



Organization for Security and Co-operation in Europe

Project

Effective Criminal Justice System Strategies and Practices to Combat Gender-based Violence in Eastern Europe

SITUATIONAL ANALYSIS IN BULGARIA

Version 3.0 of the template
As revised and adopted by the Steering Committees

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List of Acronyms

AMOI	Academy of the Ministry of Interior
ASA	Agency for Social Assistance
CC	Criminal Code
CM	Council of Ministers
CPC	Criminal Procedure Code
CPD	Child Protection Department
CSC	Community Support Center
DV	Domestic Violence
EPO	European Protection Order
ESDOA	Execution of Sentences and Detention Order Act
GBV	Gender-based Violence
GDNP	General Directorate National Police of the MOI
LPADV	Law on Protection Against Domestic Violence
MBU	Mother and Baby Unit
MLSP	Ministry of Labour and Social Policy
MOI	Ministry of Interior
MOIA	Ministry of Interior Act
MOJ	Ministry of Justice
NFM	Norwegian Financial Mechanism
NGO	Non-governmental Organisations
NIJ	National Institute of Justice
NLAB	National Legal Aid Bureau
OCA	Obligations and Contracts Act
PRB	Prosecutor's Office of the Republic of Bulgaria
RB	Republic of Bulgaria
RI	Regulation for Implementation
SACP	State Agency for Child Protection
SAD	Social Assistance Directorates
SANS	State Agency for National Security
SCC	Supreme Court of Cassation
SJC	Supreme Judicial Council



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I. Introduction

A. Scope of analysis and logistical modalities

The Situational Analysis was conducted at the national level, by the Steering Committee, with the support of the Reference Group and Working Group. The objective of this analysis was to identify the strengths, weaknesses and behavioural levers of the existing criminal justice infrastructure related to the responses provided to victims of Gender-based Violence, the reporting of such cases and the secondary victimization.

The data generated from the Situational Analysis will be used for the programming of further activities within this project (capacity building and awareness raising activities). In addition, the data can be used by local stakeholders to convince community leaders of the need for Gender-based Violence programming. For these reasons, the process of conducting the Situational Analysis was itself an intervention, by initiating a public discussion and opening dialogue with key institutional actors.

The national Steering Committee was requested to use this template¹ as a basis for preparing the Situational Analysis. All requests for data and information applied to the years 2016-2017 (the two complete calendar years prior to conducting the analysis). All financial data were requested in euros. Any available administrative and judicial data requested in the present situational analysis was requested to be disaggregated by sex, age, type of violence as well as the relationship of the perpetrator to the victim, geographical location and any other factor deemed relevant.

The Situational Analysis was produced in the national language and translated into English by the project team.

B. Key definitions

Gender-based Violence² is defined as violence directed against a person because of that person's gender or as violence that affects persons of a particular gender disproportionately.

The term "Gender-based Violence" used throughout this questionnaire includes but is not limited to: domestic violence, physical violence, and sexual violence, including rape, forced marriage, female genital mutilation, forced abortion, forced sterilization and sexual harassment, psychological violence and stalking.

C. Bodies, agencies, institutions and organizations involved in the preparation of the analysis

The national Steering Committee was responsible for co-ordinating the collection of information in the preparation of the analysis. The national Working Group and national Reference Group acted as support and advisory only. Any other government agencies, bodies, institutions and organizations that were consulted or that contributed to the preparation of the analysis (including at regional/local levels) were specified in this document as contributors/sources.

¹ This template follows the structure of the 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.

² As defined by the European Commission (https://ec.europa.eu/info/policies/justice-and-fundamental-rights/gender-equality/gender-based-violence/what-gender-based-violence_en). This term and definition are not agreed by all OSCE participating States and therefore not endorsed by OSCE.



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II. Integrated policies and data collection

1. Please provide details of the strategies/action plans and any other relevant policies adopted by your authorities to address Gender-based Violence. In particular, please describe:
 - a. which forms of violence are covered;
 - b. which tools are used to ensure that the human rights of victims are placed at the centre of these policies;
 - c. how policies are co-ordinated to offer a comprehensive response.

The state has created the conditions for implementation of programs for prevention of and protection from domestic violence and for assistance to victims thereof. The protection is carried out by the executive authorities, as well as by legal entities. Every year, the Council of Ministers passes a National Program for prevention of and protection from domestic violence and for the period 2017-2020 there is a governmental National Program for the Prevention of Violence and Abuse of Children. Multidisciplinary teams of experts are working at the level of the Ministry of Labor and Social Policy, the Agency for Social Assistance, the State Agency for Child Protection, (Ministry of Interior), municipalities and NGOs to take actions upon any incidence of violence in any form, including against children.

As per Article 3 of the Regulation for Implementation of the Law on Protection Against Domestic Violence (LPADV), every year the Minister of Interior, jointly with the Minister of Labor and Social Policy and the Minister of Finance, prepare a draft of a National Program for Prevention and Protection Against Domestic Violence and submit it to the Council of Ministers for adoption. As per Article 6, Para 5 of the LPADV, the Program is adopted by 31 March every year.

2. Which measures are taken to ensure effective co-operation with NGOs and other civil society actors when addressing forms of Gender-based Violence?

MOI collaborates with NGOs involved in the matter, whereby, if necessary, explicit cooperation agreements are concluded between MOI and the respective organizations or other social partners. Often, based on signed partner declarations, MOI works with NGOs on the implementation of projects aimed at prevention of domestic violence, training of police officers as well as organizing and carrying out of awareness campaigns. In addition, MOI passes its own and joint bylaws³.

3. Have your authorities established or designated an official body for the co-ordination and implementation of policies and measures to prevent and combat all forms of Gender-based Violence? If yes, are the NGOs members?

The coordination of counteraction against domestic violence (DV) and gender-based violence (GBV) is not centralized in any specific service, agency or supervisory body. At the MOI for instance, these problems are the prerogative of the General Directorate National Police (GDNP) and more specifically the MOI National Coordinator on domestic violence issues.

In 2017, an interagency task force with the Ministry of Justice proposed a National Council for Prevention and Action against Domestic and Gender-based Violence to be established with the Council of Ministers, which would operate as an interagency body for coordination, monitoring and evaluation

³ For example: Instruction on joint action for protection from domestic violence, jointly with the Ministry of Labour and Social Policy, dated 30.11.2010.



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of the policies and measures for prevention and action against DV and GBV. There is no institutional solution in this sense found yet.

4. Please specify which type of relevant data is required to be collected (under the national law) by:
 - a. Law enforcement/criminal-civil justice services (police, prosecution services, courts)
 - b. Health care services
 - c. Social services and specialist victim services (state and NGOs)
 - d. Other official bodies mandated for data collection (e.g. statistical office/bureau)

In Bulgaria, the strategic monitoring of the matter is carried out in a decentralized manner. There is still no unified automated information to accumulate and process data regarding DV and GBV, however, that functionality is part of the Unified Information System for counteraction against crime, which is in the process of being developed.

