

RATIFICATION OF THE ISTANBUL CONVENTION AS A WARRANTY FOR THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE

<i>Abstract</i>	1	IV. <i>The effects of the Council of Europe Convention on preventing and combating violence against women</i>	6
I. <i>Violence against women</i>	2	V. <i>Implementation stages of the Istanbul Convention for specific cases</i>	10
II. <i>Adoption of the Council of Europe's Convention on Prevention and Combating the Violence against Women</i>	3	VI. <i>Conclusion</i>	11
III. <i>The importance of the Council of Europe's Convention on Prevention and Combating the Violence against Women</i>	5		

-Abstract-

The Council of Europe's Convention on preventing and combating violence against women and domestic violence, otherwise known as the Istanbul Convention, represents a more advanced legal instrument for the protection of women's rights, and for the protection of victims from domestic violence. This Convention is a multilateral treaty among the member states of the Council of Europe, as well as covering other non-member states and international organizations that are interested in accession. Our country had signed the Convention on the 8th of July 2011, and ratified on 23rd of March 2018. From 1st of July 2018, the provisions of this convention are an integral part of our country's positive legislation. This Convention provides a lot of guarantees in preventing violence, protecting victims and punishing perpetrators. The Convention considers violence against women to be a violation of fundamental human rights and discrimination. By the act of ratification of this Convention, states undertake an obligation to criminalize some of their violations in their domestic legislation, such as domestic violence (whether physical, psychological or sexual violence), sexual mutilation, forced marriage, stalking, forced abortion and forced sterilization, etc. States should overcome any eventual vacuum in their legislation, and curtail any excuse based on the culture, tradition, or religion that had been previously designated by the parties to excuse such violence by keeping it decriminalized. Also, this Convention requires States to undertake coordinated actions of all competent state institutions, together with non-governmental organizations, to jointly achieve results in preventing and combating violence against women and domestic violence.

Keywords: Violence against women, The Istanbul Convention, criminalization, discrimination, prevention.

I. VIOLENCE AGAINST WOMEN

Life without violence has been and remain one of human kind's main purposes. Every human being in general, and every woman in particular, tries to be safe and secure in his/her home, his/her family, his/her workplace, and in public places. Women, the same as men, need to

* Afet Mamuti, Ph.D., Associate Professor at the Faculty of Law- University of Tetovo, Tetovo, North Macedonia, e-mail: afet.mamuti@unite.edu.mk;

express freely their ideas and their emotions, as well as to follow their career aspirations in their jobs and professions. The violence against women as a negative social phenomena does not recognize state and national borders, and remains an actuality all over the world. It affects all social categories.

Domestic violence is typically not an isolated event but arises through strategies that attempt to implement gender ideologies.¹ The violence against women and domestic violence is a universal problem that must be fought and condemned in an universal way.² The phenomenon of violence against women has consequences for the woman herself as an individual, as well as for the society as a whole. Except for the generation of pain, suffering, and stress, it has a direct impact on reducing her capacity to contribute to the building of family relations and her contribution to public life and economy.

The expression: "domestic violence" according to the Council of Europe's Convention on prevention and combating of violence against women, means all acts of physical violence, sexual violence, psychological violence or economical violence that occur within the family or domestic unit or between former spouses or partners or between actual spouses or partners, regardless of the fact whether the perpetrator of the criminal act shares or has shared the same residence with the victim. The Istanbul Convention makes a clear distinction between violence against women and domestic violence where every man, children, and the elderly can be victims. Violence against women is defined as a violation of human rights and a form of discrimination against women, like "any act of gender-based violence, which result 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 private life".³

There are three theories that explain the phenomena of domestic violence: the feminist theory, the conflict theory, and the theory of social learning.

