



## **Montenegro's Compliance with Convention on the Elimination of Discrimination Against Women: Gender-Based Violence against Women**

### **Submitted by The Advocates for Human Rights**

a non-governmental organization in special consultative status with ECOSOC since 1996

And

**SOS Hotline for Women and Children Victims of Violence- Nikšić  
for the 88<sup>th</sup> Session of the Committee on Elimination of Discrimination against Women**

**13 May 2024- 31 May 2024**

**Submitted 15 April 2014**

**The Advocates for Human Rights** (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

**SOS Hotline for Women and Children Victims of Violence- Nikšić** was founded in 1998 by a group of activists, who dreamed about a society in which equality and social justice are core values. SOS Hotline is recognized as one of the leading NGOs in Montenegro in the fight for women's rights. SOS Hotline seeks to be a powerful instrument for women in economic, social and political empowerment. SOS Hotline's vision is a world where all women and all children live in peace and dignity. Its mission is to help the positive development and application of capacity and potential of women and children in the family and society, through the promotion and protection of women's and children's rights in order to create a dedicated, responsible, and open community.

## EXECUTIVE SUMMARY

1. Montenegro had made progress in terms of legislative and policy reform on violence against women. Recent developments include amendments to articles, the recognition of new criminal offenses, and the submission of proposed amendments to the Law on Protection from Domestic Violence to the European Commission for approval. Despite these legislative advancements, protections for women victims of gender-based violence against women remain inadequate, as evidenced by the high number of femicides recorded.<sup>1</sup> There also remains a lack of specialized services for assistance and support to women victims of violence, especially victims of domestic violence.<sup>2</sup> The unpredictable financing of specialized services endangers sustainability and complicates any strategic long-term approach to protection.<sup>3</sup>
2. Montenegro falls short in preventing and responding to human trafficking by not fully meeting the minimum standards for the elimination of human trafficking.<sup>4</sup> Montenegro's shortcomings have placed the country on the TIER 2 WATCH LIST. Since June 2023, the country has been under supervision and is ranked as such by other States.<sup>5</sup>
3. The safety of women victims of violence remains at risk in the context of custody proceedings, visitation rights, and contact between the violent parent and children-in-common.<sup>6</sup> Institutions also frequently do not see children who witness violence as victims of that violence, although they are obliged to do so by international standards.<sup>7</sup> To the best of the author's knowledge, the standard by which institutions determine the best interests of the child is unclear.<sup>8</sup>
4. This report focuses on three areas: Specialized services and protections for victims of gender-based violence against women, including femicide risk assessments and data collection; the identification and response to human trafficking and sexual exploitation; and family, more specifically, protecting the victim and children in cases of child custody and visitation rights.

### **Montenegro fails to uphold its obligations under the Convention on the Elimination of All Forms of Discrimination Against Women**

---

<sup>1</sup> Jovana Gligorijević, Femicide in Montenegro: The number of women killed is unknown, [Femicid u Crnoj Gori: Ne zna se broj ubijenih žena], VREME (November 30 2022), available at <https://vreme.com/komentar/femicid-u-crnoj-gori-ne-zna-se-broj-ubijenih-zena/>.

<sup>2</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, 16, 29 and 40, accessed Apr. 8, 2024, <https://sosnk.org/wp-content/uploads/2023/11/Studija-o-sprovođenju-Istanbulske-konvencije-u-Crnoj-Gori-4.pdf>.

<sup>3</sup> Ibid. 33-34.

<sup>4</sup> Voice of America, "State Department: Montenegro's Authorities Do Not Meet the Minimum Standards for the Elimination of Human Trafficking, They Are Making Efforts," accessed Apr. 9, 2024,

<https://www.vijesti.me/vijesti/drustvo/661322/stejt-department-vlasti-crne-gore-ne-ispunjavaju-minimalne-standarde-za-eliminaciju-trgovine-ljudima-ulazu-napore>.

<sup>5</sup> Convention on the Elimination of All Forms of Discrimination against Women, *Third Periodic Report submitted by Montenegro under article 18 of the Convention, due in 2021*, (Nov. 11, 2021), U.N. Doc. CEDAW/C/MNE/3 ¶¶ 96-104.

<sup>6</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, *supra* note 2.

<sup>7</sup> Ibid. 45.

<sup>8</sup> Convention on the Elimination of All Forms of Discrimination against Women, *Third Periodic Report submitted by Montenegro under article 18 of the Convention, due in 2021*, (Nov. 11, 2021), U.N. Doc. CEDAW/C/MNE/3 ¶¶ 67-95.

5. Montenegro fails to fulfill the obligations of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Furthermore, the State party does not fully comply with the provisions of the Istanbul Convention. The current report presents multiple dimensions on which the State party must undertake further actions to respect, protect, and fulfill women's rights.

