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Study on Family Violence and Violence Against Women in Montenegro



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GLOSSARY¹

1. **'Violence against women'** is understood as a violation of human rights and a form of discrimination over women and shall mean all acts of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;
2. **'Family violence'** means all acts of physical, sexual, psychological and economic violence that occur within the family or domestic unit between former or current spouses or partners, whether or not a perpetrator shares or has shared the same residence with the victim;
3. **'Gender'** means the socially constructed roles, behaviour, activities and attributes that a given society considers appropriate for women and men;
4. **'Gender-based violence against women'** means violence that is directed against a woman because she is a woman, or that affects women disproportionately
5. **'Victim'** means any natural person who is subject to the conduct specified in points 1 and 2
6. Term 'woman' includes girls under 18.

¹Definitions taken from the Convention on preventing and combating violence against women and family violence; Council of Europe, Istanbul, 11th May, 2011

PART 1

INTRODUCTION

INTRODUCTORY INFORMATION ON THE STUDY

CEED Consulting and NGO SOS phone Nikšić, in cooperation with consultants from NGO Safe Women's House (Sigurna ženska kuća), have been developing a Study on family violence in Montenegro, for the needs of UNDP (United Nations Development Programme), European Union Delegation to Montenegro and the Ministry for Human and Minority Rights. The Study has been developed within the gender Equality Programme IPA 2010.

The aim of the study is to draw attention to perception, intensity and forms of family violence and violence against women in Montenegro in order to get familiar with the current situation and undertake appropriate measures for fight against and prevention of this phenomenon. Also, the study would serve as valuable source of information in implementing activities for achieving sustainable and efficient protection mechanisms for victims and measures against family violence.

The Study on family violence and violence against women in Montenegro has been carried out by applying several methods (desk research, qualitative and quantitative research, case studies) in order to get a detail insight into this problem area and obtain as objective data as possible. The applied methods include the following:

- Desk analysis which included normative and institutional framework analysis and statistical data on violence in Montenegro,
- Face-to-face survey with 100 women who experienced family violence,
- Face-to-face survey (1.103 male/female respondents) with the aim of looking into perception and attitudes of respondents about family violence and violence against women,
- In-depth interviews with representatives of 15 relevant institutions both at national and local level,
- Focus group with representatives of female citizens and NGO sector (two focus groups, Nikšić and Podgorica)
- Case studies to identify some of characteristic examples from practice.

The data obtained from face-to-face survey were analyzed by using SPSS software, while information obtained from in-depth interviews and focus group discussions were analyzed and presented independently. The desk analysis has been prepared through direct contacting relevant institutions, consulting available publications, legal acts and Internet search.

This study should contribute to better understanding of family violence and violence against women, as well as its impact on social relations and society development in general. In addition, research findings will set grounds for concrete change in attitudes in regard to the violence issue and social consequences it causes.

SUMMARY

Family violence and violence against women is a social problem all countries face with, and is defined as a way of behaviour or relationship where the force, intimidation or control (in the sense of limitation of freedom) are used directly or by threat in order to hurt other persons and to abuse them in psychological, physical, sexual, financial or emotional sense. Gender-based violence comes from expectations related to gender roles and unequal relations within the society and is deeply rooted in unequal treatment of men and women in both public and private sphere. The phrase "family violence" is used to describe an act of violence between family members, including adult partners, parents and children (including adult children as well), guardians/fosterers or partners of older persons, brother and sister, etc.

The use of the phrase violence in partner relationships is increasing. It is defined as a pattern of abusive and coercive behaviour that may include physical injuries, psychological and sexual abuse, social/physical/financial isolation, extreme jealousy and possessiveness, threats and intimidation committed by someone who was/is/wants to be in intimate relationship or connection with an adult/adolescent and is aimed at establishing control of one partner over another. Threats can be directed towards partner, his/her family, pets, property, etc. This term also includes children who perpetrator of violence uses for intimidation and abuse of adult victim, as well as those who are forced by perpetrator of violence to participate in adult victim abuse.²

Family violence includes forms of violence between partners and/or family members, regardless of whether they live in the same household.³ Most often, victims of Family violence are women. According to the UN data⁴, the first cause of death or disability among women aged between 15 and 45 is not disease or traffic accidents, but violence. The presence of children during violent behaviour of parents is the greatest factor of risk of passing over violence from generation to generation. Boys witnessing family violence are twice as likely to abuse their own partners and children when they become adults. Projects implemented show that 30% to 60% of perpetrators of violence in partner relationships abuses children as well.⁵

The consequences of family violence are felt by generations of a family, but also society as whole. It is an obstacle in achieving equality, development and peace. Therefore, developed countries are continually improving methods for assessment of damage community suffers from due because of this problem.

The extent of family violence in Montenegro is unknown due to the lack of organized data-collection together with scarce analytical studies and research work. According to our knowledge, the last study was

² Sandra I. Bloom, "Encyclopedia of Gender and Violence Thousand Oaks", CA, Sage Publications, 2009

³ Law on Protection Against Family Violence, Official Gazette of Montenegro (SLCG) 46/10, Article 3: Family members, as used in this act, shall mean any of the following: 1) spouses or former spouses, children they have in common, and their stepchildren; 2) consensual partners or former consensual partners irrespective of the duration of consensual union, children they have in common, and their stepchildren; 3) persons related by consanguinity and relatives by full adoption, in the direct line of descent with no limitation and in collateral line of descent up to the fourth degree; 4) relatives by incomplete adoption; 5) relatives on the side of wife/consensual partner up to the second degree in a married or consensual union; 6) persons sharing the same household irrespective of the nature of their relationship; 7) persons who have a child in common or who have conceived a child.

⁴ UN Women: Facts and figures on Violence against Women

http://www.unifem.org/gender_issues/violence_against_women/facts_figures.php

⁵ Data of Foundation "The power of if" which deals with raising awareness on family violence and is part of the project "The dream project" by United Nations; Data available at: www.healingwingsretreat.org

done in 2007⁶, and only one empirical research entitled “Family Violence” is available to Montenegrin public conducted by PhD Jelena Radulović on the representative sample of 500 women.

During the last two years, Montenegro has adopted a series of significant acts related to this area. In August 2010⁷ the Law on Protection from Family Violence⁸ came into force – the first specialized law that penalizes family violence. The Strategy for Fight against Family Violence was adopted in July 2011 and on November 25th, the Protocol on the rules of procedure of institutions in case of family violence.

The aim of the research was to, through critical review on current situation, especially through conclusions and recommendations that follow, offer constructive proposals for better understanding of family violence and violence against women problem area and efficient response of all actors in the process of providing assistance, support and protection to victims.

THE MAIN FINDINGS OF THE RESEARCH AND CONCLUSIONS

The public opinion poll was conducted on the sample of **1.103 respondents** in 17 Montenegrin municipalities.

Respondents' Awareness of Violence

- ✓ In **92%** of cases the respondents believe that **family violence exists** in Montenegro
- ✓ Respondents perceive the following factors as **causes** of family violence: **abuse of power by family members** (29%), **addiction diseases** (22%), **economic crisis** (21%), and patriarchal society (18%)
- ✓ **Victim of family violence** are usually **women and children**, while **men** are recognized as **perpetrators of violence**
- ✓ The respondents are not familiar enough with **competences of institutions** dealing with protection of victims of violence, since they believe that the police and social care centre should be addressed while they neglect the work of courts and prosecutors. Also, they **equalize the role of non-governmental organizations and social care centres** in the process of protection of violence victims.
- ✓ The fact that only 3.5% of respondents believe that violence is often reported, shows that the **number of reported cases does not reflect the actual number of cases** and that this socially negative phenomenon should be reported as often as possible.

Attitudes of Respondents

- ✓ What concerns is the data that even 25% of respondents believe that **the victim is responsible for violence**, because they **“provoke him by their actions”**, while 24% of them point out that the violence is beyond control of perpetrator of violence, because it is **“caused by circumstances beyond his reach”**. Also, respondents are of the opinion that **the victim is responsible for the violence against them, if they do not leave abusive relationship** regardless of whether the victim is women (68%) or men (70%), and that responsibility for violence is assigned to the victim for inability to leave the abuser/perpetrator of violence. The obtained results point to misunderstanding of the **situation, problems and difficulties** victims of family violence face with (fear, sense of powerlessness and

⁶ “Violence against Women – Does the Government Care in Montenegro?” Open Society Institute, Podgorica, 2007. http://89.188.32.41/download/nasilje_nad_zenama-cg.pdf

⁷ Government of Montenegro proclaimed the year 2010 the Year of fight against family violence

⁸ The Law is published in “Official Gazette of Montenegro”, No. 46/2010 from 06. 8. 2010.

uncertainty, lack of family support and relevant institutions, inability to provide basic living conditions), whereby the burden of responsibility is shifted on the victim, while the role of state institutions in providing protection, support and existential conditions is neglected.

- ✓ Respondents with less certainty recognize as violence controlling of phone calls, e-mails, SMS (average rate 3.30)⁹, control of movement (average rate 3.57), restriction of communication (average rate 3.69), which brings to conclusion that there is tolerance to latent forms of violence and **tendency to recognize only the explicit forms of family violence**, such as physical violence insults, threats.

Respondents' Exposure to Family Violence

- ✓ In **13%** of cases respondents were exposed to **some kind of family violence**.
- ✓ Statistical profile of the victim: female persons, employees or retired persons of almost all age categories.
- ✓ The most common forms of family violence are **humiliation, insults and curses** (29%) and **slap, kicking and pushing/shoving** (23%).
- ✓ Most often, **a perpetrator of family violence is husband, former husband and partner** (summarily 37%).

Presence of Family Violence in Respondents' Neighbourhood

- ✓ **38%** of respondents **know someone from their neighbourhood** who is the victim of violence. They recognize the following forms of family violence: **humiliation, insults, curses** (23%), **slapping, kicking, shoving/pushing** (23%), and restriction of communication with other persons and control of movement (8% respectively).
- ✓ Most often, **perpetrator of family violence is husband, former husband and partner** (summarily 64%).
- ✓ Almost every third respondents **would not be ready to report family violence** because of low level of confidence in institutions' efficiency, fear, patriarchal views of family relations as something not to be interfered in, and doubt that problem of family violence can be stopped or overcome.

„Face-to-face” research was conducted with **100 women victims of violence** in the premises of SOS Nikšić and Safe Women's House Podgorica.

- ✓ High percentage of female respondents (67.0%+22.0%) suffered from violence by **spouse or former spouse**, which points that for perpetrators of violence, marriage is the most common ambient for maintaining traditional gender roles caused by patriarchy, in which, to women detriment, the relation of power and control is established.
- ✓ **27%** of female respondents **in their former families were exposed to violence** by father or mother. These data point that there is more likely to pass on violent behaviour as a pattern in partner relations, when it is experienced in the primary family.

Economic Situation

- ✓ **Every second victim of family violence said** that she has **no permanent source of income**, while **58%** said that **perpetrator of violence has control over their incomes and/or property**. The given figures illustrate the level of economic vulnerability that follows almost all victims of violence, which speaks volumes on the complexity of the situation of family violence victims. The lack of economic

⁹Average rate on the scale from 1-5

opportunities or deprivation of economic freedom limits or denies the possibility of choice for the victims.

- ✓ Every second female respondent **is married to perpetrator of violence**. Thus, most of victims stay in marriage where the violent behaviour is constantly repeating.

Risk Assessment

- ✓ Every fifth women said the perpetrator of violence owns fire weapon and in **37%** of cases they were **threatened by a weapon**. Every third female respondent said the perpetrator of violence **tried to kill her**.
- ✓ In **81%** of cases female respondents said **their family members knew about the violence** that was happening to them, but only in 29% of cases they were offered protection, while in 25% of cases they provided shelter for the victim of violence and her children. The case was reported to the police only in 12% of cases.

In-depth interviews conducted with representatives of **15 relevant institutions** gave the following results:

- ✓ Omissions in the work of institutions happening in practice are the result of the **lack of training for institution representatives** in the area of both *specificity of family violence and violence against women and legal procedures* particularly those regulated by the Law on protection against family violence.
- ✓ **Representatives of the relevant institutions** said their employees are coping with the problem of family violence in adequate manner, but none of the institutions had **special departments** specialized to deal with this issue.
- ✓ Institutions involved in the research, except for Social Care Centre, **have no practice of risk assessment defined in advance**. Interviewees said that they usually perform risk assessment through statements of actors in violent situation, but there is no methodology identified, document or the list of questions as basis for risk analysis. This particularly indicates that **risk analysis is one of the weakest links in the chain of protection of victims of violence**, that institutions are not enough aware of their duties and responsibilities in this regard, as well as that there are no appropriate protocols for risk assessment. Certain number of judicial authorities pointed to the **lack of timeliness** of certain social care centres in **delivering analysis and opinions** in cases of family violence and violence against women. This shows that even though centres have pre-defined risk assessment methodology, this method is not used in practice to sufficient extent and that report delivery is rather exception than rule. Also, the work of multidisciplinary teams should be more visible.
- ✓ In the following period, the Ministry of Labour and Social Welfare and non-governmental organizations will form the **Commission for Monitoring of Strategy Implementation** and once a year it will deliver the report to the Government on all planned activities. The Ministry was legally bound to have this body established on February 2011.
- ✓ A victim of violence, for fear of abuser's revenge, often does not cooperate with the police or prosecutor, which results in majority attitude of institutions that in many cases the victim is responsible for the failure of criminal proceedings.
- ✓ What concerns is that results of court proceedings for family violence point to **repeating tendency of judicial system in Montenegro to impose mild sentences or probations for perpetrators of violence/abusers**.

Two conducted **focus groups** (representatives of female citizens and non-governmental sector) point to the following:

- ✓ **They recognize the problem of violence in both general** – on the level of whole society and **micro level** – within families and neighbourhood. Violence is a common and 'widespread' phenomenon, but not much talked about. The problem of family violence is defined as '**social problem that should not be treated as a problem related exclusively to the family**'.
- ✓ As **causes** of violence they mentioned traditional model of parenthood by which female children are raised to be gentle, sacrificial and obedient. Respondents also noted that *in Montenegro there is still no awareness that it takes two for functioning of marriage* with equal rights, but also equal responsibilities for what is happening inside the family.
- ✓ **The absence of support from institutions and negative experience of many women in the contact with institutions** respondents see as explanation why not so many women decide to report the violence.
- ✓ According to respondents, **women suffer violence because of:** fear of rejection by community, fear that she as a victim and her children will bear the shame, economic dependence on man, low level of self-awareness, fear of reproach and rejection by family, dilemma whether the institutions would react in accordance with legal framework, inadequate enforcement of the law and prescribed penalties, which are not on the level they should be.

Case studies showed that:

- ✓ **Male violence against women is happening regardless of ethnic origin, social status, and age.** Any women can become a victim of male violence. However, **women belonging to minority ethnic groups or migrants** who suffered male violence **are often faced with multiple forms of violence and discrimination.**
- ✓ In Montenegro there is no record, which could help to establish **what is the risk that women migrants would suffer violence compared to women having the citizenship**, while the experiences of women migrants who suffer discrimination through behaviour and attitudes of officers when they report violence is recorded only by non-governmental organizations.
- ✓ Victim of violence, for the fear of abuser's revenge, often does not cooperate with the police or prosecutor, which results in prevailing attitude of institutions that in many cases the victim is responsible for the failure of criminal proceedings.
- ✓ **Women life and health risk assessment** is critical to good decisions in the process of protection and for this reason it is necessary to analyze the situation and assess the level of risk that a perpetrator of violence hurts, attempts to murder or kills the victim.

RECOMMENDATIONS

Statistical data on family violence and violence against women/need for further research work

- ✓ The Study pointed to **the need of conducting future researches in the area of family violence and violence against women in order to perceive** the current situation, effects of law enforcement and strategy implementation.
- ✓ It is necessary to conduct researches and studies on **causes, influences and consequences** of family violence and violence against women on regular basis in order to keep the public informed about this problem.

- ✓ **Methodology and instruments** for analyzing family violence need **to be standardized** in order to ensure proper monitoring of trends and data comparison.
- ✓ Provide continuant **collection of comprehensive statistical data** about family violence and violence against women classified by sex, age and relationship between the victim and the perpetrator of violence. Also, it is necessary to conduct a detailed analysis needs and use the obtained results for **creating future policies and measures** for prevention and repression of family violence and violence against women.
- ✓ Organize standardized **data collection on criminal acts for the area of family violence and violence against women**, classified by sex and age, for all institutions and organizations dealing with the issue of family violence and violence against women.

Awareness and Sensibility of the Public

- ✓ Defining and application of social marketing methods in **order to inform the public** about the problems of violence and develop responsibility towards this problem.
- ✓ Constant work **on raising public awareness** of frequency, structure and characteristics of family violence **pointing to the newly adopted legal possibilities** for legal protection from family violence.
- ✓ **Set up info points** in health centres, schools, faculties, public institutions, etc. – where citizens **can be informed about their rights and ways of actions** in the case of violence.
- ✓ **Educate responsible persons in educational and health care institutions, as well as pupils and students** on the importance of recognizing and reporting family violence.
- ✓ **Involve media in public informing about** the issue of family violence and violence against women and organize appropriate gender-sensitive training for journalists/reporters.

Institutional Support

- ✓ Provide constant, **specialized and gender-sensitive training** for representatives of all relevant institutions, which in addition to getting insight into legal procedures, will ensure understanding of the family violence issue, as well as situation and behaviour of the victim.
- ✓ It is necessary to make **society as a whole, particularly institutions, sensitive to the problem of family violence and violence against women** and to invest maximum effort to **introduce and comply with standards** and ensure opportunities for repression and prevention of violence in partner relationships.
- ✓ Form specialized departments/teams within each institution, whose term of office would include dealing only with cases of family violence and violence against women.
- ✓ **Establish branches** for family violence **in all local units of Police Department** and provide specialized training for employees in this institution. Also, the systematization of Police Service is needed in a way to introduce special department for family violence and violence against women.
- ✓ Provide **informative brochures also for employees in institutions**, which need to contain the review of all legal regulations and procedures relevant for their work in the area of family violence and violence against women.
- ✓ Adopt clear procedures for urgent acting in accordance with Law on Protection Against Family Violence where it is stated: *The procedure by which orders of protection are granted and enforced is subject to provisions of the law governing police, misdemeanour procedure, criminal procedure, criminal sanctions and their implementation and enforcement, unless otherwise provided for by this act.*
- ✓ All institutions dealing with protection and providing support to the family violence victims should make **brochures with clear and precise information on their responsibilities and procedures**

regarding reporting violence and procedures that follow and to make them available to both family violence victims and general public.

- ✓ **Institutions** dealing with victims' protection **should organize informative campaigns in** order to have their role recognized in more adequate manner. Update web sites of all relevant institutions with data on their competences and procedures.
- ✓ **Organize roundtables and meetings dedicated to exchange of experience** obtained during the work with violence victims, as well as assessment of procedures applied in the protection procedure.
- ✓ In order to make the work of **Commission**, which is to be formed by the Ministry of Labour and Social Welfare and representatives of non-governmental institutions, in charge of monitoring the implementation of the Strategy for repression of family violence more efficient, it is necessary to expand the existing knowledge through **trainings and ad hoc meetings** to discuss about specific cases, international cooperation and preventive and repression measures. Recommendations made by the Commission and deadlines for their application should be obligatory for every institution.
- ✓ **Make improvements of the existing Protocol for institutions** based on the results coming from monitoring of their work performance and law implementation, by offering more concrete actions in the area of prevention, protection and processing of cases of family violence and violence against women.
- ✓ Within the process of evidence collection provide records on previous charges, police warnings, penalties, as well as information from non-governmental organizations that help victims, which is crucial for better analysis of the case and risk assessment.
- ✓ Local-self governments, secretariats and social care centres to provide suitable **material assistance** to persons suffering from family violence.
- ✓ Design and organize programs for their **economic strengthening** in order to help them in making decisions to live without violence.
- ✓ **Help and support to the members of minority and migrant groups should be adequate and adjusted to their specific needs.** The system institutions are required to respond to their needs with special attention, taking into account the circumstances that make them vulnerable and encourage women to live life without violence. It is essential that all in the protection system understand gender dimension of violence and gender characteristics of every single case in order to create adequate and adjusted response to the violence.
- ✓ Institutions in charge of protection against violence should be **ready to promptly react** in situation when victim leaves the abuser and seeks for help, since this is the most dangerous period for the life and health of the victim.
- ✓ **Tighten up the penalty policy for violence that caused physical, sexual and psychological damage and suffering for the victims. This would send additional message to citizens on intolerance of family violence and violence against women.**
- ✓ For the purpose of **more adequate violence victim protection and increased confidence in relevant institutions of the system**, it is necessary to achieve their better physical protection, supervision over implementation of protective measures and establish fast and efficient system of punishment for their violation. Procedures related to the work of surveillance police for supervision and reporting of protective measures violation should be made more concrete.
- ✓ Provide specialized training for "Community Police" and strengthen their competences when it comes to prompt intervention in cases of violence, including issuing order of removing abuser from the dwelling unit/issuing a restraining order for the abuser.
- ✓ Act according to the urgency principle in legal proceedings related to family violence and violence against women.

- ✓ Ensure efficient implementation of conclusions and recommendations made by CEDAW Committee and delivered to the Government of Montenegro in November 2011 and involve non-governmental organization in the process of their implementation.

Support Services to the Violence Victims

- ✓ **Develop and make available support services to the victims of violence as prescribed in the Law on Protection against Family Violence and the Strategy for Repression of Family Violence and Violence against Women.**
- ✓ It is necessary to ensure establishment of new and **institutional support to existing shelters, SOS telephones and other services for family violence and violence against women**, including psychological and legal services.
- ✓ Provide services and suitable professionals for implementation of protective measures of obligatory psycho-social treatment and obligatory treatment of alcohol and drug addiction.
- ✓ Set up family counselling centres in all municipalities and engage professionals to work in them.
- ✓ **Develop the idea of volunteerism** –encourage the **idea of social responsible behaviour** on the level of entire society in order to recruit male and female citizens in the fight against family violence.
- ✓ **Encourage ideas of social entrepreneurship development** by which help and support services for the victims could become more financially sustainable
- ✓ **Encourage corporate social responsibility of business sector** in order to “return” a part of their profit into the community that would serve as common good, in favour of repression of negative social phenomena such as family violence.
- ✓ **Establish efficient cooperation mechanisms among relevant institutions and non-governmental organizations** dealing with repression of family violence and violence against women.
- ✓ **Set up permanent mechanisms for financing NGOs** dealing with protection of violence victims from municipal budgets.
- ✓ In order to increase the extent of reporting family violence it is necessary to **introduce free-of-charge SOS line (24/7)** at national level that will be networked with available support services.
- ✓ Provide support to the initiative of women non-governmental organizations to establish “women courts”, symbolic in their form, but very significant for women victims of violence and for the public in general, since their raise questions that would otherwise be neglected and create new patterns of knowledge with its methodology.¹⁰

Risk Analysis

- ✓ It is necessary to conduct **risk assessment for every single case by pre-defined and professionally-designed methodology. Reports made in this way should be available to all in protection system. This would end the current practice of risk assessment to be based solely on institution representative’s personal assessment.** Designed methodological approach in doing risk analysis would contribute to more accurate determining of sentences for family violence and more efficient victim protection.
- ✓ Institutions, bodies and other legal persons need to take precaution measures in order to prevent the perpetrator of violence in attempt to locate the victim-especially those placed in the women shelters.

¹⁰This type of courts has multiple functions. In the first line they provide opportunity for victims to tell their stories, in safe environment, in the way they want, without pressures or interfering such as the case before institutional courts. Such type of courts has cathartic functions, but as they contain the statements made by female experts on political context, they also have educational, political role. By their approach they strengthen and empower women, instead of subjecting them to the powers of the system. The members of the jury of the court are both men and women, persons with moral integrity. Courts do not pass a sentence or judgment, but they make public condemnations and put pressure on institutions.

Legislation Acts

- ✓ In the following period it is necessary to adopt secondary legislation prescribed by the law on Protection Against Family Violence:
 - Ministry of Internal Affairs should adopt the Rules of procedure on taking protection measures and to adopt the **form for issuing police order** to the perpetrator of violence to leave the dwelling premises and prohibition of returning into apartment of other dwelling unit,
 - Ministry of Health to adopt the **Rules of procedures on the place and way of implementation of protective measure**, which regulates the taking of protective measure of obligatory treatment of alcohol and drug addiction
 - Ministry of Labour and Social Welfare to adopt the Rules of Procedures on the place and way of implementation of protective measure of **obligatory psycho-social treatment** and development of **Victim Protection Plan**.
- ✓ It is necessary to define specific provisions referring to **possession and purchase of weapon for persons with the history of family violence and violence against women**.
- ✓ **Ratify Council of Europe Convention on Prevention and Repression of Family Violence and Violence against Women in shortest term possible and ensure its direct implementation in practice.**
- ✓ **Define methodology for monitoring fulfilment of obligations according to international documents referring to the area of family violence, violence against women and gender discrimination.**
- ✓ Introduce the **protection measure system** into criminal proceedings, such as is the case in misdemeanour procedure¹¹.
- ✓ Amend the Law on Protection Against Family Violence by various fine amounts in accordance with gravity of committed act¹²
- ✓ Harmonize provision of the Law on Protection Against Family Violence and provisions of other laws (Law on Misdemeanour Proceedings, Law on Criminal Proceedings, laws regulating the work of police) in order to achieve efficient and full implementation of procedures and violence protection measures.
- ✓ Introduce the institute of **Confidant** into criminal proceedings for the act of family violence.
- ✓ It is necessary to make amendments to the Criminal Code of Montenegro in chapters related to Article 223 **Incest**. Namely, considering that this criminal act is placed in chapter concerning criminal acts against marriage and family, it may be concluded that the legislator treats this serious criminal act as private, family matter and prescribes less severe punishments in relation to other criminal acts from the chapter sexual freedom.¹³
- ✓ It is necessary to amend Article **Rape in Marriage** in a way that this criminal act is subject to ex officio prosecution rather than private suit.

Children's Safety

- ✓ Ensure that **children and adults** victims of family violence **are not endangered** by the way the visit of children by perpetrator of family violence is organized.

¹¹The Law on the Protection against Family Violence defines violence as the offence and provides 5 protection measures that are not available in family violence criminal proceedings.

¹²The Law prescribes single fine of €150 regardless of the gravity of the act/offense

¹³More on proposed amendment of the Criminal Code given in section Situation Analysis

- ✓ **Allow violent parent to visit the child only if all measures for child's safety are undertaken and** in time when those visits do not harm his psychological condition and tranquillity. In cases where there is suspicion of kidnapping, deny visit without supervision.
- ✓ **Allow courts** to, in the process of issuing a warrant for child' protection, **offer support to non-violent parent** by granting temporary custody.
- ✓ Amend existing laws referring to the trust of children on care and custody in a way to take family violence as relevant factor upon consideration of "what is the child's best interest".
- ✓ Ensure the **presence of child psychology expert** in family violence protection teams, who will be able to give proper assessment of child's exposure to the violence and parent-child relationship.
- ✓ It is necessary to make amendments of the Criminal Code of Montenegro in terms of tightening penal policy for violence against children, especially provisions of the Criminal Code referring to criminal act against sexual freedom.¹⁴ Also, ranges between lowest and highest punishment are left rather wide.
- ✓ Provide efficient protection of children during the court proceedings in a way to apply prescribed technical and other possibilities of protection with no exception.

¹⁴More detail on Draft proposed amendments of the Criminal Code of Montenegro by Caucus of Socialist People's Party given in Annex 2 of this Study (Source: Comment on the Study by parliament member Mrs. Nataša Vuković)

PART 2

SITUATION ANALYSIS

There has been no specific analysis of the extent of law implementation conducted in Montenegro that could answer the key question whether existing legal regulations actually protect victims of family violence and violence against women and the way they influence the decrease of this phenomenon. The following text addresses these issues, providing an overview of international standards, application of the national legislation in practice and available statistical data on this issue. The focus has been put on documents providing specific, concrete and clearly defined measures for the fight against family violence and violence against women.

Considering its importance, special attention is dedicated to Recommendation 19 (1992) UN Committee on the Elimination of Discrimination against Women (CEDAW). Namely, in October 2011 Montenegro submitted the Initial report¹⁵ to this Committee, in accordance with the international obligations taken by signing and ratification of the UN Convention on the Elimination of All Forms of Discrimination against Women.

After reviewing the reports from government and non-governmental organizations¹⁶, the Committee issued the final comments with recommendations to the Government of Montenegro on how to improve the status of women, including measures against gender-based and family violence. These recommendations are obligatory and the Committee expects them to be met within the next two years.

In addition, Montenegro is a signatory of the new Council of Europe Convention¹⁷ on preventing and combating family violence and violence against women, which is the first legally binding international document providing overall protection of women from violence and family violence. The ratification of this Convention, which is under the competence of the Ministry of Labour and Social Welfare of Montenegro, is underway.

International standards should be a guide to national policy since they are covering many important areas, such as legislation, protection, prevention and offer a wide range of indicators for policy analysis. For this reason, this Council of Europe's Convention is important as both a guide for analysis and monitoring, since it gives comprehensive and detailed guidelines for creating policies against family violence and violence against women and integrates many other relevant conventions, declarations and resolutions by the UN and Council of Europe including CEDAW.