Different institutions use their own systems. For instance, MOI gathers statistical data on crimes committed, like cases of homicide, rape, sexual abuse, personal injury and other forms of violence, which can be based on gender. MOI, SJC, MOJ, SAPC use different methodologies for data collection and different units of measurement. There is no institutional mechanism for unification of the data collected by all institutions.

Being a judiciary body, the Prosecutor's Office of the Republic of Bulgaria (PRB) maintains its own statistics, in which the crimes related to GBV are not singled out as a separate criterion but can be identified for the purpose of analysis. PRB operates with a unified information system where data is recorded on the subject and the persons from all criminal proceedings for crimes of general nature, including the ones for crimes, falling within the scope of the working definition of this analysis.

5. Please provide information on any population-based surveys conducted on Gender-based Violence forms in the past 5 years, indicating:
 - a. The forms of violence covered;
 - b. Geographic region reached;
 - c. Main results.

The last study was carried out in 2015-2016 by the Partners Bulgaria Foundation and the Center for the Study of Democracy within the "National Study of Domestic and Gender-based Violence (DGBV) and Elaboration of a Victims Support Model (VSM)", funded by the Norwegian Financial Mechanism 2009-2014.⁴

III. Prevention

1. What awareness raising campaigns and programs on any of the forms of Gender-based Violence have your authorities conducted or promoted in the past 2 years?

Every year, various NGOs carry out awareness campaigns supported by the institutions, aimed at prevention of DV. Given the lack of dedicated funding, the institutions do not carry out separate special campaigns, but the topic is incorporated in their general campaigns within their competence (for example, campaigns for prevention of human trafficking organised by the national and the local Committees for combating human trafficking). Most often, they participate within the framework of

⁴ http://partnersbg.org/ver2/wp-content/uploads/DGBV_PDFS/Analytical%20Report%20EN_web.pdf
http://partnersbg.org/ver2/wp-content/uploads/2016/09/VSM_EN_web.pdf
http://partnersbg.org/ver2/wp-content/uploads/DGBV_PDFS/Policy_Brief_EN_web.pdf



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partnerships with NGOs, and in some cases, the information campaigns of the institutions are carried out as part of project-financed activities of a wider scope.

In 2016, according to a decision of the Program Operator of BG 12 Program 'Domestic and Gender-based Violence' NFM 2009-2014 projects on the topic 'Organizing campaigns for improvement of public awareness with special focus on Roma and other vulnerable groups' were funded and implemented, Measure 2 of BG 12 Program of the NFM 2009-20014, as follows:

1. **Home without Violence Project** (by National Alliance for Volunteer Action (NAVA) Foundation in partnership with the New Way Association, the municipality of Plovdiv and the Stefan Noikov Foundation);
2. **A Society without Violence and Equal Rights for all Social Groups Project** (by Women Association Ekaterina Karavelova in partnership with the Alternative for the Danube Association);
3. **Information Campaign for Reducing DV by Increasing Awareness and Knowledge of the Roma Community and Other Vulnerable Groups** (by the Centre for Education, Culture and Ecology 21 Association – project Life without Violence);
4. **Aid for Roma Women against DV project** (by Social Foundation Indi-Roma 97 in partnership with the Regional Administration Plovdiv);
5. **Campaigns for Increasing Awareness and the Knowledge about Domestic Violence in Three Large Roma Communities in Sofia and Kyustendil, project Save the Dignity** (by Health and Social Development Foundation);
6. **Network No-one is Safe from Domestic Violence** (by the Center Nadya Foundation in partnership with the National Health Mediators).

In 2016, the GDNP took part in the project "Improvement of the National Legal Framework in Accordance with the Standards of the Council of Europe and Capacity Building of the Competent Authorities Dealing with Cases of Domestic Violence and Gender-based Violence", funded by the BG12 Domestic Violence and Gender-based Violence of the NFM 2009-2014. Beneficiary was the MOJ and partners - the Council of Europe, MOI and MLSP.⁵

In the period 2015-2017, the Alliance for protection from Gender-based Violence, jointly with the Regional Roma Union in Burgas, with the financial support of NFM 2009-2014, implemented a project "There are Many Ways to Cope with Violence", within which more than 10 workshops were intended for increasing the awareness of the public to the problems related to GBV with a focus on the Roma Communities.⁶

2. **Please indicate (using the table below) the number of professionals who receive initial training (education or professional training) in the past 2 years. The trainings comprise topics related to: prevention and detection of Gender-based Violence forms, standards of intervention, gender equality, needs and rights of victims, prevention of secondary victimization, multi-agency co-operation.**

⁵ The project improved the knowledge of police officers in the area of DV and GBV. Target groups were magistrates, legal experts, civil servants, and staff of the state administration, social workers, police officers, NGOs, victims of DV and GBV. GDNP prepared 2 handbooks, carried out trainer trainings for a total of 56 trainers and 3 trainings for 180 police officers from all over the country.

⁶ Access to the project materials at :

<http://www.alliancedv.org/pages/%D0%BE%D0%BF%D0%B8%D1%81%D0%B0%D0%BD%D0%B8%D0%B5-%D0%BD%D0%B0-%D0%BF%D1%80%D0%BE%D0%B5%D0%BA%D1%82%D0%B0-552>



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Information about the magistrates⁷ and police officers who underwent initial training on topics related to prevention and countering DV and GBV in the period 2016-2017 is given in Table 1:

Initial Training	Prevention and Detection of Violence	Standards of intervention	Gender equality	Needs and rights of victims	Prevention of secondary victimization	Multi-agency cooperation
Police	540	480	250	420	420	60
Junior Prosecutors	61	61	61	61	61	61
Junior Judges	55	55	55	55	55	55
Social workers	No data	No data	No data	No data	No data	No data

3. Please indicate (using the table below) the number of professionals who received in-service training in the past 2 years. This comprises training on the prevention and detection of Gender-based Violence forms, standards of intervention, gender equality, needs and rights of victims, prevention of secondary victimization, multi-agency co-operation.

Training on the topics in question is incorporated in the ongoing qualification of magistrates and police officers at the NIJ and AMOI, as well as in the trainings of these target groups organized by NGOs. Table 2 presents conglomerated data about the reviewed period.

On-Going Training	Prevention and Detection of Violence	Standards of intervention	Gender equality	Needs and rights of victims	Prevention of secondary victimization	Multi-agency cooperation
Police	270	320	150	140	140	20
Prosecutors	128	128	95	128	27	127
Judges	193	190	136	190	39	188
Social workers	No data	No data	No data	No data	No data	No data

Sample Standards and Methodological Guidelines have been approved for working on cases of DV in the community social services⁸.