### **I. Gender-based Violence Against Women (Paragraphs 9 and 10)**

6. In the 2022 List of Issues, The Committee requested the State party provide information about the prosecutions and convictions of perpetrators of femicide, specifics about support provided to civil society organizations providing specialized services, and information about trainings provided to systems actors, among other items.<sup>9</sup> Several amendments and provisions have been added to the Criminal Code since then, some of which this report describes below.
7. The Criminal Code of Montenegro has been harmonized with the European Union Directive on the Rights of victims 2012/19,<sup>10</sup> while Parliament adopted several amendments to the Criminal Code that came into force in December 2023.<sup>11</sup> The amendments have significantly improved legal protections for women who are victims of violence and domestic violence.<sup>12</sup> For the first time in Montenegro, the following criminal offenses have been recognized: (1) sexual harassment; (2) misuse of another individual's image, photo, portrait, audio recording, or documentation of sexually explicit content; and (3) violation of protective orders. Compelling a person to engage without their consent in forced marriage, extramarital cohabitation, or same-sex life partnership was also criminalized. Additionally, the definition of child was amended to include persons up to 18 years old, as opposed to 14 years old. Sexual harassment now carries a penalty of up to 2 years in prison. Misuse of images and related offenses carry a penalty of up to 10 years in prison. Violation of special supervision incurs a penalty of up to 1 year in prison. The offenses involving forced marriage and cohabitation carry a penalty of up to 3 years in prison.<sup>13</sup>
8. **Article 151a of the Criminal Code of Montenegro**, which relates to female genital mutilation, has been supplemented with three new paragraphs. These paragraphs include: (1) Anyone who induces a female to perform an act from paragraph 1 of this article or assists her in doing so, will be punished with imprisonment of six months to five years; (2) If the act from paragraph 1 of this article is committed against a female child, the perpetrator will be punished with imprisonment of two to ten years; (3) In the event of the death of a female person due to the act from paragraph 1 of this article, the perpetrator will be punished with imprisonment of five to fifteen years.<sup>14</sup> The effectiveness of this code is yet to be determined, and substantive data regarding its impact on victim protection is yet to be collected upon implementation.
9. **Article 220 of the Criminal Code of Montenegro**, related to domestic violence or violence in a family or household, has been amended to increase penalties.<sup>15</sup> For the lowest level

---

<sup>9</sup> Committee on the Elimination of Discrimination against Women, List of issues and questions in relation to the third periodic report of Montenegro, UN. Doc. CEDAW/C/MNE/Q/311, (11 of July 2022), ¶¶ 9-10.

<sup>10</sup> Criminal Code of Montenegro, <https://www.paragraf.me/propisi-crnegore/krivicni-zakonik-crne-gore.html>.

<sup>11</sup> Proposal for the Law on Amendments and Supplements to the Criminal Code of Montenegro, December 2023, 1, <https://www.gov.me/dokumenta/f8341b5b-9976-412b-b5e5-b93b6aec2dff>

<sup>12</sup> Ibid. 9.

<sup>13</sup> Ibid. 4-8

<sup>14</sup> Ibid. 5.

<sup>15</sup> Ibid. 9.

offense, the maximum penalty was increased from two years to now five years in prison.<sup>16</sup> For causing serious bodily harm, the maximum prison sentence was increased from 5 to 8 years, and for criminal offenses that resulted in death, the sentence has been increased from a maximum 12 years' imprisonment to 15 years.<sup>17</sup> The definition of family and family community members has also been expanded to include spouses, common-law spouses, joint children or children of either partner, common-law same sex partners, joint children or children of either same sex partner, blood relatives, adopted relatives, in-laws, partners in an intimate relationship, persons living in the same household, individuals with a child-in-common, ex-spouses, former same-sex partners, and former intimate partners.<sup>18</sup>

10. The process of adopting amendments to the **Law on Protection from Domestic Violence** is also underway. The amendments have been sent for approval to the European Commission.<sup>19</sup> Among other items, the amendments seek to expand the definition of domestic violence to recognize it as gender-based violence and include partners in intimate relationships.<sup>20</sup> Furthermore, the amendment more precisely delineates misdemeanor and criminal forms of domestic violence. It also clearly outlines the responsibilities of institutions, gives greater importance to confidants (persons who support and accompany the victim to proceedings), increases the responsibilities of the police in cases involving weapons, shortens the timeline for issuing protective measures to 24 hours, and increases the fine amounts.<sup>21</sup>
11. Victims lack effective protection and remedies, despite these reforms. These include: a lack of sufficient shelters or safe houses, crisis centers or protocols for victims of sexual violence; accommodations for child victims of arranged marriages, and; an insufficient number of services for psychosocial support. Challenges remain in implementing protective measures, which are exacerbated by inconsistent and inadequate funding for specialized services.<sup>22</sup>

#### *Specialized Services*

12. Sufficient specialized support services for women victims of violence, including domestic violence, are scarce,<sup>23</sup> and women's non-governmental organizations (NGOs) providing these services face challenges. First, the State party pressures women's NGOs to obtain a license to provide services, and failing to do so may result in financial penalties.<sup>24</sup> Women's NGOs undergoing the licensing process are then forced to invest additional financial resources to meet spatial and technical standards set by the State party.<sup>25</sup> Often, NGOs are required to hire

---

<sup>16</sup> Id.

<sup>17</sup> Id.

<sup>18</sup> Id.