For the needs of this analysis all available official data, materials and research conducted by non-governmental organizations were used.¹⁸

¹⁵ Report available at Ministry for Human and Minority Rights' website: www.minmanj.gov.me%2FResourceManager%2FFileDownload.aspx%3FrId%3D79482%26rType%3D2&ei=s6gLT_LuJZTN4QTa-PiqBg&usg=AFQjCNGui8s5Kp2ay55jYoTbv_H1SlX1jw&sig2=8u_i1jZ9Jh3j0GDU_TEqgg

¹⁶ More on presenting the non-governmental organizations' report to CEDAW Committee: [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/E400C7C36614FCE6C125791E0059638E?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/E400C7C36614FCE6C125791E0059638E?OpenDocument)

¹⁷ Convention was open for signing in March 2011 in Istanbul. Montenegro was among the first states to sign the Convention. More detail at: www.coe.int/t/dghl/standardsetting/convention-violence/convention_en.asp

¹⁸ Besides published materials, studies and researches by non-governmental organizations, for the purpose of this analysis, practical experience of SOS NK and the Safe Women's House was used as well as the results of not yet published results of the research on the prevalence, intensity and forms of violence against women in Montenegro. The research was carried out by SOS NK in cooperation with OAK Foundation, in the period 15th February - 15th

1. INTERNATIONAL LEGAL FRAMEWORK – GENDER-BASED VIOLENCE AS VIOLATION OF HUMAN RIGHTS OF WOMEN

Numerous international documents define commitment of states in terms of the fight against family violence and violence against women. It follows the international documents anticipating concrete and clear measures and representing a guide for the establishment of efficient national policies for prevention and repression of family violence and violence against women.

1.1. UN Documents

*UN Declaration on Elimination of All Forms of Violence against Women*¹⁹(1993) is the first international document that considers the issue of violence through inequality between men and women in society, which leads to the discrimination of women. This document recognizes ‘**violence against women**’ as 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. Violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. Violence against women is an obstacle to the achievement of equality, development and peace.

Declaration identifies the main forms of violence pointing out that violence can be physical, sexual and psychological.

- ✓ Physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation;
- ✓ Physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work;
- ✓ Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

This Declaration provides a framework for analysis and actions both on national and international level and states measures to be taken by the state including establishment of appropriate legislation and national action plans for elimination of violence against women, providing services for victims of violence, training for institution representatives in terms of law implementation, providing funds in the state budget for the fight against violence against women, as well as research and data collection related to the occurrence of different forms of violence and successfulness of measures for its prevention and solving.

*UN Convention on Elimination of All Forms of Discrimination Against Women (CEDAW)*²⁰ is the international document for women rights, which defines terms of discrimination against women as any distinction,

December 2010. Also, in the chapter referring to the situation in practice, the Shadow Report, which was presented to the UN CEDAW Committee in October 2011, was used. The report was produced by a coalition of 11 non-governmental organizations: Anima, Safe Women’s House, Podgorica, SOS Hotline for Women and Children Victims of Violence – Niksic, Montenegrin Women’s Lobby, Podgorica, House of Hope Podgorica, Stella, Cetinje, Women For a Better Tomorrow, Bijelo Polje, Women Alliance for Development, Bona Fide, Pljevlja, League of Women Voters in Montenegro, Nikšić and the Centre for Roma Initiatives.

the¹⁹ UN Declaration on Elimination of All Forms of Violence Against Women was adopted at the UN Conference on Human Rights in Vienna in 1993 (A/RES/48/104)

²⁰Convention on Elimination of All Forms of Discrimination of Women (CEDAW Convention) was adopted by the UN Parliament in 1979 and entered into force as the International Treaty in 1981.

exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality between men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field (Article 1).

The Convention consists of 16 articles, which, among others, refer to discrimination and policies for its elimination, role of sexes and stereotypes, suppress all forms of traffic in women and exploitation of prostitution, marriage and family relations, etc. Violence against women in CEDAW was not directly addressed, which influenced the CEDAW Committee²¹ to adopt General Recommendation No 19 “Violence against Women”. It defines gender-based violence as a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men. In 1989, the Committee recommended that States should provide a suitable legal framework for protection of victims, ensure respect of victims' personality and dignity, services for victims, gender-sensitive training of judicial and law enforcement officers and include in their reports information on violence and on measures introduced to deal with it.

The CEDAW Convention and recommendations by the CEDAW Committee are legally binding. This means that all member states, which ratified the CEDAW Convention (including Montenegro²²), committed to implement standards as defined in this Treaty, as well as recommendations by the CEDAW Committee.

Pursuant to Article 18 of the CEDAW Convention, States Parties undertake to submit to the Secretary General of the United Nations a report on the legislative, judicial, administrative or other measures which they have adopted to give effect to the provisions of the present Convention and on the progress made in this respect within one year after entry into force for the State concerned and thereafter at least every four years. When it comes to Montenegro, the deadline for the report was October 23, 2007. However, the Report was only presented with a four-year delay on October 6, 2011 at the Committee's 50th session. After considering the Government's report²³ and the report by female non-governmental organizations²⁴ the Committee published its Final comments, which include detailed recommendations on how to improve women's status, including measures against gender-based and family violence. These recommendations are mandatory and the Committee expects their fulfilment within the next one to two years.

For the purpose of strengthening the responsibility of the State for the implementation of the UN CEDAW Convention, Optional Protocol²⁵ has been adopted, which entered into force in 2000. By ratification of this document, a State acknowledges authority of the CEDAW Committee for receiving and considering

²¹Experts body formed in 1982 with the aim of monitoring the implementation of Convention on Elimination of All Forms of Discrimination of Women (CEDAW Convention)

²² The Security Council adopted the Resolution on accession of Montenegro to the United Nations on its session held on 22nd June 2006. General Assembly of the United Nations at the session held on 28th of June 2006 approved the accepting of Montenegro in the UN making it 192nd member.

²³ More detail on presenting the Report available on the following link:

[http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/83D5344000E183E0C1257921005956C8?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/83D5344000E183E0C1257921005956C8?OpenDocument)

²⁴The ‘Shadow Report’ was presented by Maja Raičević, speaking on behalf of a coalition of 11 non-governmental organizations: Anima, Safe Women's House, SOS Hotline for Women and Children Victims of Violence – Niksic, Montenegrin Women's Lobby, House of Hope, Stella, Women For a Better Tomorrow, Women Alliance for Development, Bona Fide, League of Women Voters in Montenegro and the Centre for Roma Initiatives, in October 2011.

²⁵ Protocol available at website: <http://www.un.org/womenwatch/daw/cedaw/protocol/>

complaints submitted by either individuals or groups of individuals to the Committee within its competences. The Protocol allows women to submit complaints in the case of violation of rights established in the CEDAW Convention, while it allows the Committee to initiate investigation in case of grave violations of women rights even without receiving a complaint.

*Beijing Platform for Action*²⁶ was adopted at the Fourth World Conference on Women (1995). “Violence against women” and has been recognized as one of the critical areas of concern and barriers towards equality of women, development and peace (Item 44, page 18). Chapter D of The Beijing Declaration defines the term *violence against women* as physical, sexual and psychological violence occurring in the family; physical, sexual and psychological violence occurring within the general community and physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs“. In addressing violence against women the States are commanded to develop a holistic and multi-disciplinary approach, as well as collecting statistics on frequency of violence classified by sex. The Document specifies that women’s protection services against violence must be available to women and girls migrants, women with disability, women displaced due to a conflict, including women who became refugees and women living in rural areas. The National Plan of Action for Achieving Gender Equality (PAPRR 2008-2012.) adopted by the Government of Montenegro in 2008 is based exactly on this document.

1.2. Council of Europe’s Documents

On 11th May, 2007 Montenegro became a fully-fledged member of the Council of Europe. Pursuant to the statement on accepting the obligations, Montenegro was given the status of succession in 49 Conventions and Protocol SE, while 9 conventions and protocols have been determined to be ratified in the Parliament of Montenegro²⁷. There are a series of Council of Europe’s documents referring to family violence and violence against women, but we will refer to the following two:

1.2.1. COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND FAMILY VIOLENCE (ISTANBUL 2011)

Montenegro signed the Council of Europe Convention on Preventing and Combating Violence against Women and Family Violence²⁸ on May 11, 2011. The ratification procedure has been initiated by forwarding information by the Ministry of External Affairs to the relevant Ministry of Labour and Social Welfare. The main characteristic of this new document is that it is the first legally binding instrument, which establishes a comprehensive legal framework for protection of women against violence – prevention, prosecution and elimination of violence against women and family violence.

The Convention also establishes international monitoring mechanisms for its implementation at national level. Article 3 of the Convention contains definitions of violence against women and family violence which include partner relationships, former or current²⁹ *This Convention defines “a violence against women” as “a “violence against women” a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or*

²⁶<http://www.un.org/womenwatch/daw/beijing/platform/>

²⁷ Ministry of External Affairs, <http://www.mip.gov.me/index.php/SE/crna-gora-i-savjet-evrope.html>

²⁸ More detail on Convention available at Council of Europe’s website:

http://www.coe.int/t/dghl/standardsetting/convention-violence/convention_en.asp

²⁹http://www.coe.int/t/dghl/standardsetting/convention-violence/convention_en.asp

economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.

„Family violence“ means all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim. “Gender” means the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.”Gender based violence against women” means violence that is directed against a woman because she is a woman or that affects women disproportionately.

This Convention provides for comprehensive and detail guidelines for creating policies against family violence and violence against women and integrates numerous relevant conventions, declarations and resolutions of the UN and Council of Europe including CEDAW and recommendations by the Committee of Ministers of the Council of Europe.

1.2.2. Recommendation by the Committee of Ministers of the Council of Europe Rec (2002) 5 – Detailed guidelines for creating successful policies on combating violence against women

Recommendation Rec (2002) 5 of the Committee of Ministers provides for the governments of member states on protection of women against violence³⁰ a very specific guidelines for creation of policies for protection and prevention of victims of violence (including women and children).

Affirming fundamental principles, previously established in relevant documents by The UN and The Council of Europe, this recommendation recognizes that male violence against women is a major structural and societal problem, based on the unequal power relations between women and men. It contains a series of concrete measures in different areas, including: a) legal reforms and efficient exercise of rights (both criminal and civil law), b) protection and support to victims, avoiding secondary victimisation, c) rehabilitation programs for perpetrators, d) education and vocational training of civil servants, e) raising awareness programs for the general public as well as introducing violence against women in regular school curricula, f) encourage media to get involved in the fight against violence and to promote a non-stereotyped image of men and women, g) establishment of successful data collection systems and monitoring at national level and h) conducting researches on causes and effects of gender based violence.

2. NATIONAL INSTITUTIONAL AND LEGAL FRAMEWORK IN AREA OF FAMILY VIOLENCE AND VIOLENCE AGAINST WOMEN

The formal framework for protection of women against violence in Montenegro has relatively been completed and harmonized with international UN and EU documents.³¹ Article 9 of the Constitution of

³⁰Recommendation Rec (2002) 5 was adopted by the Committee of Ministers on 30 April 2002 on 794th meeting of the Ministers' Deputies)

³¹ Commission Opinion on Montenegro's application for membership of the European Union, November 2010, page 7, paragraph 1 „ The legal and policy framework Montenegro governing human rights and respect for and protection of minorities are generally established and largely meet European and international standards.“

http://www.mip.gov.me/en/images/stories/download/Evropske_integracije/MISLJENJE_10_NOV_2010_MNE_FINALfinal.pdf

Montenegro, referring to the legal order, prescribes that “the ratified and published international agreements and generally accepted rules of international law shall make an integral part of the internal legal order, shall have supremacy over national legislation and shall be directly applicable when they regulate the relations differently from the internal legislation”³². This definition is indeed affirmative for international regulations, but its implementation in practice is hampered, because the primacy over national legislation has been established, but not over the Constitution, as well as by the fact that it is directly applied only if it previously proves that ‘relations were regulated differently from internal legislation. “What is lacking is an important guideline that international documents shall be applied in accordance with their interpretation by international authorities in charge of supervision over their implementation”³³.

2.1. Legal Norms Regulating Areas of Family Violence

The Constitution of Montenegro

The Constitution does not explicitly mention violence against women, but it defines the obligation of all individuals to respect the rights and liberties of others (Article 6). Article 8 prohibits direct or indirect discrimination on any grounds. In paragraph 2 of the same Article it is stated that regulations and introduction of special measures aimed at creating the conditions for the exercise of gender equality shall not be considered discrimination. Special measures may only be applied until the achievement of the aims for which they were undertaken. Article 18 prescribes that “the state shall guarantee the equality of women and men and shall develop the policy of equal opportunities”, while Articles 19 and 21 guarantee the right to equal protection of rights and liberties and legal aid”³⁴.

The Criminal Code of Montenegro

Since 2002³⁵ the state has formally recognized the importance of sanctioning family violence and introduced in the Criminal Code of Montenegro (Official Journal MNE, No. 70/2003, 13/2004, 47/2006 and Official Journal MNE No 40/2008 and 25/2010) criminal act violence in a family and a family community. Article 220 prescribes violence in a family or a family community as a criminal act. The Criminal Code prescribes penalties for anyone who by use of violence endangers peace, physical integrity or the mental condition of a member of his family or family community. Also the Criminal Code prescribes a whole series of acts that may be related to suppression of family violence, especially in terms of child protection from violence: depriving of a minor (Article 217 CC), neglect or abuse of a minor (Article 219 CC), failure to provide maintenance (Article 221 CC), violation of family obligations (Article 222 CC).

The range of sanctions for violence goes between three months to five years, except in case of death, where the prescribed sentence goes from three to 12 years of imprisonment (Article 220, paragraph 2, 3 and 4). The punishment policy is milder if the criminal act is perpetrated to a family member. Thus, Article 143 of

³² Decision on proclamation of the Constitution of Montenegro, Official Journal MNE No.1/2007 dated 25.10. 2007, page 2,

http://www.skupstina.me/cms/site_data/ustav/Ustav%20Crne%20Gore.pdf

³³ International Human Rights Standards and Constitutional Guarantees in Montenegro, Human Rights Action, 2008: <http://www.hraction.org/wp-content/uploads/knjiga-cg.pdf>

³⁴ The Constitution of Montenegro

³⁵ Until 2002, family violence did not exist as a criminal act in Montenegro, but it was sanctioned through provisions referring to other criminal acts such as severe physical injuries, minor physical injuries, disturbance of public peace and order, etc.

CC prescribes sentence up to fifteen years of imprisonment for murder, while Article 144 threatens with maximum 40 years of imprisonment for anyone who deprives the life of another person in a cruel or perfidious manner. The Criminal Code does not anticipate measures for protection against family violence, which are defined in the Law on Protection from Family Violence in infringement procedure. Therefore we have an almost paradoxical situation, the more severe violence, the lower possibility of protection is provided by the law.

CCMNE in Article 212 recognized *marital rape* for which penalties as defined in Articles 204 and 205 of the present Code are prescribed, but prosecution for this criminal act done to a spouse is to be taken by a private action, not by official duty (*ex officio*) as in other cases of rape. This once again confirms the thesis that sexual violence is a marginalized issue within the general topic of family violence and a socially invisible problem implicitly socially accepted. The impression is that physical violence, even emotional and economic abuse of women, and the same forms of child abuse are more easily recognized, while sexual violence in marriage and partner relationships remains in the shadows. This testifies the data that there is no official judgement for criminal act marital rape. **It is necessary to change CCMNE in a way that prosecution for this criminal act is taken by official duty (*ex officio*).**

The Law on Family Violence Protection ³⁶

This is the first *specialized law* regulating the area of family violence, which entered into force in August 2010. This law defines **family violence** as “*omission or commission by a family member in violating physical, psychological, sexual or economic integrity, mental health and peace of another family member, irrespective of where the incident of violence has occurred*” (Article 2). Family members, as used in this law mean spouses or former spouses, children they have in common, and their stepchildren; consensual partners or former consensual partners irrespective of the duration of consensual union, children they have in common, and their stepchildren; persons related by consanguinity and relatives by full adoption, in the direct line of descent with no limitation, and in collateral line of descent up to the fourth degree; relatives by incomplete adoption; relatives on the side of wife/consensual partner up to the second degree in a married or consensual union; persons sharing the same household irrespective of the nature of their relationship; persons who have a child in common or who have conceived a child (Article 3). Proposal made by NGOs³⁷ to expand this Article and include persons who were or still are in an emotional/sexual relationship regardless of whether they shared the same household, which would be in accordance with recommendations by the UN’s expert group³⁸, was rejected. This Article does not include partners of the same sex either. The proposal made by NGOs³⁹(Article 8) to list the forms of violence in a way which is not final, but to be possible to include those forms of violence that may occur in practice later on, which the law did not anticipate, was accepted.

³⁶ The Law is published in Official Journal of MNE No.46/10 dated 6.08.2010

³⁷ Seven NGOs that jointly proposed 24 amendments to the Draft Law on Protection from Family Violence were as follows: Human Rights Action, Women 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.

³⁸ United Nations, *Good practices in legislation on violence against women, Report of the expert group meeting*, Vienna, 26–28 May 2008, str. 59.

³⁹The same as ³⁵

This law enables granting/issuing of urgent order or measure of protection, either by the police or misdemeanour body upon filing a petition by a victim of family violence. The law enables the victim to approach the misdemeanour body by herself in order to file petition for protection measure(s). The law regulates protection of victims of violence during proceedings and prescribes *five orders of protection* (Articles 20 and 26): removal from residence, restraining order, prohibition of harassment and stalking, mandatory addiction treatment and mandatory psycho-social therapy. The principle of urgency is anticipated in the proceedings related to protection of violence.

The Law also defines protection and assistance measures for victims, institutions in charge⁴⁰, types of urgent interventions, victim assistance and social care plans. Bodies and institutions are imposed a legal obligation to set incidences of family violence in order of priority, ensure mutual communication and provide assistance. An important provision of this Law is duty of social care centres to establish precise records of children and persons with special needs existing on their territory of competence and to form special teams that shall, at least one time per month, pay visits to families where children and persons with special needs resides or live, control conducting with these persons.

Other legal norms referring to family violence and violence against women

The Law on Gender Equality (ZRR) was adopted in July 2007, and Article 1 prescribes that this Law regulates the method of providing and implementing rights on the basis of gender equality, in accordance with international regulations and general rules of international law, as well as measures to eliminate discrimination based on sex and the establishment of equal opportunities for women and men in all fields of social life. The Law, in Article 7 specifies that the term gender based violence is any act that causes or could cause physical, mental, sexual or economic harm or suffering, as well as as threat of such act that seriously impedes a person's ability to enjoy his or her rights and freedoms in both public or private life, including domestic violence, incest, rape and trafficking in human beings⁴¹. Article 14 of this Law, prescribes that All statistical data and information collected, registered and processed by organizations, business companies and other legal persons as well as entrepreneurs must be gender disaggregated and are the integral part of the state statistical records in Montenegro. The Law obliges all relevant institutions in Montenegro dealing with women's protection from violence to keep gender-sensitive statistics with focus on data on family violence.

Gender Equality Law prescribes a series of positive measures to be taken by institutions in Montenegro in order to establish gender equality, but they do not contain any segment referring only to women suffering from violence. This is partly mitigated by the fact that Article 21 of the Law prescribes an Action Plan for achievement of Gender Equality (hereinafter refer to as PAPRR), which the Parliament of Montenegro

⁴⁰Article 5 of the Law prescribes Institutions in charge of protection: the public administration agency in charge of police affairs ('Police'), misdemeanour body, public prosecution service, social work centre or other social and child protection agencies, health care institutions, and other agencies or institutions acting as care providers, have the duty to provide victims with full and coordinated protection, within their respective powers and depending on the severity of violation. A non-governmental organization, other legal or natural persons, may provide protection in accordance with the law. Bodies and institutions from paragraph 1 of this article shall act in accordance with the law in setting incidences of violence in order of priority, and shall ensure mutual communication and provide assistance in order to prevent and detect violence, eliminate causes, and provide assistance to victims in regaining security in life.

⁴¹ Law on Gender Equality, Official Journal MNE 46/07

adopts for the period of four years and contains objectives and measures for achievement of gender equality in the area of protection of women from violence.

Article 159 of the Criminal Code of Montenegro *Infringement of Equality* anticipates criminal responsibility for anyone who, due to affiliation or absence of affiliation or due to difference in sex, denies or restricts the rights of man and the citizen prescribed by the Constitution, laws or other regulations or general enactments or recognized by international treaties or, on the grounds of such differences, grants privileges or exemptions. Prescribes sentence for this criminal act is imprisonment not exceeding three years, or if this act is committed by a person acting in an official capacity imprisonment from three months to five years.⁴²

Criminal act *rape* is defined by Article 204 of CCMNE and the basic prescribed sentence is imprisonment of two to ten years. In extraordinary cases, such as severe bodily injuries, if the act is made in a particularly cruel or humiliating manner or the consequence of that act is pregnancy or the victim was juvenile, the penalties prescribed range from three to 15 years of imprisonment. Articles 205 and 206 define sexual intercourse with a helpless person or a child, and the scope of penalties for this criminal act goes from one to 12 years, which means that legislation in Montenegro prescribes milder punishment for the rape of children and helpless persons not capable of resistance. Particularly disturbing is the provision from CCMNE Article 223 **Incest**, which prescribes that “an adult person who performs sexual intercourse or an equal act with a minor with whom he is related in blood in direct line, or with a minor brother or sister, shall be punished by an imprisonment sentence not exceeding three years.” Considering that this criminal act falls under the chapter Criminal act against marriage and family, it can be concluded that a legislator treats this extremely severe criminal act as a private, family matter and prescribes less severe punishments in relation to other criminal acts from the chapter sexual freedom - rape. In addition, a whole set of aggravating circumstances for a perpetrator of incest is neglected: the relationship of trust and power between an adult and a juvenile family member, as well as serious psychical trauma and other consequences that a mental health incest victim has to live with for the rest of his/her life. **It is necessary to amend CCMNE in chapters related to this area in terms of tightening penalty policy.**⁴³

Children protection from violence

Existing provisions of the Criminal Code referring to **criminal acts against sexual freedom when victims are juveniles** also require amendments and tightening of penalty measures. Also, there is a big difference in scale between the lowest and highest penalty. The practice showed that beside long, exhausting and for a juvenile person traumatic proceedings, most often, penalties from the “beginning” of the scale are imposed for these acts. Procedures for juvenile protection are often breeched.

Article 204 (*Rape*), paragraph 3, for an act made to a juvenile prescribes a penalty from 3 to 15 years of imprisonment

Article 205 (*Sexual intercourse with helpless person*), paragraph 3, for an act done to a juvenile prescribes a penalty from two to 12 years of imprisonment.

⁴² Criminal Code of Montenegro(Official Journal MNE No. 70/2003, 13/2004, 47/2006 and Official Journal of MNE 40/2008 and 25/2010)

⁴³More detail on Draft proposed amendments of the Criminal Code of Montenegro by Caucus of Socialist People’s Party given in Annex 2 of this Study (Source: Comment on the Study by parliament member Mrs.Nataša Vuković)

Article 206 (*Sexual intercourse with a child*) prescribes an imprisonment sentence from 1 to 10 years, and if the consequence of this act is the death of a child, 5 to 15 years. For sexual intercourse with a juvenile and helpless person (mental retardation, mental illness, disabled person, etc.) a perpetrator shall be punished by an imprisonment sentence of two years, while for sexual intercourse with a child with a fatal outcome, the sentence would be five years, as if a slightly serious theft has been done.

Article 207, paragraph 2, prescribes that „if a teacher, instructor, guardian, adoptive parent, stepfather, stepmother or some other person who by abuse of his/her position or authority performs sexual intercourse or an equal act with a minor entrusted to him for teaching, education, custody and taking care, shall be punished by an imprisonment sentence of one to ten years, Article 209, (*Pimping*), paragraph 1, anyone who procures a minor for sexual intercourse, an act equal to it or some other sexual act, shall be punished by an imprisonment sentence of three months to five years.⁴⁴

Upon ratifying The Convention on Cyber crime, Montenegro made reservations that need to be changed:
- in Article 3

Upon submission of the ratification document Montenegro shall, in accordance with Article 9, paragraph 4 of the Convention, regarding Article 9 paragraph, express the following reservation:

„Montenegro states that procuring child pornography through a computer system for oneself or for another person and that possessing child pornography in a computer system or on a computer-data storage medium shall not be referred to as a criminal offence in providing the person appearing in those materials is 14 and gave his/her consent “.

Article 4: upon submitting the ratification document, Montenegro shall, in accordance with Article 9 paragraph 4 of the Convention, regarding Article 9 paragraph 2, point b of this Convention, express the following reservation:

„Montenegro states that materials visually presenting a person appearing to be a minor engaged in sexually explicit conduct shall not be referred to as "child pornography", as stated in Article 9, paragraph 2, and point b of this Convention.

Objections⁴⁵ regarding the adoption of reservations to the Convention concerned have not been adopted by the will of the ruling majority.

In 2003, Montenegro sanctioned *human trafficking* through Articles 444, 445 and 446 of the Criminal Code (Official Journal of MNE, No. 70/03), implemented into its legislation framework the UN Convention against Trans-national Organized Crime and Protocol on Human Trafficking (2000) and ratified The Council of Europe Convention on Action against Trafficking in Human Beings, UN Convention of the Rights of the Child, Optional Protocol on the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and Optional Protocol on the Involvement of children in armed conflict. The Law on amendments to the Criminal Code, adopted in 2010 (Official Journal No. 25/2010), made changes to the criminal act trafficking in human beings (Article 444) and introduces a special form of this act, which incriminates using the services of a person who is known to be a victim of the offence (paragraph 7 of the Article 444). The legal minimum sentence for the basic form of this criminal act is imprisonment for a term of one to ten years, in case the offence is committed on a juvenile, at least three years, and if the offence caused serious bodily injuries, the offender shall be liable to imprisonment for a term of one year to 12 years. If, this criminal offence has caused the death of a person, the offender shall be

⁴⁴Comments on the Study by parliament member Mrs. Nataše Vuković

⁴⁵ Source: Objections made by parliament member Mrs. Nataša Vuković

liable to imprisonment for a minimum term of ten years. Also, the new legal solution prescribes imprisonment sentences for users of the service of a person known to be a victim of this criminal offence, from six months to one year and from three to 15 years in cases where the person whose services are used is a juvenile.

In the middle of 2010 Montenegro adopted the Law on Prohibition of Discrimination⁴⁶, which defines that “any form of discrimination, on any grounds, shall be prohibited”.⁴⁷ The Law, among others, defined discrimination as any unjustified, legal or actual distinction or unequal treatment, exclusion, restriction or preferential treatment of a person in comparison to other persons, based on gender and gender identity. It is prescribed that measures aimed at creating conditions for the realisation of equality and protection of persons being discriminated against, may be imposed by state authorities, authorities of the state administration, authorities of the units of local self-government, public enterprises and other legal and natural persons. It is important to notice that the Law prescribes that “consent of a person to be discriminated against shall not relieve from responsibility the person exercising discrimination, giving instruction to discriminate or inciting discrimination.”⁴⁸

The Family of Montenegro⁴⁹ regulates custody of children, support, property relationships in the family and actions of authorized bodies with regard to marriage and family relationships. It prescribes the duty of everyone to act in the best interest of a child in all child related activities, but it does not specify what this term particularly means, which leaves space for different interpretations and possibility of inadequate implementation in practice. The state has a legal duty to protect children from neglect, abuse and exploitation. State authorities, different associations and citizens, knowing that certain rights of a child have been violated have a duty to inform the state prosecutor or relevant custodial body.

Montenegrin legislation has the institute of mediator in marital disputes. Article 43 of the Law on Mediation⁵⁰(Official Journal MNE 30/05) explicitly states that a mediator shall pay special attention to any occurrence of family violence in the past and assess if it may reoccur between the parties in future. The mediator shall especially consider if a mediation procedure would be the appropriate action and if one or both duly invited spouses fail to respond to the mediation procedure, the mediation procedure is considered terminated. In the process of mediation a child can be consulted about who the child wishes to be entrusted to for care, support and upbringing, while an expert opinion may be sought from an appropriate institution or specialists.

The Law on Free Legal Aid⁵¹ was adopted on April 5th 2011, while its implementation started on January 1st 2012. The law provides the right to fair trial and equal access to courts for all individuals who, due to their financial status, are not able to exercise the right to judicial protection. The law provides that the right to free legal aid can be exercised by users of social assistance or other rights in the domain of social

⁴⁶ Law in prohibition of Discrimination (Official Journal MNE 46/10)

⁴⁷ Law o Prohibition of Discrimination, Article 2

⁴⁸ Law on prohibition of Discrimination, Article 6

⁴⁹ Family Law, Official Journal MNE, 1/2007 dated 9.1.2007

⁵⁰ The Law is available at the following link:

<http://www.posredovanje.me/var/dokumenta/zakoni/zakonoposredovanju.pdf>

⁵¹ Official Journal MNE 20/2011" dated 15.4.2011

protection, children without parental care, victims of domestic violence⁵² and indigent individuals. The Law anticipates establishment of a Free Legal Aid Service or special referrals for free legal aid affairs in all basic courts in Montenegro.

