

Assessment of

# DOMESTIC VIOLENCE

Laws, Policies, & Practices

in Central & Eastern Europe &  
the Former Soviet Union

2016



Changing the world for good.



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The mission of The Advocates for Human Rights is to implement international human rights standards to promote civil society and reinforce the rule of law. By involving volunteers in research, education, and advocacy, we build broad constituencies in the United States and select global communities. The Advocates for Human Rights investigates and exposes human rights violations and abuses internationally and in the United States; represents immigrants and refugees who are victims of human rights violations and abuses; trains and assists groups to protect human rights; and works through research, education, and advocacy to engage the public, policy makers, and children in understanding human rights. The Advocates for Human Rights was founded in 1983 by a group of Minnesotans who recognized the community's unique spirit of social justice as an opportunity to promote and protect human rights in the United States and around the world. Today, The Advocates has produced more than 75 reports documenting human rights practices and policy recommendations and works with partners overseas and in the United States to restore and protect human rights. The Advocates for Human Rights holds Special Consultative Status with the United Nations.

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## List of Main Acronyms

CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CEE	Central and Eastern Europe
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CERD	Committee on the Elimination of Racial Discrimination
CPC	Criminal Procedure Code
ECHR	European Court of Human Rights
EU	European Union
FSU	Former Soviet Union
GREVIO	Group of experts on the subject of violence against women (under the Istanbul Convention)
ICCPR	International Covenant on Civil and Political Rights
IGO	International Government Organization
Istanbul Convention	Council of Europe Convention on preventing and combating violence against women and domestic violence
NGO	Non-Governmental Organization
OP-CEDAW	Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women
OP1-ICCPR	First Optional Protocol to the International Covenant on Civil and Political Rights
OSCE	Organization for Security and Co-operation in Europe
UN	United Nations
UPR	Universal Periodic Review
VAW	Violence against Women
WAVE	Women against Violence Europe

## Executive Summary

The United Nations estimates that as many as 70% of women are likely to be victims of violence at some point in their lives.<sup>1</sup> In the Declaration on the Elimination of Violence against Women, the United Nations states that “[V]iolence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms. . .”. It also recognizes that:

[V]iolence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men.<sup>2</sup>

Domestic violence, one of the many forms of violence against women, is one of the most serious and pervasive human rights problems in the world. Violence directed against women by intimate partners, including current or former spouses or boyfriends, has serious physical, emotional, financial, and social effects on women, children, families and communities.

Overcoming the legacy of inequality that has given rise to, condoned, and even encouraged violence against women requires a strong government response. The Committee on the Elimination of Discrimination against Women has urged States Parties to ensure that violence against women, including domestic violence, is prosecuted and punished, to guarantee immediate means of redress and protection to victims of violence, and to ensure that public officials, including police, judges, health care personnel, social workers, and teachers, understand the relevant laws and are sensitive to the needs of victims. An effective government response, in turn, requires: 1) adopting and improving laws; 2) training those responsible for implementing laws and responding to domestic violence; 3) ensuring adequate victim services; 4) working with civil society to maintain and strengthen these responses; and 5) educating and raising awareness among the population, systems actors, and service providers.

Specifically, States should adopt civil and criminal laws to provide victims with adequate protection and hold offenders accountable for domestic violence through investigations, prosecution, and appropriate punishments that are commensurate with the severity of the offense. In addition, States should undertake trainings for systems actors and raise awareness among the general population about domestic violence and the legal remedies available to victims.

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<sup>1</sup> UN Secretary General, *Violence against Women Fact Sheet* (November 2011), 2, [http://endviolence.un.org/pdf/pressmaterials/unite\\_the\\_situation\\_en.pdf](http://endviolence.un.org/pdf/pressmaterials/unite_the_situation_en.pdf).

<sup>2</sup> United Nations General Assembly, *Declaration on the Elimination of Violence against Women*, 20 December 1993, U.N. Doc. A/RES/48/104.



Undertaking these measures is not enough, however; governments should monitor their response for gaps and commit to amending the laws and policies when necessary to fill those gaps. Civil society plays a major role by identifying weaknesses in the government response, recommending the appropriate changes, and helping advocate for those reforms.

The Advocates for Human Rights (The Advocates) surveyed the 30 countries in Central and Eastern Europe (CEE) and the Former Soviet Union (FSU)<sup>3</sup> to evaluate each country's potential for strengthening domestic violence laws and improving the government and community response to domestic violence. The Advocates drafted this report at the request of the Oak Foundation to contribute to the expansion strategy of the Issues Affecting Women Programme.

This report is based on a desk review using human rights reports, news, personal communications, government and inter-governmental organizations' documents, and other secondary sources. The authors compared information for each country against international standards to identify the laws and practices that best promote victim safety and offender accountability. The Advocates evaluated several indicators, including: 1) the current laws and recent legal developments; 2) government will toward improving its response; 3) mechanisms for government accountability; 4) the strength of civil society; and 5) the current status of government and non-governmental efforts to eliminate violence against women.<sup>4</sup> With the adoption of new laws, varying resources, and other shifting factors, this area of information is continuously changing. The information presented in this assessment reflects information available at the time of publication.

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<sup>3</sup> These countries include: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan.

<sup>4</sup> The Advocates is actively working with partners in Bulgaria, Croatia, Moldova, Montenegro and Serbia on improving the government's response to domestic violence. Assessments of these countries reflect information gathered and work The Advocates has conducted.

## Introduction

This report evaluates the legal system response to violence against women in Central and Eastern Europe (CEE) and the Former Soviet Union (FSU). It provides a general assessment of individual countries' potential for reforming their laws and improving their systems' response to domestic violence.<sup>5</sup> This report does so by evaluating a number of factors, which include: 1) the status of legislation and recent developments; 2) mechanisms for government accountability; 3) the strength of local civil society; 4) the current status of efforts to combat domestic violence; and 5) other barriers and considerations.

The report's evaluation begins by examining the status of domestic violence legislation and any recent amendments to that legislation. A strong government response to domestic violence includes a foundation of both civil and criminal laws that protects victims and punishes domestic violence offenders, amendments to improve those laws when necessary, and supplementary policies to implement them.<sup>6</sup> Penal legislation will provide penalties for all acts of domestic violence, including low-level injuries. Laws — whether through civil, administrative, or misdemeanor systems — should also provide for an order for protection remedy that specifically addresses domestic violence and protects victim safety.

The report also gauges the political will to make necessary changes to laws and practices. Strong political will to undertake change can manifest in many ways, such as state acceptance and implementation of recommendations by outside bodies, which can indicate the government's disposition toward improving its response. Acceptance or rejection of these recommendations also provides insight as to the types of reform governments are willing to undertake - whether conducting public awareness and trainings, amending laws, or investing in victim services. The UPR process requires regular reviews every four years, providing the country an incentive to reform its laws and the Human Rights Council an accountability tool to examine each government's commitment to these recommendations. As part of assessing governments' political will, this report analyzes whether the country has accepted or rejected (also referred to as “noted”) recommendations relating to domestic violence during the United Nations' Universal Periodic Review process.

Second, this report evaluates mechanisms for government accountability, including relevant treaty ratification of the Convention on the Elimination of All Forms of Discrimination against

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<sup>5</sup> The Advocates evaluated the following thirty countries in the CEE and FSU region: Albania, Armenia, Azerbaijan, Belarus, Bosnia and Herzegovina, Bulgaria, Croatia, Czech Republic, Estonia, Georgia, Hungary, Kazakhstan, Kosovo, Kyrgyzstan, Latvia, Lithuania, Macedonia, Moldova, Montenegro, Poland, Romania, Russia, Serbia, Slovakia, Slovenia, Tajikistan, Turkey, Turkmenistan, Ukraine, and Uzbekistan.

<sup>6</sup> Information on the laws and legal developments varies from country to country because of factors such as the openness of society and the media, availability of information in English, and government capacity and will to disseminate up-to-date information.

Women (CEDAW) and its Optional Protocol (OP-CEDAW), the International Covenant on Civil and Political Rights (ICCPR) and its First Optional Protocol (OP1-ICCPR), the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). A country's ratification of OP-CEDAW and OP1-ICCPR is particularly important because it subjects the government to an additional mechanism of accountability through an individual complaint process. In addition, ratification of the Istanbul Convention is also significant because the convention is the only binding instrument in the European system that addresses violence against women, including domestic violence. The Istanbul Convention requires States Parties to take specific steps to be in compliance with its provisions. These measures include, but are not limited to:

- Protecting victims from acts of violence (Art. 18.1);
- Providing access to services facilitating victim recovery from violence, i.e., housing, education, training, etc. (Art. 20.1);
- Providing victims with access to health care and social and professional services (Art. 20.2);
- Providing shelters (Art. 23);
- Emergency barring of the perpetrator from residence and no contact with victim orders (Art. 52);
- Restraining or protection orders for all types of violence (Arts. 53.2 and 3);
- Providing free legal aid to victims consistent with internal law (Art. 57);
- Establishing bodies to coordinate, implement, monitor and evaluate policies and measures taken under the Convention (Art. 10.1);
- Strengthen training of professionals (Art. 15.1).

The Istanbul Convention also provides two important mechanisms to address implementation of the convention: 1) Group of Experts on Action against Violence against Women and Domestic Violence ("GREVIO"); and 2) Committee of the Parties.<sup>7</sup> GREVIO will conduct monitoring of States Parties' implementation of the Istanbul Convention.<sup>8</sup> GREVIO will require States Parties to respond to a questionnaire on legislative and other measures that give effect to the Convention, review the reports,<sup>9</sup> and may organize country visits if the information from the reports is insufficient or immediate attention is required.<sup>10</sup> The second implementation mechanism is carried out by a Committee of the Parties, composed of representatives of parties

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<sup>7</sup> The first mechanism is carried out by a group of experts on the subject of violence against women (GREVIO), which will conduct monitoring of States Parties' implementation of the convention. This group will be composed of 10 experts, and 5 additional experts will be elected after the 25<sup>th</sup> ratification of the Convention. *Convention on Preventing and Combating Violence Against Women and Domestic Violence*, 11 May 2011, CETS No. 210, art. 66, [http://www.coe.int/t/dghl/standardsetting/convention-violence/brief\\_en.asp](http://www.coe.int/t/dghl/standardsetting/convention-violence/brief_en.asp).

<sup>8</sup> Istanbul Convention, art. 66(1), [http://www.coe.int/t/dghl/standardsetting/convention-violence/brief\\_en.asp](http://www.coe.int/t/dghl/standardsetting/convention-violence/brief_en.asp).

<sup>9</sup> *Ibid.*, art. 68.

<sup>10</sup> *Ibid.*, art. 68, ¶¶ 9, 14.

to the convention.<sup>11</sup> The Committee of the Parties may make recommendations to States Parties concerning measures they should take to implement GREVIO's conclusions and promote cooperation for the implementation of the convention.<sup>12</sup>

Mechanisms for holding governments accountable, such as adjudication before international bodies or treaty body reviews, can be powerful tools in motivating reforms that improve the State's response to domestic violence. Specifically, the European Court of Human Rights and the CEDAW Committee have both issued decisions on matters of domestic violence in several CEE/FSU countries. These decisions not only hold the government's practices up to international scrutiny, but can also shape the government's reform efforts toward better practices and standards.

Third, this report evaluates the strength of local civil society organizations, including whether they are able to operate without government repression and whether organizations already exist in the country that address domestic violence issues. The strength of civil society in that country is an important measurement for the potential for improving the government response; non-governmental organizations (NGOs) that know victims' needs and the gaps in the State's response are best positioned to drive change. Strong collaboration among NGOs can strengthen these advocacy efforts and this potential. Another indicator that reveals the strength of civil society is the extent of government repression. An open and free society is crucial to enable civil society to effectively conduct advocacy.

Finally, this report evaluates the current status of efforts to respond to and eliminate domestic violence in each country. These factors include the existence of victim services, shelters, institutional reforms, and funding for domestic violence efforts. Adequate victim services and assistance shows the government is committed to ensuring victims gain protection through both law and services. The extent to which victims' services are provided by NGOs is another indication of civil society's capacity to meet the needs of victims.

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<sup>11</sup> Ibid., art. 67.

<sup>12</sup> Ibid., art. 68, ¶ 12.

## ALBANIA

### Legal Landscape and Developments

Albania has undertaken reform of its penal legislation with regard to domestic violence, and domestic violence is punished under a specific offense in the Penal Code. In 2010, Albania amended its Penal Code to criminalize domestic violence, stalking, and other specific acts of violence.<sup>13</sup> Stalking is prohibited as “victimization” under the Penal Code, and when committed by a former husband, cohabitant or spiritual companion, the punishment increases by one-third.<sup>14</sup> In March 2012, Albania further amended its Criminal Code to increase the punishment for domestic violence by up to five years’ imprisonment.<sup>15</sup> Albania’s Criminal Code now defines domestic violence as beating or any other violent act against a spouse, former spouse or cohabitant, next-of-kin or relatives through the offender’s marriage that results in an attack to a person’s physical, psychosocial and economic integrity. Punishment is up to two years’ imprisonment. Serious threat for murder or severe injury that results from an attack to a person’s physical integrity is punishable by up to three years’ imprisonment. When committed repeatedly or in the presence of children, the punishment for these offenses rises to a minimum of one to a maximum of five years’ imprisonment.<sup>16</sup>

In 2013, Albania criminalized spousal rape and sexual violence.<sup>17</sup> Marital rape is punishable by three to ten years’ imprisonment.<sup>18</sup> Article 284 of the Criminal Procedure Code, however, requires a victim complaint to initiate prosecution for crimes of non-serious, intentional injury,

<sup>13</sup> UNDP, “Coordinated response against domestic violence bears results for survivors,” <http://www.al.undp.org/content/albania/en/home/ourwork/womenempowerment/successstories/coordinated-response-against-domestic-violence-bears-results-for/> (accessed July 22, 2015).

<sup>14</sup> Victimization is defined as:

Threatening or provoking the person by repeated actions, aiming to cause him a hard and continuous state of anguish and fear for personal security, for the security of relatives or of a person with whom has spiritual relations, or to force him to change his mode of life, is sentenced by imprisonment from six months up to four years. When this offense is committed by the former husband, by the former cohabitant or by the person that has had spiritual relation with the convicted defendant, the punishment is increased with one third of the given sentence. When this offense is committed against minors, pregnant women or against a person unable to be defended, and also when it is carried out by a masked person or is accompanied with the bearing or use of arms, the sentence is increased up to one second of the given punishment.

Law No. 7895, of 27.01.1995 (consolidated version as of 2013), Criminal Code of the Republic of Albania, art. 121/a, <http://www.legislationline.org/documents/section/criminal-codes/country/47>.

<sup>15</sup> *Commission Staff Working Document: Albania 2012 Progress Report*, SWD (2012) 334 final (10 October 2012), 19, [http://www.akti.gov.al/documents/al\\_rapport\\_2012\\_en.pdf](http://www.akti.gov.al/documents/al_rapport_2012_en.pdf).

<sup>16</sup> Law No. 7895, of 27.01.1995 (consolidated version as of 2013), Criminal Code of the Republic of Albania, art. 130/a, <http://www.legislationline.org/documents/section/criminal-codes/country/47> (accessed July 31, 2015).

<sup>17</sup> *Commission Staff Working Document: Albania 2013 Progress Report*, SWD(2013) 414 final (10 October 2012), 43, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/brochures/albania\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/albania_2013.pdf).

<sup>18</sup> Law No. 7895, of 27.01.1995 (consolidated version as of 2013), Criminal Code of the Republic of Albania, art. 102, <http://www.legislationline.org/documents/section/criminal-codes/country/47> (accessed July 31, 2015).

which includes rape and sexual harassment.<sup>19</sup> This creates an additional and unnecessary barrier to reporting and prosecution of spousal rape cases.

In 2007, Albania adopted a specific law to address domestic violence and provide victims with an order for protection.<sup>20</sup> Three years later, in 2010, Albania amended its domestic violence law to improve victim protections. Changes to the law established a shelter, a domestic violence referral mechanism, legal aid for victims seeking a protection order, and a provision requiring offenders to pay court costs.<sup>21</sup>

Since then, other government bodies have issued decisions to further implementation of the domestic violence law. On February 17, 2011, the Minister Council of Albania issued Decision No. 334 to coordinate referrals for cases of domestic violence and establish a mechanism to establish local coordinators on domestic violence, interdisciplinary teams, and coordinate local committee networks.<sup>22</sup> In 2012, the Ministry of Health issued a decision to provide \$30 USD per month for victims of domestic violence as assistance while a protection order is in effect.<sup>23</sup>

Albania also allows victims to obtain a protection order with monthly financial assistance, or approximately 13% of the average family's monthly income in Albania.<sup>24</sup> This policy recognizes the economic constraints that victims face, as many women withdraw their applications for protective orders due to financial and social pressures and the lack of free legal aid.<sup>25</sup> Monetary assistance is not a remedy commonly seen in protection orders in the region, yet it is a best practice standard recognized by the United Nations.<sup>26</sup> While Albania does not provide financial aid as a remedy in its domestic violence law, it has amended other legislation to ensure that victims can receive such assistance.

<sup>19</sup> Law No. 7905 of 21.03.1995 (consolidated version as of 2013), Criminal Procedure Code of the Republic of Albania, art. 284, <http://www.legislationline.org/documents/section/criminal-codes/country/47> (accessed July 31, 2015).

<sup>20</sup> No. 9669 of 18.12.2006, Për Masa Ndaj Dhunës Në Marrëdhëniet Familjare [On Measures Against Violence in Family Relations] (12 January 2007), <http://www.osce.org/albania/30436>.

<sup>21</sup> Amnesty International, *Amnesty International Annual Report 2011 - Albania* (2011).

<sup>22</sup> Hague Conference on Private International Law, Permanent Bureau, *Recognition and Enforcement of Foreign Civil Protection Orders: Questionnaire For Non-Governmental Organisations* (December 2012), 6–7, <http://www.hcch.net/upload/wop/hidden/2013/fia.pdf>.

<sup>23</sup> Amnesty International, *Amnesty International Annual Report 2012 - Albania* (2012).

<sup>24</sup> See Burbuqe Mecaj, *The Value of Legality for a New Social Deal (Pact) Between People and Europe*, slide 3, <http://www.joggle.eu/download/PrimaConferenza/Sessione3/Kucova%20The%20value%20of%20Legality%20for%20a%20new%20social%20pact%20with%20europe.pdf> (accessed July 22, 2015) (stating the average income for a family is approximately \$232 per month); see *Cost of Living in Albania*, NUMBEO.COM, [http://www.numbeo.com/cost-of-living/country\\_result.jsp?country=Albania](http://www.numbeo.com/cost-of-living/country_result.jsp?country=Albania) (accessed July 10, 2014).

<sup>25</sup> Amnesty International, *Amnesty International Annual Report 2012 - Albania* (2012).

<sup>26</sup> The UN Handbook for Legislation on Violence against Women and Girls states that the contents of an order for protection should include an order for the accused to provide the victim with financial assistance. UN Department of Economic and Social Affairs, *Handbook for Legislation on Violence against Women* (2009), 46, <http://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>.

Interviews with a women's rights advocate in Albania revealed some challenges in the implementation of the domestic violence law. Judges will inquire whether the perpetrator has contacted the victim during proceedings and may refuse to issue a protection order if he has not.<sup>27</sup> Also, prosecutors reportedly do not prioritize criminal domestic violence cases if there is a parallel civil case going forward, potentially allowing evidence to disappear.<sup>28</sup> Social administrators at the local community level lack training and sufficient resources to address domestic violence.<sup>29</sup> Finally, protection orders are reportedly not granted in cases of violence against an intimate partner,<sup>30</sup> likely because the law only protects intimate partners who live or have lived together.<sup>31</sup>

Albania has adopted other relevant laws and policies. In 2010, the government adopted the Law on Protection against Discrimination.<sup>32</sup> Albania is required to promulgate a National Action Plan every four years. Albania has adopted the National Strategy on Gender Equality and Eradication of Gender-Based and Domestic Violence (2011 – 2015) (Albania National Strategy),<sup>33</sup> which contains four priority issues with action plans. The fourth priority issue, Reducing Gender-Based Violence, is to be achieved by strengthening punishment through laws on gender-based violence, preventing gender-based violence through public education, protection, and support for both victims and offenders using victim rehabilitation and reintegration, and building capacity at all levels of government administration.<sup>34</sup>

Albania has adopted a number of important provisions and amendments to its laws addressing domestic violence within the past few years. That Albania has adopted and soon after amended its domestic violence law is a positive indication of the government's willingness to improve its legal framework on domestic violence. The ministries have also signaled their commitment by contracting to work together in a coordinated response. Albania's law criminalizing spousal rape, stalking, sexual violence, and sexual harassment are additional positive factors. The Criminal Procedure Code presents a barrier to prosecution by requiring a victim complaint, which the victim may withdraw at any stage of the proceedings, for non-serious intentional injury and rape,

<sup>27</sup> Personal Communication from Albanian Advocate to Rosalyn Park, 15<sup>th</sup> WAVE Conference, Sofia, Bulgaria, October 10 - 12, 2013 (on file with authors).

<sup>28</sup> Personal Communication from Albanian Advocate to Rosalyn Park, 15<sup>th</sup> WAVE Conference, Sofia, Bulgaria, October 10 - 12, 2013 (on file with authors).

<sup>29</sup> Ibid.

<sup>30</sup> Hague Conference on Private International Law, *Questionnaire For Non-Governmental Organisations*, 8, <http://www.hcch.net/upload/wop/hidden/2013/fia.pdf>.

<sup>31</sup> Law No. 9669 of 18.12.2006, On Measures Against Violence in Family Relations [C. Civ.] art. 3(3) (Alb.).

<sup>32</sup> *Local strategy for the implementation of the EU Guidelines on violence against women and girls and combating all forms of discrimination against them*, adopted by EU Heads of Mission to Albania (3 June 2010), 2, [http://eeas.europa.eu/delegations/albania/documents/eu\\_albania/local\\_strategy\\_women\\_en.pdf](http://eeas.europa.eu/delegations/albania/documents/eu_albania/local_strategy_women_en.pdf).

<sup>33</sup> Kristin Jacoba Van der Leest, Rezart Xhelo, Dolly Wittberger, *Gender Equality and Local Governance* (2012), 16, [http://www.entwicklung.at/fileadmin/media/Themen/Gender/GELG\\_publication\\_2012\\_EN.pdf](http://www.entwicklung.at/fileadmin/media/Themen/Gender/GELG_publication_2012_EN.pdf).

<sup>34</sup> Ibid., 17.

including spousal rape.<sup>35</sup> Albania's demonstrated willingness to amend its laws, however, shows potential for continuing its improvement of the penal system.

While there are challenges to the domestic violence law's implementation, the described problems — misperceptions about victim safety and failure to prioritize domestic violence cases — reflect the need for greater training and education among systems actors rather than a poor climate for change. For example, the focus of the Albania National Strategy on protecting and supporting victims — and offenders — using victim rehabilitation demonstrates a need to shift government attitudes from fixing the victim to holding offenders accountable. Albania has a good legislative foundation from which to continue improving implementation and strengthening the government's response.

## Government Will

### *Acceptance of UPR Recommendations*

Albania participated in its first Universal Periodic Review (UPR) session in 2009. Albania's second UPR took place in April – May 2014. In its second report to the Human Rights Council, the government of Albania described its implementation of the domestic violence law, stating that reported cases and requests for protection orders have increased.<sup>36</sup> The report noted amendments to the Law on Legal Aid to provide assistance to domestic violence victims, and both the State Commission for Legal Aid and NGOs have provided free legal aid to victims who filed these requests.<sup>37</sup> The report also described amendments to the domestic violence law, namely the creation of a referral mechanism, provision of legal aid, assignation of court fee costs to the perpetrator, and the creation of a national shelter.<sup>38</sup> In terms of criminal legislation, the report described several amendments undertaken in 2012 and 2013, such as broad inclusion of all forms of domestic violence as a separate offense, expanding the scope of possible perpetrators, categorizing an offense committed based on gender as an aggravated crime with increased penalties, criminalization of marital rape, and removing the requirement for domestic violence victims to initiate prosecution.<sup>39</sup> The report noted a number of laws and strategies Albania has promulgated, including the National Strategy on Gender Equality and Reduction of Gender-Based Violence and Domestic Violence 2011 - 2015 and its Action Plan, the 2011 standards for social care for victims in both public and private residential centers, and the 2012 protocol for admitting domestic violence victims in residential centers.<sup>40</sup> Finally, the report notes the creation

<sup>35</sup> Art. 284, Criminal Procedure Code. Art. 284(2) states “The injured person lodges a statement with the prosecutor or judicial police in person or through a special representative, in which he expresses his willingness to prosecute an act provided by law as a criminal offence.”

<sup>36</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Albania*, 30 January 2013, U.N. Doc. A/HRC/WG.6/19/ALB/1, ¶ 50(a).

<sup>37</sup> *Ibid.*, ¶¶ 50(c), 55.

<sup>38</sup> *Ibid.*, ¶ 51.

<sup>39</sup> *Ibid.*, ¶ 53.

<sup>40</sup> *Ibid.*, ¶¶ 57, 59.



of the Coordinating Referral Mechanism for domestic violence and the multi-disciplinary response system in a number of municipalities.<sup>41</sup>

During its second UPR in 2014, Albania accepted recommendations related to gender equality, including the following that address domestic violence:

- Ensure all reports of domestic violence are thoroughly investigated and perpetrators are brought to justice and cases are prosecuted in accordance with the law (Recommendations 104.45, 104.56, 104.57, 104.58, 104.59);
- Develop programs to assist victims of domestic violence (Recommendation 104.46);
- Fully implement the policies aimed at preventing violence against women, in particular by addressing the factors that may prevent women from filing complaints (Recommendation 104.47);
- Raise awareness among law enforcement officials, lawyers, and judges of the serious nature of domestic and gender-based violence (Recommendation 104.48);
- Provide necessary support, including adequate shelter, for all victims (Recommendations 104.48, 104.49, 104.50);
- Establish social services and a system of victim compensation, rehabilitation and reintegration programs (Recommendations 104.50, 104.51);
- Analyze protection orders that were broken to identify root causes and take measures to secure victim safety (Recommendation 104.52);
- Fully implement the National Strategy on Gender Equality and Against Gender-Based and Domestic Violence and promote police capacity through additional training (Recommendations 104.54, 104.59).<sup>42</sup>

Albania accepted and considered that certain recommendations, including police training and practical assistance for victims of violence, were already in the process of implementation.<sup>43</sup>

Albania did not note any recommendations related to domestic violence.<sup>44</sup>

That Albania has accepted all the recommendations related to domestic violence, including those to strengthen systems actors' response and monitor gaps in implementation of the law, indicates a commitment to improving its response to domestic violence.

### **Mechanisms for Government Accountability**

Albania has ratified CEDAW (1994), ICCPR (1991), and CAT (1994), thus subjecting itself to periodic reporting and reviews by the respective treaty monitoring bodies. Albania has also

<sup>41</sup> Ibid., ¶ 57.

<sup>42</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Albania*, 7 July 2014, U.N. Doc. A/HRC/27/4, ¶ 104.

<sup>43</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Albania*, 7 July 2014, U.N. Doc. A/HRC/27/4, ¶¶ 105.21, 105.22.

<sup>44</sup> Ibid.

ratified the OP-CEDAW (2003) and OP1-ICCPR (2007), providing an additional means of accountability via the complaint mechanism.

Albania ratified the Istanbul Convention in 2013 without reservations, thus subjecting itself to review by GREVIO and the Committee of the Parties. The treaty entered into force on August 1, 2014. Only eighteen countries have ratified the Istanbul Convention, marking those States Parties—including Albania—as leaders in committing to these standards on violence against women.

Albania’s ratification of the convention presents opportunities for improvement in the country with respect to violence against women, including domestic violence, because States party to the Istanbul Convention are required to take “necessary legislative and other measures” to prevent and punish violence against women.<sup>45</sup> Recent legal developments reflect some of the measures set forth in the convention, but further reform may be necessary to ensure full compliance throughout the entire country, both in the language and the implementation of laws.

Albania is a candidate country for EU accession.<sup>46</sup> European Union membership may provide an additional incentive for candidate countries to improve their human rights records. Often, EU progress reports and opinions note goals and key priorities for the country that pertain to women’s human rights. For example, the 2010 European Commission opinion lists as a key priority for Albania’s accession: the need to “[t]ake concrete steps to reinforce the protection of human rights, notably for women, children and Roma, and to effectively implement anti-discrimination policies.”<sup>47</sup> In its 2014 Progress Report for Albania, the European Commission notes an online system to report and monitor cases of gender violence was launched in July 2014 and is operational in nearly half of the municipalities, resulting in an increase in the number of cases and offenses reported.<sup>48</sup> Overall, the report notes several areas to strengthen implementation of the law, including: a) better coordination between local and central government; b) easing of the overly restrictive requirements for shelter admission; c) establishing a free 24-hour national helpline for victims; and d) addressing gender bias in court decisions and law enforcement institutions.<sup>49</sup> EU candidacy may serve as additional encouragement for Albania to improve its response to domestic violence.

<sup>45</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11 May 2011, CETS No. 210, arts. 4, 7, 12, 58, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed July 31, 2015).

<sup>46</sup> European Commission, *European Neighbourhood Policy and Enlargement Negotiations: Albania* (13 May 2015), [http://ec.europa.eu/enlargement/countries/detailed-country-information/albania/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/albania/index_en.htm) (accessed August 5, 2015).

<sup>47</sup> European Commission, *Commission Opinion on Albania’s Application for Membership of the European Union*, 9 November 2010, Doc. No. 680, 12, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/al\\_opinion\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/al_opinion_2010_en.pdf).

<sup>48</sup> *Commission Staff Working Document, Albania 2014 Progress Report*, SWD (2014) 304 final (8 October 2014), 47, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-albania-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf).

<sup>49</sup> *Ibid.*

*ECHR/CEDAW Cases and Implementation*

Albania has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvement in, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought against Albania before the ECHR. There have been no admissible complaints pertaining to domestic violence against Albania brought before CEDAW.

*Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government’s response to domestic violence and provide guidance on appropriate reforms. In particular, the Human Rights Committee, CEDAW Committee, and CAT Committee made recent recommendations for improving Albania’s response to domestic violence. Indeed, as explained below, Albania has subsequently implemented the recommendations made by the treaty bodies with regard to marital rape.

The Human Rights Committee during Albania’s ICCPR review expressed concern about ineffective police investigation into domestic violence complaints, the rarity of convictions, the lack of a sufficient number of shelters for victims of domestic violence, and the lack of protection order follow-up. It expressed its regret regarding continuing reports of domestic violence against women in Albania. The Human Rights Committee recommended awareness-raising measures, more thorough investigations and punishments, and improved follow-up on protection orders.<sup>50</sup>

The CEDAW Committee also expressed concern that “domestic violence is not appropriately sanctioned,” that marital rape is not a specific offense, and that there is a high rate of suicide among female victims of domestic assault. The CEDAW Committee recommended strengthening protection mechanisms, including eviction remedies, shelter access, and legal aid, among other measures.<sup>51</sup> The CAT review echoed concerns that marital rape was not a specific penal offense and encouraged an additional penal offense for domestic violence.<sup>52</sup> Since the CEDAW and CAT reviews, Albania has criminalized marital rape and created a specific criminal offense of domestic violence, suggesting these recommendations may influence Albania’s reform of its laws.

<sup>50</sup> Human Rights Committee, *Concluding observations on the second periodic report of Albania*, 22 August 2013, U.N. Doc. CCPR/C/ALB/CO/2, ¶ 11.

<sup>51</sup> Committee on the Elimination of Discrimination Against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women*, 16 September 2010, U.N. Doc. CEDAW/C/ALB/CO/3, ¶ 26–27.

<sup>52</sup> Committee against Torture, *Consideration of Reports Submitted by States Parties Under Article 19 of the Convention*, 26 June 2012, U.N. Doc. CAT/C/ALB/CO/2, ¶ 14.

## Strength of Civil Society

Generally, Albania's government has been characterized as being "cooperative" and "responsive" to the work of international and domestic human rights groups.<sup>53</sup> Albania received a "Partly Free" rating on the "Freedom Status" scale in the report, *Freedom in the World: 2015*.<sup>54</sup> This rating was derived from combining Albania's "freedom" scores on both its political rights and civil liberties.<sup>55</sup> In 2013, the Human Rights Committee expressed concern about harassment of the media, but did not express specific concerns for human rights defenders and organizations.<sup>56</sup>

NGOs play an important role in driving and shaping improved government response to domestic violence through advocacy, monitoring, training, and advising. Albania's government does not appear to actively repress its civil society, but neither are there indications that it actively encourages or promotes civil society engagement. The European Commission notes that cooperation between state institutions and civil society groups has improved, but that there is limited follow-up and a lack of a system for consultation between the two.<sup>57</sup> The "Partly Free" rating suggests that efforts to combat domestic violence would not be strongly hindered by government repression.

### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women's issues include the Albanian Women Empowering Network (AWEN), the Network Against Gender-Based Violence and Trafficking, the Albanian Helsinki Committee, Civil Legal Initiative Centre, Gender Alliance and Development Centre, Population and Development Centre, "VATRA" Centre, Free Legal Assistance Tirana, Society "Refleksione," "Amaro Drom" Union, Qendra për Zhvillimin and Severe Rurale dhe Nisma për Të Drejtat e Severe (Chemonics International Inc). Albania appears to have a strong and active civil society.

### *Monitoring Reports*

In 2010, Amnesty International produced a monitoring report, *Ending Domestic Violence in Albania: The Next Steps*, which describes the impact of the domestic violence law since its implementation and what is needed to improve effectiveness. The report explains the effects of resource limitations on those affected by domestic violence. The report's recommendations, which range from legal training for attorneys, training for governmental officials, criminalizing domestic violence, providing education, and providing additional shelters, are based on

<sup>53</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Albania* (2015), § 6.

<sup>54</sup> Freedom House, *Freedom in the World 2015—Discarding Democracy: Return to the Iron Fist* (2015), 21, [https://freedomhouse.org/sites/default/files/01152015\\_FIW\\_2015\\_final.pdf](https://freedomhouse.org/sites/default/files/01152015_FIW_2015_final.pdf) (accessed July 17, 2015) [hereinafter Freedom House, *Freedom in the World 2015*].

<sup>55</sup> *Ibid.*

<sup>56</sup> Human Rights Committee, *Concluding observations on the second periodic report of Albania*, ¶ 19.

<sup>57</sup> European Commission, *Commission Staff Working Document, Albania 2014 Progress Report*, 11, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-albania-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-albania-progress-report_en.pdf).

interviews with Albanian women and on observations on how the judiciary and the police have tried to address the problem.<sup>58</sup>

In 2010, the Network against Gender-based Violence and Trafficking published the *Report on Establishment and Effectiveness of Functioning of the Cross-Sectoral Referral System of Domestic Violence Cases, at the Local Level*, in the framework of the project, *Making it Real: Implementing the Law against Domestic Violence in Albania*.<sup>59</sup> The report describes the referral system across sectors using pilot models in five districts and quantitative methods to evaluate the systems.<sup>60</sup>

In 2012, the Data Centrum Research Institute published *Baseline Study on Domestic Violence and Albanian State Police*.<sup>61</sup> The report presents findings on the perceptions, attitudes, and prevalence of domestic violence, reporting of domestic violence, and how Albanian police respond to domestic violence. It concludes with recommendations for community activities, the police response, and increased interagency collaboration.<sup>62</sup> A 2014 article *Domestic Violence, Institutional Response and challenges in Addressing Domestic Violence in Albania* identifies gaps in the enforcement and support system, including a need for better coordination in implementing protection orders.<sup>63</sup>

These reports identify challenges in protecting victims and holding offenders accountable, which can help guide Albania in improving its response to domestic violence.

### Current Status of Efforts to Eliminate Violence against Women

The number of shelters for victims of domestic violence is insufficient.<sup>64</sup> There are a total of eight shelters with 200 spaces available.<sup>65</sup> The Albanian government operates a shelter that assisted 21 victims of violence and their children in the first 8 months of 2014.<sup>66</sup> There are four NGO-run shelters for domestic violence victims.<sup>67</sup> Most shelters will house a woman and her

<sup>58</sup> Amnesty International, *Ending Domestic Violence in Albania: The Next Steps* (2010), 16, <https://www.amnesty.org/en/documents/document/?indexNumber=EUR11%2F001%2F2010&language=en> (accessed August 5, 2015).

<sup>59</sup> The Network Against Gender-Based Violence and Trafficking, *Report on Establishment and Effectiveness of Functioning of the Cross-Sectoral Referral System of Domestic Violence Cases, at the Local Level* (2010), <http://www.stopdhunes.com/eng/wp-content/uploads/2014/02/report-on-establishment-and-effectiveness-of-functioning-of-the-cross-sectoral-referral-system-of-domestic-violence-cases-at-the-local-level1.pdf>.

<sup>60</sup> Ibid.

<sup>61</sup> Data Centrum Research Institute, *Baseline Study on Domestic Violence and Albanian State Police* (2012), <http://www.cp-project.al/wp-content/uploads/2013/01/Baseline-Study-Report-on-DV-and-ASP.pdf>.

<sup>62</sup> Ibid.

<sup>63</sup> Aurela Bozo, “Domestic Violence, Institutional Response and challenges in Addressing Domestic Violence in Albania,” *Mediterranean Journal of Social Sciences* 6, no. 151 (January 2015), 453.

<sup>64</sup> Amnesty International, *Amnesty International Annual Report 2012—Albania* (2012).

<sup>65</sup> Women Against Violence Europe, *Wave Report 2014: Specialized Women’s Support Services and New Tools for Combatting Gender-based Violence in Europe* (2015), 32, 54, <http://www.wave-network.org/sites/default/files/WAVE%20Country%20Report%202014.pdf> (accessed July 17, 2015) [hereinafter Women Against Violence Europe, “Wave Report 2014”].

<sup>66</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Albania* (2015), § 6.

<sup>67</sup> Ibid.

children without a time limit, while one shelter limits stays to four to six months.<sup>68</sup> Currently, a majority of the funding is from foreign donations.<sup>69</sup> Albania needs to provide 83 more shelter spaces to meet the Council of Europe Taskforce Recommendation standards.<sup>70</sup>

There is a national helpline for women who have experienced any form of violence. The helpline is free, operates six days a week from 9:00 a.m. to 8:00 p.m., but is not multilingual. The hotline is funded by foreign donations.<sup>71</sup> As of 2013, Tirana has a local helpline for women in conjunction with the Network of Community Centers, but it does not operate 24 hours a day, 7 days a week.<sup>72</sup> There are five centers that provide counseling for women victims of domestic violence.<sup>73</sup>

With support from UNDP, the Albanian government is launching a new online system to track cases nationwide and making a nationwide hotline available to encourage more reporting.<sup>74</sup>

One report notes that overall more services are needed, including legal aid, local 24-hour hotlines, and rehabilitation centers. The report notes that “[n]either the social services provided by local governments or the health services provided by health service centers are “effective[ly]” serving victims of domestic violence”<sup>75</sup> Although the law provides for legal aid for applicants of protection orders, as of 2012, the law was not implemented.<sup>76</sup>

There remains room for improvement with regard to Albania’s victim assistance. More shelters, victim services, and full implementation of the legal aid law are needed. Albania’s new obligation to comply with the Istanbul Convention, however, may result in future improvements to its victim services.

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<sup>68</sup> Women Against Violence Europe, *Country Report 2013: Reality Check on European Services for Women and Children Survivors of Violence* (2014), 33, <http://www.wave-network.org/sites/default/files/WAVE%20Country%20Report%202013%20Final%20Version.pdf> (accessed July 30, 2015) [hereinafter Women Against Violence Europe, *Country Report 2013*].

<sup>69</sup> Women Against Violence Europe, *Wave Report 2014*, 47.

<sup>70</sup> *Ibid.*, 32.

<sup>71</sup> Women Against Violence Europe, *Country Report 2013*, 33.

<sup>72</sup> *Ibid.*, 34.

<sup>73</sup> Women Against Violence Europe, *Wave Report 2014*, 54.

<sup>74</sup> UNDP, “In Albania, new horizons open for domestic violence survivors,” <http://www.undp.org/content/undp/en/home/ourwork/ourstories/new-horizons-opening-for-a--domestic-violence-survivor.html>.

<sup>75</sup> European Country of Origin Information Network, *Domestic Violence, Including Legislation, State Protection, and Services Available to Victims: Access to Employment and Housing for Victims* (6 October 2011), ¶ 16, [http://www.ecoi.net/local\\_link/204860/309952\\_en.html](http://www.ecoi.net/local_link/204860/309952_en.html).

<sup>76</sup> Amnesty International, *Amnesty International Annual Report 2012—Albania*.

# ARMENIA

## Legal Landscape and Developments

Armenia does not have a specific crime of domestic violence; general provisions in the Criminal Code pertaining to crimes against the person may be applied to certain cases of domestic violence. Relevant provisions that may be used to prosecute domestic violence include: murder (Article 104); murder in a state of strong temporary insanity (Article 105); causing someone to commit suicide (Article 110); infliction of willful heavy damage to health (Article 112); infliction of willful medium-gravity damage to health (Article 113); infliction of medium-gravity or grave damage to health in the state of temporary insanity (Article 114); infliction of willful light damage to health (Article 117); battery (118); torture (Article 119) and forced violence sexual acts (Article 140).<sup>77</sup>

Armenia does not have a specific domestic violence law that provides victims with an order for protection. The government recently rejected a proposed domestic violence law, citing the need for changes to the bill and its conflict with the current justice system.<sup>78</sup> Lawmakers and NGOs have revised the bill and it was resubmitted to parliament in 2015.<sup>79</sup> The new bill provides criminal definitions and establishes procedures for prosecution and victim support in domestic violence cases.<sup>80</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Armenia participated in its first Universal Periodic Review (UPR) session in 2010. Armenia's second UPR took place in January 2014. In its second report to the Human Rights Council, the government of Armenia described the adoption and facilitation of a new government body, available programs, and cooperation with shelters to combat domestic violence and violence against women.<sup>81</sup> The report notes the creation of an Interagency Commission on Combating Gender Violence and the rules of procedure approved for the Commission in March and July 2010, respectively.<sup>82</sup> Shortly thereafter, in 2011, Armenia established the "National Program

<sup>77</sup> Criminal Code of the Republic of Armenia (2003), <http://legislationline.org/documents/section/criminal-codes/country/45>.

<sup>78</sup> Gayane Abrahamyan, "Domestic Violence Taking High Toll in Armenia," *Inter Press Service*, 5 February 2013, ¶ 13, <http://www.ipsnews.net/2013/02/domestic-violence-taking-high-toll-in-armenia/>; Institute for War and Peace Reporting, *Armenia: Domestic Abuse Bill Back on the Table*, CRS Issue 766 (5 February 2015), <http://www.refworld.org/docid/54d4a98f4.html>.

<sup>79</sup> Institute for War and Peace Reporting, *Armenia: Domestic Abuse Bill Back on the Table* (5 February 2015).

<sup>80</sup> *Ibid.*

<sup>81</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Armenia*, 30 October 2014, U.N. Doc. A/HRC/WG.6/21/ARM/1, ¶¶ 33–35.

<sup>82</sup> *Ibid.*, ¶ 33.

Against Gender-based Violence,” which provides directions for early prevention, prevention, and support for gender violence victims.<sup>83</sup> According to the report, the program seeks to prosecute gender violence.<sup>84</sup> Between 2012 and 2013, Armenia also implemented the “Program on Enhancing the Quality of Services to Women Victims of Domestic Violence” to improve services and protect victims.<sup>85</sup> The report acknowledged only one domestic violence shelter in Armenia, and it described the cooperation between the Ministry of Labor and Social Affairs and specialized NGO partners to refer victims of domestic violence to that shelter through the exchange of information and trainings.<sup>86</sup> According to the report, the same ministry has been charged with discussing social assistance and protection programs with NGOs and to draft and amend laws to assist victims of domestic violence.<sup>87</sup>

During its second UPR in 2014, Armenia accepted recommendations related to gender equality, including the following that address domestic violence:

- Adopt comprehensive or national legislation on domestic violence (Recommendations 120.107, 120.109, 120.113);
- Adopt legislation on domestic violence to comply with international obligations to prevent violence, protect victims and criminalize domestic violence (Recommendations 120.53, 120.92, 120.103, 120.113);
- Adopt a stand-alone law on domestic violence (Recommendations 120.104, 120.105, 120.106, 120.112);
- Strengthen domestic violence legislation by adopting the draft law allowing victims to file complaints and seek protection (Recommendations 120.24, 120.110);
- Accede to or ratify the Istanbul Convention (Recommendations 120.24, 120.25, 120.26);
- Strengthen, continue, intensify or accelerate efforts to implement a domestic violence prevention and penalization strategy or protect victims (Recommendations 120.53, 120.101, 120.104);
- Take legal steps or concrete measures necessary to protect women against domestic violence (Recommendations 120.26, 120.100, 120.102, 120.110, 120.111);
- Establish a specialized referral system for domestic violence victims where domestic violence is a prosecutable criminal and civil offense (Recommendations 120.105, 120.106);
- Create or strengthen institutions or mechanisms to offer assistance and protection for domestic violence victims (Recommendations 120.109, 120.113).<sup>88</sup>

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<sup>83</sup> Ibid.

<sup>84</sup> Ibid., ¶ 34.

<sup>85</sup> Ibid.

<sup>86</sup> Ibid. ¶ 35.

<sup>87</sup> Ibid.

<sup>88</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Armenia*, 13 April 2015, U.N. Doc. A/HRC/29/11, ¶ 120.



Armenia noted recommendations to address the double discrimination faced by women from minority groups and to increase its efforts to address gender discrimination.<sup>89</sup>

That Armenia accepted recommendations related to domestic violence, including those to adopt a specific law, are indications of a commitment to improving its response to domestic violence. The noting of other recommendations, however, suggests resistance to addressing broader issues of discrimination against women, which could hinder reform efforts on domestic violence.

### **Mechanisms for Government Accountability**

Armenia has ratified CEDAW (1993), ICCPR (1993), and CAT (1993), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Armenia has also ratified the OP-CEDAW (1993) and OP1-ICCPR (1993), providing an additional means of accountability via the complaint mechanism. Armenia has neither signed nor ratified the Istanbul Convention.

#### *ECHR Cases/CEDAW and Implementation*

Armenia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights (ECHR). The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases involving domestic violence brought against Armenia before the ECHR. There have been no admissible complaints pertaining to domestic violence against Armenia brought before CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. In Armenia's 2012 ICCPR review, the Human Rights Committee expressed its continuing concerns regarding the high level of discrimination against women, the persistence of violence against women - in particular domestic violence, and the lack of shelters for victims of domestic violence. The Human Rights Committee also noted its regret that domestic violence still does not constitute an act specifically punishable under criminal law.<sup>90</sup>

Also, in 2012, during Armenia's CAT review, the Committee against Torture expressed its concern regarding the reported extent of physical and sexual violence against women. The Committee against Torture was especially concerned with the lack of reporting of violence against women to the police and the absence of state-funded shelters for women victims of domestic violence, an offense that is not yet criminalized by the State Party.<sup>91</sup>

<sup>89</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Armenia Addendum*, 5 June 2015, U.N. Doc. A/HRC/29/11/Add.1, ¶ 120.78.

<sup>90</sup> Human Rights Committee, *Concluding observations adopted by the Human Rights Committee at its 105th session, 9 - 27 July 2012: Armenia*, 31 August 2012, U.N. Doc. CCPR/C/ARM/CO/2.

<sup>91</sup> Committee against Torture, *Concluding observations of the Committee: Armenia*, 6 July 2012, U.N. Doc. CAT/C/ARM/CO3.

## Strength of Civil Society

While Armenia's government has been mostly receptive to international and domestic human rights groups, on occasion government officials have been known to harass activists.<sup>92</sup> In 2012, the U.N. Human Rights Committee expressed concern about harassment of the media community and human rights defenders and organizations.<sup>93</sup> It has called for immediate and thorough investigations of the attacks.<sup>94</sup> Politically, Armenia has aligned more closely with Russia than Europe as a member of the Russia-led Eurasian Economic Union.<sup>95</sup> Civil society groups report experiencing intimidation and slander, including accusations that protecting women is a threat to "traditional values" and a foreign intrusion.<sup>96</sup>

Armenia received a "Partly Free" rating on the "Freedom Status" scale in the report, *Freedom in the World: 2015*.<sup>97</sup> Armenia's "freedom" scores in both its political rights and civil liberties were more toward the "repressive" end of the scale than other countries receiving the "Partly Free" rating.<sup>98</sup> The "Partly Free" rating and harassment of activists suggest that efforts to combat domestic violence may be impeded by government repression.

### Women's Rights Organizations

Organizations that have recently submitted shadow reports to the CEDAW Committee on relevant women's issues include Democracy Today, All Armenian Union of Women, and Armenian Association of Women with University Education. The Women's Rights Center and Women's Support Center are active in protecting women's human rights. Additionally, the Women's Resource Center Armenia is active in advocating for a domestic violence law. Armenia appears to have a strong and active civil society.

### Monitoring Reports

In 2011, the UN Population Fund produced a report on domestic violence in Armenia entitled, *Report: Nationwide Survey on Domestic Violence against Women in Armenia*, which was

<sup>92</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Armenia* (2015), § 5; Amnesty International, "Civil Society Activists Hospitalized After Brutal Attack," 6 September 2013, <https://www.amnesty.org/en/latest/news/2013/09/armenia-civil-society-activists-hospitalised-after-brutal-attack-yerevan/> (accessed August 5, 2015).

<sup>93</sup> Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations adopted by the Human Rights Committee: Armenia*, 31 August 2012, U.N. Doc. CCPR/C/ARM/CO/2, ¶ 26.

<sup>94</sup> Ibid.

<sup>95</sup> Karoun Demirjian, "Armenia picks Russian economic ties but tries to keep foot in the West," *Washington Post*, 6 January 2015, [http://www.washingtonpost.com/world/europe/armenia-picks-russian-economic-ties-but-tries-to-keep-foot-in-the-west/2015/01/05/96072414-8627-11e4-abcf-5a3d7b3b20b8\\_story.html](http://www.washingtonpost.com/world/europe/armenia-picks-russian-economic-ties-but-tries-to-keep-foot-in-the-west/2015/01/05/96072414-8627-11e4-abcf-5a3d7b3b20b8_story.html).

<sup>96</sup> Lara Aharonian, "Armenia's Pro-Russia Stance Has a Cost for Women's Rights," *Open Society Foundations: Voices*, 12 December 2014, <http://www.opensocietyfoundations.org/voices/armenias-pro-russia-stance-has-cost-womens-rights>.

<sup>97</sup> Freedom House, *Freedom in the World 2015* (2015), 21.

<sup>98</sup> On a seven-point scale with "1" representing the most free and "7" the least free rating, Armenia received a "5" for Political Rights and a "4" for Civil Liberties, compared to a similarly "Partly Free" country, Albania, which received "3's" in both categories. Ibid.

primarily a quantitative survey examining the prevalence of domestic violence.<sup>99</sup> The report provided information on the forms of domestic violence against women and its effect on a woman's physical, mental, and reproductive health. The report represented collaboration between the Armenian government and UN Population Fund in combating domestic violence against women.

In 2008, Amnesty International produced a report on domestic violence in Armenia entitled, *No Pride in Silence: Countering Violence in the Family in Armenia*.<sup>100</sup> This report explained the existence of social attitudes by both genders that accept and condone domestic violence committed against women. The report also identified a lack of governmental effectiveness in changing the situation and insufficient resources for non-governmental entities that were attempting to fill the void of governmental effectiveness. The report discussed the history of how Armenia's independence from the Soviet Union affected domestic violence against women and contained several personal accounts from victims. The recommendations from Amnesty International included criminalizing domestic violence, strengthening efforts and coordination by governmental agencies, and increasing public awareness about domestic violence.

These reports identify challenges in protecting victims and holding offenders accountable, which can help guide Armenia in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Reports of the number of shelters in Armenia vary. The 2014 WAVE report describes two shelters with 14 spaces available, 283 fewer spaces than called for by the Council of Europe Taskforce Recommendations.<sup>101</sup> The U.S. Department of State documents only one shelter for victims of domestic violence in Yerevan.<sup>102</sup> Shelters in Yerevan are operated by NGOs and funded through private or international donors.<sup>103</sup> The shelters are available for domestic violence victims and their children. There are two national helplines for women who have experienced domestic violence. At least one helpline is free, operates 24 hours a day, 7 days a week, and offers service in Armenian, Russian, and English. Individual NGOs fund both hotlines.<sup>104</sup> Five centers provide counseling for women.<sup>105</sup>

There remains room for improvement with regard to Armenia's victim assistance, in particular with regard to shelter spaces.

<sup>99</sup> National Statistical Service of the Republic of Armenia, *Nationwide Survey on Domestic Violence Against Women in Armenia* (2011), [http://www.un.am/res/Library/UNFPA%20Publications/UNFPA\\_3\\_eng\\_pdf.pdf](http://www.un.am/res/Library/UNFPA%20Publications/UNFPA_3_eng_pdf.pdf).

<sup>100</sup> Amnesty International, *No Pride in Silence: Countering Violence in the Family in Armenia* (2008), <http://www.amnesty.be/doc/IMG/pdf/eur540042008en.pdf> (accessed August 5, 2015).

<sup>101</sup> Women Against Violence Europe, *Wave Report 2014*, 25.

<sup>102</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Armenia* (2014), § 6.

<sup>103</sup> Ibid.

<sup>104</sup> Women Against Violence Europe, *Country Report 2013*, 36.

<sup>105</sup> Ibid.

## AZERBAIJAN

### Legal Landscape and Developments

Current criminal legislation does not adequately address domestic violence, and unless the complaint contains certain elements, the state will not pursue investigation of complaints without the victim's consent.<sup>106</sup> Furthermore, the law is unclear as to when prosecution can be pursued for acts of domestic violence.<sup>107</sup> Courts frequently resort to reconciliation provisions for first-time offenders in domestic violence.<sup>108</sup>

In 2010, Azerbaijan adopted a domestic violence law that provides victims with an order for protection.<sup>109</sup> The State Committee for Gender Equality worked with the Organization for Security and Cooperation in Europe (OSCE) in Baku to amend the law, and together with OSCE, held a roundtable in December 2013 to consult with invited stakeholders to review proposed amendments. To date, the proposed amendments have not yet been finalized. During the Special Rapporteur on Violence against Women's visit to Azerbaijan in late 2013, she was informed a national plan on domestic violence had been drafted but not yet adopted.<sup>110</sup> Implementation of the law remains a major challenge, and the Ministry of Justice reported that courts granted only three long-term protection orders throughout 2013.<sup>111</sup>

### Government Will

#### *Acceptance of UPR Recommendations*

Azerbaijan participated in its first Universal Periodic Review (UPR) in 2009. Azerbaijan's second UPR took place in 2013. In its second report to the Human Rights Council, the government of Azerbaijan described the adoption of a new law to prevent domestic violence.<sup>112</sup> The report further describes that on June 22, 2010, Azerbaijan enacted the Law on Combat Against Domestic Violence and on April 25, 2012, passed regulations to accredit and guide centers assisting domestic violence victims.<sup>113</sup> The Ministry of Labor and Social Protection of

<sup>106</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Addendum Mission to Azerbaijan*, 18 June 2014, U.N. Doc. A/HRC/26/38/Add.3, ¶ 56.

<sup>107</sup> Ibid.

<sup>108</sup> Ibid., ¶ 73.

<sup>109</sup> Law of the Republic of Azerbaijan on the Prevention against Domestic Violence (Domestic Violence Law) (22 June 2010).

