisms for an effective policy-making and policy implementation are applied), the conclusions are as follows.

1. As can be seen in the Table 3, the national strategies in the countries of the Western Balkans had one serious weakness: the lack of mechanism for ensuring co-ordination of activities of all relevant actors that were included in the implementation, such as relevant state institutions and civil society organisations. Even when a coordination body/mec hanism was established (as it was the case in Montenegro and BiH), it was not functional; rather, its role remained only formal. In BiH, the coordination was further complicated due to political reasons: the complexity of the political system, an abundance of laws to be aligned and institutions to be coordinated on different levels of governance presented a major obstacle for the full implementation of the National Framework Strategy.

2. Some NAPs were not supplemented with proper reporting mechanisms, or mechanisms for monitoring and evaluating the implementation (See Table 3). Finally, NAPs in FYROM, Montenegro and Serbia did not have a budget allocated for the implementation. GREVIO, in its report on Montenegro identified the following problems: no state funds have been committed to the implementation of the Strategy. Rather, concern has been voiced that it is for this reason that this Strategy has only been partially implemented and that the report on its implementation, drawn up by the Ministry of Labour and Social Welfare and adopted by the government, mainly lists the activities implemented by NGOs and funded by international donors. This would indicate a limited degree of commitment on behalf of the authorities to the implementation of a comprehensive and co-ordinated approach to preventing and combating VAW.

3. The lack of financial resources for the implementation of policies on VAW can be viewed as partially understandable, considering the level of economic development in the region of Western Balkans. This obstacle can be overcome by developing partnership with UN agencies and foreign donors. On the other hand, other crucial aspects of an effective policy-making and policy implementation are also missing, which can be seen as less justifiable. Implementation of NAPs has been faced with difficulties in creating effective mechanisms for monitoring/evaluation, timely reporting and establishing a genuine cooperation with

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292 Ibid.
293 Ibid.
294 Trkulja (2018), op.cit.
295 Ibid.
297 Ibid.
298 Ibid.
NGOs. Inter-institutional coordination and cooperation with NGOs can be regarded as essential for implementation, but the mechanisms for such co-operation are rather weak.

Table 4: Mechanisms for ensuring a well-structured policy-making, and an effective implementation of NAPs – assessment of national researchers and/or independent evaluators

<table>
<thead>
<tr>
<th>Does the Strategy include:</th>
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<tbody>
<tr>
<td>a) Specific objectives</td>
</tr>
<tr>
<td>b) Planned measures/activities</td>
</tr>
<tr>
<td>c) Indicators for measuring fulfilment of its objectives</td>
</tr>
<tr>
<td>d) List of actors responsible for implementation of each planned activity/measure</td>
</tr>
<tr>
<td>e) Specified deadlines for the implementation of each activity/measure</td>
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<tr>
<td>f) A plan how to ensure coordination between all relevant actors involved in implementation</td>
</tr>
</tbody>
</table>

| Is any institution indicated as responsible for monitoring/evaluating the implementation? |

<table>
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<tr>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Not available</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Not available</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
</tbody>
</table>
| No                | Yes, but it does not work\
300 | Yes | No | Yes, but it remains only formal\
300 | No |
| Yes               | Not available | Yes              | Not clear        | Yes                 | No               |

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200 Coordination Body for the implementation of the Strategy has not been set up, which is a major setback, so this role was assumed by the structures at the entity level. The Government of RS has not accepted application of the Strategy in the territory of this entity, which challenges its consistent, efficient and coordinated implementation throughout the whole of BiH (Trkulja, 2018).

300 As assessed by Raicevic (2018), the Working group was established in Montenegro in 2011, as the first formal body in charge of coordination and reporting on the Strategy, however, due to very rare meetings and a lack of visibility and results, its role was strictly formal. In May 2017, the Government established the Committee for Coordination, Implementation, Monitoring and Evaluation of Policies and Measures for Preventing and Combating All Forms of Violence. The Committee members are in most cases politically affiliated (the posts in the Committee are not the expert positions that are independent of government mandates), while women's NGOs that provide specialist support services to survivors of VAW are not included in its work; so far, this newly-established Committee remained quite passive (ibid.).
<table>
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<tr>
<th>Is any institution obliged to report on the implementation?</th>
<th>Yes</th>
<th>Yes</th>
<th>Yes</th>
<th>Not available</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>If so, are these reports publicly available?</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>Not available</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Are financial resources allocated for the implementation?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
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</table>

2.8. Protocols that Regulate Obligations of Professionals and Multi-Agency Collaboration

Professionals dealing with victims of violence should be provided by clear guidelines, protocols, codes of conduct or other similar documents that specify their obligations and duties in dealing with cases of VAW, and provide guidance on how to implement the legal framework. Such documents, if designed properly, and accompanied by an appropriate in-service training, may greatly contribute to “translating policy into action”. Furthermore, the Convention has clear requirements regarding multi-agency collaboration (Article 7). It obliges State Parties to devise and implement policies that could comprise measures to be carried out by different actors and agencies, which, taken as a whole, offer a holistic response to VAW, as well as to ensure that adopted comprehensive policies are implemented through an effective multi-agency co-operation.\(^{304}\)

Such documents can be considered as good practice, since professionals may be driven by their own attitudes and prejudices in a process of assisting victims. In plain words, institutions should cooperate, or the victims will not receive the protection and support they need.

This section of the report is aimed at assessing:

1. Whether countries of the Western Balkans have developed protocols and/or other documents that specify duties of professionals in relevant institutions for victims’ protection;
2. Whether protocols or other similar mechanisms are in place with the aim to enable multi-agency co-ordinated response to cases of VAW, and if so,
3. How the collaboration between responsible institutions works in practice.

The following conclusions are reached:

1. Countries of the Western Balkans have adopted regulations/guidance documents that specify duties and responsibilities of relevant professionals (the police, social and health-care workers, judiciary, etc.), but took a different approach with respect to the legal status of such guidelines – these are included in laws on domestic violence (for instance, in Albania), or developed as separate documents, with a status of by-law. Therefore, a question might be raised whether these guidelines are legally-binding/obligatory for respective professionals or merely advisory,

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301 In Kosovo, no report on the implementation of the current NAP has been released, but the evaluation report on the previous one was available to public (Krasniqi, 2018).
302 The last publicly available report was published in 2014 (Raicevic, 2018).
303 The final evaluation report, written by an independent expert (Mamula, 2018) is available to public.
304 Explanatory Report to the Convention (paragraph 64) elaborates that good practice examples in some member states of Council of Europe show that results are enhanced when law enforcement agencies, the judiciary, women’s non-governmental organisations, child protection agencies and other relevant partners join forces on a particular case, for example to carry out an accurate risk assessment or devise a safety plan.
i.e. represent just guiding principles for good practice. For example, in Montenegro, the Protocol\textsuperscript{305} is not legally binding (but in a form of a guideline); it provides detailed instructions to each institution, as well as procedures for inter-institutional collaboration, and it is to a large extent harmonized with the Convention.\textsuperscript{306} In Kosovo\textsuperscript{307}, the Standard Operative Procedures for Protection from Domestic Violence that regulate duties of professionals only partially comply with the requirements of the Istanbul Convention.\textsuperscript{308} There is no such protocol at the level of BiH; yet, significant efforts are undertaken on entity level.\textsuperscript{309} Republic of Srpska has introduced the General Protocol that regulates both duties of specific institutions and multi-agency collaboration.\textsuperscript{310} In independent sources (baseline study of harmonization of legislation and policies in BiH with the Convention)\textsuperscript{311}, this document is positively assessed. By the end of 2017, protocols regulating collaboration have been signed in all Cantons of Federation BiH.\textsuperscript{312} The Brcko District adopted the similar document in 2018, which introduced an important aspect: it addresses VAW in general, not only domestic violence.\textsuperscript{313} In Serbia, both General and Special Protocols were developed, which specify obligations of specific institutional systems (the police, health-care, social services, judiciary, education), and procedures for inter-agency collaboration; Centres for Social Work are given a coordinating role in responding to domestic violence cases\textsuperscript{314};

2. Protocols or other similar documents that regulate collaboration of institutions have not been introduced yet throughout the region, for example, in Kosovo\textsuperscript{315};

3. It is particularly problematic that protocols are focused on domestic violence only;

4. Numerous problems in implementation of the protocols or other similar guideline documents for professionals are still very much present, as assessed by all national researchers who contributed to this study,\textsuperscript{316} and in other sources\textsuperscript{317};

5. Based on assessment of national researchers (See: Table 4), it can be concluded that collaboration between institutions responsible for victims’ protection has not been properly implemented in practice. Prosecutors and judges often represent the “weakest link” in a chain of collaboration.

\textsuperscript{305}The first Protocol regulating treatment, prevention and protection from domestic violence in Montenegro was adopted in 2011, while the new Protocol on the Treatment, Prevention and Protection from Violence against Women and Domestic Violence was drafted in October 2018; It is still in a pilot phase and it is not available online. The Protocol provides detailed guidance on procedures and institutional cooperation (Raicevic, 2018).

\textsuperscript{306}Ibid.

\textsuperscript{307}As noted before, Kosovo is not legally bound by the requirements of the Istanbul Convention.

\textsuperscript{308}Krasniqi (2018), op.cit.

\textsuperscript{309}Trkulja (2018), op.cit.

\textsuperscript{310}Ibid.

\textsuperscript{311}Petric and Galic, 2015; in: Trkulja (2018).

\textsuperscript{312}Trkulja (2018), op.cit.

\textsuperscript{313}Ibid.


\textsuperscript{315}Krasniqi (2018), op.cit.

\textsuperscript{316}Krasniqi (2018); Trkulja (2018); Raicevic (2018); Bozo and Anastasi (2018); Risteska (2018); op.cit.

Table 5: Quality of collaboration between institutions/organisations involved in victims’ protection on 1-5 scale (1 “poor”, 5 indicating “excellent”): Assessment of national researchers (average scores)

<table>
<thead>
<tr>
<th>Actors (institutions/organisations) involved in victims’ protection</th>
<th>The quality of collaboration with other actors</th>
</tr>
</thead>
<tbody>
<tr>
<td>The police</td>
<td>3,4</td>
</tr>
<tr>
<td>Centres for Social Work</td>
<td>2,2</td>
</tr>
<tr>
<td>Prosecutors</td>
<td>1,6</td>
</tr>
<tr>
<td>Courts</td>
<td>2,4</td>
</tr>
<tr>
<td>Health-care</td>
<td>2,4</td>
</tr>
<tr>
<td>Educational institutions</td>
<td>2,6</td>
</tr>
<tr>
<td>Women’s NGOs</td>
<td>4,0</td>
</tr>
</tbody>
</table>

How multi-agency response to domestic violence works in practice: A case of Albania

While acknowledging that relevant documents on duties of institutions, as well as inter-agency collaboration have been developed, completely or partially, across the region of Western Balkans, the focus of this section is on challenges that emerge in a process of their implementation. Such challenges can be best illustrated on the case of Albania, which, according to relevant literature, can be seen as good practice example in the area of establishing structures for multi-agency collaboration. Whereas it can be assessed that the necessary structures for effective mechanisms for multi-agency collaboration have been envisaged in a proper manner, the gaps in their practical functioning are still visible – challenges are complex and numerous, as noted below. Having this in mind, “lessons learned” in a process of establishing multi-agency cooperation in Albania can be potentially applicable across the region of the Western Balkans. The experience of Albania is also illustrative of an issue how political structures (such as, a frequent changes of staff of institutions, following political elections) can influence an efficiency of mechanisms for preventing and combating VAW.

In its baseline evaluation report on the implementation of the Istanbul Convention in Albania, GREVIO[318] estimated that available studies[319] indicate that Albania is one of the few countries in the Central and Eastern European region that has set up a network for co-ordinated community intervention, as well as that Albania’s achievements in this area are rightfully cited as an example of best practice of multi-agency cooperation in the region. Albania has started to pilot mechanisms for multi-agency co-operation in 2007[320] and later established a legal base for their functioning. The duties and responsibilities of professional dealing with domestic violence cases are specified through amendments of the Law No. 9669 On Measures against Violence in Family Relations, which were adopted in 2011.[321] Authorities also adopted legal regulations that established the National Referral Mechanism for Cases of Domestic Violence operating at the local (municipal) level, composed of three structures: the steering committee, the technical team, and the local coordinator; duties of the mechanism are to provide for co-ordinated actions of institutions and other actors, such as women’s NGOs, in supporting victims of domestic violence.[322]

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320 Ibid.
321 Bozo and Anastasi (2018), op.cit.
322 Ibid.
GREVIO\textsuperscript{323} elaborates on the role of these structures and services/protection measures they provide: a steering committee is responsible for the political direction of the process, a multi-disciplinary technical team is tasked with case-management, while a local co-ordinator leads and co-ordinates the work of the technical team. Mechanisms are composed of representatives from municipalities, the police, the courts, including prosecutors and bailiffs, health-care institutions, employment offices, educational offices and NGOs specialised in VAW. 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 mechanism provides services - both short-term-and long-term ones, such as healthcare support, shelter and protection, including procedures for protection orders, while long-term interventions include psychotherapy, assistance with children and with divorce procedures and reintegration in society. In assessing the functionality of these mechanisms, i.e. how the legal regulations on multi-agency collaboration are implemented in practice, GREVIO\textsuperscript{324} assesses, firstly, that local referral mechanisms are the centre-piece of the Albania’s co-ordinated multi-agency response to violence, as they bring together a wide array of representatives from the relevant authorities and civil society to put up a strong unified response to domestic violence, and also notes that NGOs and international donors have played a crucial role in establishing the existing mechanisms. Secondly, GREVIO\textsuperscript{325} commends the political leadership of those mayors who drove the process of creating referral mechanisms in their communities. While recognising that establishing and sustaining such mechanisms is a complex process that requires several years, GREVIO\textsuperscript{326} identifies numerous gaps in their functioning:

a) Currently, referral mechanisms are established in only 29 out of the total of 61 municipalities in Albania\textsuperscript{327};

b) “Weak” links in the referral mechanisms affect the effectiveness and the quality of the inter-institutional response to VAW;

c) Frequent staff turnover, in particular following political elections, erodes their capacity;

d) Referral mechanisms which lack a comprehensive set of services to offer victims fail to meet their needs, as indicated in studies;

e) Multi-agency co-operation on forms of VAW other than domestic violence lacks a clear legal basis. The authorities indicate that the referral mechanism set up to deal with cases of domestic violence can also serve to tackle other forms of VAW, however, GREVIO was not in a position to verify that victims of stalking, sexual violence and rape or forced marriage have ever been directed to such a mechanism. The lack of any rule clearly requiring referral and co-operation leaves these victims at risk of not being reached and this is a missed opportunity to direct victims of these forms of violence to the specialist support they need. Although the referral mechanisms will not turn away victims of forms of VAW other than domestic violence, preventing and combating domestic violence remains their bedrock and has strongly shaped governmental policies;

f) The existing mechanisms operate to varying degrees of effectiveness. The major weaknesses involve: 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.