The feminist theory argues that the women's abuse is directly related to the patriarchal organization of the society that is reflected in the pattern of behaviors and attitudes toward women. Besides this, the masculinity is often characterized by being authoritarian and controlling towards women. This theory emphasizes the importance of gender inequality and insists that this is the most important factor in the violence of men against women. The violence and abuse are seen as an expression of social power, and that men use it for controlling and dominating their partners of the female gender.⁴ The Conflict theory point that there are mechanisms in the societies that make conflict inevitable and inexorable, and that power differentials assure that some group will exploit others and constitute a built- in source of tension and conflict in a social system in relation to domestic violence.⁵

On the other hand, the theory of social learning offers an explanation that is related to family interactions as a model that promotes violence and abuse. It asserts that behavior in most cases is learned through observation, imitation, and reinforcement. An individual, before his or her

¹ Julie Stubbs, Domestic violence and women's safety: Feminist challenges to restorative justice, The University of Sydney, Sydney Law School, Legal Studies Research Paper, No. 08/16, January 2008, p.2;

² Arta Mandro&Vjollca Meçaj&Tefta Zaka&Arjana Fullani, E drejta familjare, Tiranw, 2006, p.258;

³ Article 3 (a) of The Council of Europe Convention on preventing and combating violence against women and domestic violence;

⁴ CHAPTER-3, Theories and Causes of Domestic Violence, p 114
https://shodhganga.inflibnet.ac.in/bitstream/10603/128502/15/12_chapter%203.pdf

⁵ Ibid, p.134;

engagement in an observed behavior, usually creates a view about possible rewards and punishment.⁶

The violence against women is present and actual in all societies regardless of the economic, social or other status of the individual. According to the World Bank statistics, violence against women or girls or gender-based violence is a global pandemic affecting 1 in 3 women throughout their lives. The figures are staggering as 35% of women worldwide have experienced either physical and/or sexual intimate partner violence or non-partner sexual violence, 7% of women have been sexually assaulted by someone other than a partner, in total more than 38% of murders of women are committed by an intimate partner and about 200 million women have experienced female genital mutilation/cutting.

All over the world, it is considered that the violence against women often is a very serious cause of women's death and disables them to achieve full equality with men. It has been accepted and internationally recognized that the use of violence against women is a violation of basic human rights.⁷ Violence against women, besides being considered a violation of human rights, is also considered to be discrimination against women for the mere fact that they are women, and puts them in an unfavorable and unequal position with men.

Women that suffer from health troubles or have certain disabilities are potential candidates for being even more discriminated or violated in any form. For these reasons, only the achievement of full equality among women and men is considered to be a fundamental guarantee for women's human rights. Because of the above-mentioned reasons, the violence is not only a private problem between a man and a woman, or with the other family members that happen to be within their household anymore, but it is considered as a public issue or problem that must be addressed and proceeded by state institutions. Besides that, the combating of violence against women or domestic violence cannot be seen only as a duty of a particular state or a particular society, but must be considered as an obligation for all states and societies that are committed to a safe and secure world! The combating and the prevention of violence should not remain only as women's commitment, but it should include even more men, regardless of the fact that the highest numbers of its victims are women. Men's engagement in this issue is of a very high importance, since in most cases they are the perpetrators or the abusers, they bear the gender stereotypes, they have concentrated the family power in their hands, as well as the physical force, the economical power, etc., which implicates that they must lead to the initiatives for mentality changes and pursue self-restraint.

If the state institutions, especially the courts, would become "deaf" or would tolerate the domestic violence and the violence against women, they would lose their legitimacy and the trust among the citizens. If the content of a court decision would be an "empty promise" for the victim, their authority would be doubted by the citizens. Therefore, in order to not consider the court decision only as a simple "piece of paper", it must be materialized and implemented in practice, and in accordance with the standards of the society in which it is implemented.

⁶ Zlatka Rakovec-Felser, Domestic Violence and Abuse in Intimate Relationship from Public Health Perspective, Health Psychology Research, The National Center for Biotechnology Information (NCBI), Maryland US. 2014;

⁷ Combating violence against women, Stocktaking study on the measures and actions taken in Council of Europe member States, prepared by Prof. Dr. Carol Hagemann-White with the assistance of Judith Katenbrink and Heike Rabe, University of Osnabrück, Germany, Directorate General of Human Rights Strasbourg, 2006, Equality Division Directorate General of Human Rights Council of Europe, p.7;