<sup>110</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Addendum Mission to Azerbaijan*, ¶ 54.

<sup>111</sup> Ibid., ¶ 66.

<sup>112</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Azerbaijan*, 7 February 2013, U.N. Doc. A/HRC/WG.6/16/AZE/1, ¶¶ 9, 36.

<sup>113</sup> Ibid.

Population also issued accreditation standards for NGO shelters for domestic violence victims.<sup>114</sup> The report described the use of campaigns and lectures to raise awareness on discrimination against women, including “Measures to Combat Family Violence” between April-May 2010, “Prevention of Domestic Violence” in February 2011, and “Domestic Violence Reasons and its Causes” in November 2009.<sup>115</sup>

During its second UPR in 2013, Azerbaijan accepted recommendations related to gender equality, including “totally and partially” the following that address violence against women:

- Intensify efforts to combat domestic violence (Recommendations 109.60, 109.61);
- Adopt and strengthen measures and implement laws to address violence against women (Recommendations 109.80, 109.81, 109.82);
- Take further measures to develop an effective implementation and monitoring mechanism for the law on domestic violence, especially to grant victims access to justice and guarantee protection (Recommendation 109.83).<sup>116</sup>

Azerbaijan did not note any recommendations related to domestic violence.<sup>117</sup> With regard to recommendations 109.80 - 83, it stated the domestic violence law was adopted in 2010 and the Family Code amended to set a minimum age for marriage at 18 years. Amendments in 2011 to the Family Code prohibit early and forced marriages and increase punishment for such acts.<sup>118</sup> Azerbaijan’s total and partial acceptance of domestic violence recommendations suggests its commitment to improving its response to domestic violence may not be as strong as it would under total acceptance.

### **Mechanisms for Government Accountability**

Azerbaijan has ratified CEDAW (1995), ICCPR (1992), and CAT (1996), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Azerbaijan has also ratified the OP-CEDAW (2001) and OP1-ICCPR (1992), providing an additional means of accountability via the complaint mechanism. Azerbaijan has neither signed nor ratified the Istanbul Convention.

#### *ECHR Cases/CEDAW and Implementation*

Azerbaijan has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can

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<sup>114</sup> Ibid., ¶ 38.

<sup>115</sup> Ibid.

<sup>116</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Azerbaijan Addendum*, 19 September 2013, U.N. Doc. A/HRC/24/13/Add.1, ¶ 1.

<sup>117</sup> Ibid.; Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Azerbaijan*, 5 July 2013, U.N. Doc. A/HRC/24/13/.

<sup>118</sup> *Report of the Working Group on the Universal Periodic Review: Azerbaijan Addendum, Views on Conclusions and/or Recommendations, Voluntary Commitments and Replies Presented by the State under Review*, 19 September 2013, U.N. Doc. A/HRC/24/13/Add.1, ¶ 15.

help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases involving domestic violence brought against Azerbaijan before the ECHR. There have been no admissible complaints pertaining to domestic violence against Azerbaijan brought before CEDAW.

### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government’s response to domestic violence. In Azerbaijan’s 2015 CEDAW review, the CEDAW Committee expressed its concerns about (a) the lack of implementation of the Law on the Prevention of Domestic Violence, (b) the lack of systematic collection of data on domestic violence, (c) the limited number of support centers for victims of domestic violence, (d) the small number of state-funded shelters for women victims of domestic violence, and (e) the delay in the ratification of the Istanbul Convention.<sup>119</sup>

During Azerbaijan’s 2015 CAT review, the Committee against Torture echoed these concerns in noting the reports of cases of violence against women, the lack of statistical information on the overall complaints of domestic violence reported, and the limited number of investigations, convictions and punishments for acts of violence against women.<sup>120</sup>

### **Strength of Civil Society**

Azerbaijan’s government has created a hostile environment for civil society by arresting human rights defenders<sup>121</sup> and by placing arbitrary and unduly burdensome restrictions and registration requirements on them.<sup>122</sup> Both Amnesty International and Human Rights Watch reported human rights activists being imprisoned.<sup>123</sup> In 2015, the government ordered the Organization for Security and Cooperation in Europe (OSCE) to cease operations and close its office; in late 2014, the government barred the doors of Radio Free Europe/Radio Liberty (RFE/RL), leading to the closure of RFE/RL’s Baku office in 2015.<sup>124</sup> Azerbaijan received a “Not Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with markedly poor scores

<sup>119</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Azerbaijan*, 12 March 2015, U.N. Doc. CEDAW/C/AZE/CO/5.

<sup>120</sup> Committee against Torture, *Concluding observations on the fourth periodic report of Azerbaijan (advance unedited version)*, 26 November 2015, U.N. Doc. CAT/C/AZE/CO/4.

<sup>121</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Azerbaijan* (2015), § 5.

<sup>122</sup> Ibid.; Amnesty International, *Behind Bars: Silencing Dissent in Azerbaijan* (6 May 2014), 10, <https://www.amnesty.org/en/documents/document/?indexNumber=EUR55%2F004%2F2014&language=en> (accessed August 5, 2015).

<sup>123</sup> Amnesty International, *Activists Jailed for Criticising Opposition* (19 March 2014), <http://www.amnestyusa.org/sites/default/files/uaa06514.pdf> (accessed August 5, 2015); Veronika Szente Goldston, “Council of Europe’s Message to Azerbaijan: Enough is Enough,” *Human Rights Watch*, 28 June 2012, <http://www.hrw.org/news/2012/06/28/council-europe-s-message-azerbaijan-enough-enough> (accessed August 5, 2015); “Azerbaijan: Rights Defender, 6 Activists Convicted,” *Human Rights Watch*, 29 August 2011, <https://www.hrw.org/news/2011/08/29/azerbaijan-rights-defender-6-activists-convicted> (accessed August 5, 2015).

<sup>124</sup> Carl Schreck, “Azerbaijan Orders OSCE To Close Baku Office,” *Radio Free Europe/Radio Liberty*, 5 June 2015, <http://www.rferl.org/content/article/27055923.html> (accessed October 12, 2015).

for both political rights and civil liberties indicators.<sup>125</sup> The “Not Free” rating and other repressive policies suggest that efforts to combat domestic violence may be hindered by government repression.

#### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include the “Constitution” Research Foundation, Solidarity Among Women Public Union, Women’s Participation Program, Counterpart International, Women’s Association for Rational Development, the Unrepresented Nations and Peoples Organization, the Human Rights Center of Azerbaijan Equal Rights Trust, Citizens’ Labor Rights Protection League, and Clean World. The Azerbaijan Information Center and Center for Psychological Counseling also work on women’s human rights issues.

#### *Monitoring Report*

In 2013, OSCE produced a report on domestic violence focused on trial monitoring, *Domestic Violence Cases in the Justice System of Azerbaijan*. The report explained the important role courts play in ensuring access to justice for victims of domestic violence. The report noted that domestic violence was not listed as a separate criminal offense and that the criminal procedure laws contained vague language. The report also recommended a number of changes relating to criminal cases and encouraged the executive branch to continue developing domestic violence laws.<sup>126</sup> This report identifies challenges in protecting victims and holding offenders accountable, which can help guide Azerbaijan in reforming its domestic violence laws.

In 2014, the UN Special Rapporteur on Violence against Women produced a report from her mission to Azerbaijan from November 26 to December 5, 2013. The report examines forms of violence against women in Azerbaijan, as well as the gaps in the state’s efforts to prevent, protect, punish, and provide reparations in cases of violence against women.<sup>127</sup>

These reports identify challenges in protecting victims and holding offenders accountable which can help guide Azerbaijan in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Research revealed inconsistent reports of the availability of victim services, which may be due to the increasing government repression and recent closures of organizations and media.

According to the 2014 WAVE report, four shelters provide assistance to domestic violence victims.<sup>128</sup> These shelters have at least 19 spaces, far below the recommended 936 spaces needed

<sup>125</sup> On a seven-point scale with “1” representing the most free and “7” the least free rating, Azerbaijan received a “6” for Political Rights and Civil Liberties. Freedom House, *Freedom in the World 2015*, 21.

<sup>126</sup> Organization for Security and Co-operation in Europe, *Domestic Violence Cases in the Justice System of Azerbaijan* (2013), 21, <http://www.osce.org/baku/110044?download=true>.

<sup>127</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Addendum Mission to Azerbaijan*, 18 June 2014, U.N. Doc. A/HRC/26/38/Add.3.

<sup>128</sup> Women Against Violence Europe, *Wave Report 2014*, 32; Women Against Violence Europe, *Country Report 2013*, 45.

to meet the Council of Europe Taskforce Recommendations.<sup>129</sup> These shelters are available for women who have experienced domestic violence, who can stay there for up to nine months. The 2014 Special Rapporteur report on Azerbaijan stated that only one shelter operated by the NGO Clean World is open, but that it primarily serves victims of trafficking.<sup>130</sup>

Information on available hotlines reflects similar inconsistencies. The 2014 WAVE report states that one national helpline exists for women victims of violence. It is free, operates 24 hours a day, 7 days a week, and offers service in Azerbaijani, Turkish, and Russian.<sup>131</sup> The 2014 Special Rapporteur report states that no hotlines aiding women victims of violence have existed since 2013, when the NGO Clean World's helpline ceased operations due to lack of funding.<sup>132</sup> There is one women's center that provides medical and legal assistance to women.<sup>133</sup>

In December 2014, the OSCE organized a two-day training course on preventing domestic violence. Participants included judges, prosecutors and lawyers.<sup>134</sup> The Special Rapporteur on Violence against Women opined that “activities carried out in order to prevent violence against women cannot be considered as effective and coordinated.”<sup>135</sup>

There remains room for improvement with regard to Azerbaijan's victim assistance. More shelters, greater coordination, and a more open and less hostile environment for civil society and international organizations to operate are needed.

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<sup>129</sup> Women Against Violence Europe, *Wave Report 2014*, 32; Women Against Violence Europe, *Country Report 2013*, 45.

<sup>130</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Addendum Mission to Azerbaijan*, 18 June 2014, U.N. Doc. A/HRC/26/38/Add.3, ¶ 68.

<sup>131</sup> Women Against Violence Europe, *Wave Report 2014*, 25.

<sup>132</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Addendum Mission to Azerbaijan*, 18 June 2014, U.N. Doc. A/HRC/26/38/Add.3, ¶ 67.

<sup>133</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Azerbaijan* (2015), § 6.

<sup>134</sup> OSCE, “OSCE trains legal professionals on preventing domestic violence,” 1 December 2014, <http://www.osce.org/baku/128486>.

<sup>135</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo: Addendum Mission to Azerbaijan*, ¶ 60.



## BELARUS

### Legal Landscape and Developments

There is no specific crime of domestic violence under the Criminal Code.<sup>136</sup> The Administrative Offenses Law was amended in 2013 to punish battery, intentional infliction of pain, and psychological or physical suffering against a close family member by a fine or 15 days' jail time.<sup>137</sup>

Belarus has recently adopted a law that includes provisions to prevent domestic violence, including an order for protection.<sup>138</sup> The law defines domestic violence and provides for restraining orders.<sup>139</sup> The law also stipulates that first-time domestic violence offenders receive a warning and second-time offenders can be ordered to leave the premises for up to 30 days.<sup>140</sup> Authorities are mandated to provide accommodation to both victims and abusers throughout the duration of the order.<sup>141</sup> The law entered into force on April 16, 2014.<sup>142</sup>

That Belarus has adopted its first domestic violence law providing a restraining order is a welcome step and indicates an initial commitment to improving its response to domestic violence. Trainings, adequate funding and monitoring will be critical next steps to ensuring its effectiveness in addressing domestic violence. Effective implementation of the law, however, will require government will and commitment to drive the change forward. Its amendment to the Administrative Offenses Law is also a welcome step; while domestic violence should be recognized as a crime, even incremental legislative reform can be meaningful steps toward progress in the absence of adequate legislation.

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<sup>136</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Belarus* (2015), § 6.

<sup>137</sup> *Ibid.*

<sup>138</sup> Law on the basis of crime prevention activities, No. 122-W (in Belarusian):

<http://pravo.by/main.aspx?guid=3871&p0=H11400122&p1=1&p5=0>; Volha Charnysh, "Empowering Belarusian Women to Combat Domestic Violence," *Belarus Digest*, 22 April 2014, <http://belarusdigest.com/story/empowering-belarusian-women-combat-domestic-violence-17572>.

<sup>139</sup> *The new Law on the prevention of offense came into force on April 16, 2014*, The Mogilev city executive committee (17 April 2014), <http://city.mogilev.by/content/view/14053/123/lang,en/>.

<sup>140</sup> Charnysh, "Empowering Belarusian Women to Combat Domestic Violence," *Belarus Digest* (2014).

<http://belarusdigest.com/story/empowering-belarusian-women-combat-domestic-violence-17572>.

<sup>141</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Belarus* (2015), § 6.

<sup>142</sup> United Nations Population Fund, *The Role of Law Enforcement Officers in Responding to Domestic Violence Studied in Minsk* (2014), <http://www.unfpa.by/en/news/novosti-yunfpa-v-belarusi/the-new-law-no-122-z-on-the-framework-for-prevention-of-offenses-against-the-law-to-become-effective/>.

## Government Will

### *Acceptance of UPR Recommendations*

Belarus participated in its first Universal Periodic Review (UPR) session in 2010.<sup>143</sup> Belarus' second UPR took place in April – May 2015. In its second report to the Human Rights Council, the Belarus government described its adoption of laws and regulatory measures, as well as provision of social service centers, helplines, projects, and campaigns to address domestic violence and victim assistance.<sup>144</sup> The report included a description of the government's 2013 amendment to the administrative definition of “battery” to include battery that does not result in bodily injury and deliberate infliction of physical or mental suffering against family members and relatives.<sup>145</sup> The report also described the 2014 adoption of the Principles of Crime Prevention Act, which provides protection, including restraining orders, for victims of domestic violence.<sup>146</sup> In addition, since 2011, Belarus has increased the number of crisis rooms to more than 100, all of which offer free psychological support, legal assistance, first aid, food, and temporary shelter to victims of domestic violence.<sup>147</sup> As noted by the report, Belarus also operates a 24-hour helpline to offer emergency social and psychological support.<sup>148</sup> Finally, the report described the launch of several awareness-raising campaigns to end domestic violence.<sup>149</sup> The Report of the Working Group commended Belarus for its progress on combating domestic violence, including the promulgation of a draft law on domestic violence.<sup>150</sup>

During its second review in 2015, Belarus accepted recommendations related to gender equality, including the following that address domestic violence:

- Promptly adopt the draft law on prevention of domestic violence (Recommendation 127.43);
- Increase efforts to combat domestic violence (Recommendations 127.54, 127.55, 127.57, 127.58, 127.59, 127.60, 127.61);
- Continue developing systematic actions, including legislative ones, to combat domestic violence (Recommendation 127.56);
- Effective implementation of its Principles of Crime Prevention Act (Recommendation 127.59);
- Further enhance efforts to address victim assistance (Recommendation 127.60);

<sup>143</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Belarus*, 21 June 2010, U.N. Doc. A/HRC/15/16, ¶ 97.24.

<sup>144</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Belarus*, 9 February 2015, U.N. Doc. A/HRC/WG.6/ZZ/BLR/1, ¶¶ 128–136.

<sup>145</sup> *Ibid.*, ¶ 129.

<sup>146</sup> *Ibid.*, ¶ 130.

<sup>147</sup> *Ibid.*, ¶ 131.

<sup>148</sup> *Ibid.*, ¶ 136.

<sup>149</sup> *Ibid.*, ¶ 135.

<sup>150</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Belarus*, 13 July 2015, U.N. Doc. A/HRC/30/3, ¶ 14.

- Intensify efforts to prevent and prosecute acts of domestic violence as recommended by CEDAW (Recommendation 127.61).<sup>151</sup>

Belarus did not note any recommendations related to domestic violence.<sup>152</sup>

That Belarus has accepted all recommendations related to domestic violence, including to prosecute domestic violence, and has implemented the important recommendation of adopting a domestic violence law, indicates a commitment to improving its response to domestic violence.

### **Mechanisms for Government Accountability**

Belarus has ratified CEDAW (1981), ICCPR (1973), and CAT (1987), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Belarus has also ratified the OP-CEDAW (2004) and OP1-ICCPR (1992), providing an additional means of accountability via the complaint mechanism. Belarus has neither signed nor ratified the Istanbul Convention.

#### *ECHR/CEDAW<sup>153</sup> Cases and Implementation*

Belarus has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases involving domestic violence brought against Belarus before the ECHR.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. Belarus' most recent reviews were in 2011 before the CEDAW Committee and the Committee against Torture. During those reviews, the CEDAW Committee expressed its grave concerns regarding: (a) the persistence of violence against women, in particular domestic and sexual violence; (b) the underreporting of such violence; (c) the high number of women killed as a result of such violence; (d) the lack of prosecution for violence within the family; (e) the fact that rape is subject to private rather than ex officio prosecution; (f) the absence of a separate criminal law provision for domestic violence and marital rape; and (g) the lack of shelters for victims of domestic violence.<sup>154</sup> Similarly, the Committee against Torture referenced the concerns raised by the CEDAW Committee, and stated its concerns about the lack of information about (a) prosecutions of persons connected

<sup>151</sup> Ibid., ¶ 127.

<sup>152</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Belarus*, 13 July 2015, U.N. Doc. A/HRC/30/3.

<sup>153</sup> One communication has been filed against Belarus in *Abramova v. Belarus*, but it relates to prison conditions, not domestic violence. U.N. Doc. CEDAW/C/49/D/23/2009, Communication No. 23/2009 (2011).

<sup>154</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee: Belarus*, 6 April 2011, U.N. Doc. CEDAW/C/BLR/CO/7.

with cases of violence against women, and (b) practical assistance and reparations to victims of such violence.<sup>155</sup>

### Strength of Civil Society

Despite having a number of domestic human rights organizations operating in Belarus, the government is “often hostile” and does “not cooperate” with these organizations.<sup>156</sup> Human Rights Watch reported the arbitrary detention of a prominent human rights activist<sup>157</sup> and reported fraudulent claims against human rights organizations with the intended purpose of harassing them.<sup>158</sup> Belarus received a “Not Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with markedly poor scores for both political rights and civil liberties indicators.<sup>159</sup> The “Not Free” rating and other repressive policies suggest that efforts to combat domestic violence may be hindered by government repression.

Some slight progress has been made. In October 2015, the European Union temporarily lifted sanctions against Belarus following elections and the release of political prisoners.<sup>160</sup>

### Women’s Rights Organizations

Organizations that have recently submitted shadow reports to CEDAW on women’s issues include The Equal Rights Trust, Public Association “Women’s Independent Democratic Movement,” Enlightenment Institution “Centre of Legal Transformation,” Europa Donna, NOVAK Laboratory, and Belarusian Confederation of Democratic Trade Unions.

### Monitoring Report

No recent monitoring reports on domestic violence in Belarus have been identified.

### Current Status of Efforts to Eliminate Violence against Women

District-level social services operate 47 crisis centers that are available to provide psychological and medical assistance to women, but are poorly funded.<sup>161</sup> There are four shelters, which are operated by an NGO and receive no assistance from the state.<sup>162</sup> The four shelters have 29 spaces

<sup>155</sup> Committee against Torture, *Concluding observations of the Committee: Belarus*, 7 December 2011, U.N. Doc. CAT/C/BLR/CO/4.

<sup>156</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Belarus* (2015), § 5.

<sup>157</sup> “Belarus: Free Rights Activist,” *Human Rights Watch*, 30 May 2012, <http://www.hrw.org/news/2012/05/30/belarus-free-rights-activist> (accessed August 5, 2015).

<sup>158</sup> “Belarus: Stop Harassing Rights Group,” *Human Rights Watch*, 1 March 2013, <https://www.hrw.org/news/2013/03/01/belarus-stop-harassing-rights-group> (accessed August 5, 2015).

<sup>159</sup> On a seven-point scale with “1” representing the most free and “7” the least free rating, Belarus received a “7” for Political Rights and a “6” for Civil Liberties. Freedom House, *Freedom in the World 2015*, 21.

<sup>160</sup> “EU Moves Toward Temporarily Lifting Belarus Sanctions,” *Radio Free Europe/Radio Liberty*, 12 October 2015, <http://www.rferl.org/content/belarus-lukashenka-prolongs-rule-eu-mulls-easing-sanctions/27301864.html> (accessed October 12, 2015).

<sup>161</sup> Office of the High Commissioner for Human Rights, *Reporting Status for Belarus*, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=BLR&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=BLR&Lang=EN) (accessed July 31, 2015).

<sup>162</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Belarus* (2015), § 6 ; Women Against Violence Europe, *Wave Report 2014*, 32.

and are available for up to three months. Approximately 938 spaces are needed to meet the Council of Europe's recommended guidelines.<sup>163</sup> There is no national helpline for women; however, there are several NGO-operated hotlines for victims of domestic violence. A 2014 report stated that government efforts to combat violence against women are mainly focused on prevention instead of victim assistance and protection.<sup>164</sup>

There remains room for improvement with regard to Belarus' victim assistance. More shelter spaces and a government focus on victim protection and support are needed.

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<sup>163</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>164</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Belarus* (2015), § 6.

## BOSNIA AND HERZEGOVINA

### Legal Landscape and Developments

Bosnia and Herzegovina has no national-level legislation on domestic violence; however, the two legal entities within the country — the Federation of Bosnia and Herzegovina (BiH) and the Republic of Srpska — both have specific domestic violence laws that provide orders for protection to victims and have recently amended those laws. The Federation of BiH amended its domestic violence law in 2012, and the Republic of Srpska amended its domestic violence law in 2013. Both entities also criminalize domestic violence. The Federation of BiH also adopted a strategy for preventing and combating family violence for 2013 - 2017.<sup>165</sup> In addition, District Brčko is a self-governing entity “held in condominium” by both the Federation of BiH and the Republic of Srpska, but is under the sovereignty of the national government of BiH.

Bosnia and Herzegovina has enacted national-level legislation on gender equality. The national Law on Gender Equality recognizes “violence occurring in the family or household” as a form of gender-based violence that is prohibited if it “causes or may cause physical, mental, sexual or economic damage or suffering, as well as threat to such action which prevents this person or group of persons to enjoy their human rights and freedoms in public and private spheres of life.”<sup>166</sup> The law also directs authorities to “take appropriate measures” to prevent gender-based violence in both public and private life.<sup>167</sup>

The governmental structure of Bosnia and Herzegovina may create challenges for harmonization of its laws. Within the two entities, the Federation of BiH consists of ten separate cantons each with legislative powers, while the Republic of Srpska concentrates all legislative powers at the level of the Republic, rather than at the higher Federation level or the lower local level. The recent amendments to domestic violence laws in the Federation of BiH and the Republic of Srpska, however, suggest willingness in both entities to improve the legal system response to domestic violence.

#### *Federation of BiH*

The Federation of BiH’s criminal laws address violence against women. Article 222 of the 2003 Criminal Code of the Federation of BiH punishes acts of domestic violence against members of

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<sup>165</sup> European Commission, *Commission Staff Working Document: Bosnia and Herzegovina 2013 Progress Report* (16 October 2013), 17, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/ba\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/ba_rapport_2013.pdf) (accessed August 5, 2015).

<sup>166</sup> Consolidated Law on Gender Equality in Bosnia and Herzegovina, Official Gazette of the Federation of Bosnia and Herzegovina no. 32/10, arts. 6(3)(a), 6(4) (2010), [http://arsbih.gov.ba/wp-content/uploads/2014/02/GEL\\_32\\_10\\_E.pdf](http://arsbih.gov.ba/wp-content/uploads/2014/02/GEL_32_10_E.pdf).

<sup>167</sup> *Ibid.*

the “household” by up to three years in prison.<sup>168</sup> The presence of “aggravating factors,” such as death or serious bodily harm, allows judges to impose “long-term imprisonment,” between 21 and 45 years.<sup>169</sup> Article 183 punishes threats to the safety of a spouse, partner or child, including stalking and “frequent following,” by up to one year in prison.<sup>170</sup>

The Federation of BiH adopted the Law on Protection from Domestic Violence in 2005. The recent amendments include a more “precise definition of domestic violence” and emergency procedures for issuing protective orders against perpetrators, with a specific goal of protecting victims from violence.<sup>171</sup> The new law also contains provisions to fund shelters for victims and to develop programs at the Federation and local levels to combat and prevent domestic violence.<sup>172</sup>

Improvements in the implementation of these laws may be needed, however. In a 2011 report, the Organization for Security and Cooperation in Europe noted concerns that sentences were light, suspended sentences were frequently used, domestic violence offenses were not combined with other applicable charges such as the use of a weapon, and suspended sentences were not being revoked when the offenders violated probation.<sup>173</sup> In 2011, 75% of domestic violence penalties in the Federation of BiH resulted in suspended sentences, and prison sentences accounted for only 16%.<sup>174</sup>

### *Republic of Srpska*

Domestic violence in the Republic of Srpska can be prosecuted either as a higher-level criminal offense or a lower-level misdemeanor offense.<sup>175</sup> Article 208 of the Criminal Code provides for a prison sentence of three months to three years, which increases up to ten years if the perpetrator

<sup>168</sup> Organization for Security and Co-operation in Europe, *Ensuring Accountability for Domestic Violence: An analysis of sentencing in domestic violence criminal proceedings in Bosnia and Herzegovina, with Recommendations*, (December 2011), 15,

[http://www.oscebih.org/documents/osce\\_bih\\_doc\\_2012022017152706eng.pdf](http://www.oscebih.org/documents/osce_bih_doc_2012022017152706eng.pdf).

<sup>169</sup> *Ibid.*, 26.

<sup>170</sup> Criminal Code of the Federation of Bosnia and Herzegovina, Official Gazette of the Federation of Bosnia and Herzegovina nos. 36/03, 37/03, 21/04, 69/04, 18/05, 42/10, and 42/11, art. 183 (2011),

<http://www.legislationline.org/documents/section/criminal-codes> (accessed July 31, 2015).

<sup>171</sup> Marija Babović, Olivera Pavlović, Katarina Ginić, and Nina Karadinović, *Prevalence and Characteristics of Violence Against Women in BiH*, (Gender Equality Agency of Bosnia and Herzegovina, June 2013), § 1.2.1, <http://eca.unwomen.org/en/digital-library/publications/2011/01/prevalence-and-characteristics-of-violence-against-women-in-bih>.

<sup>172</sup> *Ibid.*

<sup>173</sup> Organization for Security and Co-operation in Europe, *Ensuring Accountability for Domestic Violence: An analysis of sentencing in domestic violence criminal proceedings in Bosnia and Herzegovina, with Recommendations* (December 2011), [http://www.oscebih.org/documents/osce\\_bih\\_doc\\_2012022017152706eng.pdf](http://www.oscebih.org/documents/osce_bih_doc_2012022017152706eng.pdf).

<sup>174</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, 4 June 2013, U.N. Doc. A/HRC23/40/Add.3, ¶ 87,

[http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-49-Add3\\_en.pdf](http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session23/A-HRC-23-49-Add3_en.pdf).

<sup>175</sup> OSCE, *Response to Domestic Violence and Co-ordinated Victim Protection in the Federation of Bosnia and Herzegovina and the Republicka Srpska: Preliminary Findings on the Implementation of the Laws on Protection from Domestic Violence* (July 2009), 6,

[http://www.oscebih.org/documents/osce\\_bih\\_doc\\_2010092008370731eng.pdf](http://www.oscebih.org/documents/osce_bih_doc_2010092008370731eng.pdf).

kills the victim.<sup>176</sup> Challenges in effective prosecution under the Republic of Srpska's criminal laws still remain. An OSCE report highlighted lenient sentencing concerns after courts handed down 58 suspended sentences, but only 15 prison sentences in 2010.<sup>177</sup>

The legislature of the Republic of Srpska is reportedly considering amendments to the Criminal Code to harmonize criminal sanctions for domestic violence offenses with the updated Law on Protection from Domestic Violence and with international standards.<sup>178</sup> Such amendments, if passed, will present another opportunity to strengthen the Republic of Srpska's response to domestic violence. As of March 2015, these changes had not been enacted.

The Republic of Srpska adopted its Law on Protection from Domestic Violence in 2005. It recently amended its laws to include many of the standards required in the Istanbul Convention (which Bosnia and Herzegovina ratified in 2013, as discussed below).<sup>179</sup> These include emergency protective measures for victims of domestic violence and providing for “multidisciplinary cooperation between health and social institutions to provide services for victims free of charge.”<sup>180</sup>

The United Nations Special Rapporteur on violence against women commended the changes to the domestic violence law, noting that the amendments adopt more of a “victim protection” approach, rather than a “family protection” approach.<sup>181</sup> This shift in mindset reflects a prioritization of protecting victims and their children over preserving the family in situations of domestic violence.

### *District Brčko*

District Brčko punishes domestic violence against a family member by a fine or up to one year imprisonment; domestic violence committed against a person with whom the perpetrator lives, increases the maximum prison sentence to three years.<sup>182</sup> Serious injuries or violence committed against a child increase the prison sentence to a term of one to five years.<sup>183</sup>

<sup>176</sup> Criminal Code of the Republic of Srpska, No. 49/03, 108/04, 37/06, 70/06, 73/10, 1/12, 67/13 (2013), art. 208, <http://www.legislationline.org/documents/section/criminal-codes> (accessed July 31, 2015).

<sup>177</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences*, Rashida Manjoo, 4 June 2013, U.N. Doc. A/HRC23/40/Add.3, ¶ 87.

<sup>178</sup> Babović, et. al, *Prevalence and Characteristics of Violence Against Women in BiH*, § 1.2.2.

<sup>179</sup> *Ibid.*, ¶¶ 36, 39. See also Official Gazette of the Republic of Srpska, Law on Protection from Domestic Violence (2012), <http://www.narodnaskupstinars.net/lat/stranica/zakon-o-zastiti-od-nasilja-u-porodici-lat>.

<sup>180</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences*, Rashida Manjoo, 4 June 2013, U.N. Doc. A/HRC23/40/Add.3, ¶¶ 39, 87.

<sup>181</sup> *Ibid.*, ¶ 39.

<sup>182</sup> Criminal Code of the Brčko District of Bosnia and Herzegovina, art. 218(1), (2).

<sup>183</sup> Criminal Code of the Brčko District of Bosnia and Herzegovina, art. 218(4).



## Government Will

### *Acceptance of UPR Recommendations*

Bosnia and Herzegovina participated in the first Universal Periodic Review (UPR) session in 2010. Bosnia and Herzegovina's second UPR took place in October–November 2014. In its second report to the Human Rights Council, the government described its commitment and facilitation of laws, protective referral mechanisms, and expansion of safe houses to address the issue of domestic violence and victim assistance.<sup>184</sup> The report described how, in 2013, the government agreed to undertake measures to ensure the legal, institutional, and organizational framework for the prevention of violence against women as part of the Council of Europe's Istanbul Convention.<sup>185</sup> To implement this, it established referral mechanisms for victims of domestic violence.<sup>186</sup> The report also described the protection, temporary accommodation, and assistance provided for victims of violence in safe houses.<sup>187</sup> According to the report, the Federation currently has six safe houses with 126 beds for victims of domestic violence, while the Republic of Srpska has three safe houses providing 52 beds.<sup>188</sup> Victims can also obtain free help and advice through hotlines in both entities.<sup>189</sup> In addition, amendments to the Republic of Srpska Criminal Code would strengthen penalties for crimes of domestic violence and family violence, and the definition of “family violence” has been amended to comport with international standards and the Law on Protection against Domestic Violence.<sup>190</sup> Finally, the report noted the availability of new security measures to protect victims of domestic violence.<sup>191</sup>

During its second UPR in 2015, the state was expected to respond in March 2015 to recommendations made by the Working Group.<sup>192</sup> Instead, the government of Bosnia and Herzegovina noted all 167 recommendations and explained that a decision was not possible due to the “prolonged interim period due to the caretaking Council of Ministers since the elections on 12 October.”<sup>193</sup> It instead committed to provide answers to the Council in June 2015.<sup>194</sup> Bosnia

<sup>184</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Bosnia and Herzegovina*, 8 August 2014, U.N. Doc. A/HRC/WG.6/19/BIH/1, ¶¶ 77–136.

<sup>185</sup> *Ibid.*, ¶ 81.

<sup>186</sup> *Ibid.*, ¶ 82.

<sup>187</sup> *Ibid.*, ¶ 84.

<sup>188</sup> *Ibid.*, ¶ 136 n. 16.

<sup>189</sup> *Ibid.*

<sup>190</sup> *Ibid.*, ¶ 136 n. 14.

<sup>191</sup> *Ibid.*, ¶ 136 n. 14.

<sup>192</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Bosnia and Herzegovina*, 4 December 2014, U.N. Doc. A/HRC/28/17, ¶ 107.

<sup>193</sup> “Bosnia and Herzegovina Postpones Its Responses to All recommendations,” *UPR Info* (25 March 2015), <http://www.upr-info.org/en/news/bosnia-herzegovina-postpones-its-responses-to-all-recommendations>; Universal Rights Group, Human Rights Council Reports, *Report on the 28th Session of the Human Rights Council* (13 April 2015), <http://www.universal-rights.org/urg-human-rights-council-reports/report-on-the-28th-session-of-the-human-rights-council/>.

<sup>194</sup> Universal Rights Group, Human Rights Council Reports, *Report on the 28th Session of the Human Rights Council: Special Procedures Section* (13 April 2015), <http://www.universal-rights.org/urg-human-rights-council-reports/report-on-the-28th-session-of-the-human-rights-council/>.

and Herzegovina has since accepted recommendations related to gender equality including the following that address domestic violence:

- Ensure the effective implementation of the CEDAW and actively promote gender equality (Recommendation 107.32);
- Continue strengthening legislation aimed at protecting victims of domestic violence (Recommendation 107.67);
- Continue its positive measures in combating domestic violence, including by ensuring effective investigation of domestic violence cases, bringing the perpetrators to justice and providing victims with the necessary assistance and protection (Recommendation 107.68);
- Further ensure on its territory harmonized legislation on domestic violence and continue strengthening the referral mechanisms in order to provide protection to victims of domestic violence (Recommendation 107.69).<sup>195</sup>

Bosnia and Herzegovina noted the following recommendations:

- Implement the recommendations of CEDAW, establishing a monitoring system and implementing legislation to combat domestic violence and other forms of violence against women (Recommendation 107.65);
- Take measures to monitor the implementation of measures aimed at protecting victims of domestic violence (Recommendation 107.66);
- Step up efforts to address the prevalence of violence against women by adopting a strategy for the implementation of the Istanbul Convention (Recommendation 107.71);
- Revise and harmonize legislation on sexual and domestic violence with a view to penalizing all acts of violence committed against women (Recommendation 107.72).<sup>196</sup>

The UPR process requires regular reviews every four years, providing the country an incentive to reform its laws and the Human Rights Council an accountability tool to examine the country's commitment to these recommendations. Bosnia and Herzegovina's initial noting of all recommendations, however, led some observers to question whether its actions have set an "unwelcome precedent."<sup>197</sup> In addition, while it has accepted some recommendations on domestic violence, its noting of other recommendations — including those to monitor measures and revising its criminal legislation — suggests progress may be hindered in some areas.

<sup>195</sup> *2RP: Responses to Recommendations & Voluntary Pledges: Bosnia and Herzegovina Second Review Session 20*, UPR Info (responses as of June 29, 2015), [http://www.upr-info.org/sites/default/files/document/bosnia\\_and\\_herzegovina/session\\_20\\_-\\_october\\_2014/recommendations\\_and\\_pledges\\_bosnia\\_and\\_herzegovina\\_2014.pdf](http://www.upr-info.org/sites/default/files/document/bosnia_and_herzegovina/session_20_-_october_2014/recommendations_and_pledges_bosnia_and_herzegovina_2014.pdf).

<sup>196</sup> Ibid.

<sup>197</sup> Universal Rights Group, Human Rights Council Reports, *Report on the 28th Session of the Human Rights Council* (13 April 2015), <http://www.universal-rights.org/urg-human-rights-council-reports/report-on-the-28th-session-of-the-human-rights-council/>.

*Other Factors: Natural Disasters*

Even with government will to address these issues, the flooding in May 2014 may result in the government prioritizing and dedicating resources to flood recovery over other matters, at least in the near future. Reports indicate that the floods affected 40% of Bosnia and caused 1.3 billion Euros in damages.<sup>198</sup> Bosnia and Herzegovina is already one of the poorest counties in Europe, and receives annual funding from the European Union of approximately 100 million Euros.<sup>199</sup>

**Mechanisms for Government Accountability**

Bosnia and Herzegovina has ratified CEDAW (1993), ICCPR (1993), and CAT (1993), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies.<sup>200</sup> Bosnia and Herzegovina has also ratified the OP-CEDAW (2002) and OP1-ICCPR (1995),<sup>201</sup> providing an additional means of accountability via the complaint mechanism.

Bosnia and Herzegovina ratified the Istanbul Convention in 2013 without reservations,<sup>202</sup> thus subjecting itself to review by GREVIO and the Committee of the Parties. The treaty entered into force on August 1, 2014. Only 18 states have ratified the convention, marking those States Parties—including Bosnia and Herzegovina—as leaders in committing to these standards on violence against women.

Bosnia and Herzegovina's ratification of the convention presents opportunities for improvement in the government's response to violence against women, including domestic violence, because States party to the Istanbul Convention are required to take "necessary legislative and other measures" to prevent and punish violence against women.<sup>203</sup> Recent amendments to the domestic violence laws reflect some of these measures, but further reform may be necessary to ensure full compliance throughout the entire country, both in the language and the implementation of laws.

Bosnia and Herzegovina is a potential candidate country for EU accession.<sup>204</sup> European Union membership may provide incentive for candidate countries to improve their human rights

<sup>198</sup> The Weather Channel, "Balkans Flooding: Recovering From Catastrophe Will Cost Billions," <http://www.weather.com/safety/floods/balkans-flooding-bosnia-serbia-croatia-belgrade-20140519> (accessed July 10, 2014).

<sup>199</sup> Andrew MacDowell, "War-torn and impoverished, Bosnia faces rebuild once again after floods," *The Guardian*, 25 May 2014, <http://www.theguardian.com/world/2014/may/25/bosnia-floods-landmines-create-risk-as-waters-recede>.

<sup>200</sup> Office of the High Commissioner for Human Rights, *Ratification Status for Bosnia and Herzegovina*, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=22&Lang=en](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=22&Lang=en) (accessed July 31, 2015).

<sup>201</sup> Ibid.

<sup>202</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed July 31, 2015).

<sup>203</sup> Ibid.

<sup>204</sup> See [http://ec.europa.eu/enlargement/countries/detailed-country-information/bosnia-herzegovina/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/bosnia-herzegovina/index_en.htm) for more information.

records. Often, EU progress reports and opinions note goals and key priorities for the country that pertain to women's human rights.

The European Commission has noted concerns over the past three years that reflect additional areas for improvement in Bosnia and Herzegovina's response to domestic violence. The 2012 Progress Report for Bosnia and Herzegovina noted that police training and implementation of the Strategy Against Domestic Violence was underway. In the Federation of BiH, implementation of the domestic violence law was poor, and amendments were needed to enhance victim protection.<sup>205</sup> The 2013 Progress Report noted that although shelter funding has increased, it still remained short of what was needed.<sup>206</sup> The report also notes that harmonization between the Republic of Srpska's domestic violence law and the Federation's Strategy for Preventing and Combating Family Violence 2013 - 2017 was needed.<sup>207</sup> The 2014 Progress Report stated that although prosecution of war crimes involving sexual violence has improved, efforts to investigate and prosecute need to be stepped up further. Additionally, the Report highlighted the following needs: data collection in order to monitor domestic violence and a strategy for implementing the Council of Europe's Convention.<sup>208</sup>

#### *ECHR/CEDAW Cases and Implementation*

Bosnia and Herzegovina has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate an improvement in, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought against Bosnia and Herzegovina.

No complaints have been filed against Bosnia and Herzegovina before CEDAW with respect to domestic violence issues.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. The Human Rights Committee and the CEDAW and CAT Committees all commended Bosnia and Herzegovina's efforts to combat domestic violence. But the CEDAW Committee in 2013 also raised concerns about the lack of monitoring mechanisms, insufficient support services, inconsistent application of the laws, underreporting, and lenient sentencing policy. The CEDAW Committee recommended collecting additional data,

<sup>205</sup> European Commission, *Commission Staff Working Document: Bosnia and Herzegovina 2012 Progress Report* (October 2012), 18, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/ba\\_rapport\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ba_rapport_2012_en.pdf) (accessed August 5, 2015).

<sup>206</sup> European Commission, *Commission Staff Working Document: Bosnia and Herzegovina 2013 Progress Report*, (October 2013), 17, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/ba\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/ba_rapport_2013.pdf) (accessed August 5, 2015).

<sup>207</sup> Ibid.

<sup>208</sup> European Commission, *Bosnia and Herzegovina 2014 Progress Report* (October 2014), 19, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-bosnia-and-herzegovina-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-bosnia-and-herzegovina-progress-report_en.pdf) (accessed August 5, 2015).

mandatory training for judges, lawyers, and law enforcement, awareness raising, and additional assistance.<sup>209</sup> The CAT Committee also expressed concern in 2011 about the low number of investigations and prosecutions of domestic violence cases and inadequate protection measures for victims.<sup>210</sup> These reviews indicate that although Bosnia and Herzegovina has committed to take steps to combat domestic violence, there are still areas for improvement and reform.

### Strength of Civil Society

Generally, Bosnia and Herzegovina allowed a variety of human rights organizations to operate within the country without too many restrictions; however, the government imposed some limitations on activities.<sup>211</sup> In 2012, the Human Rights Committee expressed concern about harassment of the media community, but did not express specific concern for human rights defenders and organizations.<sup>212</sup> It received a “Partly Free” freedom status rating, with concerns noted regarding ethnic discrimination, corruption, sexual harassment, lack of police response to domestic disputes, and trafficking.<sup>213</sup>

NGOs play an important role in driving and shaping change through advocacy, monitoring, training, and advising. Bosnia and Herzegovina’s government does not appear to actively repress its civil society, but it does not appear to actively encourage or promote civil society engagement either. The “Partly Free” rating also suggests that efforts to combat domestic violence would not likely be strongly hindered by government repression.

### Women’s Rights Organizations

Bosnia and Herzegovina appears to have a strong and active civil society. Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include TRIAL (Swiss Association against Impunity), Association of Women-Victims of War, Women’s Section of the Concentration Camp Torture Survivors Canton Sarajevo, Foundation of Local Democracy, Izvor-Prijedor, Snaga Žene, Society for Threatened Peoples, Sumejja Gerc, Vive Žene Tuzla, Equal Rights Trust, Association PROI, Sarajevo Open Centre, Rights for All, United Women, Lara, Future, Helsinki Citizens Assembly, Collective-Initiative for Experiential Learning of the Lotos Association, Women’s Forum Bratunac, Women to Women, Foundation Cure, and

<sup>209</sup> Committee On the Elimination of Discrimination Against Women, *Concluding observations on the combined fourth and fifth periodic reports of Bosnia and Herzegovina*, 30 July 2013, U.N. Doc. CEDAW/C/BIH/CO/4-5, ¶¶ 21–22, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBIH%2fCO%2f4-5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fBIH%2fCO%2f4-5&Lang=en).

<sup>210</sup> Committee Against Torture, *Concluding observations of the Committee against Torture: Bosnia and Herzegovina*, 20 January 2011, U.N. Doc. CAT/C/BIH/CO/2-5, ¶ 13, [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fBIH%2fCO%2f2-5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fBIH%2fCO%2f2-5&Lang=en).

<sup>211</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Bosnia and Herzegovina* (2015), § 5.

<sup>212</sup> Human Rights Committee, *Concluding observations on the second periodic report of Bosnia and Herzegovina*, 13 November 2012, U.N. Doc. CCPR/C/BIH/CO/2.

<sup>213</sup> Freedom House, *Freedom in the World 2015*, 21.

Amnesty International, Zenski Centar Trebinje, Woman and Society Research, Policy and Advocacy Centre, and Medica Zenica also carry out women's human rights work.

Civil society in Bosnia and Herzegovina has been described as a “multitude of NGOs” working to support domestic violence victims.<sup>214</sup> These NGOs have collaborated on projects to protect victims of domestic violence.<sup>215</sup> This collaboration indicates that there is a strong network of established organizations within the country that could provide support for improving the government response to domestic violence.

### *Monitoring Reports*

In 2013, the UN Special Rapporteur on violence against women published a report based on her 2012 mission to Bosnia and Herzegovina. While commending changes that had been implemented, the Special Rapporteur highlighted concerns with the judiciary, including inadequate sentences, the use of protection measures to the exclusion of punishment, and child custody issues, as well as police and social worker attitudes that focus on preserving the family.<sup>216</sup> She made several recommendations to improve the legal system response to domestic violence, including appropriate sentencing commensurate with the gravity of the crime, as well as an appropriate prosecutorial response that takes into account aggravating factors, such as weapons, and promotes a victim-absent prosecution. In addition, protection measures should be swiftly implemented, separate and independent from any punishments, eviction of the perpetrator should be prioritized over removal of the victim, children should be automatically removed from the custody of the perpetrator, and greater funding should be allocated to shelters run by civil society.<sup>217</sup>

A monitoring report such as the Special Rapporteur's can identify challenges in protecting victims and holding offenders accountable which can help guide further improvements in the government's response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Support services for domestic violence victims remain inadequate. Services and shelters are provided primarily by a network of NGOs that have developed a Safe Network with two hotlines and safe houses across Bosnia and Herzegovina.<sup>218</sup>

<sup>214</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Bosnia and Herzegovina* (2015), § 6.

<sup>215</sup> At least eight NGOs in BiH collaborate together as Safe Network to provide hotlines for victims. U.S.

Department of State, *Country Reports on Human Rights Practices for 2014: Bosnia and Herzegovina* (2015), § 6.

<sup>216</sup> “Special Rapporteur on Violence against women finalises country mission to Bosnia and Herzegovina,” *OHCHR*, 5 November 2012, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12742&LangID=E> (accessed July 31, 2015).

<sup>217</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, 4 June 2013, U.N. Doc. A/HRC23/40/Add.3, 19-22.

<sup>218</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Bosnia and Herzegovina* (2015), § 6.

There are 10 shelters that can provide 185 spaces for women throughout the country.<sup>219</sup> Bosnia and Herzegovina needs to provide 199 more shelter spaces to meet the Council of Europe Taskforce Recommendation standards.<sup>220</sup> All are NGO-operated and allow women to bring their children, with stays of one to six months.<sup>221</sup> These shelters receive financial support from the government, and laws in both the Federation of BiH and the Republic of Srpska require entities to provide 70% of a shelter's funding, with the communities and cantons providing the remaining 30%.<sup>222</sup> Reports suggest that allocation of such financial support is not always consistent.<sup>223</sup>

An additional concern is that the NGO-run shelters cannot receive victims without a referral from the "relevant" authorities, such as the police or entity-level Centres for Social Welfare (CSWs).<sup>224</sup> This mandatory referral can hinder a victim's ability to obtain safe refuge. For example, in the Federation of BiH, the local community's share of the cost of sheltering a victim is "borne by the authority [police or CSW] that refers a victim to a safe house,"<sup>225</sup> which may dis-incentivize shelter referrals. Additionally, victims in urgent need of protection and shelter may not receive it due to bureaucratic delays and limited services.<sup>226</sup>

There are two hotlines for the Federation of BiH and Republic of Srpska that are operated by an alliance of civil society and which together receive 6,000 calls per year.<sup>227</sup> They are free and provide services 24 hours a day, seven days a week.<sup>228</sup>

There is room for improvement in Bosnia and Herzegovina's victim assistance. More shelter spaces are needed and financial support needs to be consistent. Bosnia and Herzegovina's willingness to undertake change through its recent legal amendments and its new obligation to comply with the Istanbul Convention may result in future improvements to its victim services.

<sup>219</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>220</sup> Ibid.

<sup>221</sup> Women Against Violence Europe, *Country Report 2013*, 57.

<sup>222</sup> Edita Miftari, *Economic and Social Rights of Women in Bosnia and Herzegovina in 2012-2013* (Sarajevo Open Center, 2013),

[http://www.academia.edu/4387958/Economic\\_and\\_Social\\_Rights\\_of\\_Women\\_in\\_Bosnia\\_and\\_Herzegovina\\_in\\_2012-2013](http://www.academia.edu/4387958/Economic_and_Social_Rights_of_Women_in_Bosnia_and_Herzegovina_in_2012-2013).

<sup>223</sup> Ibid.

<sup>224</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, 4 June 2013, U.N. Doc. A/HRC23/40/Add.3, ¶ 80.

<sup>225</sup> Ibid., ¶ 78.

<sup>226</sup> Ibid., ¶¶ 78–80.

<sup>227</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Bosnia and Herzegovina* (2014).

<sup>228</sup> Women Against Violence Europe, *Country Report 2013*, 57.

## BULGARIA

### Legal Landscape and Developments

Bulgaria does not have a specific crime of domestic violence, and the offense must be prosecuted under provisions of the Criminal Code addressing trivial, middle, and serious-level injuries. Provisions in the Criminal Code, however, hinder victims of domestic violence from obtaining justice. Article 161(1) of the Criminal Code requires that where a victim of domestic violence suffers a trivial- or middle-level injury inflicted upon them by a spouse, brother or sister, or another relative, the penal prosecution must be instituted on the basis of a complaint by the victim. Thus, where a victim of domestic violence has sustained a trivial-level injury, she must file a complaint and proceed through the criminal justice system alone. Victims who sustain medium-level injuries from a relative must proceed through the criminal justice system without the help of a prosecutor.<sup>229</sup>

Bulgaria adopted a specific domestic violence law providing victims with an order for protection in 2005.<sup>230</sup> The Law on Protection against Domestic Violence (LPADV) provides for a civil order for protection for victims of violence. In 2010, Bulgaria adopted several amendments to the LPADV. Some of these amendments have been positive steps toward strengthening victim safety, while others have weakened protections.

Two amendments to the LPADV were positive developments in protecting victims and holding offenders accountable. The maximum duration of protection orders was extended from a range of 1 to 12 months to a range of 3 to 18 months. In addition, courts may now order an abuser to stay away from the victim as part of the protective order.<sup>231</sup>

Another positive development included the 2009 amendment to the Criminal Code, which clarified that the violation of a protection order is a crime. The amendment, however, did not specify whether the provision applied to both emergency and regular protection orders. Advocates are seeking to amend the law to ensure that the article specifically applies to an emergency order and to ensure an appropriate response.<sup>232</sup>

One drawback to the LPADV's implementation was the elimination of the authority and responsibility of the police to forward an application for a protection order to the court under Article 4(2).<sup>233</sup> Previously, police could assist a victim by transmitting her application to the

<sup>229</sup> Criminal Code of Bulgaria, art. 161(1).

<sup>230</sup> Protection Against Domestic Violence Act, Promulgated, *State Gazette*, no. 27 (29 March 2005).

<sup>231</sup> Email from Genoveva Tisheva, Managing Director, Bulgarian Gender Research Foundation, to Rosalyn Park, Staff Attorney, The Advocates for Human Rights (13 October 2013) (on file with authors).

<sup>232</sup> *Ibid.*

<sup>233</sup> *Ibid.*



court. New Ministry of Interior Guidelines, issued for police in 2012, reiterated that police have no responsibilities in obtaining orders for protection under Article 4.<sup>234</sup> This has resulted in reduced protections for victims. Police are now only required to take action in response to serious injuries because Bulgaria's Penal Code provides that light and average injuries by relatives are to be pursued through private prosecutions.<sup>235</sup>

Another amendment could result in contradictory decisions between courts that place the victim at greater risk of harm when there are children involved. The law now provides that the court adjudicating parental rights, including in divorce proceedings, also has jurisdiction to issue a decision on the LPADV's specific remedy of temporary custody, but not the other LPADV remedies. This provision in the law could result in inconsistent decisions if the court deciding a request under the LPADV finds a perpetrator to be violent and issues a protection order, but the other court hearing the parental rights matter decides the children should live with the perpetrator.<sup>236</sup>

Bulgaria's amendments to its LPADV and Criminal Code are positive signs of the government's willingness to undertake reform. Further changes are still needed. The removal of police responsibility in forwarding applications and the reassignment of the decision on child custody are drawbacks to the LPADV's strengths and do not promote victim safety. Furthermore, several important amendments are still needed to both the LPADV and the Criminal Code, including removing the one-month deadline within which to file an application after an act of domestic violence (which is a violation of CEDAW, as discussed below) and making all types of domestic violence a crime for public prosecution. These gaps present opportunities for Bulgaria to undertake other critical reforms.

## Government Will

### *Acceptance of UPR Recommendations*

Bulgaria participated in the first Universal Periodic Review (UPR) session in 2010.<sup>237</sup> Bulgaria's second UPR took place in April–May 2015.<sup>238</sup> In its report to the Human Rights Council, the government of Bulgaria described a state-sponsored website of information, a 24-hour hotline, and crisis centers for victims of domestic violence.<sup>239</sup> At both the national and regional level, systems actors within Bulgaria have received training relating to domestic violence.<sup>240</sup> The report

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<sup>234</sup> Ibid.

<sup>235</sup> Criminal Code of Bulgaria, [C. Civ.] chapter 2, Special Provisions, (Bg.), art. 261.

<sup>236</sup> Email from Genoveva Tisheva, Managing Director, Bulgarian Gender Research Foundation, to Rosalyn Park, Staff Attorney, The Advocates for Human Rights (13 October 2013) (on file with authors).

<sup>237</sup> OHCHR, *Universal Periodic Review: Bulgaria*, 4 November 2010, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BGSession9.aspx>

<sup>238</sup> OHCHR, *Universal Periodic Review Second Cycle: Bulgaria*, 7 May 2015, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/BGSession22.aspx>

<sup>239</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Bulgaria*, 13 February 2015, U.N. Doc. A/HRC/WG.6/22/BGR/1, ¶¶ 93–94.

<sup>240</sup> Ibid., ¶ 96.

described the government's provision of budgets to NGOs and solicitation of projects for the prevention of and protection against domestic violence.<sup>241</sup> The report noted the Ministry of Interior designated national and regional coordinators and, in 2013, teams began operation to apply a National Coordination Mechanism against violence, resulting in over 5,000 proceedings being jointly initiated with regional prosecutor's offices.<sup>242</sup>

During its second UPR in 2015, Bulgaria accepted recommendations related to gender equality including the following that address violence against women:

- Sign and ratify the Istanbul Convention (Recommendation 123.13);
- Develop or continue efforts and policies to fight and prevent domestic violence (Recommendations 123.50, 123.53, 123.90, 123.92, 123.98);
- Adopt the draft gender equality act and criminalize domestic violence and marital rape (Recommendation 123.52);
- Prosecute domestic violence as a crime (Recommendations 123.91, 123.93, 123.96),<sup>243</sup>
- Modify the Law on the Protection against Domestic Violence and promote the prosecution for these crimes (Recommendation 123.93);
- Consider amending the law so that it provides further efforts of redress for victims of domestic violence, in addition to increased punishment for repeated violations of violence against women (Recommendation 123.94);
- Ensure that victims of domestic violence have access to shelter and support services (Recommendations 123.92, 123.96, 123.98),<sup>244</sup>
- Further protection of victims and punishment of perpetrators of domestic violence (Recommendation 123.116).<sup>245</sup>

Bulgaria did not note any recommendations related to domestic violence.<sup>246</sup>

<sup>241</sup> Ibid.

<sup>242</sup> Ibid., ¶ 97.