<sup>19</sup>

<sup>20</sup> Draft Law on Amendments and Supplements to the Law on Protection from Domestic Violence, 1, <https://www.gov.me/dokumenta/3f409ae4-f33a-4107-8a70-31d047350f30>

<sup>21</sup> Ibid. 2,4,5.

<sup>22</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, supra note 2, at pages 13, 14, 19, 31, 44, 117.

<sup>23</sup> Ibid. 12,16.

<sup>24</sup> SOS Centre for Women and Children Victims of Violence Niksic, Safe Womens House Podgorica, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties I First thematic evaluation round: Building trust by delivering support, protection and justice*, 29.

<sup>25</sup> The following rulebooks define the stated standards: Rulebook on Detailed Conditions for Issuing, Renewing, Suspending, and Revoking Licenses for the Performance of Social and Child Protection Activities; Rulebook on

additional professionally licensed staff, without which the organization cannot be licensed.<sup>26</sup> Staff salaries and overhead costs are ongoing expenses that organizations must secure on a monthly basis, stretching already limited resources.<sup>27</sup>

13. Additionally, according to current legal requirements, women's NGOs are obliged to license each individual service separately. This includes hotlines, shelters or safe houses, counseling centers, and other services. Such requirements pose a significant challenge in terms of capacity and human resources for organizations.<sup>28</sup> Despite the increase in requirements for organizations, the State party is under no further obligation to provide financial support to the licensed services, placing licensed women's NGOs at serious risk in terms of survival.<sup>29</sup> Additionally, despite GREVIO's recommendation that specialized support services for victims of violence should primarily be provided by independent NGOs specializing in gender-based violence,<sup>30</sup> the State party financially supports organizations that have met formal requirements but lack experience and knowledge in this field.<sup>31</sup>
14. Related, specialized services for women who have experienced psychological violence remains deficient. The financing of these specialized services, although a State obligation, is partial and limited to a maximum period of one year, which endangers sustainability and complicates a strategic long-term approach to protection for these victim-survivors.<sup>32</sup>
15. While the Law on Free Legal Aid in Montenegro theoretically provides free legal aid to victims of domestic violence and human trafficking, victims of domestic violence encounter many obstacles when attempting to obtain legal assistance. Victims without documents are barred from accessing this legal assistance, impacting migrant women and girls.<sup>33</sup> Victims are barred from obtaining free legal aid in property division proceedings if the property is not under their name or that of their spouse, impacting those who rent or live with family.<sup>34</sup> Additionally, the law stipulated free legal assistance will not be granted to applicants who have previously withdrawn a lawsuit, hindering many victims of domestic violence who may have submitted multiple complaints before finally being able to leave the relationship.<sup>35</sup>
16. Psychological assistance to address the trauma of rape is nonexistent. According to "The Study on Sexual Violence Against Women and Children in Montenegro" documenting the experiences of 100 women and girls who survived sexual violence, less than ten percent sought

---

Detailed Conditions for Provision and Use, Norms, and Minimum Standards of Advisory-Therapeutic and Socio-Educational Services; Rulebook on Detailed Conditions for Provision and Use, Norms, and Minimum Standards of Accommodation Services in a Shelter – Refuge. See SOS Centre for Women and Children Victims of Violence Niksic, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties 1 First thematic evaluation round: Building trust by delivering support, protection and justice*, supra note 24.

<sup>26</sup> SOS Centre for Women and Children Victims of Violence Niksic, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties 1 First thematic evaluation round: Building trust by delivering support, protection and justice*, supra note 29.

<sup>27</sup> Ibid.

<sup>28</sup> Ibid.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid. 8-9.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

<sup>33</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, supra note 2.

<sup>34</sup> Ibid.

<sup>35</sup> Ibid.

assistance from psychologists.<sup>36</sup> Additionally, there is limited psychosocial assistance for child victims and witnesses. Research by SOS Hotline in Niksic revealed half of health care providers surveyed do not offer psychosocial care, despite the obligation to do so under the Istanbul Convention.<sup>37</sup> Other respondents indicated they have capacity to provide psychosocial assistance and often collaborate with Centers for Social Work (CSW), although they were unable to provide an estimate of how frequently this collaboration takes place.<sup>38</sup>

### *Shelters/ Safehouses*

17. In Montenegro, women may seek entry into a shelter in one of two ways. The first is to seek a referral from a CSW institution, which will determine whether she is eligible for shelter accommodation. The second option is for the victim to seek assistance directly from the shelter itself. If assistance is arranged through a CSW, the State provides the shelter with 350 Euros per month per client. In contrast, when the victim reaches out directly to the shelter, the organization bears the full cost without compensation.<sup>39</sup> This approach overlooks the value of licensed NGOs, which are deeply involved in providing critical services and have expertise on the needs of survivors, to make their own eligibility determinations.<sup>40</sup> In other words, NGOs are not treated as equal decision-makers in a way that would utilize their expertise in determining the best support and accommodations for survivors.<sup>41</sup> It additionally poses an additional step—and overt pressure—on victims and shelters to obtain that CSW referral to ensure her place is adequately resourced.
18. CSW's discretionary power has led to a significant decrease in the number of survivors recognized as eligible for shelter accommodation.<sup>42</sup> Before September 2019, institutions referred almost 80% of eligible individuals to SOS' shelter. Since then, the number of women victims of violence who have been referred to SOS has decreased to less than 40%.<sup>43</sup> Typically, CSW have referred unhoused women to shelters, rather than victims of violence.<sup>44</sup> In turn, victims of violence are often not offered the option of shelter. This has furthered misperceptions among some victims that shelters are not intended for them.<sup>45</sup> This misconception about who the shelters actually serve has denied numerous victims safe haven. It also highlights the need for a more inclusive and effective approach to victim support and shelter allocation.<sup>46</sup>

---

<sup>36</sup> Ibid.