2.2. Institutional Framework in Fighting against Family Violence and Violence against Women

National Action Plan for Achievement of Gender Equality

In July in 2008 Montenegro adopted a Plan of activities for achievement of gender equality for the period 2008-2012⁵³. Out of 12 critical areas defined by the Beijing Declaration, the Plan includes eight: European integration, Education, Health, Violence against Women, Economy and Sustainable Development, Politics and Decision-making, Media and Culture and Institutional Mechanisms for creation and implementation of gender equality policy.

Chapter 4.4 is dedicated to violence against women.⁵⁴The Document defines: Improvement of a legal framework for protection from violence, strengthening the system of women's protection against violence, conducting the research, improvement of the statistics, integrating the knowledge on violence against women, gender equality and non-violent behaviour in elementary schools, conduct research and data collection on harassment, sexual harassment and sexual abuse, improve the status of single parents and single mothers and raising public awareness on violence against women.

The Plan met expectations in terms of legal framework improvement, but it did not bring significant changes in the area of essential protection of victims of violence and improvement of a data collection system. Only until 2011, when the IPA Gender Equality Project⁵⁵, has started and until the clear mechanisms for monitoring the success of implemented measures have been established, reports on the implementation of this plan, other than listing conducted activities, do not offer the review of major achievements.⁵⁶

At local level, during 2010 five Montenegrin municipalities adopted Local Action Plans for Achievement of Gender Equality: Bar, Budva, Nikšić, Pljevlja and Bijelo Polje. Local plans contain the area of violence against women since they have been developed in accordance with the priority areas of action defined in the National Action Plan for Achievement of Gender Equality. In Nikšić, since 2004, in accordance with the Statute of the Municipality⁵⁷, operates a parliamentary Council for gender equality, as a permanent body

⁵²Daily "Vijesti" dated from 27.1.2011. Article available at: <http://www.vijesti.me/vijesti/vlada-usvojila-predlog-zakona-besplatnoj-pravnoj-pomoci-clanak-4091>

⁵³ Article 21 of the Law on Gender Equality prescribes that "the Action Plan, which is adopted for a period of four years by the Parliament of Montenegro, at least contains: aims and measures for the achievement of gender equality in the field of violence against women"

⁵⁴ Action Plan for Achievement of Gender equality available at: <http://www.mmp.gov.me/organizacija/odjeljenje-za-poslove-rodne-ravnopravnosti>

⁵⁵ This project is being carried out by the Government of Montenegro with the support of UNDP and delegation of European Union to Montenegro and the research is a part of activities conducted within this project.

⁵⁶ Reports on achievement of the action plan for achievement of gender equality in Montenegro 2008-2012, adopted by the Government of Montenegro on 22.7.2010 and 11.11.2011 available at the following link: <http://www.minmanj.gov.me/organizacija/nap>

⁵⁷ <http://www.niksic.me/dokumenti/Statut%20opstine%20Niksic.pdf>

within the municipality assembly. Manner of operating, decision-making, composition and other relevant issues are regulated by the Rules of Procedure of the Assembly.

National Strategy for the Fight against Family Violence

In accordance with the Law on Family Violence Protection⁵⁸, an inter-sectoral working group⁵⁹ prepared the Strategy against Family Violence, which the Government of Montenegro adopted in July 2011. The Strategy contains:

- 1) situation analysis and identification of key problems in social care and other forms of care;
- 2) objectives and measures to be taken to promote social care and other forms of care, particularly in relation to the following: awareness raising among citizens of the phenomenon of violence and developing attitudes to violence as an unacceptable form of behaviour; development of programmes for the prevention of violence; family support in violence prevention; further development of the legislative framework for protection issues; strengthening cooperation among bodies, institutions, organizations and other legal and natural persons in charge of protection; developing new knowledge and skills in any person involved in protection; improvement of the system for data collection and analysis and of the system for reporting incidence of violence.

Activities for implementation of objectives and measures from paragraph 1, item 2 of this article are to be set forth in the action plan for Strategy implementation.

The forming of the mixed **Committee**⁶⁰ for monitoring the implementation of the Strategy and action Plan for Strategy implementation is underway.

The *Protocol on procedures in family violence cases*⁶¹ was signed in November 2011. The Protocol anticipates inter-institutional and inter-sectoral cooperation in the area of family violence and violence against women, as well as actions of individual, competent state authorities. The aim of the Protocol is to establish and encourage the establishment of multidisciplinary cooperation with clearly elaborated procedures followed in each system. The Protocol is designed in a way so as to respect the basic principles deriving from all the conventions and the laws mentioned in the Strategy on the Protection against Domestic Violence and it refers to the comprehensive protection of family against violence. Signatory to the Protocol are: The Supreme Court, The Ministry of Justice, The Supreme State Prosecution Service, The Ministry of Education and Sports, The Ministry of Health, The Ministry of Labour and Social Welfare, The Police Department and Misdemeanour Council.

⁵⁸ Law on Protection against Family Violence, Article 18: "Protection is provided in accordance with the strategy for protection from family violence"

⁵⁹ The working group consisted of representatives of all relevant institutions and representatives of three female NGO: Women Safe House, SOS Nikšić and SOS Podgorica

⁶⁰ With establishment of the Committee the request of seven NGOs will be met. They proposed 24 amendments on Draft Law on Family Violence Protection (Human Rights Action, Women 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)

⁶¹ Ministry for Human and Minority Rights, <http://www.minmanj.gov.me/organizacija/odjeljenje-za-poslove-rodne-ravnopravnosti/110098/Potpisan-Protokol-o-postupanju-u-slucajevima-porodicnog-nasilja.html>

Institutional Mechanism for Achievement of Gender Equality

The formal framework for the protection of women from violence in Montenegro is legal and incorporates institutional mechanisms as well.

The Committee for Gender Equality in the Parliament of the Republic of Montenegro⁶² was established on 11 July 2001 as a permanent working body of the Parliament with the following mandate: "Committee monitors and promotes human rights and freedoms related to gender equality guaranteed by the Constitution, in particular: reviews draft legislation to ensure the promotion of gender equality, encourages the implementation and realisation of this principle in the laws of the Republic, Incites and suggests the endorsement of international documents on gender equality and monitors the implementation of these documents in the Republic, Recommends measures and activities for improvement of gender equality, in particular in areas of education, health, public information, social policy, employment, entrepreneurship, family relations and decision-making processes, Participates in the development of programs on gender equality that coincide with the European Union's standards and cooperates with NGOs dealing with gender equality issues. It consists of 11 members, seven of which are women. The work of the Committee was completely invisible during its first mandate. During the second mandate, after appointing Mrs. Ljubica Beba Džaković to be the President (2004), parliament and caucus member of the Democratic Socialist Party, the work of the Committee became visible, but contrary to its tasks and objectives. Namely, the president of the Committee in various public appearances discriminated against women⁶³, due to which female non-governmental organizations requested her replacement. It was only in 2009 when the Committee started to function in accordance with its aims and objectives. The example of good cooperation between the Committee and female NGO was support to one part of amendments to the Law on Protection from Family Violence made by female NGOs. Unfortunately, at the seating of the Parliament of Montenegro held on September 8th, 2011, at which the Law on Councillors and Members of Parliament was adopted, three members of the Committee from the ruling party voted against the amendment on introducing quotas aimed to ensure higher participation of women in Parliament, three abstained, while only five members voted for.⁶⁴ This clearly shows that there is still resistance towards women participation in public life and decision-making positions.

Gender Equality Department⁶⁵ under the same name has existed since April 2009. It came into existence by reorganization of the Gender Equality Office established in March 2003 within the Government Secretariat General.

The new organization of work has contributed to the strengthening of the role of the Department since it is not an independent Government body, but functions within the Ministry for Human and Minority Rights, from which the budget is financed. Based on the Law on Gender Equality the Ministry for Human and Minority Rights is in charge of achievement of gender equality, in such a way that it coordinates activities all activities aimed at achieving gender equality and participates in preparation and adoption of action plans for the establishment of gender equality at all levels; monitors the implementation of international documents and conventions, as well as adopted standards from the gender equality field, prepares reports on fulfilment of international obligations by Montenegro in the field of gender equality; provides assistance

⁶²More on authorities of the Committee available at the following link:

http://www.skupstina.me/index.php?strana=radna_tijela&part=nadleznosti&tijelo_id=7&menu_id=7.6.1

⁶³„The Constitution is the highest act of one state and imagine we are dealing with the details such as whether someone is sexually harassed. I think that every woman has to have an attitude towards that and that no one can harass her by force.“ Ljubica Džaković, former president of the Committee for Gender Equality in respond to the request of female NGOs to include the principles of gender equality into the Constitution of Montenegro (26th November 2006 in interview for Radio Antena M)

⁶⁴ Listing of voting for amendment 39 to the Law on Election of Councilors and Parliament Members, August 2011

⁶⁵ More on Department at site: <http://www.mmp.gov.me/organizacija/odjeljenje-za-poslove-rodne-ravnopravnosti>

for the establishment of mechanisms for the achievement of gender equality at local level; establishes cooperation with non-governmental organizations; undertakes and incites activities on the education on gender equality and organises issuance of publications aimed at promotion of gender equality; investigates complaints of citizens about direct or indirect discrimination based on sex, holds for attitudes and gives opinions and recommendations, and when needed informs the Human Rights Ombudsman on the existence of discrimination based on sex; submits an annual report to the Government on Implementation of the Action Plan; etc.

The Department has only two employees, thus it is evident that, despite a significant number of activities undertaken, such limited human and financial capacities prevents it from responding to all requests it has a duty to implement within the Ministry for Human and Minority Rights.

The institution *Protector of Human Rights and Freedoms (Ombudsman)* has been established by way of a special Law on Protector of Human Rights and Freedoms, which was passed by the Parliament of Montenegro on July 10th, 2003. Adoption of the Law on Prohibition of Discrimination, which entered into force on 14th August 2010, (Official Journal MNE 46/2010) and the new Law on Protector of Human Rights and Freedoms of Montenegro (Official Journal MNE 42/11), which entered into force on 23rd August 2011, the authorities of the Protector in area of protection from discrimination has been completed, since the Protector of Human Rights and Freedoms of Montenegro has been defined by the law as an institutional mechanism for protection from violence.⁶⁶

The authorities of the Protector, in addition to discrimination committed by state bodies, local self-government bodies, public services and other public authorities have been extended to discrimination committed by legal and physical persons, which requires a specific approach by the Protector in prevention acting, but also in eliminating all forms of discrimination. When deemed necessary, the Protector initiates proceedings for protection against discrimination before the court or in the process, joins the discriminated person.

The Ombudsman in Montenegro takes certain steps when civil rights and freedoms have been violated by means of an enactment, act or failure to act on the part of state authorities, authorities of local self-government, public services and other holders of public powers by way of the following: a wrongful application of laws and regulations, a breach of administrative procedure, a failure to act upon your requests, the withholding of requested information, non-enforcement of rendered decisions, wrongfully established facts, unjustifiably long proceedings.⁶⁷

In the first six-month report on protection against discrimination⁶⁸ for 2011 it was stated that only one example of a complaint for gender-based discrimination had been processed, which the Protector found groundless.⁶⁹ This data and the fact that the Report has failed to consider recommendations by CEDAW

⁶⁶ Law on Protector of Human Rights and Freedoms ("Official Journal MNE", No 42/11) and Law on prohibition of Discrimination (Official Journal MNE 46/2010) available at www.ombudsman.co.me

⁶⁷ <http://www.ombudsman.co.me/nadleznosti.htm#ukomslucaju>

⁶⁸ Report available at: http://www.ombudsman.co.me/docs/izvjestaji/Izvjestaj_o_zastiti_od_diskriminacije_2011.doc

⁶⁹ The complaint referred to the work of the Municipality Herceg Novi, and was filed by B.Š. She stated in the complaint that at the meeting of the Local Community Council Kamenari-Herceg Novi held on 17.1.2011, she suffered gross insults and attempt of physical attack by the president of the Local Community T.P., only because she was a woman and for trying to protect public property from the president of LC, who acted inappropriately to his function and squandered public assets. She informed the President of the Municipality Herceg Novi about this incident both in written and oral form, but no actions were taken regarding this matter. She applied to be the instructor for enumerators for Census in April 2011, but was turned down even though she met all requirements sought in the

Committee for Eliminating All Forms of Violence against Women, that Montenegro should “**further strengthen powers and resources of the Protector of Human Rights and Freedoms (Ombudsman) for his/her actions upon complaints for gender-based discrimination and to appoint a Deputy Protector for Gender Equality**”, (CEDAW/C/MNE/CO/1) speaks in favour of the claim that this institution had not dedicated enough attention to the gender-based discrimination issue and gender-based violence, which caused criticism by the NGO sector.⁷⁰

3. STATISTICAL DATA ON FAMILY VIOLENCE AND VIOLENCE AGAINST WOMEN

3.1. Official statistics on family violence and violence against women - weaknesses

Montenegro still has no appropriate official statistics in the area of family violence and violence against women, because available data offer no possibility of perceiving prevalence and trends of violence. The statistical data on violence against women in Montenegro is not available in every institution, while keeping statistics differs from institution to institution, making them impossible to compare and cross-reference. The majority of institutions have no data segregated by sex, even though it is legally binding⁷¹, and there are very few social subjects showing the data on women who survived/suffered from violence.

CEDAW Committee in its Conclusions⁷² published in November 2011 expressed regret for the lack of statistics segregated by sex and qualitative data on the position of women in a large number of areas defined in the Convention, with special focus on women belonging to vulnerable social groups and recommends Montenegro to undertake appropriate measures for keeping these statistics as soon as possible.⁷³ Available data are in annual reports by the police department, courts, state prosecution and non-governmental organizations.

3.1.1. Police⁷⁴

The Police Department of Montenegro is the institution which keeps statistics of filed cases by sex, age (minors and adults) and article of the Law under which the criminal act is qualified. It also makes records on the number of returning offenders. The following tables display the number of perpetrators of criminal act family violence.

It is evident that in 2011 the number of total reports of family violence increased (535), which matches the data from non-governmental organizations, which also recorded an increase.⁷⁵ However, since the beginning of implementation of the Law on protection from family violence (August 2010), which prosecutes family violence through misdemeanour proceedings, the statistics shows the trend of decrease

advertisement. The Protector found no violation of the right alleged in the complaint. At the same time, he advised the complainant that if, in her belief, there are elements of any criminal offence in actions of the president of Local Community Kamenari T.P. which require prosecution ex officio; she may file criminal charges to the relevant State Prosecution service.

⁷⁰“The State is not worried about women”(Independent daily Vijesti, 22.12.2011)

⁷¹ Law on Gender Equality prescribes duty of keeping gender disaggregated statistics

⁷² Final conclusions UN CEDAW Committee made based on presented Initial Report of the Government of Montenegro, November 2011

<http://www.minmanj.gov.me/ResourceManager/FileDownload.aspx?rId=90081&rType=2>

⁷³Final conclusions by UN CEDAW Committee made based on presented Initial Report of the Government of Montenegro, November 2011, page 9.

⁷⁴Source: Annual Reports of Police Department for 2006, 2007, 2008, 2009 and 2010.

of reported criminal acts of family violence and violence in family community Article 220 of Criminal Code of Montenegro). Thus, there were 232 criminal acts registered in 2011, which is 39.7% less in comparison to the period before the implementation of the Law on protection from family violence. These offences were prosecuted with 228 criminal charges that included 230 people, 94% of which were men, among which 87 or 37.8% were returning offenders of these criminal acts.

A criminal offence family violence or violence in family community with fatal outcome has been registered in the jurisdiction area of the District Unit Podgorica.

Victims of family violence in the family community were 257 persons, of which 193 or 75% were women. Minors were recorded in 22 cases as victims of family violence, which indicates that the number of women who committed violence was negligible in relation to the number of men.

Perpetrators of family violence⁷⁶			
	Total	Men (%)	Women (%)
2006	514	95,0	5,0
2007	580	95,0	5,0
2008	520	94,0	6,0
2009	492	95,0	5,0
2010	393	94,0	6,0
2011	230	94	6,0

The number of returning offenders is relatively high and ranges from 31 to 44%, indicating inefficiency of penal policy regarding the criminal offence of family violence. Therefore, it is very important to treat criminal acts that include family violence with the same degree of seriousness as other criminal acts. The punishments should be increased in case family violence repeats.

Returning offenders/perpetrators		
	Total	Percentage of repeat offenders
2006	187	36,4
2007	255	44,0
2008	212	40,8
2009	187	38,0
2010	122	31,0
2011*	87	37,5

* for the first 6 months in 2011

The following tables contain the number of victims (by sex) and minors by age.

Violence victims			
	Total	Men (%)	Women (%)
2006	571	27,2	72,8

⁷⁶Data in the table refer only to perpetrators of criminal act according to the Article 220 of Criminal Code

2007	676	27,1	72,9
2008	561	19,0	81,0
2009	533	18,8	81,2
2010	416	20,4	79,6
2011*	257	25	75

* for the first 6 months in 2011⁷⁷

Minors as victims		
	Total	% Minors under the age of 14
2006	53	50,0
2007	55	72,0
2008	47	25,5
2009	30	36,0
2010	20	15,0
2011*	22	26,6

* for the first 6 months in 2011.

The following table contains data from the Police department of Montenegro on the number of prosecuted and non prosecuted cases of family violence in 2009⁷⁸.

As presented in the table, almost **half of cases filed for family violence remained unprosecuted**. According to statements of those included in the survey, these cases were closed after imposing warning measures, since there had been not enough elements for prosecution. The number of unprosecuted cases in the outcome is concerning in the context of highly developed patriarchal consciousness where only a few women dared to go public with their problem and report violence. For this reason, an important part of the Law on Protection from Family Violence is a request to police 'to immediately undertake measures and actions for protection of a victim'. In order to decrease the number of unprosecuted cases, law-makers clearly obligate the police and other institutions to immediately prosecute all reports of family violence.

District units/Branch offices	No of processed complaints/reports	No of unprocessed complaints/reports	Total of complaints/reports
Podgorica	314	53	367
Kolašin	9	5	14
Danilovgrad	7	2	9
Cetinje	39	0	39
Berane, Rožaje, Plav, Andrijevica	61	19	80
Bar	32	53	85
Ulcinj	21	7	28

⁷⁷Source: Police Department Annual Reports

⁷⁸ Taken from "Survey on prevalence, intensity and forms of violence against women in Montenegro conducted by SOS NK in the period February 15- December 15, 2010

Herceg Novi	93	9	102
Kotor	5	3	8
Tivat	5	3	8
Pljevlja	28	20	48
Žabljak	3	2	5
Bijelo polje	37	0	37
Mojkovac	8	3	11
Nikšić, Plužine, Šavnik	91	136	227
Budva	22	0	22
Total:	775	315	1090

3.1.2. Courts

Court Service Annual Statistic Reports in Montenegro is prepared by the Judicial Council and is available at the Courts of Montenegro's website.⁷⁹ Reports, inter alia, contain the data on the number of cases by municipalities and cumulatively for the whole country, monthly inflow of these cases, number of solved and unsolved cases by months and on an annual level, length of proceedings, analysis in relation to the previous years, overview of the Higher Court performance. The reports do not contain the data on cases by articles of the Criminal Code of Montenegro, or the data on the number of persons included in the court proceedings. Interviewed representatives⁸⁰ from courts stated that physical violence in family was the only form of violence of this criminal offence that was prosecuted. One of the judges interviewed said that in about 10% of cases perpetrators of violence were returning offenders. Data from one of the basic courts included in the survey indicate that the percentage of solved cases of family violence was 69.7%, or out of 33 cases 23 had been solved. The majority of verdicts were suspended sentences and the table is presented below.

As the table shows, the number of verdicts in relation to complaints is almost double, which says there were many backlogs not solved in a timely manner.

Year	<u>No of conducted investigations</u> (Article 220, CC MNE) in Basic courts	<u>No of convictions</u> (Article 220, CC MNE) in Basic courts
2007	85	152
2008	86	215
2009	113	225
2010	83	185
Total:	367	777

⁷⁹<http://www.sudovi.co.me/home.php?PID=137&LANG=mn>

⁸⁰ Interviews with representatives of institutions were conducted within the research on Frequency and Forms of Violence against Women in Montenegro, SOS Nikšić

Data from the Basic Court on convictions for family violence⁸¹ in 2009 are presented in the table below.

	%
Acquittals	21,7
Suspended sentences	60,9
Effective prison sentences	17,4
Total:	100,0

One of the interviewed judges⁸² estimated that in basic courts 30% of people decide to drop charges of family violence during the investigation process. When we know that 30% of cases remain unprocessed in the Police Department, the simple calculation leads to the data that two thirds of reported cases of family violence on an annual level do not reach court proceedings at all.

3.1.3. Misdemeanour Authorities

Misdemeanour authorities are in charge of implementation of the Law on Protection from Family Violence considering that violence is processed through misdemeanour proceedings according to this law.

Since the beginning of implementation of the Law on Protection from Family Violence, September 2010-September 2011, there were 282 filed petitions/motions for initiating misdemeanour proceedings in the area of family violence⁸³, 178 of which were solved, while 104 cases are pending. Solved cases were closed in the following manner: 52 suspensions and 63 fines.

Imposed *protective measures*:

- ✓ four prohibitions against harassment and stalking,
- ✓ one mandatory psychiatric treatment,
- ✓ one mandatory open-type psychiatric treatment,
- ✓ two restraining and harassment orders,
- ✓ two removals from the place of residence.

Data from Podgorica district unit for misdemeanour offences for 2011 are as follows:

- ✓ Total number of cases in process -340
- ✓ Number of solved cases -247
- ✓ Total amount of imposed fines – 70 in the amount of 17.110€
- ✓ Total number of jail sentences – 16 (401 days)
- ✓ Total number of protective measures – 45 without imposed sentence and 21 with imposed sentence
- ✓ Suspended sentence -15
- ✓ Letter before action/warning/admonition Opomena-11
- ✓ Suspension- 70
- ✓ Acquittal- 15

⁸¹Ibid

⁸² Ibid

⁸³ Report by Deputy Minister for Human and Minority Rights presented at Regional Seminar of the Council of Europe in Sarajevo (24-25 October 2011) available at the following link:

<http://www.minmanj.gov.me/ResourceManager/FileDownload.aspx?rId=87017&rType=2h>

Stated data say that the number of imposed protective measures is still low against the number of solved cases (ratio 10:178 for the period September 2010- September 2011). Particularly concerning is the data that the number of protective measures that are supposed to guarantee physical protection of victims is negligible – for more than one year only two removals from the place of residence were imposed, two restraining orders and four prohibitions from harassment and stalking.

Therefore, it should not leave one's mind the fact that international standards, including standards prescribed by the UN and the Council of Europe, not only encourage the state to establish, but also to implement, interpret accordingly and further develop legal mechanisms for the protection of victims of family violence, which enable victims to address the courts for protection without legal or state authority representatives and without making a statement to the police. Therefore, in urgent cases it is important to issue 'ex parte' protective measures, without hearing.

The sex structure of abusers and victims of family violence for the period August-December 2010⁸⁴ is presented in the table below.

<i>Sex structure persons/victims of family violence</i>	No	%	<i>Sex structure persons/perpetrators of family violence</i>	No	%
Women	149	76,0	Women	26	13,8
Men	47	24,0	Men	162	86,2
Total:	196	100,0	Total:	188	100,0

The cases put before the misdemeanour authorities by the end of 2010 included 188 persons, 162 of which were men and 26 women.

In 121 cases, the abusers were members of close family (spouse/husband, father, brother or son). In 33 cases the abusers were husbands, while in a few cases abusers were other male family members (uncle, brother-in-law). Victims of violence are 196 persons, 149 of which were women (wives, mothers, sisters, daughters); while the remaining 47 were men (fathers and a small number other family members). Victims of violence were of different age - in 11 cases, victims were minors and in one case the victim was the 17-year-old wife of the abuser, while in the remaining 10 cases minor children of the abuser.

3.1.4. Prosecutor's Office

Supreme Prosecutor's Office publishes annual reports on prosecutor organization performance on its website⁸⁵. However, the data in the report is not gender-sensitive, i.e. they are not desegregated by sex, which makes them unusable for analysis of the prevalence of violence against women in Montenegro. According to the Supreme State Prosecutor's report for 2009⁸⁶ there were 519 complaints of family violence or violence in family community recorded (according to the Article 2020 of the Criminal Code of Montenegro), while charges were brought against slightly more than a half of reported perpetrators of this criminal act (333). The fact that along with the cases from the previous period in 2009 there were 706 indictments speaks about a significant number of unsolved cases (187) from the previous period

⁸⁴ Data on misdemeanour authorities performance, published in the report by Protector of Human rights and freedoms for 2010. The report available at www.ombudsman.co.me

⁸⁵ <http://www.tuzilastvo.me/aktuelnosti/godisnji%20izvjestaj.htm>

⁸⁶ Page 38, The report available at the following link: <http://www.tuzilastvo.me/izvjestaj%20za%202009.pdf>

(backlogs). The proceedings against 403 perpetrators ended with conviction, half of which were **suspended sentences (261)**, while only **85 persons were convicted to imprisonment**. The remaining penalties were fines (42), court admonitions (13) and community service work (two).

In 2010⁸⁷ there were 444 complaints recorded for criminal act family violence or violence in family community, which along with unsolved complaints from the previous period made a total of 589 complaints. **Less than half the perpetrators were convicted (223), mostly with suspended sentence (137), imprisonment only 63 persons**, and the rest were fines (18) and court admonitions (five). 27 persons were acquitted and the state prosecutor dropped 39 charges.

In the Annual Report of the Supreme State Prosecutor for 2010 is stated a 17% decrease of the number of perpetrators of family violence or violence in family community in comparison to 2009⁸⁸. Considering that since August 2010, when the Law on Protection Against family Violence entered into force, a number of cases of family violence have been processed through misdemeanour proceedings, this data cannot be interpreted as a decrease in the number of cases of family violence. What is lacking is comparative analysis of this data and data on offences processed based on other legal rules, which may contain elements of family violence⁸⁹. Such analysis, along with comprehensive analysis of penalty policy in the area of family violence and violence against women, would give a clearer picture about the spread of this problem in Montenegro. Considering that the Law on Gender Equality prescribes an obligation to keep gender-segregated statistics⁹⁰, it is necessary to invest efforts to include data disaggregated by sex and age in reports of all institutions and organizations dealing with protection and support of victims of family violence with clearly defined methodology of their collection and analysis.

The report states that family violence and violence in family community, together with another three criminal acts, belongs to the group of acts with the highest number of dismissed criminal charges. The most common reason for dismissing the charges is grounds for criminal charges, which in the investigation procedure failed to be proven. This clearly points to the conclusion that there is a need for improvement in investigation procedure. Judicial authorities are obliged to process all cases of family violence, including those with low degree injuries—scratches, bruises, as well as those without injuries.

According to information obtained from the Institute for Execution of Criminal Sanctions (ZIKS) dated 30th September 2010 six people were serving sentences for committing criminal act of family violence or

⁸⁷<http://www.tuzilastvo.me/Izvjestaj%20za%202010.%20godinu.pdf>

⁸⁸ Supreme State Prosecutor's Report for 2010, page 29

⁸⁹ According to the experience of non-governmental organizations dealing with protection of women and children, it is still happening that cases containing elements of family violence are processed through legal acts, which have been applied before the Article 220 of the Criminal Code of Montenegro (Family Violence and Violence in Family Community) was adopted. This has been the case with criminal acts referring to minor and serious body injuries, acts of violation of public order and peace, criminal acts against property, etc.

⁹⁰ The Law on Gender Equality in Montenegro, Article 14: „ All statistical data and information collected, registered and processed by the organizations, business companies and other legal persons as well as male/female entrepreneurs must be gender disaggregated”. Statistical data and information from paragraph 1 of this Article are an integral part of the state statistical records in the Republic of Montenegro (hereinafter: Montenegro) and accessible to the public in accordance with the law.

violence in family community.⁹¹ Delivered data did not contain information on sex structure of these persons.

3.1.5. Social Welfare Centres and Health Care Institutions

Health care and social welfare institutions generally did not have sorted data on violence against women⁹². The representatives from social care centres gave information that since 2002 when Multi-disciplinary Work Team (MWT)⁹³ was formed, separate records have been kept on the number of abused and neglected children, but not the records on women victims of violence⁹⁴. Also, the existing statistics are not easily available to stakeholders, thus there is an evident need for promotion of principles of transparency in work.

The Ministry of Health gave information that one of the shortcomings of efficient protection of women against violence was the lack of adequate, standardized statistics fit enough for comparison and studies. This institution gave information that preparations for establishment of a national traumatism register are underway. The register is supposed to contain all types of injuries and ensure that all relevant sectors disseminate accurate data in the area of violence and injuries. It is planned that the registry is jointly managed by the Police Department, National Statistic Office (MONSTAT) and Public Health Institute of Montenegro.

3.2. Data from non-governmental organizations

Non-governmental organizations dealing with protection of women and children against violence have the most comprehensive databases. However, these databases are not standardized, thus allowing integration and comparison of the data only by certain parameters. Generally, data on the type of violence victims were exposed to, duration of the violence, type of sought and provided help, educational and social status of the clients and their age are available. Following is the table showing the number of women who sought help during 2009, 2010 and 2011 from SOS lines and Safe Women's House and the number of women and children placed at the shelter of SOS line Nikšić and Safe's Women House.