<sup>243</sup> With regard to ensuring the prosecution of domestic violence and holding perpetrators accountable, Bulgaria responded that it considered this recommendation to be in process, explaining that it was amending its legislation to comport with CoE standards, strengthening institutional capacity, and it considered that “[a]ll cases of domestic violence, which can be qualified as crimes, are adequately prosecuted and effectively investigated.” Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bulgaria*, 8 July 2015, U.N. Doc. A/HRC/30/10, ¶ 123.91; Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bulgaria Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 2 September 2015, U.N. Doc. A/HRC/30/10/Add.1, ¶ 4.

<sup>244</sup> With regard to the recommendation to prevent violence against women, including through adoption of policies, and provide victims with shelter and assistance, the Bulgarian government responded that it already had undertaken judicial trainings on domestic violence orders for protection, trainings for persons who provide protection to victims, creation of batterers intervention programs, and victim services, including shelters, social, psychological and legal consultation. Ibid., ¶ 4.

<sup>245</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bulgaria*, 8 July 2015, U.N. Doc. A/HRC/30/10; Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bulgaria Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 2 September 2015, U.N. Doc. A/HRC/30/10/Add.1, ¶¶ 2–4.

That Bulgaria has accepted all recommendations related to domestic violence, including those to modify the LPADV and promote prosecution for domestic violence, indicates a commitment to improving its response to domestic violence.

### Mechanisms for Government Accountability

Bulgaria has ratified CEDAW (1982), ICCPR (1970), and CAT (1986),<sup>247</sup> thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Bulgaria has also ratified the OP-CEDAW (2006) and OP1-ICCPR (1992),<sup>248</sup> providing an additional means of accountability via the complaint mechanism. Bulgaria has neither signed nor ratified the Istanbul Convention.

Bulgaria has been a member of the European Union since 2007. Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>249</sup>

#### *ECHR/CEDAW Cases & Implementation*<sup>250</sup>

Bulgaria has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government's response to domestic violence.

In 2008, the ECHR decided *Bevacqua and S. v. Bulgaria*,<sup>251</sup> a case that demonstrates the risks that women take when they seek judicial relief for domestic violence. In *Bevacqua*, a victim of domestic violence sought a divorce and custody of her child. The applicants (mother and child) alleged that the State failed to determine custody issues within a reasonable time and failed to protect her from domestic violence.<sup>252</sup> The European Court concluded that the national court should examine the request for interim measures with due diligence and without delay.<sup>253</sup> Therefore, Bulgaria violated the ECHR's right to respect for private and family life.<sup>254</sup>

The Court deferred to the State in choosing how to secure compliance with the right to private and family life in the context of relations between individuals.<sup>255</sup> With respect to these particular applicants, however, the European Court noted the inadequacy of administrative and policing

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<sup>246</sup> Ibid.

<sup>247</sup> OHCHR, *Reporting status for Bulgaria*, [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=BGR&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Countries.aspx?CountryCode=BGR&Lang=EN).

<sup>248</sup> Ibid.

<sup>249</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

<sup>250</sup> Other ECHR cases relating to violence against women include *M.C. v. Bulgaria* (rape and sexual abuse); *P.M. v. Bulgaria* (rape and sexual abuse); and *M. and Others v. Italy and Bulgaria* (rape and sexual abuse).

<sup>251</sup> *Bevacqua and S. v. Bulgaria*, Appl.71127/01, ECHR (2008).

<sup>252</sup> Ibid., ¶¶ 3, 63.

<sup>253</sup> Ibid., ¶ 73.

<sup>254</sup> Ibid., ¶ 84.

<sup>255</sup> Ibid., ¶ 82.

measures.<sup>256</sup> It also determined that the applicants' ability to privately prosecute and seek damages, as provided under Bulgarian law, was insufficient to protect the victims' rights in this specific case. The European Court observed that such proceedings take time and would not prevent recurrence of the violence incidents.<sup>257</sup> It concluded that the lack of appropriate measures resulted in a violation of the State's obligations.<sup>258</sup>

There have been two communications filed against Bulgaria before the CEDAW Committee that relate to domestic violence.<sup>259</sup> In 2012, the CEDAW Committee issued its opinion in *Jallow v. Bulgaria*,<sup>260</sup> where it noted that Bulgaria failed to vigorously investigate the applicant's claims that she and her husband were not provided with the same protection from domestic violence. The Committee recommended improving access to protection, especially for migrant women, ensuring that domestic violence is taken into account in child custody and visitation determinations, and conducting additional training for systems personnel.

In *V.K. v. Bulgaria*,<sup>261</sup> issued in 2011, the committee was asked whether Bulgaria violated its obligations under CEDAW to effectively protect the applicant from domestic violence. The court in Bulgaria denied her application for a permanent protection order because her application under the LPADV was made more than 30 days after the act of domestic violence occurred. The Committee found that the court's refusal was based on "stereotyped, preconceived, and discriminatory notions of what constitutes domestic violence." The unavailability of shelters in Bulgaria was also cited as a violation of CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. Bulgaria's most recent review was before the CEDAW Committee in 2012. The CEDAW Committee expressed its deep concern regarding Article 158 of the Criminal Code, which enables the termination of criminal proceedings against rapists when they marry their victims. The committee also expressed its serious concern regarding the high prevalence of domestic violence, the persistence of sociocultural attitudes condoning such violence, and its underreporting. The committee was particularly concerned about (a) the absence of specific provisions criminalizing domestic violence and marital rape, (b) the lack of criminal prosecution of violence within the family, (c) the failure of the judiciary to

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<sup>256</sup> *Ibid.*, ¶ 83.

<sup>257</sup> *Ibid.*

<sup>258</sup> *Ibid.*, ¶ 84.

<sup>259</sup> A third communication, in *V.P.P. v. Bulgaria*, relates to sexual assault of a minor. CEDAW Communication No. 31/2011, 27 November 2012, U.N. Doc. CEDAW/C/53/D/31/2011.

<sup>260</sup> *Jallow v. Bulgaria*, CEDAW Communication No. 32/2011, 28 August 2012, U.N. Doc. CEDAW/C/52/D/32/2011, 8.4–8.5.

<sup>261</sup> *V.K. v. Bulgaria*, Communication No. 20/2008, 27 September 2011, U.N. Doc. CEDAW/C/49/D/20/2008, 9.12.

follow the practice of shifting the burden of proof to favor the victims, and (d) the insufficient funding for shelters for women victims of domestic violence.<sup>262</sup>

### Strength of Civil Society

Generally, Bulgaria allowed a variety of human rights organizations to operate within the country without excessive restrictions; however, human rights organizations noted the cooperation of government officials varied from person to person.<sup>263</sup> Bulgaria has a “Free” freedom status rating according to Freedom House.<sup>264</sup> The “Free” freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

#### *Women’s Rights Organizations*

Several NGOs are active on women’s rights issues in Bulgaria, including the Bulgarian Gender Research Foundation (BGRF) and the many NGO members of the Alliance for Protection against Domestic Violence. In addition to BGRF, the Global Initiative for Economic, Social and Cultural Rights has also recently submitted shadow reports to CEDAW on relevant women’s issues. Bulgaria has a strong and active civil society working together as a network.

#### *Monitoring Reports*

In addition to The Advocates’ 2008 report and upcoming report card, which are discussed below, the Eastern Europe Studies Centre published a report in 2013, examining the domestic violence and equal opportunity laws in both Bulgaria and Lithuania.<sup>265</sup> The report described the effects and obstacles facing the full implementation of the LPADV and made recommendations for improving the situation for victims of domestic violence, such as harmonizing laws so they complement and work together, prioritizing protection measures that protect the victim, shifting the burden of prosecution from the victim to the State, amending the definition of domestic violence, and establishing a legally-mandated coordinated community response.<sup>266</sup>

These reports identify challenges in protecting victims and holding offenders accountable which can help guide Bulgaria in improving its response to domestic violence.

### Current Status of Efforts to Eliminate Violence against Women

There are six shelters with 55 places for women who have experienced domestic violence,<sup>267</sup> but Bulgaria still needs 704 places, according to the Council of Europe Taskforce Recommendations.<sup>268</sup> Shelters are funded by the government and foreign donations.<sup>269</sup> They

<sup>262</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee: Bulgaria*, CEDAW/C/BGR/CO/4-7.

<sup>263</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Bulgaria* (2015), § 5.

<sup>264</sup> Freedom House, *Freedom in the World 2015*, 21.

<sup>265</sup> Eastern Europe Studies Centre, *Struggling for Gender Equality: Sharing the Lithuanian and Bulgarian Experience* (2013),

[http://www.hrmi.lt/uploaded/Documents/Struggling%20for%20Gender%20Equality\\_2013\\_EN\\_2.pdf](http://www.hrmi.lt/uploaded/Documents/Struggling%20for%20Gender%20Equality_2013_EN_2.pdf).

<sup>266</sup> *Ibid.*, 28.

<sup>267</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>268</sup> *Ibid.*

<sup>269</sup> *Ibid.*, 49.

accept children, with some placing limits on boys more than 10 to 12 years of age; women can stay up to six months in some of the shelters. Civil society organizations also assist victims through 17 crisis centers and shelters located throughout Bulgaria, but often without local government funding. Government funding for victim hotlines is reportedly insufficient.<sup>270</sup> An NGO-operated, free, 24-hour hotline provided assistance to 613 domestic violence victims in 2014.<sup>271</sup>

There remains room for improvement with regard to Bulgaria's victim assistance. More shelter spaces and government funding are needed.

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<sup>270</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Bulgaria* (2015), § 6.

<sup>271</sup> *Ibid.*

# CROATIA

## Legal Landscape and Developments

Croatia's Criminal Code was amended in 2013 to repeal the specific article on domestic violence. Under the 2013 Criminal Code, prosecutors used bodily injury provisions to prosecute domestic violence.<sup>272</sup> Advocates expressed frustration, however, with barriers to prosecution, including the need for medical evidence, which is not always available. In addition, a loophole in the transition between the old and new Criminal Codes emerged.<sup>273</sup> In 2015, in response to pressure from civil society and international bodies, Croatia's Parliament amended the Criminal Code to reincorporate a crime of domestic violence.

Croatia adopted a specific domestic violence law that provides victims with an order for protection in 2003.<sup>274</sup> It was later amended in 2009 to expand the duration of protective measures.<sup>275</sup> In 2005, and again in 2008, the Croatian government published Rules of Procedure in Cases of Family Violence that outline specific procedures to be followed by government institutions and officials when handling cases of domestic violence.<sup>276</sup>

Croatia's Parliament recently adopted amendments to the Family Law, which would grant Centers for Social Welfare (CSW) authority to carry out couples mediation for parents in divorce procedures.<sup>277</sup> Under the new Family Law, a parent who does not allow an ex-partner to see their child in accordance with their parental plan or court decision can be punished with a fine of up to 30,000.00 HRK (approximately 4,100 Euros), imprisonment from one day to six months, and modification of the child's living arrangements. Exceptions for cases of domestic violence are not provided. In comparison, the maximum sentence prescribed by Croatia's domestic violence law for domestic violence is three months.<sup>278</sup>

Finally, Croatia established a new probation system in 2012 with twelve regional probation offices. The Law on Probation provides that probation officers may provide a report to prosecutors making charging decisions, give an opinion on the need for certain precautionary

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<sup>272</sup> Email from Autonomous Women's House Zagreb to The Advocates for Human Rights (13 February 2014) (on file with authors).

<sup>273</sup> The law states that defendants should be tried under the law with the lower sentence, and domestic violence cases now default to the new Criminal Code with smaller sentences, but no specific domestic violence offense. Because there is now no specific domestic violence crime, defendants are typically acquitted of acts of domestic violence. Email from Autonomous Women's House Zagreb to The Advocates for Human Rights (13 February 2014) (on file with authors).

<sup>274</sup> Croatian Parliament, Law on Protection against Domestic Violence, Registry no. 71-05-03/1-09-2 (2009).

<sup>275</sup> Ibid.

<sup>276</sup> The Advocates for Human Rights, et al, *Implementation of Croatia's Domestic Violence Legislation* (2012), 8, [http://www.theadvocatesforhumanrights.org/uploads/croatia\\_final\\_report\\_2012.pdf](http://www.theadvocatesforhumanrights.org/uploads/croatia_final_report_2012.pdf).

<sup>277</sup> Ibid.

<sup>278</sup> Ibid.

measures during criminal procedures, and monitor the suspect's compliance with obligations when criminal charges are dropped.<sup>279</sup>

That Croatia has adopted—and amended—one of the first domestic violence laws in the region, as well as Rules of Procedure to implement the law is an important step in improving the government response to domestic violence. The creation of the new probation system in 12 regional offices, funded by the government, is an important step in improving offender accountability.<sup>280</sup> In addition, the amendment of the 2013 Criminal Code to reincorporate the crime of domestic violence is a positive indicator of the government's willingness to undertake reform and to do it quickly.

Recent legal developments, however, risk curtailing this progress. The new Family Law poses the risk that family court decisions on custody and visitation may conflict with misdemeanor court decisions on protective measures, placing victims and their children in physical danger and exposing victims to potential sanctions for trying to protect their children.

## Government Will

### *Acceptance of UPR Recommendations*

Croatia participated in the first Universal Periodic Review (UPR) session in 2010. Croatia's second UPR took place in April–May 2015.<sup>281</sup> In its report to the Human Rights Council, the government of Croatia noted that the Office for Gender Equality distributed the text of the Istanbul Convention<sup>282</sup> and guidelines to the media regarding reporting on domestic violence.<sup>283</sup> The report noted that Croatia's legal framework regarding the prevention of domestic violence and the mitigation of its consequences includes the Act on Protection Against Violence, the Aliens Act, and the National Strategy for Protection Against Domestic Violence, 2011 - 2016, which Croatia claims have been aligned with international regulations.<sup>284</sup> The report stated that the government funds shelters for women and children who are victims of domestic violence and provides social welfare aid to victims through centers.<sup>285</sup> According to the report, more than 4,000 police officers have received education.<sup>286</sup> Finally, the report reported that data regarding domestic violence are recorded and kept by a number of different agencies.<sup>287</sup>

<sup>279</sup> Dijana Simpraga, Snjezana Maloic, and Neven Picijas, *Probation in Europe: Croatia* (The European Organization for Probation, 2014), 14, [http://www.cepprobation.org/uploaded\\_files/Final%20chapter%20Croatia.pdf](http://www.cepprobation.org/uploaded_files/Final%20chapter%20Croatia.pdf).

<sup>280</sup> *Ibid.*, 4.

<sup>281</sup> OHCHR, *Universal Periodic Review Second Cycle: Croatia*, 12 May 2015, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/HRSession22.aspx>.

<sup>282</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Croatia*, 9 February 2015, U.N. Doc. A/HRC/WG.6/22/HRV/1, ¶ 4.

<sup>283</sup> *Ibid.*, ¶ 22.

<sup>284</sup> *Ibid.*, ¶¶ 52, 60.

<sup>285</sup> *Ibid.*, ¶ 52.

<sup>286</sup> *Ibid.*

<sup>287</sup> *Ibid.*



During its second UPR in 2015, Croatia accepted recommendations related to gender equality including the following that address violence against women:

- Ratify and fund the implementation of the Istanbul Convention (Recommendations 99.18, 99.19, 99.21, 99.22);
- Strengthen its efforts and legal framework to properly respond to allegations of domestic violence to ensure that women victims of violence obtain adequate redress and support (Recommendations 99.20, 99.27, 99.30, 99.52, 99.84, 99.108);
- Review compliance of the Criminal Code, which now defines domestic violence only as a bodily injury, with the CEDAW (Recommendation 99.25);
- Update the Criminal Code to recognize domestic violence as a criminal offence (Recommendation 99.28);
- Implement the National Strategy of Protection against Family Violence 2011–2016 (Recommendations 99.29, 99.84);
- Translate the National Anti-Discrimination Plan 2008–2013 into law (Recommendation 99.29);
- Train police, prosecutors, judges and healthcare workers to properly respond to domestic violence allegations and enhance awareness of victim’s rights (Recommendations 99.20, 99.30, 99.52, 99.93, 99.96);
- Address legislative and implementation gaps to fully protect and support victims (Recommendations 99.28, 99.31, 99.52);
- Improve services and support to enhance the protection of victims, and capacity of shelters and centers (Recommendations 99.58, 99.93);
- Establish a sustainable cooperation between the Ministry of Interior and civil society organizations dealing with domestic and gender-based violence (Recommendation 99.61).<sup>288</sup>

Croatia did not note any recommendations related to domestic violence.<sup>289</sup>

That Croatia has accepted all recommendations related to domestic violence and already implemented the important recommendation to criminalize domestic violence, indicates a commitment to improving its response to domestic violence.

### **Mechanisms for Government Accountability**

Croatia has ratified CEDAW (1992), ICCPR (1992), and CAT (1992), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Croatia has also ratified the OP-CEDAW (2001) and OPI-ICCPR (1995), providing an additional means of accountability via

<sup>288</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Croatia Addendum*, 7 Sept. 2015, U.N. Doc. A/HRC/30/14/Add.1, ¶ 99.

<sup>289</sup> Ibid.

the complaint mechanism. Croatia signed the Istanbul Convention,<sup>290</sup> signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards.

Croatia became a member of the European Union in 2013. Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>291</sup>

#### *ECHR/CEDAW Cases and Implementation*

Croatia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improved government response to, domestic violence. There have not been any communications filed against Croatia with the CEDAW Committee, but there have been three cases filed against Croatia before the ECHR relating to violence against women.

The first case, *Branko Tomašić and Others v. Croatia*, was decided in 2009.<sup>292</sup> The husband served a prison sentence for making death threats to his wife and child.<sup>293</sup> As part of his conviction, he was ordered to undergo psychiatric treatment during and after prison, but the appeals court ordered that the treatment be ceased upon his release.<sup>294</sup> He killed his wife and child one month after his release from prison.<sup>295</sup> The ECHR held that Croatia violated the right to life of the mother and child because it failed to take appropriate steps to prevent the deaths and also found that the treatment while in prison was not adequately administered.<sup>296</sup>

The second, *A. v. Croatia*, was decided in 2010.<sup>297</sup> The victim was denied a restraining order because she did not establish “an immediate risk to her life.” The ECHR found a violation of the right to respect for family and private life because the national authorities failed to implement measures to address the husband's psychiatric condition and to protect the wife from violence.

The third case was *D.J. v. Croatia*, decided in 2012,<sup>298</sup> in which the applicant had been drugged and raped. The police failed to fully investigate the case, and the prosecutor dismissed the case for lack of evidence. The applicant was unable to bring the prosecution herself because she could not afford a lawyer and legal aid was not available. The ECHR found violations of the

<sup>290</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed July 31, 2015).

<sup>291</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

<sup>292</sup> *Branko Tomašić and Others v. Croatia*, No. 46598/06, ECHR (2009).

<sup>293</sup> *Ibid.*, ¶ 52.

<sup>294</sup> *Ibid.*, ¶¶ 8–9.

<sup>295</sup> *Ibid.*, ¶ 10.

<sup>296</sup> *Ibid.*, ¶ 56.

<sup>297</sup> *A. v. Croatia*, No. 55164/08, ECHR (2010), ¶¶ 35, 79.

<sup>298</sup> *D.J. v. Croatia*, No. 42418/10, ECHR (2012).

prohibition on torture and of inhuman or degrading treatment and of the right to respect for private and family life. The court affirmed Croatia's obligations to punish offenders and to conduct an effective investigation.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. In Croatia's 2015 CEDAW review, the CEDAW Committee expressed its concern that, in general, Croatia's legislative and policy framework is more concerned with keeping families intact than with ensuring the safety of women who are victims of domestic violence. The committee was particularly concerned about (a) dual arrests whereby women who are victims of domestic violence are arrested along with the aggressors; (b) women being compelled to pursue domestic violence charges under the legal framework of misdemeanor rather than criminal prosecution; (c) the exclusion from the law on protection against domestic violence of intimate partner relationships; (d) the suspension of protective orders when such orders are appealed; (e) the inadequate number of shelters for women who are victims of domestic violence; and (f) the recent adoption of a less stringent definition of rape.<sup>299</sup>

In Croatia's 2015 ICCPR review, the Human Rights Committee expressed its concern regarding the inconsistent application of penalties resulting from domestic violence sometimes being defined as a misdemeanor. The Human Rights Committee also expressed its concern regarding: (a) reports indicating that cases are not investigated, suspects are not prosecuted, and perpetrators receive lenient sentences; (b) reports indicating that both the perpetrator and the victim in cases of domestic assault are arrested and convicted; (c) the small number of women benefiting from free legal aid; (d) the small number of protection measures issued and the lack of protective orders; and (e) the insufficient number of shelters for victims of domestic violence.<sup>300</sup>

In Croatia's 2014 CAT review, the Committee against Torture expressed its concern regarding reports that police arrest both the perpetrator and the victim of domestic violence, that police lack proper training on responding to domestic violence calls, and that misdemeanor judges who preside over these charges are poorly equipped to identify the predominant aggressor. The Committee against Torture also noted reports that there are not enough facilities available for women victims of domestic violence.<sup>301</sup>

### **Strength of Civil Society**

Croatia allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>302</sup> Croatia has a "Free" freedom status rating according to Freedom House.<sup>303</sup>

<sup>299</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fourth and fifth periodic reports of Croatia*, 28 July 2015, U.N. Doc. CEDAW/C/HRV/CO/4-5.

<sup>300</sup> Human Rights Committee, *Concluding observations on the third periodic report of Croatia*, 30 April 2015, U.N. Doc. CCPR/C/HRV/CO/3.

<sup>301</sup> Committee against Torture, *Concluding observations on the combined fourth and fifth periodic reports of Croatia*, 18 December 2014, U.N. Doc. CAT/C/HRV/CO/4-5.

<sup>302</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Croatia* (2015), § 5.

The “Free” freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

#### *Women’s Rights Organizations*

The Autonomous Women’s House Zagreb and Human Rights House Zagreb have submitted shadow reports to CEDAW on relevant women’s issues. BaBe and Women’s Room also work on women’s rights issues in the country. Croatia appears to have a strong and active civil society.

#### *Monitoring Reports*

In 2012, The Advocates for Human Rights, Autonomous Women’s House Zagreb (AZKZ), and BGRF published a report, *Implementation of Croatia’s Domestic Violence Legislation*.<sup>304</sup> Based on interviews with NGOs, shelter workers, police, judges, Centers for Social Welfare personnel, Ministry officials, health care workers, victims, prison personnel, and other government representatives, the report evaluated the implementation of Croatia’s domestic violence legislation and made recommendations for improvements. The Advocates and AZKZ also conducted interviews in June 2014 to prepare a follow-up “report card” on Croatia’s compliance with recommendations, which is expected to be published by The Advocates and AZKZ in 2016.

In 2013, the UN Special Rapporteur on violence against women (VAW), its causes and consequences, released a report based on her 2012 visit to Croatia.<sup>305</sup> The Special Rapporteur on VAW’s report reiterates many of the same findings in The Advocates’ report, *Implementation of Croatia’s Domestic Violence Legislation*.<sup>306</sup>

These reports identify challenges in protecting victims and holding offenders accountable that can help guide Croatia in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Domestic violence shelters have faced severe funding shortages in Croatia, which has resulted in shelter closures and employee furloughs. Croatia has approximately 16 domestic violence shelters,<sup>307</sup> state and church homes, serving a population of 4.5 million. The Council of Europe Taskforce Recommendations require 428 shelter spaces for victims of domestic violence based on Croatia’s population.<sup>308</sup> Croatian shelters and state, church, and city homes, however, only provide 267 spaces.<sup>309</sup> Thus, space for victims and their children is limited, falling short by 161 beds, and the importance of keeping these shelters and state homes operational is crucial. The ministries’ funding schemes for these shelters and state homes not only are complicated but also

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<sup>303</sup> Freedom House, *Freedom in the World 2015*, 22.

<sup>304</sup> The Advocates for Human Rights, et al., *Implementation of Croatia’s Domestic Violence Legislation* (2012), [http://www.theadvocatesforhumanrights.org/uploads/croatia\\_final\\_report\\_2012.pdf](http://www.theadvocatesforhumanrights.org/uploads/croatia_final_report_2012.pdf).

<sup>305</sup> OHCHR, *Report of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo*, 3 June 2013, U.N. Doc. A/HRC/23/49/Add.4.

<sup>306</sup> Ibid.

<sup>307</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>308</sup> Women Against Violence Europe, *Country Report 2013*, 65.

<sup>309</sup> Ibid.

often do not reflect their actual needs. Most notably, government funding is often delayed—sometimes by months—and often falls short of what was promised. In the first half of 2011, seven autonomous women’s shelters reached a crisis point, when the Ministry of Family, Intergenerational Solidarity and Veterans’ Affairs deferred automatic renewal of its existing contracts.<sup>310</sup> The ministry explained it was waiting for State approval of the budget. This decision prompted other cities and counties to adopt the same excuse to withhold their payments.<sup>311</sup> Consequently, several NGOs went months without payment, with one NGO reporting it did not receive its first payment until June 2011.<sup>312</sup> Since then, at the urging of civil society, the government has created a working group to study the adoption of a finance law for shelters. This would be a positive development, but the NGOs that serve victims of domestic violence are not adequately represented on this working group, and the autonomy of shelters may potentially be compromised under a new bill.<sup>313</sup>

Current Ministry funding was available for shelters through 2015 but the Ministry delayed its commitment to renew past 2015. The Ministry offered shelters per-bed based funding and has advised the shelters to apply for EU financing. Most shelters already rely on EU funds, however, and such funding is not issued for direct work with women and children. New Ministry funding for 2016-2018 has two critical changes that will impact shelter operations. First, the maximum funding a shelter can receive is reduced significantly to approximately 75 percent of what it was during the previous period.<sup>314</sup> Second, the Ministry requires all funded shelters to obtain a license that shows the shelter fulfills minimum standards for social services.<sup>315</sup> Under the licensing structure, a three-person state commission will be authorized to enter and inspect licensed shelters for purposes of evaluating its qualifications on an annual basis.<sup>316</sup> The commission will also be authorized to inspect on an ad hoc basis when, for example, a complaint is alleged against the shelter’s standards.<sup>317</sup> This inspection requirement creates the potential for abusers to exploit the confidential nature and operations of many shelters by lobbying false complaints.<sup>318</sup>

Moreover, Zagreb County, which is required to fund two of the seven autonomous women’s shelters, abruptly withdrew its financial support for 2015. It has instead published a call for proposals for projects dealing with domestic violence and intends to finance these projects using the same funds previously provided to the two shelters. In other words, the two shelters in Zagreb have lost critical funding from Zagreb County—despite a written contract between the

<sup>310</sup> Autonomous Women’s House Zagreb, *Securing the Shelters: Activities Update* (28 September 2011) (summary, on file with authors).

<sup>311</sup> *Ibid.*

<sup>312</sup> *Ibid.*

<sup>313</sup> The Advocates for Human Rights, et al., *CROATIA: Submission to the Human Rights Committee’s Country Report Task Force on Croatia for the Adoption of List of Issues for the 105<sup>th</sup> Session: 9–27 July 2012* (2012), 8–9, [http://www.theadvocatesforhumanrights.org/uploads/croatia\\_final\\_report\\_2012.pdf](http://www.theadvocatesforhumanrights.org/uploads/croatia_final_report_2012.pdf).

<sup>314</sup> AZKZ, email communication with The Advocates, (26 January 2016) (on file with authors).

<sup>315</sup> *Ibid.*

<sup>316</sup> *Ibid.*

<sup>317</sup> *Ibid.*

<sup>318</sup> *Ibid.*

shelters, Zagreb County, the City of Zagreb and the Ministry—which guarantees funding for the 2011-2016 period of the National Strategy for Combating Violence in the regard to shelter provision.<sup>319</sup>

Several NGOs provide hotlines for domestic violence victims, but many of these hotlines have limited hours of operation. Croatia does not have a nationwide, 24-hour hotline dedicated to domestic violence victims. Victims typically must pay for these telephone calls, although one NGO offers to call victims back to minimize their phone charges.<sup>320</sup>

There remains room for improvement with regard to Croatia’s victim assistance. More shelters and adequate, consistent shelter funding are needed.

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<sup>319</sup> The Advocates for Human Rights and Autonomous Women’s House Zagreb, *Implementation of Croatia’s Domestic Violence Legislation: A Follow-up Report* (forthcoming 2016) (on file with authors).

<sup>320</sup> The Advocates for Human Rights, et al, *Implementation of Croatia’s Domestic Violence Legislation* (2012), 102.

## CZECH REPUBLIC

### Legal Landscape and Developments

Under the Czech Criminal Code, domestic violence offenders can be punished by a maximum of three years' imprisonment, with increased sentences for aggravating circumstances.<sup>321</sup>

The Czech Republic adopted a civil domestic violence law that provides victims with an order for protection in 2006, which entered into force January 1, 2007.<sup>322</sup> The law provides for three types of protection: 1) a police eviction barring the offender from the home for ten days; 2) an order for protection issued by the courts that includes eviction, a ban on re-entering the home, and a restraining order for at least one month to one year; and 3) intervention centers, which can provide legal aid and psychological assistance.<sup>323</sup> The 10-day police eviction can be converted into the longer and more comprehensive order for protection through a petition to the civil court.<sup>324</sup>

Within the first year of the law's implementation, police issued 862 barring orders.<sup>325</sup> Five years into the law's implementation, in 2012, police issued 1,405 orders to remove the offender from the home.<sup>326</sup> In 2013, police removed 1,361 offenders from the home.<sup>327</sup>

The intervention centers under the domestic violence law have provided emergency assistance to victims since the law's entry into force.<sup>328</sup> Police issuing a barring order must contact the intervention center within 24 hours; the intervention center, in turn, contacts the victim within 48 hours to offer psychological and social support, legal aid, and referral services. Currently, there are 18 Intervention Centers.<sup>329</sup>

<sup>321</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Czech Republic* (2015).

<sup>322</sup> Act No. 135/2006 Coll., Civil Procedure Code (2006).

<sup>323</sup> Anna Horinova, Persefona NGO, *Implementing Domestic Violence Laws* [PowerPoint slides], presented at Regional Conference on Domestic Violence Legal Reform, Sofia, Bulgaria (12–14 February 2008), slides 4–5 (on file with authors).

<sup>324</sup> *Ibid.*

<sup>325</sup> Vladimír Vědra, Brno Police Headquarters, *Regional Conference on Domestic Violence Legal Reform* [PowerPoint slides], presented at Regional Conference on Domestic Violence Legal Reform, Sofia, Bulgaria (12–14 February 2008), slide 11 (on file with authors).

<sup>326</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Czech Republic* (2013), § 6.

<sup>327</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Czech Republic* (2015), § 6.

<sup>328</sup> Act No. 29/2007 Coll., Civil Procedure Code, established as social services facilities pursuant to arts. 34 and 60 of Act No. 108/2006 Coll., Civil Procedure Code, on Social Services, as amended.

<sup>329</sup> European Institute for Gender Equality, *Intervention Centres*, <http://eige.europa.eu/content/intervention-centers-interven%C4%8Dn%C3%AD-centra> (accessed July 11, 2014).

On July 20, 2009, amendments to the Civil Procedure Code<sup>330</sup> broadened the remedies that can be issued through a preliminary ruling, including a prohibition against meeting the victim and against stalking and harassment of the victim.<sup>331</sup>

In 2009, a new police law (Act No. 273/2008 Coll. on the Police of the Czech Republic) entered into force and simplified police procedures based on lessons learned from the domestic violence law's application. The act relaxed regulations on police authorities to issue a barring order: police no longer need to use formal administrative proceedings involving the preparation of an official decision and adherence to strict procedural and delivery requirements.<sup>332</sup>

The Ministry of the Interior recently adopted a National Action Plan for Domestic Violence Prevention (2011-2014) that addresses victim support services, police training, and offender programs.<sup>333</sup>

## Government Will

### *Acceptance of UPR Recommendations*

The Czech Republic participated in its first Universal Periodic Review (UPR) in 2008. The Czech Republic's second UPR took place in 2012. The government's second report to the Human Rights Council did not include any discussion of domestic violence among adults.<sup>334</sup>

During its second UPR, the Czech Republic accepted recommendations related to gender equality including the following that address domestic violence:

- Take measures to combat domestic violence, in particular against children, including corporal punishment (Recommendation 94.88).<sup>335</sup>

The Czech Republic did not note any recommendations on domestic violence.<sup>336</sup>

The Czech Republic's second UPR resulted in few recommendations specifically related to domestic violence. The government accepted the one recommendation made on domestic violence, indicating a general commitment to domestic violence reform.

<sup>330</sup> Act No. 218/2009 Coll., Civil Procedure Code (amending Act No. 99/1963 Coll., Civil Procedure Code, arts. 76b, 74–77a).

<sup>331</sup> National Action Plan for the Prevention of Domestic Violence for the Years 2011–2014, 7, [http://www.mpsv.cz/files/clanky/12194/5\\_material\\_NAP\\_15-04-2011\\_en.pdf](http://www.mpsv.cz/files/clanky/12194/5_material_NAP_15-04-2011_en.pdf).

<sup>332</sup> Act No. 273/2008 Coll. on the Police of the Czech Republic, arts. 44–47 (in National Action Plan for the Prevention of Domestic Violence for the Years 2011–2014), 6, [http://www.mpsv.cz/files/clanky/12194/5\\_material\\_NAP\\_15-04-2011\\_en.pdf](http://www.mpsv.cz/files/clanky/12194/5_material_NAP_15-04-2011_en.pdf).

<sup>333</sup> National Action Plan for the Prevention of Domestic Violence for the Years 2011–2014, [http://www.mpsv.cz/files/clanky/12194/5\\_material\\_NAP\\_15-04-2011\\_en.pdf](http://www.mpsv.cz/files/clanky/12194/5_material_NAP_15-04-2011_en.pdf).

<sup>334</sup> See Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Czech Republic*, 6 August 2012, U.N. Doc. A/HRC/WG.6/14/CZE/1, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/CZSession14.aspx> (accessed December 11, 2015).

<sup>335</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Czech Republic*, 26 December 2012, U.N. Doc. A/HRC/22/3.

<sup>336</sup> *Ibid.*



## Mechanisms for Government Accountability

The Czech Republic has ratified CEDAW (1993), ICCPR (1993), and CAT (1993), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. The Czech Republic has also ratified the OP-CEDAW (2001) and OP1-ICCPR (1993), providing an additional means of accountability via the complaint mechanism. The Czech Republic has neither signed nor ratified the Istanbul Convention.

The Czech Republic has been a member of the European Union since 2004. Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>337</sup>

### *ECHR/CEDAW Cases and Implementation*

The Czech Republic has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought against the Czech Republic before the ECHR. There have been no admissible complaints pertaining to domestic violence against the Czech Republic brought before CEDAW.

### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. The Czech Republic's most recent review was in 2013 before the Human Rights Committee with regard to its compliance with the ICCPR. The Human Rights Committee expressed its concern regarding the low level of reporting of cases of domestic violence to police.<sup>338</sup>

## Strength of Civil Society

The Czech Republic has allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>339</sup> It received a “Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>340</sup> The “Free” freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women's issues include the Czech Women's Lobby (members: APERIO – Society for Healthy Parenting, Association of Women Entrepreneurs and Managers, Czech Association of Doulas, Czech

<sup>337</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

<sup>338</sup> Human Rights Committee, *Concluding observations on the third periodic report of the Czech Republic*, 22 August 2013, U.N. Doc. CCPR/C/CZE/CO/3.

<sup>339</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Czech Republic*, (2015), § 5.

<sup>340</sup> Freedom House, *Freedom in the World 2015*, 22.

Doulas, Czech Helsinki Committee, Czech Women's Union, European Contact Group, Forum 50 %, Gender Studies, Movement for Active Motherhood, Klub K2, Manushe, Moravian Association of Women Entrepreneurs and Managers, National Contact Centre-women and science (Institute of Sociology, Academy of Science), NESEHNUTÍ Brno, Department of Gender and Sociology, Institute of Sociology, Academy of Science), Open Society, proFem, Revue 50 +, Family Center Pexeso, ROSA – Center for Survivors of Violence, Union of Midwives), European Roma Rights Centre, League of Human Rights, and Persefona.

The Czech Republic appears to have a strong and active civil society.

#### *Monitoring Report*

No recent monitoring reports on domestic violence in the Czech Republic have been identified.

### **Current Status of Efforts to Eliminate Violence against Women**

There are hotlines and crisis centers in the Czech Republic that assist victims. One hotline received 1,697 calls in the first half of 2014, and 3,562 calls during all of 2013.<sup>341</sup> There are four shelters with 96 places for women who have experienced violence and that accept children with no age limits; women can stay for up to one year.<sup>342</sup> An additional 953 shelter spaces are needed to meet Council of Europe recommendations.<sup>343</sup> Seventy-eight percent of shelter funding is from the state, with the remainder coming from private donations.<sup>344</sup> There are 26 women's centers that provide counseling and intervention safety support.<sup>345</sup>

There remains room for improvement with the Czech Republic's victim assistance, including more shelter spaces.

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<sup>341</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Czech Republic* (2015), § 6.

<sup>342</sup> Women Against Violence Europe, *Wave Report 2014*, 58.

<sup>343</sup> *Ibid.*, 33.

<sup>344</sup> *Ibid.*, 49, 58.

<sup>345</sup> *Ibid.*

## ESTONIA

### Legal Landscape and Developments

Domestic violence can serve as an aggravating factor for other crimes in Estonia, such as causing serious damage to health (Art. 118), participation in a fight (Art. 119), threat (Art. 120), physical abuse (Art. 121), and torture (Art. 122) under the Criminal Code. A new amendment to the Criminal Code, in force as of 2015, lists as an aggravating circumstance the “commission of the offence against a person who is in a service or financially dependent relationship with the offender, and against a former or current family member of the offender, against a person who lives with the offender or a person who is otherwise in a family relationship with the offender.”<sup>346</sup>

Estonia has not adopted a specific domestic violence law nor any other legislation that would provide an order for protection to a victim.

Police regulations on responding to domestic violence cases were promulgated in 2010, and several trainings for police, prosecutors and judges have been conducted since then.<sup>347</sup>

Guidelines for law enforcement on how to respond to calls and make referrals to the Victim Support Service have also been elaborated.<sup>348</sup>

That Estonia has recently amended its Criminal Code to include domestic violence as an aggravating factor is a positive first step. It has also promulgated policies for police first responders and has carried out trainings. The absence of a specific domestic violence law that would provide an order for protection shows the opportunities Estonia has to make change.

### Government Will

#### *Acceptance of UPR Recommendations*

Estonia participated in the first Universal Periodic Review (UPR) in 2011. In its first report to the Human Rights Council, the government of Estonia reported that its Development Plan for the Reduction of Violence 2010–2014 includes a focus on the prevention and reduction of domestic violence.<sup>349</sup> Estonia’s report also noted that Estonia’s Victim Support Act entitles all persons who have fallen victim to negligence, mistreatment, or physical, mental, or sexual abuse to

<sup>346</sup> Estonia Criminal Code, entry into force 1 January 2015, art. 58(4), <https://www.riigiteataja.ee/en/eli/522012015002/consolide>.

<sup>347</sup> CEDAW, *Consideration of reports submitted by States parties under article 18 of the Convention Fifth and sixth periodic reports of States parties due in 2012: Estonia*, 28 April 2015, U.N. Doc. CEDAW/C/EST/5-6, ¶ 82.

<sup>348</sup> *Ibid.*, ¶ 90.

<sup>349</sup> Human Rights Council, *National Report Submitted in Accordance with Paragraph 15(a) of the Annex to Human Rights Council Resolution 5/1: Estonia*, 8 November 2010, U.N. Doc. A/HRC/WG.6/10/EST/1, ¶ 95.

compensation and support.<sup>350</sup> During its first UPR in 2011, Estonia accepted recommendations related to gender equality, including the following that address domestic violence:

- Adopt specific legislation to combat domestic violence, provide protection for its victims, and swiftly prosecute perpetrators of such violence (Recommendation 77.60);
- Build on current efforts to address domestic and sexual violence by promoting training and public-awareness programmes, supporting the establishment of shelters for victims, and ensuring full implementation of judicial mechanisms that allow adequate investigations and punishment of perpetrators (Recommendation 77.63);
- Consider ratifying OP-CEDAW (Recommendations 79.2, 79.3, 79.4, 79.5).<sup>351</sup>

Estonia noted the recommendation made to engage actively in the fight against domestic violence, amend its legislation and adopt relevant measures to address the problem of domestic violence (Recommendation 80.12). The government also noted the recommendation made to specifically criminalize gender violence (Recommendation 80.13).<sup>352</sup>

That Estonia noted important recommendations to combat domestic violence and amend its laws raises the question of its willingness to undertake reform. Since its first review, however, Estonia has amended its criminal legislation to make domestic violence an aggravating factor, which is an incremental step. Estonia's upcoming UPR may provide it with further incentive to continue such reforms and the opportunity to accept new recommendations related to domestic violence.

Estonia's second UPR is scheduled to take place in January–February 2016.

### **Mechanisms for Government Accountability**

Estonia has ratified CEDAW (1991), ICCPR (1991), and CAT (1991), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Estonia has also ratified OP1-ICCPR (1991), but it has not ratified the OP-CEDAW. Estonia signed the Istanbul Convention in December of 2014, signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards.

Estonia has been a member of the EU since 2004. Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>353</sup>

#### *ECHR/CEDAW Cases and Implementation*

Estonia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can

<sup>350</sup> Ibid., ¶ 99.

<sup>351</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Estonia*, 28 March 2011, U.N. Doc. A/HRC/17/17, ¶¶ 77, 79.

<sup>352</sup> Ibid., ¶ 80.

<sup>353</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), 1, <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

help shape, as well as stimulate improvements to, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought against Estonia before the ECHR. There have been no admissible complaints pertaining to domestic violence against Estonia brought before CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government’s response to domestic violence. Estonia’s most recent review was in 2013 before the Committee against Torture regarding its compliance with CAT. The Committee against Torture stated its concerns regarding the continued absence of specific legislation to prevent and combat domestic violence. The Committee against Torture also expressed concern that domestic violence is not a distinct crime in the Penal Code.<sup>354</sup>

#### **Strength of Civil Society**

Estonia has allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>355</sup> Estonia received a “Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>356</sup> The “Free” freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

#### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports as part of Estonia’s 2007 CEDAW review include the Estonian Women’s Associations Roundtable in 2007.<sup>357</sup> The Estonian Centre for Social Programs also works on women’s human rights issues.

#### *Monitoring Reports*

No recent monitoring reports on domestic violence in Estonia have been identified.

#### **Current Status of Efforts to Eliminate Violence against Women**

The Guidelines for Development of Criminal Policy until 2018 addresses domestic violence and victim assistance and requires a sufficient number of shelters for victims of crimes, including domestic violence, throughout Estonia.<sup>358</sup> Estonia does not meet the Council of Europe Taskforce Recommendations and must provide 48 more beds to do so.<sup>359</sup> There are approximately 12 shelters with 86 places for women who have experienced violence.<sup>360</sup> Funding

<sup>354</sup> Committee against Torture, *Concluding observations on the fifth periodic report of Estonia*, 17 June 2013, U.N. Doc. CAT/C/EST/CO/5.

<sup>355</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Estonia* (2015), § 5.

<sup>356</sup> Freedom House, *Freedom in the World 2015*, 22.

<sup>357</sup> Estonian Women’s Associations Roundtable, *Shadow Report on the Convention on the Elimination of All Forms of Discrimination against Women* (June 2007), [http://www.iwraw-ap.org/resources/pdf/Estonia%20SR%20\(EWAR\).pdf](http://www.iwraw-ap.org/resources/pdf/Estonia%20SR%20(EWAR).pdf).

<sup>358</sup> CEDAW, *Consideration of reports submitted by States parties under article 18 of the Convention fifth and sixth periodic reports of States parties due in 2012: Estonia*, 28 April 2015, U.N. Doc. CEDAW/C/EST/5-6, ¶ 81.

<sup>359</sup> Women Against Violence Europe, *Wave Report 2014*, 35.

<sup>360</sup> *Ibid.*

for the shelters comes primarily from the state.<sup>361</sup> Some shelters also provide counseling, legal representation, support in court, and assistance working with social services.<sup>362</sup>

The national victim support system provided assistance to 4,510 individuals in 2012, 46% of whom were victims of domestic violence.<sup>363</sup>

There is one national helpline for women who have experienced violence. The helpline provides services free of charge 24 hours a day, 7 days a week.<sup>364</sup> Volunteers staff the hotline and provide multilingual support to callers.<sup>365</sup>

There remains room for improvement with regard to Estonia's victim assistance, including more shelter spaces.

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<sup>361</sup> Ibid., 47.

<sup>362</sup> Hotpeachpages.net: Estonia, <http://www.hotpeachpages.net/europe/europe1.html#Albania> (accessed May 19, 2014); Eesti Naiste Varjupaikade Liit, *Home*, <http://www.naisteliin.ee/index.php?keel=2> (accessed July 14, 2014).

<sup>363</sup> CEDAW, *Consideration of reports submitted by States parties under article 18 of the Convention Fifth and sixth periodic reports of States parties due in 2012: Estonia*, 28 April 2015, U.N. Doc. CEDAW/C/EST/5-6, ¶ 64. The 46 percent statistic is not disaggregated by sex. Id.

<sup>364</sup> Women Against Violence Europe, *Wave Report 2014*, 25.

<sup>365</sup> Women Against Violence Europe, *Country Report 2013*, 80.

# GEORGIA

## Legal Landscape and Developments

Domestic violence is a specific crime in Georgia. Article 126 of the Criminal Code defines the offense as “systematic abuse, blackmail, or humiliation of one family member by another if such acts cause physical pain or suffering.”<sup>366</sup> Article 11 creates accountability for domestic violence regardless who committed the act or where it was committed; importantly, it imposes an obligation on authorities to initiate a criminal case.<sup>367</sup> Domestic violence is punishable by 80-200 hours of community service; domestic violence perpetrated against certain vulnerable populations, against two or more individuals, or as witnessed by a minor family member increases the penalty to imprisonment of up to one year.<sup>368</sup>

Georgia adopted a domestic violence law that provides victims with an order for protection in 2006.<sup>369</sup> The law allows victims to file immediate protective orders against their abusers and permits police to issue a temporary restraining order against persons suspected of abusing a family member.<sup>370</sup> The temporary order must be approved by a court within 24 hours. Upon judicial approval, the order becomes a protective order that prohibits the abuser from coming within a certain distance of the victim and from using common property for six months.<sup>371</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Georgia participated in the first Universal Periodic Review (UPR) in 2011. During its first UPR in 2011, Georgia accepted recommendations related to gender equality including the following that address domestic violence:

- Continue measures in the field of women and children’s rights protection (Recommendation 105.14);
- Pay further attention to women’s rights and gender equality issues at the policymaking

<sup>366</sup> Peter Roudik, “Georgia: Criminalization of Domestic Violence,” *Global Legal Monitor*, 5 November 2012, <http://www.loc.gov/law/foreign-news/article/georgia-criminalization-of-domestic-violence/> [hereinafter Roudik, “Georgia: Criminalization of Domestic Violence,”]; Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Georgia*, 30 July 2015, U.N. Doc. A/HRC/WG.6/23/GEO/1, ¶ 78.

<sup>367</sup> Roudik, “Georgia: Criminalization of Domestic Violence,” Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Georgia*, 30 July 2015, U.N. Doc. A/HRC/WG.6/23/GEO/1, ¶ 78.

<sup>368</sup> Roudik, “Georgia: Criminalization of Domestic Violence.”

<sup>369</sup> The Advocates for Human Rights, “Violence Against Women in Georgia,” (last updated October 2008), <http://www.stopvaw.org/georgia>.

<sup>370</sup> *Ibid.*

<sup>371</sup> *Ibid.*

- level (Recommendation 105.23);
- Further implement policies to advance women’s role in society and continue efforts to eliminate discrimination and violence against women (Recommendations 105.24, 105.25, 105.42,105.43);
- Reinforce monitoring of domestic violence, and intensify efforts to combat domestic violence (Recommendations 105.38, 105.39);
- Promote the role of civil society to address domestic violence and violence against women (Recommendations 105.40, 105.43);
- Ensure an accessible registration system for domestic violence cases and provision of legal, medical, and psychological advice (Recommendations 105.41).<sup>372</sup>

Georgia noted a domestic violence recommendation to undertake measures to fight discrimination and protect women’s rights and to adopt a plan of action to combat domestic violence, which was made by Russia. That recommendation was rejected because of Georgia’s opposition to Russia’s actions in Abkhazia and South Ossetia.<sup>373</sup>

Georgia’s second UPR took place October–November 2015. In its second report to the United Nations Human Rights Council, the government of Georgia described updates to its domestic violence laws and policies.<sup>374</sup> In 2013, Georgia adopted a “National Action Plan 2013-2015 on the Elimination of Domestic Violence,” with three main goals: (1) pass improved legislation to address domestic violence; (2) implement measures to protect, assist, and rehabilitate victims of domestic violence; and (3) prevent and raise awareness of domestic violence.<sup>375</sup> In 2012, the Georgian Parliament passed several amendments to the Criminal Code, including the explicit criminalization of domestic violence.<sup>376</sup> The report noted that Article 1261 of the Criminal Code defines domestic violence, and Article 111 establishes categories of domestic violence.<sup>377</sup> Additionally, committing any crime based on gender identity is now considered an aggravating circumstance.<sup>378</sup> Despite these developments, the report acknowledges that domestic violence remains a serious concern and top human rights priority for the government.<sup>379</sup> In 2014, Georgia signed the Istanbul Convention and aspires to ratify the Convention, although it has yet to do so.<sup>380</sup> The report noted that Georgia has begun passing legislation to comply with the Istanbul

<sup>372</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Georgia*, 16 March 2011, U.N. Doc. A/HRC/17/11, ¶ 105.

<sup>373</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Georgia Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under Review*, 31 May 2011, U.N. Doc. A/HRC/17/11/Add.1.

<sup>374</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Georgia*, 30 July 2015, U.N. Doc. A/HRC/WG.6/23/GEO/1.

<sup>375</sup> *Ibid.*, ¶ 77.

<sup>376</sup> *Ibid.*, ¶ 78.

<sup>377</sup> *Ibid.*

<sup>378</sup> *Ibid.*

<sup>379</sup> *Ibid.*, ¶ 79.

<sup>380</sup> *Ibid.*



Convention, including 12 amendments to existing law approved in October 2014.<sup>381</sup> Among these amendments, Georgia reports that the Parliament is placing special focus on ensuring victims access to shelter.<sup>382</sup> According to the report, Parliament also criminalized forced marriage and created mandatory behavior modification and rehabilitation courses for domestic abusers.<sup>383</sup> In cooperation with local and international NGOs, the Ministry of Justice is working towards implementing the remaining provisions of the Istanbul Convention.<sup>384</sup> Finally, Parliament adopted the “National Action Plan on Gender Equality for 2014-2016” in January 2014.<sup>385</sup> Part of the plan’s mission is to combat violence against women.<sup>386</sup>

Georgia’s acceptance or noting of recommendations made during its second UPR were not available at the time of publication.

### **Mechanisms for Government Accountability**

Georgia has ratified CEDAW (1994), ICCPR (1994), and CAT (1994), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Georgia has also ratified the OP-CEDAW (2002) and OP1-ICCPR (1994), providing an additional means of accountability via the complaint mechanism. Georgia signed the Istanbul Convention on June 19, 2014, signaling its intention to combat violence against women.<sup>387</sup> Ratification would signify a stronger commitment to the Istanbul Convention’s standards.

#### *ECHR/CEDAW Cases and Implementation*

Georgia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases involving domestic violence filed against Georgia before the ECHR. There is one communication against Georgia brought before CEDAW that has been deemed admissible, but CEDAW has not issued a decision.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government’s response to domestic violence. During Georgia’s 2014 CEDAW review, the CEDAW Committee expressed its concern regarding: (a) the growing number of women who are murdered by their husbands or partners; (b) the growing number of women who are victims of other forms of violence, including psychological, physical, economic and sexual violence; (c) the

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<sup>381</sup> Ibid.

<sup>382</sup> Ibid.

<sup>383</sup> Ibid.

<sup>384</sup> Ibid.

<sup>385</sup> Ibid., ¶ 71.

<sup>386</sup> Ibid.

<sup>387</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed June 17, 2015).

low rate of reporting of cases of sexual and domestic violence against women; (d) the lack of state-funded crisis centers and shelters for women who are victims of domestic violence; and (e) the fact that women are sometimes subjected to virginity tests in violation of their right to privacy.<sup>388</sup>

During Georgia's 2014 ICCPR review, the Human Rights Committee stated its concern over the fact that domestic violence remains underreported due to gender stereotypes, the lack of due diligence on the part of law enforcement investigating reports of domestic violence, the insufficient enforcement of restrictive and protective orders, and the limited number of state-funded shelters and support services.<sup>389</sup>

### Strength of Civil Society

Georgia has allowed a variety of human rights organizations to operate within the country without many restrictions; however, the government cooperated freely with some organizations while ignoring the views of others.<sup>390</sup> Some instances of harassment by officials were also reported.<sup>391</sup> Georgia received a "Partly Free" rating on the "Freedom Status" scale in the report, *Freedom in the World: 2015*.<sup>392</sup> The "Partly Free" rating and reports of harassment suggest that efforts to combat domestic violence may be impeded by government repression.

#### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports as part of the CEDAW review include: Advisory Centre for Women "Sakhli," "Amagdari," Association "Hera XXI," Association "Leaders for Democracy," Association of Azerbaijani Women, Coalition for Women's Political Engagement, Cultural-humanitarian foundation "Sukhumi," Gender Equality Network (GEN), "Gender Justice," Kakheti Regional Development Foundation (KRDF), Partnership for Human Rights (PHR), The IDP Women Association "Consent," The Samtskhe-Javaheti Media Center, Union of Pedagogy, Women's Information Center (WIC), Anti-Violence.<sup>393</sup> The Anti-Violence Network of Georgia and Georgia Young Lawyers' Association are also active on women's human rights issues.

Georgia appears to have a strong and active civil society.

<sup>388</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fourth and fifth periodic reports of Georgia*, 24 July 2014, U.N. Doc. CEDAW/C/GEO/CO/4-5.

<sup>389</sup> Human Rights Committee, *Concluding observations on the fourth periodic report of Georgia*, 19 August 2014, U.N. Doc. CCPR/C/GEO/CO/4.

<sup>390</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Georgia* (2015), § 5.

<sup>391</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Georgia* (2013), § 6.

<sup>392</sup> Freedom House, *Freedom in the World 2015*, 22.

<sup>393</sup> Women's Information Center, *Alternative Report – To the United Nations Committee on the Elimination of Discrimination against Women (CEDAW): Concerning women's rights and gender issues in Georgia* (Georgia: June 2014), 1, [http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GEO/INT\\_CEDAW\\_NGO\\_GEO\\_17610\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/GEO/INT_CEDAW_NGO_GEO_17610_E.pdf) (accessed June 15, 2015).

### Monitoring Reports

The Immigration and Refugee Board of Canada published a report on domestic violence in Georgia entitled, *Georgia: Domestic violence; recourse and protection available to victims; support services and availability of shelters; other violence against women*.<sup>394</sup> The report is based on publicly available information and briefly summarizes legislation, government protection, and services. This report can identify challenges in protecting victims and holding offenders accountable, which can help guide Georgia in improving its response to domestic violence.

The 2010 *Research on Domestic Violence against Women in Georgia* report considered quantitative factors, such as the numbers and figures of domestic violence in Georgia, health consequences, and women's coping strategies. The report also highlighted qualitative aspects of domestic violence, including causes and forms of violence, victims' responses, and women's insights for addressing the violence.<sup>395</sup>

These reports identify challenges in protecting victims and holding offenders accountable, which can help guide Georgia in improving its response to domestic violence.