\textsuperscript{324}Ibid.
\textsuperscript{325}Ibid.
\textsuperscript{326}Ibid.
\textsuperscript{327}However, it is also recognised that the authorities envisaged expansion of referral mechanisms throughout the country, as planned in the on-going National Strategy on Gender Equality - one of the objectives of this Strategy is that by the end of 2020, all 61 municipalities will be equipped with a fully operational referral mechanism and that within these mechanisms, the number and type of available specialised support services be increased by more than 50% (GREVIO, 2018b).
2.9. A Cross-Cutting Issue: The Relevant Role of Specialist Women’s NGOs in Combating VAW in the Western Balkans

The Istanbul Convention emphasizes an important contribution of NGOs and civil society organisations in preventing and combating all forms of violence covered by the scope of the Convention; it clearly recognizes their role, as in many member states of Council of Europe they run an overwhelming majority of specialist services to victims, and have a long tradition in providing shelter and legal advice services, medical and psychological counselling, as well as in running helplines\(^{328}\) (paragraph 68). Therefore, the Convention, in its Article 9, requires that State Parties should recognize their work, for example, by tapping into their expertise and involving them as partners in multi-agency co-operation or in the implementation of comprehensive government policies (paragraph 69). In addition to the latter, the Convention specifies another requirement, which is particularly important in the region of Western Balkans. Namely, in Article 8, the Convention sets up an obligation to State Parties to allocate appropriate financial and human resources for the implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the scope of the Convention, including those carried out by NGOs and civil society.

Such a requirement is far from being accepted in the Western Balkans – women’s NGOs that provide specialist services to victims are rarely funded by central and local governments.

This region has a vibrant and active women’s civil society. Women’s NGOs run most of specialist services in these countries, including shelters, helplines, counselling centres, etc. Moreover, they are crucial actors in awareness-raising; they also design and facilitate trainings, rulebooks and manuals for professionals, participate in policy-making (such as, in drafting strategic and other policy documents, including NAPs and protocols for professionals), write shadow reports to international treaty bodies and also take part in providing an effective multi-agency response to cases of VAW. They are indispensable actors in providing an independent monitoring and evaluation of relevant government policies. In a few words, they are catalyst of change – without a persistent, years-long advocacy of women’s NGOs, many “novelties” in legislation, policies and practices in preventing and combating VAW would not be present in the region.

At the same time, they are under-staffed and under-funded. States or local governments rarely provide any funds for their important service-oriented work. Consequently, they depend on donors’ funds and/or rely on voluntary or semi-voluntary work. Just as an example, one research study, which relied on in-depth interviews, showed that 69% of all service-oriented work of Serbian women’s NGOs was provided on voluntary basis.\(^{329}\)

On the other hand, it should be noted in this context that various international donors have favoured in recent years projects on increasing a capacity of institutions that work with survivors of VAW, while specialist services for VAW victims, which are run by NGOs and represent a crucial component in combating VAW, are neglected, i.e. “not on the agenda”. Further, both donors and states are focused on domestic violence and tend to prioritise projects in this area. Following such policies, women’s NGOs in the region concentrated their efforts to combating domestic violence, while neglecting other forms of VAW. Some women’s NGOs in the region have developed a considerable knowledge and

\(^{328}\) Explanatory Report to the Istanbul Convention, op.cit.
expertise in the area of supporting victims of war rape. Unfortunately, this valuable expertise is rather marginalised in recent years, so NGOs specialised in sexual violence are now extremely rare.

With respect to issues noted above, the situation is more or less similar across the region, since national researchers have confirmed the above-mentioned assessments. There are specificities, though. Both good and bad examples can be listed. For example, in Kosovo, a good collaboration between women’s NGOs and the authorities was established during a process of drafting strategic documents, such as NAP on domestic violence; however, it should be kept in mind that interaction between the Government and NGOs has been mediated by international organisations as part of post-war reconstruction and institution-building.330

There is also a tendency to recognise the expertise and work of NGOs, but only – in words. In the national report on Montenegro331, a complex situation in this country regarding collaboration with the Government is elaborated in the following manner. Despite the declaratory commitment of the Government of Montenegro to ensure active cooperation with NGOs, this obligation has not been implemented to a sufficient extent332. The Government hardly ensures any funding for women’s NGOs, so they strive for sustainability, relying on project-based funds from international donors. Apart from the partial funding the Government ensured for the national SOS Helpline for victims of domestic violence, there are no positive examples of sustainable government funding of specialist services, such as shelters or other services333. In addition, the Law on Free Legal Aid does not recognise NGOs as providers of pro bono legal assistance, which implies that women’s NGOs have to finance legal aid to victims from their own budgets, since it is crucial for victims’ access to justice. On the other hand, pro bono legal assistance that is available in basic courts frequently does not meet women’s needs and has a negative impact on protection of victims and possibility to exercise their rights334. Finally, the current process of licensing of social services that tends to include NGO services into a formal social service system, threatens to jeopardise the independent role of women’s CSOs and the feminist principles their services are based on335. The conditions for obtaining a license, besides professional and licensed staff, require significant funds for ensuring both spatial and other capacities, and fall completely at the expense of NGOs. All these circumstances may jeopardise availability of their services in the long run. With respect to newly introduced licensing regime, GREVIO336 in its recent report on Montenegro expressed the same concern as noted above. Women’s NGOs that have been providing vital services for victims of domestic violence for years and which operate on the basis of a gendered understanding of VAW and a victim-centred approach fear being replaced by more generalist NGOs with less of a women-centred approach and less experience in this field.337

The national report on FYROM338 mentions examples that the work of women’s NGOs have been recognised and appreciated by the Government of FYROM, but emphasises that services run by NGOs hardly ever have received any funds from the Government. The notable exception is the national helpline for victims of domestic violence, which have been funded by the Government since 2012.339

330 Krasniqi (2018), op.cit.
331 Raicevic (2018), op.cit.
332 Ibid.
333 Ibid.
334 Ibid.
335 Ibid.
337 Ibid.
338 Risteska (2018), op.cit.
339 Ibid.
In addition to the problems identified above, one issue raises a particular concern, as it may have a long-term impact on the availability and (even, possibly) the quality of services provided by women’s NGOs in the region.

Services of women’s NGOs in the region have been based on principles that were developed by global/European women’s movement, including gendered understanding of VAW, empowerment, self-determination, respect for safety and security of service users, provision of all services in a confidential manner, holding perpetrators accountable, ensuring accessibility and non-discrimination, etc. These principles are reviewed in one relevant study, published by Council of Europe.340 The study defined the “overarching principles”, core minimum standards applicable to all specialist services, service-specific standards (e.g., for helplines, shelters, etc.), “aspirational standards”, as well as minimum levels of service provision (which types of services should be available in relation to population density). The standards were developed through an extensive cross-national participatory process, and those that garnered the widest consensus across CoE member states were recommended for adoption at the national levels (by member states), with necessary adaptations to national legislative and policy contexts (the latter should be done in consultations with national women’s NGOs). Subsequently, some of the principles reviewed in this source341 were integrated into the Istanbul Convention, since Article 18(3) specifies that all services and measures in the area of protection and support should be based on gendered understanding of VAW, should be focused on safety and human rights of victims, and should be aimed at empowering victims and avoiding secondary victimisation.

Having in mind that respect for these principles/standards is essential for achieving the aims of support services to victims, it is important to preserve the autonomy of specialist women-to-women services, provided by women’s NGOs in the region.

Furthermore, all research studies in the region that examined how many women report violent incidents to institutions repeatedly and strongly confirmed: rates of reporting are disturbingly low. The latter can be seen as a general trend, but is particularly pronounced in cases of sexual violence. Some women will never report violence to institutions, due to numerous reasons, ranging from a low level of trust in institutions to fear and shame. They have the right NOT to do so. In this context, it is important to enable “alternative” paths – women victims should have a possibility to turn to women’s NGOs without a fear that their painful experiences will be disclosed to institutions, or anyone else, without their informed consent. Women victims turn to women’s NGO services to get understanding and empowerment that state institutions often fail to provide.

Consequently, confidentiality principle342 as one of core principles of women’s NGOs should not be jeopardised, for example, by requiring NGOs to report to institutions cases of violence that were disclosed to them. An example of such negative practice is provided below, relying on GREVIO report,343 (See: Far-reaching impact of the idea of mandatory referral: A case of Montenegro).

341 Ibid.
342 The above-mentioned publication on standards for support services (Kelly and Dubois, 2008) specifies that all services should guarantee confidentiality to service users. Any written or spoken communication or other information containing anything that can identify the service user should only be passed on to others with the service user’s informed consent. The only exceptions are: a) to protect the service user, when there is reason to believe that her life, health or freedom is at risk, b) to protect the safety of others, when there is reason to believe that they may be at risk.
To conclude: imposing standards to women’s NGO services that are incompatible with those described in publication on standards for support services\textsuperscript{344} can have a negative impact on their role as independent service providers. Preserving the role of independent, autonomous NGOs is a value in itself, but it has an additional importance and a far-reaching impact in the area of combating VAW.

**Far-reaching impact of the idea of mandatory referral: A case of Montenegro**

Concerns have been shared with GREVIO\textsuperscript{345} regarding the shrinking of space and recognition for women’s specialist services run by NGOs. Examples range from multi-disciplinary teams that discuss individual cases without informing the woman and/or the relevant counsellor from the NGO shelter. They culminate in the plans for mandatory reporting by women’s NGO shelters to the Centres for Social Work as a requirement for official admission by these Centres for women wishing to move to a shelter.

The government’s plans to introduce a system of mandatory referrals by Centres for Social Work would further weaken the role of women’s specialist support services in providing women-centred counselling, shelter accommodation, advocacy and support to women with a view to protecting their human rights as individuals. It would bar women from turning to independent counselling services before turning to a statutory agency such as the Centre for Social Work or a law enforcement agency. GREVIO is concerned by this development since this might prevent some women from coming forward to seek help due to possible lack of trust in authorities as well as possibly not wishing to take formal steps at that point in their situation. It further diminishes a woman’s possible choice and control and thus self-determination.

2.10. Specialist Services to Victims of Violence

The Istanbul Convention makes a relevant distinction between general and specialist support services to victims. General support services (Article 20) refer to help offered by public authorities such as social services, health services and employment services, which are not exclusively designed for the benefit of victims only but serve the public at large\textsuperscript{346} (paragraph 125). Specialist support services (Article 22), on the other hand, have specialised in providing support and assistance tailored to the needs of victims of specific forms of violence against women or domestic violence and are not open to the general public (paragraph 125). The Explanatory report further clarifies that, while specialist support services may be services run or funded by government authorities, the large majority of them are offered by NGOs.\textsuperscript{347} Specialist services include shelters (Article 23), telephone helplines (Article 24) and support for victims of sexual violence (Article 25).

A brief description of specialist services and the main requirements these services should meet are presented in the Table 5. Shelters should be available in sufficient numbers and easily accessible; their functions go beyond providing a safe place to stay - they provide women and their children with support, enable them to cope with their traumatic experiences, leave violent relationships, regain their self-esteem and lay the foundations for an independent life of their own choosing (paragraph 133). With respect to availability of specialised women’s shelters, the Explanatory report (paragraph 135) recommends that one family place\textsuperscript{348} should be available per 10 000 head of population. The Convention also requires State Parties to set up state-wide telephone helplines that should be available free of charge round-the-clock (24/7). At least one free national helpline should be established, covering all forms of VAW and providing crisis support in all relevant languages (paragraph 136). Information and support should be provided confidentially; it is important that callers may remain

\textsuperscript{344} Kelly, L., Dubois, L. (2008), op.cit.


\textsuperscript{346} Explanatory Report to the Istanbul Convention, op.cit.

\textsuperscript{347} Ibid.

\textsuperscript{348} The term “family place” is often misunderstood; it refers to one bed for a woman plus an average number of children in the Member State of Council of Europe; therefore, this is more than one bed space.
anonymous, and counsellors should be trained (paragraph 137). With respect to specialist services, another requirement is to set up rape crisis centres or sexual violence referral centres in sufficient numbers for survivors of sexual violence (paragraph 139). It is also specified that the traumatic nature of sexual violence, including rape, requires a particularly sensitive response by trained and specialised staff (paragraph 138), and that victims of this type of violence need immediate medical care and trauma support combined with immediate forensic examinations to collect the evidence needed for prosecution; furthermore, there is often a great need for psychological counselling and therapy – often weeks and months after the event.

**Table 6:** Specialist services for victims required by the Istanbul Convention

<table>
<thead>
<tr>
<th>Types of specialist services</th>
<th>Brief description of the service and the main criteria that should be met</th>
</tr>
</thead>
<tbody>
<tr>
<td>Shelters (Article 23)</td>
<td>Ensuring safe accommodation, safety and security for victims and their children; enabling them to cope with traumatic experience; central role in co-operation and networking; trained staff. Sufficient numbers: one family place per 10,000 head of population</td>
</tr>
<tr>
<td>Telephone helplines (Article 24)</td>
<td>State-wide; round-the-clock (24/7); free of charge; for all forms of violence covered by the scope of the Convention; providing crisis support and advice in all relevant languages; trained staff; protecting confidentiality; callers may remain anonymous. At least one national line, in all relevant languages</td>
</tr>
<tr>
<td>Support for victims of sexual violence (Article 25)</td>
<td>Rape crisis OR sexual violence referral centres; immediate medical care; forensic examination; crisis intervention; trauma support, psychological counselling and therapy (often: longer-term); trained and specialised staff. At least one per every 200,000 inhabitants, accessible in rural areas as well as in cities</td>
</tr>
<tr>
<td>Protection and support for child witnesses (Article 26)</td>
<td>Age and developmentally appropriate best evidence-based psychosocial counselling, specifically tailored to children’s needs; all support services must give due regard to the best interest of the child</td>
</tr>
</tbody>
</table>

Even more importantly, the Convention defines on which principles protection and support services should be based and which criteria they should meet, emphasising multi-agency, co-ordinated response to violence (Article 18(2). Further, as specified in Article 18(3), all measures aimed at protection and support should: a) be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim; b) be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment; c) aim at avoiding secondary victimisation; d) aim at the empowerment and economic independence of women victims of violence; e) allow, where appropriate, for a range of protection and support services to be located on the same premises; f)

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349 It is important to note that State Parties are not obliged to provide both types of centres (paragraph 139). Rape crisis centres offer long-term help that centres on counselling and therapy by offering face-to-face counselling, support groups and contact with other services. They also support victims during court proceedings by providing woman-to-woman advocacy and other practical help (Explanatory report, paragraph 140), while sexual violence referral centres may specialise in immediate medical care, high-quality forensic practice and crisis intervention. They can for instance be set up in a hospital setting to respond to recent sexual assault by carrying out medical checks and referring the victim to specialised organisations for further services (paragraph 141).