Data on the number of women who asked for help from women non-governmental organizations during 2009, 2010 and 2011 are presented in the following table:

<u>SOS line Nikšić</u>	No of women who asked for help	<u>Safe Women's House Podgorica</u>	No of women who asked for help	<u>SOS line Podgorica</u>	No of women who asked for help	<u>SOS line Ulcinj</u>	No of women who asked for help
2009.	91	2009.	249	2009.	267	2009.	No data

⁹¹ Memo from the Institute for Execution of Criminal Sanctions (ZIKS) Spuž, Archive of SOS telephone for women and children victims of violence Nikšić

⁹² This was found during the research conducted by SOS Nikšić

⁹³ MWT–Multi-disciplinary working team for work with children victims of abuse and neglect – teams UNICEF has formed in several Montenegrin towns as a part of the social welfare centers. These teams have informal character and do not possess Rules of procedure.

⁹⁴ Interview with one of representatives of social welfare centers, SOS line Nikšić archive

2010.	109	2010.	397	2010.	271	September 2010 September 2011.	37
2011.	117	2011.	584	2011.	No data		

Data on the number of women and children who were accommodated in Care facilities for women and children Nikšić and Safe Women's House in Podgorica are presented in the table below:

<u>SOS line Nikšić</u> <u>Care facilities for women and</u> <u>children</u>	No	%	<u>Safe Women's House PG</u> <u>Shelter</u>	No	%
2009 – women	36	40,9	2009 – women	30	42,9
2009 – children	52	59,1	2009 – children	40	57,1
<i>2009. –total</i>	<i>88</i>	<i>100,0</i>	<i>2009. –total</i>	<i>70</i>	<i>100,0</i>
2010. – women	41	44,1	2010. – women	41	53,2
2010. – children	52	55,9	2010. – children	36	46,8
<i>2010. –total</i>	<i>93</i>	<i>100,0</i>	<i>2010. – total</i>	<i>77</i>	<i>100,0</i>
2011. – women	47	43,5	2011. – women	41	53,2
2011. – children	61	56,5	2011. – children	30	46,8
<i>2011. –total</i>	<i>108</i>	<i>100,0</i>	<i>2011. –total</i>	<i>71</i>	<i>100,0</i>

The data from non-governmental organizations record an increase in the number of reports of violence. Thus, during 2011 the number of persons who used the Safe Women's House doubled in comparison to 2009. SOS line Nikšić and Safe Women's House keep records on the types of violence women are exposed to: physical, psychological, material, sexual, stalking. The most frequent types of violence women report are psychological and physical.

Female clients have often been suffering from multiple forms of violence⁹⁵, e.g. simultaneous physical, psychological and sexual violence. The majority of clients of SOS line Nikšić have been exposed to violence for five years, and the abuser was usually the husband, then former partner followed by father, brother and other relative.

Many women ask only for information about actions and procedures from institutions, and according to data from the Safe Women's House, only one third of women, who ask for help, dare to actually report violence. The majority of requests refer to free legal aid, which includes legal advice, but also drafting a motion/petition for divorce, division of assets, alimony, etc.

4. IMPLEMENTATION OF NATIONAL LEGISLATION ON FAMILY VIOLENCE AND VIOLENCE AGAINST WOMEN - SITUATION IN PRACTICE

During the last few years, Montenegro has made certain, formal progress in the area of the fight against family violence and violence against women. This in first place refers to improvement of a legal framework by adopting the Law on Protection from Family Violence, Law on Free Legal Aid, Law on Prohibition of Discrimination and a range of other documents guaranteeing the respect of women human rights. However, even a short compliance analysis of our practice in the fight against violence against women with

⁹⁵ Stated data reflect attitudes of victims who turned to Safe Women's House and SOS Nikšić

international standards shows that essential progress is still missing. Law enforcement still remains an issue, which is shown by mild penalty policy and small number of imposed protective measures, especially those that suppose to guarantee physical safety of victims. In addition, including psychological and economic violence into the definition of family violence in some cases had negative consequences opening the possibility for perpetrators to file a counter-complaint for psychological or economic abuse against those to whom he was violent.

What is missing is coordinated, multi-sectoral approach to the issue of violence, services of support for victims are underdeveloped and inaccessible to a large number of women; there are no programs for perpetrators of violence, or conditions for successful implementation of measures of mandatory psycho-social treatment, prescribed by the Law on Protection from Family Violence; there is still no efficient data collection system based on reliable, gender disaggregated indicators that could be analysed at national level. There is no research on causes and consequences of family violence and violence against women, awareness raising campaigns, regular consultations with non-governmental organizations, as well as ongoing training for institution representatives, etc.

Conclusions drawn by the UN CEDAW Committee, published in November 2011, after examination of the initial report of the Government of Montenegro and the report of non-governmental organizations about the status of women human rights in Montenegro, concurred with the above mentioned data.

4.1. Weaknesses in law enforcement by institutions (police, prosecutor's office, judiciary system, social welfare centres)

What is concerning is that even after 18 months there is still no secondary legislation developed, which shows that in everyday life victims are deprived from necessary protection. Even though some NGOs⁹⁶, dealing with protection from family violence, have addressed the Prime Minister with a request to intervene and ask for taking concrete actions, up to this date competent ministries failed to take necessary and required actions according to the Law on Protection from Family Violence and in favour of passing secondary legislation (bylaws).

With appropriate interpretation of the Law, protective measures may be imposed on a perpetrator of violence, if violence or threat of violence already happened or if there is a probability of repeating. Absence of positive interpretation of the law and its purpose, results in poor implementation of the law and its provisions by competent authorities. The hesitation in proposing and imposing protective measures by competent institutions is evident and authorities show considerable tolerance towards family violence. It seems that system institutions have neither developed an attitude that the one who committed violence or threatens it should be liable for it immediately, nor commitment that the safety of the victim has priority.

A small number of victims know that the Law enables them to approach the misdemeanour authorities by themselves and file a motion for protective measures. On the other hand, misdemeanour authorities excessively rely on legal provisions, which enable participation of other institutions in collection of evidences, thus neglecting statements made by victims, which are supposed to be sufficient in order to impose a protective measure.

⁹⁶ Letter addressed to the Prime Minister Igor Lukšić, dated 25th August 2011, SOS line Nikšić

The experience of non-governmental organizations dealing with protection of women against violence shows that employees in institutions do not consider family violence as serious as other criminal acts. It concerns the fact that in the public appearance of male/female representatives of some institutions, violence against men by women is being increasingly highlighted, which is an attempt to divert the public's attention from the ever-present social problem (violence against women) to statistically a many-times smaller problem. Namely, as already stated, statistics of criminal offences show that the percentage of women who committed violence remains negligible – only 6% in comparison to percentage of male abusers (94%). In addition, their focus is often put on preserving the family community, rather than penalising abusers. This is well illustrated by mild the penal policies of courts, which is mainly based on fines and suspended sentences (see the data on the court and misdemeanour authorities' performance) and the lack of effective implementation of protective measures.

This lack of efficiency is particularly visible in the implementation of protective measure **removal from the place of residence**. What happens is that institution representatives fail to see that it is necessary to act with enforcement of protective measures, as a sanction for a perpetrator in order to protect a victim. Thus, in practice it happens that the court based its decision on imposing this measure on material possibilities of the victim. Namely, a judge dismissed the motion for removal from the place of residence, and as an explanation quoted the opinion of the social care centre, which stated that the victim had accommodation at their parent's house.⁹⁷ In this way the purpose of this protective measure is made senseless.

In favour of this claim is the data that after the adoption of the Law on Protection of Family Violence, in the period September 2010- September 2011, only two such measures were imposed. The average of criminal charges and cooperation with relevant institutions is better in areas where teams for family violence exist and where cooperation of female NGOs and institutions is more intensive (Podgorica and Nikšić). Therefore, the number of imposed protective measures (45) in District Misdemeanour Unit Podgorica, as well as the number of imposed imprisonment sentences (401 days) in 2011 was significantly lower in comparison to other district units. In smaller environments, especially in the north of Montenegro, occur not only omissions, but serious violations of human rights of victims of family violence made by institutions.⁹⁸

In a significant number of cases, the police and judicial bodies based their judgement/decision about violence on non existence or existence of physical violence, while other forms of violence tend to be more difficult to recognize.⁹⁹ This particularly refers to economic and psychological violence, as well as neglect of children and deprivation of basic existential needs, even though Article 8 of the Law on Protection against Violence very clearly prescribes these forms of violence. Even though employees in institutions are obliged to base their decision about reports made by non-violent parent, it often does not happen in practice. The primary goal of the Law on Protection against Violence is to directly provide mechanisms for separation and protection in cases of neglect and abuse of children, while other laws contain specifically adjusted legal

⁹⁷All information about the case can be found in documentation of NGO Safe Women's House

⁹⁸The cases from practice of Safe Women's House show that teams of social care centers upon giving an opinion on entrusting children for care and upbringing often fail to take into account the fact that one of parents, most often the father, is violent. Thus, it happens that the abuser controls the partner through children, who become the victims of family violence as well. The existing multi-disciplinary teams were only trained on protection of children from violence, but they lack the systematic training on family violence.

⁹⁹ Ibid

remedies for neglected and abused children. Complaints of women who suffered violence against employees in mentioned institutions mostly refer to failure of understanding of the problem, lack of support, poor coordination between the police, social welfare centre and courts. Complaints against police work usually refer to inefficiency in protection of victims. Also, practice shows that the majority of victims did not receive appropriate information from relevant institutions on their competences and duties following the reporting of violence. Thus, it happens that victims who reported violence get the impression that their reporting was in vain and that institutions do nothing regarding their protection, which affects the loss of trust in their work to a significant extent.

A serious issue represents the lack of education of police and judicial bodies about the implementation of the law on Protection against family Violence. During 2011, Safe Women's House recorded several cases in which police officers have not been aware of the fact that this law even existed. This resulted in having the police still applying the usual practice of bringing a perpetrator of violence to detention and only in cases, which can be treated as disturbance/violation of public peace and order. In addition, they are primarily led by the Police Act and provisions of the Criminal Code Procedures, which allow detention not longer than 12 or 48 hours. It was noticed that competences prescribed by Article 28 of the Law on Protection against family Violence have not been applied, by which police officers may impose to a perpetrator of violence either a restraining order or a ban of returning into the residential unit up to three days.¹⁰⁰ One of the reasons for such situations is the non existence of a proper form of written order and rules of procedure for its enforcement, the Ministry of Internal Affairs should have adopted by February 14, 2011. Significant problem also represents the absence of supervision over implementation of protective measures prescribed by the law on Protection against Family Violence, which prescribes misdemeanour or criminal charges for this offence depending on the type of protective measure. However, even if there were several cases in practice where a perpetrator of violence violated the imposed measures, the investigators failed to come up with any information proving that the court imposed proper punishment. In addition, it happened that magistrates were not aware that the victim may request the imposing of protective measures on her own¹⁰¹, thus they have not been treated as seriously as those filed by the police.

Persons in charge in educational and health care institutions have not recognized their legal obligation to report violence either.

The Law on Protection against Family Violence prescribed processing of family violence through offence procedure, which enables faster proceedings and imposing of protective measures within 48 hours since filing a motion to a misdemeanour authority. Nevertheless, the practice records that this legal possibility set forth in Article 29 of the Law, which refers to principle of urgency has not been applied. On the other hand, this implies lower penalties in comparison to criminal proceedings, which additionally mitigates already mild penal policy. If the report of violence is processed as a criminal offence, the law does not prescribe imposing of protective measures, thus we have an absurd situation – the more severe violence the less possibility of victim protection.

¹⁰⁰Conversation between representatives of Safe Women's House and inspectors for family violence, Police department, district unit Podgorica, February 2011

¹⁰¹ Conversation with the President of the Misdemeanor Court, May 2011

Case of 29th victim of family violence, SWH, August 2011

„He molested me, beat me, kept me locked in the house, determined the area where I was allowed to walk around and insulted everybody around me”. After those scenes, the police came and took the abuser to detention, but he would leave the police station within a few hours. There was a court ruling on a restraining order, which the abuser violated almost daily. “First he tried to strangle me until I was foaming, then my godmother jumped to get him off me, and then he grabbed me on my neck. When he saw that she was about to call the police, he took the knife (15-20 cm long) and pressed it to my throat and made a cut on one side. The same investigative judge would always release my husband on the street, because injuries he inflicted me with the knife or gun were not severe.”¹⁰²

4.1.2. Support services for victims of violence and violence against women

International standards¹⁰³ set clear requests before the member states in terms of ensuring efficient and available services for victims of family violence and violence against women. The state of Montenegro has still not enough free-of-charge and specialized services for victims of violence, even though it is an obligation prescribed by the Law on Protection against Family Violence and planned by the Strategy to Combat Family Violence. Also, the Law should contain provisions for financial assistance, which enables the victim to separate from the abuser. The order of measures should also contain temporary financial assistance, as well as timely use and possession of any kind of joint property and limitations in terms of transferring of joint property.

The first services of support for women and child victims of family violence were established by female non-governmental organizations at the end of 90's. These services still exist despite efforts to sustain and the lack of proper financial support by the state. They provide free accommodation and food, free legal and psychological help and support in contact with institutions. In 2011, the Government of Montenegro through the Ministry of Finance allocated short-term donations for the first time to three NGOs, which provide services for women and children victims of family violence in the total amount of €28.000.

SOS lines

The history of the fight against family violence and violence against women in Montenegro started with setting up of the first women NGO – SOS line for women and child victims of violence – formed with the aim of eliminating male violence against women and children. The first such organization, SOS line, was formed in 1997 in Podgorica and one year after in Nikšić. Since 1997 until today, there are eight SOS lines for women and children victims of violence registered in Montenegro as local autonomous women organizations. The first initiatives for encouraging better and more comprehensive support and protection of victims of violence, through initiating multi-sectoral and multi-disciplinary cooperation came from these organizations. Thus, in 2003 SOS line Nikšić¹⁰⁴ started a program for encouraging coordinated, multi-disciplinary actions against family violence in the community. Within this program, on October 21, 2003, relations and cooperation between one female NGO and Police, Basic Court, and Social Welfare centre were

¹⁰²The story of molested and abused wife, who turned to Safe Women's House and gave statement to the TV Vijesti. Media footage available at <http://www.vijesti.me/vijesti/ispovijest-podgoricanke-drzao-mi-je-noz-pod-grlom-tukao-me-ponizavao-clanak-31907>

¹⁰³ See CEDAW Committee Recommendations for Montenegro

¹⁰⁴In cooperation with the Open Society Institute, Program strengthening cooperation between SOS line Nikšić and local institutions

formalized for the first time by signing of the Memorandum of Understanding¹⁰⁵, forming of an informal mixed coordination team and initiating consultancy meetings between the civil and government sector. A year after, in other towns of Montenegro where SOS line operates, similar Memorandums have been signed between SOS lines and public institutions, in favour of the fight against family violence. The signed memorandums serve as the basis for cooperation between SOS lines and state bodies and institutions. Former local coordination teams with multi-disciplinary character have been a forerunner to today's teams functioning as part of social welfare centres, which found their institutional stronghold only in 2010 by entering into force of the Law on Protection against Family Violence.

Nowadays, out of the above mentioned number of SOS lines, only three of them are in function, while others operate under difficult circumstances due to an unfavourable financial situation, with no resources to cover basic institutional costs – electricity, telephone, rent and at least one employee. Even though the freedom of association and gathering of citizens is guaranteed by the Constitution of Montenegro, after 16 years of active work and contribution to democratic reforms, NGOs still remain without state's financial support. Montenegro has still not created favourable and friendly environment for work and development of such institutions, so instead the number of active female citizens and NGOs increases; it records a fall both in terms of organizations and active female citizens in the fight for human rights. The number of organizations suspending their activities increasingly grows from year to year, while forms of exclusion and marginalization of female organizations from public processes, policies and practices is alarming.

SOS line Podgorica, founded in 1997, today has help lines for victims of violence available every day from 17h to 21h. This organization provides “support to all women and girls of all ages, who suffered any form of violence”. Donations for this organization come from foreign donors (40%), international agencies (30%) and volunteers (30%).

SOS line Nikšić was established in February 1998 and offers hot line for help to victims of violence, every working day from 09h to 21h, while cell line is available 24/7. In 2009, SOS line Nikšić formed the shelter for taking care of women and children victims of violence. SOS line Nikšić employs two to three permanent activists under Service Contract, two expert associates under Service Contract and seven to ten volunteers. Multi-lingual support on Albanian and Roma language is available for victims as well.

Besides emotional support, free accommodation and meals, SOS line Nikšić provides free-of-charge representation before the court, psychological treatments, free transport and escort to the institution in the capacity of confidential person (povjerljivo lice). SOS line Nikšić is financed primarily through foreign donations (70%), international agencies (15%), volunteer work (14%) and national donations (1%).

SOS line Bijelo Polje today has a line open every day from 17h to 21h.

SOS line Ulcinj takes calls every working day from 17h to 21h, while the cell phone is available outside official working hours.

SOS line Rožaje (2001), due to the lack of financial resources, was forced to move its office to activists' private premises, where they take calls for help. The official working hours are from 17h to 21h. Difficult

¹⁰⁵The text of the Memorandum available at: www.sosnk.org

material situation of female NGOs especially in the north is best illustrated by the fact that the budget of SOS line Rožaje for the last three years amounted to €400.

As a consequence of the lack of financial resources, some SOS lines have suspended their activities, temporarily closed their offices or were left without their staff and volunteers.

Beside these SOS lines, **Safe Women's House Podgorica** (1999) operates in Montenegro as well. Safe Women's House provides cell phone for help, available 24/7. In this institution the procedure of initial counselling is performed by three persons, while psychologist and legal advisors are involved as needed. Four people have permanent Service Contracts, two associates work as freelancers and the organization has five volunteers.

All mentioned organizations apply a gender-oriented approach in their work.

Other national SOS lines

State/National SOS line is available to victims of human trafficking and operates within the National Coordinator's Office for the fight against human trafficking. The line is free and available for 24h. It is completely financed by the state and run by the NGO Montenegrin Women's Lobby.

Shelter for women/victims of violence

There are three shelters for victims of family violence in Montenegro. Two are led by women non-governmental organizations Safe Women's House-Podgorica¹⁰⁶ and SOS Nikšić¹⁰⁷, aimed exclusively at women and children. The third shelter is located in Bijelo Polje and functions as a part of Family Centre. This organization provides accommodation to children and non-violent parents, which means that both parents (father and mother) have the possibility to find accommodation here.

Beside shelter for victims of family violence there is also a shelter for victims of human trafficking, which functions as a part of the Department for the Fight against Human Trafficking and is financed from the state budget and run by NGO Montenegrin Women's Lobby since 2004.

Shelters of Safe Women's House and SOS Nikšić offer support to women victims of violence and their children and use a gender sensitive work approach. Both are open for 24h and there is no limit to the time that women can spend in the shelter. Both shelters have a capacity of 20 beds in total – 5 beds in Podgorica and 15 in Nikšić. This is not enough to meet the recommendations by the Council of Europe to have a minimum of one place per 10.000 inhabitants.

Both shelters offer free-of-charge accommodation. Shelter of SOS line Nikšić provides accommodation, three meals a day, free legal and psychological counselling, free representation before the Court and provide escort for a victim to the institution in the capacity of 'confidential person/entity' (povjeljivog lica). Safe Women's House offers same services, but not free meals. Personnel in these shelters have many years experience in women activism and in work with victims. Younger personnel from the Faculty of Political Science–department for social work with knowledge in the area of sociology, psychology are getting more

¹⁰⁶ Safe Women's House shelter exists since 1999

¹⁰⁷ SOS Nikšić established a Crisis centre in 2009

involved through volunteer work. The shelters lack experienced legal advisors with appropriate sensibility for the issue of family violence and violence against women. Two female lawyers cooperate with these organizations, but they have other work engagements as well, so it is necessary to hire more experts in the area of law so that they could represent victims before the court.

The majority of funds for shelters come from foreign donations (70%), the rest comes from the state (10% is only temporary financing and 5% from public funds), private donations (5%) and voluntary work (10%).

5. RECOMMENDATIONS OF CEDAW COMMITTEE FOR ELIMINATION OF ALL FORMS OF DISCRIMINATION OF WOMEN¹⁰⁸

Violence against women

While noting the adoption of the Law on Protection from Family Violence, the Committee is concerned about the high incidence of family and sexual violence against women and girls; its under reporting; the lack of prosecutions, the limited use of protection orders; the lenient sentences imposed on perpetrators; the fact that marital rape is subject to private rather than ex officio prosecution; the absence of State-run shelters and psychosocial rehabilitation; the limited support for NGOs providing assistance to women victims of violence; and the lack of research and disaggregated data on violence against women.

Recalling its general recommendation No. 19 (1992) on violence against women, the Committee urges the State party to:

- a) Ensure that all reports of domestic and sexual violence against women and girls are effectively investigated and that perpetrators are prosecuted and sentenced commensurate with the gravity of their crimes;
- b) Provide mandatory training to judges, prosecutors and police officers on standardized procedures for dealing with victims in a gender-sensitive manner and on the application of protection orders under the Law on Protection against Family Violence, expedite the adoption of implementing regulations under the Law, and identify any gaps in the application of protection orders in criminal proceedings;
- c) Provide adequate assistance and protection to women victims of violence, especially psychosocial rehabilitation and an adequate number of shelter facilities funded by the State party, as well as funding for NGOs that assist victims;
- d) Conduct research and collect comprehensive statistical data on violence against women, disaggregated by sex, age and relationship between the victim and perpetrator and carry out an in-depth analysis of the research and statistical data and utilize them to design policies and measures to combat violence against women; and
- e) Set a time frame for ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011).

¹⁰⁸ Full text of conclusions by CEDAW Committee for Montenegro available at: <http://www.minmanj.gov.me/ResourceManager/FileDownload.aspx?rId=90081&rType=2>

PART 3

PUBLIC OPINION POLL

AIM AND METHODOLOGY OF THE RESEARCH

The aim of the research was to obtain data on perception, forms and intensity of family violence and violence against women in Montenegro. As starting basis for creation of representative sample¹⁰⁹ data from MONSTAT were used.

The research was conducted in Bijelo Polje, Berane, Pljevlja, Rožaje, Plav, Mojkovac and Kolašin (northern region), Nikšić, Danilovgrad, Podgorica and Cetinje (central region) and Bar, Ulcinj, Budva, Kotor, Tivat and Herceg Novi (southern region) on the sample of 1.103 respondents.

Table 1. Respondents Structure

Municipality	Absolute	Percentage
Bijelo Polje	84	7,6
Berane	62	5,6
Pljevlja	56	5,1
Rožaje	42	3,8
Kolašin	15	1,4
Mojkovac	16	1,5
Plav	24	2,2
Podgorica	340	30,8
Nikšić	131	11,9
Cetinje	30	2,7
Danilovgrad	34	3,1
Herceg Novi	56	5,1
Bar	76	6,9
Ulcinj	36	3,3
Budva	35	3,2
Kotor	41	3,7
Tivat	25	2,3
Total:	1.103	100,0

Data collection on the field took place during November 2011 and was performed by direct interviewing method. For the field work CEED hired 35 polltakers and 7 supervisors who attended one-day training in order to get familiar with objectives of the research, method of interviewing and deadlines for completion.

The questionnaire containing questions of both closed and open type was created along with the use Likert scale containing series of statements expressing positive or negative attitude towards certain phenomenon. A respondent on the scale, usually from 1 to 5, expresses the level of (dis)agreement with mentioned claim.

¹⁰⁹ Representativeness of the sample implies that selected units of analyzed group, i.e. population have all characteristics of the total population

Data entry was done in Microsoft Excel, while data processing with necessary logical controls was performed in SPSS software (Statistical package for social sciences used for data processing and analysis).

In accordance with the goals of the research, CEED analyst team, SOS Nikšić and female consultants from Safe Women' House carried out data analysis and prepared conclusions and recommendations.

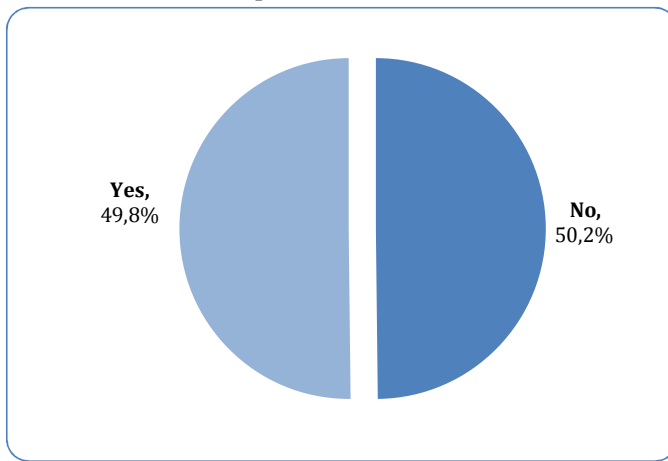
ANALYSIS OF RESEARCH RESULTS

Demographic characteristics

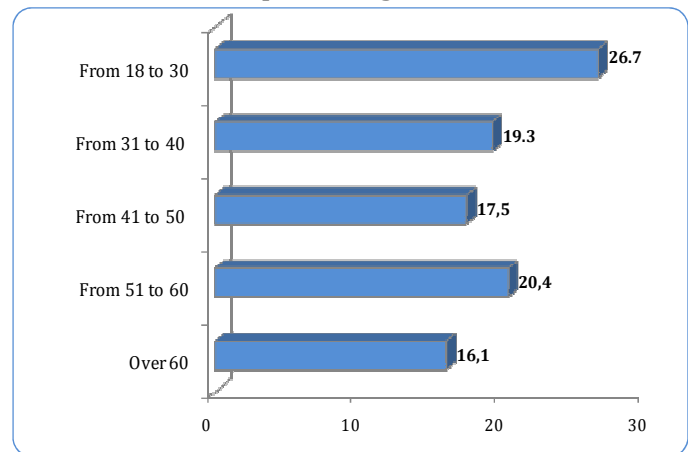
The survey was conducted on the sample of 1.103 respondents in 17 Montenegrin towns.

The sex structure of respondents was the following: men (49.8%) and women (50.2%), as presented on graph 1. Majority of surveyed persons was between 18 and 30 (26.7%) and between 51 and 60 (20.4%), graph 2.

Graph 1. Sex structure

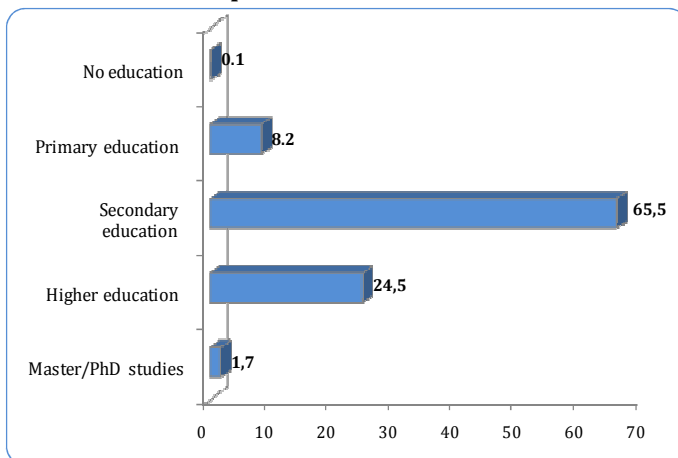


Graph 2. Age structure

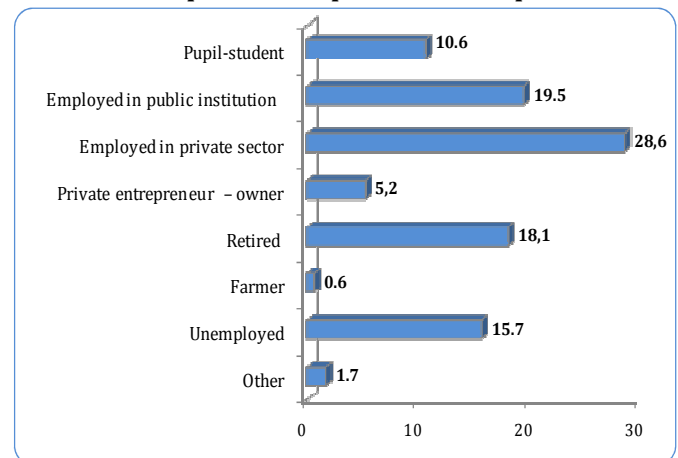


In 65.5% of cases interviewed said they had secondary education, graph 3. The respondents were usually employed in private sector or public institutions (28.6% and 19.5% respectively, graph 4).

Graph 3. Level of education



Graph 4. Respondent's occupation



In majority of cases respondents stated they generate total monthly income ranging from €351 to €450 (20.6%) and from €451 to €600 (20.8%).