### Current Status of Efforts to Eliminate Violence against Women

Reports of victim shelters and hotlines vary. The 2014 WAVE report states there are two women's shelters in Georgia. The U.S. Department of State, however, reports that four of the ten regions have NGO-operated shelters for domestic violence victims as well as crisis centers.<sup>396</sup> Shelters housed approximately 44 women in 2013<sup>397</sup> and 34 women in 2014.<sup>398</sup> It is estimated that Georgia needs to provide 403 more shelter spaces to meet the Council of Europe Taskforce Recommendations.<sup>399</sup> The government and civil society together run a free hotline that operates 24 hours a day, 7 days a week for victims.<sup>400</sup> The hotline service is available in both Georgian and Russian.<sup>401</sup>

In 2014, the Ministry of Internal Affairs developed and trained two-person police teams, composed of one male and one female, to issue restrictive orders in domestic violence cases and take other preventive actions.<sup>402</sup>

<sup>394</sup> Immigration and Refugee Board of Canada, *Georgia: Domestic Violence; recourse and protection available to victims; support services and availability of shelters; other violence against women* (27 May 2010), <http://www.refworld.org/publisher,IRBC,,GEO,4dd228a92,0.html> (accessed June 17, 2015).

<sup>395</sup> Prof. Marine Chitashvili, Prof. Nino Javakishvili, Assoc. Prof. Luiza Arutiunov, Assoc. Prof. Lia Tsuladze and Ms. Sophio Chachidze, *National Research on Domestic Violence Against Women in Georgia: Final Report* (Government of Norway & UNFPA, 2010), <http://www2.ohchr.org/english/bodies/cedaw/docs/AdvanceVersions/GeorgiaAnnexX.pdf> (accessed June 17, 2015).

<sup>396</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Georgia* (2014), § 6.

<sup>397</sup> Ibid.

<sup>398</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>399</sup> Ibid.

<sup>400</sup> Ibid., 25.

<sup>401</sup> Women Against Violence Europe, *Country Report 2013*, 93.

<sup>402</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Georgia* (2014), § 6.

There remains room for improvement with regard to Georgia's victim assistance and funding. The 2012 closure of an NGO-operated shelter due to funding shortages highlights the need for the government to increase its financial support. More shelters and victim services are needed.

# HUNGARY

## Legal Landscape and Developments

Hungary provides protection against domestic violence through its criminal legislation. In 2013, Hungary amended its Penal Code to include a new offense, “relationship-related violence,” under which a restraining order may be issued.<sup>403</sup> It removes the burden of prosecution from the victim and places it on the government.<sup>404</sup> Battery, aggravated battery, violation of personal freedom or dignity, psychological violence, and economic violence are punishable by up to five years’ imprisonment.<sup>405</sup> The act of humiliating, causing severe deprivation, or grossly violating the dignity of a family member or dependent is punishable by up to two years’ imprisonment, providing the victim initiates criminal proceedings. In these cases, the offense must take place during or following cohabitation between the parties.<sup>406</sup>

In 2009, Hungary adopted a specific domestic violence law that provides victims with an order for protection, the Restraining Act in Cases of Violence between Relatives.<sup>407</sup> Under this law, police may issue a restraining order that is valid for three days, while the courts can issue longer-term restraining orders. While a restraining order can be an important remedy for victims, the legislation has been criticized by women’s NGOs for failing to provide adequate protection for victims and for failing to place sufficient emphasis on offender responsibility.<sup>408</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Hungary participated in the first Universal Periodic Review (UPR) in 2011. In its first report to the Human Rights Council, the government of Hungary described its financial support for an institutional system, including a Regional Crisis Management Network, hotline, and Secret

<sup>403</sup> Article 212(a) states “(1) Persons repeatedly committing violence against spouses, ex-spouses, ex-cohabitants, custodians, persons under custody, guardians or persons under guardianship cohabiting in the same household or the same property at the time of the crime or before that are liable for imprisonment [...] 2(a) of up to three years for bodily harm under section 164(2) of the Criminal Code, or up to three years for violating human dignity under section 227(2) of the Criminal Code; b) between one to five years for bodily harm under section 164(3)–(4) of the Criminal Code for duress or violating personal freedom under section 194(1) of the Criminal Code.” Human Rights Watch, *Unless Blood Flows: Lack of Protection from Domestic Violence in Hungary* (6 November 2013), n. 17, <https://www.hrw.org/report/2013/11/06/unless-blood-flows/lack-protection-domestic-violence-hungary> (accessed August 5, 2015).

<sup>404</sup> *Ibid.*, 13.

<sup>405</sup> *Ibid.*, 14.

<sup>406</sup> Government of the Republic of Hungary, Press Release: “Domestic violence liable to more severe punishment” (4 June 2013) (accessed July 2015).

<sup>407</sup> The Advocates for Human Rights, “Violence Against Women in Hungary,” (last updated December 13, 2010; updates regarding Roma: November 18, 2014), <http://www.stopvaw.org/hungary>.

<sup>408</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2009: Hungary* (2010), § 6.

Shelter host institutions.<sup>409</sup> It reported that municipal homes provide accommodation for persons for up to five years.<sup>410</sup> The report explained that while the Criminal Code does not include a separate crime of domestic violence, other offenses under the criminal and administrative laws can be used to address domestic violence, including homicide, abortion, battery, coercion, violation of personal freedom, harassment, rape, and sexual assault.<sup>411</sup> Its criminal legislation sets forth rules on the restraining order; in 2009, Hungary lengthened the duration of the order from 30 to 60 days.<sup>412</sup>

During its first UPR in 2011, Hungary accepted recommendations related to gender equality including the following that address domestic violence:

- Pass comprehensive legislation that prohibits domestic violence and spousal rape and ensures access to the judicial system for victims (Recommendations 94.10, 94.14, 94.60, 94.66, 94.67);
- Combat violence against Roma women (Recommendations 94.57, 94.108);
- Adopt a comprehensive gender equality law that encompasses a definition of discrimination against women in accordance with the CEDAW (Recommendations 94.11, 95.9).<sup>413</sup>

Hungary noted three recommendations to create specific legislation prohibiting and addressing domestic violence and marital rape.<sup>414</sup> In its response, Hungary maintained that its Criminal Code, Law on Misdemeanors, and Administrative Offenses Act adequately address acts of domestic violence; it also maintained that marital rape has been punishable since 1997.<sup>415</sup> While Hungary's noting of important recommendations to prohibit violence against women calls into question its commitment to improving its response to domestic violence, it has since amended the Criminal Code to address "relationship-related violence" and place the burden of prosecution onto the state. Hungary's upcoming UPR will provide an opportunity to re-examine its commitment and implementation of the accepted recommendations.

Hungary's second UPR is scheduled to take place in April–May 2016.

<sup>409</sup> Human Rights Council, *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Hungary*, 16 February 2011, U.N. Doc. A/HRC/WG.6/11/HUN/1, ¶ 23.

<sup>410</sup> *Ibid.*

<sup>411</sup> *Ibid.*, ¶ 24.

<sup>412</sup> *Ibid.*, ¶ 25.

<sup>413</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Hungary*, 11 July 2011, U.N. Doc. A/HRC/18/17, ¶ 94–95; Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Hungary Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under Review*, 14 September 2011, U.N. Doc. A/HRC/18/17/Add.1, 2.

<sup>414</sup> Hungary noted recommendations 95.12, 95.13, 95.20. Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Hungary Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under Review*, 14 September 2011, U.N. Doc. A/HRC/18/17/Add.1.

<sup>415</sup> *Ibid.*, 4–5.

## Mechanisms for Government Accountability

Hungary has ratified CEDAW (1980), ICCPR (1974), and CAT (1987), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Hungary has also ratified the OP-CEDAW (2000) and OP-ICCPR (1988), providing an additional means of accountability via the complaint mechanism. Hungary signed the Istanbul Convention in 2013,<sup>416</sup> signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards.

Hungary has been a member of the EU since 2004. Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>417</sup>

### *ECHR/CEDAW<sup>418</sup> Cases and Implementation*

Hungary has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence.

One recent case pertaining to domestic violence was brought against Hungary before the ECHR, *Kalucza v. Hungary*. The court found that Hungary failed to meet its protection obligations when it denied a restraining order because “the bad relationship which has developed between the parties can be imputed to both parties.”<sup>419</sup> As part of the decision on implementation, Hungary introduced new training for law enforcement on domestic violence.<sup>420</sup> The victim has since not sought any additional protection orders.<sup>421</sup>

The CEDAW Committee's first decision relating to domestic violence was in *A.T. v. Hungary* in 2005.<sup>422</sup> The complainant had been abused for four years, but she was unable to obtain a restraining order against her former partner because such orders did not exist in Hungary. She also was unable to go to a shelter because the shelters would not accept her children. The CEDAW Committee determined that Hungary failed in its duty to protect the complainant from a serious risk to her physical integrity, physical and mental health, and her life, from her former

<sup>416</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed July 31, 2015).

<sup>417</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), 1, <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

<sup>418</sup> *A.S. v. Hungary*, CEDAW Comm. No. 4/2004, 29 August 2006, U.N. Doc. CEDAW/C/36/D/4/2004, ¶ 11.5. (*A.S. v. Hungary* is a second decision against Hungary relating to forced sterilization).

<sup>419</sup> *Kalucza v. Hungary*, No. 57693/10, ECHR (2012), ¶ 17.

<sup>420</sup> Council of Europe Committee of Ministers, *Supervision of the Execution of Judgments and Decisions of the European Court of Human Rights 7th Annual Report of the Committee of Minister* (2013), 138, [http://www.coe.int/t/dghl/monitoring/execution/Source/Publications/CM\\_annreport2013\\_en.pdf](http://www.coe.int/t/dghl/monitoring/execution/Source/Publications/CM_annreport2013_en.pdf) (accessed June 17, 2015).

<sup>421</sup> *Ibid.*

<sup>422</sup> *A.T. v. Hungary*, CEDAW Comm. No. 2/2003, 26 January 2005, U.N. Doc. CEDAW/C/32/D/2/2003.

partner. The CEDAW committee was particularly concerned by Hungary's lack of a law to combat domestic violence and sexual harassment. The committee recommended immediate and effective measures to protect A.T. and called on Hungary to prevent and respond to violence against women generally, including adopting a specific law prohibiting domestic violence and providing for protective orders and services.<sup>423</sup>

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. Hungary's most recent review was in 2013 before the CEDAW Committee regarding its compliance with CEDAW. The CEDAW Committee expressed its concern about the lack of information on the number of investigations, prosecutions and convictions in cases of violence against women. The CEDAW Committee also noted its concern regarding the insufficient number of shelters specifically dedicated to women victims of domestic violence, the use of violence, threats and coercion, which continue to be elements of the statutory definition of rape rather than the lack of voluntary consent by the victim; and the underreporting of rape cases due to the lack of adequate health care providers who can support women victims of rape and provide medical and forensic examination.<sup>424</sup>

#### **Strength of Civil Society**

Hungary allowed a variety of human rights organizations to operate within the country without many restrictions; however, the government was "rarely cooperative and responsive to their views."<sup>425</sup> Hungary received a "Free" rating on the "Freedom Status" scale in the report, *Freedom in the World: 2015*.<sup>426</sup> The "Free" freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

#### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women's issues include Congregation of Our Lady of Charity of the Good Shepherd, Human Rights Watch, Hungarian Women's Lobby, European Roma Rights Centre, National Council of Disabled Persons' Organizations in Hungary (FESZT), the Hungarian Civil Liberties Union (HCLU), the Mental Disability Advocacy Centre (MDAC), Association of Hungarian Sex Workers, Center for Reproductive Rights, and PATENT. NANE also works on women's human rights.

Hungary appears to have a strong civil society.

<sup>423</sup> Ibid., ¶ 9.6.

<sup>424</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined seventh and eighth periodic reports of Hungary*, 26 March 2013, U.N. Doc. CEDAW/C/HUN/CO/7-8.

<sup>425</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Hungary* (2015), § 5.

<sup>426</sup> Freedom House, *Freedom in the World 2015*, 23.



### *Monitoring Reports*

In 2013, Human Rights Watch published a report on domestic violence in Hungary entitled, *Unless Blood Flows: Lack of Protection from Domestic Violence in Hungary*.<sup>427</sup> The report describes the gaps in Hungary's legislation, barriers to protection, and problems with the government's response to domestic violence. Human Rights Watch makes several recommendations, including for Hungary to: expand the scope of protected persons under the law; improve the police response; and grant court authority to issue restraining orders.<sup>428</sup>

Such a monitoring report can identify challenges in protecting victims and holding offenders accountable, which can help guide Hungary in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

The government operates a number of housing and hotline services, which reportedly have limited space and do not meet best practice standards.<sup>429</sup> There are two national helplines. One helpline is for women who have experienced violence and is free, but does not provide service 24 hours a day, 7 days a week. The other helpline is not free and also operates during limited hours.<sup>430</sup>

The Ministry of Human Resources runs a 24-hour hotline, fourteen crisis centers that offer emergency shelter and care for victims, and four halfway houses that provide long-term housing for up to five years.<sup>431</sup> There is also a State-operated, undisclosed shelter for victims who are at risk of serious harm or death.<sup>432</sup>

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<sup>427</sup> Human Rights Watch, *Unless Blood Flows: Lack of Protection from Domestic Violence in Hungary* (6 November 2013).

<sup>428</sup> *Ibid.*, 54.

<sup>429</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Hungary* (2015), § 6.

<sup>430</sup> Women Against Violence Europe, *Country Report 2013*, 105.

<sup>431</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Hungary* (2015), § 6.

<sup>432</sup> *Ibid.*

## KAZAKHSTAN

### Legal Landscape and Developments

Kazakhstan lacks adequate criminal legislation that prohibits all forms of violence against women. The Criminal Code differentiates between violence against women offenses and other crimes by allowing reconciliation for the former. Moreover, a victim complaint is required to initiate prosecution for acts of violence against women.<sup>433</sup>

In 2009, Kazakhstan adopted a specific domestic violence law that provides victims with an order for protection.<sup>434</sup> The law includes court-ordered “protection orders” restricting perpetrators’ contact with victims, and providing victims the right to psychological, legal, and medical assistance.<sup>435</sup> The protection order is effective for ten days, with the possibility of a 30-day extension by the prosecutor.<sup>436</sup> Perpetrators who violate a protective order face administrative penalties under the Administrative Violations Code.<sup>437</sup> The domestic violence law allows authorities to conduct “preventative interviews” with offenders, in which they are warned about the need to stop their unlawful actions, but otherwise offenders go unpunished.<sup>438</sup>

In 2014, the government amended the domestic violence law to lengthen the duration of a restraining order from 10 days to 30 days. In addition, a new regulation allows the eviction of a domestic violence offender, regardless whether he can find alternative accommodation.<sup>439</sup> The new law also substitutes an administrative arrest for fines, which frequently penalized the victims.<sup>440</sup>

Women’s NGOs noted a gap in the harmonization of the domestic violence law and social services law. Although the domestic violence law envisions the provision of social services to persons who are in a “difficult life situation,” that qualification is determined by the social services law. Yet, Article 6 of the Law on Special Social Services does not explicitly recognize

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<sup>433</sup> CEDAW, *Concluding Observations on the Combined Third and Fourth Periodic Reports of Kazakhstan*, 10 March 2014, U.N. Doc. CEDAW/C/KAZ/CO/3-4, ¶ 18.

<sup>434</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2010: Kazakhstan* (2010), § 6.

<sup>435</sup> Law of the Republic of Kazakhstan On Prevention of Domestic Violence, No. 214-IV ZRK (12 April 2009), <http://legislationline.org/documents/action/popup/id/16323> (accessed June 17, 2015).

<sup>436</sup> *Ibid.*, arts. 20(5), (6).

<sup>437</sup> *Ibid.*, art. 20(7).

<sup>438</sup> *Ibid.*

<sup>439</sup> Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Kazakhstan*, 16 September 2014, U.N. Doc. A/HRC/WG.6/20/KAZ/1, ¶ 38.

<sup>440</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kazakhstan* (2015), § 6.

victims of domestic violence as persons in a “difficult life situation,” thus precluding their automatic eligibility for special social services.<sup>441</sup>

While Kazakhstan’s amendments to the domestic violence law are a welcome step, the 30-day duration of the restraining order is still short of the recommended one-year minimum. That Kazakhstan included the important remedy of eviction of the domestic violence offender is a positive sign of the government’s prioritization of victim safety over offenders’ property rights. Training, however, will be needed to ensure that systems actors order and effectively enforce the eviction remedy. That Kazakhstan still lacks adequate criminal laws prohibiting domestic violence and promoting prosecution shows the opportunity the government has to undertake reform.

## Government Will

### *Acceptance of UPR Recommendations*

Kazakhstan participated in its first Universal Periodic Review (UPR) in 2010. Kazakhstan’s second UPR review took place in October – November 2014. In its second report to the Human Rights Council, the government of Kazakhstan described the creation of specialized police subdivisions, including 133 officers, to address violence against women.<sup>442</sup> The report stated that 93,000 restraining orders were issued in a one-year span (2012-2013), and administrative penalties were imposed upon 2,137 domestic violence offenders.<sup>443</sup> According to the report, Kazakhstan adopted amendments to the domestic violence law in 2014, including the regulation to provide eviction of an offender and the extension of a restraining order to 30 days.<sup>444</sup>

During its second UPR in 2014, the government of Kazakhstan accepted and considered already implemented the following recommendations related to gender equality, including domestic violence:

- Creating or strengthening legislative measures that criminalize violence against women (Recommendations 124.1, 124.7, 124.8, 124.9, 124.11, 125.48, 125.52, 125.60, 125.78);
- Eliminate early forced marriages (Recommendation 124.20);
- Ensure that investigations and prosecutions of domestic violence claims protect victims and allow for redress (Recommendations 124.36, 125.58, 125.61);
- Guarantee that domestic violence legislation is in compliance with international human rights standards (Recommendation 124.10);

<sup>441</sup> Female and Feminist NGOs Initiatives on CEDAW: Kazakhstan, *Combined Third and Fourth Alternative Report to the UN CEDAW Committee*, January 2014, 8,

[http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KAZ/INT\\_CEDAW\\_NGO\\_KAZ\\_16145\\_E.pdf](http://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/KAZ/INT_CEDAW_NGO_KAZ_16145_E.pdf)

<sup>442</sup> Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Kazakhstan*, 16 September 2014, U.N. Doc. A/HRC/WG.6/20/KAZ/1, ¶ 32.

<sup>443</sup> *Ibid.*, ¶ 33.

<sup>444</sup> *Ibid.*, ¶ 38.

- Strive to prevent domestic violence and promote gender equality (Recommendations 125.40, 125.55, 125.59);
- Train relevant state actors including judges, prosecutors, and lawyers about legislation relating to domestic violence and violence against women (Recommendation 125.74);
- Implement a comprehensive data collection system and encourage reporting about all forms of violence against women, including domestic violence (Recommendation 125.75).<sup>445</sup>

Although Kazakhstan accepted recommendations to revise its domestic violence legislation to include all forms of violence against women and comply with international standards, as well as strengthen criminal laws, it added that it considered them already implemented.<sup>446</sup> This may indicate a resistance to examining and revising the existing domestic violence law beyond its 2014 amendments.

Kazakhstan did not note any recommendations related to domestic violence.<sup>447</sup>

### **Mechanisms for Government Accountability**

Kazakhstan has ratified CEDAW (1998), ICCPR (2006), and CAT (1998), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Kazakhstan has also ratified the OP-CEDAW (2001) and OP1-ICCPR (2009), providing an additional means of accountability via the complaint mechanism. Kazakhstan has neither signed nor ratified the Istanbul Convention.

#### *ECHR/CEDAW Cases and Implementation*

Kazakhstan has not ratified the European Convention on Human Rights and is thus not subject to the jurisdiction of the European Court of Human Rights. There is one communication that has been filed against Kazakhstan before CEDAW, but it is still in the pre-admissibility stage.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. During Kazakhstan's 2014 CEDAW review, the CEDAW Committee noted its concern regarding the lack of legislation criminalizing all forms of violence against women. The CEDAW Committee also expressed its concern regarding the definition of rape, which is limited to penetrative vaginal intercourse and requires violence or the threat of violence as a necessary element of the crime, and the distinction regarding acts of violence against women that are amenable to settlement when the perpetrator reconciles with the victim. The CEDAW Committee also stated its concern about the lack of adequate and regular

<sup>445</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Kazakhstan*, 10 December 2014, U.N. Doc. A/HRC/28/10, ¶¶ 124-125.

<sup>446</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Kazakhstan*, 10 December 2014, U.N. Doc. A/HRC/28/10, ¶¶ 124.8–124.10.

<sup>447</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Kazakhstan*, 10 December 2014, U.N. Doc. A/HRC/28/10.

state funding for crisis centers and shelters for women who are the victims of domestic violence. Finally, the CEDAW Committee noted that cases of domestic violence are underreported.<sup>448</sup>

During Kazakhstan's 2014 CAT review, the Committee against Torture expressed its concern regarding the continued prevalence of violence against women, the low number of investigations into cases of domestic violence, the absence of a definition of rape in criminal legislation, lack of data collection, and the fact that most shelters for victims of domestic violence are run by non-governmental organizations.<sup>449</sup>

### Strength of Civil Society

Kazakhstan allows a variety of human rights organizations to operate within the country; however, organizations reported government harassment and surveillance on human rights activists and organizations, as well as state monitoring of "sensitive issues."<sup>450</sup> Kazakhstan received a "Not Free" rating on the "Freedom Status" scale in the report, *Freedom in the World: 2015*, with weak scores for both the political rights and civil liberties indicators.<sup>451</sup> The "Not Free" rating and other repressive policies suggest that efforts to combat domestic violence may be hindered by government repression.

#### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW include Taraz Initiative Center, Feminist League (Kokshetau), Women's Support Center (Petropavlovsk), Shymkent Resource Center, Aru Ana (Aktubinsk), Federation of Women "Status," Center "Partnerstvo," Feminist League (Almaty), Aman Saulyk (Almaty), League of Creative Initiatives (Almaty), PA Club of Healthy Way of Life of Aktubinsk Province, Public Fund of Non-stop Education from Village Pervomayskaia, City Association of Children-Teens' Clubs of City Zyriansk, JARIA (Astana), Fund of Development of Civil Society (Almaty), Institute of Equal Rights and Opportunities in Kazakhstan, Association of Disabled Women "Shyrak," International Ecological Association of East Women, Association "MOLDIR," Union of Crisis Centers on Kazakhstan, Association of NGOs against Human Trafficking in Central Asia, Legal Center of Female Initiatives "Sana Sezim" (Shimkent), the International Commission of Jurists, and the Equal Rights Trust. Podrugy also works on women's human rights and operates a shelter for victims.

Kazakhstan appears to have a strong civil society.

<sup>448</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined third and fourth periodic reports of Kazakhstan*, 10 March 2014, U.N. Doc. CEDAW/C/KAZ/CO/3-4.

<sup>449</sup> Committee against Torture, *Concluding observations on the third periodic report of Kazakhstan*, 12 December 2014, U.N. Doc. CAT/C/KAZ/CO/3.

<sup>450</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kazakhstan* (2015), § 5.

<sup>451</sup> Freedom House, *Freedom in the World 2015*, 23. On a seven point scale with "1" representing the most free and "7" the least free rating, Kazakhstan received a "5" for Political Rights and Civil Liberties. *Ibid.*

### *Monitoring Reports*

In 2011, Podrugi published a report on domestic violence in Kazakhstan, *Implementation of the Law on Prevention of Domestic Violence in Kazakhstan*. Based on an analysis of the laws, interviews, questionnaires, and documents from institutions, the report makes recommendations on reforming laws and government policies and providing funding to various actors.<sup>452</sup>

Such a report can identify challenges in protecting victims and holding offenders accountable, which can help guide Kazakhstan in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Reports of victim services vary. Podrugi reports 19 crisis centers for women and their children, 8 of which provide accommodation.<sup>453</sup> The U.S. Department of State reports approximately 29 crisis centers for women victims and their children, 6 of which provide accommodation, that receive funding from the government and international donors.<sup>454</sup> Hotlines are available to assist victims; there is a hotline that operates 24 hours a day in Shymkent, and an Astana-based hotline that assists 600 victims annually.<sup>455</sup> A 2014 parallel report submitted to CEDAW reported no shelters in the country for women victims of domestic violence,<sup>456</sup> although a 2013 news report suggested the presence of some state-funded shelters in the country.<sup>457</sup>

Women's NGOs in Kazakhstan have noted that local governments are reluctant to commit funds toward developing infrastructure to combat violence against women.<sup>458</sup>

OSCE has played a key role in addressing domestic violence by training police officers, as well as supporting the creation of resources on criminal and administrative provisions for police and prosecutors.<sup>459</sup>

There remains room for improvement with regard to Kazakhstan's victim assistance. More shelters with adequate funding are needed throughout Kazakhstan. The Kazakh government has demonstrated a willingness to work with international institutions, such as OSCE, to address domestic violence. For long-term sustainability, however, the Kazakh government must commit to adequate funding, legislative reform, and training on domestic violence.

<sup>452</sup> Podrugi Crisis Center, *Report on monitoring the implementation of the Law "On Prevention of Domestic Violence"* (2011), 114–121.

<sup>453</sup> *Ibid.*, 75.

<sup>454</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kazakhstan* (2015), § 6.

<sup>455</sup> Podrugi Crisis Center, *Report on monitoring the implementation of the Law "On Prevention of Domestic Violence"* (2011), 77.

<sup>456</sup> Female and Feminist NGOs Initiatives on CEDAW: Kazakhstan, *Combined Third and Fourth Alternative Report to the UN CEDAW Committee*, 8.

<sup>457</sup> Joanna Lillis, "Kazakhstan: Domestic Violence Rising on Political Agenda," *Eurasianet*, 10 December 2013, <http://www.eurasianet.org/node/67855> (accessed December 15, 2015).

<sup>458</sup> Female and Feminist NGOs Initiatives on CEDAW: Kazakhstan, *Combined Third and Fourth Alternative Report to the UN CEDAW Committee*, 8.

<sup>459</sup> OSCE, *OSCE Centre Concludes Project on Combating Domestic Violence in Kazakhstan* (25 November 2014), <http://www.osce.org/astana/127192>.

# KOSOVO

## Legal Landscape and Developments

Kosovo’s Criminal Code defines “domestic relationship” as that between two persons: “who are engaged or married to each other or are co-habiting with each other without marriage; who share a primary household in common and who are related by blood, marriage, or adoption or are in a guardian relationship, including parents, grandparents, children, grandchildren, siblings, aunts, uncles, nieces, nephews, cousins; or who are the parents of a common child.”<sup>460</sup> The presence of a domestic relationship constitutes an aggravating factor for rape, certain criminal sexual offenses and slavery or forced labor.<sup>461</sup>

In 2010, Kosovo adopted a specific domestic violence law that provides victims with an order for protection.<sup>462</sup> Recent legal developments include the Kosovo Program and Domestic Violence Action Plan 2011-2014, which sought to create mechanisms to prevent domestic violence, improve protection for victims, and provide rehabilitation and integration services for victims and perpetrators.<sup>463</sup> The Action Plan published its key results in March 2015, which included greater collaboration among pilot municipalities on publicly addressing domestic and gender based violence, increased training and education programs for young people on domestic and gender-based violence, and better policymaking initiatives by the government.<sup>464</sup>

As of 2012, two years after the law’s adoption, the Ministry of Labour and Social Welfare and Ministry of Health had prepared draft “Administrative Instructions” to implement the domestic violence law.<sup>465</sup> The Kosovo police, however, adopted Standard Operating Procedures to implement their responsibilities under the domestic violence law in 2012.<sup>466</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Kosovo has not been reviewed under the UPR process.

<sup>460</sup> Criminal Code, art. 120(23).

<sup>461</sup> Criminal Code, arts. 169, 230, 232–235.

<sup>462</sup> Law No.03/L-182 of 10 August 2010, Law on Protection against Domestic Violence, Official Gazette of the Republic of Kosovo/ Pristina no. 76 (Year V), [http://www.stopvaw.org/uploads/lawonprotection\\_on\\_domestic\\_violence2010.pdf](http://www.stopvaw.org/uploads/lawonprotection_on_domestic_violence2010.pdf) (accessed June 17, 2015).

<sup>463</sup> Kosova Women’s Network, *At What Cost? Budgeting for the Implementation of the Legal Framework against Domestic Violence in Kosovo* (2012), 12–13, [http://www.ks.undp.org/content/dam/kosovo/docs/womenPub/At%20what%20cost\\_Eng.pdf](http://www.ks.undp.org/content/dam/kosovo/docs/womenPub/At%20what%20cost_Eng.pdf) (accessed June 17, 2015) [hereinafter Kosova Women’s Network, *At What Cost?*].

<sup>464</sup> United Nations Development Program & the Government of Finland, *UN Join Program Against Gender Based Violence (GBV) / Domestic Violence (DV)* (31 March 2015), [http://www.ks.undp.org/content/dam/kosovo/docs/Infographics/GBV\\_ENG.pdf](http://www.ks.undp.org/content/dam/kosovo/docs/Infographics/GBV_ENG.pdf) (accessed June 15, 2015).

<sup>465</sup> Kosova Women’s Network, *At What Cost?* 12.

<sup>466</sup> *Ibid.*

## Mechanisms for Government Accountability

Kosovo is a potential candidate country for EU accession.<sup>467</sup> Often, EU progress reports and opinions note goals and key priorities for the country that pertain to women’s human rights. In its 2013 Progress Report, the European Commission notes that the government adopted legislation to implement its domestic violence law, but that State funding for shelters remains insufficient.<sup>468</sup> The 2014 Progress Report positively noted that three municipalities were engaging in a coordinated response to domestic violence with civil society representatives but also noted the need for a system of data collection on gender based violence across all institutions.<sup>469</sup>

### *ECHR Cases and Implementation*

Kosovo has not ratified the European Convention on Human Rights and is thus not subject to the jurisdiction of the European Court of Human Rights.

## Strength of Civil Society

Kosovo has allowed a variety of human rights organizations to operate within the country, and the government was “occasionally cooperative and responsive.”<sup>470</sup> Amnesty International has reported at least one incident of a targeted attack on a human rights activist.<sup>471</sup> Kosovo received a “Partly Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with lower scores for both the political rights and civil liberties indicators.<sup>472</sup> The “Partly Free” rating suggests that efforts to combat domestic violence may be impeded by government repression

### *Women’s Rights Organizations*

The Kosovar Gender Studies Centre works on women’s human rights issues. The Kosova Women’s Network, a coalition of women’s organizations throughout Kosovo, is also active on women’s human rights issues, including domestic violence.

### *Monitoring Reports*

In 2012, the Kosova Women’s Network released a report on domestic violence in Kosovo entitled, *At What Cost? Budgeting for the Implementation of the Legal Framework against*

<sup>467</sup> European Commission, *European Neighbourhood Policy and Enlargement Negotiations – Kosovo* (14 August 2014), [http://ec.europa.eu/enlargement/countries/detailed-country-information/kosovo/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/kosovo/index_en.htm) (accessed June 17, 2015).

<sup>468</sup> European Commission, *Commission Staff Working Document: Kosovo 2013 Progress Report* (2013), 15–16, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/brochures/kosovo\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/brochures/kosovo_2013.pdf) (accessed June 22, 2015).

<sup>469</sup> European Commission, *Kosovo 2014 Progress Report* (2014), 18, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-kosovo-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-kosovo-progress-report_en.pdf) (accessed June 22, 2015).

<sup>470</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kosovo* (2015), § 456.

<sup>471</sup> Amnesty International, *Kosovo: Amnesty International Condemns Threats to Woman Human Rights Defender* (22 March 2013), <https://www.amnesty.org/en/documents/eur70/005/2013/en/> (accessed June 22, 2015).

<sup>472</sup> Freedom House, *Freedom in the World 2015*, 23. On a seven-point scale with “1” representing the most free and “7” the least free rating, Kosovo received a “4” for Political Rights and a “4” for Civil Liberties. *Ibid.*



*Domestic Violence in Kosovo*.<sup>473</sup> This report assesses the fiscal costs of prevention, protection, prosecution, rehabilitation, and reintegration under Kosovo's legislation and policies.<sup>474</sup> The Kosovo Women's Network is in progress of a research initiative which will publish results in mid-2015 and inform the new National Strategy and Action Plan to be drafted in 2015.<sup>475</sup>

Such a monitoring report identifies challenges in protecting victims and holding offenders accountable which can help guide Kosovo in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Reports of the number of shelters vary. The 2014 WAVE report states there are nine shelters with 140 beds.<sup>476</sup> According to the U.S. Department of State, there are ten shelters.<sup>477</sup> Kosovo needs to provide 33 more shelter spaces to meet Council of Europe standards.<sup>478</sup> The NGO-operated shelters receive some funding from the Ministry of Labor and Social Welfare.<sup>479</sup> A majority of shelter funding is from foreign donors.<sup>480</sup>

There are two national helplines, one of which is available for victims of domestic violence. That hotline is free, provides service 24 hours a day, 7 days a week, and is available in both Albanian and Serbian.<sup>481</sup> There are 10 centers for women that also provide counseling.<sup>482</sup>

There remains room for improvement with regard to Kosovo's victim assistance. More shelters and victim services are needed. In addition, existing shelters rely primarily on international funding sources, presenting the Kosovar government the opportunity to apportion greater funding to domestic violence.

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<sup>473</sup> Kosova Women's Network, *At What Cost?*.

<sup>474</sup> *Ibid.*, 1.

<sup>475</sup> Kosova Women's Network, "KWN Launches Research on Domestic Violence and Sexual Harassment," 26 February 2015, <http://www.womensnetwork.org/?FaqeID=1&n=299> (accessed June 22, 2015).

<sup>476</sup> Women Against Violence Europe, *Wave Report 2014*, 64.

<sup>477</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kosovo* (2015), § 6.

<sup>478</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>479</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kosovo* (2015), § 6.

<sup>480</sup> Women Against Violence Europe, *Wave Report 2014*, 49.

<sup>481</sup> *Ibid.*, 64.

<sup>482</sup> *Ibid.*

## KYRGYZSTAN

### Legal Landscape and Developments

Domestic violence is not a specific crime under Kyrgyzstan’s Criminal Code, and other general offenses, such as torture or intentional infliction of light or heavy bodily injury or damage to health must be used to prosecute domestic violence.<sup>483</sup> Kyrgyzstan’s Administrative Code prohibits a specific domestic violence offense (Art. 66-3), but authorities typically charge perpetrators using the minor hooliganism provision (Art. 365), which carries a lesser punishment.<sup>484</sup>

In 2003, Kyrgyzstan adopted a specific domestic violence law that provides victims with an order for protection.<sup>485</sup> The Social and Legal Protection against Domestic Violence Act provides for protection against domestic violence, including police-issued restraining orders and court-ordered protection measures.<sup>486</sup> While the law does include spouses, relatives, cohabitating partners, and unregistered marriage partners, it does not include current or former partners, spouses or relatives who do not live together.<sup>487</sup> Kyrgyzstan’s 2012 State report to the Human Rights Committee notes, however, that no court-issued protective orders were issued in the first seven years following the law’s adoption. It was not until 2011 that two court orders were finally issued, a problem that the government ascribes to the public’s lack of knowledge about the remedy and the legal system’s lack of familiarity with this type of protection.<sup>488</sup> In contrast, the Ministry of Internal Affairs developed a protocol for the issuance of temporary restraining orders, and police issued 4,574 restraining orders from 2004 to 2012.<sup>489</sup> Kyrgyzstan has drafted a new domestic violence bill, which expands the definition of domestic violence to include economic violence and threats of violence.<sup>490</sup>

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<sup>483</sup> Human Rights Watch, “*Call Me When He Tries to Kill You.*” *State Response to Domestic Violence in Kyrgyzstan* (28 October 2015), <https://www.hrw.org/report/2015/10/28/call-me-when-he-tries-kill-you/state-response-domestic-violence-kyrgyzstan> (citations omitted) [hereinafter Human Rights Watch, “*Call Me When He Tries to Kill You*”].

<sup>484</sup> *Ibid.*

<sup>485</sup> Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Second Periodic Reports of States Parties: Kyrgyzstan*, 23 May 2012, U.N. Doc. CCPR/C/KGZ/2, ¶ 296.

<sup>486</sup> *Ibid.*

<sup>487</sup> Human Rights Watch, “*Call Me When He Tries to Kill You.*”

<sup>488</sup> Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant, Second Periodic Reports of States Parties: Kyrgyzstan*, 23 May 2012, U.N. Doc. CCPR/C/KGZ/2, ¶ 297.

<sup>489</sup> *Ibid.*, ¶ 299.

<sup>490</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Kyrgyzstan*, 19–30 January 2015, U.N. Doc A/HRC/W/G.6/21/KGZ/1, ¶ 120.

The government adopted a National Strategy to Achieve Gender Equality by 2020, which acknowledges the high rates of domestic violence, bride kidnapping, and early marriage.<sup>491</sup>

In 2012, the government failed to pass a law that would prevent bride kidnapping and would impose fines on mullahs who ‘bless’ unregistered marriages.<sup>492</sup> Another attempt in 2013 was successful, and the punishment for abduction for marriage has been increased from three years’ imprisonment to five to seven years.<sup>493</sup> If the abductee is younger than 17 years, the punishment is five to ten years’ imprisonment.<sup>494</sup>

That Kyrgyzstan has adopted a domestic violence law with an order for protection remedy and is undertaking amendments to punish bride kidnapping is a sign of its commitment to protect women victims of violence. Effective implementation of both laws, however, will require government will and commitment. The adoption of a specific administrative offense of domestic violence is a welcome first step, but a stronger measure and indicator of Kyrgyzstan’s commitment would be to ensure that domestic violence is recognized as a crime. Nevertheless, even incremental legislative reform can be meaningful steps toward progress in the absence of adequate legislation.

## Government Will

### *Acceptance of UPR Recommendations*

Kyrgyzstan participated in the first Universal Periodic Review in UPR in 2010.<sup>495</sup> Kyrgyzstan’s second UPR took place in January – February 2015. In its second report to the Human Rights Council, the government of Kyrgyzstan noted that 30 percent more cases of physical violence were reported in 2013 compared to 2009, and a new bill on domestic violence was drafted that expands the definition of domestic violence.<sup>496</sup> The report noted that the Human Rights Center of Kyrgyzstan’s Internal Affairs Academy created training manuals to prevent and investigate violence against women and children, as well as manuals on internal affairs agencies’ responsibilities in responding to gender-based violence.<sup>497</sup> According to the second report, Kyrgyzstan adopted the National Strategy for Gender Equality 2020 and the Action Plan 2012-2014, which “prioritize eradicating gender discrimination, increasing women’s access to justice, expanding their economic empowerment and promoting gender parity in decision-making.”<sup>498</sup> Kyrgyzstan’s second UPR report noted 11,532 reports of domestic violence, 10,299 of which

<sup>491</sup> Human Rights Watch, “*Call Me When He Tries to Kill You.*”

<sup>492</sup> Chris Rickleton, “Efforts to Tackle Bride Kidnapping Hit Polygamy Snag,” *EurasiaNet*, 8 February 2012, <http://www.eurasianet.org/node/64973> (accessed June 22, 2015).

<sup>493</sup> Human Rights Watch, “*Call Me When He Tries to Kill You.*” 20.

<sup>494</sup> *Ibid.*

<sup>495</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Kyrgyzstan*, 16 June 2010, U.N. Doc. A/HRC/15/2, ¶¶ 76.58–76.62.

<sup>496</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Kyrgyzstan*, 19–30 January 2015, U.N. Doc A/HRC/W/G.6/21/KGZ/1, ¶ 62.

<sup>497</sup> *Ibid.*

<sup>498</sup> *Ibid.*, ¶ 109.

resulted in temporary protection orders.<sup>499</sup> There are some indications that early, unregistered marriages are on the rise, hindering women’s access to education and increasing their risks of domestic violence.<sup>500</sup>

During its second UPR in 2015, Kyrgyzstan accepted recommendations related to gender equality, including the following that address domestic violence:

- Implement the National Council on Gender Issues and strategy for gender equality (Recommendations 117.9, 117.32);
- Ensure enforcement of domestic violence laws through a variety of education, awareness, and legal means (Recommendations 117.33, 117.38, 117.59, 117.66);
- Combat violence against women (Recommendations 117.58);
- Adopt a National Action Plan about domestic violence (Recommendations 117.60, 117.61);
- Provide assistance to victims of violence against women, including domestic violence and bride kidnappings. (Recommendations 117.63, 117.68);
- Eliminate bride kidnappings and forced marriages, especially those involving children (Recommendations 117.62, 117.65, 117.69, 117.70, 117.71, 117.72, 117.73, 117.74, 117.75, 117.76);
- Thoroughly investigate and prosecute cases of gender-based violence and cases of domestic violence (Recommendations 117.64, 117.67);
- Strengthen mechanisms to enforce gender-based violence laws, train law enforcement offices to deal with these cases, and provide medical services to victims (Recommendation 117.68);
- Establish a state report mechanism and provide appropriate services to victims of violence against women (Recommendations 119.17).<sup>501</sup>

Kyrgyzstan noted the recommendation to abstain from the adoption of legislation limiting freedom of association as protected by ICCPR, in particular legislation on “foreign agents” (Recommendation 119.22).<sup>502</sup> While not directly related to domestic violence, the noting of this recommendation may reflect on the potential for civil society to operate freely in the country.

### **Mechanisms for Government Accountability**

Kyrgyzstan has ratified CEDAW (1997), ICCPR (1994), and CAT (1997), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Kyrgyzstan has also ratified the OP-CEDAW (2002) and OP1-ICCPR (1994), providing an additional means of accountability

<sup>499</sup> Ibid., ¶ 115.

<sup>500</sup> Ibid., ¶ 117.

<sup>501</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Kyrgyzstan*, 9 Apr. 2015, U.N. Doc. A/HRC/29/4, ¶¶ 117, 119.

<sup>502</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Kyrgyzstan Addendum*, 22 June 2015, U.N. Doc. A/HRC/29/4/Add.1, 3.

via the complaint mechanism. Kyrgyzstan has neither signed nor ratified the Istanbul Convention.

#### *ECHR/CEDAW Cases and Implementation*

Kyrgyzstan is not subject to the European Convention on Human Rights. There have been no admissible complaints pertaining to domestic violence against Kyrgyzstan brought before CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government’s response to domestic violence. During Kyrgyzstan’s 2015 CEDAW review, the CEDAW Committee expressed its concern regarding the high prevalence of violence against women, in particular domestic and sexual violence. The CEDAW Committee also noted its concern regarding the lack of statistical information on violence against women, the underreporting of violence against women due to its treatment as a private matter to be resolved by elders’ courts, and the lack of sufficient victim protection services and enforcement. The CEDAW Committee also stated its grave concern regarding the practice of bride kidnapping, in which women and girls are abducted and forced into marriages, as a socially legitimized practice condoned by a culture of silence and impunity.<sup>503</sup>

During Kyrgyzstan’s 2014 ICCPR review, the Human Rights Committee expressed concern regarding continuing reports of acts of violence against women, including bride kidnapping, spousal rape and domestic violence. The Human Rights Committee also noted that violence against women continues to be underreported and socially accepted.<sup>504</sup>

Finally, during Kyrgyzstan’s 2013 CAT review, the Committee against Torture expressed its concern regarding reports of widespread violence against women in the form of domestic violence, trafficking, and bride kidnapping. The Committee against Torture also noted its concern regarding the lack of information about prosecutions for violence against women, and the state’s failure to implement in practice an existing law prohibiting domestic violence and bride kidnapping.<sup>505</sup>

### **Strength of Civil Society**

Although Kyrgyzstan had reportedly “relaxed restrictions on human rights organizations, human rights activists continue to experience harassment and threats by police officers.<sup>506</sup> The Human Rights Committee in 2014 also expressed concern about the persecution of human rights

<sup>503</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the fourth periodic report of Kyrgyzstan*, 11 March 2015, U.N. Doc. CEDAW/C/KGZ/CO/4.

<sup>504</sup> Human Rights Committee, *Concluding observations on the second periodic report of Kyrgyzstan*, 23 April 2014, U.N. Doc. CCPR/C/KGZ/CO/2.

<sup>505</sup> Committee against Torture, *Concluding observations on the second periodic report of Kyrgyzstan*, 20 December 2013, U.N. Doc. CAT/C/KGZ/CO/2.

<sup>506</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kyrgyz Republic* (2015), § 5.

defenders and restrictions on the media.<sup>507</sup> Kyrgyzstan received a “Partly Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with lower scores for both political rights and civil liberties indicators.<sup>508</sup> The “Partly Free” rating and harassment of human rights defenders suggest that efforts to combat domestic violence may be impeded by government repression.

On May 26, 2014, new legislation was proposed requiring organizations that receive international funding to register as a “foreign organization.”<sup>509</sup> The proposed law, “On Introducing Amendments and Changes to Some Legislative Acts of the Kyrgyz Republic,” would amend the Law on Non-commercial Organizations, the Law on State Registration of Legal Entities, and the Criminal Code. If passed, the law would create a number of legal obstacles for non-commercial organizations and restrictions on their access to foreign funding.<sup>510</sup> In June 2015, the bill passed its first parliament reading with a majority of 83 in favor and 23 opposed.<sup>511</sup>

### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include, Women Support Center (WSC), Gender Research Center (GRC), Social Technologies Agency (STA), Association for the Support of Women Entrepreneurs (WESA), Association of Crisis Centers (ACC), Forum of Women’s NGOs, Human Rights Watch, Tais Plus, the Child Rights Defenders League, and the Equal Rights Trust. The Diamond Association also works on women’s human rights.

Kyrgyzstan appears to have a strong and active civil society.

### *Monitoring Reports*

In 2015, Human Rights Watch published a report on domestic violence. The report documents barriers victims of domestic violence face when seeking help, such as the police failure to assist, inform victims of protection orders, and enforce protection orders. The report also describes how community courts often handle domestic violence cases, the verdicts of which typically result in mediation, fines, or public shaming.<sup>512</sup>

Such a report can identify challenges in protecting victims and holding offenders accountable, which can help guide Kyrgyzstan in improving its response to domestic violence.

<sup>507</sup> Human Rights Committee, *Concluding Observations on the Second Periodic Review of Kyrgyzstan*, 23 April 2014, U.N. Doc. CCPR/C/KGZ/CO/2, ¶¶ 24–25.

<sup>508</sup> Freedom House, *Freedom in the World 2015*, 23. On a seven-point scale with “1” representing the most free and “7” the least free rating, Kyrgyzstan received a “5” for Political Rights and for Civil Liberties. *Ibid.*

<sup>509</sup> Human Rights Watch, “Kyrgyzstan: Reject ‘Foreign Agents’ Law,” 5 December 2013, <http://www.hrw.org/news/2013/12/05/kyrgyzstan-reject-foreign-agents-law> (accessed June 22, 2015); see also The International Center for Not-for-Profit Law, *NGO Law Monitor: Kyrgyz Republic* (28 May 2014), <http://www.icnl.org/research/monitor/kyrgyz.html> (accessed June 22, 2015).

<sup>510</sup> The International Center for Not-for-Profit Law, *NGO Law Monitor: Kyrgyz Republic*.

<sup>511</sup> Human Rights Watch, “*Call Me When He Tries to Kill You*,” 18.

<sup>512</sup> *Ibid.*

### Current Status of Efforts to Eliminate Violence against Women

From January to June 2014, the Sezim Shelter provided spaces for 140 individuals.<sup>513</sup> Of those individuals, 64 were women victims of domestic violence, and 3 were victims of sexual violence.<sup>514</sup> During this time frame, the shelter received 546 calls; 96% of the callers were women, and 33% of those calls pertained to domestic violence.<sup>515</sup> The Sezim Shelter provided consultations on legal protection against gender and domestic violence to 196 individuals, and 92% of the 445 psychological consultations Sezim provided were female clients.<sup>516</sup> The government provides space and provides funding for the Sezim Shelter.<sup>517</sup> Other than this shelter, the state relies heavily on NGOs to provide services for victims.<sup>518</sup> Such non-governmental service providers struggle from inadequate funding.<sup>519</sup> There is also fear by these organizations that if the proposed ‘foreign agents’ bill passes, it could lead to a negative public perception further affecting their funding.<sup>520</sup> While the government’s support for the Sezim shelter is a positive indicator, increased state funding for victim services is needed. Only two of nine crisis centers reported government funding, and some NGOs have closed their shelters due to financial limitations.<sup>521</sup>

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<sup>513</sup> Sezim Shelter—Crisis Center “Sezim”, *Program Report January—June 2014* (2014), [http://sezim.org/images/reports/PROGRAM\\_REPORT\\_ENG\\_2014.pdf](http://sezim.org/images/reports/PROGRAM_REPORT_ENG_2014.pdf) (accessed June 23, 2015).

<sup>514</sup> Ibid.

<sup>96</sup> Ibid.

<sup>516</sup> Ibid.

<sup>517</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Kyrgyz Republic* (2015), § 6.

<sup>518</sup> Human Rights Watch, “*Call Me When He Tries to Kill You*,” 17.

<sup>519</sup> Ibid.

<sup>520</sup> Ibid., 18.

<sup>521</sup> Ibid.

# LATVIA

## Legal Landscape and Developments

Domestic violence constitutes an aggravating factor under the Criminal Code, defined as “the criminal offence related to violence or threats of violence was [sic] committed against a person to whom the perpetrator is related in the first or the second degree of kinship, against the spouse or former spouse, or against a person with whom the perpetrator is or has been in unregistered marital relationship, or against a person with whom the perpetrator has a joint (single) household.”<sup>522</sup> Latvia’s Criminal Code punishes various levels of bodily injury.<sup>523</sup>

In 2014, Latvia adopted a specific domestic violence law that provides victims with an order for protection.<sup>524</sup> The Latvian Parliament (“Saiema”) approved new civil protective measures for victims of domestic violence, which entered into force on March 31, 2014 as part of a package of amendments to Latvia’s civil procedure, police and criminal legislation passed by the Saiema. These new amendments include a broad definition of domestic violence and allow victims access to civil protective orders against abusers. The protective order will allow for the eviction of the perpetrator, as well as the issuance of a restraining order. Changes to the Criminal Code criminalize the violation of a protective order.<sup>525</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Latvia participated in the first Universal Periodic Review (UPR) in 2011. In its first report to the Human Rights Council, Latvia described the inclusion of domestic violence as an aggravating circumstance under the new Criminal Code.<sup>526</sup> The report noted Latvia’s Program for Eliminating Domestic Violence (2008-2011), which seeks to identify and prevent domestic violence, as well as increase institutional cooperation.<sup>527</sup> The report also stated the World Health Organization facilitates trainings for health care workers on domestic violence, and trainings are

<sup>522</sup> Latvia Criminal Code, § 48(15).

<sup>523</sup> Latvia Criminal Code, §§ 125–132.

<sup>524</sup> Human Rights Committee, *Addendum: Replies of Latvia to the List of Issues*, 26 February 2014, U.N. Doc. CCPR/C/LVA/Q/3/Add.1, ¶ 67.

<sup>525</sup> Baltic News Network, “New Approach to Combating Domestic Abuse: Oppressors are to leave the house, not victims,” 13 February 2014, <http://bnn-news.com/approach-combating-domestic-abuse-oppressors-leave-house-victims-110016> (accessed June 23, 2015); see also Human Rights Committee, *Addendum: Replies of Latvia to the List of Issues*, 26 February 2014, U.N. Doc. CCPR/C/LVA/Q/3/Add.1, ¶ 67; see also MARTA, “Law Protects Women and Children,” 27 February 2014, <http://marta.lv/marta-speaking/law-protects-women-and-children?lang=1801> (accessed June 23, 2015).

<sup>526</sup> Human Rights Council, *National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1: Latvia*, 14 February 2011, U.N. Doc. A/HRC/WG.6/11/LVA/1, ¶ 66.

<sup>527</sup> *Ibid.*, ¶ 68.



provided to other systems actors under the Program for Eliminating Domestic Violence, although it did not specify how often the trainings are provided or the number of participants trained.<sup>528</sup>

During its first UPR in 2011, Latvia accepted recommendations related to gender equality including the following that address domestic violence:

- Consider the ratification of the Optional Protocol to CEDAW (Recommendations 91.3,91.4);
- Train law enforcement, judiciary, and other relevant actors on how to understand and prevent domestic violence (Recommendations 91.34, 91.43, 92.11);
- Advance gender equality by implementing recommendations made by CEDAW and the national report (Recommendations 91.18, 91.20);
- Create a comprehensive plan to prevent and prosecute all forms of violence against women (Recommendations 91.19, 91.32);
- Combat domestic violence by raising public awareness (Recommendation 91.33);
- Ensure domestic violence is an aggravated circumstance in the criminal code and criminalize marital rape as a specific crime (Recommendation 92.11, 92.12).<sup>529</sup>

Latvia noted recommendations to ratify the OP-CEDAW, adopt a comprehensive gender equality law, and to promote inclusion of discrimination against women and gender equality in the Constitution and laws.<sup>530</sup> In rejecting recommendations to ratify OP-CEDAW, Latvia explained that it would gradually assess the possibility of ratification and would provide further information in its next report.<sup>531</sup> It also stated that instead of adopting a general gender equality law, it would incorporate anti-discriminatory provisions into various laws, an approach that is consistent with Latvia's legal system.<sup>532</sup>

Latvia's second UPR is scheduled to take place in January – February 2016.

Latvia accepted a number of recommendations on domestic violence, which indicates a commitment to improving laws on domestic violence. It has resisted recommendations, however, to ratify a key women's rights treaty and undertake legal amendments that would promote gender equality. Latvia's upcoming UPR may provide the government an opportunity to reconsider its actions on noted recommendations and undertake those reforms.

### **Mechanisms for Government Accountability**

Latvia has ratified CEDAW (1992), ICCPR (1992), and CAT (1992), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Latvia has also ratified the OP1-

<sup>528</sup> Ibid., ¶ 70.

<sup>529</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Latvia*, 11 July 2011, U.N. Doc. A/HRC/18/9, ¶¶ 91-92.

<sup>530</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Latvia Addendum*, 14 September 2011, U.N. Doc. A/HRC/18/9/Add.1.

<sup>531</sup> Ibid., 2.

<sup>532</sup> Ibid., 3.

ICCPR (1994), providing an additional means of accountability via the complaint mechanism, but has not ratified the OP-CEDAW. As of 2011, at its first UPR, Latvia explained it was evaluating whether to ratify OP-CEDAW and OP-CAT and would provide information in its next UPR report.<sup>533</sup> Latvia has neither signed nor ratified the Istanbul Convention.

#### *ECHR/CEDAW Cases and Implementation*

Latvia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases involving domestic violence brought against Latvia before the ECHR. There have been no admissible complaints pertaining to domestic violence against Latvia brought before CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government’s response to domestic violence. During Latvia’s 2013 review under the Convention against Torture, the Committee against Torture recommended that the Latvian government adopt legislation on violence against women that specifically makes domestic violence and spousal rape a crime; ensure that police register and investigate all reports of domestic violence and that perpetrators are prosecuted and punished for such offenses; train police in investigations and prosecutions of domestic violence; and ensure that domestic violence victims can obtain restraining orders and access health care, legal services, reparations, and shelters.<sup>534</sup>

During Latvia’s 2014 review under the International Covenant on Civil and Political Rights, the Human Rights Committee recommended the Latvian government adopt laws to create specific crimes of domestic violence and spousal rape, encourage victim reporting of such offenses, ensure that authorities investigate, prosecute, and appropriately punish all acts of violence against women, including domestic violence and spousal rape, strengthen its data collection on violence against women, and provide assistance and adequate shelters for victims.<sup>535</sup>

### **Strength of Civil Society**

Latvia has allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>536</sup> Latvia received a “Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>537</sup> The “Free” freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

<sup>533</sup> Ibid. (see additionally examined recommendations in ¶ 1).