350 Explanatory Report to the Istanbul Convention, op.cit.

351 This means that services offered need to demonstrate an approach, which recognises the gendered dynamics, impact and consequences of these forms of violence and which operates within a gender equality and human rights framework (Explanatory report, paragraph 115).
address the specific needs of vulnerable persons, including child victims, and be made available to them.

Another requirement of the Convention, defined in Article 18(4) can be seen as particularly relevant in the region of Western Balkans. The Convention clearly specifies in Article 18(4) that the provision of services shall not depend on the victim’s willingness to press charges or testify against any perpetrator. Therefore, this section addresses the issue whether countries of the Western Balkans meet the requirements of the Istanbul Convention in the area of availability of specialist services (as presented in the Table 5).

A general conclusion is that specialist services in the region of Western Balkans are not available in sufficient numbers, as required by the Convention (Table 5), while some types of services are non-existent. The following problems are identified, based on information provided in national research reports and relevant literature.

Support for victims of sexual violence

1. Rape crisis centres or sexual violence referral centres for victims of sexual violence are almost completely absent in the region. Pilot project on this type of service has been recently carried out in Serbia, while three sexual violence referral centres were opened in FYRO Macedonia in July 2018. It should be emphasised that services for sexual violence survivors are particularly needed in post-conflict countries. According to national research reports, some forms of support are offered to victims of sexual violence within other services - women’s NGOs occasionally provide emotional support and counselling, and medical care and forensic examinations are offered in some hospitals, institutes for forensic medicine or other healthcare settings. Nevertheless, the available forms of support in the region do not meet the requirements of the Convention, as sexual abuse victims may need a long-term counselling, trauma support, support during legal proceedings, and a possibility to obtain a competent forensic examination, regardless of their willingness to report the case to the police or testify against the perpetrator, as required in the provisions of the Convention (Article 18(4)). With respect to forensic examination, the Explanatory report (paragraph 141) provides further clarification. Namely, it is a good practice to carry out forensic examinations regardless of whether the matter will be reported to the police, and to offer the possibility of having samples taken and stored so that the decision as to whether or not to report the rape can be taken at a later date. Good practice examples from some countries, such as Denmark, provide clear “guidelines” how to establish a service for sexual violence victims that fully complies with the requirements of the Convention. In the evaluation report on the implementation of the Convention in Denmark, GREVIO commended the highly professional service for sexual violence victims in this country, as follows (paragraph 123), “The procedure for medical and

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352 As further explained in Explanatory report, paragraph 121, many services, public and private, make their support dependent on the willingness of the victim to press charges or testify against the perpetrator. If, for reasons of fear or emotional turmoil and attachment the victim is unwilling to press charges or refuses to testify in court, he or she will not receive counselling or accommodation. This goes against the principle of empowerment and a human rights-based approach and must be avoided.

353 In Serbia, the project is carried out by the Provincial Secretariat for Health Care in the Autonomous Province of Vojvodina, http://projekti.zdravstvo.vojvodina.gov.rs/pilot-centri/


forensic examinations is the same for all victims whether they intend to report the rape or not. There is no involvement of the law enforcement agencies, and the decision to report rests entirely with the victim. (…). The DNA evidence is stored for up to three months or longer if so requested by the victim. Should a case come to trial, the centre’s report may be used as evidence in addition to the DNA, and medical staff may be ordered to testify in court, for which purpose their obligation of confidentiality may be lifted”. Consequently, plans for establishing sexual violence referral centres in the region should take into account the example of good practice quoted above.

2. There are numerous reasons why specialist forms of support for sexual violence survivors are urgently needed in the region. As mentioned in previous sections, prevalence surveys, which have been carried out across the region in recent years, have revealed that women who survived sexual violence very rarely decide to report it to institutions. Furthermore, through analysis of administrative data on criminal charges and convictions for rape and other sexual offences, it can be concluded that these types of crimes often remain invisible to the criminal justice system. For example, in Serbia, analysis of administrative data and crime statistics in the period from 2002 to 2016 (annual numbers of criminal charges for rape and other sexual offences under the Criminal Code of Serbia, as well as annual numbers of convictions brought by courts) clearly indicated that convictions for all sexual offences, including rape, were extremely rare.356 In addition, legal proceedings are lengthy – in cases of rape, criminal proceedings have commonly lasted from two to four years; the judicial institutions have not used legal mechanisms for preventing re-traumatisation of victims during trials, while the numbers of convictions at the annual level in the indicated period ranged from 48 to 98357 (ibid.). With respect to convictions for rape, similar trends were identified in other countries. As noted in report on Albania (GREVIO, 2017b), according to the Statistical Yearbook of the Ministry of Justice of Albania, the number of convicted persons under the criminal offence of rape was only three in 2014 and four in 2015. Given the taboo which very much still enshrouds the phenomenon of sexual violence, it is likely that the great majority of cases go unreported. In Montenegro, only two offenders were convicted for rape in 2017, while 10 criminal trials for rape were not completed by the end of 2017.358 The situation of Montenegro regarding treatment of rape cases by law enforcement and judiciary is described in the following manner in the evaluation report of GREVIO:359 rape victims’ experiences with the criminal justice system indicate deeply ingrained societal attitudes that hamper effective judicial outcomes, which only adds to the reluctance to report.

Specialist women’s shelters

1. Availability of places in shelters in all countries of the Western Balkans is far below the recommended standards (one family place per 10 000 head of population), as can be estimated, relying on national research reports and available relevant sources. To illustrate a scale of the problem of available places in shelters, examples from published studies can be provided. The

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357 Ibid.
358 Raicevic (2018), op.cit.
Network Women against Violence Europe (WAVE) assessed in their latest report that no non-EU country met the standards for shelter places. Missing shelter places amount to 49% in BiH, 42% in Albania, 32% in Montenegro, 64% in Serbia, 21% in Kosovo, and 89% in FYRO Macedonia. Similar findings were reported in other sources. In recent mapping of support services for VAW victims in Kosovo, commissioned by Council of Europe, it is stated that, despite not having data from the two women’s shelters that did not participate in the survey, it is safe to assume that shelter provision in Kosovo does not meet this minimum standard. In fact, Kosovo would need to have 177 family places available in order to ensure satisfactory shelter provision. Several subsequent studies, carried out in Serbia, indicated that the estimated total capacity of shelters in Serbia does not meet the Convention’s requirements. Available data on Montenegro imply similar conclusions. In its evaluation report, GREVIO noted that Montenegro would require an additional 25 shelter places.

Furthermore, an equal geographical distribution of shelters within the countries of the Western Balkans has not been achieved yet, and sustainable funding (which is particularly important for services like shelters) has not been ensured. The above-mentioned source identified a problem of an unequal distribution, as well as an insufficient state funding of shelters both in EU and non-EU countries.

With respect to the relevant issue (whether shelters are run by women’s NGOs or state institutions), the situation differs across the region. In BiH and Kosovo, for example, shelters are run by NGOs, unlike in Serbia, where local Centres for Social Work mostly operate such services, while only a few safe houses are run by women’s NGOs. In BiH, shelters are run by women’s organizations that follow a gender-specific and feminist approach; all existing women’s shelters have 24/7 access, and professional staff; in addition to safe accommodation, they offer information and advice, counselling, advocacy, multi-lingual support, risk assessment and safety planning, as well as legal advice. The legal regulations relevant for their work, however, are not harmonised across entities. For example, women’s NGO emphasised that shelters do not have the same legal status in both entities, which directly threatens the existing limited services to help women in the period of acute violence. Furthermore, other actors assessed that the on-going changes in legal regulations on funding shelters in Federation BiH may jeopardise independence of these services and their quality, since the aim is to change their legal status from NGOs into public institutions, and thus put them under more stringent control of authorities. On the other hand, in Kosovo, women’s NGOs run all existing shelters, and these organisations become an integral part of the intervention system. Legal regulations in Kosovo allow for the possibility for the Ministry of Labour and Social Welfare and municipalities...
to contract non-governmental organisations to provide social and family services, in line with the Law no.02/L-17 on Social and Family Services.\textsuperscript{373}

4. Regulations related to accessibility and practices of some shelters represent a relevant issue of concern. Certain practices are identified, which do not comply with the standards of the Convention. For example, as GREVIO clarified in report on Albania,\textsuperscript{374} only victims who are benefiting from an emergency barring order or a protection order can get access to shelter. This is not in line with the provision of the Convention that service provision should not depend on any legal or other requirement; further, emergency sheltering is occasionally provided in hospitals, dormitories, and geriatric/elderly care homes, without any proper consideration for the needs of the victim in terms of safety and specialised protection.\textsuperscript{375} It should be further clarified that the emergency sheltering in such facilities as hospitals and homes for elderly (as mentioned above) could not be regarded as an acceptable practice, since the Explanatory report to the Convention (paragraph 133) specifies that temporary housing alone, or general shelters as those for homeless, are not sufficient and will not provide the necessary support and empowerment. Other questionable practices should be noted as well. Problems regarding shelters’ accessibility are identified with respect to some minority groups. For example, Roma Women’s Network of Serbia have claimed in numerous occasions, including in the latest alternative report to CEDAW Committee\textsuperscript{376} that Roma women – victims of domestic violence face problems with admittance to shelters. Roma women’s NGOs in Montenegro have voiced similar concerns, which are noted by GREVIO\textsuperscript{377} in its evaluation on Montenegro, as follows. The domestic violence shelters in Montenegro are often filled to capacity, and many women seeking refuge cannot be accommodated. Although efforts have been made in the past to reach out to Roma women to ensure they benefit from the services offered by shelters, Roma rights services point to difficulties Roma women have in finding safe accommodation. The small overall number of shelter places available might easily contribute to this situation. Likewise, Roma and Egyptian women seeking help in respect of domestic violence sometimes encounter scepticism and the denial of services due to their poor socio-economic background leading officials to think they are seeking material advantages (free accommodation or food) instead of genuine protection.\textsuperscript{378}

**State-wide helplines for victims of all forms of VAW**

1. National helplines are established across the region, with the exception of Serbia. The following relevant criteria (as defined in the Convention) are met: the existing helplines are available 24/7, free of charge, and provide advice and support; state-wide availability is also ensured, with one exception: the Northern part of Kosovo remains uncovered\textsuperscript{379} or the coverage is limited.\textsuperscript{380} Further, it should be noted that these helplines are run by women’s NGOs with recognised expertise and experience in providing specialist support to victims, as well as in needs-driven

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\textsuperscript{373} Ibid.  
\textsuperscript{375} Ibid.  
\textsuperscript{377} GREVIO (2018b). GREVIO Baseline Evaluation Report – Montenegro, op.cit  
\textsuperscript{378} Ibid.  
\textsuperscript{379} Krol (2017), op.cit.  
\textsuperscript{380} Krasniqi (2018), op.cit.
crisis intervention. In Kosovo, the helpline for victims of domestic violence and trafficking has been established as part of the Victim Advocacy and Assistance Centre within the Public Prosecutor’s Office.

2. The identified gaps are: firstly, helplines do not provide help and support to victims of all forms of violence covered by the scope of the Convention, but to victims of domestic violence only, or at least, predominantly. For example, as assessed by GREVIO, a single national helpline in Montenegro is operated by the experienced women’s NGO, which ensures quality counselling. Its services are offered in Montenegrin and Albanian. This helpline was originally exclusively funded by the EU Delegation to Montenegro, but the Government of Montenegro has now taken on a 50% share of the costs, while the other half is covered by donations to the NGO running the helpline. While welcoming the existence of this helpline, GREVIO notes that its scope is limited to domestic violence. It is unclear to what extent victims of rape, forced marriage, sexual harassment or stalking would receive support and counselling. Relatively similar problem is identified in Albania - the work of state-wide helpline is focused on domestic violence, although relevant procedures regulating its operation claim differently. Namely, in the operating standards for the national helpline in Albania, which have been adopted recently by the Government, it is defined that this line is designed to serve all victims of violence against women, although it tends to be advertised as being dedicated only or mainly to victims of domestic violence.

3. Regarding the issue whether some other forms of VAW (apart from domestic violence) have been covered by the existing helplines in the region of Western Balkans, the example of promising practice is identified in BiH. The only dedicated helpline for survivors of war rape and sexual violence and their family members exists in BiH; it is operated by one women’s NGO with a relevant expertise in providing support to victims of war rape and sexual violence. This helpline covers the entire territory of BiH.

4. On the other hand, another possible gap (having in mind the requirements the state-wide helplines should meet, as defined in the Convention) is related to the training and expertise of staff on all forms of violence covered by the scope of the Convention. More research would be needed in order to assess with certainty if staff members of state-wide helplines across the region of Western Balkans possess adequate knowledge, expertise and skills relevant for providing support to victims of all forms of violence (apart from domestic violence), as required by the Convention. With respect to training and capacities of staff of the national helpline in Albania, GREVIO concluded that standards of professionalism would require that the dedicated staff be trained not only on issues related to domestic violence but equally on the specificities of other forms of VAW, such as sexual violence, forced marriage and forced abortion.

5. Under the framework of this project it was not possible to carry out the in-depth analysis whether policies for protecting confidentiality are developed and diligently followed by state-wide helplines.

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381 Bozo and Anastasi (2018); Trkulja (2018); Raicevic (2018); op.cit.
382 Krol (2017); Krasniqi (2018), op.cit.
384 Ibid.
385 Ibid.
386 Ibid.
388 WAVE (2018), op.cit.
2.11. Recommendations

1. Countries of the Western Balkans should yet achieve the full harmonisation of their legislation with the Istanbul Convention. In Albania and Montenegro, such a harmonisation should be provided following the recommendations of GREVIO (2017b: 2018b), while other countries should conduct an analysis of the level of compliance of their legislation with the requirements of the Convention and adopt amendments accordingly.

2. Police and crime statistics for all forms of violence that are criminalised in line with the Istanbul Convention should be developed to include data on a victim and a perpetrator, disaggregated by sex, age, type of violence as well as the relationship of the perpetrator to the victim (Article 11). Data collection models in different institutions/agencies should go beyond internal recording purposes, i.e. data categories in use need to be comparable across agencies (the police, prosecution, courts, etc.). Based on crime statistics, it should be possible to conduct analyses of conviction rates for all forms of violence against women covered by the Istanbul Convention, and to use the findings to create or revise evidence-based policies for preventing and combating violence.