4. Please specify which self-regulatory standards, such as codes of conduct for the media, including social media, exist in the area of Gender-based Violence (e.g. to refrain from harmful gender stereotyping and spreading degrading images of women).

The Code of Ethics of Bulgarian media provides for caution when disclosing the identity of the victims of crime - particularly that of sexual violence, as well as for reporting about crimes compassionately and with reticence, in order not to aggravate the plight of the victims. In spite of that, media practice does not always adhere to it.

5. Please indicate any other measures taken in the past 2 years to promote changes in the social and cultural patterns of behavior of women and men with a view to eradicating prejudices, customs, traditions and other practices which are based on stereotyped roles for women and men.

The topic related to violence against women, is part of the National Strategy for Equality between Women and Men 2016-2020⁹.

IV. Protection and support

⁷ The data presented in Table 1 regards the mandatory 9-month initial course at the NIJ for junior magistrate candidates.

⁸ <http://www.animusassociation.org/wp-content/uploads/2014/03/Standarti.pdf>.

⁹ <http://www.strategy.bg/PublicConsultations/View.aspx?lang=bg-BG&Id=2299>



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- 1. Please provide details on action taken to ensure that victims of all forms of Gender-based Violence receive information on support services and legal measures available to them. The information must be adequate (include contact details, opening hours and information on exact services offered) and timely (that comes at a time when it is useful for victims).**

The protection of the rights of the citizens is carried out also through the information websites of the institutions which contain information, contact details and recommendations for the people looking for protection¹⁰.

- 2. Please provide information on measures taken to ensure that victims of all forms of Gender-based Violence benefit from appropriate care and social services. Please also provide information on protocols and guidelines for staff assisting victims and for their referral to additional appropriate services.**

Legal services and advice for DV victims are delivered actively by NGOs. When they are part of a project, they are free, and in the rest of the cases, they have to be paid for. There is a Coordination Mechanism developed for aid and support for DV victims, which is expected to be adopted¹¹.

- 3. Please provide a list and a short description of all specialist women's support services. For each category of service (women's shelter, rape and sexual assault centre etc.) please detail the following: number and geographical distribution, accessibility (24/7 or other), the different groups or victims they are available for, the annual number of victims seeking help from these services; their funding sources; who they are run by (NGOs, faith organisations, local government), whether they are free of charge for all women, co-ordination between special support services and general support services.**

The directory (map) of the organisations working with DV victims, devised by the Center for the Study of Democracy, is published on the website of the latter. (www.csd.bg/fileSrc.php?id=22336).

The support for persons (including children and their parents) who have suffered from DV through social services in the form of activities delegated by the state is provided by:

- a) Crisis Centers - 21;*
- b) Mother and Baby Units (MBU) – 9;*
- c) Community Support Centers (CSC) - 111;*
- d) Street Children Centers - 15;*
- e) Family Type Centers for children/young people with no disabilities - 131.*

Currently, as activities delegated by the state there are 18 Crisis Centers in operation with a total capacity of 196 places, of which 110 are taken (as at 31.12.2016, 17 Crisis Centers were operational of a total capacity of 176 places) and 6 Crisis Centers for people of a total capacity of 64 places, of which 44 are taken (as at 31.12.2016, 5 Crisis Centers were operational of a total capacity of 50 places).

MBUs offer temporary accommodation (up to 6 months) to pregnant women and mothers at risk of abandoning their children; encourage bonding with the child; supports young mothers with social, psychological and legal advice and support. Although these services are intended mainly for pregnant women and mothers at risk of abandoning their children, some of the users of this social service are pregnant women and mothers with children who are victims of domestic violence. At the end of August

¹⁰ <https://www.prb.bg/bg/opkrdzhali/informaciya-za-grazhdani>

¹¹ <http://www.animusassociation.org/wp-content/uploads/2014/03/Koordinacionen.pdf>



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2018, the number of MBUs was 12, with full capacity of 79 places, of which 34 were taken. (The MBUs number has stayed the same since 31.12.2016, and the number of the taken places has been 39).

The CSCs offer specialised support to victims, including DV victims, and work on special programs for psycho-social support, legal aid and advice. At the end of August 2018 there were 133 CSC of a total capacity of 5,248 places (as at 31.12.2016, 121 CSC were operational of a total capacity of 4,887 places).

4. Please provide information on measures taken to set up telephone helplines to provide advice to callers in relation to all forms of violence. Please specify: if they are state wide, free of charge, if they operate 24/7; how confidentiality/anonymity is ensured and the annual number of calls from victims.

The National Hotline for support and guidance for people who have suffered any violence, is a 24/7 service operated by Animus Association Foundation. The service is funded by a MoJ grant as per contract dated 14.02.2018. The Hotline is intended for victims of violence and exploitation (including DV and human trafficking) – women, men, children and their next of kind, and provides assistance by directing them to social services throughout the country, giving information on prevention, access to services procedures etc.

The Hotline is also used by relatives of victims of violence, NGO representatives, agencies, incl. police officers and CPD staff, journalists, teachers, doctors and other professionals and care and service providers who have become aware of any injury or trauma as a result of inflicted violence. Often the victims are not prepared to take action immediately for their own protection, they need time in order to see things clearly and make the possible decisions, to be listened to, and the anonymity and confidentiality of the service are a significant factor motivating their confidence. The Hotline is a very important part of this process. The consultants help by:

- a) Listening and providing emotional support;*
- b) Partnering in the decision-making process;*
- c) Informing and directing to other services, if needed;*
- d) In a situation of crisis, resulting from an immediate act of violence, the hotline consultants develop a security plan and refer the client to the Crisis Center for women and children victims of domestic violence or to another appropriate service or program;*
- e) Offering preventive information to people who are planning to travel or work overseas, in order to avoid the risk of finding themselves in a human trafficking situation;*
- f) Offering legal advice - every Wednesday from 5 p.m. to 9 p.m.;*
- g) Consultations are anonymous and confidential.*

There is also another free nationwide hotline, provided by the Alliance for Protection from GBV (080011977), which offers specialised assistance to victims and persons at risk of DV and provides the link to centers and specialists throughout the country.

Annual number of referrals in the past years:

- 2015: 1112 referrals;*
- 2016: 850 referrals;*
- 2017: 1011 referrals;*
- 2018 (first 10 months) – 1141 referrals.*

5. Please indicate any other measures taken to provide protection and support to victims of Gender-based Violence.



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The ASA is working with the persons and children who are victims of violence by providing consultations, support and assistance for overcoming the negative consequences from the experience and referring them to the relevant social services.