<sup>534</sup> Committee against Torture, *Concluding Observations on the Combined Third to Fifth Periodic Reports of Latvia*, 23 December 2013, U.N. Doc. CAT/C/LVA/CO/3-5, ¶ 14.

<sup>535</sup> Human Rights Committee, *Concluding Observations on the Third Periodic Report of Latvia*, 11 April 2014, U.N. Doc. CCPR/C/LVA/CO/3, ¶ 9.

<sup>536</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Latvia* (2015), § 5.

<sup>537</sup> Freedom House, *Freedom in the World 2015*, 23.

*Women's Rights Organizations*

Latvia's last review before CEDAW occurred in 2004, and no records of shadow report submissions were available on the UN Office of the High Commissioner for Human Rights' website. The organization MARTA works on women's human rights.

Latvia appears to have a broad civil society. The absence of any CEDAW parallel reports suggests that future submissions could provide an additional accountability tool to encourage the government to undertake reform.

*Monitoring Reports*

No recent monitoring reports on domestic violence in Latvia have been identified.

**Current Status of Efforts to Eliminate Violence against Women**

Reports of the numbers of victim services vary. The 2014 WAVE report states there are no national hotlines and no shelters specifically for victims of domestic violence.<sup>538</sup> The U.S. Department of State confirms that Latvia lacks domestic violence shelters, and victims must resort to crisis centers with limited space that favors women with children.<sup>539</sup> It reports, however, four NGO-operated crisis hotlines in Latvia.<sup>540</sup> There is one women's center that provides counseling.<sup>541</sup>

There remains substantial room for improvement with regard to Latvia's victim assistance. More shelters, hotlines, and victim services are needed.

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<sup>538</sup> Women Against Violence Europe, *Country Report 2013*, 124.

<sup>539</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Latvia* (2015), § 6.

<sup>540</sup> *Ibid.*

<sup>541</sup> Women Against Violence Europe, *Country Report 2013*, 124.

# LITHUANIA

## Legal Landscape and Developments

Provisions in Lithuania's Criminal Code may be applied to domestic violence cases. Article 140, causing physical pain or negligible health impairment, provides for punishment by imprisonment of up to two years. Article 138, causing non-severe health impairment, provides for imprisonment of up to five years. Article 145, threats to murder or cause severe health impairment or terrorization of a person, provides for punishment of up to four years.<sup>542</sup>

In 2011, Lithuania adopted its first domestic violence law, the Law on Protection against Domestic Violence, which provides victims with an order for protection. The law was drafted in collaboration with NGOs, including the Women Against Violence Network and the Vilnius Women's House. This collaboration resulted in the inclusion of protective order provisions that have great impact on victim safety and the establishment of victim support centers funded by the government.

The law defines forms of domestic violence, allows prosecutors to pursue criminal charges, provides services for victim safety and offender rehabilitation, develops a domestic violence database, and employs media campaigns to combat domestic violence.<sup>543</sup> Police are required to pursue investigations, even if the victim is unwilling to pursue criminal charges.<sup>544</sup> The law also authorizes the court to issue two types of protection orders within 48 hours: 1) an eviction order; and 2) a restraining order prohibiting the perpetrator not to approach, communicate, or contact the victim.<sup>545</sup>

The impact of the law on reporting and police response was immediate. Between December 15, 2011, when it entered into force, and December 31, 2011, police fielded about 3,000 calls reporting domestic violence and opened 935 investigations.<sup>546</sup> Since then, the number of reports and police investigations has generally increased. Between December 2011 and March 2012, Lithuanian police received more than 10,000 reports of domestic violence and initiated 3,300 investigations.<sup>547</sup> Between January and August 2013, the police registered 13,811 domestic

<sup>542</sup> Women Against Violence Europe, *Country Report 2012: Reality Check on Data Collection and European Services for Women and Children Survivors of Violence* (2013), 165, [http://www.wave-network.org/sites/default/files/02%20WAVE%20COUNTRY%20REPORT%202012\\_0.pdf](http://www.wave-network.org/sites/default/files/02%20WAVE%20COUNTRY%20REPORT%202012_0.pdf).

<sup>543</sup> Law on Protection against Domestic Violence, [C. Civ.] (Lt.).

<sup>544</sup> *Ibid.*, art 6, §2.

<sup>545</sup> Eastern European Studies Centre, *Struggling for Gender Equality: Sharing Lithuanian and Bulgarian Experience* (2013), 20, [http://www.hrmi.lt/uploaded/Documents/Strugling%20for%20Gender%20Equality\\_2013\\_EN\\_2.pdf](http://www.hrmi.lt/uploaded/Documents/Strugling%20for%20Gender%20Equality_2013_EN_2.pdf).

<sup>546</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2011: Lithuania* (2012), § 6.

<sup>547</sup> The Lithuania Tribune, "New Domestic Violence Law Starts to Bite," 25 April 2012, <http://www.lithuaniatribune.com/2012/04/25/new-domestic-violence-laws-start-to-bite/>.

violence calls and opened 6,712 investigations.<sup>548</sup> Between January and August 2014, police registered 17,811 domestic violence calls and opened 6,589 investigations.<sup>549</sup>

According to a 2013 report, amendments to the domestic violence law have been proposed, which would impose penalties under the Criminal Procedure Code on domestic violence perpetrators.<sup>550</sup> The fact that these changes have been proposed so quickly after the law's initial entry into force shows Lithuania's willingness to continue to improve their laws on these issues. Furthermore, the pronounced and immediate impact of the domestic violence law on reporting and police investigations is an early positive sign of its implementation and Lithuania's potential for continued reform of its laws.

## Government Will

### *Acceptance of UPR Recommendations*

Lithuania participated in the first Universal Periodic Review (UPR) session in 2011. During its first review in 2011, Lithuania accepted several recommendations relating to gender equality, including the following that address domestic violence:

- Continue to monitor the implementation of the National Strategy for Combating Violence against Women (Recommendation 89.21);
- Through its National Strategy for Combating Violence against Women, further seek to address violence proactively by seeking to influence attitudes and behaviours, in particular through the active involvement of men and boys (Recommendation 89.40);
- Continue its efforts aimed at preventing, punishing and eliminating all forms all violence against women (Recommendation 89.41);
- Strengthen the policies and actions to combat violence against women (Recommendation 89.42);
- Continue to take measures to mitigate, eliminate and prevent violence against women and to provide assistance to victims of violence (Recommendation 89.43);
- Provide awareness training in the area of victim abuse for those public servants such as police, prosecutors and judges, who most frequently come into contact with victims of gender-based violence in the course of their work, to assist in their understanding of the impact such violence has on its victims, and also other family members, in particular children (Recommendation 89.44).<sup>551</sup>

Lithuania noted one recommendation relating to women's rights, which was to harmonize its domestic violence law with the Criminal Code to ensure full enforceability. Lithuania responded

<sup>548</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Lithuania* (2014), § 6.

<sup>549</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Lithuania* (2015), § 6.

<sup>550</sup> Eastern Europe Studies Centre, *Struggling for Gender Equality: Sharing Lithuanian and Bulgarian Experience* (2013), 20.

<sup>551</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Lithuania*, 19 December 2011, U.N. Doc. A/HRC/19/15, ¶ 89.

that a legal analysis showed no need for harmonization, but that it was open to improving the domestic violence law in the future, if necessary, to protect victims of violence.<sup>552</sup>

That Lithuania noted a recommendation with regard to amending its laws suggests some resistance to reform. The government indicated it would consider changing the domestic violence law if necessary. This suggests that monitoring or other evaluations of the domestic violence law's implementation could help steer Lithuania toward reform.

Lithuania's second Universal Periodic Review is scheduled to take place in October – November 2016.

### **Mechanisms for Government Accountability**

Lithuania has ratified CEDAW (1994), ICCPR (1991), and CAT (1996), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Lithuania has also ratified the OP-CEDAW (2004) and OP1-ICCPR (1991), providing an additional means of accountability via the complaint mechanism. Lithuania signed the Istanbul Convention in 2013,<sup>553</sup> signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards.

Lithuania has been a member of the European Union since 2004.<sup>554</sup> Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>555</sup>

### *ECHR/CEDAW Cases and Implementation*

Lithuania has also ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no admissible complaints pertaining to domestic violence against Lithuania brought before CEDAW. Two cases pertaining to domestic violence have been brought against Lithuania before the ECHR.

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<sup>552</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Lithuania Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 6 March 2012, U.N. Doc. A/HRC/19/15/Add.1, ¶ 17.

<sup>553</sup> Lithuania signed the Istanbul Convention on June 7, 2013. Council of Europe, *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed July 31, 2015).

<sup>554</sup> European Union, *Lithuania* (10 July 2014), [http://europa.eu/about-eu/countries/member-countries/lithuania//index\\_en.htm](http://europa.eu/about-eu/countries/member-countries/lithuania//index_en.htm).

<sup>555</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

In the 2013 ECHR case, *Valiuliene v. Lithuania*,<sup>556</sup> the court found a violation of Article 3 (prohibition of torture and of inhumane or degrading treatment) of the European Convention. A victim of domestic violence brought the case based on the authorities' failure to investigate her allegations of ill-treatment and to bring her partner to account for his actions. The victim sought help immediately after the violence occurred in 2001. The authorities, however, failed to investigate the case. When the victim attempted to initiate a private prosecution because of the public prosecutor's failure to act, the case was rejected as time-barred. The ECHR held the authorities had not provided the victim with adequate protection against acts of domestic violence, and this constituted a violation of Article 3 of the Convention.

The facts of this case indicate that reforms are needed with respect to Lithuania's investigation and prosecution of domestic violence cases. Although it is too early to know what concrete steps Lithuania may have taken in response to this judgment, the government provided an action plan in December 2013 to the Committee of Ministers, the body that enforces ECHR judgments.<sup>557</sup>

In another ECHR case, *D.P. v. Lithuania*,<sup>558</sup> the applicant asserted that the court failed to examine proceedings within a reasonable time against her husband for "intentional and systematic beatings" against her and three of her children.<sup>559</sup> The court's protracted actions resulted in time-bars to prosecutions and the husband not being punished.<sup>560</sup> Lithuania agreed that its criminal law mechanisms were defective with respect to this case, which resulted in violations of the prohibition of inhuman or degrading treatment under the European Convention.<sup>561</sup> As a result of Lithuania's declaration, the ECHR removed this application from its list of cases.<sup>562</sup>

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. During Latvia's 2012 ICCPR review, the Human Rights Committee's recommended that Lithuania allocate resources for the effective implementation of its new law and guarantee the availability of safe and funded shelters and legal aid for victims.<sup>563</sup> During Lithuania's 2014 CAT review, the Committee against Torture

<sup>556</sup> *Valiulienė v. Lithuania*, No. 33234/07, ECHR (2013).

<sup>557</sup> Council of Europe, *Pending cases: current state of execution* (Lith.), [http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases\\_en.asp?CaseTitleOrNumber=&StateCode=LIT&SectionCode](http://www.coe.int/t/dghl/monitoring/execution/Reports/pendingCases_en.asp?CaseTitleOrNumber=&StateCode=LIT&SectionCode).

<sup>558</sup> *D.P. v. Lithuania*, No. 27920/08, ECHR (2013).

<sup>559</sup> *Ibid.*, ¶ 4.

<sup>560</sup> *Ibid.*, ¶ 30.

<sup>561</sup> *Ibid.*, ¶ 32.

<sup>562</sup> *Ibid.*, conclusion.

<sup>563</sup> Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations Adopted by the Human Rights Committee: Lithuania*, 31 August 2012, U.N. Doc. CCPR/C/LTU/CO/3, 2.

expressed concern about the fact that domestic violence does not constitute a separate crime under the Criminal Code.<sup>564</sup>

During Lithuania's 2014 CEDAW review, the CEDAW Committee expressed concern regarding the prevalence of violence against women. The CEDAW Committee was particularly concerned about (a) the lack of a comprehensive strategy aimed at eliminating sex- and gender-based violence against women; (b) insufficient data on acts of violence against women that have been reported, investigated, and prosecuted; and (c) the inadequate assistance and number of shelters available to women who are victims of violence.<sup>565</sup> It recommended that Lithuania adopt a comprehensive strategy to complement the National Programme for the Prevention of Domestic Violence and provision of Assistance to Victims for 2014-2020, including establishing a coordinating and monitoring mechanism, monitor and enforce compliance with protection orders, end the use of reconciliatory mediation for victims of domestic violence, and refrain from adopting the same in the criminal process.<sup>566</sup>

Lithuania has not issued a follow up report, but based on prior progress, it is anticipated that these recommendations will help guide future domestic violence reforms.

### Strength of Civil Society

Lithuanian NGOs have been active in the field of domestic violence, providing shelters and psychological support for victims, in addition to promoting legal advocacy and contributing to legislative efforts. Many women's NGOs received support from international donors, such as Open Society Fund-Lithuania, the United Nations Development Program, and foreign embassies.

Lithuania has allowed a variety of human rights organizations to operate in the country without many restrictions.<sup>567</sup> The Human Rights Committee's 2012 ICCPR review of Lithuania also did not include any concerns for human rights organizations.<sup>568</sup> Lithuania received few negative remarks regarding government repression of civil society groups and was assigned a "Free" freedom status rating.<sup>569</sup> The "Free" freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

### Women's Rights Organizations

The Center for Equality Advancement has recently submitted shadow reports to CEDAW on relevant women's issues. Other groups submitting shadow reports to CEDAW include the

<sup>564</sup> Committee against Torture, *Concluding observations on the third periodic report of Lithuania*, 17 June 2014, U.N. Doc. CAT/C/LTU/CO/3.

<sup>565</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Lithuania*, 24 July 2014, U.N. Doc. CEDAW/C/LTU/CO/5.

<sup>566</sup> *Ibid.*, Recommendation 25.

<sup>567</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Lithuania* (2015), § 5.

<sup>568</sup> Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations Adopted by the Human Rights Committee: Lithuania*, 31 August 2012, U.N. Doc. CCPR/C/LTU/CO/3.

<sup>569</sup> On a seven-point scale with "1" representing the most free and "7" the least free rating, Lithuania received a "1" for Political Rights and Civil Liberties. Freedom House, *Freedom in the World 2015*, 24.



Human Rights Monitoring Institute, the Social Innovation Fund and the Lithuanian Women's Lobby Organization.

### *Monitoring Reports*

In 2013, the Eastern Europe Studies Centre published a report examining the domestic violence and equal opportunity laws in Lithuania and Bulgaria, *Struggling for Gender Equality: Sharing the Lithuanian and Bulgarian Experience*.<sup>570</sup> The report describes the effects and challenges after the laws' adoption and makes several recommendations, including: harmonizing the laws; prioritizing protection measures for the victim; shifting the burden of prosecution from the victim to the State; amending the definition of domestic violence; and establishing a legally-mandated coordinated community response.<sup>571</sup> This report identifies barriers in protecting victims and holding offenders accountable under the domestic violence law, which can help guide Lithuania's efforts to improve the laws.

### **Current Status of Efforts to Eliminate Violence against Women**

Additional services and funding are needed to support domestic violence victims in Lithuania. Information on the number of shelters varies depending on the source. The U.S. Department of State reported 17 shelters for victims that were supported and operated by municipal governments and NGOs in 2014, and the national government funded another two.<sup>572</sup> The 2014 WAVE report, however, reports no shelters for women in Lithuania.<sup>573</sup> Council of Europe recommendations call for Lithuania to provide at least 297 shelter spaces.<sup>574</sup>

The Lithuanian government reported that, as of September 2012, there were 17 specialized assistance centers throughout the country that were financed by the government and run by NGOs.<sup>575</sup> A crisis center in Klaipeda also opened its doors in 2012 with financial support from the EU and a Danish foundation.<sup>576</sup>

The Women's Helpline was established by the government in 2004 and is run by the Social and Psychological Assistance Center in Klaipeda.<sup>577</sup> It is free and multilingual, but operates limited hours between 10:00a.m. and 9:00p.m.<sup>578</sup>

<sup>570</sup> Network of East-West Women-NEWW Poland, Kretinga Women's Information and Training Center, Women's Shelter, Karlshamn, The Union of Women of the Kaliningrad Region, *Domestic Violence in the South Baltic Region: Kaliningrad, Lithuania, Poland, and Sweden* (2010), 20, 32, 53, 68, <http://www.neww.org.pl/pliki/baltic/raport2.pdf> (accessed August 5, 2015).

<sup>571</sup> Eastern Europe Studies Centre, *Struggling for Gender Equality*, 28.

<sup>572</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Lithuania* (2015), § 6.

<sup>573</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>574</sup> *Ibid.*

<sup>575</sup> Committee On the Elimination of Discrimination Against Women, *Replies of Lithuania to the List of Issues.*, 23 January 2014, U.N. Doc. CEDAW/C/LTU/Q/5/Add.1, ¶ 41.

<sup>576</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Lithuania* (2014), § 6.

<sup>577</sup> Women Against Violence Europe, *Country Report 2012*, 166.

<sup>578</sup> Women Against Violence Europe, *Country Report 2013*, 133.

Legal assistance is reportedly not readily accessible to victims and is ineffective.<sup>579</sup> A number of NGOs provide both primary and secondary legal aid, including accompanying women to court.<sup>580</sup> Municipalities and state and public institutions offer free legal information and aid, but these services are limited.

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<sup>579</sup> Eastern European Studies Centre, *Struggling for Gender Equality*, 15.

<sup>580</sup> *Ibid.*

## MACEDONIA

### Legal Landscape and Developments

The Criminal Code defines “family violence” as “abuse, rude insults, threatening of the safety, inflicting physical injuries, sexual or other physical and psychological violence which causes a feeling of insecurity, being threatened, or fear towards a spouse, parents or children or other persons which live in a marital or other community or joint household, as well as towards a former spouse or persons which have a common child or are have close personal relations.”<sup>581</sup>

Domestic violence is not a specific crime under Macedonia’s Criminal Code; instead, family violence constitutes an aggravating factor in bodily injury, grave bodily injury, coercion, and endangerment of security crimes and increases the penalties for those offenses.<sup>582</sup>

Macedonia first adopted a specific domestic violence law in 2006.<sup>583</sup> The government recently enacted new comprehensive domestic violence legislation, which entered into force on January 1, 2015. The new law includes provisions for “urgent proceedings” to remove a violent perpetrator from the home. The law additionally expands the definition of domestic violence and requires greater coordination and training for the agencies working to prevent and combat domestic violence.<sup>584</sup>

The Law on Family authorizes the Center for Social Work to submit an application to the court for protection measures against domestic violence, which can be imposed for a maximum of one year.<sup>585</sup>

The government of Macedonia adopted the National Strategy for Prevention and Protection of Domestic Violence 2012-2015, which focuses on the areas of prevention, protection, victim support and assistance, prosecution of offenders, inter-agency cooperation and institutional capacity-building, and monitoring and evaluation.<sup>586</sup>

<sup>581</sup> Macedonia Criminal Code (amended 2009), art. 122(21).

<sup>582</sup> Macedonia Criminal Code (amended 2009), arts. 130(2), 131(2), 139(2), 144(2).

<sup>583</sup> Law No. 80/1992 of Dec. 30, 1992, Law on Family, as amended 9/1996; 38/2004; 33/2006.

<sup>584</sup> UN Women, “New law spurs action, bringing protection to many,” 30 October 2014,

<http://www.unwomen.org/en/news/stories/2014/11/new-law-spurs-action-in-macedonia> (accessed June 23, 2015).

For more resources and information, see also The Advocates for Human Rights, *Macedonia: Parliament Adopts New Law to Prevent and Combat Domestic Violence* (3 December 2014),

[http://www.stopvaw.org/wn\\_macedonia\\_parliament\\_adopts\\_new\\_law\\_to\\_prevent\\_and\\_combat\\_domestic\\_violence.html](http://www.stopvaw.org/wn_macedonia_parliament_adopts_new_law_to_prevent_and_combat_domestic_violence.html).

<sup>585</sup> Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: The Former Yugoslav Republic of Macedonia*, 23 October 2013, U.N. Doc. CCPR/C/MKD/3, ¶¶ 112–113.

<sup>586</sup> President of the Republic of Macedonia Dr. Gjorge Ivanov, *Presentation of the National Strategy for Prevention and Protection of Domestic Violence 2012-2015*, 7 December 2012, <http://www.president.gov.mk/en/media-centre/press-releases/1789.html> (accessed December 14, 2015).

## Government Will

### *Acceptance of UPR Recommendations*

Macedonia participated in the first Universal Periodic Review (UPR) in 2009. Macedonia's second UPR took place in January – February 2014. In its second report to the Human Rights Council, the government of Macedonia described its 2012-2015 National Strategy for the Prevention of and Protection against Domestic Violence as designed to prevent, protect, help and support victims, prosecute offenders, strengthen inter-ministerial cooperation, and establish monitoring and evaluation.<sup>587</sup> The report noted that a National Coordination Body has been created to address the issue of domestic violence and is composed of ministry officials, parliamentarians, and NGOs.<sup>588</sup> The report stated that the Law on the Family mandates Social Work Centres to undertake several activities, which include: shelter victims for up to three to six months; provide health care, psychosocial treatments, referrals to counseling, and legal aid or representation; inform prosecution bodies; and initiate court proceedings including applying for protection measures if necessary.<sup>589</sup> According to the report, the Law on Social Protection creates the Centre for Victims of Domestic Violence, which provides victim assistance in the forms of counseling, daily needs and leisure activities.<sup>590</sup> The Ministry of Justice is charged with approving applications for legal aid in court and administrative procedures. Finally, the report states the Law on Free Legal Assistance (2010) grants legal aid to individuals who are unable to exercise their legal rights without jeopardizing their and their family members' subsistence.<sup>591</sup>

Macedonia participated in its second UPR in 2014, and it accepted recommendations related to gender equality, including the following that address domestic violence:

- Strengthen policies to prohibit and prevent domestic and sexual violence against women and provide victims with reparations and access to counseling, medical help, and shelter; ensure perpetrators are prosecuted (Recommendation 101.20, 101.53, 101.54);
- Implement the recommendations of CEDAW issued in 2013 (Recommendation 101.23);
- Raise awareness to prevent child, early, and forced marriages, and investigate and prosecute any cases thereof (Recommendation 101.52);
- Ensure effective prosecution of all cases, including domestic violence cases (101.66, 101.67, 101.68).<sup>592</sup>

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<sup>587</sup> Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/2: Former Yugoslav Republic of Macedonia*, 8 November 2013, U.N. Doc. A/HRC/WG.6/18/MKD/1, ¶ 89.

<sup>588</sup> *Ibid.*

<sup>589</sup> *Ibid.*, ¶ 90.

<sup>590</sup> *Ibid.*, ¶ 92.

<sup>591</sup> *Ibid.*, ¶ 93.

<sup>592</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: The former Yugoslav Republic of Macedonia Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 16 June 2014, U.N. Doc. A/HRC/26/10/Add.1, ¶¶ 4, 6.

Macedonia did not note any recommendations related to domestic violence.<sup>593</sup>

That Macedonia has accepted all recommendations related to domestic violence, including those to strengthen effective prosecution of domestic violence, indicates a commitment to improving its laws on domestic violence.

### **Mechanisms for Government Accountability**

Macedonia has ratified CEDAW (1994), ICCPR (1994), and CAT (1994), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Macedonia has also ratified the OP-CEDAW (2003) and OP1-ICCPR (1994), providing an additional means of accountability via the complaint mechanism. Macedonia signed the Istanbul Convention in 2011,<sup>594</sup> signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards.

Macedonia is a candidate country for EU accession.<sup>595</sup> In the 2005 Opinion on Macedonia's application, the European Commission states "[t]here are no major problems in the area of respect for fundamental rights."<sup>596</sup> The 2014 Progress Report notes that progress has been made implementing the 2013-2016 national action plan on gender equality, including increased public awareness in the effort to prevent and combat domestic violence. However, the report also noted the continued prevalence of cultural and traditional customs and practices that discriminate, stereotype, and oppress Macedonians, especially women.<sup>597</sup>

### *ECHR/CEDAW Cases and Implementation*

Macedonia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought before the ECHR against Macedonia. There have been no admissible complaints pertaining to domestic violence against Macedonia brought before CEDAW.

<sup>593</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: The former Yugoslav Republic of Macedonia*, 26 March 2014, U.N. Doc. A/HRC/26/10.

<sup>594</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed June 23, 2015).

<sup>595</sup> For more information, see [http://ec.europa.eu/enlargement/countries/detailed-country-information/fyrom/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/fyrom/index_en.htm).

<sup>596</sup> European Commission, *Commission Opinion on the application from the former Yugoslav Republic of Macedonia for membership of the European Union* (see section B. Criteria for Members, Political Criteria) (9 November 2005), <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52005DC0562&from=EN> (accessed June 23, 2015).

<sup>597</sup> European Commission, *The Former Yugoslav Republic of Macedonia: 2014 Progress Report* (2014), 46, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-the-former-yugoslav-republic-of-macedonia-progress-report_en.pdf) (accessed June 23, 2015).

### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government’s response to domestic violence. In Macedonia’s 2013 CEDAW review, the CEDAW Committee expressed concern that the 2008 Family Law does not protect all victims of violence, that family violence remains criminalized as an aggravating factor only, and that specific legislation covering all forms of violence against women is absent. The CEDAW Committee also referenced the increasing incidence of all forms of violence against women, the underreporting of such violence, the limited use of protective orders, the limited number of state-run shelters, and the lack of data on violence against women.<sup>598</sup>

In Macedonia’s 2015 ICCPR review, the Human Rights Committee expressed concern over the lack of information on sanctions imposed on perpetrators and remedies provided to victims of domestic violence. The Human Rights Committee was particularly concerned with the fact that unmarried mothers between 16 and 18 years of age, who are victims of domestic violence, cannot utilize shelters for victims of domestic violence because they are regarded as unaccompanied minors.<sup>599</sup>

### **Strength of Civil Society**

Macedonia has allowed a variety of human rights organizations to operate within the country. The government was generally “cooperative in listening to these groups but often were unresponsive to their views.”<sup>600</sup> Macedonia received a “Partly Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>601</sup> The “Partly Free” rating suggest that efforts to combat domestic violence may be somewhat impeded by government repression.

### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include ESE, Akcija Zdruzenska, the European Roma Rights Centre Concerning Macedonia, and the Roma Center Skopje. The Association for Emancipation, Solidarity and Equality of Women of the Republic of Macedonia (ESE) also works on women’s human rights.

Macedonia appears to have a strong and active civil society.

### *Monitoring Reports*

No recent monitoring reports on domestic violence in Macedonia have been identified.

<sup>598</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fourth and fifth periodic reports of the former Yugoslav Republic of Macedonia*, 22 March 2013, U.N. Doc. CEDAW/C/MKD/CO/4-5.

<sup>599</sup> Human Rights Committee, *Concluding observations on the third periodic report of the former Yugoslav Republic of Macedonia*, 17 August 2015, U.N. Doc. CCPR/C/MKD/CO/3.

<sup>600</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Macedonia* (2015), § 5.

<sup>601</sup> Freedom House, *Freedom in the World 2015*, 24.

### Current Status of Efforts to Eliminate Violence against Women

Reports of the numbers of shelters vary. WAVE reports there are 22 shelter beds in four women's shelters in Macedonia.<sup>602</sup> The U.S. Department of State describes seven state-operated shelters and one NGO-operated shelter; the NGO shelter has 30 beds.<sup>603</sup> There is an NGO-run hotline and two crisis centers with emergency shelter for up to 48 hours.<sup>604</sup> Under the WAVE data, Macedonia falls short of Council of Europe Taskforce Recommendations by 183 shelter spaces.<sup>605</sup>

There remains room for improvement with regard to Macedonia's victim assistance. While it meets the Council of Europe Taskforce Recommendations for a national helpline, it is short of the recommended shelter spaces by 89 percent. Domestic NGOs rely heavily on international funders,<sup>606</sup> indicating a need for the government to increase its financial support of civil society.

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<sup>602</sup> Women Against Violence Europe, *Wave Report 2014*, 32, 67.

<sup>603</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Macedonia* (2015), § 6.

<sup>604</sup> *Ibid.*

<sup>605</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>606</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Macedonia* (2015), § 6.

## REPUBLIC OF MOLDOVA

### Legal Landscape and Developments

Moldova's Criminal Code contains a provision against family violence and allows for prosecution of all levels of domestic violence injuries. In addition, if a criminal prosecution goes forward, a victim may request that the prosecutor or court issue a protective order during the process. In practice, however, prosecutors pursue few prosecutions of domestic violence under the Moldovan criminal law, and thus criminal protective orders are seldom used.<sup>607</sup>

In 2007, Moldova adopted a specific domestic violence law that provides victims with an order for protection, entitled the "Law on Preventing and Combating Family Violence."<sup>608</sup> The law, for the first time, defined domestic violence in Moldova. Due to the lack of specific directives on protective orders, however, the law was rarely implemented.<sup>609</sup> The law was amended in 2010 to broaden the victim's rights to protections and services.<sup>610</sup>

The Moldovan Parliament is currently considering further amendments to the law. Many of these amendments are responsive to recommendations from the research and monitoring conducted by The Advocates and its partners, judgments from the ECHR, and recommendations from United Nations treaty bodies.<sup>611</sup>

The National Referral System (NRS) was initially created in 2006 for the protection and assistance of victims of trafficking, but later expanded to cover domestic violence victims. The NRS is a country-wide system of coordinated partnerships of local and national public authorities, civil society organizations, and multi-disciplinary teams of individual police, social assistants, teachers, and health care professionals in villages and rayons. The purpose of the NRS is to provide coordinated support and assist victims or potential victims of trafficking, including domestic violence victims.<sup>612</sup>

Moldova has undertaken a number of important amendments to its laws within the past several years. It has amended and is considering further amendments to its domestic violence law. That

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<sup>607</sup> The Advocates for Human Rights, *Implementation of the Republic of Moldova's Domestic Violence Legislation: A Human Rights Report* (2012), 21, [http://www.theadvocatesforhumanrights.org/uploads/moldova\\_reportupload.pdf](http://www.theadvocatesforhumanrights.org/uploads/moldova_reportupload.pdf).

<sup>608</sup> Law to Prevent and Combat Family Violence, Law No.45 of 1 March 2007, No. 178, Official Monitor No. 55-56 (18 March 2008).

<sup>609</sup> The Advocates for Human Rights, *Implementation of the Republic of Moldova's Domestic Violence Legislation: A Human Rights Report* (2012), 1, [http://www.theadvocatesforhumanrights.org/uploads/moldova\\_reportupload.pdf](http://www.theadvocatesforhumanrights.org/uploads/moldova_reportupload.pdf).

<sup>610</sup> Law 167 on the Amendment and Supplementing of Certain Legislative Acts, The Official Monitor No. 155-158 (9 July 2010).

<sup>611</sup> Memorandum from Valentina Buliga (2014) (on file with author).

<sup>612</sup> The Advocates for Human Rights, *Implementation of the Republic of Moldova's Domestic Violence Legislation: A Human Rights Report* (2012), 7, [http://www.theadvocatesforhumanrights.org/uploads/moldova\\_reportupload.pdf](http://www.theadvocatesforhumanrights.org/uploads/moldova_reportupload.pdf).



Moldova provides for protective orders and has recently criminalized domestic violence is a positive indication of the government's willingness to improve its legal framework on domestic violence. It has also expanded referral services to victims of domestic violence, recognizing the linkages between domestic violence and trafficking in persons. While there are challenges to the implementation of the domestic violence law, Moldova has a good legislative foundation from which to continue improving implementation and strengthening the government's response.

### Government Will

The Moldovan government's acceptance of all recommendations related to domestic violence in the Universal Periodic Review process, as well as its ratification of United Nations treaties, indicates a willingness toward improving its response to domestic violence.

#### *Acceptance of UPR Recommendations*

Moldova participated in its first Universal Periodic Review (UPR) session in 2011. In its first report to the Human Rights Council, Moldova reported an important step to stop violence by enacting a law to prevent and combat domestic violence.<sup>613</sup> The law creates an institutional framework with competent authorities to solve cases of domestic violence by allowing victims to file complaints and seek punitive measures against offenders.<sup>614</sup> In addition to passing this law, Moldova instituted measures to train personnel of the internal affairs bodies in applying the law.<sup>615</sup> The report also described the improvement of measures for rehabilitation of victims of domestic violence by the Ministry of Labour, Social Protection and Family.<sup>616</sup> In addition, in the districts of Drochia and Chaul, Moldova created an automated computerized system containing a database of cases of domestic violence for use by local public authorities.<sup>617</sup> As part of its social policy, the report stated that Moldova "supports continuously" the UN Campaign, "16 Days of actions against Gender Violence," in conjunction with its own national information campaigns.<sup>618</sup> As areas for continued improvement, Moldova's report listed the following: social awareness regarding the problem of domestic violence; training of specialists in various fields to work cases of domestic violence; resources for use in assisting victims of domestic violence; and re-socialization for the domestic offenders.<sup>619</sup>

During its first UPR in 2011, the government of Moldova accepted recommendations related to gender equality, including the following that address domestic violence:

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<sup>613</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Moldova*, 19 July 2011, U.N. Doc. A/HRC/WG.6/12/MDA/1, ¶ 29.

<sup>614</sup> Ibid.

<sup>615</sup> Ibid., ¶ 32.

<sup>616</sup> Ibid., ¶ 30.

<sup>617</sup> Ibid., ¶ 31.

<sup>618</sup> Ibid., ¶ 33.

<sup>619</sup> Ibid., ¶ 34.

- Create a comprehensive policy about violence against women and especially domestic violence that prevents, punishes, and eradicates these issues, especially in rural areas (Recommendations 73.8, 73.11. 73.31);
- Address the root causes of domestic violence with the aim of conducting public awareness campaigns (Recommendations 73.33, 74.1);
- Increase penalties for domestic violence (Recommendation 74.1);
- Train law enforcement officials on responding to domestic violence and provide legal and medical support to victims (Recommendation 73.30);
- Effectively implement the domestic violence law, increase capacity and coverage of domestic violence shelters and ensure effective police investigations into complaints (Recommendation 73.32);
- Improve and expand rehabilitation centers for domestic violence victims, especially in rural areas (Recommendation 73.34);
- Create a plan of action on domestic violence to monitor the effectiveness of the domestic violence law and provide adequate funding for its implementation (Recommendation 75.28).<sup>620</sup>

Moldova did not note any recommendations related to domestic violence.<sup>621</sup> That Moldova has accepted all recommendations related to domestic violence, including those to train police and monitor the domestic violence law, indicates a commitment to improving its response to domestic violence.

Moldova's second UPR is scheduled to take place in October-November 2016.

### **Mechanisms for Government Accountability**

Moldova has ratified CEDAW (1994), ICCPR (1993), and CAT (1995), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Moldova has also ratified the OP-CEDAW (2006) and OP1-ICCPR (2008), providing an additional means of accountability via the complaint mechanism. Moldova has neither signed nor ratified the Istanbul Convention.

#### *ECHR/CEDAW Cases and Implementation*<sup>622</sup>

Moldova has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government's response to domestic violence. One communication has been filed against Moldova before CEDAW, which is listed as being in the pre-admissible stage. There are four ECHR cases against Moldova addressing domestic violence.

<sup>620</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Moldova*, 14 December 2011, U.N. Doc. A/HRC/19/18, ¶¶ 73-74.

<sup>621</sup> Ibid.

<sup>622</sup> An additional ECHR case relating to violence against women includes *I.G. v. the Republic of Moldova*, app. No. 53519/07, ECHR (2012) (rape and sexual abuse). There is also a pending case, *Munteanu v. Republic of Moldova*, No. 34168/11, ECHR (1 June 2011) (application) that relates to domestic violence.

In *B. v. The Republic of Moldova*, the court found the state failed to take proactive measures to protect a mother who was a victim of domestic violence.<sup>623</sup> She requested that the court evict her ex-husband on a temporary basis and not determine the property issues.<sup>624</sup> The couple had already divorced, but the courts refused to evict him from the shared apartment despite the abuse that had been repeatedly reported to the police.<sup>625</sup> The ECHR found that Moldova had violated her right to prohibition of torture or inhumane or degrading treatment, as well as her right to respect for private and family life.<sup>626</sup>

The second case, *Eremia and Others v. The Republic of Moldova*,<sup>627</sup> has been highlighted by the Council of Europe's Committee of Ministers, which oversees execution of ECHR judgments, for enhanced supervision and follow-up in 2014 and 2015. The court found that the domestic violence investigation was not effective, the state failed to take proactive measures in enforcement, and the State "repeatedly condoned" such violence. Advocates express hope that this case, in particular, will help strength ECHR case law on gender discrimination.

In the third case, *Mudric v. The Republic of Moldova*,<sup>628</sup> the ECHR found that the Moldovan court failed to enforce the protection orders and also did not conduct effective investigations.

Finally, in *T.M. and C.M. v. The Republic of Moldova*,<sup>629</sup> the ECHR again found that the state failed to enforce protection orders, because it denied a permanent restraining order and did not evict the ex-husband after he violated a temporary restraining order.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. During Moldova's 2013 CEDAW review, the CEDAW Committee reiterated its concern regarding the high prevalence of domestic violence, coupled with a lack of data on the magnitude and forms of violence against women. The CEDAW Committee also expressed concern regarding: (a) the inconsistent application of laws aimed at combating domestic violence; (b) the failure to take note of lower-level injuries; (c) the fact that it takes repeated instances of domestic violence to trigger an investigation; (d) the ineffectiveness of protection orders against alleged perpetrators; and (e) the low rate of reporting cases of sexual violence, including rape, and ineffective investigation and prosecution in reported cases.<sup>630</sup>

<sup>623</sup> *B. v. Republic of Moldova*, No. 61382/09, ECHR (2013), ¶ 75.

<sup>624</sup> *Ibid.*, ¶ 17.

<sup>625</sup> *Ibid.*, ¶¶ 7, 8, 14.

<sup>626</sup> *Ibid.*, ¶¶ 61, 75.

<sup>627</sup> *Eremia and Others v. Moldova*, No. 3564/11, ECHR (2013).

<sup>628</sup> *Mudric v. The Republic of Moldova*, No. 74839/10, ECHR (2013), ¶ 62.

<sup>629</sup> *T.M. and C.M. v. The Republic of Moldova*, No. 26608/11, ECHR (2014).

<sup>630</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fourth and fifth periodic reports of the Republic of Moldova*, 29 October 2013, U.N. Doc. CEDAW/C/MDA/CO/4-5.

## Strength of Civil Society

Moldova allowed a variety of human rights organizations to operate within the country, and the government was “somewhat cooperative and responsive.”<sup>631</sup> Moldova has a “Partly Free” freedom status rating according to Freedom House.<sup>632</sup> The “Partly Free” rating and harassment of human rights defenders suggest that efforts to combat domestic violence may be impeded by government repression.

### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include the Center for Support and Development of Civil Initiatives Resonance, Legal Informational Center Apriori, Gender Centru, HelpAge International, La Strada Moldova, Public Association “Promo-LEX,” Women’s Law Center, “Speranța” Centre, Human Rights Information Centre, Winrock Moldova, Human Rights Resource Group, Equal Rights Trust, and Women’s Law Center.

Moldova appears to have a strong and active civil society.

### *Monitoring Reports*

The Advocates for Human Rights, Women’s Law Center, and Bulgarian Gender Research Foundation published a 2012 report on domestic violence in Moldova, *Implementation of the Republic of Moldova’s Domestic Violence Legislation*.<sup>633</sup> Based on interviews with victims and systems actors, the report evaluates the effectiveness of Moldova’s domestic violence legislation and makes recommendations for improvement.<sup>634</sup>

Such a report can identify challenges in protecting victims and holding offenders accountable which can help guide Moldova in improving its response to domestic violence.

## Current Status of Efforts to Eliminate Violence against Women

There is only one shelter in Moldova dedicated exclusively to domestic violence victims, and its capacity is limited to 25 places.<sup>635</sup> Eight maternal centers in Moldova assist mothers with very young children who have no place to live, but who are not necessarily domestic violence victims; thus services for those victims vary. Two national shelters accommodate 36 women, and coupled with the maternal centers, the total capacity is 106 beds for the entire country.<sup>636</sup> Moldova needs

<sup>631</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Moldova* (2015), § 5.

<sup>632</sup> Freedom House, *Freedom in the World 2015*, 24.

<sup>633</sup> The Advocates for Human Rights, et al, *Implementation of the Republic of Moldova’s Domestic Violence Legislation: A Human Rights Report* (2012), [http://www.theadvocatesforhumanrights.org/uploads/moldova\\_reportupload.pdf](http://www.theadvocatesforhumanrights.org/uploads/moldova_reportupload.pdf).

<sup>634</sup> Ibid.

<sup>635</sup> Women Against Violence Europe, *Country Report 2013*, 148.

<sup>636</sup> The Advocates for Human Rights, et.al, *Implementation of the Republic of Moldova’s Domestic Violence Legislation: A Human Rights Report* (2012), 41; Women Against Violence Europe, *Country Report 2013*, 149.

to provide 331 more shelter spaces to comply with the Council of Europe Taskforce Recommendations.<sup>637</sup>

An NGO-operated hotline, the Women's Trust Line, operates free-of-charge 24 hours a day, 7 days a week, and receives hundreds of calls from domestic violence victims annually.<sup>638</sup> The hotline received 1,297 phone calls in 2013.<sup>639</sup> In 2014, the U.S. Department of State report notes that an NGO-run hotline responded to 1,861 calls in the first eight months of 2014.<sup>640</sup>

There are approximately 17 social assistance centers that provide support for survivors of violence and their children, but not all provide counseling or therapy. Four are operated by NGOs, and the others are run by the State.<sup>641</sup>

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<sup>637</sup> Women Against Violence Europe, *Country Report 2013*, 32.

<sup>638</sup> The Advocates for Human Rights, et al, *Implementation of the Republic of Moldova's Domestic Violence Legislation: A Human Rights Report* (2012), 43; Women Against Violence Europe, *Wave Report 2014*, 25.

<sup>639</sup> Women Against Violence Europe, *Wave Report 2014*, 29.

<sup>640</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Moldova* (2015), § 6.

<sup>641</sup> Women Against Violence Europe, *Country Report 2013*, 150.

## MONTENEGRO

### Legal Landscape and Developments

Under the Criminal Code, Article 220 punishes domestic violence, defined as violent, impudent, or arrogant behavior that endangers the “peace, physical integrity or mental condition” of a family member or family community member.<sup>642</sup> The punishment is a fine or imprisonment not exceeding one year. The use of weapons or other dangerous objects to inflict serious bodily injury increases the punishment to three months to three years’ imprisonment.<sup>643</sup> When the acts result in heavy bodily injury or serious impairment of health, or if the victim is a minor, the penalty increases to one year to five years’ imprisonment.<sup>644</sup> The Criminal Code does not, however, provide a corollary no contact order in criminal domestic violence cases, which one report noted was problematic as there is lesser protection in cases of more severe violence.<sup>645</sup> Marital rape is punished under the Criminal Code, but must be privately prosecuted.<sup>646</sup>

Montenegro has criminalized domestic violence, as well as marital rape, as a specific offense. That Montenegro has criminalized spousal rape is a positive factor, but the private prosecution requirement is an obstacle for victims who lack the means or desire to carry out a prosecution themselves. Also, sentences for domestic violence tend to be weak or replaced by probation.<sup>647</sup>

In 2010, Montenegro adopted a specific domestic violence law that provides victims with an order for protection. The law provides for the following remedies: 1) eviction from the residence; 2) restraining order; 3) prohibition of harassment and stalking; 4) addiction treatment; and 5) psycho-social therapy.<sup>648</sup> Eviction may be ordered for a period of thirty days to six months. Restraining orders and the prohibition against harassment and stalking may be ordered for a period of thirty days to one year.<sup>649</sup> Although civil society recommended the scope of protected persons be expanded to include intimate partners who do not live together, this was not incorporated into the final draft.<sup>650</sup>

<sup>642</sup> Criminal Code, Official Gazette of Montenegro No. 70/2003 (Correction No. 13/2004), art. 220, ¶ 4.

<sup>643</sup> Ibid., art. 220.

<sup>644</sup> Ibid.

<sup>645</sup> CEED Consulting & SOS Hotline For Women and Children Victims of Violence Niksic, *Study on Family Violence and Violence against Women in Montenegro* (2012), 24, <http://www.me.undp.org/content/dam/montenegro/docs/publications/si/Gender/Study%20on%20Family%20Violence%20and%20Violence%20against%20Women.pdf>.

<sup>646</sup> Criminal Code, Official Gazette of Montenegro No. 70/2003 (Correction No. 13/2004), art. 212.

<sup>647</sup> Ibid.

<sup>648</sup> Law on Domestic Violence Protection, Official Gazette of Montenegro No. 46/2010, art. 20.

<sup>649</sup> Ibid., arts. 21–23.

<sup>650</sup> CEED Consulting & SOS Hotline For Women and Children Victims of Violence Niksic, *Study on Family Violence and Violence against Women in Montenegro*, 24.

Other legal developments include the adoption of the Law on Prohibition of Discrimination in 2010,<sup>651</sup> the Law on Free Legal Aid in 2011,<sup>652</sup> the 2013-2017 Gender Equality Plan and the Implementation Programme for 2013-2014 in 2013, which seeks to promote protection against domestic violence.<sup>653</sup> In July 2011, Montenegro developed the Strategy against Family Violence, prepared by a multidisciplinary working group that included three women's NGOs.<sup>654</sup> The strategy is to identify barriers, as well as promote social and other care, including additional development of the legal framework on protection.<sup>655</sup> At the request of NGOs, a committee has been established to monitor the strategy's implementation and the corresponding Action Plan for Strategy Implementation.<sup>656</sup> In November 2011, the Supreme Court, Ministry of Justice, Supreme State Prosecution Service, Ministry of Education and Sports, Ministry of Health, Ministry of Labour and Social Welfare, Police Department, and Misdemeanor Council signed the Protocol on the Rules of Procedures of Institutions in Case of Domestic Violence.<sup>657</sup> The protocol establishes intra-sectoral cooperation and includes procedures for each institutional system,<sup>658</sup> and its implementation will be monitored and documented through annual reports.<sup>659</sup>

Montenegro's adoption of the domestic violence law is a basic indicator of its willingness to provide legal protection for victims. Moreover, eviction, restraining order, and prohibition against stalking and harassment are important remedies that focus on victim safety. A 2012 report noted that risk assessment is not practiced and remains one of the biggest barriers in protecting victim safety. Also, systems actors are not adequately trained on domestic violence, violence against women, and legal processes, including that of the domestic violence law.<sup>660</sup>

The Advocates is not aware of any amendments that have been made to the domestic violence law since its initial adoption, but the Montenegrin government has continued to promulgate additional strategies and policies on domestic violence. Civil society has played a part in the creation and monitoring of such policies. Montenegro involved three women's NGOs in the development of its Strategy against Family Violence, and it has continued to involve more women's NGOs in monitoring the strategy and its action plan. This involvement demonstrates good cooperation between the state and civil society; state consultation with NGOs that work

<sup>651</sup> Official Journal MNE No. 46/2010 (entered into force August 14, 2010).

<sup>652</sup> Official Journal MNE No. 20/2011 (entered into force January 1, 2012).

<sup>653</sup> European Commission, *Commission Staff Working Document: Montenegro 2013 Progress Report* (2013), 42, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mn\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mn_rapport_2013.pdf) (accessed August 5, 2015).

<sup>654</sup> CEED Consulting & SOS Hotline For Women and Children Victims of Violence Niksic, *Study on Family Violence and Violence against Women in Montenegro*, 30.

<sup>655</sup> Ibid.

<sup>656</sup> Ibid.

<sup>657</sup> Ibid.

<sup>658</sup> Ibid.

<sup>659</sup> Permanent Rep. of Montenegro, Statement to the Third Committee of the Sixty-Seventh Session of the United Nations General Assembly (17 October 2012), 2-3, <http://www.un.org/womenwatch/daw/documents/ga67/Montenegro.pdf>.

<sup>660</sup> CEED Consulting & SOS Hotline For Women and Children Victims of Violence Niksic, *Study on Family Violence and Violence against Women in Montenegro*, (2012), 10.

directly on domestic violence is essential to ensuring that law reform efforts are guided by the best interests of the victims.

## Government Will

### *Acceptance of UPR Recommendations:*

Montenegro participated in the first Universal Periodic Review (UPR) session in 2008.

Montenegro's second UPR took place in January 2013. In its second report to the Human Rights Council, the government of Montenegro provided an overview of its developments in the area of domestic violence law. Montenegro reported it was in the process of ratifying the Istanbul Convention.<sup>661</sup> Domestically, Montenegro enacted the Law on Protection from Domestic Violence in 2010, which provides various protective measures for victims of domestic violence, including removal from the home, restriction orders on perpetrators, prohibition of harassment and stalking, and compulsory treatment of addiction and psychosocial problems.<sup>662</sup> According to the report, Montenegro also instituted a multi-disciplinary system for domestic violence cases.<sup>663</sup> In 2011, the Supreme Court, Supreme Public Prosecution, relevant ministries, the police, and the Misdemeanor Panel signed a protocol on domestic violence.<sup>664</sup> Locally, these groups provide resources to victims of domestic abuse in 10 social work centers across the country.<sup>665</sup> The report stated that training for professionals, police, and institutions implementing these programs is also being provided.<sup>666</sup> Awareness campaigns were held in Montenegro, including 16 days of activism against violence against women.<sup>667</sup> Moreover, the report described measures to protect children from domestic violence have been instituted through civil sector awareness campaigns.<sup>668</sup> As areas for improvement, the report recognized the need for training of experts in the fields of child domestic abuse, the need for strengthening the psychological support for children victims of abuse and neglect, and the need for improved record-keeping.<sup>669</sup>

During its second UPR in 2013, Montenegro accepted recommendations related to gender equality, including the following that address domestic violence:

- Integrate the Istanbul Protocol into the training of personnel (Recommendation 117.8);
- Continue to strengthen the institutional structures and support measures for the full implementation of ratified international instruments, including for victims of family and sexual violence, such as the Istanbul Convention (Recommendations 117.9, 117.43);

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<sup>661</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Montenegro*, 8 November 2012, U.N. Doc. A/HRC/WG.6/15/MNE/1, ¶ 7.

<sup>662</sup> *Ibid.*, ¶ 55.

<sup>663</sup> *Ibid.*, ¶ 57.

<sup>664</sup> *Ibid.*

<sup>665</sup> *Ibid.*

<sup>666</sup> *Ibid.*, ¶¶ 57, 85.

<sup>667</sup> *Ibid.*, ¶ 57.

<sup>668</sup> *Ibid.*, ¶ 58.

<sup>669</sup> *Ibid.*



- Take all necessary legal and other measures to curb violence against women and to provide support for victims of violence against women, and their children (Recommendation 117.38);
- Allocate adequate personnel and financial resources so that the Strategy for the Protection from Domestic Violence and the Law on Juvenile Justice System can properly ensure the protection of the rights of women and children, fill those gaps that still hinder the prevention of domestic violence and other abuses, as well as ensure the prosecution of perpetrators (Recommendation 117.39);
- Ensure the effective investigation of all reports of domestic and sexual violence against women and girls, the prosecution of perpetrators, and the delivery of sentences that are commensurate with the gravity of the crimes committed (Recommendation 117.40);
- Provide for an adequate number of publicly funded shelter facilities for victims of domestic violence (Recommendation 117.41);
- Establish a mechanism for monitoring the number of cases and scope of abuse and strengthen the measures of protection from domestic violence (Recommendation 117.42);
- Complete the procedure of ratification of the Istanbul Convention (Recommendation 117.43);
- Further develop the support and protection system for the victims of domestic violence, including by providing an adequate number of safe houses (Recommendation 117.44);
- Continue and strengthen the efforts to combat all kinds of gender violence and approve education and awareness-raising policies in that area (Recommendation 117.45).<sup>670</sup>

Montenegro did not note any recommendations related to domestic violence.<sup>671</sup>

In its response, Montenegro highlighted important goals relating to strengthening implementation of laws, intra-sectoral collaboration, trainings, and data collection. All of these commitments are measures that are integral to improving the government response to domestic violence. In addition, Montenegro's acceptance of all recommendations related to violence against women, particularly to allocate resources towards shelters and prosecution, indicates its will to protect women from domestic and gender-based violence.

Montenegro's third Universal Periodic Review is scheduled to take place in October – November 2016.

<sup>670</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Montenegro*, 21 May 2013, U.N. Doc. A/HRC/23/12, ¶ 117.

<sup>671</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Montenegro Addendum, Views on Conclusion and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, 18 April 2013, U.N. Doc. A/HRC/23/12/Add.1, ¶ 12, 24.

### Mechanisms for Government Accountability

Montenegro has ratified CEDAW (2006), ICCPR (2006), and CAT (2006), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Montenegro has also ratified the OP-CEDAW (2006) and OP1-ICCPR (2006), providing an additional means of accountability via the complaint mechanism.

Montenegro ratified the Istanbul Convention in 2013 without reservations, thus subjecting itself to review by GREVIO and the Committee of the Parties. The treaty entered into force on August 1, 2014. Only 18 countries have ratified the Istanbul Convention, marking those States Parties—including Montenegro—as leaders in committing to these standards on violence against women.

Montenegro is a candidate country for EU accession.<sup>672</sup> European Union membership may provide incentive for candidate countries to improve their human rights records. Often, EU progress reports and opinions note goals and key priorities for the country that pertain to women's human rights. In its 2010 opinion on Montenegro's candidacy, however, the European Commission makes some mention of domestic violence, noting it is an issue of concern and needs to be addressed.<sup>673</sup> The report notes that the country lacks adequate monitoring and data on domestic violence, only three police units have a specialized domestic violence officer, victim support is insufficient, and judicial sanctions against perpetrators remain weak.<sup>674</sup> The 2013 Progress Report states that "further efforts are needed" to address violence against women, particularly domestic violence.<sup>675</sup> The 2014 Progress Report states that "Institutional capacity remains weak."<sup>676</sup> Additionally, domestic violence statistics are unreliable, greater cooperation between law enforcement and social services is needed, and capacity building is needed for both police and social services.<sup>677</sup> It is unclear how influential the European Union will be in driving Montenegro's efforts to combat domestic violence, given that its focus on domestic violence has been nominal.

### ECHR/CEDAW Cases and Implementation

Montenegro has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvement in, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought against Montenegro

<sup>672</sup> European Commission, *European Neighbourhood Policy and Enlargement Negotiations: Montenegro* (31 March 2015), [http://ec.europa.eu/enlargement/countries/detailed-country-information/montenegro/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/montenegro/index_en.htm) (accessed August 5, 2015).

<sup>673</sup> European Commission, *Commission Opinion on Montenegro's Application for Membership of the European Union*, 9 November 2010, COM (2010) 670, 28, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2010/package/mn\\_rapport\\_2010\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2010/package/mn_rapport_2010_en.pdf).

<sup>674</sup> Ibid.

<sup>675</sup> European Commission, *Montenegro: 2013 Progress Report*, SWD (2013) 411 final (16 October 2013), 44, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/mn\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/mn_rapport_2013.pdf).

<sup>676</sup> European Commission, *Montenegro: 2014 Progress Report*, SWD (2014) 301 final (8 October 2014), 45, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-montenegro-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-montenegro-progress-report_en.pdf).

<sup>677</sup> Ibid.

before the ECHR. There have been no admissible complaints pertaining to domestic violence against Montenegro brought before CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence and provide guidance on law reform. In particular, the CEDAW Committee, CAT Committee, and Human Rights Committee made recent recommendations with regard to Montenegro's response to domestic violence. These recommendations can help steer Montenegro's domestic violence law reform efforts, while future periodic reviews and independent shadow reports can monitor Montenegro's progress.