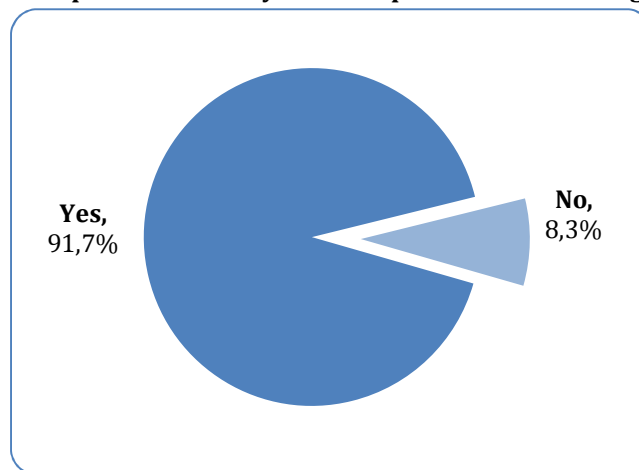
Respondents' general awareness of violence

The respondents were asked whether, according to their opinion, the family violence existed in Montenegro. In **91.7%** of cases they stated that **family violence existed** (graph 5).

Out of this percentage, 68.2% believed that the violence only partly existed, while 30.7% thought it was present to great extent. **Among citizens who thought the violence existed** dominate women, age between 31-40 and 51-60, employed, with secondary vocational education, from urban areas of central and northern region. Among those who, however, though the violence was only partly present dominate men, age between 18 and 30, from urban areas, mostly employed and living in central region.

The TV (35.3%) and printed media (26.7%), have the most critical role in informing of the citizens on family violence. In slightly less percentage respondents stated their environment – family, work, school (26.7%) and friends (13.8 %) as the source of information.

Graph 5. Is family violence present in Montenegro?

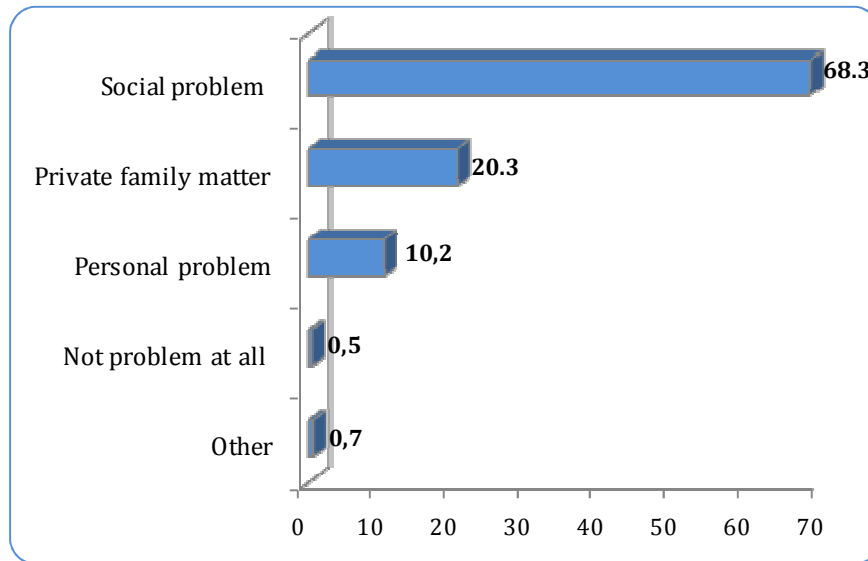


According to respondents, causes of family violence were as follows: abuse of power by some family members (28.8%), addiction diseases (22.2%), economic crisis (21.3%) and patriarchal society (17.8%). Women, age 18-40, from urban areas living in central region in majority of cases abuse of power of some family members as the cause of violence.

Majority of respondents, 68.3% (graph 6), properly/correctly perceive **family violence as social problem.** **This attitude was mostly held by women, age18-40,** employed, living in urban areas in the central region of Montenegro.

Among respondents, who saw family violence as a private family matter (20.3%) or matter of an individual (10.2%) dominate men, age 18-30, employed, living in urban areas of the central region.

Graph 6. Family violence is:



According to 56% of respondents, victims of family violence were usually women, while 36.8% thought victims were children (table 2). 73.8% of respondents thought the abusers in the family most often were men (table 3).

Table 2. Violence victims in family are:

	(%)
Women	56,0
Men	2,3
Children	36,8
Elderly	4,6
Other	0,3

Table 3. Violators in the family are:

	(%)
Women	10,4
Men	73,8
Children	4 0
Elderly	11,3
Other	0,6

Four fifths of respondents (81.4%, graph 7) stated that institutions/organizations that victims of family violence can turn to existed in Montenegro. According to them, victims of violence most often go for help to the police (38.2%), social care centres (25.8%) and non-governmental organizations (24.5%), graph 8.

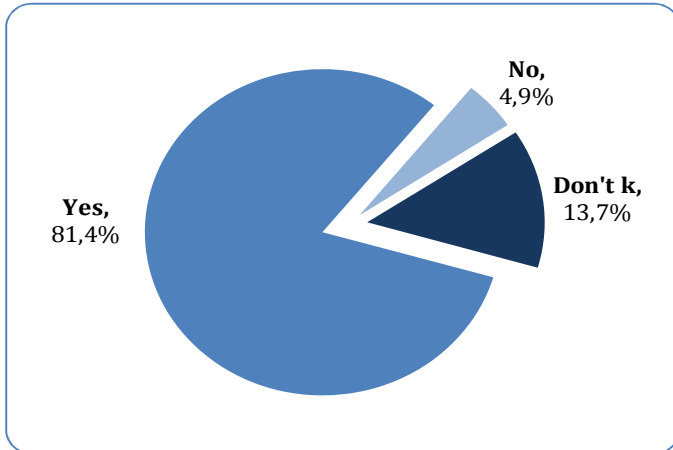
A considerably low percentage of those interviewed recognized the role of courts (3.7%) and prosecutor's office (1.7%). Namely, according to the Law on Protection against Family Violence¹¹⁰ and the Protocol on Prevention and Repression of Family Violence¹¹¹, besides the police, courts too have competence to institute misdemeanour proceedings and impose protective measures for victim's safety. **It is necessary to invest additional efforts to inform the public about these competences and ways of application of the Law on Protection from Family Violence.**

¹¹⁰Law on Family Violence Protection ("Official Journal of MNE", No. 46/2010 since 6.8.2010), Article 5, prescribes competences of institutions: "The public administration agency in charge of police affairs ('Police'), misdemeanor body, public prosecution service, social work centre or other social and child protection agency, health care institution, and other agency or institution acting as a care provider, have the duty to provide the victim with full and coordinated protection, within their respective powers and depending on the severity of violation."

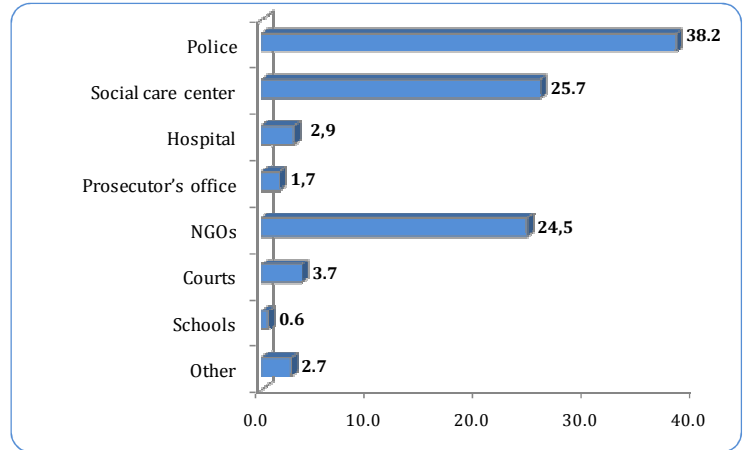
¹¹¹<http://www.gov.me/pretraga/110098/Potpisan-Protokol-o-postupanju-u-slucajevima-porodicnog-nasilja.html>

Respondents almost made equal the role of non-governmental organizations and social care centres in terms of protection against violence (graph 8), which indicates female NGOs had an active and visible role in providing support to women and children who suffered from family violence.

Graph 7. Are there institutions/organizations victims of violence can go to for help?



Graph 8. Victims of violence can go for help to the following institutions/organizations:



Family violence is rarely reported to competent institutions according to 63.3% of respondents. In 30.7% of cases respondents thought the family violence was sometimes reported, while only 3.5% said it was often reported. **Such responses indicate the awareness that the number of reported cases does not reflect the actual number of cases of family violence and violence against women.** Most often, the victim is the one to report family violence (48.3%) or someone of family members (23.2 %), table 4.

Table 4. Family violence is most often reported by:

	(%)
Victim	48,3
Family member	23,2
Male/female friend	8,3
Neighbours	12,5
Unknown person	4,0
Official person/institution in charge	2,3
Other	1,4

Attitudes of respondents

Respondents were asked to mark statements in table 5 as correct or incorrect.

Table 5. Statements marked as correct or incorrect:

No		Correct	Incorrect
1	Women like violent men	14.1	85.9
2	Men like violent women	6.5	93.5
3	Woman deserves a hit/punch from a man if she flirts with another one	22.2	77.8

4	Man deserves a hit/punch from a women if he flirts with another one	16.2	83.8
5	The women herself is responsible for violence against her, if she does not leave an abusive relationship	68.0	32.0
6	The men himself is responsible for violence against him, if he does not leave an abusive relationship	70.4	29.6
7	Excessive jealousy and possessiveness are signs of love	12.9	87.1
8	Violence is caused by circumstances and events beyond the control of the perpetrator	24.0	76.0
9	Victim herself triggers violence with her actions/behaviour	25.1	74,9
10	Violence is unacceptable in any situation/circumstances	84.2	15,8
11	No proper upbringing without physical punishment/beatings	9.2	90.8

Results in the table 6 show that the majority of respondents properly assessed statements expressing attitudes towards violence. However, more detailed analysis of respondents' attitudes shows that **15.8% of them thought there are some situations where violence is acceptable (claim No. 10) and that every fourth respondent, predominantly of male sex, age between 18 and 30 and between 51 and 60 thought that:**

- **There are situations where physical violence is justified** such as those described in statements 3 and 4. Attitudes of participants against these claims indicate the lack of public awareness that the physical integrity of a person is undisputed, regardless of the sex and context. In addition, despite the prevalent general attitude of respondents to non acceptance of violence, a certain number of them yet tolerate it in some situations, especially when it comes to partner relationships, which are characterized by a more rigid understanding of a woman's position. In these relationships women have imposed on them stricter rules of behaviour - 22.2 % of respondents thought physical violence was justified if a women flirts, while men were treated with a higher degree of tolerance and less judgement by the society in the same situation (16.2%),
- **A victim himself/herself is responsible for violence due to his/her inability to leave perpetrator/abuser** (claims described under 5 and 6), which is contrary to the attitude of the majority that family violence was a responsibility of society (68.3% of respondents stated family violence was a social problem),
- **Violence is caused by circumstances and events beyond the control of the perpetrator** (claim fewer than 8) **and that the victim herself/himself triggers violence by his/her actions** (claim fewer than 9).

It means that a significant number of people, predominantly of male sex, who live in urban areas in the central region of Montenegro, still justify violent behaviour, which not only excuses the perpetrator from responsibility for violence, but also transfers the burden of responsibility to the victim. Such results show the lack of understanding of causes and consequences of family violence and violence against women, as

well as the problems and difficulties victims of violence are faced with¹¹², such as fear, loss of self-esteem, feeling powerless and emotional dependence, lack of family and relevant institutions' support, inability to provide basic living conditions, etc. Double standards in the relevant position of man and woman are evident as well, considering that **every fourth respondent, predominantly of male sex, believe that the violence is caused by circumstances beyond the reach of perpetrator of violence and that the victim is responsible for the violence, because they "provoke him by their actions"**. At the same time, if a woman decides to leave a perpetrator, she has imposed on her a sense of guilt and shame for failing to save a family, thus it is clear that within these frameworks the role of the woman is perceived through the patriarchal division of gender roles, which see a woman as a mother and keeper of the home, with no rights to individuality and independence in decision making. Such attitudes reflect an unenviable social position of women suffering from family violence and the lack of social support after leaving an abusive partner (see case study).

On the scale from 1 to 5, respondents defined violence with average rates displayed in the table 6. They totally agree that the violence was slap, kicking, pushing/shoving (average rate 4.31), threat by taking away children and throwing out of the apartment (average rate 4.26), as well as humiliation, insults, curses (average rate 4.25). Respondents did not show the same certainty in answering the question if the violence was: control of telephone calls, e-mails, SMS (average rate 3.30), control of movement (average rate 3.57), and restriction of communication (average rate 3.69). This may indicate the existence of tolerance on latent manifestations of violence and a tendency to recognize only explicit forms of family violence.

Table 6. According to respondents, violence is:

	Average rate On the scale from 1 to 5 (1 -I completely disagree 5 - I completely agree)
Control of telephone calls and reading e-mails, SMS, etc.	3.30
Control of movement	3.57
Restriction of communication with other persons	3.69
Slapping, kicking, pushing/shoving	4.31
Destroying personal property	4.07
Denying living resources	4.11
Humiliation, insults, curses	4.25
Negligence of nutrition, hygiene, health and education of children	3.98
Withhold of help to a person who is ill, old or disabled	3.96
Hiding family member with disability (physical, intellectual)	3.73
Threats with taking away children and throwing out of the apartment	4.26
Stalking, tracing	3.99
Causing the sense of insecurity, endangering personal peace and serenity of another person	4.11
Exhaustion with work, depriving of sleep and rest	4.08

¹¹²Analysis of results of the research with women victims of violence, page 62

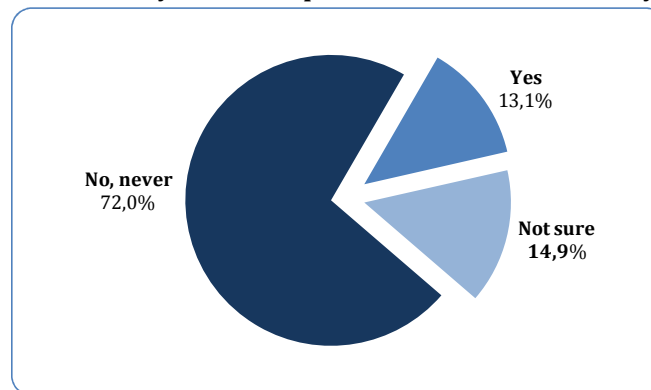
However, the fact that the majority of respondents recognized forms of violence, including subtle ones, is in contrary to the attitude that 'violence is beyond perpetrator's control', which is held by every fourth respondent, predominately of male sex. This leads to the conclusion that **these respondents know what violence is, but at the same time they accept it as a cultural-patriarchal model of behaviour.**

Respondents' exposure to family violence

When asked if they have been exposed to violence in some period of their life, 13.1 % answered affirmatively, while, 14.9% stated they were not sure (graph 9). Contrary to the low percentage of those who confirmed they have personally been exposed to violence, every third respondent knew someone from his/her neighbourhood who experienced violence. **Low percentage referring to personal experience with violence (13.1%) is contrary to the perception of respondents on widespread violence - even 91.7% of them stated that family violence existed in Montenegro.** A high percentage of citizens who are not ready to speak openly about their experience is the indicator that social context in Montenegro is still unfavourable, and that society does not encourage people to share their experience and speak about it freely and without fear of stigma. **This research also found that people often decide to stay quiet because of the lack of adequate institutional protection and treatment** (see findings of in-depth interviews and focus groups).

Readiness to confirm they have been exposed to violence most often showed in persons of female sex, aged between 18 and 30 and over 50. These female respondents were from urban areas, employed or retired, living in central and northern regions.

Graph 9. Have you been exposed to some form of family violence?



Respondents, who stated they have been exposed to some form of family violence, were asked what type of family violence was in question. In majority of cases they stated humiliation, insults and curses (28.6%) and slap, kicking and pushing/shoving (22.7%), table 7.

These respondents stated the violence happened in close family - the family they were born in (40.2%) and marriage (20.9%).

Table 7. Yes, I was exposed to the following forms of family violence:

	%
Control of telephone calls and reading e-mails, SMS, etc.	8.6
Control of movement	7.8

Restriction of communication with other persons	6.3
Slapping, kicking, pushing/shoving	22.7
Destroying personal property	5.9
Denying living resources	3.3
Humiliation, insults, curses	28.6
Negligence of nutrition, hygiene, health and education of children	0.7
Withhold of help to a person who is ill, old or disabled	0.0
Hiding family member with disability (physical, intellectual)	0.0
Threats with taking away children and throwing out of the apartment	3.7
Stalking, tracing	4.5
Causing the sense of insecurity, endangering personal peace and serenity of another person	5.2
Exhaustion with work, depriving of sleep and rest	2.6

Respondents most often stated that the perpetrator of family violence was husband, ex husband and partner (summary percentage – 37.0%, table 8), father (26.1%) and in 7.6% of cases mother. More detailed analysis showed that **women most often mentioned male spouse as perpetrator, while men often stated their fathers**. It is interesting to mention that every tenth respondent on the question who the perpetrator of family violence was stated male friend, female friend, professors, sister-in-law, which additionally indicates how our respondents perceive the term of family violence and its scope.

Men appear in a considerably higher percentage as perpetrators of family violence, usually as husbands, partners and fathers.

Table 8. Perpetrator of family violence is:

	%		%
1. Husband	25.0	2. Wife	3.8
3. Ex husband	6.0	4. Ex wife	0.5
5. Male partner	6.0	6. Female partner	1.6
7. Father	26.1	8. Mother	7.6
9. Son	1.1	10. Daughter	0.5
11. Brother	1.1	12. Sister	0.5
13. Father-in-law (husband's father)	1.1	14. Mother-in-law (husband's mother)	1.6
15. Father-in-law (wife's father)	0.0	16. Mother-in-law (wife's mother)	0.0
17. Grandfather	0.5	18. Grandmother	0.0
19. Male Cousin	1.6	20. Female Cousin	0.5
21. Other (male friend from school, male friends, professors)	11.4	22. Other (female friend, female colleague, daughter-in-law)	3.3

Gender roles in patriarchal society show that many families cover up the problem of family violence. Violence, as paradoxical as it may seem, hide victims, most often women. This has its roots in patriarchal upbringing, which imposes a woman's responsibility for keeping the family together, thus she feels

responsible if there family relations are not in harmony. This puts additional pressure on victims of violence for which they decide to tolerate violence (endure). Respondents explain this by the shame family members feel.

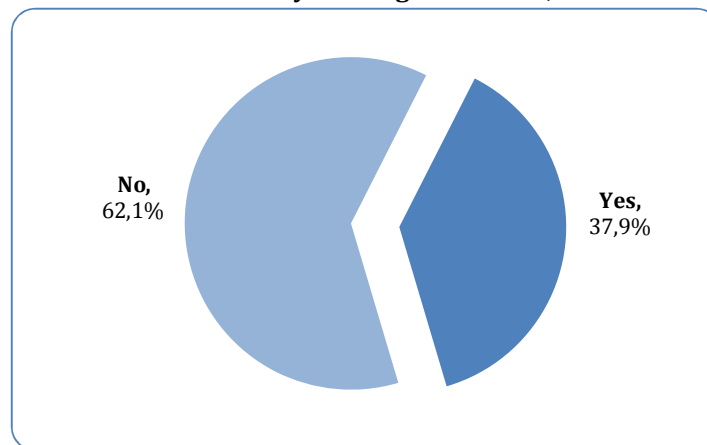
Huge differences in the attitudes of respondents on the presence of family violence and violence against women in Montenegrin society (91.7%) and those referring to personal experience (13.1%) indicates an avoidance of conversation about violence, which happens in their neighbourhood. The tendency of respondents to answer more easily and precisely on questions referring to general questions and questions that have no personal importance to them is repeated.

Presence of family violence in respondents' neighbourhood

Interviewees were asked if there were cases of family violence they knew about in their neighbourhood. In 27.9% of cases they stated they knew someone who was the victim of family violence, while 62.1% answered negatively on this question (graph 10).

Women more often stated they knew someone from their neighbourhood, who was a victim of family violence. They were employed, aged between 18 and 30 and between 51 and 60, living in urban areas in the central region of Montenegro.

Graph 10. Do you know someone from your neighbourhood, who is the victim of family violence?



More detailed analysis shows that **every third respondent was able to speak precisely about violence experienced by persons from their neighbourhood** (e.g. who was the victim and who the perpetrator, etc.). Received answers point to the assumption that some respondents opted to speak about their own experience through the role of a third person. Analyzing this group of respondents, we came to the conclusion that these were women, aged between 18 and 30 and between 41 and 50, employed, living in urban areas in the central region.

Respondents recognized the following forms of family violence: humiliation, insults, curses (23,3%), slaps, kicking, pushing/shoving (22.7%), and restriction of communication with other people and control of movement (7.6% respectively), causing the sense of insecurity, endangering personal peace and tranquillity of another (5.8%), and control of telephone calls and reading e R mails/sms (4.5%). In 4.4 % of cases respondents did not want to speak about forms of family violence in their neighbourhood.

As victim of family violence respondents stated female neighbour (43.2%), female friend (19.7%) and female cousin (14.7%), table 9.

Table 9. Victim of family violence is:

	%		%
1. Male friend	6.1	2. Female friend	19.7
3. Male neighbour	6.3	4. Female neighbour	32.4
5. Male colleague	1.9	6. Female colleague	6.1
7. Male cousin	4.7	8. Female cousin	14.7
9. Other	4.1	10. Other	3.9

Perpetrator of family violence in even 64.2% of cases was husband, ex husband and partner. Beside them, as perpetrators are often recognized father and son (summarily 15.2%, table 10)

Table 10. Perpetrator of family violence is:

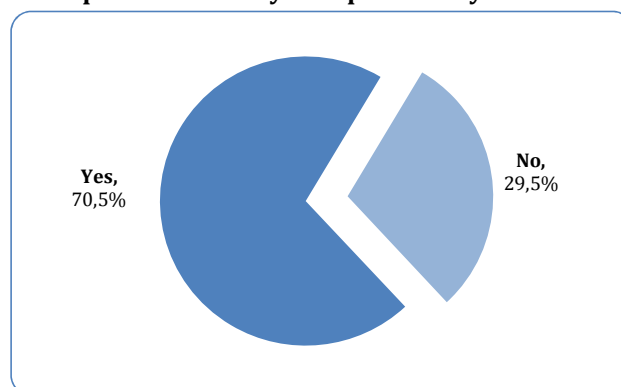
	%		%
1. Husband	48,4	2. Wife	4,3
3. Ex husband	8,1	4. Ex wife	0,0
5. Male partner	7,7	6. Female partner	1,7
7. Father	7,9	8. Mother	1,5
9. Son	7,3	10. Daughter	0,6
11. Brother	2,8	12. Sister	0,2
13. Father-in-law (husband's father)	2,4	14. Mother-in-law (husband's mother)	4,5
15. Father-in-law (wife's father)	0,2	16. Mother-in-law (wife's mother)	0,0
17. Grandfather	0,0	18. Grandmother	0,4
19. Male Cousin	1,6	20. Female Cousin	0,0
21. Other (male friend from school, male friends, professors)	11,4	22. Other (female friend, female colleague, daughter-in-law)	0,4

Seven out of ten respondents (70.5%) would report family violence, while 29.5% would not (graph 11). The relatively high percentage of people who would report violence is encouraging but just on the first sight. Namely, out of the total number of interviewed, one third (34.6%) would report family violence in every situation. Others would do it only if they knew the victim (32.5%), or if the victim was a family member (29.5%). More detailed analysis of respondents, who would report violence showed that they were predominantly of female sex, aged between 18 and 30 and between 41 and 50, employed and living in the central region. Comparing obtained answers we noticed that those respondents who perceived violence as a social problem, and who knew the victim, most often were ready to report violence.

Those who did not want to report family violence (29.5%, graph 11) as reasons for such an attitude stated the following: 'the victim himself/herself should report violence', there would be no effect, because the violence usually continues', 'they did not want to interfere in family matters', 'they did not want to take part

in someone else's problems', 'they mind their own business, because later on, they could be blamed for making the report', 'have no proof for violence, because persons who are abused, usually withdraw charges', etc. Respondents who did not want to report violence were predominantly of female sex, age between 18 and 30 and between 51 and 60, employed. **The stated reasons for not reporting violence indicate low level of confidence in efficiency of institutions, fear, patriarchal understanding of family relations as something not to interfere with in any circumstances, and also a doubt that family violence is a problem that could be stopped or overcome.**

Graph 11. Would you report family violence?



Respondents would donate time, money or goods to the shelter for victims of family violence (79.0%). Similarly, in **82.8% of cases they stated they would support in an election a male/female candidate, who would be active in the fight against family violence.**

PART 4

SURVEY WITH VICTIMS OF FAMILY VIOLENCE

ANALYSIS OF RESEARCH RESULTS

The survey conducted on the sample of 100 women, who registered as victims of violence to SOS Nikšić and Safe Women's House in Podgorica.¹¹³ The analysis of obtained results is designed in a way to comprehend circumstances family violence occurred in, perceive specificity of violence and risk factors. Due to abovementioned, it was started from situation circumstances, personal characteristics of the victim, social environment and interpersonal relations.

Demographic characteristics

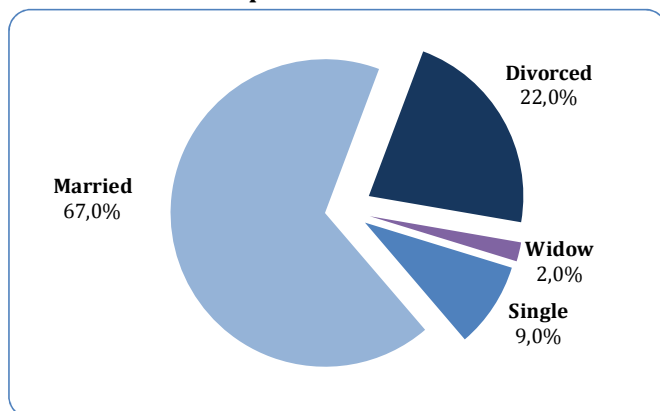
Majority of women victims of family violence were married (67%), then divorced or single (22% and 9.0% respectively, Graph 12). Marital status of respondents is one of important factors of exposure to violence. Namely, obtained data show that the level of exposure to violence situations often depends on the marital status of the victim – chances for women to be exposed to violence increase when they are married, both in terms of intensity and forms of violence, while they decrease at women who are single.

In 91.1% of cases, respondents stated they had children, usually up to two (60.9%) and between two and four children (31.5%).

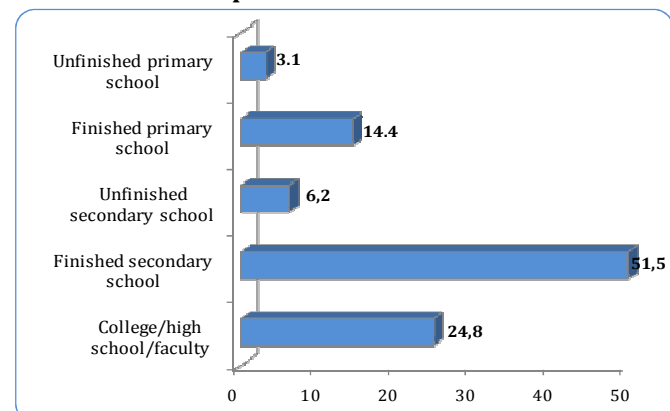
Data give arguments in favour of the thesis that marriage was the most common ambient for practicing and maintaining traditional gender roles, conditioned by patriarchy, to detriment of women. There was high percentage of respondents (67.0% + 22.0%), who suffered violence from their current or former marriage partners. The data show that violence most often happened in marriage. From social aspect, a family is the space, which is the most challenging to set social or formal control in, which leads to the conclusion that violators use marriage as a mechanism for preventing control over their violent behaviour. More detailed analysis shows that the first violent incidents happened right after entering marriage (stated by 45% of respondents).

When speaking about civil status they stated they had citizenship (92.0%) or status of displaced person (6.0%). Every second female respondent finished secondary school, while every fourth finished college/faculty, Graph 13.

Graph 12. Marital status



Graph 13. Level of education



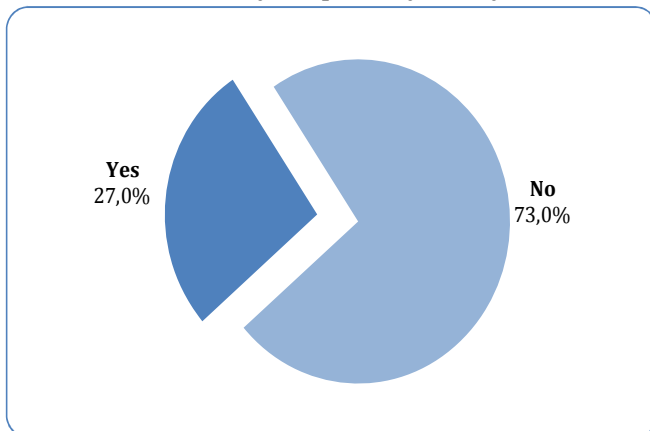
¹¹³Survey with victims of violence was conducted in the premises of SOS Line Nikšić and Safe Women's House in order to enable participants to speak about their experiences more openly and freely with higher degree of confidence.

Respondents in 45.0% of cases were employed in private or public sector (38.6% and 34.1% respectively). The remaining 55.0% of respondents were unemployed and, as they said, were 'in the role of housewife'. Generally, in Montenegrin social context, contribution made by house wife is not economically valued, thus consequently, a woman victim of violence with the 'role of housewife' is found in twice as difficult situation. With no or limited resources, these women, without society's support, can make sustainable step to break from violence situation. In addition, it should not be ignored the circumstance that if a women is unemployed and a victim of family violence, then the risk of social marginalization is almost certain, which makes victims without employment dependent from violent partner.