The work with children and the families at the CPD with SAD starts when there is an alert given to SAD about violence against a child, whereby a social survey is carried out. If a risk is established, protection measures are introduced in a family environment, consisting of: providing pedagogical, psychological and legal assistance to the parents or the persons awarded custody of the child on issues related to the care, upbringing and education of the children; referring to appropriate community social services; consulting and informing the child depending on their age and level of development etc. If an immediate risk for the life and safety of the child is established, they are taken out of the risky environment. Taking children out from their biological family is an extreme measure, when the child is victim of violence and there is a significant threat for his/her physical, psychological, moral, intellectual or social development, as well as when all options for protection within the family have been exhausted.

In 2017, there have been 710 victims of domestic violence, identified by the SAD, of which: 228 women, 5 men and 477 children. 10 of them were persons with disabilities and 1 – an incapacitated person under legal guardianship.

In 2017, there were 68 proceedings, initiated as per Article 8 Para 4 of the LPADV (upon SAD Director's initiative in the cases where the victim was a child, a disabled or an incapacitated person under guardianship), of which: 1 for a disabled person; 1 for an incapacitated person under guardianship and 66 for minors.

In 2017, there were 513 victims of DV referred to social services, of which: 27 persons with disabilities, 1 person under guardianship and 342 children.

V. Legislative framework

1. Please provide information on the relevant legal framework in place (criminal law, civil law, administrative law) which address all forms of Gender-based Violence.

A. Legal Definitions

GBV has no separate explicit definition according to Bulgarian law. For the purpose of this analysis, the legal definitions of domestic violence shall be of significance, which are contained in the special non-criminal LPADV and the bylaws regulating the matter in connection with child protection and prevention from violence against children, as well as the definitions and interpretations of the court practice.

Art. 2, Para. 1 LPADV: "Domestic violence is any act of physical, sexual, mental, emotional or economic violence, as well as attempts thereto, coercive restriction of personal life, personal liberty and personal rights, committed against individuals who are in a kinship relation, are or have been in a family relationship or in de-facto conjugal cohabitation".

Art. 2, Para. 2 LPADV: "Any domestic violence committed in the presence of a child shall be considered mental and emotional violence against a child."

Regulation on the Implementation of the Child Protection Act:



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- **“Physical Violence”** shall mean infliction of bodily injury, including infliction of pain or suffering without any health damage.
- **“Sexual Violence”** shall mean the use of a child for the purpose of obtaining sexual satisfaction.
- **“Psychological Violence”** shall mean all acts that can have detrimental impact on the mental health and development of a child, such as underestimation, mockery, threat, discrimination, rejection or other forms of negative attitude, as well as the incapacity of the parent, guardian, custodian or caregiver of the child to provide an appropriate supportive environment.
- **“Financial Violence”** is the hypothesis of non-payment of legal child support; non-payment of contractual child support (Article 227, Para. 1, letter “c” OCA); hypotheses related to indecency as per Article 3 of the Inheritance Act: premeditated murder or attempt on the life of the grantor, his/her spouse or child, except when the act is non-punishable or amnestied; blaming the grantor of a general criminal offence punishable with imprisonment or graver penalty, including private offence for which the victim has pressed charges; coercing or preventing the grantor by force or fraud to make, change or revoke his/her will.

If GBV is part of the wider notion of DV, it falls within the context and the model of a lasting abuser-victim relationship. From that point of view, it features one of the main characteristics of DV – **non-incidence (systemicity)** of events.

B. Criminal Law Aspects

A manifestation of GBV can be at the same time a criminal offence as per CC and a DV act as per special non-criminal laws. The two types of legislation have different purposes and provide different means with different procedures; however, the measures under them are compatible, rather than competitive or alternative. The state has to avail itself of them in combination, whereby the non-penal defence has a wider application field.

GBV has not been criminalised. The penal aspects for taking such an aspect in consideration are introduced with additional classification features into the counts of premeditated criminal offences. These acts are prosecuted also in cases where there is no connection with the victim’s gender and quality or the social stereotypes on such grounds, however, if there is such a connection, the punishment for the crime is graver, or is cumulative with another gender related crime (discrimination, for example).

B.1. The characteristics can be derived both from the characteristics of the victim and the characteristics of the perpetrator or the relations between the two of them. Some of the features, which the CC explicitly takes into consideration in order to establish grounds to impose a graver penalty for a crime related to DV and GBV are:

1. As regards the victim:
 - birthed son /daughter (persons who are direct offspring of the perpetrator regardless of their age);
 - child (new-born son/daughter);
 - relative (woman or girl in a family relation with the perpetrator);
 - mother / father (persons who the perpetrator is direct offspring of, as well as his/her adoptive parents);
 - brother/sister;
 - spouse, relative in ascending or descending line, who is incapable of taking care of himself/herself (Article 181);



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- *a person in helpless state endangering his/her life, for which the perpetrator must take care of (Article 138) (wide scope of persons);*
 - *a person in parental / guardian care (Article 182) (a child for which the perpetrator has factual or legal custody as a parent at the time of the offence);*
 - *a child in perpetrator's care (Article 187) (this notion does not presume a legal custody but a factual situation in which the perpetrator is acting as having custody of the child);*
 - *a child of somebody else (Article 185).*
2. *As regards the perpetrator:*
- *parent/relative; custodian;*
 - *pregnant woman/mother;*
 - *a person for whom the court has ordered to provide care to the victim;*
 - *de facto caregiver/educator;*
- 3) *relationship between the perpetrator and the victim:*
- *situation of dependence (definitive characteristics of DV);*
 - *situation of supervision (a circumstance, creating legal dependence);*
 - *cruel treatment (a typical manifestation of developed forms of DV and GBV);*
 - *systematic humiliation (Article 127) (a typical manifestation of developed forms of DV and GBV);*
 - *de facto awarded custody (Article 187) (state of factual dependence);*
 - *obligation for care and support (Articles 138, 181, 182, 183).*

B.2. *Outside these relationships, the criminally punishable features of the phenomenon in question are intrinsic to the following groups of assaults that are criminalised without being defined as GBV:*

1. *Forms of slavery and exploitation:*
- *coercion to prostitution/pornography;*
 - *human trafficking, where the perpetrator and the victim are in a family, kinship, matrimonial or similar de-facto relationship;*
 - *exploitation of begging;*
 - *exploitation of forced labor, incl. of labor incapacitated child (younger than 16 years of age);*
 - *detaining somebody else's child;*
 - *abuse of de facto / legal powers;*
 - *forms of forced marriage.*
2. *Damaging self-esteem and reputation:*
- *defamation, slander¹²*
 - *violent crimes:*
 - *Threat;*
 - *Kidnapping a woman to be subjected to lewdness;*
 - *Inflicting bodily harm;*
 - *Negligence causing homicide;*
 - *Coercion to suicide;*
 - *Mixed fault homicide;*
 - *Premeditated murder – most often with premeditation, in a very torturous way, with particular cruelty in the conditions of dangerous recidivism;*
 - *Criminal abortion;*

¹² The crimes are of private nature, i.e. they are persecuted if the victim files a complaint against the perpetrator.