The CAT Committee in its 2014 Concluding Observations deplored the lack of implementation, prevalence of domestic violence, and low reporting rates. It echoed the CEDAW Committee's recommendations for Montenegro to strengthen efforts to prevent and punish domestic violence through prompt investigations, punishment of offenders, and ensuring victim safety and assistance. It also recommended greater public awareness efforts and training for systems actors.<sup>678</sup>

The CEDAW Committee in 2011 expressed concern over the high rates of domestic violence, low reporting rates, numbers of prosecutions and protection orders, weak punishments, private prosecution for marital rape, lack of government-operated shelters and rehabilitation, inadequate support for NGOs, and insufficient research and data.<sup>679</sup> CEDAW recommended that Montenegro: ensure effective investigations and prosecutions, as well as appropriate punishments, for acts of domestic violence; provide mandatory trainings to systems actors on working with victims and applying the domestic violence law; ensure women victims can receive sufficient assistance and protection; gather data and conduct research; and establish a deadline by which to ratify the Istanbul Convention.<sup>680</sup>

The Human Rights Committee in 2014 noted the continuation of gender-based violence, sexual harassment and domestic violence. It expressed concern over the low rates of prosecutions and weak penalties imposed for acts of violence against women, as well as the insufficient numbers of domestic violence shelters. The Human Rights Committee recommended that Montenegro: adopt a comprehensive approach to combating gender-based violence; increase its awareness-raising measures among the legal systems actors and the community on domestic violence and its negative effects on victims; ensure thorough investigations, prosecutions and appropriate

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<sup>678</sup> Committee Against Torture, *Concluding Observations on the Second Periodic Report of Montenegro (advance unedited version)*, 2014, U.N. Doc. CAT/C/MNE/CO/2, ¶ 19.

<sup>679</sup> Committee on the Elimination of Discrimination Against Women, *Concluding Observations: Montenegro*, 4 November 2011, U.N. Doc. CEDAW/C/MNE/CO/1, ¶ 19.

<sup>680</sup> *Ibid.*, ¶ 19.

punishments for cases of domestic violence; provide adequate compensation for victims; and provide adequate shelters with sufficient resources.<sup>681</sup>

### Strength of Civil Society

Montenegro allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>682</sup> Montenegro received a “Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>683</sup> Government officials were reported, however, to have inconsistent cooperation levels, and responsiveness between the public sector and NGOs was poor.<sup>684</sup>

The few negative observations regarding government repression of civil society groups and the “Free” freedom status rating suggests that efforts to combat domestic violence in Montenegro would not be hindered by government repression.

### Women’s Rights Organizations

Seven NGOs in Montenegro have collaborated to propose 24 amendments to the draft domestic violence law. These NGOs include: Human Rights Action; Women’s Safe House; SOS Telephone for Women and Children Victims of Violence Nikšić; SOS Telephone for Women and Children Victims of Violence Podgorica; Centre for Civil Education; Centre for Anti-discrimination EKVISTA; and Centre for Women and Peace Education ANIMA.<sup>685</sup> Women’s Rights Center in Podgorica is also active in women’s human rights.

Montenegro appears to have a strong and active civil society. NGOs play an important role in driving and shaping change through advocacy, monitoring, training, and advising. Montenegro’s active and collaborative civil society indicates there is potential for further progress in improving the government’s response to domestic violence.

### Monitoring Reports

By 2011, the Ministry of Labour and Social Welfare and NGOs were required to have created the Commission for Monitoring of Strategy Implementation, which is to deliver a yearly report to the agency.<sup>686</sup> The Advocates was unable to confirm whether these reports have been produced each year.

In 2012, the SOS Hotline published a report on domestic violence, *Study on Family Violence and Violence against Women in Montenegro*. Based on public opinion polls, case studies, focus groups, “face-to-face research,” and interviews, the report presents comprehensive findings and

<sup>681</sup> Human Rights Committee, *Concluding Observations on the Initial Report of Montenegro*, 21 November 2014, U.N. Doc. CCPR/C/MNE/CO/1, ¶ 11.

<sup>682</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Montenegro* (2014), <http://www.state.gov/documents/organization/220523.pdf>.

<sup>683</sup> Freedom House, *Freedom in the World 2015*, 24.

<sup>684</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Montenegro* (2014), § 5.

<sup>685</sup> CEED Consulting & SOS Hotline For Women and Children Victims of Violence Niksic, *Study on Family Violence and Violence against Women in Montenegro*, 24.

<sup>686</sup> *Ibid.*, 10.

makes recommendations. Among the recommendations, the report urges the adoption of Rules of Procedure by the Ministries of Interior, Health, and Labor and Social Welfare, a more specific definition relating to articles on weapons, the introduction of protection measures into criminal proceedings, amendments of the domestic violence law to impose varying fines according to the severity of the offense, and other Criminal Code amendments such as *ex officio* prosecution for marital rape.<sup>687</sup> This report identifies recent challenges in protecting victims and holding offenders accountable, which can help guide Montenegro to improve its response to domestic violence.

The Advocates for Human Rights, SOS Hotline for Women and Children Victims of Violence – Niksic, and Women’s Rights Center are due to publish a monitoring report on domestic violence in Montenegro in 2016.

Reports such as these identify challenges in protecting victims and holding offenders accountable which can help guide Montenegro in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Civil society runs three shelters for domestic violence victims in Montenegro.<sup>688</sup> These shelters provide approximately 38 places.<sup>689</sup> These spaces are inadequate to meet Montenegro’s needs, however, and shelters had to turn away 21 women due to limited space in 2012.<sup>690</sup> To meet the standards set by the Council of Europe Taskforce Recommendations, Montenegro needs 25 additional spaces.<sup>691</sup> Four local helplines have been available to assist victims and their children.<sup>692</sup> SOS Hotline in Niksic launched a helpline in 2015, which operates throughout the country and is available 24 hours per day, 7 days a week.<sup>693</sup>

There are also three NGO-operated counseling centers for women. Two operate out of the women’s shelters as part of their services open to non-residents. One center specializes in assistance to migrant women, and two centers provide such support to Roma.<sup>694</sup>

There remains room for improvement with regard to Montenegro’s victim services, particularly in the need for more shelter spaces and the creation of a national hotline. Fifty percent of the women surveyed reported no permanent source of income and that their perpetrator controls their

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<sup>687</sup> Ibid., 11–16.

<sup>688</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Montenegro* (2015), § 6.

<sup>689</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>690</sup> Ibid., 68.

<sup>691</sup> Ibid., 32.

<sup>692</sup> Ibid., 32, 68.

<sup>693</sup> SOS Hotline for Women and Children Victims of Violence Niksic, *Reporting about National SOS Helpline for Victims of Domestic Violence*, <http://www.sosnk.org/2015/11/saopstenje-nacionalne-sos-linije-za-zrtve-nasilja-u-porodici/?lang=en>.

<sup>694</sup> Women Against Violence Europe, *Wave Report 2014*, 68.

income or property.<sup>695</sup> Ensuring that all women have safe refuge to escape the violence is essential, particularly for women with limited economic means.

The government does not adequately fund victim support and shelters, the removal of offenders, and other necessary activities.<sup>696</sup> In addition, there are no specialized domestic violence units in institutions.<sup>697</sup> Montenegro's acceptance at its UPR to provide for sufficient numbers of publicly funded shelters and to allocate adequate financial resources for the Strategy for the Protection from Domestic Violence indicates that the government may be willing to apportion greater funding to domestic violence.

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<sup>695</sup> CEED Consulting & SOS Hotline For Women and Children Victims of Violence Niksic, *Study on Family Violence and Violence against Women in Montenegro*, 9.

<sup>696</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Montenegro* (2015), § 6.

<sup>697</sup> CEED Consulting & SOS Hotline For Women and Children Victims of Violence Niksic, *Study on Family Violence and Violence against Women in Montenegro*, 10.

## POLAND

### Legal Landscape and Developments

Courts in Poland can sentence domestic violence offenders to prison terms of up to five years, but typically hand down suspended sentences.<sup>698</sup>

In 2005, Poland adopted the Act of 29 July 2005 on Counteraction of Domestic Violence, which provides victims with an order for protection.<sup>699</sup> The law states that, in cases of a suspended sentence, the court shall define the method of contact between the offender and victim or may prohibit the offender from living near the victim.<sup>700</sup> In lieu of arrest, the court may order the offender be placed under police supervision if he temporarily leaves the shared home, in which case the court may also prohibit contact.<sup>701</sup> In 2010, the Act on Counteraction of Domestic Violence was amended and several new measures introduced, including:

- An order evicting the perpetrator from the shared home;
- Penal measures to order the offender to leave the shared home and impose a restraining order;
- Probation measures that include a restraining order and offender behavior programs;
- Mandatory enforcement of a suspended sentence or the repeal of parole if the perpetrator re-commits the offense;
- Establishment of procedures for the probation officer to seek enforcement of a suspended prison sentence or repeal parole;
- Establishment of procedures for a social worker to remove the child from the family if the child's life or health is in danger. A social worker, police, and doctor, nurse or a paramedic make this decision for removal together, and the social worker must inform the family court within 24 hours to obtain a judicial decision about the child's status;
- Provision for free medical exams and certificates to document injuries and their causes.<sup>702</sup>

The amended law also established a Monitoring Committee on Combating Violence in the Family, which has broad representation from the National Coordinator of the National Programme of Combating Violence in the Family, as well as representatives from administrative bodies, territorial self-government bodies, and NGOs. The committee seeks to undertake activities to end domestic violence, monitor activities, and issue opinions on implementation of the domestic violence law and cases of domestic violence, and to establish standards for victim

<sup>698</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Poland* (2015).

<sup>699</sup> Act of 29 July 2005 on Counteraction of Domestic Violence, Law Gazette of 2005, no. 180, item 1493.

<sup>700</sup> *Ibid.*, art. 13.

<sup>701</sup> *Ibid.*, art. 14.

<sup>702</sup> European Crime Prevention Network, *Crime prevention policies: Poland*, <http://www.eucpn.org/policies/results.asp?category=2&country=18> (accessed July 11, 2014).

support and programs for perpetrators.<sup>703</sup> Interdisciplinary teams have also been established at the territorial self-governing levels (“gmina” level), which include police, teachers, health care workers, and NGOs.<sup>704</sup> In December 2013, police departments at multiple levels received the Mp-92, a risk assessment questionnaire for adult victims of domestic violence and the Mp-93, a corollary risk assessment questionnaire for children.<sup>705</sup> Police also developed a protocol procedure for their response to domestic violence, which includes provision of information to victims on services.<sup>706</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Poland participated in its first Universal Periodic Review (UPR) in 2008. Poland’s second UPR took place in May 2012. In its second report to the Human Rights Council, the government of Poland stated it amended its Act on Counteraction of Domestic Violence on August 1, 2010 to increase measures to prevent domestic violence and to provide further protection of victims of domestic violence. Such protection included instituting mechanisms to separate the perpetrator and the victim and implementing educational programs to change attitudes of individuals who are likely to resort to domestic violence.<sup>707</sup> Between 2008 and 2011, Poland conducted trainings and programming to combat domestic violence, which involved national campaigns to raise awareness.<sup>708</sup> The report noted that Poland increased criminal sanctions for domestic violence, including the issuance of an eviction order, mandated offender rehabilitation programs, and increased penalties for repeat offenders.<sup>709</sup> According to the report, the government of Poland also encouraged the involvement of police with local government administrations to combat domestic violence on a local level.<sup>710</sup> On a regional level, Poland has joined Spain in drafting a Directive on European Protection Orders, which will enhance the protection of victims of sexual and domestic violence across EU Member States.<sup>711</sup>

During its second UPR in 2012, the government of Poland accepted recommendations related to gender equality, including the following that address domestic violence:

<sup>703</sup> Ibid.

<sup>704</sup> Ibid.

<sup>705</sup> Office of the Government Plenipotentiary for Equal Treatment, *Report on the implementation of the Beijing Declaration and Platform for Action (1995) and the outcomes of the twenty-third special session of the General Assembly (2000): Poland* (2014), 32.

<sup>706</sup> Card A describes the report written at the scene, and card B contains information for victims. Network of East-West Women-NEWW Poland, Kretinga Women’s Information and Training Center, Women’s Shelter, Karlshamn, and The Union of Women of the Kaliningrad Region, *Domestic Violence in the South Baltic Region: Kaliningrad, Lithuania, Poland, and Sweden* (2010), 50, <http://www.neww.org.pl/pliki/baltic/raport2.pdf> (accessed August 5, 2015).

<sup>707</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Poland*, 8 March 2012, U.N. Doc. A/HRC/WG.6/13/POL/1, ¶ 11.

<sup>708</sup> Ibid., ¶ 47.

<sup>709</sup> Ibid., ¶ 45.

<sup>710</sup> Ibid., ¶ 47, n. 7.

<sup>711</sup> Ibid., ¶ 98.



- Sign and consider ratifying the Istanbul Convention (Recommendations 90.27,90.28);
- Establish a plan to combat gender violence, including resources for implementation (Recommendation 90.78);
- Strengthen domestic violence victims' access to justice (Recommendation 90.79);
- Ensure victims have access to assistance, including counseling, legal aid, health care, and shelter (Recommendation 90.81; accepted and in the course of implementation);
- Continue to support reform of the legislation on domestic violence by conducting public awareness-raising and providing professional training on the provisions of the 2010 Act on the Prevention of Domestic Violence to ensure its effective implementation (Recommendation 90.80).<sup>712</sup>

Poland did not note any recommendations related to domestic violence.<sup>713</sup>

That Poland has accepted all recommendations related to domestic violence, including those to strengthen victims' access to justice, indicates a commitment to improving the government's response to domestic violence. In addition, Poland has since implemented the important recommendation to consider ratifying the Istanbul Convention. It ratified the convention in 2015.

### **Mechanisms for Government Accountability**

Poland has ratified CEDAW (1980), ICCPR (1977), and CAT (1989), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Poland has also ratified the OP-CEDAW (2003) and OP1-ICCPR (1991), providing an additional means of accountability via the complaint mechanism. Poland signed the Istanbul Convention in 2012<sup>714</sup> and ratified the Convention on April 27, 2015, signaling its commitment to combat violence against women.<sup>715</sup> Only 18 countries have ratified the Istanbul Convention, marking those States Parties – including Poland – as leaders in committing to these standards on violence against women.

Poland became a member of the European Union in 2004. Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>716</sup>

<sup>712</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Poland*, 9 July 2012, U.N. Doc. A/HRC/21/14; See also Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Poland, Addendum: Views on Conclusion and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, 7 September 2012, U.N. Doc. A/HRC/21/14/Add.1, 3-4.

<sup>713</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Poland*, 9 July 2012, U.N. Doc. A/HRC/21/14.

<sup>714</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed June 23, 2015).

<sup>715</sup> Ibid.

<sup>716</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

*ECHR<sup>717</sup>/CEDAW Cases and Implementation<sup>718</sup>*

Poland has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. There have been no admissible complaints pertaining to domestic violence against Poland brought before CEDAW.

The ECHR determined that a recent case filed against Poland, *Kowal v. Poland*, was inadmissible.<sup>719</sup> In 2012, the court rejected an applicant's arguments that Poland failed to protect him, his younger brother, and his mother from domestic violence by failing to enforce an order to evict his father from the family's apartment.<sup>720</sup> The ECHR determined that the Polish authorities' responses could not be deemed manifestly inadequate, noting, for example, the numerous sets of proceedings that dealt with separate instances of domestic violence.<sup>721</sup>

*Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. During Poland's 2014 CEDAW review, the CEDAW Committee expressed its concern regarding the high prevalence of violence against women, and the absence of a comprehensive strategy aimed at eliminating all forms of sex- and gender-based violence against women. The CEDAW Committee was particularly concerned over gaps in the legal framework for combating violence against women, which include the limited effectiveness of protection orders and the low number of prosecutions and sentences in domestic-violence cases.<sup>722</sup>

During Poland's 2013 CAT review, the Committee against Torture expressed its concern that a domestic violence hotline is not operational 24 hours per day. The Committee against Torture also noted its concern that domestic violence is not a separate crime under the Penal Code.<sup>723</sup>

**Strength of Civil Society**

Poland has allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>724</sup> Poland received a "Free" rating on the "Freedom Status" scale in the report, *Freedom in the World: 2015*.<sup>725</sup> The "Free" freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

<sup>717</sup> There is a case currently pending before the ECHR against Poland that relates to domestic violence. See *Wasiewska v. Poland*, No. 9873/11, ECHR (28 January 2011) (application).

<sup>718</sup> Another ECHR case relating to violence against women includes *P. and S. v. Poland* (rape and sexual abuse).

<sup>719</sup> *Kowal v. Poland*, No. 2912/11, ECHR (5 January 2011) (dismissed).

<sup>720</sup> *Ibid.*, ¶ 28.

<sup>721</sup> *Ibid.*, ¶ 55.

<sup>722</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined seventh and eighth periodic reports of Poland*, U.N. Doc. CEDAW/C/POL/CO/7-8.

<sup>723</sup> Committee against Torture, *Concluding observations on the combined fifth and sixth periodic reports of Poland*, 23 December 2013, U.N. Doc. CAT/C/POL/CO/5-6.

<sup>724</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Poland* (2015), § 5.

<sup>725</sup> Freedom House, *Freedom in the World 2015*, 25.

### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women's issues include Karat Coalition, Women's Rights Center, the Polish Federation for Women and Family Planning, and the Network of East-West Women—Polska. All of these organizations work on women's human rights. Poland appears to have a strong and active civil society.

### *Monitoring Reports*

The Immigration and Refugee Board of Canada published a report on domestic violence in Poland, *Poland: Domestic violence, including protection, services and recourse available to victims (2007- October 2010)*.<sup>726</sup> The report is based on publicly available information and briefly summarizes the prevalence, police response, sentencing, government protection, and services in Poland.<sup>727</sup> According to the report, police officers are often reluctant to intervene, and domestic violence complaints are not often viewed as credible.<sup>728</sup>

In 2010, four organizations published the report, *Domestic Violence in the South Baltic Region: Kaliningrad, Lithuania, Poland, and Sweden*. The report describes statistics, laws, policies, and victim services in place in these four locations.<sup>729</sup>

These reports identify challenges in protecting victims and holding offenders accountable, which can help guide Poland in improving its response to domestic violence.

## **Current Status of Efforts to Eliminate Violence against Women**

In 2013, local governments operated 193 crisis centers, 13 shelters for mothers or expectant mothers, and 35 specialized support centers that receive financing through the National Program for Combating Domestic Violence.<sup>730</sup> The support centers provide health care, as well as social, psychological and legal services. In 2012, they served 8,485 clients.<sup>731</sup> One NGO-run shelter, which provides 26 places, provides specialized support for victims and their children and is primarily funded by the State.<sup>732</sup> To meet the Council of Europe Taskforce Recommendations, Poland must provide 3,789 more spaces.<sup>733</sup>

<sup>726</sup> Immigration and Refugee Board of Canada, *Poland: Domestic Violence, Including Protection, Services and Recourse Available to Victims (2007 – October 2010)*, POL103618.E (8 November 2010), <http://www.refworld.org/publisher,IRBC,,4e4391cf2,0.html> (accessed June 23, 2015).

<sup>727</sup> Ibid.

<sup>728</sup> Ibid.

<sup>729</sup> Network of East-West Women-NEWW Poland, Kretinga Women's Information and Training Center, Women's Shelter, Karlshamn, and The Union of Women of the Kaliningrad Region, *Domestic Violence in the South Baltic Region: Kaliningrad, Lithuania, Poland, and Sweden* (2010), <http://www.neww.org.pl/pliki/baltic/raport2.pdf> (accessed June 23, 2015).

<sup>730</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Poland* (2015), § 6.

<sup>731</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Poland* (2014), § 6.

<sup>732</sup> Ibid.

<sup>733</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

There is a national Blue Line hotline funded by the State Agency for Prevention of Alcohol-Related Problems,<sup>734</sup> but there is no hotline exclusively for women.<sup>735</sup> Callers can obtain psychological support, legal advice, and information from professionals on domestic violence.<sup>736</sup> There is one women’s counseling center in Warsaw, offering legal advice, psychological counseling, and educational seminars.<sup>737</sup>

In 2013, the government dedicated approximately \$1.2 million on activities to address domestic violence, including trainings, and batterers intervention programs.<sup>738</sup> The government spent an additional \$66,900 to assess local responses to domestic violence and develop informational resources for offenders, \$230,000 on the “Safer Together” program to address domestic violence, and \$28,000 on police activities to combat domestic violence.<sup>739</sup> Regional governments also committed funds and spent \$1.1 million on trainings for first responders.<sup>740</sup>

While there remains room for improvement with regard to Poland’s victim assistance, including shelter spaces, the government funding both on the national and regional levels signals an important commitment to combating domestic violence. In addition, Poland’s new commitment as a party to the Istanbul Convention may result in future improvements to its victim services.

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<sup>734</sup> Immigration and Refugee Board of Canada, *Poland: Domestic violence, including protection, services and recourse available to victims (2007 - October 2010)*, POL103618.E (8 November 2015), <http://www.refworld.org/docid/4e4391cf2.html> (accessed June 24, 2015).

<sup>735</sup> Women Against Violence Europe, *Wave Report 2014*, 25.

<sup>736</sup> European Institute for Gender Equality, *Institute of Health Psychology Polish Psychological Association – Nationwide Emergency Service for Victims of Domestic Violence “Blue Line”* (2013), <http://eige.europa.eu/content/institute-of-health-psychology-polish-psychological-association-%E2%80%93-nationwide-emergency-servi> (accessed June 24, 2015).

<sup>737</sup> Women Against Violence Europe, *Wave Report 2014*, 70.

<sup>738</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Poland* (2015), § 6.

<sup>739</sup> *Ibid.*

<sup>740</sup> *Ibid.*

## ROMANIA

### Legal Landscape and Developments

Article 199 of the Criminal Code punishes domestic violence by increasing the penalty for murder, battery and other violent acts by 25 percent.<sup>741</sup> It permits prosecution to be initiated *ex officio* in cases of battery, other violent acts and intentional bodily harm, but reconciliation eliminates any criminal liability.<sup>742</sup>

Romania adopted a specific domestic violence law in 2003 (Law 217/2003).<sup>743</sup> The law established the National Agency for Family Protection (“NAFP”) within the Ministry of Labour, Family and Equal Opportunities, provided standards for counseling offices and shelters for victims, and defined domestic violence as “any physical or verbal action deliberately perpetrated by a family member against another member of the same family, resulting in physical, psychological, sexual suffering or material loss.”<sup>744</sup> The NAFP is charged with implementing protective strategies, training, funding, educating, creating shelters and hotlines, collecting data, and setting up rehabilitation centers for both victims and perpetrators.<sup>745</sup>

Law 211/2004, which was adopted in 2004, expands upon Law 217/2003 and affords victims the right to counseling, legal aid, and state compensation.<sup>746</sup> Despite the adoption of these laws, however, effective implementation remains a challenge.<sup>747</sup>

In March 2012, Romania adopted Law 25/2012, amending Law 217/2003. The new legislation: amended the definition of domestic violence to include verbal, psychological, physical, sexual or spiritual violence; allowed victims to request a restraining order against the abuser; and provided that the victim is entitled to respect to personality, privacy, dignity, special protection, counseling, rehabilitation, reintegration, free medical care, and legal aid.<sup>748</sup>

That Romania passed one of the earliest domestic violence laws in the region and recognizes domestic violence as a crime is a good indication of its commitment to an effective government response to the problem. It has undertaken a number of important amendments to its laws,

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<sup>741</sup> Law No. 286/2009, art. 199(1).

<sup>742</sup> *Ibid.*, art. 199(2).

<sup>743</sup> Law No. 217/2003 of May 22, 2003, Law to Prevent and Combat Family Violence.

<sup>744</sup> Law No. 217/2003 of May 22, 2003, Law to Prevent and Combat Family Violence, arts. 2(1), 8–9; See also Bucuta Mihaela, Dima Gabriela, Zoltani Katalin, and Antal Dalma Delia, *The Phenomenon of Domestic Violence in Romania: A Prevention and Intervention*, 17 INTERDISC. J. FAM. ST. 153 (2012).

<sup>745</sup> Law No. 217/2003 of May 22, 2003, Law to Prevent and Combat Family Violence, arts. 8–9.

<sup>746</sup> Law No. 211/2004 of June 4, 2004, *Concerning Measures to Ensure Protection to Victims of Crime*, Official Gazette No. 505.

<sup>747</sup> Bucuta Mihaela, Dima Gabriela, Xoltani Katalin, and Antal Dalma Delia, *The Phenomenon of Domestic Violence in Romania: A Prevention and Intervention*, 17 INTERDISC. J. FAM. ST. 153 (2012).

<sup>748</sup> Law No. 25/2012 of March 2012, amending Law No. 217/2003, Law to Prevent and Combat Domestic Violence.

including Law 217/2003. The Criminal Code presents barriers to prosecution by permitting, not mandating, *ex officio* prosecution in cases of domestic violence, and by allowing reconciliation to halt prosecution of domestic violence offenders. Romania's demonstrated willingness to amend its laws shows the potential for continuing improvement of its penal system.

## Government Will

### *Acceptance of UPR Recommendations*

Romania participated in its first Universal Periodic Review (UPR) in 2008. Romania's second UPR took place in 2013. In its second report to the Human Rights Council, the government of Romania noted that Law 217/2003 on preventing and combating domestic violence has been recently substantially amended by Law 25/2012.<sup>749</sup> According to the report, the new law introduces the restriction order, a measure of protection the court can issue for a victim of domestic violence.<sup>750</sup> The law provides another measure of protection by improving the efficiency of authorities to support and advise victims on legal remedies in domestic violence cases.<sup>751</sup> The report described a number of national programs dedicated to preventing and combating domestic violence, based on funding offered from the state budget by the Ministry of Labour, Family and Social Protection.<sup>752</sup> Finally, during 2010, 36 campaigns and 19 domestic violence prevention projects were conducted; approximately 37.000 persons received preventive information.<sup>753</sup> In conducting the activities, the report noted that external partners were involved, as well.<sup>754</sup>

During its second UPR in 2013, Romania accepted recommendations related to gender equality, including the following that address domestic violence:

- Take further measures to decrease serious challenges in access to justice by victims of domestic violence and human trafficking (Recommendation 109.77);
- Redouble efforts to combat violence against women and girls (Recommendation 109.78).<sup>755</sup>

Romania did not note any recommendations related to domestic violence.<sup>756</sup>

<sup>749</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Romania*, 3 December 2012, U.N. Doc. A/HRC/WG.6/15/ROU/1, ¶ 108.

<sup>750</sup> Ibid.

<sup>751</sup> Ibid.

<sup>752</sup> Ibid., ¶ 109.

<sup>753</sup> Ibid., ¶ 111.

<sup>754</sup> Ibid.

<sup>755</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Romania Addendum*, 28 May 2013, U.N. Doc. A/HRC/23/5/Add.1.

<sup>756</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Romania*, 21 March 2013, U.N. Doc. A/HRC/23/5, ¶¶ 109; See also Human Rights

That Romania has accepted all recommendations related to domestic violence, including those to promote access to justice, indicates a commitment to improving its response to domestic violence.

### Mechanisms for Government Accountability

Romania has ratified CEDAW (1982), ICCPR (1974), and CAT (1990), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Romania has also ratified the OP-CEDAW (2003) and OP1-ICCPR (1993), providing an additional means of accountability via the complaint mechanism. Romania has signed the Istanbul Convention, signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards.

Romania has been a member of the EU since 2007. Comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>757</sup>

#### *ECHR<sup>758</sup>/CEDAW Cases and Implementation*

Romania has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvement in, the government response to domestic violence. There have been no admissible complaints pertaining to domestic violence against Romania brought before CEDAW. There has been one case pertaining to domestic violence brought against Romania before the ECHR.

The ECHR determined that Romania violated the European Convention's prohibition of inhuman or degrading treatment under Article 3 in *E.M. v. Romania* in 2012.<sup>759</sup> Romania had not adequately investigated the applicant's criminal complaint of domestic violence, and instead rejected her complaint given various factors, including the defendant's history and repentant attitude.<sup>760</sup> Although her medical certificate provided *prima facie* evidence of her allegations, the various authorities did not take any steps to respond to assist or protect the applicant and her daughter.<sup>761</sup>

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. Romania's most recent review was by the CEDAW

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Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Romania Addendum*, 28 May 2013, U.N. Doc. A/HRC/23/5/Add.1, 3, 5.

<sup>757</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

<sup>758</sup> There are two pending cases before the ECHR filed against Romania that relate to domestic violence: *Cămărășescu v. Romania*, *Cămărășescu v. Romania*, No. 49645/09, ECHR (4 September 2009) (application) and *D.M.D. v. Romania*, *D.M.D. v. Romania*, No. 23022/13, ECHR (22 March 2013) (application).

<sup>759</sup> *E.M. v. Romania*, No. 43994/05, ECHR (30 October 2012).

<sup>760</sup> *Ibid.*, ¶ 40.

<sup>761</sup> *Ibid.*, ¶ 70.

Committee in 2006. The CEDAW Committee expressed concern regarding the insufficient implementation of measures designed to prevent and eliminate domestic violence. The CEDAW Committee also stated its concern regarding the limited availability of protection and support services for victims, and the limited information about the prevalence of domestic violence.<sup>762</sup>

### Strength of Civil Society

Romania has allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>763</sup> Romania received a “Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>764</sup> The “Free” freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

#### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports as part of the CEDAW review include: Asociația Femeilor din România (Women’s Association of Romania), Women’s NGO’s Network, Romani CRISS, and the European Roma Rights Centre.<sup>765</sup> The Centre for Education, National Advocacy and Economic Empowerment, Asociația pentru Promovarea Femeii din România, and the Partnership for Equality Center also work on women’s human rights.

#### *Monitoring Reports*

No recent monitoring reports on domestic violence in Romania have been identified.

### Current Status of Efforts to Eliminate Violence against Women

As of 2014, Romania had no hotlines dedicated to women’s needs.<sup>766</sup> The 2014 WAVE report notes that “in 2015 the Department of Equal Opportunity between Women and Men [...] will open a pilot helpline through the EU-funded project START.”<sup>767</sup> There are 41 women’s shelters with a total of 590 places available, which is short of Council of Europe standards by 1,422 beds.<sup>768</sup> In 2012, 700 women and 1,100 children were accommodated at these shelters.<sup>769</sup>

There remains room for improvement with regard to Romania’s victim assistance. More shelters and victim services, particularly hotlines, are needed.

<sup>762</sup> Committee on the Elimination of Discrimination against Women, *Concluding comments of the Committee on the Elimination of Discrimination against Women: Romania*, 2 June 2006, U.N. Doc. CEDAW/C/ROM/CO/6.

<sup>763</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Romania* (2015), § 5.

<sup>764</sup> Freedom House, *Freedom in the World 2015*, 25.

<sup>765</sup> Women’s Association of Romania, *Shadow Report/Alternative Report to the Romanian Government Report* (2006); European Roma Rights Centre and Romani CRISS, *Shadow Report United Nations Convention on the Elimination of All Forms of Discrimination against Women in Romania for its consideration at the 35th Session 15 May to 2 June 2006*; Liliana Pagu & Tatiana Isoo-Ciumac, Statement at the Committee on the Elimination of Discrimination against Women 35th Sess. (May–June 2006).

<sup>766</sup> Women Against Violence Europe, *Wave Report 2014*, 71.

<sup>767</sup> *Ibid.*

<sup>768</sup> *Ibid.*, 32.

<sup>769</sup> *Ibid.*, 43.



# RUSSIA

## Legal Landscape and Developments

There is no specific crime of domestic violence under the Criminal Code. Domestic violence must be prosecuted under assault provisions and requires a victim complaint to initiate a police investigation.<sup>770</sup>

Russia does not have a specific domestic law that would provide victims with an order for protection and lacks a comprehensive approach to the prevention and elimination of violence against women.<sup>771</sup> A working group has drafted and revised a bill to prevent domestic violence.<sup>772</sup> At the time of Russia's review by CEDAW, the draft law had been reviewed by federal executive authorities, at conferences in Saint Petersburg and Moscow, hearings in the State Duma (a body in the lower house of the legislature), and at a session of the Human Rights Council under the Russian Federation President. The bill is under revision to incorporate comments made.<sup>773</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Russia participated in its first UPR in 2009. Russia's second UPR took place in April 2013. In its second report to the Human Right Council, the government of Russia noted violence towards women to be a problem that receives continuous attention from authorities at all levels. The report stated that various proceedings, including criminal, are available under Russian law to respond to violence in its various forms. The Criminal Code contains language rendering punishable offences against sexual inviolability, beatings, cruelty and the causing of physical or mental suffering.<sup>774</sup> The report mentioned that the numbers of violent crimes in which women are the victims are beginning to decrease. Approximately 222,543 such crimes were recorded in 2009; 191,181 were recorded in 2010; and 170,281 were recorded in 2011.<sup>775</sup> The report stated that law enforcement authorities conduct appropriate inquiries each time a violation of women's rights is reported and that police watch individuals who commit domestic violence with a view to

<sup>770</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Russia* (2015).

<sup>771</sup> Human Rights Committee, *Concluding Observations of the Committee on the Elimination of Discrimination against Women: Russian Federation*, 16 August 2010, U.N. Doc. CEDAW/C/USR/CO/7, ¶ 22.

<sup>772</sup> Committee on the Elimination of Discrimination against Women, *List of issues and questions in relation to the eighth periodic report of the Russian Federation*, 15 March 2015, U.N. Doc. CEDAW/C/RUS/Q/8, ¶ 8.

<sup>773</sup> Committee on the Elimination of Discrimination against Women, *Consideration of reports submitted by States parties under article 18 of the Convention: Eighth periodic report of States parties due in 2014: Russian Federation*, 22 August 2014, U.N. Doc. CEDAW/C/RUS/8, ¶ 105.

<sup>774</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Russian Federation*, 6 February 2013, U.N. Doc. A/HRC/WG.6/16/RUS/1, ¶ 165.

<sup>775</sup> *Ibid.*, ¶ 166.

preventing such offences.<sup>776</sup> Furthermore, a working group has been set up to draft a federal bill on prevention of violence in the family.<sup>777</sup> According to the report, training seminars have been provided for police officers and students at police academies, and recommendations crafted for law enforcement authorities on how to prevent domestic violence.<sup>778</sup> Finally, special services are being set up to prevent violence against women and offer assistance.<sup>779</sup>

During its second UPR in 2013, the government of Russia accepted recommendations related to gender equality, including the following that address domestic violence:

- Ratify the Istanbul Convention (Recommendation 140.23);
- Further enhance the prevention of domestic violence (Recommendations 140.106, 140.108, 140.112, 140.115);
- Adopt a comprehensive law on violence against women (Recommendations 140.109, 140.110);
- Consider the approval of a general law on violence against women, in conformity with the recommendation made by CEDAW (Recommendation 140.114);
- Continue its measures with regard to combating violence against women (Recommendation 140.43);
- Take effective measures to prevent violence against women (Recommendation 140.78);
- Continue ensuring State safeguards to provide free legal aid to the population (Recommendation 140.131);
- Adopt a law to combat violence against women and a plan to address domestic violence (Recommendation 140.106, 140.108, 140.115).<sup>780</sup>

The Russian Federation partially accepted the following recommendations:

- Expedite the drafting of a federal bill on preventing domestic violence (Recommendation 140.107);
- Strengthen measures to combat violence against women and girls through, *inter alia*, adoption of a law to criminalize all forms of violence against women (Recommendation 140.111);
- Develop a comprehensive action plan to combat domestic violence against women and girls (Recommendation 140.113).<sup>781</sup>

<sup>776</sup> Ibid., ¶ 167.

<sup>777</sup> Ibid., ¶ 168.

<sup>778</sup> Ibid.

<sup>779</sup> Ibid., ¶ 169.

<sup>780</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Russian Federation*, 8 July 2013, U.N. Doc. A/HRC/24/14, ¶¶ 140; see also Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Russian Federation Addendum, Views on Conclusion and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, 2 September 2013, U.N. Doc. A/HRC/24/14/Add.1, 14, 23, 25.

In partially accepting these recommendations, Russia responded it is conducting preparatory work for a bill on the prevention of domestic violence, but asserted that the existing law already prohibits and punishes violence within the family.<sup>782</sup> The government explained that the Ministry of Health and Social Development has committed to drafting amendments that impose greater punishments for violence against women.<sup>783</sup> Russia also stated that help centers function to provide the “necessary services” for victims of domestic violence.<sup>784</sup>

Russia did not note any recommendations related to gender violence.<sup>785</sup>

That Russia only partially accepted recommendations to hasten the adoption of the domestic violence bill, adopt a law criminalizing violence against women, and create a domestic violence action plan suggests the government is not immediately prepared nor committed to undertaking legislative reforms. Its acceptance of other recommendations, including that of ratifying the Istanbul Convention, may, however, provide impetus and accountability for changing its laws.

### **Mechanisms for Government Accountability**

Russia has ratified ICCPR (1973), CEDAW (1981), and CAT (1987), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Russia has also ratified the OP-CEDAW (2004), providing an additional means of accountability via the complaint mechanism. Russia has acceded to OP1-ICCPR (1991). Russia has not signed or ratified the Istanbul Convention.

In a 2010 review, the CEDAW Committee expressed concern about the increase in violence against women in Russia. The CEDAW Committee also noted that strong patriarchal values, social stigma, and perception of domestic violence as a private matter were negative factors that reduced both reporting and prosecution of domestic violence offenses.<sup>786</sup>

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<sup>781</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Russian Federation Addendum, Views on Conclusion and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, 2 September 2013, U.N. Doc. A/HRC/24/14/Add.1, ¶ 24.

<sup>782</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Russian Federation Addendum, Views on Conclusion and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, 2 September 2013, U.N. Doc. A/HRC/24/14/Add.1, ¶ 24.

<sup>783</sup> Ibid.

<sup>784</sup> Ibid.

<sup>785</sup> Ibid.; Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Russian Federation*, 8 July 2013, U.N. Doc. A/HRC/24/14.

<sup>786</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations of the Committee on the Elimination of Discrimination against Women: Russian Federation*, 16 August 2010, U.N. Doc. CEDAW/C/USR/CO/7, ¶ 22.

### *ECHR/CEDAW Cases and Implementation*

Russia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. There have been no recent cases involving domestic violence brought against Russia before the ECHR.<sup>787</sup>

There have been two communications filed with the CEDAW Committee against Russia that are described as being in the pre-admissibility stage.

### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. During Russia's 2015 CEDAW review, the CEDAW Committee expressed concern regarding the high prevalence of violence against women, in particular domestic and sexual violence. The CEDAW Committee also referenced the lack of statistics on violence against women, the underreporting of cases of violence against women, and the insufficient number of victim protection services, such as shelters and crisis centers.<sup>788</sup>

During Russia's 2015 ICCPR review, the Human Rights Committee expressed concern regarding the substantial increase in the number of reported cases of domestic violence against women and children since 2010. The Human Rights Committee also noted its concern regarding the slow implementation of a law on the prevention of domestic violence, the lack of sufficient investigation into domestic violence cases, and the insufficient support services for victims of domestic violence.<sup>789</sup>

### **Strength of Civil Society**

Russia has allowed human rights organizations to operate within the country, but the groups have been heavily monitored, harassed by government officials, unjustly inspected, and at times shut down completely.<sup>790</sup> In addition, the Constitutional Court upheld amendments to the Law on Non-commercial Organizations that require any association engaging in political activity and receiving foreign funding to register as a "foreign agent."<sup>791</sup> Classification as a "foreign agent"

<sup>787</sup> Other ECHR cases involving violence against women include *Maslova and Nalbandov v. Russia* (rape and sexual abuse) and *Rantsev v. Cyprus and Russia* (trafficking in human beings).

<sup>788</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the eighth periodic report of the Russian Federation (advance unedited version)*, 20 November 2015, U.N. Doc. CEDAW/C/RUS/CO/8.

<sup>789</sup> Human Rights Committee, *Concluding observations on the seventh period report of the Russian Federation (advance unedited version)*, U.N. Doc. CCPR/C/RUS/CO/7.

<sup>790</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Russia* (2015), § 5.

<sup>791</sup> Federal Law No. 7-FZ, "On Non-Commercial Organizations," 12 January 1996, as amended (NCO Law); Human Rights Watch, "Russia: Constitutional Court Upholds 'Foreign Agents' Law," 9 April 2014, <https://www.hrw.org/news/2014/04/08/russia-constitutional-court-upholds-foreign-agents-law> (accessed August 5, 2015).

can greatly hinder organizations operating in Russia by imposing administrative barriers and creating perceptions of treachery.<sup>792</sup>

Human Rights Watch has reported on the hostile conditions for human rights workers.<sup>793</sup> Amnesty International echoed those claims by reporting on imprisoned activists,<sup>794</sup> organizations facing harsh restrictions,<sup>795</sup> and even the forced psychiatric commitment of activists.<sup>796</sup>

Russia received a “Not Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with very poor scores for both political rights and civil liberties indicators.<sup>797</sup> The “Not Free” rating and other repressive policies suggest that efforts to combat domestic violence may be hindered by government repression.

### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include the “Consortium of Women’s Non-governmental Organizations, Amnesty International, Novgorod Gender Centre, the Russian LGBT Network, Front Line, International Commission of Jurists, Novgorod Gender Centre, and the Anti-Discrimination Centre “Memorial.” The National Centre for the Prevention of Violence (ANNA) is particularly active in protecting women’s human rights, including domestic violence. Russia appears to have an active civil society.

### *Monitoring Reports*

In 2010, four organizations published the report, *Domestic Violence in the South Baltic Region: Kaliningrad, Lithuania, Poland, and Sweden*.<sup>798</sup> The report describes statistics, laws, policies,

<sup>792</sup> The International Center for Not-for-Profit Law, *NGO Law Monitor: Russia* (7 May 2014), <http://www.icnl.org/research/monitor/russia.html> (accessed June 24, 2015); See also Human Rights Watch, “Russia: Constitutional Court Upholds ‘Foreign Agents’ Law.”

<sup>793</sup> Human Rights Watch, “Russia: Dangerous Climate for Human Rights Workers,” 4 October 2012, <http://www.hrw.org/news/2012/10/04/russia-dangerous-climate-human-rights-work> (accessed June 24, 2015); See also Tanya Lokshina, Russia’s Civil Society Crackdown Continues,” *Human Rights Watch*, 25 September 2012, <http://www.hrw.org/news/2012/09/25/russias-civil-society-crackdown-continues> (accessed June 24, 2015).

<sup>794</sup> Amnesty International, *Russia: Activist Sent to Prison for Three Years for Environmental Activism* (14 February 2014), <https://www.amnesty.org/en/documents/eur46/012/2014/en/> (accessed June 24, 2015); See also Amnesty International, *Russia: Civil Society Activist Arrested Ahead of Start of Sochi Olympics* (3 February 2014), <http://www.amnesty.org/en/for-media/press-releases/russia-civil-society-activist-arrested-ahead-start-sochi-olympics-2014-02-0> (accessed June 24, 2015).

<sup>795</sup> Amnesty International, “Russia: A Year on, Putin’s ‘Foreign Agents Law’ Choking Freedom,” 20 November 2013, <http://www.amnesty.org/en/news/russia-year-putin-s-foreign-agents-law-choking-freedom-2013-11-20> (accessed June 24, 2015).

<sup>796</sup> Amnesty International, *Russian Federation: Protester Sent to Mental Institution: Mikhail Kosenko* (13 October 2013), <https://www.amnesty.org/en/documents/eur46/049/2013/en/> (accessed June 24, 2015).

<sup>797</sup> On a seven-point scale with “1” representing the most free and “7” the least free rating, Russia received a “6” for Political Rights and a “6” for Civil Liberties. Freedom House, *Freedom in the World 2015*, 25.

<sup>798</sup> Network of East-West Women-NEWW Poland, Kretinga Women’s Information and Training Center, Women’s Shelter, Karlshamn, and The Union of Women of the Kaliningrad Region, *Domestic Violence in the South Baltic Region: Kaliningrad, Lithuania, Poland, and Sweden* (2010), <http://www.neww.org.pl/pliki/baltic/raport2.pdf> (accessed June 23, 2015).

and victim services in these four locations.<sup>799</sup> In Kaliningrad, for example, the militia is required to investigate all domestic violence reports. Victims are referred to a forensic expert to document their injuries and provide a report to the court. However, there is no specific unit to investigate these crimes, and victims are often required to bring their own witnesses.

Monitoring reports identify challenges in protecting victims and holding offenders accountable, which can help guide Russia in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Reports of the exact numbers of shelters vary. According to WAVE, 42 shelters throughout Russia serve victims of domestic violence and their children, with the majority of those shelters state-operated.<sup>800</sup> According to an NGO, as reported to the U.S. Department of State, the government operates 23 women's shelters.<sup>801</sup> Other shelters are operated by NGOs, with funding and support from private donations, international foundations, and volunteers. Under the WAVE data, Russia's 400 shelter spaces falls far short of the 14,191 spaces required by Council of Europe standards.<sup>802</sup> WAVE, in its 2014 report, calls Russia's situation "the most concerning."<sup>803</sup> There is one national women's helpline operated by an international women's NGO. It is free of charge and open 12 hours a day, seven days a week.<sup>804</sup> In 2013, 1,342 of the 7,633 calls made to the helpline concerned domestic violence.<sup>805</sup> There are 19 NGO-operated women's crisis centers that provide both walk-in and telephone support.<sup>806</sup>

There remains substantial room for improvement with regard to Russia's victim assistance, particularly with shelter spaces.

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<sup>799</sup> Ibid.

<sup>800</sup> Women Against Violence Europe, *Country Report 2013*, 172.

<sup>801</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Russia* (2015).

<sup>802</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>803</sup> Ibid., 37.

<sup>804</sup> Women Against Violence Europe, *Country Report 2013*, 172.

<sup>805</sup> Women Against Violence Europe, *Wave Report 2014*, 71.

<sup>806</sup> Women Against Violence Europe, *Country Report 2013*, 173.

## SERBIA

### Legal Landscape and Developments

The Criminal Code contains a specific offense for domestic violence. Article 194 of the Criminal Code punishes domestic violence by three months to five years. The punishment increases with aggravating factors up to a maximum of 15 years' imprisonment if the violence results in death.<sup>807</sup> The Criminal Procedure Code (CPC) was amended and entered into force in 2013 to shift responsibility for investigations to the prosecutors. There has also been significant restructuring of the prosecutorial and judicial system, shifting from an inquisitorial system to a more adversarial system.

The Serbian Family Law, adopted in 2005, addresses domestic violence and provides victims with an order for protection. The scope of the domestic violence provisions is inclusive and covers co-habitants and former co-habitants, as well as intimate partners and former intimate partners. Article 198 provides a protection order that offers several remedies, including eviction of the perpetrator from the family home, a warrant to move into the family home, and prohibitions against approaching a family member, nearing the family member's home or workplace, and further molesting the family member. Protective measures may last for a maximum of one year, with possible extension "until the reasons for which it had been ordered cease to exist."<sup>808</sup> Violation of a protection order is a crime, punishable by three months to three years' imprisonment and a fine.<sup>809</sup>

With the support and technical assistance of UNDP, Serbia has promulgated protocols to address domestic violence, including a protocol that addresses the roles of the Centers for Social Work, police, health care workers, educational institutions, and the judiciary.<sup>810</sup> In addition, the government has elaborated a general protocol to promote interagency cooperation in the response to domestic violence.<sup>811</sup> In 2011, the government adopted a National Strategy for the Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationships.<sup>812</sup> The strategy presents four goals, including prevention of violence,

<sup>807</sup> Criminal Code of Serbia, [C. Civ.] art. 194(4) (Serb.).

<sup>808</sup> Serbian Family Law, Part 9, arts. 198(3), 199 (2005),

<http://www.jafbase.fr/docEstEurope/Serbie/Draft%20Family%20Law%20-%20english.pdf>.

<sup>809</sup> Criminal Code of Serbia, [C. Civ.] art. 194(5) (Serb.).

<sup>810</sup> United Nations Development Programme, *Multisectoral Cooperation-Institutional Response to Violence against Women* (2013).

<sup>811</sup> Ministry of Justice and Public Administration of Serbia, *Special Protocol for the Judiciary in Cases of Violence against Women in the Family and Intimate Relationships*, 14 January 2014.

<sup>812</sup> *National Strategy for the Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationship*, Gender Equality Directorate, Ministry of Labour and Social Policy, Official Gazette of the Republic of Serbia No. 027/2011, 20 April 2011, 39.

improvement of the framework to protect women against violence, strengthening of interagency cooperation and building capacity, and improvement of victim protection and support.<sup>813</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Serbia participated in its first Universal Periodic Review process in 2008. Serbia's second UPR took place in January 2013. In its second report to the Human Rights Council, the government described several developments in the area of domestic violence.<sup>814</sup> Serbia's 2012 report described its signature of the Istanbul Convention earlier that year,<sup>815</sup> adoption of the Law on Gender Equality,<sup>816</sup> and expansion of its criminal law to address domestic violence through incriminating threats, assaults, endangerment of lives of family members, causing injuries, and murders.<sup>817</sup> Procedurally, the Criminal Code requires a trial within a reasonable time, psychological expertise evidence, and hearing from vulnerable categories of witnesses to domestic violence.<sup>818</sup> According to the report, Serbia adopted two protocols aimed at protecting women who are victims of domestic violence and which promote cooperation in areas of social policy, justice, internal affairs, and health in 2010 and 2011.<sup>819</sup> Serbia reported it improved access to justice, health care, and social care for women who are victims of domestic violence.<sup>820</sup>

During its second UPR in 2013, Serbia accepted recommendations related to gender equality, including the following that address domestic violence:

- Implement policies to combat and prevent domestic violence and to ensure impartial and prompt investigation and prosecution of perpetrators (Recommendation 131.20);
- Shorten the period for issuing protection orders for domestic violence and improve the effectiveness of criminal sanctions for violations of protection orders (Recommendation 131.21);
- Harmonize legal measures and policies to guarantee the rights of victims of domestic violence in accordance with international standards, for instance, by amending the Criminal Procedure Law that would expand the term 'family member' in the criminal offence of domestic violence to include a former spouse or partner (Recommendations 132.38, 132.39);
- Conduct awareness campaigns on domestic violence (Recommendations 132.40, 132.41)

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<sup>813</sup> Ibid., 39–53.

<sup>814</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Serbia*, 8 November 2012, U.N. Doc. A/HRC/WG.6/15/SRB/1, ¶¶ 52–59.

<sup>815</sup> Serbia subsequently ratified the Istanbul Convention in 2015.

<sup>816</sup> Ibid., ¶ 53.

<sup>817</sup> Ibid., ¶ 55.

<sup>818</sup> Ibid.

<sup>819</sup> Ibid., ¶ 57.

<sup>820</sup> Ibid., ¶ 59.



- Take additional measures on implementation of legislation protecting against domestic violence, including trainings for officials (Recommendations 132.40, 132.42, 132.43);
- Implement a national strategy to prevent and combat domestic violence (Recommendations 132.41, 132.42, 132.43, 132.47);
- Effectively combat domestic violence and establish shelters and support centers with medical, psychological and legal support (Recommendation 132.44).<sup>821</sup>

Serbia did not note any recommendations related to domestic violence.<sup>822</sup>

That Serbia has accepted all recommendations related to domestic violence, including amendments to its legislation, indicates a commitment to improving its response to domestic violence.

### Mechanisms for Government Accountability

Serbia has ratified CEDAW (1982), ICCPR (1971), and CAT (1991), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Serbia has also ratified the OP-CEDAW (2003) and OP1-ICCPR (2001), providing an additional means of accountability via the complaint mechanism.

One year after signature, Serbia ratified the Istanbul Convention in 2013, thus subjecting itself to review by GREVIO and the Committee of the Parties. The treaty entered into force on August 1, 2014. Only eighteen countries have ratified the Istanbul Convention, marking those States Parties—including Serbia—as leaders in committing to these standards on violence against women.

Serbia's ratification of the convention presents opportunities for improvement in the country with respect to violence against women, including domestic violence, because States party to the Istanbul Convention are required to take "necessary legislative and other measures" to prevent and punish violence against women.<sup>823</sup> Recent legal developments reflect some of the measures set forth in the convention, but further reform may be necessary to ensure full compliance throughout the entire country, both in the language and the implementation of laws.

Serbia is a candidate country for EU membership.<sup>824</sup> European Union membership may provide incentive for candidate countries to improve their human rights records. Often, EU progress

<sup>821</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Serbia*, 22 March 2013, U.N. Doc. A/HRC/23/15, ¶ 131-132.

<sup>822</sup> Ibid.

<sup>823</sup> Council of Europe. *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence*, 11 May 2011, CETS No. 210, art. 4, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed July 31, 2015).

<sup>824</sup> European Commission, *European Neighbourhood Policy and Enlargement Negotiations: Serbia* (21 January 2014), [http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/serbia/index_en.htm) (accessed August 5, 2015).

reports and opinions note goals and key priorities for the country that pertain to women's human rights. In its opinion on Serbia's application for membership, the European Commission does not specifically mention domestic violence or violence against women,<sup>825</sup> but the 2013 Progress Report states that more efforts are required to address domestic violence.<sup>826</sup> It states that data collection and sharing among sectors should be improved, and a national action plan on violence against women be adopted.<sup>827</sup>

#### *ECHR/CEDAW Cases and Implementation*

Serbia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. No complaints addressing domestic violence have been filed against Serbia before the ECHR. There have been no admissible complaints pertaining to domestic violence against Serbia brought before CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. In Serbia's 2013 CEDAW review, the CEDAW Committee expressed its concern regarding: (a) the increasing number of women murdered by their husbands or partners, and women victims of other forms of violence; (b) the significant disparity between the number of investigations, criminal charges, and convictions for domestic violence against women; (c) the significant obstacles faced by women seeking protection from domestic violence; (d) the lack of emergency protection orders, and (e) the lack of disaggregated data on all forms of violence against women.<sup>828</sup>

### **Strength of Civil Society**

Serbia allowed a variety of human rights organizations to operate within the country without many restrictions.<sup>829</sup> Serbia has a "Free" freedom status rating according to the Freedom House report, *Freedom in the World: 2015*.<sup>830</sup> The "Free" freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

#### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women's issues include Praxis, Internal Displacement Monitoring Centre, and the European Roma Rights

<sup>825</sup> *Commission Opinion on Serbia's application for membership of the European Union*, 12 October 2011, COM (2011) 668 final, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2011/package/sr\\_rapport\\_2011\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2011/package/sr_rapport_2011_en.pdf).

<sup>826</sup> *Commission Staff Working Document, Serbia: 2014 Progress Report*, 8 October 2014, COM (2014) 700 final, 47, available at [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20140108-serbia-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20140108-serbia-progress-report_en.pdf).

<sup>827</sup> See *Ibid.* at 47.

<sup>828</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined second and third periodic reports of Serbia*, 30 July 2013, U.N. Doc. CEDAW/C/SRB/CO/2-3.

<sup>829</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Serbia* (2013), § 5.

<sup>830</sup> Freedom House, *Freedom in the World 2015*, 25.

Centre. The Autonomous Women's Center also works on women's human rights issues, including domestic violence.

Serbia appears to have a strong and active civil society.

#### *Monitoring Reports*

Praxis published a report on gaps in the State's response to domestic violence in 2012. The report profiles seven victims' stories through which it highlights major barriers. These barriers include problems in collecting child support, delays in procedures on domestic violence, poor attitudes among systems actors, lenient punishments for domestic violence, weak enforcement of decisions on parent and child contacts, and the prioritization of warnings and misdemeanor charges over criminal-level prosecution.<sup>831</sup>

The Advocates for Human Rights and Autonomous Women's Center are due to publish a monitoring report on domestic violence in Serbia in 2016.