<sup>37</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, supra note 2, at page 113.

<sup>38</sup> Ibid.

<sup>39</sup> SOS Centre for Women and Children Victims of Violence Niksic, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties 1 First thematic evaluation round: Building trust by delivering support, protection and justice*, supra note 8-9.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid.

<sup>42</sup> SOS Centre for Women and Children Victims of Violence Niksic, *Statistical Data on the Accommodation of Victims in SOS Shelters for Women and Children with Experience of Violence*, on file with author.

<sup>43</sup> Id.

<sup>44</sup> Id.

<sup>45</sup> Id.

<sup>46</sup> Id.

19. The ability of CSW to exclusively assess the eligibility of victims for shelter serves as a means to regulate the financial resources allocated for victims of domestic violence.<sup>47</sup> By limiting the number of women deemed eligible for shelter, the State indirectly controls the funds assigned to these victims.<sup>48</sup> Reduced funding by the State not only restricts the accessibility of essential services for many victims but also raises concerns about the prioritization of financial management over the actual needs and welfare of domestic violence survivors.<sup>49</sup> Attaching financial support to the number of women referred to shelters underscores the need for a more victim-centered approach, where the allocation of resources and eligibility assessments are based on the actual needs of the survivors, rather than budgetary constraints.<sup>50</sup>
20. Finally, the number of shelters and beds for women victims of violence and domestic violence remains insufficient. Articles 22 and 23 of the Istanbul Convention calls for adequate shelters, easily accessible and equally spaced out throughout the county.<sup>51</sup> This is specified further in the Explanatory Report that there be “specialized women’s shelters, available in every region, with one family place per 10,000 head of population.”<sup>52</sup> With a current population of 615,200, this calls for 61.5 shelter beds.<sup>53</sup> While there are 59 shelter beds available, they are located solely in the central and southern regions of the country and only 37 of these beds are operated by two NGOs specializing in gender-based violence.<sup>54</sup> Additionally, while victims of rape are accepted by shelters, there are no specialized shelters for those individuals.<sup>55</sup>

### *Femicide*

21. Combating femicide remains one of the greatest challenges in Montenegro. Between 2018 and 2023, at least 16 women were killed.<sup>56</sup> According to reports, the murders are most frequently committed by family members, mainly current or ex-partners.<sup>57</sup> More reliable data does not exist as femicide is not recognized as a separate criminal offense.<sup>58</sup> Data on murdered women often excludes women killed by perpetrators who then committed suicide, or women who died due to the consequences of the violence they experienced.<sup>59</sup> Governmental institutions do not

---

<sup>47</sup> Id.

<sup>48</sup> Id.

<sup>49</sup> Id.

<sup>50</sup> Id.

<sup>51</sup> Council of Europe, Istanbul Convention on preventing and combating violence against women and domestic violence, 2014, Art. 22 and 23, [CETS 210 - Council of Europe Convention on preventing and combating violence against women and domestic violence \(coe.int\)](#).

<sup>52</sup> Council of Europe, *Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence*, [CETS 210 - Explanatory Report to the Council of Europe Convention on preventing and combating violence against women and domestic violence \(coe.int\)](#).

<sup>53</sup> Britannica, “History, Population, Capital, Flag, Language, Map, & Facts, accessed Apr. 10, 2024, [Montenegro | History, Population, Capital, Flag, Language, Map, & Facts | Britannica](#)

<sup>54</sup> SOS Centre for Women and Children Victims of Violence Niksic, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties I First thematic evaluation round: Building trust by delivering support, protection and justice*.

<sup>55</sup> Id.

<sup>56</sup> Vijesti, Only the law does not know what femicide is [Samo zakon ne zna šta je femicid], 16 januar 2023, available at <https://www.vijesti.me/vijesti/crna-hronika/639128/samo-zakon-ne-zna-sta-je-femicid>

<sup>57</sup> Id.