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- *All sexual crimes.*

C. At the time this analysis was prepared, a draft law was discussed at the National Assembly that was passed in the first hearing, which is intended to enhance the protection from DV, including GBV acts by means of criminal law. The foreseen legal provisions are as follows:

- *developing an additional qualifying feature “in the conditions of DV” which will provide grounds for graver punishment for the most important crimes against a person (homicide, coercion to suicide, premeditated infliction of bodily harm, coercion, threat);*
- *incrimination of the systematic psychological violence and systematic stalking;*
- *removing the premeditated moderate gravity bodily harm inflicted by an ascendant or descendant relative, spouse, sibling, from the scope of acts that are punishable upon complaint by the victim and defining it as a criminal offence of general nature;*
- *widening the scope of the protection by means of criminal law and increasing the punishment for coercion to marriage and cohabitation;*
- *amendments and addenda to other laws¹³, to guarantee the right of a victim with specific needs of protection to be informed about the decisions to impose and modify detention orders, arrest or release from the prison of the perpetrator on any ground¹⁴.*

2. What action has been taken to provide relevant professionals with guidance on how to implement the above legal framework (e.g. drawing-up of protocols for police, guidelines for prosecutors, and setting up of special units)?

The professionals at the Prosecutor’s Office (prosecutors and investigators) are bound by an act of Methodological Guidelines – Guidelines for the organisation of the work of the PRB on files and pre-trial procedures, initiated upon receiving information about DV, murder threat and violations of orders for protection against DV. The Guidelines are intended for establishing a uniform mechanism of PRB’s reaction in the case of indications of DV and murder threat, including when it is a gender-based crime. The Guidelines were endorsed with an Order by the Prosecutor General of 30.04.2018 and provide for: 1) the actions of the prosecutor’s office when the information is received; 2) the circumstances that must be established; 3) the requirements for prosecutor’s intervention in an already initiated/opened pre-trial procedure; 4) interaction with other institutions and organisational measures. In view of the leading/decision making role of the prosecutor in the pre-trial phase and when carrying out preliminary checks, the provisions of the Guidelines are binding for the authorities of the Ministry of Interior, who carry out investigations or preliminary checks upon prosecutor’s instruction.

3. Please detail the procedures available to victims to provide them with civil remedies against the perpetrators. In addition to this, please provide any available data, by forms of violence, (1) on the number of civil law remedies applied for against perpetrators and (2) the number of civil law remedies granted.

The procedure as per non-criminal law (LPADV), available for the victims and intended to provide to them legal means of protection against the perpetrators of GBV presumes: 1) existence of a certain type of connection between perpetrator and victim (spouses, former spouses, de-facto cohabitation, close kinship/in-law relationship, custody; 2) possibility to take measures under the MOIA on the basis of a complaint to the MOI authorities in case of a danger for the life and health of the victim; 3) opening court proceedings for imposing a DV protection measure.

¹³ CPC and ESDOA

¹⁴ Information in English about the current legislation in Bulgaria for combating DV and GBV, incl. analyses:

<http://www.stopvaw.org/bulgaria2>,

http://www.theadvocatesforhumanrights.org/uploads/final_report_2_3.pdf



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The case is heard by the Regional Court with jurisdiction over the permanent or the current address of the victim, and is appointed within one month. Statutory court charges for the plaintiff are waived. In case the plaint is granted, the court issues a Protection Order for one or more protection measures as per Article 5 LPADV for a certain period of time. The Order is subject to immediate enforcement, which is executed by the police authorities. Violation of a DV Protection Order constitutes a crime as per Article 296, Para. 1, CC.

- 4. Please detail the procedures available to women victims to claim compensation from perpetrators. In addition to this, please provide any available data, by forms of violence, on: (1) the number of victims who claimed compensation from perpetrators and (2) the number of victims who received such compensation with an indication of the time given to perpetrators to pay compensation.**

The possibility for GBV victims to claim damages against the perpetrator is based on tort grounds – unauthorized damage as per Article 45 OCA. When the tort constitutes a crime too, the possibility to claim damages exists also by filing for a criminal case in court. In this hypothesis, the victim can constitute himself/herself as a civil claimant. If this option is not used, as well as in all the cases where the tort does not presume filing a criminal case in court, the victim can claim damages according to the general procedure provided in the OCA.

We have no data available for the victims of GBV acts in 2016 and 2017, who have claimed damages in a criminal procedure in a court of law as civil claimants or according to the general claim order, nor for the number of the victims who have received such. When awarding damages, the court does not set a deadline for payment of such damages by the perpetrator. The execution of a judgement for the perpetrator to pay damages to the victim, that has become effective, can be enforced according to the forced execution procedure upon initiative of the person in whose favor the court has awarded the damages in question.

- 5. Please provide, on a yearly basis, administrative and judicial data, as required under the national legislation, on the following matters:**
- a. in relation to cases resulting in the death of a woman and falling within the scope of the term Gender-based Violence (as defined in part I.B. of this questionnaire):**
- **the number of such cases;**
 - **the number of cases in which the authorities had prior knowledge of the woman’s exposure to violence;**
 - **the number of perpetrators convicted in relation to these cases.**

The information in this chapter about cases of violence resulting in death of women, falling within the scope of the GBV, regardless of the concrete legal classification, is presented exclusively based on data from the statistics and the unified information system of PRB¹⁵, as well as from academic content case-

¹⁵ AT the PRB there is no statistics kept of crimes classified a “gender-based violence”. The pre-trial procedures are reported based on the structure of the CC, and the criterion is the main crime. The case by case method of checking requires a lot of effort and is not reliable due to the possibility of crime re-classification in the process of hearing the case. Selecting cases for crimes, where violence is inflicted explicitly because of the gender of the victim is very complicated. This is why the following approach is accepted: all pre-trial procedures filed in 2016 and in 2017 referring to specific texts of the CC have been selected from the PRB system according to the legal classification and the victim’s gender (woman). For the same period, all sentences which have become effective in 2016 and 2017 have been selected for crimes constituting potential GBV acts, without checking the motivation of the perpetrator in each and every case. By definition, the crimes as per Article 296 CC are not reported as DV related.



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studies of the proceedings¹⁶. The statistical information does not provide separate data on DV crimes perpetrated by a “woman” for instance, when the victim is a child, which cases are relatively few in number and the qualitative analyses link them to experienced systematic DV and exploitation by the perpetrator in childhood.

- Total number of cases: **244 (2016); 288 (2017)**.
- Number of perpetrators sentenced for these cases: **30 (2016); 27 (2017)**.
- Number of cases where the authorities have been informed that women have been subjected to violence: cannot be derived.