Such monitoring reports identify challenges in protecting victims and holding offenders accountable which can help guide Serbia in improving its response to domestic violence.

#### **Current Status of Efforts to Eliminate Violence against Women**

Reports on the number of shelters and safe houses vary. According to the 2014 WAVE report, there are 14 women's shelters, 5 of which are for women and children who have experienced violence.<sup>832</sup> The U.S. Department of State reports 12 NGO-operated safe houses throughout Serbia, which in some cases receive funding from local governments. There is also an emergency shelter in Sabac.<sup>833</sup> Under the data provided by WAVE, Serbia needs to provide 557 more shelter spaces to meet the Council of Europe Taskforce Recommendation standards.<sup>834</sup> There are 26 women's centers that provide counseling and are run by independent NGOs.<sup>835</sup> There is no national women's helpline in Serbia, but survivors of domestic abuse can call the one regional helpline or one of the twenty-four SOS hotlines run by NGOs.<sup>836</sup>

The provision of support services is a crucial component of an effective government response to domestic violence. The absence or shortage of victim services, such as a women's hotline, presents an opportunity for Serbia to provide and fund such services. Serbia's new obligation to comply with the Istanbul Convention may result in future improvements to its victim services.

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<sup>831</sup> Praxis, *The Weaknesses of the System of Protection against Domestic Violence in Seven Stories* (2012).

<sup>832</sup> Women Against Violence Europe, *Wave Report 2014*, 72.

<sup>833</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Serbia* (2015), § 6.

<sup>834</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>835</sup> *Ibid.*, 72.

<sup>836</sup> *Ibid.*

## SLOVAKIA

### Legal Landscape and Developments

Domestic violence in Slovakia is punished under a specific offense in the Criminal Code.<sup>837</sup> A wide range of physical acts, as well as the denial of basic necessities, may result in a prison sentence between three to eight years.<sup>838</sup> The sentence increases to seven to fifteen years with various aggravating factors, such as serious bodily harm or death or repeat violence.<sup>839</sup> In domestic violence cases, the prosecutor can initiate proceedings.<sup>840</sup> In 2011, Slovakia amended its Criminal Code to prohibit stalking, or long-term harassment that instills fear for the victim's or a close third person's life or health or that significantly impairs their quality of life.<sup>841</sup>

Slovakia does not have a specific domestic violence law that provides victims with an order for protection. Under 2008 amendments to the Act on the Police Force, Slovakia granted police officers the power to temporarily evict an offender from the shared residence if there is a risk that person will attack the life, health, freedom, or dignity of another person, particularly where there is a history of attacks in the past.<sup>842</sup> The offender may be banned from re-entering the dwelling for 48 hours.<sup>843</sup> A report by the Ministry of Labour, Social Affairs and the Family of Slovakia also clarifies that if a request for an injunction is filed during those 48 hours, the

<sup>837</sup> Criminal Code of Slovakia, [C. Civ.] art. 208, §1 (Sk.); European Institute for Gender Equality, *Review of the Implementation of the Beijing Platform for Action in the EU Member States: Violence Against Women- Victim Support, Report* (2012), 23, <http://eige.europa.eu/sites/default/files/Violence-against-Women-Victim-Support-Report.pdf>.

<sup>838</sup> Criminal Code of Slovakia, [C. Civ.] art. 208, §1 (Sk.). The specific acts include repeated beating, kicking, hitting, inflicting various types of wounds and burn wounds, humiliating, disregarding, continuous stalking, threatening, evoking fear or stress, by forced isolation, emotional extortion or by other improper conduct endangering his physical or psychological health, or putting his safety at risk, b) repeated and unjustified denial of food, rest or sleep, or denial of necessary personal care, basic clothing, elementary hygiene, health care, housing, upbringing or education, c) forcing to beggary or to a repeated performance of activities causing excessive physical strain or psychological stress for the person subject to ill-treatment considering his age or health condition, or damaging his health, d) repeated exposure to the effects of substances that are detrimental to his health, or e) unjustified restriction on his right of access to the assets that he is entitled to use and enjoy.

<sup>839</sup> Criminal Code of Slovakia, [C. Civ.] art. 208 §2, (Sk.).

<sup>840</sup> Council of Europe, Gender Equality Commission, *Analytical Study of the Results of the Fourth Round of Monitoring the Implementation of Recommendation Rec(2002)5 on the Protection of Women Against Violence in Council of Europe Member States*, 14 February 2014, GEC (2013) 10 rev 1, Appendix: Table 7.

<sup>841</sup> Criminal Code of Slovakia, [C. Civ.] art. 360(a), (Sk.).

<sup>842</sup> *Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcomes of the Twenty-Third Special Session of the General Assembly (2000) in the Context of the Twentieth Anniversary of the Fourth World Conference on Women: Review for Slovakia*, Department of Gender Equality and Equal Opportunities of the Ministry of Labour, Social Affairs and the Family of the Slovak Republic (2014), 16 (citing Act No. 491/2008 Coll. amending Act No. 171/1993 Coll. on the Police Force).

<sup>843</sup> *Ibid.*

eviction shall be extended until the court issues a decision on that injunction.<sup>844</sup> Based on the law's application in practice, the Slovak Parliament amended the Code of Civil Procedure to exclude weekends and public holidays from the 48-hour period.<sup>845</sup>

Slovakia has adopted other policies related to domestic violence. Slovakia enacted a National Action Plan for the Prevention and Elimination of Violence against Women for 2014-2019 to develop, implement and coordinate national policy on the issue.<sup>846</sup> The plan includes goals, such as drafting a law on domestic violence and violence against women and greater support for services and education.<sup>847</sup> Slovakia's policy recognizes gender-based violence as a crisis that qualifies the person at-risk, including women victims of violence, for an immediate social service response. This includes emergency accommodation facilities and social advising. Importantly, the law ensures confidentiality.<sup>848</sup> Slovakia currently lacks a government coordinating body for implementation of policies related to violence against women, but does monitor and evaluate the effectiveness of their policies through regular reporting.<sup>849</sup>

Slovakia provides training to police and social workers on violence against women, including prevention and intervention.<sup>850</sup> The government does not ensure training for lawyers or judges. This is an opportunity for improvement, particularly in tandem with any changes to the law.

In its report to the Human Rights Council, Slovakia stated it was establishing a Coordination and Methodology Centre for Violence against Women and Domestic Violence in 2014.<sup>851</sup> In April 2015, Slovakia created the centre, which focuses on a system of prevention and intervention, victim support, training for systems actors, and analysis of laws addressing violence against women.<sup>852</sup> It represents a first step toward a coordinated community response and serves as

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<sup>844</sup> Ibid.

<sup>845</sup> European Crime Prevention Network, *Slovakian Policy on Domestic Violence Legislation* (29 October 2014), 5, [http://eucpn.org/sites/default/files/content/download/files/po\\_sk\\_dv\\_leg\\_2015\\_0.pdf](http://eucpn.org/sites/default/files/content/download/files/po_sk_dv_leg_2015_0.pdf) (citing Law Amendment Act No 495 of 2009, entered into force January 1, 2010).

<sup>846</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Slovakia Addendum, Views on Conclusions and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, 12 June 2014, U.N. Doc. A/HRC/26/12/Add.1, ¶ 16.

<sup>847</sup> *Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcomes of the Twenty-Third Special Session of the General Assembly (2000) in the Context of the Twentieth Anniversary of the Fourth World Conference on Women: Review for Slovakia*, Department of Gender Equality and Equal Opportunities of the Ministry of Labour, Social Affairs and the Family of the Slovak Republic (2014), 14–15.

<sup>848</sup> Ibid., 16.

<sup>849</sup> Council of Europe, Gender Equality Commission, *Analytical Study of the Results of the Fourth Round of Monitoring the Implementation of Recommendation Rec(2002)5 on the Protection of Women Against Violence in Council of Europe Member States*, 14 February 2014, GEC (2013) 10 rev 1, Table 3.

<sup>850</sup> Ibid., Table 19b.

<sup>851</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Slovakia Addendum, Views on Conclusions and/or Recommendations, Voluntary Commitments and Replies Presented by the State Under Review*, 12 June 2014, U.N. Doc. A/HRC/26/12, ¶ 16.

<sup>852</sup> Committee on the Elimination of Discrimination against Women considers the report of Slovakia, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16748&LangID=E#sthash.9XyCilGd.puf>.

evidence that the government is prepared to implement a critical component of an effective domestic violence response.

Slovakia's lack of a comprehensive domestic violence law creates an agenda for advocacy, particularly given that its national action plan envisions the creation of such a law. Additionally, the current Law on Police Force presents an important opportunity for change, as 48 hours for an eviction is too short to provide a victim with effective protection. Furthermore, requiring a party to file a request to extend the eviction within that 48-hour period is too onerous and does not realistically reflect the victim's needs or the applicant's capacity to file an application within that timeframe.

## Government Will

### *Acceptance of UPR Recommendations*

Slovakia's first Universal Periodic Review (UPR) took place in 2009. Slovakia's second UPR took place in January – February 2014. In its report to the Human Right Council, the government of Slovakia stated it signed the Istanbul Convention, and the treaty was subject to national ratification procedure.<sup>853</sup> The report described national-level initiatives to combat violence against women, including the adoption of the National Action Plan for Prevention and Elimination of Violence against Women in Slovakia.<sup>854</sup> According to the report, the Institute for Research of Labour and Family submits an annual Report on Violence against Women to assess the scope and efficiency of support provided to victims.<sup>855</sup> A coordination center for violence against women and domestic violence will provide guidance on the prevention and elimination of violence, including a joint project with NGOs that focuses on perpetrators of domestic violence.<sup>856</sup> Also, the report noted that the Academy of Justice will incorporate curriculum on victims of crimes and violence against women and children and will focus on legal assistance to and the rights of victims of domestic violence.<sup>857</sup> Since 2008, specialized prosecutors have been assigned to deal with crimes involving domestic violence.<sup>858</sup> Finally, the report described regular trainings for prosecutors and a seminar on juvenile delinquency and violence against women scheduled for November 2013.<sup>859</sup>

During its second UPR in 2014, Slovakia accepted a number of recommendations on gender equality, including the following that address domestic violence:

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<sup>853</sup> Human Rights Council, Working Group on the Universal Periodic Review, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Slovakia*, 30 January 2013, U.N. Doc. A/HRC/WG.6/18/SVK/1, ¶ 9.

<sup>854</sup> *Ibid.*, ¶ 20.

<sup>855</sup> *Ibid.*

<sup>856</sup> *Ibid.*

<sup>857</sup> *Ibid.*

<sup>858</sup> *Ibid.*, ¶ 33.

<sup>859</sup> *Ibid.*

- Expedite its implementation of the measures to ensure equality for men and women (Recommendation 110.33);
- Take steps to ensure equality between men and women that guarantee non-discrimination and gender equality (Recommendation 110.34);
- Strengthen measures aimed at ensuring gender equality as well as preventing violence against women (Recommendation 110.35);
- Consider adopting measures to prevent gender-based violence, including amending legislation to include such an offence (Recommendation 110.71).<sup>860</sup>

Slovakia did not note any recommendations related to domestic violence.<sup>861</sup>

The Human Rights Council identified discrimination against the Roma and other marginalized populations as an ongoing problem, with Roma women facing additional hurdles.<sup>862</sup> Slovakia must commit to protect all women from domestic violence, regardless of ethnic origin. Further education of the general public and government officials is necessary to decrease overall prevalence of violence against all women and also to increase reporting rates.<sup>863</sup> While Slovakia has voiced its commitment to improving the legal and institutional framework for domestic violence victims, it must extend that same commitment to all women, particularly those from marginalized populations.

### **Mechanisms for Government Accountability**

Slovakia has ratified CEDAW (1993), ICCPR (1993), and CAT (1993), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Slovakia has also ratified the OP-CEDAW (2000) and OP1-ICCPR (1993), providing an additional means of accountability via the complaint mechanism. Slovakia signed the Istanbul Convention in 2011, signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards. Slovakia has been a member of the European Union since 2004. Comparative EU studies, such as the violence against women

<sup>860</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Slovakia*, 26 March 2014, U.N. Doc. A/HRC/26/12, p 110; Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Slovakia Addendum*, 12 June 2014, U.N. Doc. A/HRC/26/12/Add.1, ¶ 16.

<sup>861</sup> Ibid.

<sup>862</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Slovakia*, 26 March 2014, U.N. Doc. A/HRC/26/12; Human Rights Council, Working Group on the Universal Periodic Review, *Compilation Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15 (b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21: Slovakia*, 11 November 2013, U.N. Doc. A/HRC/WG.6/18/SVK/2, ¶ 24.

<sup>863</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Compilation Prepared by the Office of the United Nations High Commissioner for Human Rights in Accordance with Paragraph 15 (b) of the Annex to Human Rights Council Resolution 5/1 and Paragraph 5 of the Annex to Council Resolution 16/21: Slovakia*, 11 November 2013, U.N. Doc. A/HRC/WG.6/18/SVK/2, ¶ 24.

survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>864</sup>

#### *ECHR/CEDAW Cases and Implementation*

Slovakia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate domestic violence reform. Slovakia has been the subject of four ECHR cases pertaining to domestic violence. As of July 2014, there is one communication against Slovakia before the CEDAW Committee described as being in the pre-admissibility stage.

In the 2011 case, *V.C. v. Slovakia*,<sup>865</sup> the court found violations of Article 3, protection from torture or inhumane or degrading torture or punishment,<sup>866</sup> and Article 8, the right to respect of private and family life.<sup>867</sup> The applicant was a Roma woman who, during the birth of her second child, was sterilized in a state hospital without her free and full consent.<sup>868</sup> The court determined the state has an additional duty to protect those of discriminated populations and to ensure all citizens have the freedom to make private decisions relating to their physical integrity and to their family life.<sup>869</sup> The applicant also alleged violations of Articles 12 and 14, but the court found ruling on these articles to be redundant considering its decision on Article 8.<sup>870</sup> In addition, the court granted reparations to the applicant because it ruled the previous state reparations had been insufficient.<sup>871</sup>

In the 2010 case of *Hajduova v. Slovakia*,<sup>872</sup> the court found Slovakia failed to fulfill its protection obligations after a woman's then-husband attacked her verbally and physically in public. Fearing for her life, she and her children fled to a shelter. The prosecutor brought criminal charges against the husband, and during the criminal proceedings, experts established he suffered from a serious personality disorder. Upon release from a psychiatric hospital after a short stay, the husband verbally attacked the woman and her lawyer, and police arrested him after he threatened the lawyer a second time. Again, the court arranged for psychiatric treatment. The woman argued that her husband should have been detained for psychiatric treatment after his first arrest, but the Slovakian Constitutional Court rejected her argument. The court found a violation of Article 8, protecting the right to respect for private and family life, because Slovakia failed to fulfill its positive obligations to protect victims of domestic violence. Reiterating its earlier decisions, the court affirmed the existence of an affirmative duty to prevent and protect

<sup>864</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.

<sup>865</sup> *V.C. v. Slovakia*, No. 18968/07, ECHR (2011), ¶ 88.

<sup>866</sup> *Ibid.*, ¶ 106, 112, 116, 120.

<sup>867</sup> *Ibid.*, ¶ 130.

<sup>868</sup> *Ibid.*, ¶ 8, 88.

<sup>869</sup> *Ibid.*, ¶ 154–155.

<sup>870</sup> *Ibid.*, ¶ 161, 180.

<sup>871</sup> *Ibid.*, ¶ 184, 188.

<sup>872</sup> *Hajduova v. Slovakia*, No. 2660/03, ECHR (2010), ¶ 6.



victims from domestic violence. Although the court commended the work of the police, it held that Slovakia failed to meet its obligations because it did not hold the husband until the completion of psychiatric treatment, as required by domestic law, and its omission subjected the woman and her lawyer to additional abuse that could have been easily prevented.<sup>873</sup>

In the 2007 decision *Kontrová v. Slovakia*,<sup>874</sup> the court determined that Slovakia failed to protect the right to life under the European Convention. The applicant filed a criminal complaint against her husband for assaulting and beating her, but, apparently under the husband's duress, she subsequently asked to modify the complaint so his actions would be treated as a minor offense.<sup>875</sup> Shortly thereafter, the husband shot and killed their daughter and son.<sup>876</sup> The authorities were aware of the situation in the applicant's family and her earlier allegation that he had a shotgun and threatened to use it; this gave rise to an obligation for the authorities to launch a criminal investigation and proceedings.<sup>877</sup> It was found that the government also violated her right to an effective remedy because she was unable to apply for compensation for non-pecuniary damages.<sup>878</sup>

In the 2009 judgment, *E.S. and Others v. Slovakia*,<sup>879</sup> the applicant lodged a criminal complaint against her husband for abuse and sexual abuse of one of their daughters. He was convicted two years later. Her request to evict him from their home, however, was dismissed because it related to his access to property.<sup>880</sup> As a result, the applicant and her children were compelled to move, and the children forced to change schools.<sup>881</sup> The ECHR held that Slovakia violated the prohibition of inhuman and degrading treatment and the right to private and family life because the children needed immediate protection from the courts and because the applicant was not able to exclude the husband from the home until completion of their divorce or until the law was amended.<sup>882</sup>

#### *Concluding Observations – Treaty Bodies*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence and provide guidance on appropriate reforms. During Slovakia's 2015 CEDAW review, the CEDAW Committee expressed its concern regarding: (a) the long delay in adopting various measures for combating violence against women and domestic violence; (b) the underreporting of violence against women; (c) the low number of prosecutions and convictions of perpetrators; (d) the lack of a coordinated system for

<sup>873</sup> Ibid., ¶ 50.

<sup>874</sup> *Kontrová v. Slovakia*, No. 7510/04, ECHR (2007), ¶ 55.

<sup>875</sup> Ibid., ¶ 8–10.

<sup>876</sup> Ibid., ¶ 14.

<sup>877</sup> Ibid., ¶ 52–53.

<sup>878</sup> Ibid., ¶ 65.

<sup>879</sup> *E.S. and Others v. Slovakia*, no. 8227/04, ECHR (2009), ¶ 8.

<sup>880</sup> Ibid., ¶ 13, 43.

<sup>881</sup> Ibid., ¶ 10.

<sup>882</sup> Ibid., ¶ 43.

preventative measures and victim assistance; and (e) the high prevalence of gender-based violence and harmful practices against women, including sale of women and forced marriages.<sup>883</sup>

During Slovakia's 2015 CAT review, the Committee against Torture expressed concern that domestic violence is not a separate crime under the Criminal Code, the wide prevalence of violence against women and the low number of complaints, and the low number of investigations and prosecutions involving cases of violence against women.<sup>884</sup>

### Strength of Civil Society

Slovakia allowed a variety of human rights organizations to operate within the country without many restrictions, though at times the government was reported to view some of the projects with “suspicion or mistrust.”<sup>885</sup> Slovakia received a “Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>886</sup> Slovakia received few negative remarks regarding government repression of civil society groups. The “Free” freedom status rating suggests efforts to combat domestic violence would not be hindered by government repression.

#### Women's Rights Organizations

Organizations that have submitted shadow reports to CEDAW on relevant women's issues include the Alliance of Women in Slovakia, EsFem, Fenestra, the Centre on Housing Rights and Evictions, the Milan Šimečka Foundation, and the Cultural Association of Roma in Slovakia. The NGO community is fairly engaged.<sup>887</sup> Slovakia appears to have a strong and active civil society.

#### Monitoring Reports

A monitoring report on violence against women was published in 2012 in Slovak by the Institute for Labor and Family Research.<sup>888</sup> No other recent monitoring reports on domestic violence in Slovakia have been identified.

### Current Status of Efforts to Eliminate Violence against Women

There are two women's shelters providing 31 beds for victims and their children.<sup>889</sup> There is one national helpline for women available 24 hours per day, 7 days a week in multiple languages, but

<sup>883</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fifth and sixth periodic reports of Slovakia (advance unedited version)*, 20 November 2015, U.N. Doc. CEDAW/C/SVK/CO/5-6.

<sup>884</sup> Committee against Torture, *Concluding observations on the third periodic report of Slovakia*, 8 September 2015, U.N. Doc. CAT/C/SVK/CO/3.

<sup>885</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Slovakia* (2015), § 5.

<sup>886</sup> Freedom House, *Freedom in the World 2015*, 25.

<sup>887</sup> In response to UPR inquiries about ratification of the Council of Europe Convention on preventing violence against women, the Slovakian delegation reported that “[b]earing in mind that comments had been received from more than 100 NGOs . . .” it would continue discussion of the document. Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review, Slovakia*, 26 March 2014, U.N. Doc. A/HRC/26/12, ¶ 77.

<sup>888</sup> Barbora Holubová, *Report on Violence Against Women for the Year 2011* (Inštitút for Labour and Family Research, 2012); Barbora Holubová, *Monitoring Social Services for Women Experiencing Violence and Their Children in Terms of European Standards*, (Inštitút for Labour and Family Research, 2012).

it is not free-of-charge.<sup>890</sup> Slovakia has five women's centers for victims.<sup>891</sup> Slovakia's Ministry of Labour, Social Affairs and Family acknowledged that it lacks comprehensive victim services and collaboration.<sup>892</sup> The government must devote additional financial support to shelter and other resources, including 511 more shelter spaces, for victims to reach the standards set by the Council of Europe Taskforce Recommendations.<sup>893</sup>

Slovakia has, however, undertaken steps to address these issues. In its last UPR review, Slovakia noted that the National Action Plan for the Prevention and Elimination of Violence against Women for 2014-2019 includes "solutions for institutional support for victims of violence against women and domestic violence."<sup>894</sup> Slovakia also announced a project funded by the European Social Fund to develop and test a response system that will include a national, free hotline that operates 24 hours per day, 7 days a week, a network for 20 counseling centers across the country, and a network for women's shelters that will provide 110 family places (one family place can shelter a mother and two children).<sup>895</sup>

The provision of support services is a crucial component of an effective government response to domestic violence, and the government's stated commitment to increasing these services is a good indicator of its will toward reform. In addition, Slovakia is likely to be held accountable to increasing these services and resources. Since this issue has been identified by both the government and by reviewing bodies, including the Council of Europe and United Nations, there is good opportunity to push for reform and provide support and training as Slovakia works to improve the services and resources available to women.

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<sup>889</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>890</sup> *Ibid.*, 25.

<sup>891</sup> *Ibid.*, 72.

<sup>892</sup> Council of Europe, *Reply from the Slovak Republic to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties*, 28 January 2015, GRETA(2015)2, 10,

[http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public\\_R\\_Q/GRETA\\_2015\\_2\\_RQ\\_SVK.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/Source/Public_R_Q/GRETA_2015_2_RQ_SVK.pdf).

<sup>893</sup> Women Against Violence Europe, *Wave Report 2014*, 32.

<sup>894</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Slovakia*, 26 March 2014, U.N. Doc. A/HRC/26/12, ¶ 46.

<sup>895</sup> *Implementation of the Beijing Declaration and Platform for Action (1995) and the Outcomes of the Twenty-Third Special Session of the General Assembly (2000) in the Context of the Twentieth Anniversary of the Fourth World Conference on Women: Review for Slovakia*, Department of Gender Equality and Equal Opportunities of the Ministry of Labour, Social Affairs and the Family of the Slovak Republic (2014), 17–18, [http://www.unwomen.org/~media/Headquarters/Attachments/Sections/CSW/59/National\\_reviews/Slovakia\\_review\\_Beijing20.pdf](http://www.unwomen.org/~media/Headquarters/Attachments/Sections/CSW/59/National_reviews/Slovakia_review_Beijing20.pdf).

## SLOVENIA

### Legal Landscape and Developments

Slovenia specifically criminalizes domestic violence. Previously, offenders were charged under the Criminal Code with the general offense of violent conduct.<sup>896</sup> In 2008, Slovenia reclassified domestic violence as a separate criminal offense. Article 191 of the Criminal Code addresses “Family Violence” and includes threats, limitations on freedom of movement, stalking, or actions by the perpetrator that “in any other way puts them into a subordinate position by aggressively limiting their equal rights.”<sup>897</sup> The punishment is imprisonment for up to five years.<sup>898</sup> The law reduces the punishment to up to three years for people “with whom the perpetrator lived in a family or other permanent community” if that community has dissolved. Presumably, the Criminal Code lessens punishment for domestic violence against ex-spouses and former family members.<sup>899</sup> Rape, including spousal rape, is illegal, and the penalty is one to ten years’ imprisonment. The police actively prosecute rape cases, but rape is greatly underreported by victims.<sup>900</sup>

Slovenia was one of the first countries in the region to provide victim protection through an eviction remedy. A 1999 amendment to the Criminal Code authorized courts to remove an offender from the household to prevent domestic violence.<sup>901</sup> Since then, the Rules on Restraining Order Prohibiting Approach to a Certain Location or Person (no. 95/2004), and codified in Article 39A of the Police Act, were adopted and entered into force in 2004. An offender can be broadly prohibited against approaching the person’s residence, workplace, school, place of care, and any other places the victim might visit. Importantly, the restraining order against the person or location includes a ban on harassment through communication media.<sup>902</sup> Violation of the restraining order provision is penalized by fine as a misdemeanor

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<sup>896</sup> Previously Article 299 of the Criminal Code. See Government of the Republic of Slovenia, *Report presented by Minister of Justice of the Republic of Slovenia, 29<sup>th</sup> Conference of Council of Europe Ministers of Justice “Breaking the silence – united against domestic violence” 17-19 June 2009, Tromsø, Norway (2009)*, 1, <http://www.coe.int/t/dghl/standardsetting/minjust/mju29/Breaking%20the%20silence%20-%20Report%20presented%20by%20the%20Minister%20of%20Justice%20of%20the%20Republic%20of%20SLOVENIA.pdf>.

<sup>897</sup> Criminal Code of Slovenia, [C. Civ.] Ch. 21, art. 191, sub. 1 (Slovn.).

<sup>898</sup> *Ibid.*

<sup>899</sup> *Ibid.*, sub. 3.

<sup>900</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Slovenia* (2015), § 6.

<sup>901</sup> Zorana Medarić, *Domestic Violence against Women in Slovenia: A Public Problem?* *Rev. Soc. Polit.*, god. 18, br. 1, str. 25-45 (2011), 30 [hereinafter Medarić, *Domestic Violence against Women in Slovenia*].

<sup>902</sup> *Ibid.*, 31 (citing Rules on Restraining Order Prohibiting Approach to a Certain Location or Person, Official Gazette of the Republic of Slovenia, no. 95/2004, art. 2).

offense.<sup>903</sup> While the initial period for a restraining order is 48 hours by police issuance, an investigating judge may extend restraining orders from ten to sixty days under Article 39b.<sup>904</sup> In 2008, Slovenia adopted the Domestic Violence Prevention Act, which provides additional civil remedies. The law includes persons having a child together and persons living in a common household, in addition to spouses and cohabiting partners under the definition of family members.<sup>905</sup> Legal assistance may be available for the victim to file an application seeking protection.<sup>906</sup> The law provides victims with remedies that prohibit the offender from:

- entering the home where the victim resides;
- coming within a specified distance to the victim's residence;
- coming near places the victim regularly frequents (such as the workplace, school, or preschool facility);
- contacting the victim in any way, including via distance communication; and
- setting up any kind of meeting with the victim.<sup>907</sup>

The remedies may be ordered for up to six months, subject to an additional six months' extension upon request by the victim.<sup>908</sup> While the law also allows the court to order the victim's exclusive use of the shared accommodation for up to six months, it charges the victim with the responsibility of paying the home's basic expenses during her exclusive use. Furthermore, the perpetrator can require the victim to pay him remuneration for her exclusive use of the home if it accords with the "principle of equity."<sup>909</sup>

Slovenia has adopted other policies pertaining to domestic violence. In 2009, Slovenia created a set of rules aimed at enhancing cross-institutional operations on domestic violence.<sup>910</sup> That same year, the National Assembly adopted a "Resolution on the 2009-2014 National Programme on Prevention of Family Violence," which provides comprehensive guidance for the State on addressing family violence.<sup>911</sup> The resolution, which was adopted without any votes opposing it, defines family violence, a network of authorities, and organizations to address family violence; it also ensures a coordinated response to violence and measures for victim protection.<sup>912</sup>

<sup>903</sup> Police Act of the Republic of Slovenia, sec. III, art. 39a, <http://www.policija.si/eng/images/stories/Legislation/pdf/PoliceAct2007.pdf>.

<sup>904</sup> Ibid., sec. III, art. 39b.

<sup>905</sup> Slovenia Family Violence Prevention Act (ZPND) art. 2, [http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti\\_\\_pdf/zpnd\\_en.pdf](http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti__pdf/zpnd_en.pdf).

<sup>906</sup> Ibid., art. 8.

<sup>907</sup> Ibid., art. 19(1).

<sup>908</sup> Ibid., art. 19(4).

<sup>909</sup> Ibid., art. 21(6).

<sup>910</sup> Medarić, *Domestic Violence against Women in Slovenia*, 29.

<sup>911</sup> Government of the Republic of Slovenia, Resolution on the 1009-2014 National Programme on Prevention of Family Violence (27 May 2009), [http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti\\_\\_pdf/resolution\\_prevention\\_familij\\_violence\\_09\\_14.pdf](http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti__pdf/resolution_prevention_familij_violence_09_14.pdf).

<sup>912</sup> Ibid.

Slovenia appears to have political will to promulgate laws and policies on domestic violence. It was one of the earliest countries in the region to adopt an order removing a violent offender from the home. It codified this further through the 2008 civil domestic violence law, overcoming traditional attitudes. One article noted the political debate leading up to the 2008 law was “permeated with bias, stereotypical attitudes, the conceptions of conventional wisdom, and sexist attitudes towards domestic violence.”<sup>913</sup> This bias remains in the current domestic violence law, particularly with regard to the provision that allows a perpetrator to demand remuneration from a victim who remains in the home under the court order. Also, six months for a protection order does not meet the minimum recommended duration of one year.<sup>914</sup> In 2013, the civil domestic violence law was amended to allow police to take violators of restraining orders into custody.<sup>915</sup>

## Government Will

### *Acceptance of UPR Recommendations*

Slovenia participated in its first Universal Periodic Review (UPR) session in 2010. During this review, Slovenia rejected the recommendation to adopt a domestic violence law because of its existing penal code structure. Specifically, it stated that the Criminal Code and Minor Offences Act already define criminal offenses and punishments.<sup>916</sup>

Slovenia’s second UPR took place in October – November 2014. In its second report to the Human Rights Council, Slovenia described a number of measures it had undertaken to address violence against women and domestic violence. According to the report, the Criminal Code defines the crime against marriage, family and children, and the Family Violence Prevention Act also addresses domestic violence and has accompanying rules.<sup>917</sup> In 2009, Slovenia promulgated the Resolution on the 2009–2014 National Programme on Prevention of Family Violence, which seeks to strengthen ministerial cooperation, conduct public awareness campaigns, and set forth activities to prevent domestic violence.<sup>918</sup> The report described the 2013 Police Tasks and Powers Act, which authorizes officers to impose restraining orders on offenders regardless of where they apprehend the offender, as well as detain and fine repeat offenders. Educational personnel can receive information about restraining orders for a child victim when a school is part of a restraining order.<sup>919</sup> Finally, the report acknowledged civil society’s concern about the

<sup>913</sup> Medarić, *Domestic Violence against Women in Slovenia*, 31.

<sup>914</sup> See UN Women Virtual Knowledge Centre to End Violence against Women and Girls, *Time Limits on Protection Orders*, <http://www.endvawnow.org/en/articles/416-time-limits-on-protection-orders.html?next=417>.

<sup>915</sup> International Human Rights Instruments, *Common core document forming part of the reports of States parties, Slovenia*, 27 January 2015, U.N. Doc. HRI/CORE/SVN/2014, ¶ 196.

<sup>916</sup> Human Rights Council, *Report of the Working Group on Universal Periodic Review: Slovenia Addendum*, 23 March 2010, U.N. Doc. A/HRC/14/15/Add.1, ¶ 32.

<sup>917</sup> Human Rights Council, *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Slovenia*, 15 August 2014, U. N. Doc. A/HRC/WG.6/20/SVN/1, ¶¶ 72–73.

<sup>918</sup> *Ibid.*, ¶ 73.

<sup>919</sup> *Ibid.*, ¶ 77.

amended Article 135 of the Criminal Code, which renders threats to the security of another person subject to private prosecution.<sup>920</sup>

During its second UPR in 2014, Slovenia accepted recommendations related to gender equality, including the following that address violence against women:

- Establish an institutional mechanism to combat discrimination and violence against women and children, particularly children from minority peoples (Recommendation 115.111).

The following recommendations relating to violence against women Slovenia considered already implemented or in the process of implementation:

- Ratify the Istanbul Convention, which it signed on 8 September 2011 (Recommendation 115.18);
- Prosecute all forms of violence, including domestic violence (Recommendation 115.104);
- Ensure implementation of the national program of family violence prevention (Recommendation 115.106);
- Adopt a national strategy on combating domestic violence (Recommendations 115.105, 115.107, 115.108);
- Strengthen the measures undertaken to combat domestic violence in general and violence against children in particular (Recommendation 115.109);
- Broaden the definition of violence in the Law on the Prevention of Domestic Violence to meet international standards, with a view to eliminating all forms of violence against women and girls (Recommendation 115.110).<sup>921</sup>

Slovenia stated that it considered the activities to implement those recommendations related to strengthening domestic violence prevention and enforcement to be ongoing. It also referenced a “new resolution on equal opportunities of women and men that includes specific measures to address violence against women.”<sup>922</sup>

Slovenia did not note any specific recommendations related to domestic violence, but noted the recommendation to develop human rights indicators to more precisely evaluate the

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<sup>920</sup> Ibid., ¶ 80.

<sup>921</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Slovenia*, 10 December 2014, U.N. Doc. A/HRC/28/15, ¶ 115; Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Slovenia Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 4 March 2015, U.N. Doc. A/HRC/28/15/Add.1, Rec. 105, ¶¶ 3-4.

<sup>922</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Slovenia Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 4 March 2015, U.N. Doc. A/HRC/28/15/Add.1, Rec. 105.

implementation of human rights.<sup>923</sup> The government explained that it had no plans to develop such indicators and that such progress could be evaluated through monitoring reports of national action plans and state statistics.<sup>924</sup>

That Slovenia has accepted all recommendations related to domestic violence indicates a commitment to improving its response to domestic violence. It has already implemented Recommendation 115.18, by ratifying the Istanbul Convention on February 5, 2015.

### **Mechanisms for Government Accountability**

Slovenia has ratified CEDAW (1992), ICCPR (1992), and CAT (1992), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Slovenia has also ratified the OP-CEDAW (2004) and OP1-ICCPR (1993), providing an additional means of accountability via the complaint mechanism. Slovenia ratified the Istanbul Convention on February 5, 2015 (entry into force in June of 2015), signaling its intention to combat violence against women. Only eighteen countries have ratified the Istanbul Convention, marking those States Parties – including Slovenia – as leaders in committing to these standards on violence against women.

Slovenia has been a member of the EU since 2004. In the 2009 Resolution, Slovenia expressly notes that the criminalization of family violence is necessary for fulfilling obligations to the European Union.<sup>925</sup> The enactment of the Resolution as well as the exploration of comparative practices within the EU indicates that Slovenia takes its obligations to those member organizations seriously. The accountability provided by membership and reporting is an important tool for ongoing reform. Furthermore, comparative EU studies, such as the violence against women survey, conducted by the EU Agency for Fundamental Rights, can serve as a monitoring tool to identify gaps and encourage reform in EU member states.<sup>926</sup>

### *ECHR/CEDAW Cases and Implementation*

Slovenia has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvement in, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought against Slovenia before

<sup>923</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Slovenia*, 10 December 2014, U.N. Doc. A/HRC/28/15, Rec. 115.27; Human Rights Council, *Report of the Working Group on the Universal Periodic Review, Slovenia, Addendum: Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review*, 4 March 2015, U.N. Doc. A/HRC/28/15/Add.1, ¶ 5, Rec. 105.27.

<sup>924</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Slovenia Addendum*, 4 March 2015, U.N. Doc. A/HRC/28/15/Add.1, ¶ 5, Rec. 105.27.

<sup>925</sup> Government of the Republic of Slovenia, Resolution on the 1009-2014 National Programme on Prevention of Family Violence (27 May 2009), 6, [http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti\\_\\_pdf/resolution\\_prevention\\_familij\\_violence\\_09\\_14.pdf](http://www.mddsz.gov.si/fileadmin/mddsz.gov.si/pageuploads/dokumenti__pdf/resolution_prevention_familij_violence_09_14.pdf).

<sup>926</sup> European Union Agency for Fundamental Rights, *Violence against Women: An EU-Wide Survey* (2014), <http://fra.europa.eu/en/publication/2014/violence-against-women-euwide-survey>.



the ECHR. There have been no admissible complaints pertaining to domestic violence against Slovenia brought before CEDAW.

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence and provide guidance on appropriate reforms. During Slovenia's 2011 CAT review, the CAT Committee recommended Slovenia strengthen efforts to prevent, prosecute, and punish violence against women and promote effective implementation of laws and policies, including the National Programme of Family Violence Prevention for the period 2009–2014. It encouraged Slovenia to raise awareness and train systems actors on domestic violence.<sup>927</sup>

During Slovenia's 2015 CEDAW review, the CEDAW Committee expressed its concern regarding: (a) the failure to prohibit all forms of violence against women in private and public spheres; (b) the lenient sentences given to perpetrators of violence against women; (c) the insufficient number of shelters and crisis centers for women victims of violence; (d) the limited effectiveness of protections afforded to women victims; and (e) the lack of disaggregated data on violence against women.<sup>928</sup>

#### **Strength of Civil Society**

Slovenia allowed a variety of human rights organizations to operate within the country without restrictions.<sup>929</sup> Slovenia received a “Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>930</sup> Slovenia received few negative remarks regarding government repression of civil society groups. Notably, NGOs also played a key role in preparing the 2008 domestic violence law, which was adopted after years of “efforts of non-governmental organizations...directed toward the recognition of domestic violence as a specific problem.”<sup>931</sup>

The “Free” freedom status rating suggests that efforts to combat domestic violence would not be hindered by government repression.

#### *Women's Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women's issues include the Association SOS-Helpline, which has been in place since 1989, the Association Women's Lobby of Slovenia, CEE Network for Gender Issues, the Association for Nonviolent Communication, Society Ključ, Society for Awareness and Protection –

<sup>927</sup> Committee against Torture, *Consideration of reports submitted by States parties under article 19 of the Convention Concluding observations of the Committee against Torture: Slovenia*, 20 June 2011, U.N. Doc. CAT/C/SVN/CO/3, ¶ 15.

<sup>928</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined fifth and sixth periodic reports of Slovenia (advance unedited version)*, 20 November 2015, U.N. Doc. CEDAW/C/SVN/CO/5-6.

<sup>929</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Slovenia* (2015), § 5.

<sup>930</sup> Freedom House, *Freedom in the World 2015*, 25.

<sup>931</sup> Medarić, *Domestic Violence against Women in Slovenia*, 29.

Antidiscrimination Center, Peace Institute, and the Legal-Informational Centre for NGOs-PIC. Other groups that have been active on women's issues include the Women's Counselling Service and the Association Against Violent Communication (Drustvo za Nenasilno Komunikacijo).<sup>932</sup>

### *Monitoring Reports*

No recent monitoring reports by outside groups on domestic violence in Slovenia have been identified. The combination of Slovenia's demonstrated, strong commitment to combating domestic violence and the absence of monitoring to identify gaps is not necessarily a drawback; rather, this combination suggests Slovenia may be a good candidate for improving its response to domestic violence upon detection of those gaps.

### **Current Status of Efforts to Eliminate Violence against Women**

The exact numbers of shelters and safe homes varies. The 2014 WAVE report notes 249 beds available in 16 women's shelters, along with 13 crisis center spaces and 183 maternity home spaces.<sup>933</sup> The U.S. Department of State reports 430 beds provided in shelters and maternity homes, along with an additional 46 adult beds in crisis housing.<sup>934</sup> The government provided partial funding for these places of refuge.<sup>935</sup> Under the WAVE data, Slovenia meets the Council of Europe Taskforce Recommendations for provision of women's shelters.<sup>936</sup> These facilities are primarily operated by NGOs.<sup>937</sup> There is one national women's helpline that is offered free-of-charge for limited weekday hours (12:00p.m. to 10:00p.m.) and weekend and holiday hours (6:00p.m. to 10:00p.m.).<sup>938</sup> Slovenia does not meet the Council of Europe Taskforce Recommendations for a national hotline.<sup>939</sup> There are eight women's centers that provide counseling.<sup>940</sup>

Slovenia rates well for the proportionality of shelter places relative to population size, and it is one of only three countries to meet the Council of Europe Taskforce Recommendations.<sup>941</sup> Its ongoing commitment to ensuring refuge for victims who flee domestic violence, along with an eviction remedy to remove a violent perpetrator, signals a strong commitment to protecting victim safety.

<sup>932</sup> Ibid., 30.

<sup>933</sup> Women Against Violence Europe, *Wave Report 2014*, 73.

<sup>934</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Slovenia* (2015).

<sup>935</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Slovenia* (2014), § 6.

<sup>936</sup> Women Against Violence Europe, *Wave Report 2014*, 73.

<sup>937</sup> Women Against Violence Europe, *Country Report 2013*, 183.

<sup>938</sup> Ibid.

<sup>939</sup> Women Against Violence Europe, *Wave Report 2014*, 73.

<sup>940</sup> Ibid.

<sup>941</sup> Prof. Dr. Carol Hagemann-White, *Protecting women against violence: Analytical study of the results of the third round of monitoring the implementation of Recommendation Rec (2002) 5 on the protection of women against violence in Council of Europe member states* (2010), 20, [http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-against-women/cdeg\\_2010\\_12en.pdf](http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-against-women/cdeg_2010_12en.pdf); Women Against Violence Europe, *Wave Report 2014*, 33.

## TAJIKISTAN

### Legal Landscape and Developments

The Criminal Code punishes various levels of bodily injury (Arts. 110-115, 118-119), threats of bodily injury (Art. 120), assault (Art. 116), and torture (Art. 117).<sup>942</sup> There is no specific crime of domestic violence under Tajikistan's Criminal Code.

In 2013, Tajikistan adopted a specific domestic violence law that provides victims with an order for protection.<sup>943</sup> The law provides for police-issued protective orders<sup>944</sup> and free medical and legal assistance to victims. Those convicted of domestic abuse will be fined and sentenced to five to fifteen days in jail. Victims are encouraged to obtain assistance from centers, where they can also find temporary shelter. With a focus on prevention, family counseling and psychological counseling are a few of the preemptive measures provided through the new law.<sup>945</sup> The domestic violence law reportedly falls short of international best practice standards.<sup>946</sup> In 2014, the government of Tajikistan adopted an action plan to implement the domestic violence law, which calls for training of and increased cooperation among systems actors.<sup>947</sup>

The government has adopted a State Program on the Prevention of Domestic Violence Action Plan to implement the domestic violence law (2014-2023).<sup>948</sup> The plan envisions biannual reporting to the Committee of Women and Family Affairs on implementation of the law.<sup>949</sup> The plan sets forth a number of goals, including strengthening laws on domestic violence, shifting public attitudes, raising public awareness of the law on domestic violence, strengthening the prevention role that institutions can play, and improving coordination among state and public organizations in preventing domestic violence.<sup>950</sup>

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<sup>942</sup> Tajikistan Criminal Code, <http://legislationline.org/download/action/download/id/1707/file/207b8150765af2c85ad6f5bb8a44.htm/preview> (accessed December 13, 2015).

<sup>943</sup> Radio Free Europe/Radio Liberty, "Tajik Parliament Approves Law Against Domestic Violence," *Radio Free Europe/Radio Liberty*, 19 December 2012, <http://www.rferl.org/content/tajikistan-law-domestic-violence/24803038.html> (accessed December 13, 2015).

<sup>944</sup> June Zeitlin, *Country Visit to Tajikistan* (18 March 2015), 3, <http://www.osce.org/cio/145601?download=true>.

<sup>945</sup> The Advocates for Human Rights, *Violence Against Women in Tajikistan* (August 2013), <http://www.stopvaw.org/Tajikistan>.

<sup>946</sup> U.S. Department of State, *Country Reports on Human Rights Practices: Tajikistan* (2015).

<sup>947</sup> *Ibid.*

<sup>948</sup> Government of Tajikistan, *Action Plan of the State Program to Prevent Domestic Violence in the Republic of Tajikistan for 2014-2023*, <http://pdv.tj/en/State%20Program%20Action%20Plan%20for%202014-2023%20eng.docx> (accessed December 13, 2015); June Zeitlin, *Country Visit to Tajikistan*, 2, <http://www.osce.org/cio/145601?download=true>.

<sup>949</sup> June Zeitlin, *Country Visit to Tajikistan*, 2.

<sup>950</sup> Government of Tajikistan, *Action Plan of the State Program to Prevent Domestic Violence in the Republic of Tajikistan for 2014-2023*.

The Ministry of Interior has created five specialized police units with female officers assigned to work on domestic violence and has created mandatory training on domestic violence for all Police Academy students.<sup>951</sup>

That Tajikistan has adopted its first domestic violence law is a welcome and critical first step, but continued commitment by the state will be needed to ensure its effective implementation. In addition, the absence of a specific domestic violence crime illustrates the additional opportunities Tajikistan has to make change.

## Government Will

### *Acceptance of UPR Recommendations*

Tajikistan participated in its first Universal Periodic Review (UPR) in October 2011. In its first report to the Human Rights Council, the government of Tajikistan stated it took action on equal rights through 2001-2010 policy guideline action items regarding violence against women and children. The guidelines included prevention, recording cases, a public campaign, and managing the consequences of violence. According to the report, a law preventing domestic violence had been drafted and presented to parliament, a support services project and rehabilitation centers were set up for young girls affected by domestic violence, and the Ministry of Internal Affairs created positions for domestic violence internal affairs officers. In addition, the Criminal Code criminalized violence against children and violence against pregnant women and persons unable to defend themselves is an aggravating circumstance.<sup>952</sup>

During its first UPR in 2011, Tajikistan accepted recommendations related to gender equality, including the following that address violence against women:

- Classify violence against women as a criminal offence, and enact the existing draft Bill on Social and Legal Protection against Domestic Violence (Recommendation 88.30);
- Adopt legislative measures to criminalize and prosecute gender violence, as well as establish shelters for women victims of violence and train staff charged with investigations of those cases (Recommendation 88.32);
- Enact the draft bill on Social and Legal Protection against Domestic Violence and develop a national plan to prevent and eradicate violence against women (Recommendation 88.31);
- Implement the recommendations made by the Special Rapporteur on violence against women in 2008 (Recommendation 88.33);
- Enact legislation to protect women in Tajikistan from domestic violence, in accordance with CEDAW and ICCPR (Recommendation 88.34);

<sup>951</sup> June Zeitlin, *Country Visit to Tajikistan*, 3.

<sup>952</sup> Human Rights Council, *National report submitted in accordance with paragraph 15(a) of the annex to Human Rights Council resolution 5/1: Tajikistan*, 19 July 2011, U.N. Doc. HRC/WG.6/12/TJK/1.

- Adopt and implement efficiently a law against domestic violence (Recommendation 88.35);
- Intensify measures in comprehensively addressing the problem of human trafficking and violence against women by implementing social, educational and legal safeguards, public awareness campaigns to sensitize the community, and to continue building law enforcement capabilities and capacities (Recommendation 88.36);
- Further legislative and policy measures aimed at combating violence against women and girls (Recommendation 88.17);
- Seek to protect women from all forms of violence (Recommendation 88.18);
- Evaluate the possibility of increasing its efforts to prevent, criminalize and eliminate all forms of violence against women, including measures aimed at the promotion of their rights and the elimination of patriarchal and discriminatory stereotypes (Recommendation 88.29);
- Strengthen efforts to fulfil its obligations under CEDAW and CRC (Recommendation 88.13);
- Carry out national programs to disseminate and create awareness among women in the country, related to all the aspects regulated by CEDAW (Recommendation 88.21);
- Accede to the OP-CEDAW (Recommendations 90.1, 90.8).<sup>953</sup>

Tajikistan did not note any recommendations related to violence against women.<sup>954</sup>

Since its first UPR review, Tajikistan has taken steps to implement the recommendations it accepted. The government adopted a domestic violence law in 2013 and ratified the OP-CEDAW in 2014.

Tajikistan has not yet participated in its second UPR, which is scheduled to take place in April – May 2016. Tajikistan’s upcoming UPR will provide the government a further opportunity to commit to and undertake reforms on domestic violence in line with the accepted recommendations.

### **Mechanisms for Government Accountability**

Tajikistan ratified CEDAW (1993), ICCPR (1999), and CAT (1995), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Tajikistan has also ratified the OP1-ICCPR (1999), providing an additional means of accountability via the complaint mechanism. It has also ratified the OP-CEDAW (2014). Tajikistan has neither signed nor ratified the Istanbul Convention.

<sup>953</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Tajikistan*, 12 December 2011, U.N. Doc. A/HRC/19/3, ¶¶ 88-90; Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Tajikistan Addendum*, 27 Feb. 2012, U.N. Doc. A/HRC/19/3/Add.1, ¶ 1.

<sup>954</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Tajikistan*, 12 December 2011, U.N. Doc. A/HRC/19/3.

*ECHR/CEDAW Cases and Implementation*

Tajikistan is not subject to the European Convention on Human Rights. There have been no admissible complaints pertaining to domestic violence against Tajikistan brought before CEDAW.

*Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. During Tajikistan's 2013 CEDAW review, the CEDAW Committee expressed its concern regarding: (a) the persistence of violence against women, including domestic violence, which remains underreported as result of discriminatory cultural and social norms; (b) the lack of a definition of family, which may leave out of its scope women in de facto polygamous relations; (c) the lack of information and data on the nature, forms, extent and causes of violence against women; and (d) the lack of adequate shelters for women victims of violence.<sup>955</sup>

During Tajikistan's 2013 ICCPR review, the Human Rights Committee expressed its regret regarding the continuing reports of domestic violence. The Human Rights Committee was particularly concerned that cases of domestic violence remain underreported, and that domestic violence is socially accepted. The Human Rights Committee also noted the lack of information on whether cases of domestic violence are only investigated in cases of grave bodily harm.<sup>956</sup>

Finally, in Tajikistan's 2013 CAT review, the Committee against Torture expressed its deep concern regarding the lack of any legislation criminalizing acts of violence against women. The Committee also regretted the high prevalence of domestic violence, the difficulties in filing domestic violence complaints, and the reluctance of law enforcement to intervene in such complaints.<sup>957</sup>

**Strength of Civil Society**

Tajikistan has allowed human rights organizations to operate within the country, but the groups have been heavily monitored, harassed by government officials, and unjustly inspected.<sup>958</sup>

Amnesty International reported on how dissenting groups were silenced by the government,<sup>959</sup> and Human Rights Watch reported on Tajikistan's closure of a human rights

<sup>955</sup> Committee on the Elimination of Discrimination against Women, Concluding observations on the combined fourth and fifth periodic reports of Tajikistan, 29 October 2013, U.N. Doc. CEDAW/C/TJK/CO/4-5.

<sup>956</sup> Human Rights Committee, *Concluding observations on the second periodic report of Tajikistan*, 22 August 2013, U.N. Doc. CCPR/C/TJK/CO/2.

<sup>957</sup> Committee against Torture, *Concluding observations on the second periodic report of Tajikistan*, 21 January 2013, U.N. Doc. CAT/C/TJK/CO/2.

<sup>958</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Tajikistan* (2015), §§ 2, 5.

<sup>959</sup> Amnesty International, *Tajikistan: Dissenting campaign groups should not be silenced* (23 November 2012), <https://www.amnesty.org/en/press-releases/2012/11/tajikistan-dissenting-campaign-groups-should-not-be-silenced/> (accessed June 24, 2015); See also Amnesty International, *Tajikistan: Authorities suppress freedom of expression and association* (18 January 2013), <https://www.amnesty.org/en/documents/eur60/001/2013/en/> (accessed June 24, 2015).

group.<sup>960</sup> In 2012, the Human Rights Committee expressed concern regarding the 2007 Law on NGOs, which establishes overly strict regulations for registration and grants the Ministry of Justice vast discretion that results in delays and barriers to the registration and functioning of civil society.<sup>961</sup> The Human Rights Committee also deplored the arbitrary closings of human rights organizations and recommended the government amend the Law on NGOs to comply with the ICCPR and allow NGOs that were unlawfully closed to reopen.<sup>962</sup>

Tajikistan received a “Not Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with very poor scores for both political rights and civil liberties indicators.<sup>963</sup> The “Not Free” rating and other repressive policies suggest that efforts to combat domestic violence may be hindered by government repression.

#### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include various NGOs, including the Netherlands Helsinki Committee, the Human Rights Center, Right to Prosperity, the Bureau on Human Rights and Rule of Law, and From the De Jure Equality to the De Facto Equality coalition. While many groups submitted reports on specific women’s issues, such as female migrant workers or HIV/AIDS, submissions focused specifically on domestic violence were few.

OSCE plays a key role in combating domestic violence in Tajikistan, and its Gender Awareness and Equality Unit published a resource directory listing the crisis centers, Special Police Units, police stations, and OSCE-supported women’s resource centers that address domestic violence.<sup>964</sup>

#### *Monitoring Reports*

In 2008, The Advocates for Human Rights published the report, *Domestic Violence in Tajikistan*.<sup>965</sup> Based on interviews with domestic violence survivors and systems actors, the report analyzes the response of both the criminal justice system and civil law to the problem of domestic violence, outlines Tajikistan’s obligations under international law, and includes recommendations. The Advocates also compiled an addendum, which provided a two-year update of current conditions and new developments in Tajikistan since the initial draft of the report.

<sup>960</sup> Human Rights Watch, “Tajikistan: Rights Group Forced to Close,” 25 October 2012, <http://www.hrw.org/news/2012/10/25/tajikistan-rights-group-forced-close> (accessed June 24, 2015).

<sup>961</sup> Human Rights Committee, *Concluding Observations on the Second Periodic Review of Tajikistan*, 22 August 2013, U.N. Doc. CCPR/C/TJK/CO/2, ¶ 23.

<sup>962</sup> Ibid.

<sup>963</sup> On a seven-point scale with “1” representing the most free and “7” the least free rating, Tajikistan received a “6” for Political Rights and a “6” for Civil Liberties. Freedom House, *Freedom in the World 2015*, 26.

<sup>964</sup> See <http://www.osce.org/tajikistan/167811>.

<sup>965</sup> The Advocates for Human Rights, *Domestic Violence in Tajikistan* (2008), [http://www.theadvocatesforhumanrights.org/uploads/tajikistan\\_3\\_6\\_07\\_layout\\_-\\_final\\_mc.pdf](http://www.theadvocatesforhumanrights.org/uploads/tajikistan_3_6_07_layout_-_final_mc.pdf).

In 2009, Amnesty International published the report, *Violence is Not Just a Family Affair: Women Face Abuse in Tajikistan*. The report describes relevant legislation, the various forms of domestic violence, barriers to protection found in traditional attitudes, the criminal justice system, health care, and the lack of shelter. Recommendations focused on, *inter alia*, undertaking criminal law reform to ensure domestic violence is an *ex officio* prosecutable offense, strengthening the police response and code of conduct in relation to domestic violence, training forensic and health care personnel, and strengthening and adopting the draft domestic violence law.<sup>966</sup>

These reports identify challenges in protecting victims and holding offenders accountable which can help guide Tajikistan in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Khujand has four domestic violence shelters, which are NGO-run and funded by OSCE.<sup>967</sup> Thirty-three crisis centers and three shelters in other parts of the country also provide women with assistance and legal aid.-;<sup>968</sup> While local governments contributed the facilities for these centers, the shelters still lack adequate resources.<sup>969</sup>

There remains room for improvement with regard to Tajikistan's victim assistance. More shelters, victim services, and full implementation of the domestic violence law are needed. Key shelter funding is provided by the inter-governmental organization, OSCE, which presents the Tajik government the opportunity to increase its financial commitment to victim services.