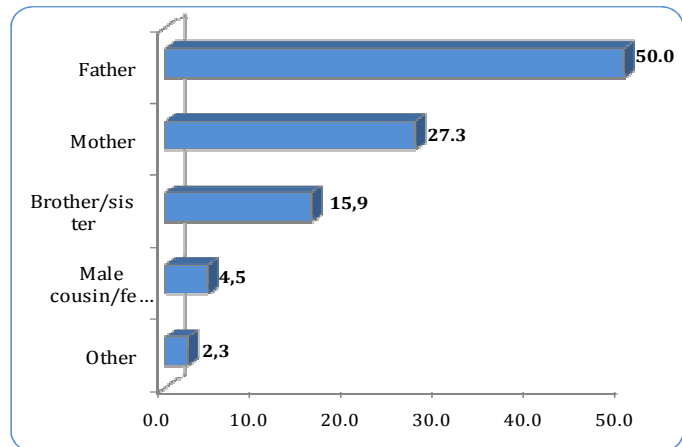
Background of victim of violence

When it comes to relations in primary family, certain percentage of participants grew up in non functional families where violence incidents use to happen. When asked whether they have been exposed to violence in their primary families, 27% of them answered affirmatively (Graph 14). They usually experienced violence from their father or mother (50.0% and 27.3%, respectively, Graph 15) and it was physical and psychological violence (39.6% and 48.3% respectively). This means that there is significant percentage of persons who were exposed to violence in their primary families and they choose violent partners more often than others. Such violent patterns of behaviour have the tendency to be progressively passed on from generation to generation.

Graph 14. Have you been exposed to violence in your primary family?



Graph 15. Yes, I was exposed to violence by:



Economic situation

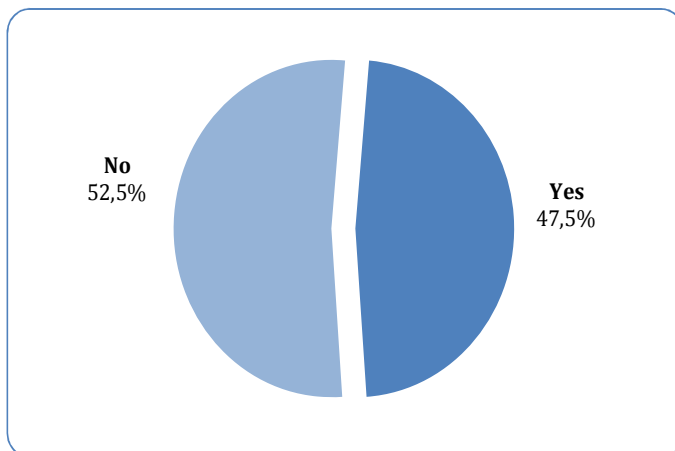
Every second victim of family violence said she had no her own source of income (52.5%, Graph 16) and that she was dependent from her husband or Family Financial Protection (36.6% and 20.7% respectively, Graph 17). These data show that it is hard for women without economic possibilities to cope with violence, considering that they depend financially on perpetrator.

Poverty, economic marginalization and women's lack of power significantly participate as risk factors of violence and its duration. Previous experiences in the work with victims show that socio economic factors to great extent affect prolongation of victim's decision to leave the perpetrator. The survey shows that women due to economic dependence and lack of family and friends support (11.8% and 8.2% respectively) have never asked for help from third persons to solve situation they were in. reluctance of victims to ask

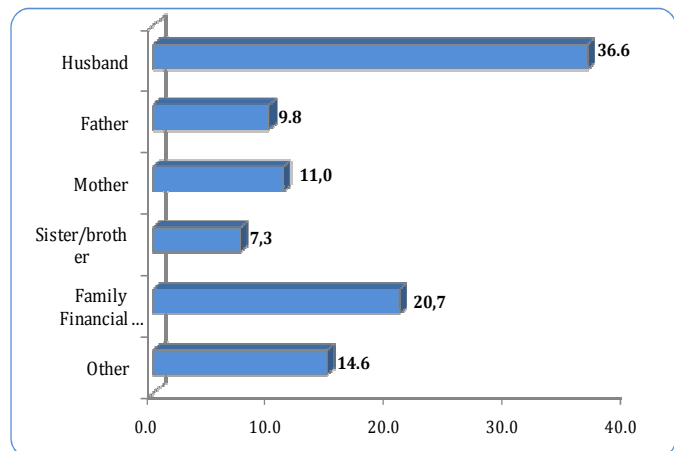
for help from relevant institutions points to the fact that the number of those women who silently suffer violence and stay exposed to multiple forms of violence remains unknown. This calls for warning and points to the need that system institutions must send clear and convincing message to the male and female citizens that violence is against the law and liable to punishment.

Abovementioned clearly shows that Montenegrin legislation should contain provisions for financial support for victim, which would enable her to separate from perpetrator. Such provisions should be integral part of the Law on Family Violence Protection, which should be amended by expanding its scope.

Graph 16. Do you have your own source of income?



Graph 17. I depend financially from:



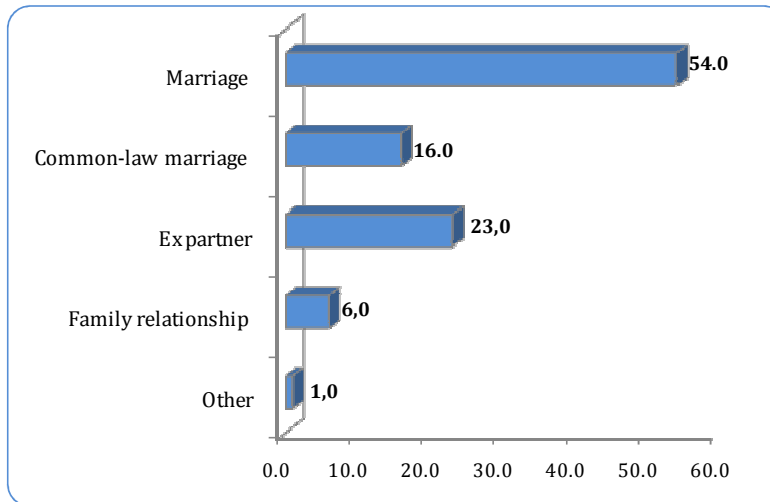
In 14.0% of cases respondents said they had no assets in their ownership. Almost three fifths of respondents (58.2%) said the perpetrator had control over their incomes and/or property. This additionally shows that women who are economically dependent from violent husband or other family members, due to undermined economic integrity, lose their personal autonomy. These data are concerning given the high percentage of respondents who are unemployed or have no regular source of income, which makes them impoverished and deprived of their rights at the same time.

Obtained findings of the survey illustrate the best economic dimension of victims of violence, who are unable to meet elemental existential needs without intervention of institutions.

Experience with violator

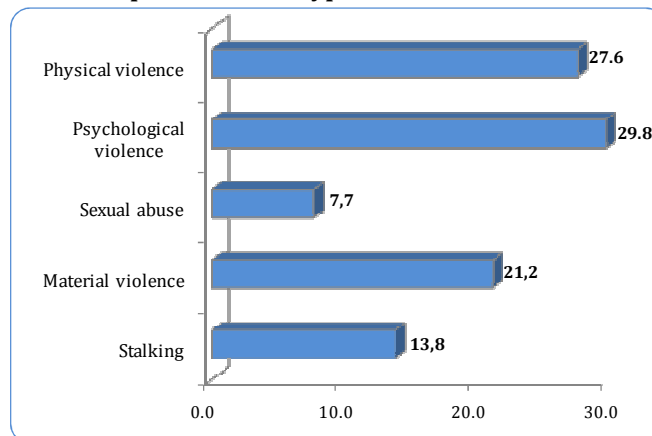
Respondents stated they were married to the violator (54.0%), or that the violator was their ex partner (23.0%), Graph 18. This indicates the violence committed by a husband is in concerning high percentage, but victims of violent behaviour still stayed in marriage.

The obtained results show that respondents were constantly exposed to violence during their marriage or relationship – according to their statements, violence lasted longer than 10 years (33.3%), five to ten years (23.25) or one to five years (24.2%). These percentages point to conclusion that family violence is continued and multiply repeated.

Graph 18. What is your relationship with the violator?

The first violent situation, according to respondents, happened after entering into marriage (45.0%), in relationship (17.0%) or in some other situations (16.0%). Under other situations they implied: after they started to live together, when husband started an affair; when she left her husband, after birth of a child, when a son turn 18.

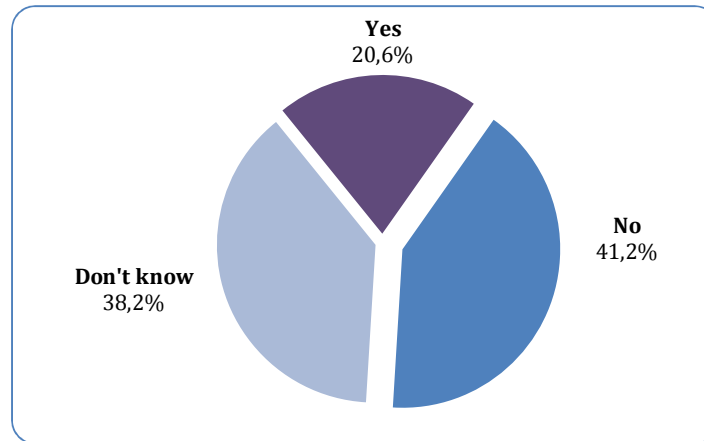
Victims of violence most often were exposed to psychological (29.8%), physical or material violence (27.6% and 21.2% respectively), Graph 19. When it comes to physical violence, respondents usually suffered minor injuries (61.5%).

Graph 19. What type of violence has occurred?

Most often, respondents suffered violence by men, as their partners or fathers. Women usually appear as victims of violence in family partner relationship, while as perpetrators of violence they usually appear as mothers.

Risk assessment

Data referring to possession of any weapon are alarming – every fifth woman stated that the violator possessed fire weapon (Graph 20) and that they have been threatened with it in 36.6% of cases. Every fourth woman stated the violator used weapon during the violent attack.

Graph 20. Does violator possess a fire weapon?

The Table 11 contains respondents' answers, which show that violators have threatened them with weapon and murder (36.6% and 71.1% respectively). Every third respondent stated violator had tried to kill her.

Table 11. Has violator?

	Yes	No
Threatened with weapon	36.6	63.4
Used weapon in the attack	28.4	71.6
Tried to strangle/choke you	59.8	40.2
Threatened to kill you	71.7	28.3
Tried to kill you	33.0	67.0

Women victims of violence are vulnerable and the most-at risk of murder at the moment when they plan to or have made decision to leave their partners. However, women who suffer chronic physical abuse by their partners are permanently vulnerable, because each abuse and intimidation may culminate in murder. In 78.9% of cases women victims of violence stated that during the last year physical violence has escalated both in frequency and/or intensity, which increases the risk of being murdered.

Violence against women and threats to murder/attempt of murder/murder are no different by their features or nature, but by their outcome and for this reason, **at every third woman there is a fear that violator might kill them**. In the family where violence occurs and culminates, the fatal outcome for the victim is almost always possible. Therefore, it is necessary to ban purchase, use or possession of a gun or other fire weapon to people convicted of violation of protective measures or other type of criminal act related to family violence. Upon filing complaint for violence it is necessary that person responsible asks for information on possession of fire weapon, and if the answer is yes, the police should without delay undertake measures to seize weapon. Protective measures should contain provision referring to possession and purchase of weapon.

Women victims of violence stated that violators controlled their daily activities (74.7%), they were jealous (70.2%) and forced them to have sexual intercourse (37.0%), Table 12. We compared these results with survey conducted in Croatia (Women's House), which show that every second woman has suffered some kind of sexual violence.

Men commit violence out of jealousy and need to control their partner, in other words, because of their tendency to keep dominance over their partners' sexual life and behaviour.

Table 12. Has violator?

	Yes	No	No answer
Forced you to have sexual intercourse	37.0	42.0	21.0
Controlled majority or all of your daily activities	74.7	25.3	-
Constantly and/or violently been jealous	70.2	29.8	-

In only 10.2% of cases violator was imposed protective measure for this kind of behaviour.

Children and risks of violence they are exposed to

Every second respondent stated violator showed violence towards children in the form of physical or psychological violence (28.8% respectively) or neglect (22.9%). It is evident that violence in partner relationships leaves significant consequences on children and affects their further development. It is important to emphasize that violence most often does not stop on one generation only, but it is passed on as model of behaviour to following generations as well.

Taking measures for resolving crisis situation

Two fifths of women victims of violence (42.0%) had left the violator before, some even more than 15 times (38.2%), three (11.9%) or four times (9.5%).

In 81.0% of cases women victims of violence stated their family members knew about the violence that occurred and they in 29.1% of cases offered them protection or accepted the victim of violence and her children (24.8%). In 12% of cases, they reported the case to the police or suggested victim to be patient because it was not so serious/it was normal (11.1%).

As findings of the survey showed, respondents were exposed to violence in the family where it continually repeats. For this reason it was critical to find out if the respondents turn to institutions and what their response to reported cases of family violence was.

Almost every second victim of violence (47.0%) due to their injuries asked for *medical help*. The causes for weak visit to health care institutions may be sought in the lack of sensibility of medical staff towards cases of family violence or uncoordinated action of all institutions that are going to be involved and recognize the importance of health care institutions in identifying cases of family violence. Also, involvement of health care institutions is important because of keeping records on injuries caused by violence behaviour for subsequent course of proceedings.

Every second victim asked some kind of help from the *Social Care Centre* and only in 41.2% of cases adequate help was provided. The reasons for such low percentage of addressing to the Centre should be sought in actions and ways of help provided by this institution.

Women victims of violence in 58.0% of cases directly handed in denunciation to the *police* asking for help and protection. The question is why victims of violence do not address this institution more often.

Respondents stated that the result of filed denunciation was instituted criminal or misdemeanour proceedings (43.9% and 21.2% respectively) or that perpetrator of violence was warned about his violent behaviour (10.2% of cases). It concerns the data that 12.1% of respondents said the proceedings were not started/denunciation as rejected because 'the violator worked in the police', 'there were no grounds to start the proceedings, because he only sent threatening messages by phone', 'no elements of criminal or misdemeanour act to start the proceedings', 'the police believed more to violator because he was older man, etc.'. In the remaining 12.1% of cases victim of violence gave up from charges, because she 'returned to violator', 'she drop the charges because of children'; 'she depends emotionally on violator', 'she feels sorry for violator, because relatives made them reconcile', 'violator threatened to kill himself' and 'he promised that he would change'.

Women who have been suffering from multiple and long-year violence most often see no way out from this situation, some of them confirmed that institutions did not provide them protection they expected and/or instituted legal proceedings against violators. For this reason it happens that a woman is left on her own or to a violator against whom the proceedings were not initiated.

Women, who have suffered violence and avoid talking about that and seek no help from institutions, do this because they feel afraid, insecure and abandoned by the family, they feel ashamed and condemned by community and society. When asked why they did not address institutions for help, respondents said the following: because of children (17.1%), fear (14.9%), shame and lack of information about the rights they are entitled to (13.6% respectively).

Data on perpetrator

One part of interview with women victims of violence referred to information on perpetrator. The results show that the perpetrator was most often married, with secondary level education and employed.

Factors that increase the risk from violence are the following: alcoholism, narcotic addiction, gambling addiction, etc. However, in this group of factors, alcoholism and gambling precede as the most common predictors of family violence. This was confirmed by obtained results, which show that every third violator suffers from addiction disease (alcoholism or gambling).

PART 5

**IN-DEPTH INTERVIEWS WITH REPRESENTATIVES OF
RELEVANT INSTITUTIONS**

In depth-interviews were carried out with representatives of 15 relevant Montenegrin institutions¹¹⁴ in order to get insight into their knowledge, attitudes and experience they have in terms of family violence and violence against women in Montenegrin society.

The in-depth interview guide (see Annex) consists of several thematic parts: protection of victim from violence, situation risk analysis, implementation of legal/normative framework, proceedings against perpetrators of violence, prevention of violence and availability of data on violence in Montenegro.

Protection of victims from violence

Representatives of interviewed institutions assessed the existing *normative and legal framework* (Law on Family Violence Protection, Criminal Code of Montenegro, Law on Social Protection, Family Law, Gender Equality Law, etc.) for *protection against violence in Montenegro* as good. Significant number of institutions dealing with family violence has been recognized—social care centres, police, prosecution office, judicial bodies. Beside these institutions, interviewees recognized the important role of NGOs. As they stated, ‘institutions and NGOs need to be networked in order to keep the victim out of violator’s reach and to help her to return in the family’. Relevant institutions should ensure conducting proceedings against and punishing of perpetrators of violence, counselling, short-term social reimbursement/compensation, medical examination, as well as professional psychologist and pedagogy services. However, it was concluded that institutions do not provide these types of help in practice, and the role of NGOs is recognized here to greater extent. NG organizations provide for victims emotional support, accommodation and food, psycho-social and legal help, etc.

Victims of violence can find refuge in several NGOs: Safe Women’s House, Support Centre for Children in Family from Bijelo Polje and SOS line from Nikšić.

Available services should be further worked on through providing professional staff, networking of relevant institutions and opening new shelters for violence victims.

Interviewed from the Social Care Centre noted that ‘counselling services specialized for work with victims and violators are not available and there are no conditions for banishment of violator from the family and accommodation of victims’. With regard to this expectation of representatives of social care centre, it is important to note that the focus of the new law is put on **protection of victim and banishment of the violator from the common dwelling**, by which, a law maker created conditions for safety of the victim and her staying in the house. The law maker did not predicted –conditions for banishment of violator’, except in cases of mandatory treatment from addiction. The law clearly indicates the possibility of ordering a perpetrator to leave the house/apartment or any other dwelling space, regardless of who the owner was, so that the victim and her children could be on safe there.

The particular specificity in the process of treating violence is protective measures referring to restraining order. Even though legally regulated, they are, according to *misdemeanor bodies*, quite problematic in practice, in the sense that it is very hard to estimate certain elements such as space distance and need for protective measure.

¹¹⁴The Ministry of Justice, Ministry of Internal Affairs and Police Department, Ministry of health, Ministry of Labor and Social Welfare, Misdemeanor District Unit bar, Misdemeanor District Unit Nikšić, Ombudsman, Social Care Centre (municipalities of Podgorica, Cetinje, Danilovgrad and Kolašin), Social Care Centre Berane, Basic State Prosecutor Berane, Basic court in Podgorica, Supreme State Prosecutor, Emergency Room Clinical Centre Podgorica, Health Centre Podgorica, Misdemeanor Council and Misdemeanor District Unit Podgorica

Representative of Basic court said that they often had situation where 'injured parties refuse to testify in court, because victim was unable to leave the marriage and live on her own, so she passes over violent behaviour'. Very often, victims of violence are not able to cooperate in pursuing of the perpetrator without adequate protection. Where this is the case, all efforts must primarily address urgent need of the victim for safety and security from family violence.

When it is about family violence, *the competences of institutions* are given in the following order:

Police Department must, after being called on for violence incident, come on the scene of incident in order 'to check the tip and collect all necessary information for resolving the criminal or misdemeanour act' The police officers send the victim to medical examination and necessary help. The police are obliged to prevent further violence. The practice of non-governmental organizations in the work with victims of violence shows that this duty is often conducted inconsistently and with omissions. Thus, victims of violence often state that upon calling the emergency service to come out on the scene of incident and intervene, police officers often refuse this request with insisting that victim files the complaint/report incident in person in the police station.

During the process, Basic State Prosecutor is contacted as well, as the competent body for pursuing perpetrators of violence act, who in case of serious bodily injuries prescribed criminal charges (Criminal law specifically prescribes when there is a criminal offence), while otherwise the police files misdemeanour charges (if assessed there was no criminal act). The victim may directly address to State Prosecutor, and in case her charge is rejected, the Prosecutor is due to notify her so that she could file a complaint within eight days. The criminal charges are forwarded to the *Basic court*, while *District Misdemeanour Body* is in charge of misdemeanour offences. If the victim is afraid to go back into the house where violence was committed, then she is sent to *Shelter for victims of violence* (Safe women's House in Podgorica and Shelter of SOS line for women and children victims of violence in Nikšić). If requested, the Police must provide escort for the victim upon taking her personal belongings for temporary accommodation.

District misdemeanour bodies while interrogating the victim, may hire court expert specialized in medical area, who can give expert opinion on condition of the victim.

*Social Care Centres*¹¹⁵ are in obligation to form professional team that prepares activity help plan for the victim. The plan should match the choice and needs of the victim. From direct experience, it is not rare that institutions and officers take paternal attitude towards victim and her will. Therefore, will and consent of adult victim should be the main factor in decision making.

Interviewed person from Social Care Centre Berane said that they 'get more involved in the process itself, if it is about the victim with minor children, while in case of families with no or adult children, their involvement is much lesser'. This practice is not in accordance with the Law on Family Violence Protection, which gives significant competences to the social care centres, which are due to, without delay, provide necessary protection and help to all victims of family violence and to coordinate the process of help according to the needs and choice of the victim. They also mentioned the practice of hiring psychologists, paediatricians and sociologist in cases where children are involved, who pay visit and talk to the family and then submit their findings about the incident and their opinion to the Police department. They take particular care about the protection of mental development of minor persons and assess their ability to testify.

The Ministry of Labour and Social Welfare, as secondary body, performs monitoring of the social care centres work. SCC submits annual performance reports containing the data on the activities undertaken in direction of solving family violence issue. *Ministry of Justice* is involved in overall process but only in normative way, as processor of the law.

Representatives of almost all institutions said that their employees were handling family violence issue in adequate way, but that they had no special department dealing with this issue in particular. In Police department one or more officers are hired to deal only with family violence cases and cases of violence against women. Interviewed from state prosecutor's office and social care centres said that they have persons who 'passed the trainings and seminars and have professional knowledge in this area'. However, omissions in practice are often resulting in the lack of training both in terms of specificity of family violence and violence against women and legal procedures, especially those prescribed by new Law on Family Violence Protection. Therefore, it is necessary to conduct continuous, specialized and gender-sensitive training for all institutions involved in addressing family violence and protection of women from violence.

All interviewed said that responsible persons act conscientiously and in accordance with legal competences in their work with victims of violence, as well as that their 'knowledge is at high level and have sensibility for

¹¹⁵ Law on Family Violence Protection, Article 11, Victim Help Plan

responsibility they are expected to bear'. However, direct experience of female NGO services in the work with victims of violence shows that the principle of secrecy of information has often been violated exactly by police officers and social care workers. These institutions often neglect the risk that a perpetrator may appear as someone who represents a victim, e.g. as 'concerned family member', and by their actions often help the perpetrator to locate the victim, i.e. a place of her refuge. Officers of mentioned institutions, neglecting or forgetting the principle of secrecy or confidentiality, often formally act in a way to address female NGO services in written form requesting to be informed about the victim's current place of stay and all 'upon family's request'. Unfortunately, such negative practices deny above claim on training and sensibility of responsible officers and impose conclusion that both training and sensibility on family violence is needed. No one in protection system should disclose opinion or information received from the victim or about the victim, without her consent, unless it is a court or prosecutor's order! Victims placed in the shelter often feel fear for their own life.

The Law, also, clearly obligates responsible bodies, institutions and other legal entities on confidentiality of actions and defines that information 'may not be disclosed' without explicit consent of adult victim. Also, confidential person may not be a perpetrator of violence. Therefore, it concerns the fact that it happens that some officers in bodies and institutions in charge of protection from violence seem to forget that the aim of the Law was to provide conditions for separating the victim from violator and her protection. Forgetting the duty of following the procedure in accordance with the Law, persons employed in institutions enable perpetrator to continue with his behaviour such as, stalking, showing up in the premises of female NGOs, leaving messages or presents, phoning the victim or persons from NGOs protecting the victim, as well as other forms of disturbing or threatening behaviour towards the victim or those who protect her. Such stalking and behaviours, not only the attack that might be the cause of such behaviour, are one form of violence as well. A perpetrator of violence takes actions in order to intimidate or force the victim, partner and/or former partner or other member of the family. These actions that contain direct danger may result in the attack on the victim or those who protect her. Even though sanctions for malpractice exist, at this point, request towards institutions to sanction cases of malpractice stand without results. In practice, there were still no cases of sanctioning officers.

In process of providing help and protection of victims from family violence the interviewees most often stated:

- ✓ Lack of capacities for temporary accommodation (shelters)
- ✓ Victims drop off the prosecution and
- ✓ low level of people's awareness that violence should be reported

In order to coordinate activities more adequately in the process of providing help and protection to the victim of violence, interviewees said that some municipalities have formed multi-disciplinary teams (representatives of court, prosecution office, police, clinical centre, social care centre, NGO, organizations, etc.) who exchange their opinions and thoughts on cases of violence. Multidisciplinary teams have been formed within social care centres, and have informal character and no rules of procedures. In some municipalities teams stopped working soon after they have been formed. Setting up miscellaneous, multi-disciplinary teams is important, not only for protection of victims of violence, but also for monitoring and improvement of coordinated answer of community to violence, with the aim of providing human rights and freedoms. The monitoring will indicate unplanned obstacles for efficient protection of victims from further threats or acts of family violence. However, since Law came into force the monitoring of the same is lacking. For these reasons it is necessary to urgently regulate formal-legal status of multidisciplinary teams, define their competences, rights and obligations.

In order to have better protection of victims, according to previous experience of interviewed, it is necessary to conduct the following measures: provide financial support to institutions/NGO dealing with protection of victims of violence, increase accommodation capacities for violence victims, speed up the adoption and implementation of key acts (laws and bylaws, protocols, strategies), create advisory services for victims of violence, increase the number of employees who would deal with family violence in all institutions, start and enable continuous media campaign with the aim of strengthening public awareness, educate pupils and students on importance of recognizing and reporting family violence, etc.

Majority of interviewed agrees that data on the number of criminal and misdemeanour charges are not credible and valid indicator of actual situation because, 'violence is not reported in the same extent it was really happening due to Montenegrin mentality and shame to speak publicly about it'. Previous experience of interviewed shows that women victims of violence did not seek for help from third parties (relevant institutions, protection organizations, family, etc.) for following reasons: economic and emotional dependence on violator; tradition 'that women should suffer/endure', belief that the violator will change, fear that violator will not be adequately punished and that she will lose children, lack of trust in the work of relevant institutions, etc.

Financial dependence and patriarchal environment are most common causes why victim hesitates to seek help from third parties.

Situation risk assessment

Institutions, with exception of social care centres, included in this research, said they had no pre-defined practice of risk assessment. Interviewed

person stated that they 'perform risk analysis usually through statements of actors in the incident of violence, but there is no document or list of questions as basis for this kind of analyses'.

In Police Department situation risk assessment is done based on 'moves, statements and behaviour upon mentioning the name of perpetrator'. Also, if a violator 'just nods the head and then goes home and repeats criminal offence then police is entitled to bring him into custody'. It should be noted that this type of assessment is not done by experts but police officers. District police unit in Berane, during the analysis usually observes the perpetrator and assesses the possibility of repeating violence act. The attention is focused on personal character, material situation, family situation, health condition, etc.

Interviewed from district misdemeanour bodies in Nikšić and Bar said that risk assessment is 'the job of the judge who is sitting in certain case'. President of the district misdemeanour body in Nikšić said that certain cases were discussed at judge committee and in that situation 'assessment of all evidence material and assessment made by other institutions and their reports are taken into consideration'.¹¹⁶

In Misdemeanour Council believe that such analysis should be done by police and delivered to them, that opinion of social care centres would significantly contribute to better comprehension of overall case and family situation. In that regard, they think better coordination among institutions is needed and more visible role of multi-disciplinary teams operating within social care centres, which activities they are not familiar with.

Basic State female Prosecutor from Berane said that this institution performs risk assessment in cooperation with the police 'mostly for perpetrators who repeated family violence'.

Interviewed from health care institution (Health Centre and CHC) did not mention the practice of risk assessment. Representative of Health Care Centre said that this institution in situation when they have patient no one takes care of, inform social care centre.

Statements of our interviewees may indicate that on the level of mentioned institutions there are no defined uniform procedure or adequate

¹¹⁶Institutions providing protection

Article 5

The public administration agency in charge of police affairs ('Police'), misdemeanor body, public prosecution service, social work centre or other social and child protection agency, health care institution, and other agency or institution acting as care provider, have the duty to provide victim with full and coordinated protection, within their respective powers and depending on the severity of violation.

tools/techniques and methods officials can follow while performing their duties.

Legal framework

The interviewed assessed the existing *legal/normative framework on family violence protection* in Montenegro as comprehensive, taken from European practice and prepared in a way to ensure necessary protection. 'The Law has been adequately prepared and includes different forms of violence'.

All interviewed agreed that adopted laws reflect *the attitude that violence is unacceptable* and that 'defined penalty policy prevents family violence from happening, and not only courts, but all public institutions give great importance to it'. However, data on small number of imposed protective measures speaks of poor implementation of above described legal policy. Therefore, it concerns mismatch of existing policies and practice. Those responsible for implementing legal policies hesitate to send clear message on zero tolerance of family violence through their decisions. Even though the law gives power to competent institutions to for example, remove violator from the common dwelling, impose measures for prevention of violence, in order to protect male and female citizens, institutions still don't use available mechanisms according to their legal possibilities.