In 2018, 35 cases of murdered women became known to the public (in some of the cases also their children) in circumstances of DV, which a number of leading sociologists publicly link to the failed ratification of the Istanbul Convention in the first months of the year. Some scientific studies are currently being worked on, whose results are expected in 2019.

b. in relation to acts of Gender-based Violence amounting to attempted murder:

- **the number of such cases;**
- **the number of cases in which the authorities had prior knowledge of the woman’s exposure to violence;**

The information regarding GBV cases, constituting an attempted murder of a woman, is summarised as follows:

- Number of cases (female victims) – **16 (2016); 13 (2017)**.
- Number of cases where the authorities have already been alerted that the women have been subjected to violence – no statistics are kept of the number of alerts for crimes against a specific person (victim).

- **the number of perpetrators convicted in relation to these cases.**

Number of sentenced perpetrators for the cases above: the people sentenced for attempted murder are part of the number stated in 5 “a” above – number of the sentenced for murdering a woman as a result of GBV (including committed murders and crimes left at the attempt stage). The PRB data does not allow singling out of a separate sub-group only of the people sentenced for attempted murder.

c. in relation to all other cases of all forms of Gender-based Violence (as defined in part I.B. of this questionnaire and falling under the national legislation):

- **the number of complaints made by victims and the number of reports by third parties to law enforcement agencies;**
- **the number of criminal proceedings and any other legal action initiated as a result;**
- **the number of perpetrators convicted.**

The information regarding all other cases of forms of GBV:

¹⁶ Domestic violence as exceptionally grave crime as per article 38-38A CC. Study of Court Practice. Antoanetta Kotlarova, Society and Law Magazine, issue 5 and 6 / 2015 г. (www.justicedevelopment.org/index.php/docs/category/izklyuchitelno-tezhka-prestapnost-i-tezhki-nakazaniya.html). In the period 1989-2015, the number of the exceptionally grave crimes related to DV, ending in death of the victims and punished with the most severe penalties – life imprisonment and life imprisonment without parole (capital punishment in 1998) was: 30 (10 cases of life sentences – of which 1 was murder of a little girl by her mother in a situation of systematic DV and 1 was a case in which a mother and her son were accomplices in the murder of the father upon initiative of the mother, who was inflicting DV on all members of the family); 8 cases (life imprisonment without parole), 1 case (death sentence, subsequently charged to life imprisonment without parole due to revocation of the death penalty).



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- Number of complaints by victims and number of alerts by third parties to the law-enforcement authorities – we cannot derive and present such data.
- **Number of non-criminal cases and any other legal action initiated on those cases:**

<u>Time/ Period</u>	Lewdness against women/girls	Rape	Body injury - women	Forced abortion	Crimes as per Article 296 CC against wife/female cohabitant	Other cases of crimes as per Article 296 CC	Crimes as per Article 191 CC
2016	111	466	358	4	310	154	648
2017	136	472	513	3	298	151	676

Article 296 CC – Violation of DV Protection Order

Article 191 CC – cohabitation with a woman/girl younger than 16 years of age

- **Number of perpetrators who have been sentenced for those cases:**

<u>Time/ Period</u>	Lewdness against women/girls	Rape	Body injury - women	Forced abortion	Crimes as per Article 296 CC against wife/female cohabitant	Other cases of crimes as per Article 296 CC	Crimes as per Article 191 CC
2016 r.	78	185	153	0	132	66	483
2017 r.	38	184	103	0	128	63	498

Please ensure that the above-requested data is disaggregated by sex, age, type of violence, relationship to the perpetrator, geographical location and any other factor deemed necessary.

VI. Investigation, prosecution, procedural law and protective measures

1. Please provide information on measures adopted to ensure a prompt and appropriate response from law enforcement agencies to all forms of Gender-based Violence.

The cooperation of the state bodies of the executive and judiciary for rendering an adequate response to acts of GBV is done in accordance with the procedures provided in the LPADV and the bylaws for its implementation – above all the RILPADV.

Methodological guidelines are applied in the work of the pre-trial procedural authorities on cases constituting criminal GBV acts: e.g. guidelines for the organisation of PRB action on files and pre-trial cases filed upon alerts for DV, murder threats and violated DV Protection Orders. Improving interoperability is a topic of the information campaigns and trainings, organised jointly with the NGO sector.

2. Please provide any available administrative data on the number of interventions carried out annually by law enforcement agencies in relation to Gender-based Violence forms.

There is immediate response to each alert through the emergency lines of the police, whereby all measures are taken for protection of the victims. According to Bulgarian law, the victim has the right to apply to the court of law directly in order to obtain a Protection Order. Copies of all issued Protection Orders are sent to the local police precincts according to perpetrator's place of residence, for execution and implementation of the protective measures.

3. What procedures have been put in place to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities and duly taken into consideration at all stages of the investigation and the application of protective measures?

The procedures for assessing the risk of the cause of death, escalation of the situation and repetition of violence within the pre-trial procedures and carrying out preliminary checks (the stages where the



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prosecutor exercises his leading-decision making role) are contained in Chapters III and IV of the Guidelines for the organisation of PRB action on files and pre-trial cases filed upon alerts for DV, murder threats and violated DV Protection Orders, endorsed with an Order by the Prosecutor General of 30.04.2018.

To date, the police do not use any established algorithm for risk assessment, it is relied on the professional qualifications and preparedness of the officers during the first visit after the alert is received, as well as the available information about old cases in the follow-up of that visit.

4. Please provide an overview of the concrete implementation of the following EU Directives: 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime; 2011/99/EU on the European Protection Order; and Regulation 606/2013 on mutual recognition of protection measures in civil matters.

The EU law related to granting protection for the victims, including from GBV and DV acts, has been transposed in the national law:

4.1. Directive 2012/29/EU of the European Parliament and the Council for establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA of the Council – with the Law on Amendment and Addenda to the CPC, in force since 05.11.2017. More specifically, the following provisions are related to the transposition:

- Adding to the rights of the victim in the pre-trial procedure the right to receive translations of the ordinances for termination and closure of the criminal prosecution if they have no command of Bulgarian language (Article 75 CPC);
- Establishing the possibility to interview a witness with specific needs via videoconference (Article 39 CPC);
- Introducing the rule for interviewing a minor and adolescent witness provided there are measures in place to avoid his/her contact with the defendant (Article 140 CPC);
- Providing a procedural possibility for establishing specific needs of a witness by means of expertise (Article 144, Para. 3 CPC).

4.2. Regulation (EU) No 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters has been transposed in the new Chapter III of the LPADV with the amendments and addenda thereto, promulgated in State Gazette issue 50/2015.