3. It is recommendable to support the initiatives of the UN Special Rapporteur on VAW to establish bodies at the national level that would collect data on femicide/gender-based killings of women and girls. Data on homicides recorded by law enforcement and other relevant institutions should include data categories specifying the relationship of the perpetrator to the victim in a manner that would enable to isolate cases of intimate-partner violence from other cases of domestic violence (child abuse, violence toward a parent, etc.). It is further needed to conduct publicly available annual studies on cases of gender-based killings of women, which should serve as input data for analyses aimed at assessing possible systemic gaps in institutional response to violence, as well as contributing to prevention of gender-based killings of women in the future. More specifically, every murder that occurred in a context of domestic/intimate partner violence should be analysed, and it should be determined if the case of violence was reported to institutions before the victim was murdered, i.e. whether institutions had prior knowledge of the woman’s exposure to violence. For each case of murder in the domestic/intimate partner context, it is necessary to identify:
   - If the perpetrator of murder was arrested, brought to justice and convicted;
   - In case that the authorities had a prior knowledge of the woman’s exposure to violence, possible shortcomings in the interventions of institutions should be analysed - if all available measures had been undertaken to protect the woman whose life was at risk, such as, an appropriate and timely intervention of the police, a proper risk assessment by responsible authorities, an impartial and effective investigation, an urgent placement of the woman into a shelter, preventive detention of the perpetrator, an urgent issuance of emergency barring orders, an effective enforcement of the emergency barring orders, a careful, case-sensitive consideration of the incidents of violence in a process of determining custody arrangements or visitation rights, etc.;
   - In case that analysis of specificities of the murder case (as described above), indicate that responsible state officials failed to act in line with due diligence principle (Article 5 of the Convention), it should be further examined whether such officials should be exposed to criminal sanctioning or disciplinary measures (for example, for misconduct in office, neglect of statutory duties, etc.);
   - What kind of support was provided to children of femicide victims – which measures were undertaken by child protection services or other responsible institutions.
4. Bearing in mind that prevalence surveys that were conducted in the Western Balkans so far were focused on domestic violence only, it is necessary to recall provisions of the Article 11(2) of the Convention, which creates an obligation for State Parties to support research in the field of all forms of violence covered by the scope of the Convention in order to study its root causes and effects. Countries of the Western Balkans should do more to use research studies as a foundation for creating comprehensive policies on VAW.

5. It would be, furthermore, advisable to conduct prevalence survey in the Western Balkans according to common methodology, in order to provide comparable results.

6. It would be relevant to study prevalence of different forms of VAW, as well as rates of reporting violence to institutions among groups of women who are or might be exposed to intersectional discrimination, such as women with disabilities, rural women, migrants and asylum-seeking women, minority women, especially Roma, and other groups of vulnerable women.

7. Having in mind the results of prevalence surveys carried out in the Western Balkans so far, responsible state institutions in all countries in the region should raise awareness about VAW among general population and among women in particular, as many of them seem to accept a wide-spread social tolerance towards VAW.

8. Disturbing findings related to low reporting to institutions that have been obtained in all countries of the Western Balkans seem to indicate fear, shame, or low trust in institutions; furthermore, some findings have implied a poor institutional response to VAW (some women who decided to report their experiences to state agencies did not obtain a proper, gender-sensitive, timely and efficient support/protection, but were sometimes faced with “victim-blaming attitudes” by professionals). Consequently, measures aimed at encouraging reporting to institutions should be accompanied by simultaneous efforts to improve institutional response to VAW through, for example:
   - Organising regular in-service training programmes for professionals (as envisaged in Article 15 of the Convention);
   - Developing and implementing comprehensive and co-ordinated policies related to all forms of violence covered by the Convention (Article 7);
   - Enabling that investigations and judicial proceedings are carried out without undue delay while taking into consideration the rights of the victim during all stages of the criminal proceedings (Article 49);
   - Ensuring that law enforcement agencies respond promptly and appropriately (in line with Article 50);
   - Ensuring a proper risk assessment and risk management, i.e. that the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities (Article 51);
   - Providing for immediate, short- and long-term specialist support services for victims (Article 22), including shelters (Article 23), state-wide telephone helplines (Article 24) and support for victims of sexual violence (Article 25) and developing modalities for their sustainable funding (Article 8).

9. In order to meet one of the crucial requirements of the Convention (to develop and implement comprehensive policies on VAW), countries of the Western Balkans need to ensure that national action plans (or other similar policy documents) include all forms of violence covered by the scope of the Convention (such as, forced marriage, stalking, sexual violence, sexual harassment, etc.), rather than domestic violence against women only. Countries should develop targeted policies that would tackle each specific form of VAW and take into account the needs of general population of women victims, but also of women who belong to
minority/marginalised groups, such as women with disabilities, ethnic minorities (in particular, Roma), rural women, refugees and migrants, asylum seeking women, etc. Considering a complexity of intersectional discrimination, the problems of these groups should not be addressed in general terms, “jointly” (for instance, by referring to “vulnerable groups” as a whole), but through recognising their specific needs and problems.

10. It would be advisable to strengthen partnership with UN agencies, intergovernmental organisations and other international actors, taking into account that funding the implementation of comprehensive policies on VAW requires a considerable investment. The latter remains an unsolved issue, in particular in Serbia, FYROM and Montenegro. Due to current state of affairs in economy, countries in the region of Western Balkans need financial support in order to be able to successfully implement NAPs on preventing and combating VAW. This could be achieved through, for example, developing specific schemes for implementation of joint projects with EU countries. On the other hand, a long-term goal to gradually decrease dependency on foreign donors should be kept in mind, since Albania, BiH, FYROM, Montenegro and Serbia, by ratifying the Istanbul Convention, took an obligation to allocate appropriate human and financial resources for the adequate implementation of integrated policies, including those carried out by NGOs and civil society (in line with the Article 8 of the Convention).

11. In a process of implementation of comprehensive policies on preventing and combating all forms of violence covered by the scope of the Convention, crucial requirements, which have not been fully met so far, include:

- Establishing a clear and functional mechanism for coordination of activities envisaged in NAPs (such as, an inter-ministerial coordinating body or similar entity), as well as for an effective co-operation between all relevant actors involved in the implementation. This would imply, in particular, strengthening a genuine co-operation with civil society organisations, and organising regular consultations with them;
- Ensuring that reports on the implementation of NAPs (or other similar mechanisms, such as, presentation of interim results) are prepared by responsible government bodies and made available to public, including information on budget expenditures;
- Establishing transparent mechanisms for monitoring and evaluating the implementation of comprehensive policies on VAW; both internal (by government bodies) and external ones (by Ombudsperson office, civil society and independent experts/external evaluators). In line with Article 11 of the Convention, which introduces an obligation to establish evidence-based policy-making, evaluation reports should be used to improve policies on VAW in the future.

12. There should be a legal base for specifying duties and responsibilities of particular institutional systems (the police, health-care, social work, educational institutions, judiciary, etc.) in dealing with cases of VAW, as well as for establishing an effective co-operation of different institutions. While countries of the Western Balkans have developed protocols or guidelines for professionals that enable “translating policies into action” through defining mandate and obligations of each institution, such documents are not legally-binding/obligatory in all countries; therefore, measures should be undertaken to ensure that procedures for handling cases, as well as for multi-agency collaboration, are included in respective laws.

13. Implementation of the above-mentioned protocols or guidelines should be accompanied by regular and appropriate in-service training for all professions involved in preventing and combating VAW, having in mind that in these countries regular pre-service professional education do not necessarily involve sufficient information on dealing with victims and perpetrators of all forms of VAW. Trainings should, in line with Article 15 of the Convention,
include prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as how to prevent secondary victimisation and how to ensure co-ordinated multi-agency co-operation. If protocols include an obligation to conduct a risk-assessment, this issue should be integrated into training programmes.

14. Since in all countries of the Western Balkans the existing protocols/guidelines for professionals are focused on domestic violence only, it is necessary to ensure, through proper legislative and policy measures, that such protocols are amended: specification of duties of institutions, as well as a requirement for multi-agency co-operation should be extended to victims of all forms of VAW.

15. The existing protocols for professionals should be reviewed, and if necessary, revised/amended to include co-operation with women’s NGOs, since these organisations in most countries run a majority of specialist services for victims (helplines, shelters, etc.).

16. Sustainability of structures aimed at establishing multi-agency co-operation should be achieved through providing human and financial resources that are necessary for their functioning, including through minimising the impact of fluctuation of staff in institutions (such as, changes in decision-making posts in institutions, following political elections).

17. It is needed to carry out research/analyses aimed at examining how the existing protocols and guidelines for professionals have been implemented in practice, in line with the requirement of the Convention that policies to prevent and combat VAW should be evidence-based (Article 11). In conducting such research/analyses, it is of utmost importance to take into account the perspective of victims who have had previous experience with institutional mechanisms for victims’ protection, by using qualitative research methodology (for example, case studies).

18. It will be also advisable to:
   - Implement clear and transparent mechanisms (including complaint mechanisms) that would enable victims who ask for institutional help to provide their opinion on services obtained and measures undertaken;
   - Ensure that officials who failed to meet their obligations and duties (in line with protocols and guidelines) are hold accountable.

19. The governments in the region should support and encourage the work of experienced women’s NGOs that provide specialist services to victims of all forms of VAW, and those engaged in organising prevention programmes, awareness-raising, etc. and should recognise them as crucial partners in implementing a co-ordinated multi-agency response to VAW.

20. An appropriate and sustainable funding for the activities of service-oriented women’s NGOs should be obtained through establishing a legal base for such work, for example, by amending laws that regulate provision of social services or other respective laws in order to enable allocation of funds for shelter services from budgets of local governments.

21. It is also needed to enhance possibilities for project-based funding, such as longer-term grants based on clear and transparent procurement procedures that would enable funding of different NGO services to victims of VAW: face-to-face counselling, helplines, advocacy, legal aid, representation of victims at court, provision of psychological and other support during investigation and judicial proceedings, accompaniment to the courts, etc. In developing funding modalities, attention should be paid to specialist NGO services to victims of all forms of VAW (not just victims of domestic violence), taking into account the needs of disadvantaged/vulnerable groups of women – victims.

22. It is necessary to preserve the independent role of women’s NGOs as providers of specialist services to victims, and to enable that all services (both specialist and general ones in terms of the Convention) operate in accordance with the principles defined in the Convention, Article 18(3). All protective and supportive measures should be based on gendered understanding of
VAW, and should be focused on the human rights and safety of victims. These measures must also aim at: a) avoiding secondary victimisation, and b) the empowerment and economic independence of women victims, and should also address the specific needs of vulnerable persons, including child victims. In addition, general and specialist support services must be offered irrespective of the victim’s willingness to press charges or testify against the perpetrator. Consequently, in developing licensing regimes or regulations on the operation of services, governments in the region should follow the above-mentioned guiding principles. Furthermore, in developing regulations related to specialist services, governments should follow more specific recommendations provided in the Council of Europe publication on minimum standards for support services (Kelly and Dubois, 2008).

23. There is an urgent need to establish specialist services for victims of sexual violence – rape crisis centres or sexual violence referral centres – throughout the region of Western Balkans. Considering the findings provided in this report (low reporting rates and low convictions rates for rape and other types of sexual offences, as well as wide-spread prejudices towards victims of this type of gender-based crimes in all countries), this form of support should be provided with an utmost sensitivity, while confidentiality principle should be seen as priority. Preferably, specialist services in a form of rape crisis centres and/or sexual violence referral centres might be run by women’s NGOs; in such centres, victims should obtain support in a confidential manner, without being pressured or otherwise “persuaded” to report the cases to the law enforcement agencies. This would be in line with the provision of the Convention, which specifies that victims should not be faced with a requirement to press charges or testify against the perpetrator in order to obtain any service.

24. Confidentiality as the key principle extends to providers of forensic examination and medical care in health-care setting. Sexual violence referral centres in health-care institutions should respect the following principles of operation:

- Only the victim can decide whether to report the case to the police or not;
- Procedures for service provision, including medical care for injuries and forensic examination, should be the same irrespective of the victim’s willingness to report the case to law enforcement or to testify against the perpetrator;
- Medical staff should prepare the report on injuries and collect other evidence; forensic evidence, including DNA samples, may be stored for a specific period, during which the victim can decide whether to report the case or not;
- If the victim decides to report the case, medical personnel may be ordered to testify in court, in which case their obligation to protect confidentiality may be lifted.

25. In addition, staff of specialist services for sexual violence victims (including medical doctors/personnel) should be given high-quality specialist in-service training on provision of gender-sensitive support to victims, with a focus on understanding the specific nature of sexual trauma.

26. With respect to other relevant specialist services to victims – specialist shelters for women victims of domestic violence and their children, the following should be ensured:

- An increase of available places in shelters;
- Their equal geographical distribution;
- Sustainable funding, including of those shelters that are run by women’s NGOs;
- Provision of relevant services in addition to safe accommodation, such as psychological counselling, legal aid, assistance in finding employment, services to children, etc.;
- A possibility to provide shelter accommodation to victims of other forms of VAW apart from domestic violence, such as victims of forced marriage and stalking;
• Services in shelters should not depend on any legal or other requirement;
• Temporary housing alone, or accommodation in general shelters as those for homeless are not sufficient and will not provide the necessary support and empowerment;
• Access should be provided on non-discriminatory basis, in line with Article 4(3); special attention should be paid to the needs of disadvantaged groups of women, such as Roma.

27. State-wide helplines should be established in all countries in the region (currently, such a line does not exist in Serbia).

28. State-wide helplines should meet the following requirements:
   • Help should be provided to victims of all forms of violence covered by the scope of the Convention, rather than to victims of domestic violence only - countries in the region should either ensure that a single national helpline provides assistance to victims of all forms of VAW, or establish dedicated helpline(s), for example, for victims of sexual violence or forced marriage;
   • Sustainability of funding should be ensured;
   • Staff should possess a necessary expertise and skills to provide help to all victims of VAW, which should be ensured through a regular training;
   • Clear policies for protecting confidentiality should be diligently followed, in line with the requirement of the Convention that counsellors should provide advice to callers confidentially, or with due regard to their anonymity;
   • Provision of services by state-wide helplines in minority languages is another area in which an improvement would be needed across the region.
3. SEXUAL AND REPRODUCTIVE HEALTH AND RIGHTS AND LGBTI

KEY FINDINGS

- For most parts, in Western Balkan countries an adequate and comprehensive legal framework for sexual and reproductive health, that guarantees gender equality and protection against discrimination is in place.