II. ADOPTION OF THE COUNCIL OF EUROPE'S CONVENTION ON PREVENTION AND COMBATING THE VIOLENCE AGAINST WOMEN

Despite the application of many contemporary protective practices and activities in many countries and by the international organizations, the violence against women continues to be present in different ways at all levels. During the history, there has been a huge difference between the formal law and its implementation in practice in the field of violence against women.⁸ Based upon many reports and surveys, there has been a variety of measures undertaken by different countries for combating the violence against women, up to the adoption of the Council of Europe's Convention on Prevention and Combating the Violence Against Women. All of them did not guarantee the sufficient standard and the necessary level of protection of all victims, regardless of their residence. Actually, this Convention, and the other national and international instruments within this field, attempt to narrow this gap and try to harmonize peoples' behavior in accordance. Thus, the adoption of the Council of Europe's Convention for Prevention and Combating the Violence Against Women is a result of many initiatives at a global and European level, aimed at promotion and prevention of violence against women. On a global level, there can be mentioned the United Nations Convention on the Elimination of All Forms of Discrimination against Women (1979) and its Optional Protocol (1999), The General Recommendation no.19 of the Committee CEDAW on the violence against women, The United Nations Convention on the Children's Rights (1989), and The United Nations Convention on the Rights of Persons with Disabilities (2006).

The process of its adoption on European level was led by the adoption of Council of Europe's Recommendation "Rec(2002)5 and other documents related to the violence against women" for protecting women from violence, adopted by the Council of Ministers of the member states; the Recommendation CM/Rec(2007)17 on the standards and mechanisms for gender equality and the Recommendation CM/Rec(2010)10 on the role of men and women on prevention of violence, conflict-solving and peacebuilding and other similar recommendations.

Another reason for the adoption and ratification of this Convention is the permanent increase of cases reported before the state institutions, especially before the the national courts and the European Court of Human Rights, whereas the highest level of protection of human and women rights is legally provided for. The decision of the European Court of Human Rights has a significant impact on the creation of judicial and legal practices in combating the phenomena of violence against women.

In 2017, the "Femicide Watch" registered a number of total 87 000 women that were intentionally killed. More than half of them (58%) were killed by their partners or other family members, and more than one third of them were killed by their partner. This means that, on average, there are 137 women killed per day from a family member.⁹ According to the statistical data of the Ministry for Labor and Social Policy of the Republic of North Macedonia, there were 919 victims of the domestic violence in 2018, 665 were women, 140 were men, and 104 were children. During the violence, the criminal act of physical injury¹⁰ and threatening the safety¹¹

⁸ James Ptacek, *Battered Women in the Courtroom: The Power of Judicial Responses*, The Maple Press Company In Binghamton NY, Northeastern University Press, 1999 p.3;

⁹ *Violence against women: an inconvenient truth*, Virginie Le Masson, 2019, <https://www.odi.org/blogs/violence-against-women-inconvenient-truth>;

¹⁰ Article 130 (1) of Criminal Code of Republic of North Macedonia provide "Whosoever causes bodily injury or health deterioration to another, shall be fined or sentenced to imprisonment of up to three years";

were mostly present. The Report of Helsinki Committee for Human Rights in North Macedonia that was presented during the International Day for the Elimination of Violence Against Women in 2019, up to September of 2019, there have been 709 reported cases of violence within the family, out of which, 610 cases had been against women.¹² As the numbers show, in most cases, the victims of domestic violence are women, and as perpetrators are usually men (husband, father, brother, the fiancé, or boyfriend).

Such facts had implicated the need for initiating the adoption of such a Convention. The Council of Europe, in December 2008, through the Committee of Ministers, had selected an expert team for preparation of a draft-version of the Convention, that was adopted two years later.

The Convention does not deal with the concept of family, neither it requires any change in the traditional meaning of the family. It does not intend to change or interfere in legal regulation for family relations and marriage. But, the conceptualization of family in accordance with traditional values, cultural and religious views, cannot be used as a justification for violence against women. On a regional level the adoption of this Convention serves for the main goals of the Council of Europe regarding the promotion of democracy, human rights and the rule of law.

III. THE IMPORTANCE OF THE COUNCIL OF EUROPE'S CONVENTION ON PREVENTION AND COMBATING THE VIOLENCE AGAINST WOMEN

The Council of Europe's Convention on Prevention and Combating the Violence against Women and Domestic Violence, otherwise known as the Istanbul Convention, represents the most advanced international legal instrument for the prevention of violence and protection of human rights when this is caused as a consequence of violence within the family. This is the most comprehensive document on the European level that deals with the protection of women's rights. The rights that are guaranteed by this convention represent a significant stepping up of this type of protection, and advances this protection beyond the actual protection that is given by domestic legislations of the state parties. Its objective is to combat all forms of violence against women, including the domestic violence in which in most cases the victims are women. The convention offers protection for all victims of domestic violence but it is mainly focused on the protection of women as victims. It is applied during peace and armed conflict.¹³ It requires the state parties to end the violence against women, and to "build it" like an approach that will remain a priority for every government because it is a way for ensuring one of the main pillars for human rights.