Definition of family violence according to which violence is 'omission or commission by a family member in violating physical, psychological, sexual or economic integrity, mental health and peace of other family member, irrespective of where the incident of violence has occurred' was assessed as 'adequate and complete, because it covers all aspects of violence and gives possibility of successful prosecuting of cases'. Even though our interviewees did not suggested, we believe that the scope of given definition should be expanded to those in intimate partner relationships, according to international recommendations.

It takes time to monitor the trend of violence in schools, family and job, in order to assess the current situation and act according to it.

In *Misdemeanour Council* believe that the Law needs to be amended, especially in part referring to fines, where there is no range, but it is the same both for serious and minor offences.

In theory safety is on first place, while it is hard to organize it in practice.

In District Misdemeanour Body in Nikšić it was stated that they had objections to draft Law on Family Violence Protection and they intervened before the law was adopted, but their objections were not accepted. For mentioned reasons they believe that attention should be dedicated to regular informing and education of employees about the Law.

We had objections for over 30 articles of the draft Law, which in majority were not accepted.

Social Care Centres Berane and Podgorica are institutions that were directly involved in creating of the Law and according to them the *Protocol of Rules of Procedure, Prevention and Protection from Family Violence* defines key

competences of institutions, which contributes to high quality performance.

According to social care centres' experience, *victim of violence* is at first place, but her safety is not emphasized, but the Law focuses to greater extent on measures and penalties to be undertaken in case of violence'.

Implementation of the Law on Family Violence Protection and following secondary legislation depends on several factors such as cultural environment, democratic consciousness, political culture and social-economic conditions And involvement of different institutions (e.g. relevant ministries, Social Care Centre, Safe Women's House, SOS line, NGOs dealing with different issues). The success of implementation depends on readiness of relevant institutions to enforce the law and enable implementation of imposed measures.

In the Ministry of Labour and Social Welfare it was stated that the *Commission will be formed (Ministry of Labour and non-governmental sector)* that will monitor implementation of the strategy and submit the report annually to the Government. The commission has still not been formed, even though the Ministry had legal obligation to establish this body in February 2011.¹¹⁷ For efficient work of future commission it is necessary to improve the existing knowledge through organizing seminars and roundtables to discuss specific cases, international standards, as well as inter-sectoral cooperation, preventive and repressive measures.

Representatives of prosecutor offices and social care centres stated that *the way of providing help and protection of victims* by relevant bodies has been theoretically and legally defined. However in practice, 'obstacles occur when accommodation cannot be provided for the victim, especially in case when victim cannot stay in primary family'. The practice of social care centres shows that in some situation undefined competences of some institutions ('in police department they don't know when their assistance is needed, while some other institutions does not seem to know if something was under their jurisdiction or not') and for this reason more education is needed and involvement of all actors engaged in prevention of family violence.

Protective measures for prevention and repression of violence were 'adequately prescribed by the Law and only recently it was started with imposing of protective measures, so it must be monitored to see in which direction it would go'. Social Care Centres stated that 'type of restraining order' must be described in more detail – what is the distance (how many meters) restraining order takes effect at, etc'. District misdemeanour bodies believe that measures should be more repressive, because this form of violence could be significantly reduced by more repressive measures'.

Violation of PROTECTIVE measures withdraws personal responsibility and penalty (imprisonment of up to 6 months or 150€ fine).

¹¹⁷Law on Family Violence Protection, Article 40, Adoption of secondary legislation

Once again, it has been recognized that for positive results it is necessary to provide not only adequate law preparation, but also its adequate interpretation and implementation. It often seems that there is misunderstanding of primary purpose of the law and, even though its focus can be implied from the title itself. The primary concern of this law is safety of the victim and children. The importance of language is recognized, both in this law and secondary legislation, protocols, codices, rule books, etc.

Proceedings against perpetrator of violence

Women *victims of violence rarely decide to file charges against violator* and 'solving of this problem requires further actions is'. Even though the law gives possibility for victim to seek protective measure, what concerns is that those already scarce requests sometimes are dismissed as groundless and without enough evidence. This discourages the victims. This raises the question whether the law clearly directs responsible institutions, law enforcement institutions, how to act upon victim's request and whether urgency of proceedings or urgency principle is clearly defined, through provisions of the law. Economic dependence encourages insecurity of victims and therefore 'they suffer continuous physical and mental pain and report violator only when they are in life-threatening situation'. In some cases victims report violator, but they drop off the case and forgive the perpetrator for fear of 'patriarchal environment that can make victim look like guilty one'.

Sometimes victims don't testify, thus due to lack of other witnesses, the prosecutir is forced to drop off further prosecution.

When it comes to *collecting evidences* for committed violence, only few interviewees stated concrete steps they undertake. Representative of the social care centre said that this institution makes 'social history of the case (data from victim and the family, psychological assessment, cause of violence, economic violence), which might be useful in the process of collecting evidences'. It was not possible to determine to what extent this was used in practice. For the purpose of resolving cases as efficient as possible, the importance of cooperation among relevant institutions is critical. International documents defined that the statement of the victim should be sufficient for bodies that approve protective measures and that other evidences should no be necessary.

Representatives of district misdemeanour bodies, courts and prosecutors thought that *penalty measures for sanctioning violators* in Montenegro were adequate and in accordance with 'gravity' of committed offence. The other interviewees disagree with this claim because 'length and frequency of penalties must be increased and this would have the biggest effects'. We believe the penalties should grow both for repeated acts of family violence, even if they include low level of injuries, and repeated violation of protective measures. If the perpetrator repeatedly violates banishments, then penalties should become stricter for each repeated violation of order/measure. Also, increased penalties are necessary for those offences committed against

persons falling under Article 3, paragraph 3 of the Law. In this way, responsible institutions are sending message to the public on zero tolerance towards violence.

Prevention of violence

With the purpose of efficient prevention in combating violence it is necessary to work on rising public awareness of problems of violence, develop prevention programs, improve normative framework in area of protection, strengthen cooperation among relevant institutions and improve statistics on violence.

When it comes to *awareness of citizens and general public about problem of violence* in Montenegro, majority of respondents thought that 'the public was familiar enough about it through campaigns promoting fight against violence', but also pointed out that there is a difference in informing those living in rural areas and smaller communities than those living in bigger cities'.

Family and educational institutions are often regarded *as responsible and relevant actors for prevention of family violence*. The Ministry of Justice stressed the importance of the Protocol on rules of procedure, prevention and protection from family violence.

Majority of respondents would *report the incidence of violence that they learn of in the discharge of affairs within their authority or in conduct of their activities, regardless of the victim's decision*, for it is their 'legal duty'. Representatives of Health Care Centre and Ministry of Health emphasized that they have done it before and they will continue to act in that way.

Presence/spread of violence

When asked what kind of *statistical data about family violence is available*, majority of respondents confirmed they keep statistics disaggregated by sex, age and kinship status between the victim and perpetrator. In High State Prosecutor was confirmed that the Law on Gender Equality institutions are obliged to keep statistics and that violation of these provisions brings drastic penalties.

The usual victims of violence are women, middle aged and with average material assets. Children are often victims of violence and they are referred as indirect victims of family violence.

Perpetrators of violence were usually men, most often husband/partner of the victim. According to statements by representatives of social care centre, there has been increasing incidents of victims being abused by their mother-in-law or sister-in-law. It is a rare case for a husband to report his wife as violator'.

PART 6

FOCUS GROUP DISCUSSIONS

FOCUS GROUP 1– Representatives of female citizens (Nikšić)

A group of female respondents, age between 25 and 55 expressed their opinion and attitudes about the issue of family violence through focus group discussions. In this way we wanted to find whether and to what extent family violence is present, causes of its occurrence, who were victims and perpetrators, as well as which institutions should provide help to victims of violence.

Demographic characteristics

The group was consisted of eight women with following demographic characteristics: three Educational profiles: five interviewees had secondary education, one finished college and two graduated from faculty. Interviewees had following marriage experience: two women were married, three divorced and three single. Three women were economically independent, while five of them were economically dependant.

Recognizing the phenomenon of family violence

Representatives of female population perceive family as very important and said that women are expected a lot from. They see partner relationship, within family community, as very demanding for a woman, considering duties and traditional roles that 'belong' to her.

The interviewees have clearly built attitude and perception on the presence of family violence, which is undoubtedly concluded from their comments and quotes of their answers.

'Nobody speaks about it, in essence, we all know it existed, but nobody talks about it'.

(Divorced, one child, private owner, 50 years)

Participants in discussion recognize the existence of violence on general level – on the level of whole society and micro plan – in their families and environment. They share the opinion that violence is frequent and 'spread' phenomenon, but not so much talked about. The violence that man commits against woman is they explain as 'the act of dominance and control over female partner, her way of life and behaviour'. They further stated that men see violence as 'their right to have her at their disposal and out of jealousy'.

Thinking about causes of violence, interviewees stated that in Montenegro, a woman always acts according to the roles traditional model of upbringing imposes. Female children are raised to be gentle, kind, unselfish and obedient. If the family does not 'function' properly, that it is the women's fault, because the family is her area of action. Female respondents rightly notice that in Montenegro there is still lack of awareness that it takes two people with equal rights for proper functioning of marriage and equal responsibilities for what is happening inside the family.

When a woman, who has been exposed to violence, reports it, taking into account still dominant model of upbringing, she 'pleads guilty'. Very often, a woman who is the victim of violence blames herself for violence she suffers, because she was not skilled or wise enough to save her marriage. This sense of guilt is usually imposed on her by family and environment.

On the other side, interviewees thought that a woman victim of violence is aware that she would not get real protection and support by institutions, so she hesitates to report violence. Omissions of institutions in providing help and negative experiences of many women who have contacted institutions, they see as explanation why such small number of women decides to report violence.

Even though not precisely said, interviewees feel and describe patriarchal nature of gender socialization and its rigid standards.

Manifestation of family violence

Female participants spontaneously, through conversation, identified different types of family violence:

They precisely describe *physical violence*, which ranges from ‘nudging’ to ‘beating up’, and also perceive it as the most visible form of violence. *Psychological violence* is described as ‘harder to bear than physical’. Intimidation and psychological abuse of woman is invisible for others, yet particularly harmful to her.

“We are all victims of psychological violence”

Participants in discussion feel verbal violence the same as psychological one, which all women are exposed to.

‘We all experienced insults by men side’
(Married, 44, two children, unemployed)

It is a positive surprise that women recognize and admit that sexual violence is also very present form of family violence. They clearly define it and explain why very few women admit this form of violence as violence. Namely, while on one side (mostly male side) sex in marriage is considered to be marital duty, on the other side, women use it ‘as a tool to buy peace’.

“A man, when you satisfy him in that way, leaves a woman alone.”
(married, two children, unemployed, 33)

Responsibility of institutions in solving problem of violence

Interviewees defined the problem of family violence as ‘social problem that must not be treated only as family-related problem’. They primarily recognize police and social care centres as competent for solving this problem. The group particularly stressed insensitivity of individuals in competent authorities for victims of violence (police, social care centres, and hospitals).

Focus group participants stated that their knowledge of the work of institutions did not come from their personal experience, but they just passed on experience of persons from neighbourhood, mostly their female friends. Furthermore, they show that they were aware that family violence is a criminal act, yet they showed dissatisfaction with penalties, which they regard as mild. It concerns the fact that none of participants in the discussion was aware of newly adopted legal solutions on family violence, i.e. its protective measures. To that regard, one of interviewees stated the example from neighbourhood, which

illustrates the lack of adequate measures, within which perpetrators of violence would correct their behaviour and relation to their family.

In this part of discussion, majority of interviewees showed hesitation or indecisiveness when it comes about taking certain level of responsibility in regard to reporting violence. On general level, interviewees recognize and define violence very well, but on the level of personal responsibility or practical actions the barrier is evident. What is concerning is the fact that majority of interviewees would not be ready and/or did not know whether she would help the victim by reporting family violence. This makes quite obvious that the group was not ready to overcome the rules of behaviour of patriarchal community.

"I would hardly dare to file complaint",
(women, 53 years old, single, unemployed)

Further on, interviewees give importance to children's upbringing in the family, especially male children. In this part of discussion, they showed ambivalent attitude towards women, which was not in positive correlation with the first part of discussion. Namely, respondents assigned full responsibility to a woman and 'fell into a trap/delusion' related to patriarchal gender roles of a woman. In addition, they prescribe responsibility and guilt for transferring traditionally patriarchal way of upbringing also to a woman and the burden of establishing tolerance and principle of equality. In this way, interviewees showed that they experience parenting intimately, as one of the most important social tasks reserved to women. Contradictively, respondents assigned woman/mother the power of dismantling children's patriarchal gender socialization patterns, especially the concept of 'masculinity', during the process of upbringing.

Why do women suffer violence?

"I was thinking to report him, but then I thought of my two daughters, they would grow up one day,...I don't care about me, but for them, I do not want people point finger at them saying: 'the police took their father away'".

During focus group discussion, different attitudes of why women suffer violence could be heard. Women suffer violence because of:

- ✓ fear of rejection by community they live in, fear that she as a victim and her children will bear the shame

"If we get divorced, then the children will bear the burden of those talks, street, traditional talks". (women, 58 years old, single, unemployed)

- ✓ economic dependence on men
- ✓ lack of information
- ✓ low level of women self-awareness

"I think that there are a lot of women in our environment, whom one cannot open their eyes". (38 years old, single, unemployed)

- ✓ fear of reproof and rejection by parent family.

Position of women members of minority groups

Interviewees were aware of the fact that some women in local community were double marginalized – by the fact that woman inside patriarchally established minority community, which, in comparison to majority population, is socially marginalized at all levels: spatial, political, cultural and educational. In such circumstances, violence against woman is manifested in the cruellest ways and implies beliefs and rites that a man has absolute right to dispose and control a woman by all means.

'As regards to Roma community, here women still don't recognize the forms of violence, patriarchy is widespread, in Roma family, women suffer psychological and physical violence daily..Roma women are uneducated, unemployed, have a lot of children...girls are married early and can be sold..then they become slaves in the house..'

FOCUS GROUP 2 – NGO Representatives (Podgorica)

Participants in focus group discussion expressed their opinion and attitudes about the issue of family violence. In this way we wanted to find out how participants recognize the phenomenon of family violence, causes of its occurrence as well as in what way relevant institutions act in solving this problem.

Demographic characteristics

The group discussion included 6 representatives of NGOs with following socio-demographic characteristics: two men and four women, age between 22 and 50.

Recognizing phenomenon of family violence

Representatives of NGOs have built attitude and perception on presence of family violence, as well as the fact that women and children were most often victims of violence. According to them, the society needs to 'deal more actively with this problem, because the children are the ones who suffer the hardest consequences of growing in the family where violence occurs on daily bases'.

"Ofcourse that family violence exists and it is wide-spread".

The family is the place where gender roles of man and woman are formed, while patriarchy is the 'system', which is passed on from generation to generation and according to this model, if violence occurs, 'provocateur or guilty' is almost always a woman.

"In the family women are taught to be good and kind wives, who 'knit. A woman must be quiet and obedient, and she is 'the best' as such."

When it comes to the phenomenon of family violence, participants undoubtedly recognized the importance of NGO sector in exposing its forms, causes and consequences. In this part of discussion, participants particularly stressed the role of female organizations in the process of identification and pointing out forms of this problem, as well as raising public awareness that family violence exists and cannot be tolerated and regarded only as family problem.

"It is no logner a taboo. Thanks to all female organizations dealing with violence against women and children, it seems to me that whole general population, together with civil sector, is to great extent interested for this problem."

Particularly interesting was observation made by one female representative of NGO, whose attitude majority of participants agreed with, that in Montenegro there was awareness of physical violence, but other forms of violence such as psychological, economical and verbal often have not been recognized or even perceived as violence.

"Women do not perceive psychological violence as violence'.

Why do women suffer family violence

Strong influence of tradition and patriarchally-based gender roles affect that what is going on in the family stays 'between four walls', because victims either feel ashamed or do not want to admit they have been exposed to violence.

"In Montenegro it is a shame to report your husband. It is a shame for both the family and children (how they would be looked at school)".

Participants spontaneously, through discussion, identified different reasons for not reporting violence:

- ✓ fear of perpetrator's reaction, possibility to be rejected by wider family and friends,
- ✓ dilemma whether institutions would act in legally defined terms,
- ✓ inadequate enforcement of the law and prescribed sanctions, which were not at the level they should be,

"I know that the Law has been adopted, but we have problems with its implementation and quite small number of staff in the police, who are in charge of cases of family violence",

- ✓ economic dependence on perpetrator of violence

"I think that women would report violence more often if they were in better economic position – apartment, job, etc."

Activities of institutions in the process of solving family violence

From conversation with civil society representatives it can be concluded that participants correctly perceive family violence as a social problem, which consequently implies responsibility of the state towards victims of such violence. Expectations of some focus group participants that 'victim herself should seek for exit from violence and to take destiny into her own hands' leads to conclusion that the group thought that outcome or solution of the problem of violence she has been exposed to depended from ability and strength of the victim herself. What is lacking is clear attitude that the state is primarily due and responsible to protect its citizens from family violence, regardless of their competences or abilities to initiate the solution themselves. This is particularly important in the context of protection of those people unable to initiate or seek justice for suffered violence – e.g. children, elderly or powerless persons. The group expressed opinion that the implementation of the adopted Law primarily **depends on victim of violence** or relevant institution under condition that 'the victim takes certain steps'. However, during further communication, which referred to reasons for not reporting violence, participants concluded that the victims were often deprived from their rights, isolated or that very often they had no access to information, services and support. Further on, participants stated that support by relevant institutions and NGO sector was critical, but as they stated 'it is a long and time consuming process to educate and strengthen and inform victims of violence'. Current social developments, according to interviewees, create 'society unawareness' about this problem.

'If the victim of violence has done everything that was in her power, then all depends on relevant institution'.

Talking about dilemma whether institutions respond to the problem of family violence in adequate way, interviewees expressed attitude that 'some progress has been made', but they still noticed that institutions were 'lacking professionals, they have been overburdened with work – a small number of employees cover large number of cases' as well as that they have been exposed to 'burn out' system. In further chain it is necessary to train medical staff, prosecution office and judicial bodies, and reporters who will report on cases of family violence.

The positive thing is that participant concluded that family violence should be reported and not 'to close eyes even if we find ourselves in such situation, because we as individuals and collective must use all available means to encourage citizens not to 'look the other way' or to stay silent, for in that way we only protect the perpetrator'

PART 7

CASE STUDIES

CASE STUDY 1: Violence against female migrants¹¹⁸ and minority group members

Introduction to the problem

Women are affected by family violence regardless of their gender, age, ethnic origin, social status, nation or religion. The family violence is not a sporadic appearance, but rather a wide-spread and frequent phenomenon, which actual proportion has still not been known or being investigated in Montenegro. In order to comprehend intensity and spread of violence, which female migrants and members of minority groups are exposed to, it is necessary to get insight into all dimension of their inequality: the way their marginalization is manifested, which social barriers they encounter and how they affect the risk and occurrence of violence; what response institutions have on their needs and what is the outcome.

Background of the case

F.D. is a foreign citizen. She was married to Montenegrin. She is 38 and the mother of a six-year-old boy. She lives illegally in Montenegro and speaks our language poorly. She spent eight years in violent marriage. She met her husband in Russia, where both lived and worked. In the meantime, they had a son and settled in Montenegro, in the house which construction they jointly financed during their stay in Russia.

The first violent incidents by her husband started after the child's birth. It escalated upon the arrival to Montenegro. On one occasion, husband's uncle saved her from the fatal consequences of beatings. Even though she turned to the police several times, it would always end with their warnings to him. She was afraid of being charged and deported from Montenegro. Her worst fear was that her husband would take away her son; because he often threatened to do so.

She turned to SOS Nikšić in February 2010, in the final phase of her divorce proceedings, at the moment when her husband instituted criminal proceedings for family violence against her. This was preceded by the incident where the perpetrator, clearly intoxicated, came home and started to insult F.D. She, knowing that verbal violence may quickly turn into physical, called the police. When police came, the perpetrator accused F.D. of being violent. He stated she inflicted injuries on his face. The Police believed him. Both of them were brought to detention to make a statement. F.D. made statement without presence of interpreter, even though she comprehend and speak the language poorly. Within next two days, her husband filed two more charges against F.D.

In the Police, he stated that F.D. is physiologically unstable, ill and dangerous for environment. He files complaint for divorce and asks for custody of the child and hires a lawyer. During that time, F.D. was without legal representative, while proceedings against her were run without interpreter. She received legal aid only in the final phase of proceedings thanks to women NGO (SOS Nikšić), which provided her female legal representative. The marriage is divorced; the custody of a child was given to her and she obtained $\frac{1}{4}$ of common/shared house.

¹¹⁸ UNESCO defines male/female migrants as "any person who lives temporarily or permanently in a country where he or she was not born, and has acquired some significant social ties to this country.", see at; www.unesco.org/shs/migration/glossary

Social barriers

F.D. had no family or friends she could ask for advice and confide that she has been exposed to violence. She had not learned language, and there are no services in the city offering assistance in her own language. Due to unsolved residential status, she was forced to depend on violent partner or other members of his family in order to have access to the medical care and other services. She depends economically from her husband without opportunity for employment. By the abuse of the power he has, he often threatened he would report her and deport from the country and that she would have never seen her son again. She feels unsafe and discouraged. The situation is further aggravated by the lack of her knowledge about the way Montenegrin society is organized and how it works (police, judicial bodies, social services, labour market). Insulation and the lack of social contacts increase the risk of violence and its consequences, since it makes her dependant from her violent partner. As the power and control of the perpetrator grows, the powers of F.D. to cope with violence and survive it in hostile and unfriendly environment are getting weaker. Numerous family of her husband is entirely on his side and F.D. is exposed to their judgement, intolerance and collective pursuit and hostility.

During the court proceeding for division of property, 24 relatives of the husband testified against F.D.

Faced with the pressure to choose between two options – to suffer violence and to cope with it alone within the family and community, or to report violence with possibility to be deported and separated from the child.

My husband acted in premeditated manner. He lied to me. He was the one who dealt with our residential papers, because I did not speak the language and institutions of this country. I have lived here thinking that my residence is regulated. But, he only regulated papers for our son – registered him in register of births, (even though he was born abroad) and regulated his citizenship. Now he is trying to present me as dangerous, violent and pschycologically unstable person who is the risk to environment. He is doing this in order to deport me from Montenegro, take my son away and house we together built. F.D.

Women migrants and members of minority groups face with social prejudices and stereotypes. Economic and social marginalization of women, joined with ethnical distance are factors of increasing risk of family violence and reduce the possibility to break free from violence.

Relation of institutions

There are no records in Montenegro that would reveal the extent of risk for women migrants to experience violence in comparison to those women who have citizenship, or experience of women migrants who suffered discrimination through behaviour and attitudes of public officers when they report violence or ask for help has been recorded either.

Individual experiences of women migrants recorded by non governmental organizations in Montenegro show that women migrants who suffer violence, such as F.D., are more reluctant to ask help from institutions than domestic one. The reasons are numerous: they often don't know the system or language and they are faced with racism and numerous barriers when it comes to access to protection from violence. This makes them victims of multiple discriminations by institutions that are insensitive to complexity of

their position and needs. Thus, it happens that they become captivated between violence and control by partners and discrimination by relevant institutions¹¹⁹. Very often, violence against women members of minority groups and migrants is not treated as violation of human rights, but as the matter of unsolved residential status. Thus, the fact that a woman has no legal residence in the country becomes more important than her protection from violence.

Female judge was unfriendly to me. On the first hearing she told me: „This man cannot live with you any more because you are violent. I know this because my husband runs proceedings your husband started against you. Go back where you came from and leave the husband and the child“ F.D.

Conclusion

What concerns is the fact that F.D. has neither been interrogated in her own language nor she had interpreter assigned during the proceedings against her. In addition, she had no legal aid whatsoever until the moment she turned to female NGO, which leads to the conclusion that she had difficult access to justice and support services for victims of violence. In such circumstances, institutions fail to realize the complexity of situation female foreigners find themselves, which leads to multiple discriminations and violation of human rights of women, especially female migrants and members of other vulnerable groups.

Violence against female members of minority groups is often assigned to their culture, traditions, and rites and thus, the violence is normalized, which leads to omissions by responsible institutions to stop the violence and protect the victim. Such attitudes lead to multiple victimisation of these women and ignore the fact that violence is universal reality of patriarchy and unequal power between men and women.

Finally, help and support to female members of minority groups and migrants must be adequate and adjusted to their specific needs. The system institutions are due to respond to their requests with special care, taking into account all circumstances, which make them either vulnerable or range them into certain vulnerable group. Gender neutral approach is neither suitable nor it can solve causes of violence and empower women to live their lives without violence. It is necessary that all those included in the system of protection comprehend gender dimension of violence and gender characteristics of each individual case in order to create adequate and tailored answer to violence.

¹¹⁹ Chapter VII, Article 59, defines obligation of signatory states to take all legal and other steps in order to ensure victims, whose residential status depends on their spouse or partners, in case of termination of relationship or marriage and especially in difficult circumstances, an autonomous residence regardless of the duration of relationship or marriage. See on: <http://conventions.coe.int/Treaty/EN/Treaties/HTML/DomesticViolence.htm>

CASE STUDY 2: Violence against N.M. single mother

Background of the case

N.M. is a 27-year old single mother of a boy. She has leaved in common-law marriage for two years. The violence against her started when she got pregnant. Due to the beating she suffered, N.M. gave birth before the due date. The doctors suspected family violence and reported the case to the police. After delivery of a child, by capriciousness of her husband N.M. had restricted movement. She was forbidden to contact with friends and family. He forced her to quit her job. He had control over the money, but N.M and her baby were often hungry. He kept her locked in the house, while he was out. The violence became worse and more frequent. She suffered the cruellest abusing, which escalated both in form and intensity-from verbal to sexual. It was not about just an occasional incident, but every-day and the coarsest forms of violence.

The police came several times, upon neighbour's call, but N.M denied the existence of violence. N.M was afraid for her and baby's life. She did not have any money and could not count on her family support. On the other hand, he often promised he would never do that again.

During the last violence incident, she was beaten up. While the violator dragged her half-conscious on the floor, she saw curtain rail falls on the baby. The baby was close to be seriously injured. She broke off and run away to the neighbourhood for hep. The neighbours called the police. N.M gave statement where she reported her partner for violence for the first time. Inflicted injuries were registered by doctors. The police brought the perpetrator to the custody. The criminal proceedings for family violence have been initiated against him¹²⁰. N.M. was scared for her life, since perpetrator on several occasions threatened to kill her if she ever reports him to the police. With the help of police, N.M. and the baby were brought to the shelter, where they spend seven months.

After seven months spent in the shelter, Social Care Centre, taking into consideration all circumstances of the case, provided family accommodation for the mother and her child until the third year of the child. The Basic court imposed the perpetrator suspended sentence for the criminal act family violence against N.M. and the child. N.M. never returned to the violator.

Social barriers

This case clearly illustrates the occurrence of family violence, its dynamics and multiple consequences and damages for the victim, as well as patriarchal system of values by which , a woman has to be submissive or punished for not being so. Leaving the violent partner, for N.M. has not been just an economic risk, but, in the patriarchal society, also the risk of exposing herself to shame and even members of her primary family.

In general, women who suffer violence in marriage are facing the situation that if they break off marriage, they are imposed the sense of guilt for 'failing to preserve marriage', and if they stay, the sense of guilt for not leaving. The victim often doesn't meet help and support, even from the closest family, so she realizes that the problem is her 'guilt' and she has to deal with it by herself. Alone, without family support, she is

¹²⁰ Criminal Code of Montenegro, Article 220 Family violence and violence in family community; See at: http://www.upravapolicije.com/fajlovi/upravapolicije/attach_fajlovi/lat/glavne-stranice/2011/11/pdf/Krivicni_zakonik.pdf

unable to come up with a plan or exit strategy, so she repeats the pattern – not so rare in Montenegro – by which the primary family keeps distance from the problem, tolerates or sees violence as normal and in that way weakens the chances of the victim to break off from violence. The victim, scared and uninformed, with no knowledge of her rights and rights of her child, services she could go for help. She is physically and psychologically exhausted and without social contacts.

The perpetrator took over the control of movement of N.M. and established full control and power. The abuse of power over N.M. manifested through the coarsest forms of physical violence, sexual abuse and depriving from basic living needs for N.M. and her child. Established power and control, attacks to her physical, psychological and sexual integrity have weakened her internal strength, personal autonomy and ability to perceive objective circumstances. The fear she felt for her and her baby's life further decreased the possibility to oppose to the perpetrator, thus the power and control over N.M. sustained more easily and longer.

Detailed insight into the case showed pattern of progressive repeating of violence and its escalation, from verbal, through physical until sexual abuse of the victim. When violence reaches the most drastic level to victim's physical integrity, then perpetrator resorts to promise 'he would change', which gives exhausted victim a chance for salvation and perpetrator new mechanism to keep the power and control over the victim. Destruction and damage to physical and mental integrity of the victim are obvious. In any web of circumstances there is a small chance N.M. would save herself without help of others and without system intervention.