- However, all the countries are, to a certain extent, facing difficulties when it comes to the implementation.

- In practice, particularly vulnerable groups of women are not assured fully equal access to healthcare services and rights.

- With the exception of Albania, sexual and reproductive education is not systematically developed and included in the public schools’ curricula as a comprehensive and mandatory program in most of the Western Balkan countries.

- Traditional views on gender roles and sexuality are still predominant in all Western Balkan countries.

- Freedom to public assembly of LGBTI persons in the Western Balkan has improved in the recent years. However, same-sex couples are still not legally recognized in any form, homophobia and transphobia are still widespread and many abusive practices, such as forced sterilization or pathologization (Gender identity disorder diagnosis) are still mandatory parts of the legal gender recognition process.

- General policy recommendations to improve the situation are provided.

3.1 Introduction and Methodology

This chapter focuses on sexual and reproductive health and rights of women, as well as the state of LGBTI rights in six Western Balkan countries (Albania, Bosnia and Herzegovina, Kosovo,* 390 Montenegro, Serbia, The Former Yugoslav Republic of Macedonia). Sexual health is defined by the World Health Organization (WHO) as “a state of physical, mental and social well-being in relation to sexuality; it is not merely the absence of disease, dysfunction or infirmity. Sexual health requires a positive and respectful approach to sexuality and sexual relationships, as well as the possibility of having pleasurable and safe sexual experiences, free of coercion, discrimination and violence.” 391 The United Nations 1994 International Conference on Population and Development (ICPD) defines reproductive health as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes.” 392 The right to sexual and reproductive health is an aspect of women’s general right to health defined not only as a right to health care, “but an entitlement to other social, economic, cultural and political determinants of health”. 393 Furthermore, women should be provided with the access to

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390 *All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.


393 UN General Assembly (2006). Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, available at:
“reproductive health care services, goods and facilities that are: available in adequate numbers (...); accessible physically and economically (...); accessible without discrimination (...); and of good quality.” 394

The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is used as a main general framework for the findings provided in this thematic report as it provides a legally binding international standard for protecting and promoting women’s human rights. Although the Convention does not explicitly mention sexual orientation, it does also provide a non-discriminatory basis for LGBTI rights, as an aspect of sexual rights, as defined by the WHO. This report (chapter) will particularly focus on CEDAW Convention article 12, parts of articles 10 and 16 and will be taking into consideration the meaning given in the General Recommendation 24 of the CEDAW Committee395.

The report is based on comparative analysis of national research reports in six Western Balkan countries and a desk review. A questionnaire consisting of set of pre-defined indicators was developed for the purpose of establishing a common framework for a cross-country analysis and a regional overview. The analysis provided in this report is not envisioned as a comprehensive one, but rather as a brief overview of current main gender issues in the Western Balkan region in the area of sexual and reproductive health and rights, including LGBTI rights, with particular attention on gender stereotypes analysis as a cross-cutting issue that can affect the progress in the area of sexual and reproductive health and rights. Since data collecting and monitoring systems are not to the same extent in place in each of the countries and the gender segregated statistics was not continuously available or regularly officially updated for all the indicators at the same rate in all the countries, the most recent available data was used in certain cases.

3.2 Sexual and Reproductive Health and Rights

3.2.1 Legal Framework and Equal Access to Healthcare and Health Insurance

In recent years, all six states have put in a significant effort and taken some concrete steps to improving legislation related to gender equality, including equal access to healthcare and health insurance and services, both in general, and related to sexual and reproductive health in particular. It can be said that generally, there is a somewhat adequate and comprehensive institutional and policy framework for sexual and reproductive health that guarantees gender equality and protection against discrimination in place in the six Western Balkan countries. However, all the countries are, to a certain extent, facing difficulties when it comes to the implementation of existing laws and non-discriminatory policies. Lack of adequate and sufficient financial support to health care (the fact that the legal framework is not always accompanied by a corresponding budget), lack of adequate infrastructure and weak institutional capacities for providing health services in accordance with the national and international standards, together with the traditional patriarchal views on gender roles and conservative attitudes towards women’s sexuality as underlying causes of discrimination, all represent the main obstacles to fully achieving equal access to health care and sexual and reproductive rights for all in Western Balkan countries.


394 Ibid
In Albania, there is a set of laws and sublegal acts which regulate this area. All laws have included the principle of the equal treatment and without discrimination. According to the “Shadow” Report on the Healthcare Field—Case of Albania 2016, prepared and submitted by 13 different organizations, “the Albanian legislation is complete and provides special support and health services, specific to women, mothers and children.” Most recently, improvements have also been made to legal framework for peri-natal health care, through adoption of new guidelines and protocols in relation to care of mothers and newborn children. However, according to NGO reports, there is still room for improvement, especially when it comes to areas such as: screening and preventative examinations in early pregnancies, gender-based violence and domestic violence in particular, mental health screening, screening of women for reproduction system tumors and cancer, etc. There are still many challenges when it comes to implementation. Due to weak infrastructure and lack of capacities, the most significant gaps remain in the area of adequate health services provision, particularly affecting the access to adequate and timely services for rural women, as well as women from other vulnerable groups, such as Roma women, elderly, women with disabilities. One of the main problems identified by the local NGOs working in the area of SRHR is the lack of adequate provision of some services for sexual and reproductive health, especially specialized services and services targeting specific particularly vulnerable groups, noting that even if they do exist and are offered by the state free of charge, they are often not available in all areas of the country and don’t have enough capacities to cover the demand. In its latest report on Albania, the CEDAW Committee “notes with concern that women living in rural and remote areas and Roma and Egyptian women continue to have limited access to primary health care and sexual and reproductive health services, and are often unaware about the availability of such services.” Also, lack of awareness among the general population on their rights when it comes to sexual and reproductive health, availability of the health care and the importance of preventive and regular screenings related to sexual and reproductive health is one of the problems. Another area of concern noted in the country report is a low budget allocated for the health sector (2.6 per cent of gross domestic product). In addition to this, according to independent reports, LBTI women face discrimination every day, including the area of sexual and reproductive health.

When it comes to Bosnia and Herzegovina (BiH), it is important to note that its specific and somewhat complex structure and administration very much influences the consistency of policies and laws, as well as its practical implementation. In the recent Report of civil society organizations on implementation of the concluding observations and recommendations of CEDAW committee for Bosnia and Herzegovina 2013-2017, relevant CSOs have identified the main problems of health care in the BiH as: “inconsistent

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402 Ibid.
policies, limited access to health services and the use of health insurance, and the fact that no institution faces any sanctions if it does not implement the measures prescribed by law or if it adopts by-laws that are inconsistent with applicable law.404

On the state level, the BiH Constitution, the Resolution on Politics of Health for all Citizens of Bosnia and Herzegovina405 and the Gender Equality Law406 have set the standards and guidelines for ensuring equality in the healthcare system, adequate health protection of all citizens and improving the standard and quality of life.407 In particular, the Gender Equality Law states that everyone has equal right to health care and access to health care services, including those relating to family planning, regardless of gender, that health care institutions shall undertake all necessary steps to prevent discrimination on the grounds of gender in the enjoyment of all forms of health care and that the relevant authorities shall undertake all necessary steps to protect and advance the reproductive health of women (art. 18).408

As the central government’s powers are limited, the area of health in BiH is under the jurisdiction of entities and cantons. There are three laws on health insurance and three laws on health care, one for each federal unit. All the existing regulations, strategies and policies, to a larger or lesser extent, emphasize the need to pay special attention to the improvement of health services and rights in the field of health, respecting the principle of non-discrimination and gender equality. However, the inconsistencies and differences between them lead to unequal access to healthcare between women from different parts of the country, particularly affecting women from different marginalized groups. For example, article 19, paragraph 12 of the Law on Health Insurance FBiH409 and article 20 of the Law on mediation in employment and Social security of unemployed persons in Federation of Bosnia and Herzegovina (FBiH)410 impose a deadline for registering to the employment bureau upon terminating the education or job loss, which, according to the reports and analysis, mostly affect rural women and leads to an unequal distribution of health insured population between entities411. Similar example can be found in amendments to the Law on Social Protection in Tuzla canton, which effectively denies the right to compulsory health insurance for children who do not attend primary school, which has in practice mostly affected Roma children, and predominantly girls.412 Both above mentioned discriminatory articles are not included in the legislation at the level of Republika Srpska which leads to significant difference in access to health insurance coverage between the two entities.

NGOs repeatedly warn that such a decentralized health care system, without harmonized laws and policies, leads to unequal access to health care and services in practice.413 Policies do not fully cover the needs and potential problems of vulnerable and multiply discriminated groups of women such as

406 Zakon o ravnopravnosti spolova (2003 and 2009). Sluzbeni glasnik BiH, No. 16/03 and 102/09
407 Trkulja, A (2018), National research report on SRHR and LGBTI in Bosnia and Herzegovina, created under this project (Manuscript)
408 Ibid.
412 Ibid.
413 Ibid.
disabled women, LBT women, rural women, minorities, women victims of war, etc.414 According to the reports from local women’s organization, “the principles set forth are only declarative” and in practice women, from marginalized groups in particular, “are not ensured with equal and non-discriminatory approach to health in all parts of the country”.415 “Key problems identified include the inability to exercise the right to health care, lack of health services adapted to the needs of women, and insensitive approach of health workers who provide services for prevention and protection of health.”416

According to the latest report of the European Commission, Kosovo’s legal framework “broadly guarantees the protection of human and fundamental rights”417 in line with European standards, noting that there is still much to be done around improving gender equality and minority rights. Main reasons for inadequate implementation of existing laws and measures in this domain identified by the European Commission are: “inadequate financial and other resources, particularly at local level, limited political prioritization and lack of coordination.”418 Namely, Kosovo has adopted a set of legal documents that regulate the area of health care with the right to non-discrimination as established under the EU legal framework.419 The grounds for protection and improvement of health of the citizens of Kosovo is set in The Law on Health, that regulates provision of health services relying on several principles for providing healthcare, including the principle of ‘inclusiveness and non-discrimination’. Its Article 5 specifies principles of the implementation that are premised on equity in access, distribution of public health resources, inclusiveness and non-discrimination; quality, honesty and accountability, evidenced based interventions, sustainability, prevention, co-responsibility and solidarity. The law has included explicitly sexuality, sexual and reproductive health as rights for all.

Furthermore, the Law on Rights and Responsibilities of Kosovo Residents in the Health Care System guarantees health care that should be accessible “to all without discrimination (…) on the basis of their social position, political views, origin, nationality, religion, gender, sexual preferences, age, marital status, physical or mental disability, qualification or on any other grounds not related to their state of health.”420 The Law on Reproductive Health “regulates organization, functioning and the supervision of all activities in the field of reproductive health, health institutions, and it protects reproductive rights of individuals and couples, including also the right to be informed and to have the access to health services”.421 The Health Sector Strategy 2017-2021 aims to address the needs of vulnerable groups, related to planning the development of specific services for particularly vulnerable groups, such as persons with disabilities, women victims of domestic violence and human trafficking.422

Despite the above mentioned steps taken towards improving legal framework for health care provision in Kosovo, the implementation remains a serious problem. In practice, women in Kosovo still face many

414 Ibid.
415 Ibid.
416 Ibid.
418 Ibid.
geographical, physical, financial and socio-cultural barriers to equally accessing health care system and services. Lack of adequate information and knowledge on the availability of health care services, including those related to sexual and reproductive health is emphasized as one of the main identified obstacles to women’s access to existing services. Furthermore, it is important to note that the barriers identified affect vulnerable groups of women in particular and when it comes to facilitating their access to health care services, there is still much more to be done. For example, according to Krasniqi, although some efforts have been made and there were some steps taken in the direction of facilitating access to health care facilities for women with disabilities, such as building an elevator for free access to persons with disabilities in the premises of Main Family Medical Centre in Pristina, the physical access to health care facilities remains a problem in most of the country.

European Commission in its latest report notes that since Kosovo does not offer a universal health insurance coverage, citizens’ additional spending on health related services remains very high. It is safe to assume that this particularly influences health of multiple discriminated groups of women, rural women, elderly women, women from Roma and Ashkali communities, “stay at home moms”, etc., that are often unemployed and financially dependent on the husband or other members of the family. Another issue is that the public expenditure on health services in Kosovo is among the lowest in Europe. According to the latest Ombudsman report, the fact that the health sector is one of the least financed sectors in the country, “results not only in the non-provision of qualitative services but also on the deferral of the implementation of institutional and legal reforms”. Furthermore, the Ombudsman concludes that “the Law on Health Insurance was created in 2004, and adopted in 2007, but has not been implemented so far” which represents a serious obstacle to women’s equal access to health care.

According to the European Commission’s latest country report, Montenegro’s national legislation on health “is partly in line with the EU acquis”. Apart from The Constitution of Montenegro, National Strategy for Preserving and Improvement of Reproductive and Sexual Health 2013/2020 lists 20 laws and 10 strategic documents pertaining to sexual and reproductive health. Furthermore, the previous couple of years, Montenegro has adopted a new two-year Action plan on gender equality, as well as the new Criminal Code “which aligns legislation with the Istanbul Convention”.

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426 Krasniqi, V. (2018). National research report on SRHR and LGBTI in Kosovo, created under this project (Manuscript)
430 Ibid.
Care prescribes health care protection under equal conditions for all, without discrimination on any grounds.

Strategic documents regulating this area are: National Strategy for Preserving and Improvement of Reproductive and Sexual Health 2013/20, National HIV/AIDS Strategy 2015/20, National Program for Prevention of Mother-to-Child Transmission of HIV, National Program for early detection of breast cancer and National Program for Early Detection of Cervical Cancer. Vulnerable groups such as Roma and minor mothers/youth are explicitly mentioned in National Strategy for Preserving and Improvement of Reproductive and Sexual Health 2013/20, especially within Priorities and Activity sections. National Strategy for Preserving and Improvement of Reproductive and Sexual Health 2013/20 mentions Roma and Egyptian women. Roma women are also explicitly mentioned in National HIV/AIDS Strategy 2015/20, but just as one of the most vulnerable groups.

Similar to other countries in the region, lack of sufficient financial support to accompany legislative framework, paired with a highly patriarchal and conservative view on women’s role in the society and sexuality have led to poor implementation of non-discriminative frame in practice. In its latest country report on Montenegro, European Commission conclusion on health inequalities states that “access to healthcare services needs to be improved for people with disabilities, people living with HIV, children and adults who use drugs, prisoners, women in prostitution, LGBTI people, internally displaced persons and Roma.”