4.2.1. *The national legislation provides the possibility to each person protected by a Protection Order issued in another EU member state to request the issue of such order for protection measures on the territory of Bulgaria too. The procedure is opened before Sofia City Court and is non-criminal. The Court rules on the basis of a copy of the order and the certificate as per article 5 of the Regulation. If the latter are submitted, the Court issues a Protection Order in accordance with the principle of mutual recognition, whereby the measures are adapted to Bulgarian law. The court hears the case in a closed session and checks whether the measure can be implemented with the means provided by the Bulgarian law. If this is impossible, the court orders an adjusted protection measure in accordance with the national law. The court notifies the person causing the risk about the adjustment of the measure for granting protection. The imposed adjusted measure for granting protection is subject to appeal by the protected person or the person causing the risk before the Sofia Court of Appeal. Refusal of recognition or enforcement of a protection measure is ruled by the Sofia City Court upon application by the person causing the risk.*



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4.3. Regulation 606/2013 on mutual recognition of protection measures in civil matters: *In case a protection order is issued in Bulgaria, the first instance court, which has heard the case, issues the certificate as per Article 5 of Regulation (EU) No 606/2013 upon an application in writing by the protected person. The court brings to the notice of the person causing the risk the issuing of the certificate and the consequences of the issue thereof. The act for rectification or withdrawal of the certificate as per Article 5 of Regulation (EU) No 606/2013 can be appealed before the respective district court.*

4.4. Directive 2011/99/EU on European Protection Order (EPO) *has been transposed with the Law on the European Protection Order (LEPO, promulgated in the State Gazette issue 41 of 5.06.2015, in force since 6.07.2015; amendments and addenda – issue 33 of 26.04.2016, in force since 27.05.2016). The law provides for recognition and issuing EPOs on criminal cases based on the principle of mutual recognition of sentences and judgements. Both procedures are court procedures, the cases are within the jurisdiction of district courts. The recognition of an EPO is done in a closed hearing, without the presence of a prosecutor, based on a Protection Order received from a competent authority of another member state. The procedure of issuing EPO is carried out by the district court upon request of the person or his/her custodian or guardian and is open with the presence of a prosecutor.*

- 5. Where applicable, please indicate which authorities are granted the power to issue an emergency barring order when a victim of Gender-based Violence is in a situation of immediate danger. In relation to this, please specify the time required issuing the order, the maximum duration and whether or not it can be extended until a protection order can be issued.**

According to Bulgarian law, a non-court authority may not issue a restraining order including in case there is a danger for the life and health of the victim. Prevention from such danger can be provided by means of a Protection Order which can only be issued by a regional court.

When the application contains data for immediate direct and following danger for the life and health of the victim, the regional court rules in a closed session without summoning the parties, and issues an order for immediate protection within 24 hours from receipt of the application (Article 18 LPADV). The order is sent via official channels to the MOI authorities and is executed immediately in accordance with the general rule as per LPADV.

In their capacity of immediate responders to a situation of DV creating a danger, as far as there is no data for a crime committed, respectively grounds for starting criminal investigation and taking the perpetrator in custody, the MOI authorities can issue warning protocols as per MOIA, instructing the participants to refrain from illegal action in their relations.

- 6. With regard to restraining and protective orders, please provide the number of orders issued by the competent authorities on a yearly basis. In addition, please mention the number of breaches of such orders and the numbers of sanctions imposed for the breach of such orders.**

There were 2,323 Protection Orders as per LPADV issued by Bulgarian courts (Regional Courts) in 2016 and 2,440 in 2017. The data is derived from the monthly data collected by MOI as the execution authority for the Protection Orders, which receives them via official channels in accordance with the law.



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According to the statistics the SJC keeps on the LPADV cases heard and closed by the regional courts on annual basis, in 2016 these courts have heard a total of 3,045 applications for issuing a Protection Order (of 3,060 newly submitted applications for protection in the same period) and in 2017 – a total of 2,968 applications for issuing Protection Orders (of 2,991 newly submitted applications).

Violation of a court Protection Order against DV, including the protection orders as per LEPA, constitutes a crime of general nature as per Article 296, Para. 1 CC. According to data from the PRB statistics, in 2016 278 criminal prosecutions were initiated, and in 2017 – 280. For the two years respectively, the first instance prosecutor's offices have issued 107 refusals to open pre-trial procedure on claims for crimes under Article 296, Para. 1 CC in 2016 and 93 refusals in 2017. The sum provides some orientation as to the number of cases which the prosecutor's offices have worked on taking into account the data on DV protection order violations - 385 cases in 2016 and 373 cases in 2017. Of the cases which led to opening pre-trial procedures, 31 cases have been submitted to court in 2016, and in 2017 - 30 cases. In 2016, 28 sentences were pronounced, and in 2017 – 35.

7. Does your internal law allow for the continuation of legal proceedings ex parte (even it, for instance, the victim withdraws the accusations and statements)?

Bulgarian criminal law distinguishes between crimes of general nature – subject to prosecution upon initiative of the public prosecution, and crimes of private nature – subject to prosecution upon a private complaint of the victim submitted to the court. Only within the criminal prosecution of the first type, there is a pre-trial procedural phase, where the leading/decision making role is that of a prosecutor. In case of crimes of general nature, generally the outcome does not depend on the position of the victim and his/her intent to withdraw his/her statements or claim. Verbal evidence of the victim is evaluated alongside all other pieces of evidence on the case.

If the crime is of private nature, including the GBV cases, the criminal prosecution is left to the initiative of the victim and his/her readiness to submit and maintain a private complaint before the court, bearing also the burden of providing evidence. Crimes of private nature are the negligence causing bodily harm and some of the deliberate minor and moderate bodily injury when the perpetrator and the victim are relatives in ascending or descending line, spouses or siblings. In such cases, the criminal prosecution depends in principle on the initiative of the victim and the procedure is not ex parte. The victim can exercise his/her right to turn to court within six months from the moment the crime has been committed or she/he has become aware of it. Only in exceptional cases (when it is established that a crime has been committed which is persecuted following a complaint of the victim and the latter cannot protect his/her rights and legal interest due to incapacity or a state of dependence on the perpetrator) the prosecutor can open or continue the criminal prosecution ex officio, provided the 6 month deadline for submitting a private complaint has not expired (Article 49 CPC). This possibility is used, all be it to a limited extent, in DV cases. When a prosecutor has exercised their right to open criminal proceedings and carry out investigation on a crime, which is persecuted based on a complaint of the victim, it is heard according to the general procedure, and cannot be suspended due to the lack of complaint.

There are also some crimes of a mixed nature. First of all, these are the crimes of public-private nature, where the prosecutor's office must initiate a criminal procedure. However, if the victim states that he/she does not want the perpetrator to be punished, the prosecutor cannot continue and has to close the procedure based on these grounds. In principle, this is valid for crimes of negligence against transport resulting in property damages or moderate bodily harm (Article 343, Para. 2 CC). They are irrelevant for the notion of DV or GBV.