<sup>58</sup> Gligorijević, Femicide in Montenegro: The number of women killed is unknown, *supra* note 1.; Nataša Međedović, Nada Koprivica, Jovana Perućica, Sanja Čadenović, Daliborka Knežević, Ivana Pejović i Ljiljana Pejović, Stop Femicide. Društveni I Institucionalni Odgovor Na Femicid U Crnoj Gori, (SOS telefon za žene i djecu žrtve nasilja Nikšić, April 2023) p 36,

<sup>59</sup> Gligorijević, Femicide in Montenegro: The number of women killed is unknown, *supra* note 1.



conduct retrospective analyses of femicides to identify systemic shortcomings for prevention and better risk management, despite research by the SOS Hotline Nikšić that revealed nearly 70% of institution employees believe that many femicides occur due to inadequate and untimely institutional responses.<sup>60</sup>

22. Montenegro lacks specific forms or procedures dedicated to assessing the risk of femicide.<sup>61</sup> Institutions do not contact women's NGOs that provide specialized assistance and services for risk assessment, and their insights are only included if initiated by the NGOs.<sup>62</sup> The consequence of poor risk management is evidenced by four femicides in Montenegro committed within a year, ranking it among the European countries with the highest number of women killed relative to the population.<sup>63</sup>
23. Two ongoing court cases for femicides, where numerous institutional failures were identified, confirm the need for specific femicide risk assessment procedures.<sup>64</sup> For instance, in both cases, the police received multiple reports of violence indicating the possibility of murder.<sup>65</sup> These two femicides sparked public outrage, leading to protests against institutional actions.<sup>66</sup>
24. Furthermore, failures in court proceedings conducted in the Higher Court in these two cases led to both delays and a lenient sentence.<sup>67</sup> In one case, the legal process has lasted over 2.6 years, and it is unknown when the first-instance verdict will be issued.<sup>68</sup> In the other case, the perpetrator a sentence of 12 years in prison at the first instance despite prosecution seeking the maximum penalty for severe murder, for which the sentence is 40 years in prison.<sup>69</sup> In the reasoning of the verdict, the court concluded that it was domestic violence and the perpetrator "did not intend" to kill his wife, although he continuously abused her for at least 8 hours and inflicted severe bodily harm from which she died 5 days later.<sup>70</sup>

#### *Data Analysis and Collection*

25. The State party does not have a harmonized unified methodology for collecting and processing data on domestic violence. In accordance with Article 34 of the Law on Protection from Domestic Violence, adopted in 2015, the Ministry for Human and Minority Rights is obligated

---

<sup>60</sup> Međedović, *Stop Feminicide. Društveni I Institucionalni Odgovor Na Femicid U Crnoj Gori*, supra note 55.

<sup>34</sup> Available at <https://sosnk.org/drustveni-i-institucionalni-odgovor-na-femicid-u-crnoj-gori/>

<sup>61</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, supra note 2, at page 16.

<sup>62</sup> Id.

<sup>63</sup> Ibid. 14.

<sup>64</sup> Information on file with the authors.

<sup>65</sup> Id.

<sup>66</sup> Vesti, *Protest u Podgorici zbog nekažnjivosti nasilja nad ženama*, accessed Apr. 9, 2024,

<https://www.slobodnaevropa.org/a/protest-podgorica-nasilje-zene/32732312.html>.

<sup>67</sup> Information on file with the authors.

<sup>68</sup> Borba, *Odloženo suđenje Iljiru Djokaju za ubistvo Šejle Bakije*, accessed Apr. 9, 2024, <https://borba.me/odlozeno-sudjenje-iliru-djokaju-optuzenom-za-ubistvo-sejle-bakije/>.

<sup>69</sup> Vijesti, *Do smrti tukao trudnu suprugu: Nikolić osuđen na 12 godina zatvora zbog nasilja u porodici*, accessed Apr. 9, 2024, <https://www.vijesti.me/vijesti/crna-hronika/685447/do-smrti-tukao-trudnu-suprugu-nikolic-osudjen-na-12-godina-zatvora-zbog-nasilja-u-porodici>.

<sup>70</sup> RTNK, CIN-CG: *Poražavajuća sudska praksa za nasilje u porodici ili porodičnoj zajednici – mare li sudovi za žrtve*, accessed Apr. 10, 2024,

<https://rtnk.me/crna-hronika/cin-cg-porazavajuca-sudska-praksa-za-nasilje-u-porodici-ili-porodicnoj-zajednici-mare-li-sudovi-za-zrtve/>.



to collect and publish data on cases of domestic violence from various sources for the previous year by the end of the first quarter of the current year.<sup>71</sup>

26. Under Article 34, the data should include statistical information about victims and perpetrators, including: gender, age, type of violence, geographical location, type and number of court decisions, and number and type of protective measures issued.<sup>72</sup> Despite the article's mandate, there remains a lack of communication between the Ministry and other institutions, which prevents the creation of analyses that provide a true picture of the situation.<sup>73</sup> The Information System for Social Welfare, established by Montenegro in 2019, provides for information sharing between law enforcement and CSW.<sup>74</sup> The exclusion of other entities limits its effectiveness.<sup>75</sup> Police occasionally neglect to enter data into the system, leading CSW to learn about instances of violence only if the victim seeks help directly or if court proceedings are initiated. Examples include divorce proceedings, custody, child support, and other similar proceedings.<sup>76</sup>

27. **Suggested recommendations** relating to Gender-Based Violence against Women:

- Ensure specialized support services for women victims of violence and domestic violence are sufficiently accessible and funded throughout the country.
- Conduct an analysis of the costs and resources needed to implement CEDAW and the Istanbul Convention obligations and allocate financial resources accordingly.
- Allocate funds for continuous monitoring and analysis of violence against women, including domestic violence and other forms of gender-based violence against women.
- Allocate necessary funds to ensure the availability and sustainability of specialized support services for victims of violence against women. The allocation of necessary funding should include the continuous training of staff in institutions (led by or in consultation with NGOs serving victims), community awareness-raising, and economic empowerment of victims. Including
  - Ensure continuous multi-year (3 to 5 years) financial support for women's NGOs providing specialized support services.
- Implement measures to ensure a more transparent distribution of financial resources among institutions and service providers that support and protect victims of gender-based violence.
- Provide continuous and sustainable financial support to women's NGOs that protect women who are victims of all forms of violence in accordance with international standards by including the organizations in the State annual budget.
- Include budget allocations and provide funds for financing licensed service providers for women and children with appropriate expertise for placement in shelters for women victims of violence and domestic violence.

---

<sup>71</sup> Law on Domestic Violence Protection, No. 46/10, (2010), art 34.

<sup>72</sup> Id.

<sup>73</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, supra note 2, at page 3.

<sup>74</sup> Id.

<sup>75</sup> Id.

<sup>76</sup> Id.

- Establish mechanisms that ensure specialized support services for women victims of violence and domestic violence are provided by credible women’s NGOs operating independently from the State and other donors.
- Ensure that employees in social and child protection institutions are adequately trained to respond to various forms of violence and provide appropriate support to all women and children victims of violence.
- Undertake measures to expand the availability of shelters for girls and women, including shelters for girls and women victims of forced marriages.
- Establish specialized services for victims of sexual abuse, including funded crisis centers managed by women’s NGOs that recognize sexual violence as gender-based violence against women.
- Undertake measures to develop trauma-informed and victim-centered protocols for handling cases of violence against women, including sexual violence, stalking, online violence, and sexual harassment.
- Establish measures to establish a unified and comprehensive database for all forms of gender-based violence, including the implementation of a standardized form, and ensure that all relevant entities are required to report at least once a year.
- Establish a mechanism for rapid information exchange between all institutions regarding each individual case, including risk assessments containing relevant information from specialized services.
- Develop a specific procedure to assess risk of femicide and ensure it is applied consistently within relevant institutions.
- Establish a mandatory practice involving retrospective analysis of femicides to identify systemic shortcomings for prevention and better risk management.
- Amend the Criminal Code in Montenegro to introduce femicide as a separate criminal offense.

## **II. Human Trafficking and Exploitation of Prostitution (Paragraph 11)**

28. In its 2022 List of Issues, The Committee requested data on the number of trafficking victims, as well as further information about the number of criminal proceedings and their outcomes.<sup>77</sup> The Committee also requested information relating to recent measures taken to combat trafficking.<sup>78</sup>
29. The U.S. Department of State’s report on human trafficking for Montenegro, published in June 2023, notes that Montenegro remains under supervision.<sup>79</sup> Recommendations for improving

---

<sup>77</sup> Committee on the Elimination of Discrimination against Women, List of issues and questions in relation to the third periodic report of Montenegro, UN. Doc. CEDAW/C/MNE/Q/311, (11 de July 2022), ¶11

<sup>78</sup> Id.

<sup>79</sup> Analitika, *Crna Gora pod nadzorom zbog trgovine ljudima, potrebna veća zaštita za žrtve*, accessed Apr. 8, 2024, [Montenegro under surveillance for human trafficking, needs more protection for victims\] \(portalanalitika.me\)](https://portalanalitika.me)

the response to human trafficking can be found in the United Nations Report for the Fourth Universal Periodic Review of Montenegro.<sup>80</sup>

30. Montenegro is ranked as a TIER 2 WATCH LIST country in the United States' State Department's report.<sup>81</sup> Additionally, the report notes that none of the six documented trafficking cases in Montenegro have resulted in convictions.<sup>82</sup> Also, reorganization of the Montenegrin police office has diminished its capacity for proactive investigations.<sup>83</sup> Related, credible allegations claim employees at a government-funded shelter for victims of human trafficking abused served victims.<sup>84</sup>
31. The Department for Combating Human Trafficking maintains a database in which statistical data are only partially segregated in accordance with international standards.<sup>85</sup> The database is in the process of being upgraded and expanded. Missing categories, such as the relationship between the victim and perpetrator, will be added by the end of 2024.<sup>86</sup>
32. The State party's insufficient efforts in identifying victims of human trafficking and prosecuting perpetrators have resulted in a very small number of identified victims and court cases with positive outcomes.<sup>87</sup> Additionally, victim identification in human trafficking cases in circumstances of sexual exploitation, and regarding individuals with an irregular immigration status, asylum seekers, refugees, and seasonal workers remains deficient.<sup>88</sup>
33. In early November 2023, police in Montenegro conducted a large operation in which four individuals, potential human traffickers, were arrested under suspicion of sexually exploiting at least 28 foreign nationals.<sup>89</sup> Seven women were accommodated in a shelter run by SOS Hotline in Nikšić.<sup>90</sup> Throughout this case, SOS Hotline Nikšić identified a lack of capacity and knowledge of governmental actors. Deficiencies in knowledge included locating accommodation for potential victims, confusion surrounding the protocol for handling instances of trafficking a lack of effective coordinated action by institutions, and insufficient knowledge among police employees about new forms of sexual exploitation in the online space.<sup>91</sup> One consequence was secondary victimization of the potential victims instead of protection, leading to their distrust of institutions.