One example is that many women from Roma or Ahkali communities, or refugees, who don’t have identity documents cannot get a health card and therefore do not have access to regular health care besides emergency medical assistance. Also, lack of harmonization of different legal documents, strategies, measures and activities still poses a problem, which is evident in the example of adopting the Amendments to the Law on Social and Children Welfare (2015). The law introduced lifetime allowances only for mothers of three or more children that were either retired or have spent a certain number of years employed or registered at the Employment Bureau. These amendments were later deemed discriminatory and unconstitutional by the Constitutional Court.

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441 CEDAW (2017). Concluding observations on the second periodic report of Montenegro available at: [http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiC5gkjb7yhsqGTXO5cLJ20cwAvhyns%2fbykJiEjTvkpzpCWIaw%2fXo526Oqj9bMmh8b7AB9e9X7JxM8baOnhtoMqMn5d4nPgsyAEpscczowpypRPRimBaRD](http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiC5gkjb7yhsqGTXO5cLJ20cwAvhyns%2fbykJiEjTvkpzpCWIaw%2fXo526Oqj9bMmh8b7AB9e9X7JxM8baOnhtoMqMn5d4nPgsyAEpscczowpypRPRimBaRD)

The cancelation of the allowances has left 22,051 women without allowances, which led to series of so-called “protests of mothers” that have given up their pensions or their job since that was a condition for getting the lifetime allowance from the state.\(^{444}\) After abolishment of the Amendments to the Law on Social and Children Welfare from 2015 by the Constitutional Court in 2017, the Law on the Execution of the Decision of the Constitutional Court of Montenegro\(^{445}\) provided allowances for users who have terminated their indefinite duration employment contracts (2066 users) and the Law on Amendments to the Law on the Execution of the Decision of the Constitutional Court of Montenegro which extended this right for users who have terminated their fixed-term contracts (600 users).\(^{446}\) The rest of the users (over 19,000 users) were directed to register at the Employment Bureau.\(^{447}\) The protests that have begun in December 2016 with first announcements of allowances reduction are still ongoing.

Since the beginning of the EU accession process, Serbia has taken many steps towards harmonizing its legal framework with the European standards when it comes to women’s rights and gender equality, including those related to sexual and reproductive health. The country has a quite comprehensive legal framework in place when it comes to safeguarding and improving sexual and reproductive health and rights and this issue has been taken into consideration in many legal documents at the national and local level, such as: The Law on Biomedical Assisted Fertilization\(^{448}\), Law on the procedures for the termination of pregnancy in health institutions\(^{449}\), Law on the Exercise of the Right to Health Care for Children, Pregnant Women and New Mothers\(^{450}\), Law on Health Care,\(^{451}\) Law on Health Insurance\(^{452}\).

According to the United Nations Country Team in Serbia, with the recent adoption of the National Program for Safeguarding and Improving Sexual and Reproductive Health of the Citizens of the Republic of Serbia, Serbia “becomes one of the few countries that fully aligned national priorities in the area of sexual and reproductive health with the Global Strategy for Women’s, Children’s and Adolescents’ Health (2016-2030) and the WHO Action Plan for Sexual and Reproductive Health: Towards achieving the 2030 Agenda for Sustainable Development in Europe – leaving no one behind.”\(^{453}\) The new Strategy for Gender Equality 2016 – 2020\(^{454}\) defines improved health of women


\(^{446}\) Petričević, P. (2018), National research report on SRHR and LGBTI in Montenegro, created under this project (Manuscript)

\(^{447}\) Ibid.

\(^{448}\) Zakon o biomedicinski potpomognutoj oplodnji (2017). “Sl. glasnik RS”, br. 40/2017 i 113/2017 - dr. zakon, available at:https://www.paragraf.rs/propisi/zakon_o_bimedikinski_potpomognutoj_oplodoniji.html


\(^{454}\) Nacionalna strategija za rodnu ravnopravnost za period od 2016-2020 (2016), Sl. Glasnik RS br 4/2016, available at:
and access to health care services as one of the specific objectives within the main objective of equal opportunities. Specific set of measures is envisaged for the improvement of the access and quality of health care for women living in rural areas.

However, despite the existence of somewhat solid legal and policy framework for protecting and improving women's sexual and reproductive health and rights, the uneven or inadequate implementation, due to lack of dedicated financial and other resources for implementation paired with the reinforced conservative tendencies in the society, strongly supported by the influential Orthodox church, remains a problem. This is particularly affecting women from vulnerable groups, such as Roma women, women with disabilities, women from rural areas of the country, LBT women, etc. access to adequate health care services. For example, NGO LABRIS-Lesbian Human Rights Organization reports that there are many cases of healthcare professionals lacking awareness or sensitivity in working with non-heterosexual women, which leads to LBT women often not being provided with equal access to full, professional, non-biased medical care. When it comes to women with disabilities, many facilities are still lacking wheelchair access or elevators and adequate technical equipment, such as hydraulic gynecology chairs, for example, are still lacking in most facilities.

Particularly vulnerable is the position of women who do not have residence registration in Serbia, which is obligatory for obtaining health insurance. This in practice particularly affects Roma women. The Serbian Law on Health Insurance allows an exception (though in a very problematic way that supports stereotypes) for Roma persons who do not have a residence registered, to obtain health insurance by providing a witness statement. However, in practice, this was allowed only for a very short period of time (from July 2010 to March 2012) and in it reported that after that, in realty, Roma people are not granted access to health insurance on the basis of the statement. Furthermore, although the law requires that the delivery is treated as an emergency in which case the medical services should be paid from the state budget, NGO Praxis report cases of Roma women being “threatened that they would not be allowed to take the new-born from the maternity ward until all hospital bills were paid.”

In recent years, The Former Yugoslav Republic of Macedonia (FYROM) has made a significant effort in improving the general legal framework for protecting and improving women’s rights, including sexual and reproductive health and rights. The Law on health protection regulates the right to health protection as universal right accessible to all. It does not specifically mention vulnerable groups but it does regulate nondiscrimination with regard to race, gender, age, nationality, social background, religious belief, political or other convictions, property status, culture, language, type of disease, mental

or physical disability. According to the latest Ministry of Labor and Social Policy of the FYROM’s presentation of the sixth periodic CEDAW report, new amendments to the Law for Equal Opportunities for Women and Men are planned for 2019. Among other things, the Law on Equal Opportunities for Women and Men explicitly prohibits discrimination on grounds of gender in different areas, including the area of health care provision and health insurance. Law on Prevention and Protection against Discrimination is expected to be adopted by the end of 2018 and it will provide a legal interpretation of the concept of intersectional discrimination as separate form of discrimination, thus providing a wider ground for fighting against discrimination of particularly vulnerable groups of women. Also, the proposed new text of the law recognizes sexual orientation and gender identity as bases for discrimination. The Law on Gender Based Violence is also announced for adoption in 2019.

However, despite recently putting several acts into the procedure for adoption, as well as announcing the adoption of more relevant policy and strategic documents, there is still much to be done in the area of legislation in order to improve equal access to health care and health care services for all women. As is the case in other Western Balkan countries, in FYROM as well implementation remains a problem. According to the NGOs reports, The Strategy for Gender Equality (2013-2020), National Action Plan (2013-2016) and yearly Operational Plans “were only partially implemented”, due to inadequate budgetary allocations for the implementation and the lack of human capacities. The State also failed to secure effective implementation of the Law on Equal Opportunities of Women and Men. An effective implementation of the preventive Healthcare Program for Mothers and Children is also missing.

Access to primary reproductive care shows a very worrisome trend, with rural areas and areas with predominantly Romani populations remain at most risk in terms of lack of provision of reproductive care and health care in general. Independent NGOs; reports recognize lack of human capacities among the medical staff (the number of existing gynecologists covers only around 50% of the country’s demand) and their unequal distribution across the country as the main reasons for the state’s failure to provide adequate services to all women, and particularly vulnerable groups of women, such as women

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living in poverty, those from rural areas, Roma women, etc.\textsuperscript{468} In addition, Roma women’s access to health care is further blocked by cultural barriers and discriminatory attitudes of the health care providers across the system.\textsuperscript{469} The illegal practice of charging for health services from pregnant women in the primary healthcare practices is also widespread and documented.\textsuperscript{470} As reported by Risteska,\textsuperscript{471} health institutions including those providing services related to sexual and reproductive health, are still physically not accessible for people with disabilities, although the Ministry of health has the obligation to determine if the licensed institutions have met the conditions set by the national Law on health.

In 2013 and 2014, legal changes were introduced that according to relevant CSOs delay women’s access to services and undermine women’s right to freely decide upon childbirth.\textsuperscript{472} Namely, the Macedonian law prescribes mandatory 3 day waiting period before terminating the pregnancy, as well as mandatory “biased counseling and a mandatory ultrasound prior to abortion”.\textsuperscript{473} Furthermore, the Government has financed a series of public advertisement broadcasted on the state television with problematic content, stigmatizing women who choose abortion and depicting abortion as murder.\textsuperscript{474} The problematic advertisements were removed, but it had the effects on enhancing existing stereotypes and traditional views on women’s role in the society.

3.2.2 SRHR in Formal Education System

Overall, sexual and reproductive education (SRE) is not systematically developed and included in the public schools’ curricula as a comprehensive and mandatory program in most of the Western Balkan countries. Albania is the only country in the region that has an obligatory and comprehensive sexual education program developed and successfully implemented in public schools. In some countries, there is an optional subject that, among other topics, dedicates a certain number of classes to sexuality and sexual and reproductive health, but its outreach is often limited and sporadic. Some sexuality and reproductive health related topics are integrated into other courses to a certain extent, with a very limited number of classes dedicated to it. In most of the region, there is a strong opposition to sexual education, mainly coming from conservative political parties, church authorities, but also teachers and other educational staff and parents. It is an assessment of most of the country experts that the rights of LGBTI people are not included in formal education in a systematic and non-discriminatory way.\textsuperscript{475} Teachers are not trained on human and minority rights or issues related to sexual orientation and gender identity (SOGI) and even in those countries that have sexual education in some form, the teaching is based on a hetero-normative framework and approach. This can lead to an unsafe educational environment for young LGBTI people and enforce prejudice and stereotypes among youth, perpetuating existing discriminatory and intolerant socio-cultural patterns.

\textsuperscript{469}Ibid.
\textsuperscript{470}Roma Women’s Initiative, et al., Op. Cit
\textsuperscript{471}Risteska, M. (2018). National research report on SRHR and LGBTI in Macedonia, created under this project (Manuscript)
\textsuperscript{472}H.E.R.A and Center for Reproductive Rights (2017), Documenting the human rights impact of retrogressive legislative and policy barriers on women’s access to abortion in Macedonia: Key findings and recommendations, available at https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/MKD/INT_CEDAW_NGO_MKD_30062_E.pdf
\textsuperscript{473}Ibid.
\textsuperscript{474}Reactor, Op. Cit.
In Albania, the process of introducing and developing sexual education was initiated by the UNFPA and the Ministry of Education in 2005, with many NGOs playing an important role in the process, mostly in advocacy and curriculum design. In 2012, the Ministry of Health adopted a document regulating this area, called “Approval of the Positioning Paper on Comprehensive Sexuality Education for Young People in Albania”. Comprehensive Sexuality Education (CSE) is now compulsory and part of the curriculum in schools as ‘Life Skills and Sexuality Education.’ It consists of a number of modules included in the curricula of three relevant subjects, obligatory for all pupils: biology, health education and physical education. The entire program covers the total of 140 hours of lectures. The process of developing the curriculum was somewhat participative, with teachers and other educational professionals and experts involved. The program is currently being implemented in public schools and delivered by teachers who have undergone a training for delivering sexual education. According to a recent report, “the topics of biological aspects and body awareness, pregnancy and birth, Contraception (including at least three effective methods), HIV/AIDS, STIs, love, marriage, partnership, sexual orientation, gender roles, online media and sexuality, access to safe abortion in the framework of the national law, mutual consent to sexual activity, human rights and sexuality are dealt extensively” and “the topics of the sexual pleasure, sexual abuse/violence and domestic violence are dealt briefly”.

As reported by Trkulja, in Bosnia and Herzegovina, “topics related to sexual and reproductive health are not mandatory part of the educational system, relevant entity laws do not contain provisions on SRE” and there is strong opposition to introduction of sexuality education. Education on sexual and reproductive health remains elective, limited to occasional training for a limited number of students and carried out mostly by non-governmental organizations. In 2013, a new subject called Healthy Lifestyle was introduced in primary schools as an optional/elective course, with an integrated chapter on sexuality. In the next school year, the subject is expected to be introduced also in schools in Podrinje Canton. There has been strong opposition to introduction of sexuality education, especially from religious authorities and even from within the Ministry of Education.

Apart from this initiative, sexual and reproductive health related topics are, to a certain extent, integrated through biology classes. Also, sociology of non-vocational high schools has one lesson on “Sexuality and Society” that introduces the concept of gender and gender roles. Analysis of textbooks used in Canton of Sarajevo’s high schools from 2016 shows that only few lessons present the topics related to sexual orientation and LGBTI issues, and even the ones that do, in many cases do it in a discriminatory manner.

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477 Ibid.
479 Ketting, E., and Ivanova, O., Op. Cit
480 Ibid.
481 Ibid.
482 Ibid.
484 Ketting, E., and Ivanova, O., Op. Cit
487 Ketting, E., and Ivanova, O., Op. Cit
There is no comprehensive obligatory sexual and reproductive education program in Kosovo. Although the Law on gender equality prescribes gender equality education in school curricula at all levels, according to the country expert, no initiatives have taken place to implement this legal provision in practice. Instead, the topic of gender and sexuality is to a certain extent integrated in biology, psychology, sociology, and civic education in primary and upper secondary education. A recent analysis of school textbooks in these subjects has identified existence of discrimination on many grounds, including gender, sexual orientation, ethnicity, disability, economic and social status. Non-heterosexual identities are represented explicitly as a deviation on several places in textbooks and often hate speech and language of violence is being used. For example, psychology textbook for 11th grade states that “Homosexuality is a disorder, criminal behavior [...] deviates from normal behavior...”, “[...] the two brains are wired differently: male brain to do and female brains to talk.”

According to the country expert, the content of high school text books has sparked a wide debate in the Kosovo civil society and media. Youth Initiative for Human Rights has been at the forefront of the public critique of the text books and has been committed to advocating for topics around sexuality and human rights and gender equality perspective to be more integrated in the school curriculum. Some independent media such as Koha Ditore, Prishtina Insight, Kallxo, have joined the activist’s demands for revision of the text books and inclusion of gender and sexuality content.