The case reveals the truth that the victim, for fear of reprisal by perpetrator, often doesn't cooperate with the police or prosecutor's office. N.M. describes clearly this fear.

"He said if I left him, he would find me even at the end of the world and kill me. He used to say that it was nothing to him and constantly reminded me of that." N.M.

This is the fear which must never be underestimated by responsible in the system. The moment when N.M. leaves the perpetrator and asks for help is the most dangerous moment, which she is aware of. In such situation, urgent intervention is critical.

Fear for life is the most often reason why victims do not report violence they have been exposed to.

Relation of institutions

Life and health of N.M. were endangered. To that regard, the police, as the first instance in the chain of protection, for the sake of N.M.'s physical safety made decision to give her shelter. In this case, the police acted adequately and ensured that N.M. and her baby were sent to safe and secure place on the territory of Montenegro, in women's shelter. The case of N.M. further shows that relation of police officers towards the victim is often deciding factor of whether the victim would trust the system and whether she would turn for help again. When officers in institutions show concern for the victim, the victim perceives it clearly. In this case, it is worthy of praise that inspector showed and clearly demonstrated concern for N.M, even though she has been 'uncooperative'.

"The inspector who interrogated me was fairly correct. I was afraid to admit that my injuries were inflicted by my husband, and I felt like he knew that and he left me his cell number and said I could call him at any time. Even during the last time, the officers were correct to me. They explained me my rights and when I told I had no place to go, they put me in women's shelter." N.M.

It may be concluded that help and support to this case was directed to that the victim re-gains control over her life. The system institutions - police and social care centre – have done their part of the job. Also, the case nicely illustrates advantages of inter-sectoral cooperation in repression of family violence. Women services in Montenegro are available, competent and strong enough to respond to the needs of N.M. in acute situation of violence, as well as to provide long-term service of needs of N.M. and her child.

What is concerning is repeating tendency or reaction of judicial system in Montenegro to impose mild and suspended sentences for perpetrators, who committed the coarsest forms of violence, which caused physical, sexual and psychological damage and suffering to victims. We believe that imposing of more strict penalties would contribute that perpetrators stop with violence, which would contribute to reducing the rate of violence in family and society.

The role of women support services

For successful intervention it is necessary to have support services set in place, make them available and networked. Women NGOs have played a key role in providing help to N.M., which confirms that women services are important sources of help to women who survived violence. The practice once again showed that gender-oriented approach in the work with victims gives the best results.

Women services in Montenegro, through its work, reflect zero tolerance towards violence and very often they are the only support to women. In addition to help in acute situation of violence, women NGOs provided N.M. free accommodation, food, free representation before the court, and escort to system institutions for 7 months. Therefore it is necessary to create sustainable conditions to make female NGOs service available 24/7 in order to reduce risk of violence escalation and serious bodily injuries of victims.

Conclusion

The case confirms that risk assessment of woman's life and health is critical for making good decisions in process of protection. In all phases of protection it is necessary to analyze situation and assess the level of risk that a perpetrator hurts, tries to kill or even kills the victim. It is concluded that it is necessary that all who are in contact with the victims of violence should be able to understand multiple causes and damages caused by violence against women.

Due to complexity of this issue, it is necessary to establish in Montenegro specialized services for victims who suffered violence. Such services must be directed towards women and their children and treat violence against women as gender-based form of violence.

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- ✓ SANDRA L. BLOOM, M.D., Encyclopaedia of Gender and Violence. Thousand Oaks, CA: Sage Publications, 2009.

ANEX 1

Questionnaire: PUBLIC OPINION POLL¹²¹

EUROPEAN UNION
DELEGATION TO MONTENEGRO



Vlada Crne Gore
Ministarstvo za ljudska i manjinska prava



Empowered lives.
Resilient nations.

CEED Consulting and NGO SOS telephone Nikšić, in cooperation with female consultants from NGO Safe Women's House, are conducting the public opinion poll on violence against women and family violence in Montenegro for the needs of the IPA Gender Equality Programme 2010. The aim of the survey is to obtain data on perception, presence, forms and intensity of family violence and violence against women in Montenegro.

You have been randomly selected to participate in this survey. You are guaranteed complete anonymity and confidentiality of your answers. All information given in this questionnaire will be cumulatively presented and shall not be the subject of individual analysis. Also, results of this survey will be exclusively used for the internal needs of CEED Consulting. We thank you in advance for your time and patience to participate in this survey.

Code of questionnaire (polltaker's dairy):

General awareness of respondents

1. **In your opinion, does family violence exist in Montenegro? (ONE ANSWER)**
 1. Yes
 2. No (skip to q4)

2. **To what extent the family violence is present: (ONE ANSWER)**
 1. To great extent
 2. Partly
 3. Not present at all

3. **In what way have you been informed about family violence: (MULTIPLE ANSWERS POSSIBLE)**
 1. TV
 2. Printed media
 3. Environment (family, work, school, etc.)
 4. From male/female friends
 5. Other, specify _____

4. **In your opinion, family violence is: (ONE ANSWER)**
 1. Social problem
 2. Private family matter
 3. Personal problem
 4. Not problem at all
 5. Other, specify _____

5. **The causes of family violence are: (MULTIPLE ANSWERS POSSIBLE)**
 1. Patriarchal society
 2. Addiction diseases
 3. Abuse of power of some family members

¹²¹The base for preparation of this questionnaire was the questionnaire made by SOS telephone for women and children victims of violence Nikšić, project Community mobilization-violence prevention program

4. Economic crisis
5. Lack of education
6. Other, specify _____

6. In your opinion, who are usually victims of violence? (TWO ANSWERS THE MOST)

1. Women
2. Men
3. Children
4. Elderly
5. Other, specify _____

7. In your opinion, who are usually perpetrators of family violence? (RWO ANSWERS THE MOST)

1. Women
2. Men
3. Children
4. Elderly
5. Other, specify _____

10. Are there institutions/organizations in Montenegro where victims of family violence can go for help? (ONE ANSWER)

1. Yes
2. No (skip to q12)
3. Don't know (skip to q12)

11. Which of the following institutions/organizations victims of family violence can go to? (MULTIPLE ANSWERS POSSIBLE)

1. Police
2. Social care centre
3. Hospital
4. Prosecutor's office
5. Non-governmental organizations
6. Courts
7. Schools
8. Other, specify _____

12. In your opinion, to what extent family violence is being reported to some of institutions/organizations? (ONE ANSWER)

1. Often
2. Sometimes
3. Rarely
4. Never

13. Who usually reports family violence occurred?(ONE ANSWER)

1. Victim
2. Male/female family member
3. Male/female friend
4. Neighbours
5. Unknown person
6. Official person/relevant institution
7. Other, specify _____

Attitudes of respondents

14. Please mark the following statements as correct or incorrect: (FOR EACH STATEMENT MARK EACH ANSWER WITH X)

	Correct	Incorrect
1. Women like violent men		

2. Men like violent women		
3. Woman deserves a hit/punch from a man if she flirts with another one		
4. Man deserves a hit/punch from a women if he flirts with another one		
5. Women herself is responsible for violence against her, if she does not leave abusive relationship		
6. Men himself is responsible for violence against him, if he does not leave abusive relationship		
7. Excessive jealousy and possessiveness are signs of love		
8. Violence is caused by circumstances and events beyond the control of the perpetrator		
9. Victim herself triggers violence with her actions/behaviour		
10. Violence is unacceptable in any situation/circumstances		
11. No proper upbringing without physical punishment/beatings		

15. In your opinion, **VIOLENCE IS: (ON THE SCALE FROM 1 TO 5, where 1 stands for I totally disagree and 5 / I totally agree, PLEASE RATE EACH OF STATED CLAIMS. Circle)**

	I totally disagree	I disagree	Neither agree nor disagree	I agree	I totally agree
1. Control of telephone calls and reading e-mails, SMS, etc.	1	2	3	4	5
2. Control of movement					
3. Restriction of communication with other persons	1	2	3	4	5
4. Slap, kicking, pushing/shoving	1	2	3	4	5
5. Destroying personal property	1	2	3	4	5
6. Denying living resources	1	2	3	4	5
7. Humiliation, insults, curses	1	2	3	4	5
8. Negligence of nutrition, hygiene, health and education of children	1	2	3	4	5
9. Withhold of help to person who is ill, old or disabled	1	2	3	4	5
10. Hiding family member with disability (physical, intellectual)	1	2	3	4	5
11. Threats with taking away children and throwing out of the apartment	1	2	3	4	5
12. Stalking, tracing	1	2	3	4	5
13. Causing the sense of insecurity, endangering personal peace and serenity of another person	1	2	3	4	5
14. Exhaustion with work, depriving of sleep and rest	1	2	3	4	5

Exposure to family violence

16. Have you in some period of your life been exposed to any of mentioned forms of violence?(SEE THE TABLE)

1. Yes, specify the number/numbers of forms of violence *from the table in q15* _____
2. Not sure (skip to q19)
3. No, never (skip to q19)

17. In what environment that happened?(MULTIPLE ANSWERS POSSIBLE)

1. In close family (family I was born in)
2. In wider family
3. In marriage

4. In relationship(s)
5. In school
6. Other, specify _____

18. Who was the perpetrator of mentioned violence? (CIRCLE SELECTED ANSWER)

1. Husband	2. Wife
3. Ex husband	4. Ex wife
5. Male Partner	6. Female Partner
7. Father	8. Mother
9. Son	10. Daughter
11. Brother	12. Sister
13. Father-in-law (husband's father)	14. Mother-in-law (husband's mother)
15. Father-in-law (wife's father)	16. Mother-in-law (wife's mother)
17. Grandfather	18. Grandmother
19. Male Cousin	20. Female Cousin
21. Other _____	22. Other _____

19. Do you know someone from your neighbourhood who is the victim of family violence?

1. Yes
2. Ni (skip to q25)

20. Victim of family violence is:

1. Male friend	2. Female friend
3. Male neighbour	4. Female neighbour
5. Male colleague	6. Female colleague
7. Male cousin	8. Female cousin
9. Other	10. Other

21. Perpetrator of family violence is:

1. Husband	2. Wife
3. Ex husband	4. Ex wife
5. Male Partner	6. Female Partner
7. Father	8. Mother
9. Son	10. Daughter
11. Brother	12. Sister
13. Father-in-law (husband's father)	14. Mother-in-law (husband's mother)
15. Father-in-law (wife's father)	16. Mother-in-law (wife's mother)
17. Grandfather	18. Grandmother
19. Male cousin	20. Female cousin
21. Other _____	22. Other _____

22. Do you know why family violence occurred? (CIRCLE ANSWER)

15. Control of telephone calls and reading e-mails, SMS, etc.
16. Control of movement
17. Restriction of communication with other persons
18. Slap, kicking, pushing/shoving
19. Destroying personal property
20. Denying living resources
21. Humiliation, insults, curses
22. Negligence of nutrition, hygiene, health and education of children
23. Withhold of help to person who is ill, old or disabled
24. Hiding family member with disability (physical, intellectual)
25. Threats with taking away children and throwing out of the apartment
26. Stalking, tracing
27. Causing the sense of insecurity, endangering personal peace and serenity of another person
28. Exhaustion with work, depriving of sleep and rest

29. Other _____
30. Don't know
31. Don't want to talk about it

23. Would you report family violence?

1. Yes
2. No, specify reason _____ (skip to **q25**)

24. When would you report family violence? (ONE ANSWER)

1. Always
2. If the victim was a family member
3. If I knew the victim
4. Other, specify _____

25. Would you donate time, money or stuff to the shelter for victims of family violence?

1. Yes
2. No
3. Don't know/Not sure

26. Would you support male/female election candidate, who is active in the fight against family violence?

1. Yes
2. No
3. Don't know

Demographic data of respondents**27. Sex of respondent**

1. Male
2. Female

28. Age of respondents. (DON'T READ ANSWERS. ONE ANSWER)

1. From 18 to 30
2. From 31 to 40
3. From 41 to 50
4. From 51 to 60
5. Over 60
6. I don't want to answer

29. Level of education. (DON'T READ ANSWERS. ONE ANSWER)

1. No education
2. Primary education
3. Secondary education
4. Higher education
5. Master/PhD studies
6. I don't want to answer

30. Occupation – position held? (DON'T REASD ANSWERS. ONE ANSWER)

1. Pupil-student
2. Employed in public institution
3. Employed in private sector
4. Private entrepreneur – owner
5. Retired
6. Farmer
7. Unemployed
8. Other, specify _____

31. The amount of total monthly income of your household

1. Up to 150€
2. From 151 to 250€
3. From 251 to 350€
4. From 351 to 450€
5. From 451 to 600€
6. From 601 to 800€
7. From 801 to 1000€
8. Over 1001€

Questionnaire¹²²: SURVEY WITH VICTIMS OF FAMILY VIOLENCE

NO OF CALL: _____

MARITAL STATUS

- single
- married
- divorced
- widow

NO OF CHILDREN

- NO CHILDREN
- HAS CHILDREN:
 - 1-2
 - 2-4
 - 4-6
 - 6 and more

CIVIL STATUS

- Citizenship _____
 - Unknown
 - No citizenship
 - Displaced person
 - Foreigner
 - Legal residence
 - Illegal residence
 - Temporary residence
 - Permanent residence

LEVEL OF EDUCATION:

- unfinished primary school
- finished primary school
- unfinished secondary school
- finished secondary school
- college/high school/faculty
- informal education: _____

EMPLOYMENT STATUS

1. EMPLOYED

- BUSINESS/PRIVATE SECTOR
- PUBLIC SECTOR
- NGO
- INFORMAL SECTOR

2. UNEMPLOYED

- 2. -HOUSEWIFE
- 3. -RETIRED
- 4. -REDUNDANT WORKER

¹²²Done by the questionnaire of the database of SOS telephone for women and children victims of violence Nikšić

5. -BEING FIRED
6. -FEMALE PUPIL
7. - FEMALE STUDENT
8. -OTHER_____

BACKGROUND

HAVE YOU BEEN EXPOSED TO VIOLENCE IN YOUR PRIMARY FAMILY?

1. YES
2. No (skip to section Economic situation)

IF YES, BY WHOM:

- father
- mother
- brother/sister
- male cousin/female cousin
- other (grandfather, grandmother...)

WHAT FORM OF VIOLENCE HAVE YOU EXPERIENCED?

- physical violence
- psychological violence
- sexual abuse
- material violence
- stalking

ECONOMIC SITUATION

DO YOU HAVE YOUR OWN SOURCE OF INCOME?

- Yes
- No

IF NO, WHO YOU DEPEND FINANCIALLY ON?

- husband
- father
- mother
- sister/brother
- Family Financial Protection (Materijalno obezbjeđenje porodice – MOP)
- Other:_____

DO YOU HAVE ANY PROPERTY IN YOUR OWNERSHIP?

- YES
- NO

DOES A PERPETRATOR HAVE CONTROL OVER YOUR INCOME AND/OR PROPERTY?

- YES
- NO

EXPERIENCE WITH A PERPETRATOR

WHAT KIND OF RELATIONSHIP DO YOU HAVE WITH A PERPETRATOR?

- marriage community
- common-law marriage
- ex partner
- family relationship (father, brother, uncle, grandfather)

DURATION OF RELATIONSHIP?

- 0-5 years
- 5-10 years
- 10-15 years
- over 15 years
- since I was born
- Other:_____

DURATION OF VIOLENT BEHAVIOUR TOWARDS YOU?

- It happened once
- for one month
- 0-1 year
- 1-5 years
- 5-10 years
- over 10 years

WHEN WAS THE FIRST TIME VIOLENT SITUATION HAPPENED?

- in relationship
- after entering into marriage
- during pregnancy
- after we got children
- other:_____

FORMS OF VIOLENCE

- 5.5.1 PHYSICAL VIOLENCE
 - 5.5.1.1 TYPE OF INJURIES YOU SUSTAINED:
 - minor injuries
 - serious injuries
- 5.5.2 PSYCHOLOGICAL VIOLENCE
- 5.5.3 SEXUAL ABUSE
- 5.5.4 MATERIAL VIOLENCE
- 5.5.5 STALKING

RISK ASSESSMENT**DOES A PERPETRATOR OWN A FIRE WEAPON?**

- YES
- NO
- DON'T KNOW

HAS HE EVER THREATENED YOU WITH A WEAPON?

- YES
- NO

HAS HE EVER USED WEAPON IN ATTACK ON YOU?

- YES
- NO

HAS HE EVER TRIED TO STRANGLE/CHOKO YOU?

- YES
- NO

HAS HE EVER THREATENED TO KILL YOU?

- YES
- NO

HAS HE EVER TRIED TO KILL YOU?

- YES
- NO

HAS PHYSICAL VIOLENCE ESCALATED IN FREQUENCY AND/OR INTENSITY DURING THE LAST YEAR?

- YES
- NO

HAS PERPETRATOR EVER FORCED YOU TO SEXUAL INTERCOURSE?

- YES
- NO

DOES PERPETRATOR TRY TO CONTROL MAJORITY OR ALL OF YOUR DAILY ACTIVITIES?

- YES
- NO

IS HE CONSTANTLY AND/OR VIOLENTLY JELOUS?

- YES
- NO

ARE YOU AFRAID HE MIGHT KILL YOU?

- YES
- NO
- DON'T KNOW

HAS PERPETRATOR BEEN IMPOSED PROTECTIVE MEASURE?

- YES
- NO

CHILDREN AND RISKS OF VIOLENCE THEY ARE EXPOSED TO

IS HE VIOLENT TOWARDS THE CHILDREN?

- YES
 - ✓ IF YES, HOW LONG VIOLENCE TOWARDS CHILDREN LASTS? _____
- NO

FORM OF VIOLENCE TOWARDS CHILDREN:

- neglect
- physical violence
- psychological violence
- sexual abuse
- material violence
- stalking

✓ IF NO, HOW DOES HE PUNISH CHILDREN?

- by the use of physical force
- verbally
- restricts them food, sleep, clothes, shoes, allowance

- doesn't buy food, medicines, stuff they need
- locks them in
- restrains socialization
- does not provide them health protection (doesn't take them on vaccination, health checks, etc.)
- other: _____

TAKING MEASURES FOR SOLVING CRISIS SITUATION

DID YOU LEAVE A PERPETRATOR BEFORE?

- YES
 - ✓ IF YES, HOW MANY TIMES? _____
- NO

HAVE MEMBERS OF YOUR FAMILY KNOWN ABOUT THE VIOLENCE THAT HAS BEEN HAPPENING TO YOU?

- YES
- NO
 - ✓ IF YES, DID THEY REACT ON IT?
 - YES
 - IF YES:
 - they offered their protection
 - took in you and your children
 - took you in, but not the children
 - reported to some of organizations for protection for women from family violence
 - reported to the Police
 - suggested you to endure, and that it is not so serious and/or that it is normal
 - suggested you not to report, because it is a shame
 - other _____
 - NE

HAVE YOU EVER ASKED FOR MEDICAL HELP?

- YES
 - ✓ IF YES, DID YOU REPORT THE CAUSE OF YOUR INJURIES TO MEDICAL STAFF?
 - YES
 - NO
- NO

DID YOU ASKED FOR HELP-intervention of the POLICE, IN TERMS OF FILING COMPLAINT?

- YES
 - ✓ IF YES:
 - criminal proceedings have been instituted
 - misdemeanour proceedings have been instituted
 - he was warned
 - the proceedings have not been instituted/charges were dropped
 - you dropped the charges

WHY? _____

- NO

DID YOU GO TO SOCIAL CARE CENTRE?

- YES
 - ✓ IF YES:
 - -you received help
 - - you did not get adequate help
- NO

IF YOU DID NOT ASKED FOR HELP FROM THIRD PERSONS IN ORDER TO SOLVE YOUR SITUATION YOU ARE IN, WHAT ARE THE REASONS FOR IT?

- fear
- children
- economic dependence on perpetrator
- lack of support by family and friends
- physical exhaustion
- lack of awareness of the rights you are entitled to
- emotional dependence
- shame
- sense of guilt for what was happening to you
- other:_____

DATA ON PERPETRATOR

MARITAL STATUS

- -single
- -married
- -divorced
- -widower

LEVEL OF EDUCATION

- -unfinished primary school
- -primary school
- -unfinished secondary school
- -secondary school
- -college/high school/faculty

IS HE EMPLOYED?

- YES
- NO

DOES A PERPETRATOR SUFFER FROM ADDICTION DISEASES?

- YES
 - ✓ IF YES, DOES HE USE:
 - alcohol
 - tablets
 - minor and/or serious drugs
 - gambling
- NO

IN-DEPTH INTERVIEW GUIDELINE¹²³

CEED Consulting and NGO SOS telephone Nikšić, in cooperation with female consultants from NGO Safe Women's House, are conducting the survey on perception, presence, forms and intensity of family violence and violence against women in Montenegro, which will serve as a valuable source of information in conducting activities in area of achieving sustainable and efficient system of protection of victims of family violence and measures against family violence. The survey is a part of the IPA Gender Equality Programme 2010, implemented by partnership of the Delegation of the European Union to Montenegro, Ministry for Minority and Human Rights and UNDP.

I PROTECTION

1. Do you think Montenegrin society provides adequate protection from violence?
2. Which institutions in Montenegro provide protection for the victims of violence?
3. What support services provide mentioned institutions for women and children victims of violence? (material and non material support)
4. How would you assess the functioning of these services?
5. How they could be improved?
6. What are the competences and authorities of Police Department/Social Care Centre/ODT in terms of family violence? What measures they are due to take? How?
7. What is the procedure in case the victim is a child?
8. Does your institution have officers – teams specialized for family violence?
9. How would you assess the work of other relevant institutions, bodies or organizations on protection from violence?
10. In your opinion, do officers, i.e. responsible persons in institutions, act conscientiously and in accordance with legal competences upon taking actions and measures in work with victims of violence?
11. Can excess of authority or omission in performance of duty of responsible officer be sanctioned? Under which law? Is it being sanctioned? (Article 39 of the Law on Family Violence Protection or Article 417 of the Criminal Code of Montenegro).
12. In your opinion, what are weaknesses in the process of providing help and protection to the victims of family violence? Why?
13. Are there multi-disciplinary teams operating in Montenegro for family violence, which coordinate activities in the process of providing help and protection of victims? How they function, what are their formal legal competences?
14. In your opinion, what action needs to be urgently taken in favour of better protection of victims?
15. Do you think that data on the number of criminal and misdemeanour charges and imposed protective measures reflect the actual situation in terms of family violence?
16. What are, in your opinion, most common reasons for which a woman, victim of violence, does not seek help from the third side? (relevant institutions, organizations for protection of women, family)

II RISK ANALYSIS

1. Do you perform risk analysis/assessment of the situation victim of violence is in?
2. What are the key elements of assessment you perform?
3. How would, in your opinion, processes of risk management that are set in place affect the number of assaults, serious bodily injuries inflicted on women and children and the number of fatal outcomes?

¹²³As a basis for conducting In-depth interviews, the guide from the Survey on Prevalence, Intensity and Forms of Violence against Women in Montenegro was used, SOS telephone for women and children victims of violence Nikšić and OAK foundation

III LEGAL FRAMEWORK

1. How do you assess the existing legal/normative framework on protection from family violence in Montenegro?
2. Do our laws reflect the attitude that violence is unacceptable?
3. How would you assess the implementation of the Law on family Violence protection and its secondary legislation? How the process of adopting the secondary legislation could be accelerated?
4. What, in your opinion, defines the best quality of implementation of newly adopted law? Why?
5. In your opinion, how much monitoring of implementation of the law is important and why?
6. Are you aware of the content of the Strategy for Protection against Family Violence 2012-2016 and how would you assess its objectives and measures?
7. Are you familiar with the Protocol on rules of procedure, prevention and protection from family violence and what is your opinion about it?
8. In the Law on Family Violence Protection, definition of violence says: family violence, as used in this act, shall mean omission or commission by a family member in violating physical, psychological, sexual or economic integrity, mental health and peace of other family member, irrespective of where the incident of violence has occurred"- what do you think about this definition?
9. Is the safety of victim in the first place in the *Law*?
10. Are there any obstacles in implementation of prescribed forms and ways of providing help and protection by relevant bodies upon charges filed by the victim and in favour of adequate victim protection? Why is that so?
11. How would you assess protective measures for prevention and repression of family violence prescribed by the *Law*?
12. Why there is small number of imposed protective measures referring to urgent protection/safety of victims, and higher number of, for example, mandatory treatment for perpetrators of violence?

III PROSECUTION

1. From your experience, to what extent women, victims of violence, decide to bring charges against perpetrator?
2. Do victims cooperate in prosecution of perpetrators of violence?
3. What kind of actions you take in order to collect evidences for committed violence? In what way those procedures could be improved?
4. Do you believe that all necessary measures for investigation of every single case are undertaken and what do you think it could be improved in these procedures?
5. Do you think the penalizing of perpetrators in Montenegro is proportional to the gravity of committed act?
6. How would you assess the penalty provisions of the Law on Family Violence Protection?

IV PREVENTION

1. How much prevention is important in combating violence?
2. What are steps, which in your opinion, must be taken, on the level of all relevant institutions/organizations in favour of efficient prevention?
3. Do you believe there is tolerance towards violence in Montenegro?
4. What is the level of public awareness of the issue of violence in Montenegro?
5. Who are, in your opinion, responsible and relevant actors for prevention of family violence?
6. Would you report the incidence of violence you learn of in the discharge of your affairs within your authority or in conduct of your activities, regardless of the decision/wish of the victim about that?

V PREVELANCE OF VIOLENCE

1. What kind of statistical data Police Department/Social Care Centre/Basic State Prosecutor have on family violence?

2. Are those statistical data disaggregated by sex, age, family relation between victim and perpetrator?
3. Who are most often the victims?
4. Who are perpetrators?

FOCUS GROUP GUIDE¹²⁴

Good afternoon. You are invited to participate in group discussion. It is the type of survey research agency SOS NK, Safe Women's House and CEED Consulting are conducting for the needs of UNDP.

Introductory part: Please tell a little bit about yourself, how old are you, your occupation and what you like to do in free time?

1. What is the position/role of women or men in Montenegro and what does it mean to be a woman or man in Montenegro?
2. Who or what has impact and/or affect understanding or forming of our roles/positions?
3. As a consequence of those impacts, how do men treat women, e.g. their partners today? What is the power ratio between sexes?
4. What is or is there any connection between social roles and violence (in the family)?
5. In your experience, what is affecting family violence? Does violence have anything to do with misbalance of power?
6. (Optional)Who (usually/most often) demonstrates power in this way? Who is violent? How such violence is manifested? What forms of violence do you recognize?
7. Who is the victim of violence?
8. Is family violence tolerated in Montenegro?
9. Is the victim of family violence protected in Montenegro? In what way the victim is protected?
10. Who protects victims in Montenegro today?
11. Whose duty is to protect?
12. How to improve protection of a victim? To what extent relevant bodies can solve the problem of violence? Are relevant bodies efficient in solving these problems?
13. Has family violence been properly sanctioned? Have the perpetrators been properly punished and victims protected?
14. Has the state done enough in terms of violence?
15. Who are responsible actors?
16. Would you report violence? Who would you turn to/address to?

¹²⁴As the basis for conducting focus groups, guide from the Survey on prevalence, intensity and forms of violence against women in Montenegro has been used, SOS telephone for women and children victims of violence Nikšić and OAK

ANNEX 2

Draft proposed amendments of the Criminal Code of Montenegro by Caucus of Social People's Party

(Source: comment on the Study by parliament member Nataše Vuković)

As contribution to more adequate protection of children and minors from violence, in addition to reviewing and tightening the length and range between lowest and highest punishment, as well as adding provisions on strictly defined minimal sentence and prohibition of remission of sentence for perpetrators of these criminal offences, I propose additional solutions:

Article 211a

1) Anyone who induces a minor to attend a rape, sexual intercourse or an equal act shall be punished by imprisonment sentence of three to five years.

2) If the offence referred to in paragraph 1) has been done by using force or against a child, a perpetrator shall be punished by imprisonment sentence from five to eight years.

Article 211b

(1) Anyone who, in the intent of committing a criminal offence from the Article 204 (Rape), Article 205 (Sexual intercourse with a helpless person), Article 206 (Sexual intercourse with a child), Article 207 (Sexual Intercourse by abuse of position), Article 208 (Prohibited sexual acts), Article 209 (Pimping and enabling having sexual intercourse), Article 210 (mediation in prostitution), Article 211 (displaying, procuring and possession of pornographic material and abuse of a minor for prostitution), and Article 211a) inducing a minor to attend sexual intercourse) of this Code, by using a computer network or any other communication by other technical means, arranges with a minor a meeting and appear at agreed place for a meeting, shall be punished by imprisonment sentence from six months to five years.

(2) Anyone who commits act referred to in paragraph 1 of this article against child shall be punished by imprisonment sentence from three to eight years.

Article 150 referring to illegal termination of pregnancy, paragraph 2: „Anyone who carries out or commences with carrying out an abortion without consent of the pregnant woman and, if she is younger than 16, without her consent and a written agreement by her parents, adoptive parents or guardians, shall be sentenced to one to eight years of imprisonment“. It is necessary to harmonize this article with the Bill on conditions and procedure for termination of pregnancy, which anticipates consent of parents or guardians for minors under the age of 18, while in Criminal Code this age limit is 16 years.