---

<sup>80</sup> Voice of America, *Serbia and Kosovo Stagnate, Montenegro Regresses in the State Department's Report on Human Trafficking*, accessed Apr. 8, 2024, <https://www.glasamerike.net/a/izvestaj-trgovina-ljudima-stejt-department-balkan/7139118.html>.

<sup>81</sup> The report identifies the governments that do not fully comply with the minimum international standards on the matter. United States Department of State, *2023 Trafficking in Persons Report: Montenegro*, accessed Apr. 8, 2024, [Montenegro - United States Department of State](#); Analitika, *Crna Gora pod nadzorom zbog trgovine ljudima, potrebna veća zaštita za žrtve*, *supra*. 80.

<sup>82</sup> United States Department of State, *2023 Trafficking in Persons Report: Montenegro*, *supra* 82, [Montenegro - United States Department of State](#)

<sup>83</sup> *Id.*

<sup>84</sup> *Id.*

<sup>85</sup> Information on file with the Authors.

<sup>86</sup> Information on file with the Authors.

<sup>87</sup> Women Rights Center [NVO Centar za ženska prava], *Gender Analysis for The Report Of The European Commission About Montenegro For The Year 2023 Guidelines For The Implementation of Recommendations [Rodna Analiza Izvještaja Evropske Komisije O Crnoj Gori Za 2023. Godinu Smjernice Za Realizaciju Preporuka]* (2024). Available at <https://www.eu.me/wp-content/uploads/2024/01/Rodna-analiza-izvjes%CC%8Ctaja-EK-o-Crnoj-Gori-2023.pdf>

<sup>88</sup> [Montenegro under surveillance for human trafficking, needs more protection for victims \(portalanalitika.me\)](#)

<sup>89</sup> [Još tri osobe uhapšene u akciji suzbijanja trgovine ljudima, navodno povezani sa Grečinom \(vijesti.me\)](#)

<sup>90</sup> Data on file with the Authors.

<sup>91</sup> *Id.*

34. Research by SOS Hotline Nikšić from 2023 indicated the need to re-examine the role of supply chains in reducing human trafficking, with a focus on girls and women as the most common victims.<sup>92</sup> With high levels of foreign nationals employed in service industry positions such as hospitality, tourism, agriculture, construction, and commerce, many are at increased risk of labor exploitation. Despite this risk, labor trafficking is not publicly acknowledged and institutional employees who encounter potential victims are often unaware of the indicators of trafficking.
35. The State lacks sufficient shelters for victims of human trafficking. During 2022, the shelter for victims of human trafficking, which was financed by the Government of Montenegro, was closed due to suspicions that violence against minors had been committed there.<sup>93</sup> In January 2024, SOS Hotline Nikšić opened a shelter for women victims of human trafficking with three beds, receiving 50,000 Euros from the State party in March 2024 for 11 months of operation.<sup>94</sup>
36. **Suggested recommendations** relating to trafficking:
- Implement adequate measures to provide sustainable financial support to NGOs working on the protection of victims of human trafficking.
  - Provide training to strengthen system actors' capacities, especially governmental ones, in identifying, recognizing, and investigating human trafficking.
  - Establish a regular annual independent report that collects data on activities and results of preventing human trafficking in Montenegro.
  - Develop a gender-sensitive and responsive protocol for handling cases of human trafficking and suspicion of human trafficking in accordance with international human rights standards.

### **III. Marriage and Family Relations (Paragraphs 22-23)**

37. In its 2022 List of Issues, The Committee requested information on utilizing expert witnesses on gender-based violence against women during custody hearings, and increased communication between court systems, along with information about the Alimony Fund.<sup>95</sup>
38. In December 2023, a proposal for amending the Law on Temporary Child Support was adopted.<sup>96</sup> The amendment aims to create conditions for reactivating the Alimony Fund, established in 2022, to ensure that impacted children, and single parents and guardians, receive adequate support.<sup>97</sup> Despite legislation development, problems have risen for single parents and guardians attempting to access funds from the Alimony Fund. CSWs used varying

---

<sup>92</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, supra note 2, at page 73.

<sup>93</sup> Analitika, *Crna Gora pod nadzorom zbog trgovine ljudima, potrebna veća zaštita za žrtve*, supra. 80; Women Rights Center [NVO Centar za ženska prava], *Gender Analysis for The Report Of The European Commission About Montenegro For The Year 2023 Guidelines For The Implementation of Recommendations*, supra 88.

<sup>94</sup> Data on file with the Authors.