In Montenegro, there is still no specific national law or policy concerning sexuality education. However, the government has declared itself “committed to providing universal access to comprehensive sexual and reproductive health education” through a cross-curriculum approach. This approach is being justified by using the argument that the pupils should not be additionally burdened with extra courses and additional classes. Sexual education in primary school is integrated into two mandatory subjects (biology and civic education) and into “Healthy Lifestyles” class as an optional subject in 8th or 9th grade with 8 classes dedicated exclusively to the topic of “Reproductive health with sexual education and prevention of STD”. At the secondary education level, sexual education is integrated into biology and psychology as mandatory subjects, and healthy lifestyles, civic education and media literacy as optional subjects in gymnasiums. As part of the curricula for healthy lifestyles, 10 classes is dedicated to sexual and reproductive health and 6 classes to HIV/AIDS. The government also reports that “sexual education is now disseminated to preschool institutions” through implementation of a program for the preschool teachers which, among other things, also covers topics of understanding gender sensitive practices.

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492 Ibid.
494 See http://yihr-ks.org/en/
497 Ibid.
498 Available at: http://www.zzs.gov.me/ResourceManager/FileDownload.aspx?rid=85416&rType=2
According to the country expert, the way in which topics are presented doesn’t reinforce stereotypes or prejudices. However, since the course of Healthy Lifestyles is not obligatory, its reach remains very limited: only 37 percent of primary school students and 17 percent of gymnasium students choose healthy lifestyles subject and therefore NGOs urge to make this subject mandatory in all schools in Montenegro.

In Serbia there is still no specific national law or policy concerning sexuality education and no obligatory SRE school classes. The province of Vojvodina had a pilot program of extracurricular subject on SRE conducted in 66 high schools and 20 elementary schools for three years, in the period from 2012-2015. However, in 2015 the support to the program was discontinued by the authorities. Some elements of SRE are integrated into the biology classes curriculum, strictly approached from a narrow biological and anatomical perspective.

Although the Action Plan for the Implementation of the National Strategy for Gender Equality has foreseen that the topics related to gender roles, sexual and reproductive health, sexual education, should be part of the formal education in Serbia, and there have been attempts to implement it, it has not been done yet, due to a very strong opposition. Namely, in 2017, the Ministry of Education, Science and Technological Development revoked the educational program on sexual education developed in cooperation with a team of experts from a local NGO Incest Trauma Center, due to strong public disapproval and opposition. Some right-wing political parties, supported by the Orthodox Church, together with school staff and parents groups had led the campaign against the program of sexual education, with the main part of the public discourse against the SRE using very problematic, discriminatory, homophobic arguments. For example, one of the most prominent and influential Serbian psychologist gave a statement saying that part of the planned text book dedicated to same-sex relations that promotes acceptance and tolerance is a “homosexuality propaganda” and his statement was published in a prominent daily paper.

Although there is no law mandating obligatory comprehensive sexuality education in Former Yugoslav Republic of Macedonia, there were three national strategies adopted in recent years (National Strategy for Youth, National Strategy for HIV and the National Strategy for Sexual and Reproductive Health) that indicate that comprehensive sexuality education as a crucial and much needed intervention. In addition, the Parliamentary Commission on Equal Opportunities for Women and Men during two public hearings has recommended to the Ministry of Education a sexuality education pilot program that was never translated into action.
To this day, there is still no comprehensive sexual education subject as part of the school curriculum, either as a compulsory or an optional subject. The topics related to sexuality are integrated into some other subjects, such as biology, sociology and the course called “Life Skills”. The syllabus for the “Life Skills” subject does cover some components of sexuality education in primary schools. However, the implementation faces many challenges since it is up to the teachers to choose the topics which leads to poor results. For example, only 3% of the students stated that they heard about oral contraception and 12.4% about correct use of condoms during Life Skills classes. In addition, outside the formal educational system, some NGOs provide comprehensive SRE in informal settings. The Health Education and Research Association (HERA) has developed a curriculum and organizes workshops on SRH issues. Sexual and reproductive rights education is also provided through the Y-peer network that is working with youth peer educators on topics related to, among other things, sexual and reproductive health.

3.2.3 Social Norms and Expectations Related to Family and Reproduction

The 2017 report for the United Kingdom’s Department for International Development characterizes Western Balkan as “a region dominated by patriarchal gender norms” in which “traditional gender roles and attitudes towards women’s sexuality prevail.” It is a region in which conservative views on family and gender roles still very much prevail and shape the public discourse around gender equality and issues of sexuality and reproduction in particular. All the country experts have assessed that women are still predominantly seen as mothers and caretakers in their societies, with traditional nuclear heterosexual family models still perceived not only as a norm, but as the only acceptable family model, while it is still not socially acceptable for a woman to choose not to have children, or not to get married for a family. Although in some countries, such as Albania, researchers have noted some progress in this area, especially among younger population and those living in urban areas, in others many worrying trends can be notes when it comes to public discourse around gender norms and women’s role in the society.

In Montenegro, for example, traditionalism and conservative attitude towards gender roles still very much shape women’s lives and roles in the family. According to a study from 2016, 89% of Montenegrins thinks that father should be the greatest authority in the family and that tradition should not be questioned. Family duties, care of children and other members of the family, as well as duties around the household are mainly seen as women’s responsibility. Out of the total number of Montenegrin citizens that claim never to do any house chores, 96% are men. The deeply rooted traditional views on gender roles to a large extent influence women’s sexual and reproductive rights and access to equal health care. Due to taking care of the household and children all by themselves, many women do not have the time for regular checkups, especially if they live in rural areas where

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514 Ibid.
517 Ipsos Strategic Marketing for NGO European Movement in Montenegro (2013), Research: Socio-economic position of women in Montenegro
healthcare facilities are remote, or if the procedure to getting to the doctor takes too much time and waiting. Also, the traditionally privileged position of men in Montenegrin families, as the main inheritors and the ones who carry on the family name, has led to a worrying trend of increased pressure on women to give birth to male children and consequently, an increased incidence of sex selective abortions.518

Another worrying trend when it comes to social norms around family and reproduction can be highlighted coming from Serbia. Namely, recently, very worrying tendency was noted in the official state discourse around family and reproduction in relation to the state’s population policy. Serbia has a Population Policy Council established in 2016 and a Minister of demography and population policy. From 2018, the new Strategy for Birth Enhancement519 is on power. From last year, a very aggressive public campaign targeting women has been publicly led, aimed at boosting Serbia’s low birthrate. The public media has announced that the leader of the Serbian Orthodox Church, Patriarch Irinej, met with President Aleksandar Vucic in October 2017 to discuss their concerns about the country’s “very low birthrate”,520 which has legitimized the church as an important actor in the matters of sexuality and reproduction in the Serbian society. The Serbian Orthodox Church is well known for its conservative views on women’s rights and has been very active in anti-abortion campaigns, arguing that it should be made illegal and accusing Serbian women of being “mass murderers”, “killing more children in their wombs in one year than Mussolini, Hitler,” Josip Broz Tito, and Kosovar Albanians together.521

Furthermore, the Serbian president made a statement in which he made a plea to women to “understand Serbia’s needs and have more children”522 and as part of the promotion of the state’s current population policy, the Ministry of Culture and Information has funded slogans that put additional pressure on women and further promote and enhance traditional views on women’s role in the society as the only ones responsible for population growth, such as: “Give birth, don’t delay”, “Enough words! Let babies’ cries be heard”. The fact that the Serbian state’s plead for a higher birthrate is purely populistic and discriminatory in its core, aiming only at “heterosexual women of Serb ethnicity”523 is all the more obvious when given the fact that the state still has not addressed many discriminatory provisions that affect Roma population access to equal reproductive rights, or related to LGBTI persons’ family life and access to marriage, adoption and assisted reproduction.

### 3.2.4 Family Planning

According to the United Nations Population Fund (UNFPA), “access to safe, voluntary family planning is a human right. Family planning is central to gender equality and women’s empowerment, and it is a key factor in reducing poverty.”524 Family planning is a broad concept that can encompass series of measures and actions to enable people to make informed decisions about reproduction, as well as to

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521 Ibid.


523 Ibid.

524 See UNFPA web site at: [https://www.unfpa.org/family-planning](https://www.unfpa.org/family-planning)
allow them to “attain their desired number of children and determine the spacing of pregnancies”\textsuperscript{525}. It is important to emphasize that “family planning/contraception reduces the need for abortion, especially unsafe abortion.”\textsuperscript{526} Today, this is mainly achieved through contraception and the assisted reproduction/treatment for infertility.

The adolescent birth rate is defined as “the number of births to women aged 15-19 years during the one-year period preceding the survey, divided by the average number of women aged 15-19 (number of women-years lived between ages 15 through 19, inclusive) during the same period, expressed per 1000 women”\textsuperscript{527}. The total fertility rate (TFR) “denotes the average number of children to which a woman will have given birth by the end of her reproductive years (by age 50) if current fertility rates prevailed”.\textsuperscript{528} The data shows that, with the exception of Kosovo, all Western Balkan countries have a total fertility rate index lower than the replacement rate, which basically indicates that, by this rate, the population is not capable of replacing itself.

<table>
<thead>
<tr>
<th>Table 7 : Fertility rate</th>
<th>Adolescent Fertility Rate</th>
<th>Total Fertility Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>16.1</td>
<td>1.48</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>N/A</td>
<td>1.3</td>
</tr>
<tr>
<td>Kosovo</td>
<td>15</td>
<td>2.3</td>
</tr>
<tr>
<td>Montenegro</td>
<td>12</td>
<td>1.6</td>
</tr>
<tr>
<td>Serbia</td>
<td>22</td>
<td>1.6</td>
</tr>
<tr>
<td>Former Yugoslav Republic of Macedonia</td>
<td>17</td>
<td>1.5</td>
</tr>
</tbody>
</table>

Sources: \textsuperscript{529}

The World Bank data shows records of progressive increase of overall contraception prevalence in some of the Western Balkan countries, such as Macedonia where the rates have raised from 13.5% in


\textsuperscript{526} Ibid.


\textsuperscript{528} Ibid.

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2005, to 40.2% in 2011\textsuperscript{530} and Albania: from 58% in year 2000\textsuperscript{531} to 69% in 2014\textsuperscript{532}. The opposite is noticeable when it comes to Bosnia and Herzegovina, where the overall contraception rates have dropped from 47.5% in year 2000\textsuperscript{533} to 46% in 2011\textsuperscript{534}; Montenegro, where overall contraception prevalence measured in 2006. was 39.4% and in 2013. it is 23.3%; and Serbia where the use of contraception has dropped from 60.8% in 2010, to 58.4% in 2014\textsuperscript{535}

Furthermore, although it is the assessment of all the country researchers that it has become more socially acceptable for men and women to buy contraception,\textsuperscript{536} the data shows that traditional means of birth control are still largely predominant in the Western Balkan societies. (Chart 1, Chart 2)The only exception is Montenegro, that has a higher prevalence of modern methods of contraception (15.4%), but the prevalence of modern methods of contraception does not exceed 20% in any of the Western Balkan countries which can be considered extremely low. The overall lowest total contraception prevalence (any method) among the Western Balkan countries is noted in Montenegro (23.3%).\textsuperscript{537} The highest overall contraception prevalence was registered in Albania, which can be assumed to be due to the correlation between the use of contraception and the introduction of sexual education as obligatory subject in schools, as well as the fact that “free of charge contraceptives are available in 426 public sector family planning clinics”.\textsuperscript{538}

\textsuperscript{531} Ibid.
\textsuperscript{534} The Agency for Statistics of Bosnia and Herzegovina et al., Op. Cit.
\textsuperscript{535} The World Bank, World Development Indicators (2018b), Op. Cit.
\textsuperscript{537} Statistical Office of Montenegro (MONSTAT), Op. Cit.
When it comes to assisted reproduction, all the Western Balkan countries have laws and legislation in place that regulate at least some aspects of this area. However, most of the treatments remain largely out of reach for most of the population, either due to the geographical, or socio-economic factors (fact that the clinics offering the service don’t have enough capacities to satisfy the demand, or are
 centralized and only available in major cities, the fact that the treatment is not accessible to single women, unmarried couples, or that the procedure is not available free of charge, etc).

**3.2.5. Voluntary Termination of Pregnancy**

Abortion upon request is still legal in all the Western Balkan countries, with the abortion laws being broadly liberal, that is, allowing voluntary termination of pregnancy without restrictions in terms of reasons and justifications. The existing limitations refer only to the time of pregnancy until which the abortion is permitted and it ranges from 10 weeks (in Bosnia and Herzegovina, Kosovo, Montenegro, Serbia and FYROM) to 12 weeks in Albania. Also, if the woman is under 16 years of age, the standard procedure in all countries require parents’ or guardian approval.

Comparable data on abortion is not fully available for the region: neither the abortion rates, nor the lifetime abortion rates data is available for all the countries. The Abortion Worldwide Report states that the abortion data in the Western Balkan countries in the territory of ex-Yugoslavia “is inconsistent in terms of geographic coverage, time coverage, and whether miscarriages are included or excluded”.

Also, the data that is available is not always fully reliable for all the countries since abortion procedures still often remain underreported, especially by the private clinics, and often there is no systematic data collected. Also, because of the lower price of the same procedure in some of the Western Balkan states in comparison to the other neighboring countries, there are cases of women from one country traveling to get the procedure in another, which can also affect the statistics. One of such examples reported is the case of women from Serbia and Croatia traveling to Bosnia and Herzegovina to have an abortion since the price is much lower there.

Despite opposition to abortion rights existing in some form in all Western Balkan countries, the existing laws remain liberal. However, the country experts have noted some recent initiatives that might be interpreted as attempts to restrict women’s right to abortion in some countries or can indicate a potential shift in public discourse regarding this matter. These developments need to be closely and continuously monitored in the future, especially in the general wider context of the rise of the right wing tendencies in Europe and retraditionalization.

As reported by Petricevic, in Montenegro, the most recent initiative to restrict right to abortion comes from newly established party Prava Crna Gora (True Montenegro). This neoconservative party, founded at the beginning of 2018, advocates for strengthening relations with Russia and Serbia and is very close to Serbian Orthodox Church with whom it shares basic principles and values, and consequently Church’s stance on woman’s right on abortion, rights of LGBTI people, etc. In Macedonia, prominent doctors and NGOs that work on issues of sexual and reproductive rights have criticized the last changes of the law which introduced the obligatory medical counseling provided before the abortion procedure. In Serbia, similar initiative was announced by the Demography Minister, Slavica Djukic Dejanovic in 2017, when she announced that there is an idea of introducing mandatory pre-abortion counseling for women, in which, among others, she would have to talk to “priests and

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different experts who could help”. Pantović, M. (2016). “Serbia Activists Suspect Plan to Curb Abortion”, Balkan Insight, 23 December 2016, available at http://www.balkaninsight.com/en/article/minister-denied-plans-for-creating-anti-abortion-council-12-23-2016. This statement can be perceived to only reflect the strong influence that Serbian Orthodox Church has (or aspire to have) in matters of sexual and reproductive health. At the same time, Serbian right-wing groups have on several occasions organized public protests asking for abortion ban in the country.