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<sup>966</sup> Amnesty International, *Violence is not just a family affair: Women face abuse in Tajikistan* (24 November 2009), 42–46, <https://www.amnesty.org/en/documents/eur60/001/2009/en/> (accessed June 24, 2015).

<sup>967</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Tajikistan* (2015), § 6.

<sup>968</sup> June Zeitlin, *Country Visit to Tajikistan*, 2; U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Tajikistan* (2015), § 6.

<sup>969</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Tajikistan* (2015), § 6.



## TURKEY

### Legal Landscape and Developments

There is no specific crime of domestic violence in Turkey. The Criminal Code's Article 96, which prohibits causing torment to a spouse or family members, and Article 232, which prohibits maltreatment of a household cohabitant, may be used to prosecute domestic violence.<sup>970</sup>

Turkey adopted a domestic violence law in 2012.<sup>971</sup> The law seeks to protect victims of domestic violence and provide services, such as shelters, financial aid, and psychological and legal aid. The law calls for the creation of Violence Prevention and Monitoring Centers to act as shelters for victims, to design and implement programs on violence prevention, and to collect and analyze data on preventive cautionary imprisonment and sentences. Police officers are authorized to enforce protection immediately when the victim needs it, thus avoiding lengthy court processes that could delay protection. Those who violate a protection order automatically spend three days in prison. The law also offers protection to any person who is considered a family member, regardless of cohabitation.<sup>972</sup>

While there is a three-year National Action Plan on Combating Violence against Women, that plan expires at the end of 2015. There are reports that the Family and Social Policies Ministry is developing a new national action plan on violence against women in consultation with NGOs and a parliamentary commission.<sup>973</sup>

The adoption of a domestic violence law is a critical step toward combating domestic violence, with almost 6,000 women receiving a protection order in 2013.<sup>974</sup> Civil society, however, reports problems with implementation that are impeding effective protection of women and cites the high numbers of femicides in Turkey.<sup>975</sup> While the domestic violence law is an important part of an effective state response, the challenges in implementation and need for a specific domestic violence crime show the opportunities Turkey has to make changes to its laws and practice.

<sup>970</sup> Turkey Criminal Code (2004); Human Rights Watch, *He Loves you, He Beats You* (2011).

<sup>971</sup> Law No. 6284, Law to Protect Family and Prevent Violence Against Women (3 August 2012), [http://www.stopvaw.org/uploads/law\\_to\\_protect\\_family\\_and\\_prevent\\_violence\\_against\\_women.doc](http://www.stopvaw.org/uploads/law_to_protect_family_and_prevent_violence_against_women.doc) (accessed June 24, 2015).

<sup>972</sup> *Ibid.*, arts. 1(1.2), 1(2b), 2(1b), 3(1)(a-c), 10(3), 13(1), 14(1-2), 15(1a-b).

<sup>973</sup> "Turkish Family Ministry Plans Stronger Action Plan to Combat Violence against Women," *Hurriyet Daily News*, 18 February 2015, <http://www.hurriyetdailynews.com/turkish-family-ministry-plans-stronger-action-plan-to-combat-violence-against-women-.aspx?pageID=238&nid=78548> (accessed December 13, 2015).

<sup>974</sup> Thomas Seibert, "Laws Fail to Stop Violence against Women in Turkey," *Al-Monitor*, 27 February 2014.

<sup>975</sup> *Ibid.*

## Government Will

### *Acceptance of UPR Recommendations*

Turkey participated in its first Universal Periodic Review (UPR) in 2010. Turkey participated in its second UPR in January – February 2015. In its second report to the Human Rights Council, the government of Turkey described the work of the Human Rights Inquiry Commission of Parliament, which began conducting work on violence and women and domestic violence in 2010.<sup>976</sup> In March 2012, the Law on the Protection of Family and Prevention of Violence Against Women (no. 6284) came into force, Turkey’s first law defining and directly combating domestic violence. According to the report, the law defines domestic violence broadly, including “physical, verbal, sexual, economic and psychological”<sup>977</sup> violence and regardless of marital status. Finally, the report noted that Turkey adopted the “2012-2015 National Action Plan on Combating Violence against Women” after revisions were provided from various government bodies, NGOs, and centers for women’s studies.<sup>978</sup>

Turkey’s second UPR took place in January 2015. During that process, Turkey accepted recommendations related to gender equality, including the following that address domestic violence:

- Promote amendments in the current laws to envisage the prosecution and punishment of the perpetrators of violence against women, in particular domestic violence (Recommendation 148.13);
- Pursue the development of enforcement mechanisms so that the National Action Plan for Combating Domestic Violence against Women is consistently implemented (Recommendation 148.46);
- Take further measures on anti-discrimination and equality to address gender stereotypes and discriminatory practices that fuel domestic gender-based violence (Recommendation 148.60);
- Take necessary measures to ensure gender equality in all spheres, and ensure women’s protection against domestic violence (Recommendations 148.67, 148.68, 148.69);
- Strengthen the implementation effectiveness of Turkey’s 2012 domestic law on preventing violence against women (Recommendation 148.96);
- Continue its effort in combating violence against women, especially domestic violence, by effectively enforcing its law and undertaking necessary legislative review, and ensure the protection of the rights of the victims (Recommendations 148.95, 148.97, 148.101, 148.72, 148.73, 148.74);

<sup>976</sup> Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Turkey*, January 2015, U.N. Doc No. A/HRC/WG.6/21/TUR/1, ¶¶ 26–28.

<sup>977</sup> *Ibid.*, ¶ 106.

<sup>978</sup> *Ibid.*, ¶ 111.

- Design long-term strategy and awareness-raising programs to eliminate harmful practices such as domestic violence and early marriages (Recommendation 148.98);
- Pursue the implementation of effective measures to protect women and children against domestic violence and ill-treatment in all its forms (Recommendation 148.102);
- Implement effectively the Law to Protect Family and Prevent Violence against Women (Recommendations 148.111, 148.112).<sup>979</sup>

The following recommendations enjoyed the support of Turkey, which considered they were already implemented or in the process of implementation:

- Criminalize domestic violence (Recommendation 149.6);
- Enforce legislation criminalizing gender-based violence and prosecute all cases of violence against women (Recommendation 149.7);
- Strengthen measures to combat violence against women, including the effective implementation of existing legislation and the National Action Plan (Recommendation 149.18).<sup>980</sup>

Turkey did not note any recommendations related to gender violence.<sup>981</sup>

That Turkey has accepted all recommendations related to domestic violence, including amending laws to promote prosecution and punishment for acts of violence against women, indicates a commitment to improving its response to domestic violence. Turkey considers important measures, such as the creation of a specific domestic violence crime, to be in the process of implementation, suggesting continuing efforts to reform laws.

### **Mechanisms for Government Accountability**

Turkey has ratified CEDAW (1985), ICCPR (2003), and CAT (1988), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Turkey has also ratified the OP-CEDAW (2002) and OP1-ICCPR (2006), providing an additional means of accountability via the complaint mechanism.

Turkey ratified the Istanbul Convention in 2012, thus subjecting itself to review by GREVIO and the Committee of the Parties. The treaty entered into force on August 1, 2014. Only 18 countries have ratified the Istanbul Convention, marking those State Parties – including Turkey – as leaders in committing to these standards on violence against women. UN bodies have

<sup>979</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Turkey*, 13 April 2015, U.N. Doc. A/HRC/29/15, ¶ 148.

<sup>980</sup> *Ibid.*, ¶ 149.

<sup>981</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Turkey*, 13 April 2015, U.N. Doc. A/HRC/29/15.

nevertheless called for the effective implementation of the Istanbul Convention in response to pervasive violence against women and girls and femicides.<sup>982</sup>

Turkey is a candidate country for EU accession.<sup>983</sup> European Union membership may provide incentive for candidate countries to improve their human rights records. Often, EU progress reports and opinions note goals and key priorities for the country that pertain to women's human rights. For example, the 2004 opinion on Turkey's application for membership noted that the situation of women's human rights was "unsatisfactory," and violence against women and honor killings were pervasive.<sup>984</sup> Ten years later, the 2014 Progress Report continued to follow up on Turkey's status and found that: municipalities lack adequate follow-up when no shelters for victims exist; societal acceptance of domestic abuse contributed to underreporting of violence; and the implementation of the law and national action plan were both hindered by lack of monitoring, indicators of effectiveness, funding and training.<sup>985</sup>

#### *ECHR<sup>986</sup>/CEDAW<sup>987</sup> Cases and Implementation<sup>988</sup>*

Turkey has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence.

One of the leading ECHR cases against domestic violence is *Opuz v. Turkey* (2009). The ECHR determined that Turkey violated its obligations to protect women from domestic violence and,

<sup>982</sup> UN Women, "Press statement: UN Women and UNFPA condemn the brutal murder of Özgecan Aslan and stand with the women and men of Turkey who combat gender-based violence," 17 February 2015, <http://eca.unwomen.org/en/news/stories/2015/02/press-statement-un-women-and-unfpa-condemn-the-brutal-murder#sthash.iVGCVzrd.dpuf> (accessed December 13, 2015).

<sup>983</sup> For more information, see European Administrative Commission, *Detailed Country Information: Turkey* (2013), [http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index\\_en.htm](http://ec.europa.eu/enlargement/countries/detailed-country-information/turkey/index_en.htm) (accessed June 24, 2015).

<sup>984</sup> Commission of the European Communities, *Communication from the Commission to the Council and the European Parliament* (2004), 12, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2004:0656:FIN:EN:PDF> (accessed June 24, 2015).

<sup>985</sup> European Commission, *Turkey: 2014 Progress Report* (2014), 56, [http://ec.europa.eu/enlargement/pdf/key\\_documents/2014/20141008-turkey-progress-report\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2014/20141008-turkey-progress-report_en.pdf) (accessed June 24, 2015).

<sup>986</sup> There is one case pending before the ECHR against Turkey that relates to domestic violence: *Kılıç v. Turkey*, No. 16192/06, ECHR (6 December 2011) (application), ¶ 5.

<sup>987</sup> In *R.K.B. v. Turkey*, the CEDAW Committee determined that Turkey had violated CEDAW because it failed to address the employment discrimination faced by the author of the communication. Committee on the Elimination of Discrimination against Women, *Communication No. 28/2010: Views adopted by the Committee at its fifty-first session, 13 February–2 March 2012*, 13 April 2012, U.N. Doc. CEDAW/C/51/D/28/2010, ¶ 8.6. The CEDAW Committee deemed another employment discrimination case against Turkey, *Kayhan v. Turkey*, inadmissible because there the author of the communication had a similar case pending before the ECHR. CEDAW, *Decision of the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women concerning Decision 8/2005*, 27 January 2006, U.N. Doc. CEDAW/C/34/D/8/2005, ¶ 7.3.

<sup>988</sup> Other ECHR cases against Turkey relating to violence against women include *Juhnke v. Turkey* (ill-treatment in detention); *Aydın v. Turkey* (rape and sexual abuse); *Y.F. v. Turkey* (police violence); *Yazgül Yılmaz v. Turkey* (police violence); *İzci v. Turkey* (police violence); and *Ebcin v. Turkey* (violence in the public space). *S.H.H. v. Turkey* relating to rape and sexual abuse is currently pending.

for the first time, held that gender-based violence is a form of discrimination under the European Convention.<sup>989</sup> Both the applicant and her mother were subject to escalating abuse by the applicant's husband over several years, leading to the murder of the applicant's mother.<sup>990</sup> The national authorities had initiated several criminal actions against the husband, but argued that they had to dismiss each of them because the applicant and her mother withdrew the complaints.<sup>991</sup>

Importantly, the ECHR held that Turkey violated the European Convention prohibition against discrimination.<sup>992</sup> It found that the judicial passivity with respect to such acts mainly affected women, and the violence suffered by the applicant and her mother to be a form of gender-based violence, a form of discrimination against women.<sup>993</sup> The ECHR also determined that Turkey failed to fulfill its positive obligation to protect the mother's right to life<sup>994</sup> under the European Convention. The prosecutor was aware of the husband's record of violent attacks, but failed to take any action to protect the mother.<sup>995</sup> The ECHR also held that Turkey violated its obligations under the Convention's prohibition of torture or inhumane treatment<sup>996</sup> by failing to take protective measures to effectively deter serious breaches of the applicant's right to personal integrity.<sup>997</sup> The husband was allowed to act with full impunity without interference by the State. Even when criminal charges were filed, the prosecutor dismissed them or the court imposed nominal fines or punishments that were disproportionate to the serious injuries suffered by the applicant and her mother.<sup>998</sup> The ECHR determined that Turkey's criminal law system was not capable of ensuring the prevention of unlawful acts committed against the applicant and her mother.<sup>999</sup>

#### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. Turkey's most recent treaty body review was in 2012 by the Human Rights Committee regarding its compliance with the ICCPR. The Human Rights Committee expressed concern that the institutions in charge of implementing a law on Protecting Women and Family Members from Violence had not yet been provided with sufficient financing and human resources to guarantee its effectiveness.<sup>1000</sup>

<sup>989</sup> *Opuz v. Turkey*, No. 33401/02, ECHR (2009), ¶ 200.

<sup>990</sup> *Ibid.*, ¶ 54.

<sup>991</sup> *Ibid.*, ¶ 114.

<sup>992</sup> *Ibid.*, ¶¶ 199–202.

<sup>993</sup> *Ibid.*, ¶ 200.

<sup>994</sup> *Ibid.*, ¶¶ 152–153.

<sup>995</sup> *Ibid.*, ¶ 148.

<sup>996</sup> *Ibid.*, ¶¶ 154, 176.

<sup>997</sup> *Ibid.*, ¶ 176.

<sup>998</sup> *Ibid.*, ¶ 169.

<sup>999</sup> *Ibid.*, ¶¶ 199–201.

<sup>1000</sup> Human Rights Committee, *Concluding observations on the initial report of Turkey*, 13 November 2012, U.N. Doc. CCPR/C/TUR/CO/1.

## Strength of Civil Society

Turkey has allowed human rights organizations to operate within the country, but the groups have been heavily monitored, harassed by government officials, and at times shut down completely.<sup>1001</sup> Amnesty International reported on the attacks against and imprisonment of activists,<sup>1002</sup> and Human Rights Watch reported on Turkey's growing intolerance of dissent.<sup>1003</sup>

Turkey received a "Partly Free" rating on the "Freedom Status" scale in the report, *Freedom in the World: 2015*.<sup>1004</sup> In 2012, the Human Rights Committee expressed concern about the harassment and inconsistent application of legal provisions against human right defenders.<sup>1005</sup> The "Partly Free" rating and harassment of human rights defenders suggest that efforts to combat domestic violence may be impeded by government repression.

### Women's Rights Organizations

Organizations that have recently submitted shadow reports to CEDAW on relevant women's issues include the Association for Researching and Examining Women's Social Life (KASAİD), Turkish Women Council Association, Association of Turkish University Women, Association of Ankara Women's Health, Association of Femin & Art Women Artists, Association of Ankara Business and Professional Women, Association of Ankara Women Painters, Association of Protection of Women Rights, Association of Çamlıca Girl Schools, Association of Solidarity and Corporation with Village Teachers, AMARGI, Amnesty International Turkey Branch, The Foundation for Women's Solidarity (FWS), Capital City Women's Platform, Çanakkale Association to Promote Women's Labor, Diyarbakir Bar Women's Commission, Filmmor Women's Cooperative, IRIS Equality Watch, KADER-Association for the Support and Training of Women Candidates, KAHDEM-Center for Legal Support to Women Association, KAOS GL, KAZETE, LAMBDA, Purple Roof Women's Shelter Foundation, Republican Women's Association, The Association of Turkish Women's Union, Women's Solidarity Foundation (KADAV), Women for Women's Human Rights -New Ways, Working Group for Women in Home Based Work, and Van Women's Association.

Turkey appears to have a broad and active civil society.

<sup>1001</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Turkey* (2015), § 6.

<sup>1002</sup> Amnesty International, *Turkey: Conscientious objector imprisoned: Haluk Selam Tufanlı* (2014), <https://www.amnesty.org/en/documents/eur44/022/2014/en/> (accessed June 24, 2015); See also Amnesty International, *Turkey: Conscientious objector imprisoned: Murat Kanatli* (March 2014), <https://www.amnesty.org/en/documents/eur44/005/2014/en/> (accessed June 24, 2015).

<sup>1003</sup> Human Rights Watch, "Turkey: Growing Intolerance for Dissent," 21 January 2014, <https://www.hrw.org/news/2014/01/21/turkey-growing-intolerance-dissent> (accessed June 24, 2015).

<sup>1004</sup> Freedom House, *Freedom in the World 2015*, 26.

<sup>1005</sup> Human Rights Committee, *Concluding observations on the initial report of Turkey*, 13 November 2012, U.N. Doc. CCPR/C/TUR/CO/1, ¶ 16.

### *Monitoring Reports*

In 2011, Human Rights Watch published the report, “*He Loves You, He Beats You: Family Violence in Turkey and Access to Protection*.”<sup>1006</sup> The report discusses gaps in the law, problems in implementing the legislation, and the lack of victim services. It makes a number of recommendations, including that Turkey explicitly allow protection orders to be granted to unmarried and divorced women, including women in unregistered religious marriages.<sup>1007</sup> Furthermore, the Ministry of Justice and the Ministry of Interior should appoint staff to dedicated police and family court units to provide referrals to women. There is also a need for strengthened oversight of officials to ensure they are upholding the law and the monitoring system. Finally, more shelters and additional training are needed.<sup>1008</sup>

According to the report, several barriers exist for women who want to report violence, including a lack of awareness of the Family Protection Law.<sup>1009</sup> Women who do report domestic violence risk being turned away by officers who prefer to preserve the family and encourage reconciliation.<sup>1010</sup> Women from minority groups who do not speak Turkish may face additional barriers because of the limited number of court interpreters.<sup>1011</sup> Prosecutors may also be reluctant to prosecute cases. Judges often delay making decisions. In cases where an order for protection is granted, police officers do not conduct the required weekly checks and may not respond to calls from the victims or their families.<sup>1012</sup> In protection order cases, delays by court officials can derail the process.<sup>1013</sup>

Such reports identify challenges in protecting victims and holding offenders accountable which can help guide Turkey in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Reports of the number of shelters in Turkey vary. According to the U.S. Department of State, the Ministry of Family and Social Policies runs 93 shelters that can accommodate 2,527 women, and municipalities operate 33 shelters that can accommodate 761 women.<sup>1014</sup> The 2014 WAVE Report notes 123 shelters with a capacity of 2,190 spaces, which falls short of the recommended 7,667 spaces.<sup>1015</sup> State and local municipalities constitute most of the funding for Turkey’s shelters,<sup>1016</sup> with inadequate funding at times impeding provision of these services; NGOs

<sup>1006</sup> Human Rights Watch, *He Loves You, He Beats You: Family Violence in Turkey and Access to Protection* (2011), <http://www.hrw.org/sites/default/files/reports/turkey0511webwcover.pdf> (accessed June 24, 2015).

<sup>1007</sup> *Ibid.*, 7.

<sup>1008</sup> *Ibid.*

<sup>1009</sup> *Ibid.*, 25.

<sup>1010</sup> *Ibid.*, 5.

<sup>1011</sup> *Ibid.*, 29.

<sup>1012</sup> *Ibid.*, 6.

<sup>1013</sup> *Ibid.*, 34.

<sup>1014</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Turkey* (2015), § 6.

<sup>1015</sup> Women Against Violence Europe, *Wave Report 2014*, 36.

<sup>1016</sup> *Ibid.*, 49.

wishing to open shelters stated lack of funding as the reason behind their inability to do so.<sup>1017</sup> Human Rights Watch also reported that there were limited shelter spaces and cited problems with security and standards of quality in many of the shelters. For example, while many shelters have strict rules for the safety of the women, some women report that the shelters are far too strict.<sup>1018</sup>

Shelters continue to experience funding problems, with two shelters closing because of insufficient funding in 2013.<sup>1019</sup> A state hotline for domestic violence fielded 33,669 calls in the final two months of 2012, 75,836 calls in the first eight months of 2013,<sup>1020</sup> and 69,774 calls in the first eight months of 2014.<sup>1021</sup> The hotline is funded entirely by private donations, operates 24 hours per day, 7 days per week, and is free-of-charge.

There remains room for improvement with regard to Turkey's victim assistance. More shelters, shelter funding, and victim services are needed. Turkey's new obligation to comply with the Istanbul Convention may result in future improvements to its victim services.

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<sup>1017</sup> European Commission, *Turkey: 2014 Progress Report*, 56.

<sup>1018</sup> Human Rights Watch, *He Loves You, He Beats You*, 44–45.

<sup>1019</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Turkey*, (2014), 6.

<sup>1020</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2013: Turkey* (2014), § 6; Women Against Violence Europe, *Wave Report 2014*, 75.

<sup>1021</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Turkey* (2015), § 6.



## TURKMENISTAN

### Legal Landscape and Developments

The legislative framework on domestic violence in Turkmenistan has yet to be further developed to adequately address domestic violence. Under Turkmenistan’s Criminal Code, domestic violence is not a specific crime, but can be punished under provisions addressing intentional infliction of injury.<sup>1022</sup> Turkmenistan does not have a specific domestic violence law that would provide victims with an order for protection.

The government adopted a National Action Plan on Gender Equality (2015-2020), which includes measures to reform legislation in a gender-sensitive way, increase women’s public awareness of their rights, evaluate current gender equality mechanisms, and address gender-based violence.<sup>1023</sup> The national action plan also describes activities to eliminate violence against women, which “for the first time” will address the issue of domestic violence in the country.<sup>1024</sup>

The lack of remedies for victims and absence of a specific domestic violence crime show the opportunities Turkmenistan has to make change. Even incremental legislative reform can achieve meaningful steps toward progress in the absence of adequate legislation. Such reforms, however, require government will and commitment to drive the change forward.

### Government Will

#### *Acceptance of UPR Recommendations*

Turkmenistan participated in its first Universal Periodic Review (UPR) in 2008. Turkmenistan’s second UPR took place in April 2013. In its second report to the Human Rights Council, the government of Turkmenistan noted that it had undertaken measures on gender equality as detailed in its periodic report to the CEDAW Committee in 2010.<sup>1025</sup> The report described 2011 seminars for its Interdepartmental Commission and working group on gender mainstreaming for legislation.<sup>1026</sup> The report acknowledged that there are no specific provisions on domestic violence in its domestic legislation.<sup>1027</sup> It referred to the Criminal Code, which prohibits acts “accompanied by manifestations of cruelty, humiliation or degradation or the infliction of other

<sup>1022</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Turkmenistan* (2015).

<sup>1023</sup> UNFPA, *Taking Action to Promote Gender Equality in Turkmenistan* (11 February 2015), <http://eeca.unfpa.org/news/taking-action-promote-gender-equality-turkmenistan> (accessed December 11, 2015).

<sup>1024</sup> United Nations Turkmenistan, *The National Action Plan on Gender Equality Presented* (10 April 2015), <http://www.untuk.org/content/view/795/105/> (accessed December 11, 2015).

<sup>1025</sup> Human Rights Council, *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Turkmenistan*, 4 February 2013, U.N. Doc. A/HRC/WG.6/16/TKM/1, ¶ 76.

<sup>1026</sup> *Ibid.*, ¶ 77.

<sup>1027</sup> *Ibid.*, ¶ 83.

forms of physical or other harm.”<sup>1028</sup> Finally, the report stated that the government was giving consideration to laws and other countries’ practices on domestic violence.<sup>1029</sup>

During its second UPR in 2013, Turkmenistan accepted recommendations related to gender equality, including the following on domestic violence:

- Work on adopting new laws to promote gender equality, women’s participation in public affairs, and punish domestic violence (Recommendations 113.49, 113.50);
- Consider further addressing violence against women through legal measures (Recommendation 113.51);
- Find ways to overcome the culture of silence and impunity surrounding domestic violence against women, including marital rape, to provide all necessary protection and assistance to victims, to enforce applicable legislation against perpetrators, and to draft specific legislation dealing with these issues (Recommendation 113.52);
- Incorporate in the Criminal Code specific provisions on domestic violence along with concrete sanctions against the perpetrators of domestic violence (Recommendation 113.53);
- Adopt specific legislation on domestic violence, in particular which ensures (i) such violence constitutes a criminal offence; (ii) victims have access to means of redress; and (iii) perpetrators are held accountable (Recommendation 113.54);
- Introduce in the legislation the principles of application of equality in all rights, as recommended by CEDAW (Recommendation 112.42);
- Implement a comprehensive strategy aimed at modifying or eliminating patriarchal attitudes and stereotypes which discriminate against women, in accordance with the provisions of CEDAW, to be included in the educational system; promote campaigns in the media to strengthen the understanding of equality between women and men, as well as expand public education programmes, particularly in rural and remote areas (Recommendation 112.46).<sup>1030</sup>

Turkmenistan did not note any recommendations related to domestic violence.<sup>1031</sup>

That Turkmenistan has accepted all recommendations related to domestic violence, including the adoption of legislation on domestic violence, indicates a commitment to improving its response to domestic violence.

<sup>1028</sup> Ibid.

<sup>1029</sup> Ibid., ¶ 85.

<sup>1030</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Working Group on the Universal Periodic Review: Turkmenistan*, 5 July 2013, U.N. Doc. A/HRC/24/3, ¶¶ 112-113; Human Rights Council, Working Group on the Universal Periodic Review, *Working Group on the Universal Periodic Review: Turkmenistan Addendum*, 4 September 2013, U.N. Doc. A/HRC/24/3/Add.1, 3.

<sup>1031</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Working Group on the Universal Periodic Review: Turkmenistan Addendum*, 4 September 2013, U.N. Doc. A/HRC/24/3/Add.1, § 113.49–113.54.

## Mechanisms for Government Accountability

Turkmenistan has ratified CEDAW (1997), ICCPR (1997), and CAT (1999), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Turkmenistan has also ratified the OP-CEDAW (2009) and OP1-ICCPR (1997), providing an additional means of accountability via the complaint mechanism. Turkmenistan has neither signed nor ratified the Istanbul Convention.

### *ECHR/CEDAW Cases and Implementation*

Turkmenistan is not subject to the European Convention on Human Rights. There have been no admissible complaints pertaining to domestic violence against Turkmenistan brought before CEDAW.

### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. Turkmenistan's most recent review was in 2012 by the CEDAW Committee regarding its compliance with CEDAW. The CEDAW Committee expressed deep concern regarding absence of specific legislation to deal with violence against women, as well as a lack of information and statistical data on the nature, extent, and causes of violence against women. The committee also regretted that violence against women appears to be socially legitimized and treated as a matter that should be resolved privately within the family, resulting in underreporting.<sup>1032</sup>

## Strength of Civil Society

NGOs are unable to register in Turkmenistan, and social and cultural groups are monitored by the government of Turkmenistan.<sup>1033</sup> Amnesty International has reported on the government's repression of society,<sup>1034</sup> and Human Rights Watch has claimed that Turkmenistan has had one of the most repressive governments in the world.<sup>1035</sup>

Turkmenistan received a “Not Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with the worst scores possible for both political rights and civil liberties indicators.<sup>1036</sup> In 2012, the Human Rights Committee expressed concern about the harassment

<sup>1032</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the combined third and fourth periodic reports of Turkmenistan*, 9 November 2012, U.N. Doc. CEDAW/C/TKM/CO/3-4.

<sup>1033</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Turkmenistan* (2015), § 5.

<sup>1034</sup> Amnesty International, *Turkmenistan: Human rights violations continue as recommendations made during periodic review go unheeded* (31 October 2012), <https://www.amnesty.org/en/documents/eur61/006/2012/en/> (accessed June 24, 2015).

<sup>1035</sup> Human Rights Watch, “Turkmenistan: Human Rights Watch Submission to the United Nations Committee against Torture,” 30 April 2011, ¶ 3, <http://www.hrw.org/news/2011/04/30/turkmenistan-human-rights-watch-submission-united-nations-committee-against-torture> (accessed June 24, 2015).

<sup>1036</sup> On a seven-point scale with “1” representing the most free and “7” the least free rating, Turkmenistan received a “7” for Political Rights and a “7” for Civil Liberties. Freedom House, *Freedom in the World 2015*, 26.

and restrictions on human right defenders.<sup>1037</sup> The “Not Free” rating and other repressive policies suggest that efforts to combat domestic violence may be hindered by government repression.

#### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports to CEDAW on relevant women’s issues include the Norwegian Helsinki Committee and Turkmen Initiative for Human Rights.

#### *Monitoring Reports*

No recent monitoring reports on domestic violence in Turkmenistan have been identified. The National Institute of Democracy and Human Rights has announced plans, however, to carry out a survey on domestic violence to further implementation of the National Action Plan on Gender Equality.<sup>1038</sup>

### **Current Status of Efforts to Eliminate Violence against Women**

In 2012, an NGO opened a shelter for victims with inter-governmental organization funding.<sup>1039</sup> The same NGO also operates a hotline for domestic violence victims.<sup>1040</sup>

There remains substantial room for improvement with regard to Turkmenistan’s victim assistance. More shelters and victim services are needed.

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<sup>1037</sup> Human Rights Committee, *Consideration of Reports Submitted by States Parties under Article 40 of the Covenant: Concluding Observations of the Human Rights Committee: Turkmenistan*, 19 April 2012, U.N. Doc. CCPR/C/TKM/CO/1, ¶ 18.

<sup>1038</sup> United Nations Turkmenistan, *The National Action Plan on Gender Equality Presented*, 12 April 2015, <http://www.untuk.org/content/view/795/105/> (accessed December 11, 2015).

<sup>1039</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Turkmenistan* (2015), § 6.

<sup>1040</sup> *Ibid.*

# UKRAINE

## Legal Landscape and Developments

Ukraine's Criminal Code prohibits the crimes of bodily injury, battery and torture.<sup>1041</sup> There is no specific crime of domestic violence, and less serious crimes committed within the family are subject to private prosecution.<sup>1042</sup>

Ukraine adopted a specific domestic violence law in 2001. In 2013, a new law, On the Prevention and Counteraction to Domestic Violence, was proposed. The draft law addresses child abuse, defined as action or inaction to cause harm to a child, identifies responsible institutions, introduces the concept of domestic violence, provides educational measures, and temporarily restricts a perpetrator's rights.<sup>1043</sup>

That Ukraine is in the process of amending its laws is a positive indication of the government's willingness to improve its legal framework on domestic violence.

## Government Will

### *Acceptance of UPR Recommendations*

Ukraine participated in its first Universal Periodic Review (UPR) in 2008. Ukraine's second UPR took place in October 2012. In its second report to the Human Rights Council, the government of Ukraine acknowledged that domestic violence is a pressing problem, and in September 2008, amended certain legislative provisions on domestic violence.<sup>1044</sup> According to the report, the law now provides that if a person commits an act of domestic violence after receiving an official warning, he or she must be referred to a crisis center and undergo a therapy program.<sup>1045</sup> Article 15 of Ukraine's Prevention of Domestic Violence Act provides liability for persons who commit acts of domestic violence. Article 173 of the Code of Administrative Offences establishes liability for such acts that cause or may cause harm to a victim.<sup>1046</sup> The report noted that, between 2010 and 2011, in conjunction with the United Nations Development Programme, the Ministry of Internal Affairs held 690 trainings for neighborhood militia

<sup>1041</sup> Ukraine Criminal Code, arts. 121-25, 126-27 (2010).

<sup>1042</sup> Immigration and Refugee Board of Canada, *Ukraine: Domestic violence, including legislation, recourse, state protection and support services available to victims, including those who are stalked or harassed by their perpetrator; the effect of residence registration on victims that try to relocate (2013-June 2015)*, 10 July 2015, UKR105203.EF, <http://www.refworld.org/docid/55bf562c4.html> (accessed December 9, 2015).

<sup>1043</sup> Press Service of Minister of Social Policy, *Government Supports Bill "On Prevention and Counteraction to Domestic Violence"* (2013).

<sup>1044</sup> *National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21: Ukraine*, 13 August 2012, U.N. Doc. A/HRC/WG.6/14/UKR/1, ¶ 39.

<sup>1045</sup> *Ibid.*

<sup>1046</sup> *Ibid.*, ¶ 40.

personnel across Ukraine on prevention of domestic violence.<sup>1047</sup> The report noted that in 2010 it approved a national campaign called “Stop violence!” to continue until 2015; sixty-seven telephone helplines are available to provide counseling services for victims.<sup>1048</sup> Ukraine established a network of institutions, including psychosocial assistance centers and medical and rehabilitation centers to provide a range of services to, among others, victims of domestic violence.<sup>1049</sup> Finally, the report described rehabilitation centers and refuges for children who are “in difficulty,” including those affected by domestic violence, which have been created pursuant to the Act on Children’s Agencies and Services and Specialized Institutions for Children.<sup>1050</sup> The report noted that ultimately, these institutions are designed to rehabilitate children and return them to their birth families or place them with new families.<sup>1051</sup>

Ukraine’s second UPR took place in 2012. During that process, Ukraine accepted recommendations related to gender equality, including the following that address domestic violence:

- Continue to strengthen provisions to address domestic violence, and programs to reinforce mechanisms for the protection of women and children (Recommendation 97.76);
- Respect the principles and standards provided by the Istanbul Convention, even prior to ratification and entry into force (Recommendation 97.77);
- Continue to work towards a comprehensive approach to preventing and addressing all forms of violence against women (Recommendation 97.78).<sup>1052</sup>

The government of Ukraine noted the following recommendation:

- Ratify Istanbul Convention (Recommendation 97.11).<sup>1053</sup>

In noting the recommendation to ratify the Istanbul Convention, Ukraine asserted that greater analysis needs to be done about the legal, financial, social and political consequences of implementation.<sup>1054</sup> It is unclear what measures, if any, Ukraine has undertaken to conduct such analysis, nor the timeframe for doing so.

<sup>1047</sup> Ibid., ¶ 41.

<sup>1048</sup> Ibid., ¶ 42.

<sup>1049</sup> Ibid., ¶ 43.

<sup>1050</sup> Ibid., ¶ 44.

<sup>1051</sup> Ibid.

<sup>1052</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Ukraine*, 20 December 2012, U.N. Doc. A/HRC/22/7; Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review” Ukraine Addendum*, 21 February 2013, U.N. Doc. A/HRC/22/7/Add.1, 5.

<sup>1053</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review” Ukraine Addendum*, 21 February 2013, U.N. Doc. A/HRC/22/7/Add.1, 2.

<sup>1054</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Ukraine Addendum*, 21 February 2013, U.N. Doc. A/HRC/22/7/Add.1, ¶¶ 97.1, 97.11.

## Mechanisms for Government Accountability

Ukraine has ratified CEDAW (1981), ICCPR (1973), and CAT (1987), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Ukraine has also ratified the OP-CEDAW (2003) and OP1-ICCPR (1991), providing an additional means of accountability via the complaint mechanism. Ukraine signed the Istanbul Convention in 2011,<sup>1055</sup> signaling its intention to combat violence against women. Ratification, however, would signify a stronger commitment to the Istanbul Convention's standards.

### *ECHR/CEDAW Cases and Implementation*

Ukraine has ratified the European Convention on Human Rights, thus subjecting itself to the jurisdiction of the European Court of Human Rights. The availability of ECHR adjudication can help shape, as well as stimulate improvements in, the government response to domestic violence. There have been no recent cases pertaining to domestic violence brought against Ukraine before the ECHR. There have been no admissible complaints pertaining to domestic violence against Ukraine brought before CEDAW.

### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. During Ukraine's 2013 ICCPR review, the Human Rights Committee expressed its concern regarding the persistence of domestic violence.<sup>1056</sup>

During Ukraine's 2014 CAT review, the Committee against Torture expressed its concern regarding the persistently high rate of domestic violence. The Committee against Torture also noted concern regarding the lack of an appropriate normative framework for fighting domestic violence, and the lack of remedies for victims of domestic violence.<sup>1057</sup>

## Strength of Civil Society

Ukraine generally has allowed human rights organizations to operate within the country, and the government was generally described as "cooperative and responsive."<sup>1058</sup> Human rights defenders, however, have faced repression and harassment. Amnesty International reported the disappearance of, and attacks against, activists.<sup>1059</sup> Human Rights Watch reported activists being

<sup>1055</sup> Council of Europe, *Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence*, 11 May 2011, CETS No. 210, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=210&CM=1&DF=&CL=ENG> (accessed June 24, 2015).

<sup>1056</sup> Human Rights Committee, *Concluding observations on the seventh periodic report of Ukraine*, 22 August 2013, U.N. Doc. CCPR/C/UKR/CO/7.

<sup>1057</sup> Committee against Torture, *Concluding observations on the sixth periodic report of Ukraine*, 12 December 2014, U.N. Doc. CAT/C/UKR/CO/6.

<sup>1058</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Ukraine* (2015), § 5.

<sup>1059</sup> Amnesty International, *Ukraine: Three Further Disappearances in Crimea* (2014), <https://www.amnesty.org/en/documents/eur50/016/2014/en/> (accessed June 24, 2015); See also Amnesty International, "Ukraine: Human Rights Monitors Urgently Needed As Journalists and Activists Face Waves of Attacks in Crimea," 7 March 2014, <https://www.amnesty.org/en/latest/news/2014/03/crimea-human-rights-monitors-urgently-needed-journalists-and-activists-face-wave-attacks/> (accessed June 24, 2015).

beaten and disappeared.<sup>1060</sup> In 2014, the Human Rights Committee expressed concern about the “harassment and intimidation” of human right defenders and recommended that threats against these individuals be investigated.<sup>1061</sup>

Ukraine received a “Partly Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*.<sup>1062</sup> The “Partly Free” rating and harassment of human rights defenders suggest that efforts to combat domestic violence may be impeded by government repression.

#### *Women’s Rights Organizations*

Organizations that have recently submitted shadow reports as part of the CEDAW review include the Women’s Consortium of Ukraine (representing 22 NGOs), Za Ravnje Prava, European Roma Rights Centre, and Roma Women Fund “Chirieli.” Women’s Perspectives is active in protecting women’s human rights. Ukraine appears to have a broad civil society.

#### *Monitoring Reports*

The Immigration and Refugee Board of Canada published a report on domestic violence in Ukraine entitled, *Ukraine: Domestic violence including state protection available to victims; support services and availability of state-supported shelters; recourse available to women who are stalked or harassed by their former spouses*. The report is based on publicly available information and briefly summarizes prevalence, police response, sentencing, government protection, and services.<sup>1063</sup> One source describes how Ukrainian police lack the proper training and resources and often doubt domestic violence claims.<sup>1064</sup> The Ukrainian Helsinki Human Rights Union (UHHRU) reports that domestic violence is not always properly investigated, which makes reporting ineffective.<sup>1065</sup> Furthermore, police and courts in Ukraine have been described as corrupt, allowing perpetrators to sometimes bribe officers to influence their cases.<sup>1066</sup> Finally, punishments often include a fine, which can harm the entire family.<sup>1067</sup>

The Office of the Ombudsperson and the United Nations Development Programme published a report, *Monitoring National Court Practice in the Criminal, Civil and Administrative Cases of Domestic Violence*. The report examines judicial practices with regard to domestic violence and the gaps in victim protection. It makes recommendations, including the ratification of the

<sup>1060</sup> Human Rights Watch, “Dispatches: Missing Ukraine Activist Found Beaten,” 31 January 2014, <http://www.hrw.org/news/2014/01/31/dispatches-missing-ukraine-activist-found-beaten> (accessed June 24, 2015).

<sup>1061</sup> Human Rights Committee, *Concluding Observations on the Seventh Periodic Report of Ukraine*, 22 August 2013, U.N. Doc. CCPR/C/UKR/CO/7, ¶ 20.

<sup>1062</sup> Freedom House, *Freedom in the World 2015*, 26.

<sup>1063</sup> Immigration and Refugee Board of Canada, *Ukraine: Domestic violence including state protection available to victims; support services and availability of state-supported shelters; recourse available to women who are stalked or harassed by their former spouses* (2010), <http://www.refworld.org/docid/4e4a270b2.html> (accessed June 24, 2015).

<sup>1064</sup> Ibid.

<sup>1065</sup> Ibid.

<sup>1066</sup> Ibid.

<sup>1067</sup> Ibid.



Istanbul Convention and alignment of domestic law with international legal human rights standards, and trainings for systems actors.<sup>1068</sup>

These reports identify challenges in protecting victims and holding offenders accountable, which can help guide Ukraine in improving its response to domestic violence.

### **Current Status of Efforts to Eliminate Violence against Women**

Shelters in Ukraine have limited space and lack adequate resources. There are three women's shelters offering about 100 spaces, short 98 percent of the 4,596 spaces recommended by the Council of Europe.<sup>1069</sup> A lack of municipal funding impeded the availability of shelters in all large cities, as required under law. Several NGO-run shelters closed because of insufficient funds. State facilities offered psychosocial support to 14,463 persons in addition to centers operated by civil society.<sup>1070</sup> There is one national women's helpline operated by an NGO. It is available free-of-charge, but does not 24 hours per day.<sup>1071</sup> Support is offered in multiple languages, including English, French, German, Italian, Russian, and Ukrainian.<sup>1072</sup>

There remains room for improvement with regard to Ukraine's victim assistance. More shelters, shelter funding, a 24-hour hotline, and victim services are needed.

<sup>1068</sup> "New Study on Court Practice to Help Judges Fight Domestic Violence More Effectively," UNDP, 26 May 2014, <http://www.ua.undp.org/content/ukraine/en/home/presscenter/articles/2014/05/26/a-new-study-on-preventing-domestic-violence-was-presented-at-the-ombudsman-office.html> (accessed Dec. 10, 2015). The report is available in Ukrainian. See [http://www.ua.undp.org/content/dam/ukraine/docs/%D0%9B%D0%9A/Monitoring\\_final.pdf](http://www.ua.undp.org/content/dam/ukraine/docs/%D0%9B%D0%9A/Monitoring_final.pdf).

<sup>1069</sup> Women Against Violence Europe, *Wave Report 2014*, 32, 75.

<sup>1070</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Ukraine* (2015), § 6.

<sup>1071</sup> Women Against Violence Europe, *Wave Report 2014*, 75.

<sup>1072</sup> Women Against Violence Europe, *Country Report 2013*, 280.

## UZBEKISTAN

### Legal Landscape and Developments

The legislative framework on domestic violence in Uzbekistan has yet to be further developed to adequately address domestic violence. Domestic violence is not a specific crime under Uzbekistan's Criminal Code, and such acts must be prosecuted as general assault.<sup>1073</sup> The commission of crimes against health and life against women and girls constitutes an aggravated crime.<sup>1074</sup> Uzbekistan does not have a specific domestic violence law that would provide victims with an order for protection.

In 2010, the government established a working group to examine violence against women to prepare a draft law on the prevention of domestic violence.<sup>1075</sup> As of 2015, the draft law “has been lost in the governmental offices” and is no longer on Parliament's agenda.<sup>1076</sup>

Recent legal developments include the 2013 adoption of a law to increase penalties for underage marriage.<sup>1077</sup> Those who marry underage individuals can face fines up to 30 times the minimum monthly wage, a sentence of one year hard labor, or three months' imprisonment. Parents or guardians who arrange underage marriages face heavier penalties, as do those who conduct religious ceremonies.<sup>1078</sup>

The lack of remedies for victims and absence of a specific domestic violence crime show the opportunities Uzbekistan has to make change. Even incremental legislative reform can be meaningful steps toward progress in the absence of adequate legislation. Such reforms, however, require government will and commitment to drive the change forward.

### Government Will

#### *Acceptance of UPR Recommendations*

Uzbekistan participated in its first Universal Periodic Review (UPR) in 2008. Uzbekistan's second Universal Periodic Review took place in April 2013. In its second report to the Human

<sup>1073</sup> U.S. Department of State Country Reports on Human Rights Practices for 2014: Uzbekistan (2015), § 6.

<sup>1074</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Uzbekistan Addendum*, 28 August 2013, U.N. Doc. A/HRC/24/7/, ¶ 32.

<sup>1075</sup> *Ibid.*, ¶ 30.

<sup>1076</sup> Uzbek Bureau for Human Rights and Rule of Law with the Support of FIDH, *Uzbekistan's Implementation of the CEDAW: Responses to the List of Issues CEDAW/C/UZB/Q/5* (2015), 7, [https://www.fidh.org/IMG/pdf/ubhrrl\\_cedaw\\_sept\\_2015.pdf](https://www.fidh.org/IMG/pdf/ubhrrl_cedaw_sept_2015.pdf).

<sup>1077</sup> UzDaily, “Uzbekistan strengthens punishment for early marriages,” 3 May 2013, <http://www.uzdaily.com/articles-id-23014.htm> (accessed June 24, 2015).

<sup>1078</sup> Agence France-Presse, “Uzbekistan Cracks Down on Underage Marriage,” 6 May 2013, <http://www.globalpost.com/dispatch/news/afp/130506/uzbekistan-cracks-down-underage-marriage> (accessed December 31, 2015); UzDaily, “Uzbekistan strengthens punishment for early marriages.”

Rights Council, the government of Uzbekistan did not include specific information regarding efforts to prevent domestic violence. The report described other initiatives undertaken to address women's rights. In August 2010, Uzbekistan's Cabinet of Ministers approved a national plan of action to give effect to the conclusions of the Committee on the Elimination of Discrimination against Women.<sup>1079</sup> In line with this plan, Uzbekistan made efforts to raise awareness among rural women about their rights under CEDAW.<sup>1080</sup> Additionally, the report noted that the government sponsored a number of initiatives and programs designed to combat entrenched stereotypes related to the traditional roles of men and women.<sup>1081</sup> Finally, the report stated the country has taken political measures to bring a focus to the empowerment of women.<sup>1082</sup>

During its second UPR in 2013, Uzbekistan accepted recommendations related to gender equality, including the following that address domestic violence:

- Continue the government's campaign to increase public awareness of domestic violence (Recommendation 133.37);<sup>1083</sup>
- Adopt a specific law on domestic violence and prosecute and punish perpetrators (Recommendation 135.9).<sup>1084</sup>

The following recommendation Uzbekistan considered already implemented or in the process of implementation:

- Take measures to protect further and promote the rights of women, including by criminalizing domestic violence and marital rape (Recommendation 134.14).<sup>1085</sup>

Uzbekistan did not note any recommendations related to gender violence.<sup>1086</sup>

That Uzbekistan has accepted all recommendations related to domestic violence, including the adoption of a domestic violence law, indicates an initial commitment to improving its response to domestic violence. The government has not yet adopted the draft law, however, which renders the state's prioritization of these recommendations unclear.

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<sup>1079</sup> *National Report Submitted in Accordance with Paragraph 5 of the Annex to Human Rights Council Resolution 16/21: Uzbekistan*, ¶ 42.

<sup>1080</sup> *Ibid.*, ¶ 43.

<sup>1081</sup> *Ibid.*, ¶ 46.

<sup>1082</sup> *Ibid.*, ¶ 50.

<sup>1083</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Uzbekistan*, 5 July 2013, U.N. Doc. A/HRC/24/7, ¶ 133.

<sup>1084</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Uzbekistan Addendum*, 28 August 2013, U.N. Doc. A/HRC/24/7/Add.1, ¶¶ 29–35.

<sup>1085</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Uzbekistan*, 5 July 2013, U.N. Doc. A/HRC/24/7, ¶ 134.

<sup>1086</sup> *Ibid.*

## Mechanisms for Government Accountability

Uzbekistan has ratified CEDAW (1995), ICCPR (1995), and CAT (1995), thus subjecting itself to periodic reporting and reviews by the respective treaty bodies. Uzbekistan has also ratified the OP1-ICCPR (1995), providing an additional means of accountability via the complaint mechanism. Uzbekistan has neither signed nor ratified the OP-CEDAW or the Istanbul Convention.

### *ECHR/CEDAW Cases and Implementation*

Uzbekistan is not subject to the European Convention on Human Rights. There have been no admissible complaints pertaining to domestic violence against Uzbekistan brought before CEDAW.

### *Concluding Observations – Treaty Body Reviews*

Periodic reviews before treaty bodies can highlight ongoing concerns with regard to the government's response to domestic violence. In Uzbekistan's 2015 CEDAW review, the CEDAW Committee expressed deep concern regarding: (a) the high prevalence of violence against women, including domestic and sexual violence; (b) the lack of statistical information on violence against women; (c) the underreporting of domestic violence against women due to its treatment as a private matter mainly taken to mahallas for reconciliation; and (d) the lack of adequate shelters for women victims of violence.<sup>1087</sup>

During Uzbekistan's 2015 ICCPR review, the Human Rights Committee expressed concern that violence against women, including domestic violence, continues to be treated as a family matter and underreported. This was due to law enforcement's failure to register and investigate reports of domestic violence and the absence of adequate protection measures and support services for victims. The Human Rights Committee also noted its concern about the lack of specific legislation criminalizing domestic violence and marital rape.<sup>1088</sup>

Finally, in Uzbekistan's 2013 CAT review, the Committee against Torture expressed its deep concern regarding reports of violence against women, including in places of detention and elsewhere, and the lack of information provided regarding prosecutions of persons for acts of violence against women. The Committee against Torture regretted that domestic violence and marital rape are not defined in the criminal law, and that reports indicate that law enforcement is dismissive of women's complaints of such violence. Finally, the Committee against Torture expressed concern over the inadequate number of facilities for women victims of violence.<sup>1089</sup>

<sup>1087</sup> Committee on the Elimination of Discrimination against Women, *Concluding observations on the fifth periodic report of Uzbekistan (advance unedited version)*, 20 November 2015, U.N. Doc. CEDAW/C/UZB/CO/5.

<sup>1088</sup> Human Rights Committee, *Concluding observations on the fourth periodic report of Uzbekistan (advance unedited version)*, U.N. Doc. CCPR/C/UZB/CO/4.

<sup>1089</sup> Committee against Torture, *Concluding observations on the fourth periodic report of Uzbekistan*, 10 December 2013, U.N. Doc. CAT/C/UZB/CO/4.

## Strength of Civil Society

Human rights groups operated in Uzbekistan, but the government has harassed, arrested, and interfered with the work of these organizations.<sup>1090</sup> Amnesty International reported that no international monitors could access Uzbekistan.<sup>1091</sup> Human Rights Watch reported an incident of government officials attacking a human rights defender.<sup>1092</sup> A number of presidential decrees and laws repress the work and independence of civil society, and ministry officials have found deficiencies in NGOs' registrations,<sup>1093</sup> further impeding their ability to function.

Uzbekistan received a “Not Free” rating on the “Freedom Status” scale in the report, *Freedom in the World: 2015*, with the lowest possible scores for both political rights and civil liberties indicators.<sup>1094</sup> The “Not Free” rating and other repressive policies suggest that efforts to combat domestic violence may be hindered by government repression.

### Women's Rights Organizations

Organizations that have submitted shadow reports as part of the CEDAW review include the NGO Civic Initiative Support Center, Legal Problem Research Center, NGO “NIHOL” Initiative's Development Support Center, Social Center “Ijtimoiy Fik,” Crisis Center “Oydin Nuri,” and Uzbek Bureau for Human Rights and Rule of Law (UBHRRL).<sup>1095</sup>

### Monitoring Reports

No recent monitoring reports on domestic violence in Uzbekistan have been identified.

## Current Status of Efforts to Eliminate Violence against Women

The Uzbek government in 2013 described the establishment of crisis centers, hotlines, and social centers for women that provide psychological, medical, and legal assistance to women victims of abuse.<sup>1096</sup> The U.S. Department of State, however, reported no State-operated shelters or hotlines for domestic violence in 2014.<sup>1097</sup>

<sup>1090</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Uzbekistan* (2015), § 5.

<sup>1091</sup> Amnesty International, *Erosion of the Right to Freedom of Expression and Association, Torture of Detainees, and No Access for International Monitors to Uzbekistan* (2013), <https://www.amnesty.org/en/documents/eur62/005/2013/en/> (accessed June 24, 2015).

<sup>1092</sup> Human Rights Watch, “Uzbekistan: Rights Defender Threatened, Attacked,” 24 May 2012, <http://www.hrw.org/news/2012/05/24/uzbekistan-rights-defender-threatened-attacked> (accessed June 24, 2015).

<sup>1093</sup> Uzbek Bureau for Human Rights and Rule of Law with the Support of FIDH, *Uzbekistan's Implementation of the CEDAW: Responses to the List of Issues CEDAW/C/UZB/Q/5* (2015), Attachment 1, [https://www.fidh.org/IMG/pdf/ubhrrl\\_cedaw\\_sept\\_2015.pdf](https://www.fidh.org/IMG/pdf/ubhrrl_cedaw_sept_2015.pdf).

<sup>1094</sup> On a seven-point scale with “1” representing the most free and “7” the least free rating, Uzbekistan received a “7” for Political Rights and a “7” for Civil Liberties. Freedom House, *Freedom in the World 2015*, 26.

<sup>1095</sup> Dilovar Kabulova, Farzona Khashimova, & Mavluda Salikhova, *Monitoring of the implementation of provisions of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in the Republic of Uzbekistan*, 19, <http://www.osce.org/odihr/21008?download=true>.

<sup>1096</sup> Human Rights Council, Working Group on the Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Uzbekistan Addendum*, 28 August 2013, U.N. Doc. A/HRC/24/7/, ¶ 35.

<sup>1097</sup> U.S. Department of State, *Country Reports on Human Rights Practices for 2014: Uzbekistan* (2015), § 6.

While the exact provision of victim services is unclear, there remains substantial room for improvement with regard to Uzbekistan's victim assistance. More shelters and victim services are needed.

## Conclusion

The countries surveyed in this assessment demonstrate varying degrees of progress in their governmental response to violence against women. While the measures of progress vary from country to country, all states still have shortcomings that need to be addressed to improve protection for women. Each and every country remains a candidate for further reform.

External accountability mechanisms are an important indicator of whether a country is likely to improve its response to domestic violence. Countries that are parties to the major human rights treaties are subject to an important metric of compliance and additional means for accountability on violence against women issues. In particular, those states that have ratified the Istanbul Convention have marked themselves as leaders in this regard but also committed themselves to compliance with the convention's strong standards. Candidate countries for European Union accession have an additional incentive over the next few years to improve their response to domestic violence. Those countries that are already members are accountable to the gender-equality standards set by the European Union.

One of the critical factors in determining each country's potential for improvements was how free and open the society is and how engaged civil society groups are on domestic violence issues. Effective government response to domestic violence requires the engagement of civil society, which can only function in a country where civil society is free and able to criticize and participate in the government to advocate for change and improvement. Additionally, the coordination of efforts between NGOs and government entities, as well as between government departments or agencies, is important to ensure a coordinated community response to domestic violence. Some countries rated well on independent assessments of civil society freedom and have strong groups advocating on domestic violence.

This assessment provides an overview of selected indicators by which to evaluate the potential for improvement of government responses to domestic violence. The indicators examined in this assessment are a non-exhaustive list. Other indicators, such as trainings, public educational campaigns, efforts to promote women's economic empowerment, activities directed toward protection of vulnerable populations, available laws to address harmful practices, curricula to address violence against women, and quantitative data related to domestic violence, can also be examined for further evaluation. Readers are encouraged to use this assessment as a starting point to evaluate each country's status and identify opportunities for engagement to strengthen the government's response to domestic violence.







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