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Second, there are the so-called crimes of private-public nature where the criminal prosecution follows the general procedure – with pre-trial phase under the supervision of a prosecutor, however, only if the victim has submitted a complaint to the office of the prosecutor (Article 161, Para. 2 CC). In certain circumstances these crimes could be linked to the notion of GBV, in as much as there is negligence causing moderate bodily harm as per Article 135 CC and defamation as per Article 139 CC involved. In such cases, the initiation of a criminal prosecution as per general procedure is done based on a complaint submitted to the office of the prosecutor and depends on the will and readiness of the victim, however, once initiated, the criminal prosecution follows the general procedure and cannot be terminated on the basis of withdrawal of the complaint by the victim or his/her request.

8. How does your internal law allow for NGOs or other civil society actors and victim counsellors to assist and support victims in legal proceedings?

RB's national legislation does not allow the possibility for NGOs or other persons representing the civil society to take part directly in criminal procedures and in court proceedings under LPADV, supporting and aiding the victim – except in the hypothesis where they act as legal representatives or legal aid providers.

Nevertheless, NGO can provide psychological and practical assistance to the victim in parallel also during the criminal prosecution – in the form of service due. This possibility arises and is used when the victim has suffered property or non-economic damages from the crime (including criminal GBV) and the latter falls within the scope of the Law for support and financial compensation of victims of crime. The investigation authorities must inform the victim about his/her right to receive support from such victim support organisations and the prosecutor controls the fulfilment of that obligation.

The entities, incorporated as per Article 18, Para. 2 u 3 of the Law on Social Assistance and as per Article 45 of the Law on non-profit legal entities, offering social services and programs for recovery of victims of DV, or specialised programs for the perpetrators of violence, must present to court a list of their services and programs.

9. What measures of protection are available during investigations and judicial proceedings?

The measures for protection of the victim and persons during the criminal prosecution are as follows:

a) temporary protection of a witness as per Article 123 CPC:

Rendering such protection depends on two categories of assessment and the existence of certain prerequisites. First, the bias of the witness with regard to the need for his/her protection must always be taken into consideration. He/she has to submit an explicit request or express his/her unequivocal consent for measures for his/her protection to be taken. The competent authority (court or prosecutor) may decide that protection is required even without any request from the witness. Then they should bring that to the notice of the witness and request the explicit consent of the latter to receive protection according to Article 123 CPC. The measures provided by the law can be taken only if the victim gives his/her consent. Second, the competent authority should arrive at a conclusion that the witness or his/her next of kin (among the ones listed in Article 123 Para 1 CPC) is at risk arising from his witness capacity in the criminal prosecution. When rendering protection to the witness he/she should sign a statement that he/she should keep this circumstance confidential, as well as other facts on the case he/she becomes aware of (related to the protection he/she receives). Provided all respective



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prerequisites are met, the protection of the witness can be rendered with immediate effect and can be provided in two forms, applicable jointly or separately:

a.1.) providing personal security by the MOI authorities or the staff of the Bureau for Protection - *This form of protection can be applied for the witness himself/herself, as well as for his/her relatives in ascending or descending line, siblings or persons which the witness is in particularly close relation with;*

a.2.) keeping witness' identity secret - *In this case the witness takes part in the criminal prosecution with an ID number. This form is not widely used in the cases of DV and GBV which takes place in the context of long-standing victim-perpetrator relations. Each one of the two witness protection types as per CPC is limited in time and there is a possibility for the person at risk to be included in the Program for Protection before their expiry date.*

b) inclusion in the Program for Protection of persons at risk related to criminal prosecution - *This program is a complex of graduated measures – starting from personal security all the way to full change of identity and is carried out by the Bureau for Protection with the Office of the Prosecutor General, depending on the level of risk for the person. It can be applied for each person taking part in criminal prosecution regardless of his/her procedural quality, if the criminal prosecution creates a danger for his/her life and health. Inclusion in the Program can be done with a motion of the prosecutor in charge or the court, submitted to the Prosecutor General who requests an expert opinion on the level of the risk and reports the motion to the Interagency Council for Protection. The Council comprises senior officials from MOJ, MOI, SCC, SJC, SANS and has to pronounce a decision within three days from the date the motion for inclusion in the Program for Protection has been submitted by the Prosecutor General. When a person is included in the Program for Protection, protection is provided by the Bureau for Protection based on an agreement defining the type and the duration of the measure for protection, the rights and obligations of the parties and the conditions for cancellation of the agreement. Depending on the level of risk, the implementation of the Program may continue until the grounds are no longer existent or until the term of the agreement expires. Cancellation of the agreement is also possible in case of non-compliance of the protected person without any valid reasons.*

10. Please provide details on the availability of free legal aid for victims, including eligibility criteria.

Legal aid free of charge for criminal or civil cases related to DV and GBV is provided in accordance with the Legal Aid Act and is rendered by lawyers and funded by the state. The body in charge of coordination and implementation of the policy for granting legal aid free of charge is the Minister of Justice, and the operations are organised by the NLAB with the MOJ. The Bar Associations offer legal aid locally: lawyers registered with the NLAB, attorneys-at-law on duty and attorneys-at-law who offer advice in the regional legal advice centers.

Legal aid is provided in the form of legal advice, preparation of documentation for filing a case in court, procedural representation before a court or a pre-trial authority and representation in case of arrest by an MOI authority. Criteria have been developed for providing legal aid to persons and families depending on their social, economic and civil status, the presence of measures for protection of a child at risk or in a situation of vulnerability. The victims of DV, sexual violence or human trafficking, who state that they have no funds available and wish to use legal representation, are explicitly included in the list of people who receive legal aid and satisfy a specific eligibility criterion (Article 22, Para. 1, Item 7 of the Legal Aid Act).



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In case of a need for procedural representation, established by a pre-trial authority, court or any other state authority, the decision for legal aid is taken by the authority in charge of the procedural action and any refusal must be in writing, motivated and subject to appeal. In emergencies related to procedural enforcement cases, interviews before a judge and quick procedures as per CPC, as well as procedures under the Health Act and the Child Protection Act, the Bar Associations appoint on duty attorneys-at-law if the person has not authorised such. The on-duty attorneys-at-law are appointed from the list of the National Legal Aid Register who have submitted their explicit consent and the Bar Association drafts the respective monthly timetables.

In addition to the general procedure for providing legal aid, there are:

- a) **National Legal Aid Hotline** - for advice in relaxed conditions. The operation of the hotline is administered by the NLAB, which approves the rules of operation too. Lawyers who are registered with the NLAB and are appointed by it and report to it, provide advice on that hotline.*
- b) **Regional Legal Advice Centers**, which are opened upon decision of the local Bar Association. Their operation is administered by the NLAB and the Bar Association which has made the decision for opening them. Only individuals whose documented income is below the threshold (minimum wage) are entitled to use the services of these Centers.*



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