3.3 LGBTI

Although all the Western Balkan countries score lower (Macedonia: 14%; Serbia 30%; Albania: 33%, Kosovo: 33%) or at the same level (Montenegro: 38%) as the European average (38% at the continent level, 48% at the level of EU) on the 2018 ILGA Rainbow Index, ILGA Europe latest Annual Review shows that Western Balkan countries have achieved significant progress when it comes to protection of LGBTI rights at the legislation and policy level. Most of the Western Balkan countries have, relying mostly on EU recommendations, improved their legal framework when it comes to LGBTI, including sexual orientation and gender identity in their anti-discrimination laws and policies. Same sex sexual activity is decriminalized and the age of consent is the same for same sex and different sex sexual activity in all the Western Balkan countries. All the countries have legislation in place that prohibits discrimination on the basis of sexual orientation when it comes to majority of areas such as employment, education, health or goods and services.

However, the implementation of the existing laws and standards remains far from satisfactory. The recent reports on LGBTI rights in the region confirm that “generally, most LGBTI people hide their identities for fear of discrimination or worse and have legitimate concerns about their safety, especially in public spaces, but also in their own homes.” In practice, reports show that LGBTI persons in the Western Balkan still face a lot of discrimination even in the areas in which anti-discrimination is regulated by the law, such as employment, health care or education. For example, although all the Western Balkan countries prohibit discrimination in employment on the basis of sexual orientation, the research shows that this is still the area in which LGBTI persons in the Western Balkan perceive being most discriminated. In Serbia, for example, latest research done by Labris – Lesbian Human rights organization reports that the majority of LBGTI persons in Serbia have to conceal their sexual orientation and/or gender identity in work environment. From the total numbers of persons that participated in the research, 45.2% reported having problems, not being “out” or being fired because of their sexual orientation and/or gender identity. According to the 2017 UNDP report, in Bosnia and Herzegovina, the vast majority of LGBTI people, if they have a job at all, have to hide their sexual orientation and/or gender identity with their colleagues and employer and do not feel free to speak about their private life when socializing with their co-workers. According to the country experts, in 2017, Alliance LGBT reported 43 cases of discrimination in workplaces in Albania, which included

548 Šenk, M. (In print) “Samo nek je šareno” - istraživanje potreba LGBT zajednice u Srbiji, Beograd: LABRIS.
550 UNDP (2017), Being LGBTI in Eastern Europe: Bosnia and Herzegovina national report
cases of LGBTI persons being fired because their employer has found out about their sexual orientation. The situation is similar in Kosovo\textsuperscript{552} and Montenegro\textsuperscript{553} as well, as both report LGBTI persons facing discrimination in workplace, as well as in all other areas of life.

The lack of full and adequate implementation of existing laws and standards when it comes to LGBTI persons’ rights in Western Balkans can be to a certain extent explained by the prevailing traditional views on sexuality that raise strong stigma and prejudice around any non-traditional sexual orientation and/or gender identities or expressions, on the one hand, and the lack of awareness and knowledge on LGBTI rights and existing legislation in each of the countries. This can be illustrated by the example of Serbian law that recognizes hate crimes, but since the category of hate crime was introduced as an aggravating circumstance, it was only once used in court practice—there is only court verdicts that have called upon this article of the Criminal Code, dating from November 2018.\textsuperscript{554} LGBTI persons are still very often target of violent physical attack that often remain unreported or unprocessed. The systematic official and segregated data collecting on hate crimes and hate speech is still not in place in most of the region and most often the only data available comes from the LGBTI organizations. A NDI research on attitudes toward LGBTI persons in the Western Balkan shows that there is still much lack of tolerance, knowledge and information among the general population in this area. For example, 42% of participants from Albania, 44% from Bosnia and Herzegovina, 41% from Kosovo, 58% from FYR Macedonia, 47% from Montenegro and 48% from Serbia have stated that they would try to “cure” their son/daughter if they would come out as gay\textsuperscript{555}. As the answer to the question: “If you discovered that your friend/acquaintance/colleague or neighbor is an LGBTI person, how would you react?”, 76% of participants from Albania, 54% participants from Bosnia and Herzegovina, 76% of participants from Kosovo, 64% of participants from FYR Macedonia, 60% of participants from Montenegro and 46% of participants from Serbia answered that they would either stop any communication with the person, try and cure them or use physical punishment.\textsuperscript{556}

Furthermore, despite some progress at the legislation and policy level, there is also still much more to be done in this area as well to improve the position of LGBTI persons. For example, FYR Macedonia is still the only country that does not include sexual orientation, gender identity or gender expression in its anti-discrimination law, nor does it offer legal protection to LGBTI persons against hate speech or hate crime,\textsuperscript{557} although the new anti-discrimination bill providing comprehensive protection on multiple grounds, is now drafted and expected to be adopted soon.\textsuperscript{558} Same sex partnerships are not legally recognized in any form in any of the Western Balkan countries. This means that same sex couples do not have the right to an inheritance from their partner, they are not granted visitation rights in the hospitals, health insurance through the partner, in short—none of the rights that heterosexual couples have. Also, since they are not in any way legally recognized, same sex couples are denied the right and access to adoption and assisted reproductive technologies that are accessible to heterosexual couples. Generally, there is strong resistance to the idea of same sex couples’ legal recognition in the Western Balkan. According to public opinion polls, 73% of the public in Western Balkan countries finds the idea of LGBTI marriage “completely unacceptable” and around 15% more finds it “mainly unacceptable”\textsuperscript{559}.

\textsuperscript{552}USAID (2016), Gender and Power Dynamics Assessment, available at: http://pdf.usaid.gov/pdf_docs/PA00MCRZ.pdf

\textsuperscript{553}Petričević, P., Op. Cit.

\textsuperscript{554}See more at YUCOM web site: http://www.yucom.org.rs/saopstenje-za-javnost-prva-presuda-za-zlocin-iz-mrznje/

\textsuperscript{555}NDI, Op. Cit.

\textsuperscript{556}Ibid.

\textsuperscript{557}World Bank Group, Op. Cit.

\textsuperscript{558}ILGA-Europe (2018a), Op. Cit.

\textsuperscript{559}NDI, Op. Cit.
When it comes to trans rights, according to the latest Trans Rights Europe Map from 2018, Kosovo, Macedonia and Albania are the only countries in Europe that do not have legal gender recognition policy\(^{560}\) and in Montenegro, the legal gender recognition is not clearly regulated\(^{561}\). In Macedonia, only three cases of trans people managing to change their gender markers have been registered.\(^ {562}\) Forced sterilization is required for legal gender recognition in Bosnia and Herzegovina, Montenegro and Serbia.\(^ {563}\) In Serbia, “humiliating and invasive procedures such as forensic exams or measurements of genitalia” are still reported.\(^ {564}\) In general, trans persons in the whole region are often targets of brutal attacks and face discrimination in accessing different services. Many of them are refused access to health care and have to be accompanied by organizations in order to be granted the service.\(^ {565}\)

When it comes to intersex rights in the Western Balkan countries, much of the data is still not available and relevant and reliable researches on this topic are lacking. The first report to provide data on intersex people lives in the Western Balkan region is the last years’ World Bank and Era Report *Life on the Margins: Survey Results of the Experiences of LGBTI People in Southeastern Europe*,\(^ {566}\) but not all Western Balkan countries are included in this report. However, the existing data shows that intersex persons in the Western Balkan are still relatively invisible, facing stigma and discrimination, especially when it comes to access to health care. All the Western Balkan countries require that the child at birth is registered as either male or female and/or have a unique citizens code that indicates sex at birth.

<table>
<thead>
<tr>
<th>Country</th>
<th>Same sex activity legal</th>
<th>Equal age of consent for same and different sex sexual acts</th>
<th>Anti-discrimination laws include SOGI</th>
<th>Legal recognition of gender identity/expression(^ {567})</th>
<th>Constitutional ban on same sex marriage</th>
<th>Legal recognition of same sex partnerships</th>
<th>Adoption allowed for same sex couples</th>
</tr>
</thead>
<tbody>
<tr>
<td>Albania</td>
<td>Yes, since 1995.</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
<tr>
<td>Bosnia and Herzegovina</td>
<td>Yes, since 1998 (FBIH),</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
<td>No</td>
<td>No</td>
<td>No</td>
</tr>
</tbody>
</table>


\(^{562}\) Ibid.

\(^{563}\) Ibid.

\(^{564}\) Ibid.

\(^{565}\) PINK Embassy, Alliance and Pro (2018), LGBT annual internal reporting, and Joint-report on the implementation of the LGBTI Action Plan in Albania, Ministry of Health and Social Protection


Since the implementation of the existing laws is lacking and there is a significant lack of awareness of LGBTI rights, both among the LGBTI community and the general public and professionals, the “role of the civil society to fill in the gap is crucial”. However, in the general context of backlash on human and minority rights in Europe and the shrinking space for civil society that also affect the Western Balkan region, there space of action for many LGBTI groups in the region remains limited. LGBTI activists or organizations in the Balkan often face treats, attacks or simple administrative or different types of obstacles to their work, such as, for example, multiple cancellations of the Niksic Pride walks.

However, when it comes to freedom of speech and assembly, after years of it being contested in most parts of the region, there are some positive examples noted in the recent years. In Albania, since the first Pride Parade was held in Tirana in May 2012, LGBTI public events were held quite successfully since then, with “very positive (…) protection and cooperation with the police”. LGBTI public events in last four years, in Serbia, were held without State obstruction and any major incidents. The fifth annual Montenegro Pride Parade was successfully organized by NGO Queer Montenegro in Podgorica, in 2017. The event took place with no incidents and significantly less police officers on the streets. In October 2017, the first successful Kosovo pride parade took place in Prishtina. In October 2018, the second Pride Parade followed, “backed by Kosovo’s president, Minister of European Integration, Mayor of Prishtina, and several Members of the Parliament, as well as ambassadors and civil society leaders”. In Macedonia, so far 7 LGBTI Pride Weekends have been successfully organized in Skopje. Although the importance of LGBTI practices of freedom of assembly is indisputable, it is important to note that the increased visibility and exposure of LGBTI communities in public, if not supported and followed by

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568 Ibid.
other measures to improve public discourse and attitudes towards LGBTI persons, does not necessarily correlate to raised tolerance and anti-discrimination.575

### 3.4 Recommendations

1. To improve the system of data collection and reporting on equal access to healthcare, as well as to assure independent and continual monitoring and evaluation of implementation of all sexual and reproductive health and rights programs and strategic documents;
2. To assure that the adopted strategic documents are always accompanied by an adequate budget for implementation;
3. To implement more effectively the existing policy framework for sexual and reproductive health that guarantees gender equality and protection against discrimination;
4. To develop and support activities and public campaigns aiming at increasing knowledge about sexual and reproductive health and rights, including available services; as well as those aiming at shifting gender roles, and discriminatory attitudes, stereotypes and prejudices regarding gender roles and sexual orientation that prevent everyone’s full equal access to equal sexual and reproductive rights;
5. To develop and support activities aiming at raising awareness, sensitivity, knowledge and skills of health professionals for working with particularly vulnerable groups of women (such as Roma, LBT+, women with disabilities, rural women, elderly women, young women, women living with HIV/AIDS, women victims of domestic violence, women victims of trafficking, and similar);
6. To ensure that Roma women have full and equal access to health care, including maternity, antenatal and postnatal care, regardless of the possession of registered residence, personal documents and health insurance;
7. To improve accessibility, availability and quality of healthcare services for women living in rural areas and women with disabilities, including services related to sexual and reproductive health;
8. To conduct a gender audit of all existing curricula and textbooks that contain topics related to sexual and reproductive health and revise all discriminatory content;
9. To introduce a national policy on mandatory sexual and reproductive education;
10. To introduce gender sensitive sexual and reproductive education in the school curricula at all levels of formal education;
11. To raise public awareness, including specific educational programs for parents and teaching staff, on the significance of sexual and reproductive education at all levels of formal education;
12. To enable, support and promote participation of relevant CSOs in the processes of developing, implementing and monitoring and evaluation of programs of sexual and reproductive education;
13. To revise all state policies that promote stereotypical view on gender roles and reproduce the traditional model of motherhood as the women’s only acceptable role in the society;
14. To ensure equal access to all fertility treatments, medically assisted reproduction and family planning services for all women, regardless of their marital status, sexual orientation, disability, ethnicity, or any other personal characteristics;
15. To develop and support raising awareness on the importance and effectiveness of modern contraception methods, not only in preventing unwanted pregnancies, but also in protecting against STDs and HIV, especially targeting particularly vulnerable groups and to ensure free contraception available for all, upon request;
16. To improve data collection and statistics on abortion practices and patterns, to be collected from all health institutions in the country performing the procedure, both public and private;
17. To make abortion available free of charge and accessible to everyone regardless of material status, sexuality, ethnicity or disability;
18. To adopt legal framework for legal gender recognition to ensure that gender, gender identity and gender expression are understood as grounds for discrimination and are embedded in all anti-discrimination laws and policies;
19. To abolish all non-consensual and abusive requirements for legal gender recognition, such as sterilization, medical diagnosis, or surgical intervention;
20. To adopt legal framework that would provide recognition and grant equal rights to same-sex partnerships;
21. To ensure proper investigation, prosecution and sanctioning of hate crimes towards LGBTI persons;
22. To ensure protection from discrimination at work, in the health sector and the education system for LGBTI persons;
23. To conduct regular and large scale media campaigns to end homophobia and transphobia;
24. To create conditions for continuous, meaningful and sustainable work of CSOs that support women’s and LGBTI rights, including creating and providing support in spacing and financial resources.
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This study commissioned by the European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs at the request of the FEMM Committee, entitled Women's rights in Western Balkans, analyzes the countries: Albania, Bosnia and Herzegovina, Former Yugoslav Republic of Macedonia, Kosovo*, Montenegro and Serbia and is executed so as to address the following issues: 1. Economic-social factors relevant to women's rights, 2. Violence against women (VAW), including membership of the Istanbul convention and 3. Sexual and Reproductive Health and Rights (SRHR) and LGBTI rights.