Each member state of the Council of Europe, whose legislation does not assure proper protection after the ratification of the Istanbul Convention has to undertake particular measures for harmonizing their legislation and for upgrading of the institutional capacities for more secure family relations. However, no country has achieved full gender equality, and progress is slow.¹⁴ It seeks from parties to undertake all necessary measures for preventing all forms of domestic violence in order to protect the victims and to prosecute the perpetrators. This phenomenon

¹¹ Ibid, Article 144 (1) provides that "Whosoever threatens the safety of another, by serious threat to attack his life or body or life or body to a person closely related to him, shall be fined or sentenced to imprisonment of six months";

¹² The Report of Helsinki Committee for Human Rights in North Macedonia, November 25, 2019, Skopje;

¹³ Paragraph 3 of Article 2 of the Council of Europe Convention on the Prevention and Fight against Violence against Women and Domestic Violence;

¹⁴ See European Institute for Gender Equality (EIGE): <https://eige.europa.eu/gender-equality-index/2019>;

cannot be combated efficiently by a single institution. That's why the Convention requires the parties to undertake coordinated institutional steps by encouraging the engagement of as much as possible, together with the non-governmental organizations. All of those steps must serve to the achievement of effective results in the prevention and combating of violence against women and domestic violence.

The provisions of this Convention require from the state parties to support the total formal and practical equality among men and women as a basis for the elimination of discrimination based upon gender violence. It requires the optimal respect of human rights, especially the women's rights, but this does not deter the states to go beyond it, and to ensure a more advanced protection compared to the protection that is foreseen in the Convention.

This Convention increases the category of persons that are offered with legal protection. In addition to women that remain the main group for protection according to the Convention, men, as well as boys and kids, or other witnesses that have been witnessing a domestic violence, are also included in the protected categories. It also offers protection for women in cases when they are victims of their sexual orientation, like lesbians, or males if they are gays, as well as transsexuals, as victims of domestic violence, and as a result of stereotypes and traditional conceptualization of the family and the roles within it.

In addition to the states and state institutions's obligation not cause violence against women, according to the Convention, they are also obliged to react *ex officio* in cases when the violence against women has taken place, without waiting to receive a formal report from the victim. For a successful fight of the violence against women, firstly, there must be a coordination among the legislative, executive, and judicial power. The duty of the legislative body is to create policies by adopting laws and ratification of international legal instruments and other documents that deal with the prevention of violence and the protection of women as victims. The executive branch must ensure protection through the implementation of strategies and through coordination of actions of more institutions in order to prevent the violence, or, at least, to minimize its consequences. The judiciary is the most important authority, which has to proceed in order to provide for the protection of human rights and liberties in general, and for the protection of women from domestic violence, in particular. In this instance, usually, after the actions taken by the police, there has to be a follow-up intervention by the public prosecution, subsequently by the courts (criminal or civil section).

IV. THE EFFECTS OF THE COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN

North Macedonia, like most of the members of the Council of Europe, in the last three decades, has been continuing to change its legislation regarding the legal protection of the victims of domestic violence. But, despite these changes, instruments were missing to implement these practices, and there was no adequate protection was offered for the victims. This was primarily because of the lack of financial means needed to fight domestic violence. The protection was provided in form of criminal law and civil law legislation. The legal protection was secured because of changes in the Penal Code in 2004. The most important changes regarding civil protection and prevention were provided for when approved The Law on Prevention, combating, and protection from domestic violence in 2014. The ratification of this Convention has a direct impact for the juridical system of North Macedonia because the provision of this Convention, after the ratification, was made part of the positive law of the country, has a higher legal standing

in relation with the provisions of existing laws, and hence why the need for the harmonization of current legislation with this Convention. The changes for the protection of women as victims that are required by the Convention are criminal and civil. The Convention obligates the State parties to criminalize several acts that amount to violence against women and domestic violence, in case such acts have not yet been included in their respective criminal codes.¹⁵ Of the nine forms of violence defined in Articles 33 to 40, eight are identified as in need of criminalization when it is “intentional conduct”: “psychological violence”; “stalking”; “physical violence”; “sexual violence, including rape”; “forced marriage”; “female genital mutilation”; “forced abortion and forced sterilization”; and one further form in need of either criminal or other legal sanction: “sexual harassment”.¹⁶ Also, the convention clearly defines all the necessary steps and actions of the involved parties and institutions, in regard to their competences, in order to protect the victims from domestic violence, and for the prosecution and sentencing and punishment of perpetrators.