<sup>95</sup> Committee on the Elimination of Discrimination against Women, List of issues and questions in relation to the third periodic report of Montenegro, UN. Doc. CEDAW/C/MNE/Q/311, (11 de July 2022), ¶¶ 23-23

<sup>96</sup> Proposal for the Law on Amendments and Supplements on Temporary Child Support <https://zakoni.skupstina.me/zakoni/web/dokumenta/zakoni-i-drugi-akti/49/3206-18262-23-3-23-4.pdf>

<sup>97</sup> Standard, *Ponoš: Parents and children have been suffering for months due to total confusion and insufficient communication between institutions*, accessed Apr. 7, 2024 <https://standard.co.me/drustvo/ponos-roditelji-i-djeca-vec-mjesecima-ispastaju-zbog-totalne-zbrke-i-nedovoljne-komunikacije-institucija>

interpretations surrounding the rights of applicants to seek funds, specifically whether the rights can be applied retroactively.<sup>98</sup> As a result, based on the opinion of the Protector of Property-Legal Interests of Montenegro, the Ministry of Finance decided to suspend the payment of funds from the Alimony Fund beginning in February 2023.<sup>99</sup> Consequently, children and their parents have been unable to access the funds granted to them.<sup>100</sup>

39. Overlooking children witnesses of violence leaves girls unprotected and vulnerable. Although the legislative framework obliges institutions in Montenegro to consider children who witness violence as victims, this does not happen in practice.<sup>101</sup> Children are often not included in the indictments filed by police or prosecution, and judges frequently, in cases where children are witnesses of violence, do not factor that into a perpetrator's sentence.<sup>102</sup> Doing so would increase the penalty.
40. The safety of women and children is impacted by inconsistencies in determining the best interest of the child when establishing visitation and custody rights. Research by the SOS Hotline Nikšić showed that more than 75% of employees handling cases of violence against women where children are present do not know how to identify children who are victims of violence.<sup>103</sup> Women are then placed in further danger by custody proceedings that grant visitation rights to the violent party. Most employees in institutions believe it is not their responsibility to work on eliminating the risk that the non-violent parent be safe from further violence in proceedings related to contact/custody involving children in common.<sup>104</sup>
41. Inconsistencies in determining the best interest of the child influences cases regarding arranged marriages involving girls. Perpetrators who are guardians or parents of the minor victims are often not punished.<sup>105</sup> Data shows that in more than 90% of cases, girls who are victims of arranged marriages are returned to their guardians or parents who then perpetrate violence against them, leading to a cycle of revictimization.<sup>106</sup>
42. CSWs are reluctant to take a stance in custody proceedings and cases related to children's contact with abusive fathers and disregard the committed violence.<sup>107</sup> They generally refuse to declare the degree of risk in the proceedings, arguing they lack capacity to assess whether the safety of victims and children is endangered, which is contrary to the legal provisions and authorities they have.<sup>108</sup> Women's NGOs continue to handle cases in which CSW case managers pressure the victim of violence to allow contact and visit with the perpetrator despite the absence of a verdict.<sup>109</sup> Consequently, children are further traumatized by emotional blackmail by the father, and the victim is exposed to additional risk as the perpetrator gains information about her movements, contacts, and location of the shelter/safe house in cases

---

<sup>98</sup> Id.

<sup>99</sup> DAN, *Suspended payments from the Alimony Fund*, accessed Apr. 10, 2024, <https://www.dan.co.me/vijesti/drustvo/obustavljene-isplate-iz-alimentacionog-fonda-5169634>.

<sup>100</sup> Id.

<sup>101</sup> SOS telefon za žene i djecu žrtve nasilja Nikšić, *Study on the Implementation of the Istanbul Convention in Montenegro (Studija o sprovođenju Istanbulske konvencije u Crnoj Gori)*, *supra* note 2, at page 78.

<sup>102</sup> Id.

<sup>103</sup> *Ibid.* 18.

<sup>104</sup> *Ibid.* 15.

<sup>105</sup> Id.

<sup>106</sup> Id.

<sup>107</sup> Id.

<sup>108</sup> Id.

<sup>109</sup> *Ibid.* 50.

where the children are placed with the mother.<sup>110</sup> The history of violence as an indicator in determining custody/visitation is very rarely taken as a relevant factor.<sup>111</sup> Only 14% of employees in local institutions in Montenegro consider this an extremely serious indicator for limiting contact/custody.<sup>112</sup>

43. **Suggested recommendations** relating to Marriage and Family Relations:

- Implement adequate measures to ensure that every police report and prosecutor's indictment contains a factual description of whether children witnessed violence so courts can implement the necessary actions to protect the best interest of the child.
- Establish an initial risk assessment to determine whether supervised contact should be allowed before a final judgment or temporary measure on custody and visitation proceedings. This assessment should include establishing a mechanism for ensuring the safety of the non-violent parent during custody proceedings and visitation rights.
- Implement training for CSW staff on gendered power dynamics to prevent perpetrators from exercising control and violence during supervised visits to children.
- In cases of neglect of children, ensure adequate risk assessments when determining the best interest of the child and their safety when reuniting with their families to ensure the well-being of the child and prevent further abuse.

---

<sup>110</sup> Ibid. 22.

<sup>111</sup> Id.

<sup>112</sup> Id.