The first actions required by the states after the ratification of the Convention are the changes in their legislation, and for the development of comprehensive policies and measures in accordance with the requirements of the Convention. This is because, in most countries, including North Macedonia, there have been a noted lack of legislation on gender-based violence, or because the competent authorities needed gender law education, as well as more initiative and action regarding such forms of violence. Notably, in North Macedonia all laws for protecting victims of domestic violence have a gender-neutral approach when it comes to gender-based violence, and as such, not quite adept to the disproportionality among victims of violence when it comes to gender.

Women and girls are usually more exposed than men, and these are more often portrayed as victims of gender based violence. For the approach to be more objective and nondiscriminatory against women, it is required by law to recognize the violence against women as gender-based violence. This is because most states in their reports confuse expressions when they want to report cases of violence against women, by using expressions that are insensitive against women. Most of international documents such as this Convention require that, instead of the term “violence against women”, the term "gender-based violence against women" or “gender-based violence” to be used. This is a more comprehensive and precise term, as it defines the real causality and consequences of gender-based violence in all cases, and that this expression of violence against women gives a precise dimension of the problem from across the whole society.

Gender-based violence is a form of discrimination that seriously inhibits women's ability to enjoy rights and freedoms on a basis of equality with men.¹⁷ The presence of gender-based violence harms or impedes women in realizing their human rights and fundamental freedoms guaranteed by international law, or more exactly from the European Convention on Human

¹⁵ Sara De Vido, The Ratification of The Council Of Europe Istanbul Convention by The Eu: A Step Forward in the Protection of Women From Violence in The European Legal System, *European journal of legal studies*, Vol. 9, No. 2, 2017, p.77;

¹⁶ Sylvia Walby, *Collection and Research on Violence against Women and Domestic Violence: Article 11 of The Istanbul Convention*, A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence, Professor of Sociology and UNESCO Chair of Gender Research, Lancaster University, United Kingdom, 2016;

¹⁷ Article 1 of General Recommendation No. 19: Violence against women, UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW, 1992, available at: <https://www.refworld.org/docid/52d920c54.html> [accessed 25 March 2020];

Rights, and from the Istanbul Convention. The guaranteed rights include: the right to life, the right not to be humiliated and discriminated against, the right to a higher protection of physical and mental health, the right to work and equal income to men, and every other equality in the public and private sphere. Only with the realization of these preconditions is the elimination of the discrimination of this category of people guaranteed, for the sole reason because these are women.

In order to implement the Convention efficiently, the Government of the Republic of North Macedonia adopted the "Action Plan for the Implementation of the Convention on Preventing and Combating Violence Against Women and Domestic Violence in the Republic of North Macedonia 2018-2023". This strategic plan of the Government came as a result of the cooperation of several institutions, such as state institutions, non-governmental, and international organizations. Undoubtedly, the parties directly and indirectly affected by this phenomenon, played an important role in the development of this strategy.

The National Plan for the Implementation of the Convention on Preventing and Combating Violence against Women and Domestic Violence is another strategic document of the Government of the Republic of North Macedonia, which defines the activities, the key institutions, the indicators and the timeframe for including the provisions of the Convention in the national legislation for the period 2018-2023. The Government's action plan requires that the current Law on Prevention, Combating and Protection from Domestic Violence, the Law on Equal Opportunities between Women and Men, and the Criminal Code, be amended. The Ministry of Labor and Social Policy has also drafted a new law on the prevention and protection of violence against women and domestic violence, which is not yet in parliamentary procedure.

This law also provides for careful and coordinated actions of governmental institutions and civil organizations in protecting victims of domestic violence.

Another requirement for the fulfillment of the legislation incorporated in this governmental plan is the adoption of the Law on Gender-Based Violence, which would define the meaning of the legal terms gender, sex, sexual orientation, gender-based violence, etc. Among other things the provisions of this law should also sanction any form of discrimination against women and guarantee the right of women to live and act freely from any form of violence in the public and private spheres. Part of the obligations arising out of the convention is already in force, such as forced marriages, which are already legally invalid as stipulated by the provisions of the family law that deems the marriages entered into under the influence of marriage impediments as legally null and void. The novelty needed to be introduced by the requirements of the Convention, is in regard to the situation when persons are forced to from the territory of one state party to another, in order to enter into a forced marriage.

Physical, psychological, and sexual violence are also sanctioned by the provisions of the Criminal Code of the Republic of North Macedonia when it is caused as a result of domestic violence. However, the Convention provides for a a more detailed and comprehensive explanation of the parties' actions concerning sexual violence, especially in terms of what actions and what cases qualify as such. Female genital mutilation, forced abortions and involuntary sterilization are also required to be punishable criminal offenses. The meaning of sexual harassment is also required to be expanded as a criminal offense, including any verbal, nonverbal, or physical unwanted conduct of a sexual nature, which would create a feeling of threat, degradation, or insult for the victim.

In accordance with this Plan, the provisions of the Law on ermination of pregnancy, which restricted women's right to decide on the termination of pregnancy had been amended.

Amendments have also been introduced in the Law on primary and secondary education, which prohibit the use of educational programs for the creation of gender prejudices and stereotypes, and provides for the promotion of the principle of gender non-discrimination. Education and the media are considered to be among the areas that have the most important role in preventing domestic violence and eliminating gender discrimination, and therefore, intervention is foreseen in changing their programs.

Another guarantee for women as victims of domestic violence arising from this Convention, also requiring other legislative changes, is the prohibition of violence against women in the name of culture, ritual, religion, or tradition. Any legal justification for violence against women (wives and daughters, in particular) in the cases of the so-called "honor crimes" is non-admissible by the Convention.

Based on the "*nullum crimen, nulla poena sine lege*" principle, according to which, all criminal offenses have to be stipulated by law, and no one can be convicted of an offense which is not provided by law, it is required that any action of violence against women cannot be considered punishable solely and directly under the provisions of the Convention, but an additional intervention in the criminal laws of the state parties needs to be made, where necessary. Therefore, all cases of violence against women which should be sanctioned with criminal sanctions must be included in the provisions of the Criminal Code and qualified as criminal offenses.

In addition to the normative changes, the Convention requires state parties to strengthen their institutional and administrative capacities, and to create appropriate victim shelters, and to provide for more trained and specialized staff. The government, based on the Action plan, has planned on centers to be set up, as following:

- Crisis centers for the treatment of sexual violence victims;
- Setting up and adapting shelters for the needs of pregnant women, women with children, women with disabilities, women coming from rural areas, women with drug addictions, sex workers, migrant women, lesbians, bisexual and transgender women, women with HIV, homeless women and other similar cases, as well as counseling centers for psychological treatment of domestic violence victims, perpetrators of domestic violence and children as indirect victims. All these policies and measures cannot be implemented without the financial support for which the resources and dynamics are also provided for in the planning. This support should not go only to state institutions, but also to NGOs and civil associations.

Finally, part of the interim measures for the protection of victims of domestic violence by court orders, as provided by the Macedonian legislation before the ratification of the Convention were as following: prohibitions of threats of domestic violence; prohibition of maltreatment, disturbance by telephoning or other forms of communication; a ban on access to a place of residence, school, workplace or other designated place frequented by the targeted victim; leaving the home despite the ownership of the house until the final court decision; prohibition of possession of a firearm or carrying arms; the obligation to return the necessary items that are deemed necessary for the daily family needs; attending counseling therapy; the obligation to treat alcohol or other psychotropic substances addiction, or other illness; reimbursement of medical and other expenses caused from domestic violence; decision for any other measure

which the court will deem necessary to provide security and the welfare to other family members.¹⁸

V. IMPLEMENTATION STAGES OF THE ISTANBUL CONVENTION FOR SPECIFIC CASES

The procedural actions that state institutions need to take are focused on several stages. The first and most important stage is the prevention of violence. This stage is most important because in order to achieve effective prevention, a larger number of institutions are required to be committed and coordinated. Prevention is important because it minimizes the circumstances that can lead to violence, thus saving potential victim's life, or avoiding injuries and suffering. At this stage, the Convention specifies the measures that must be taken by state institutions, together with civil associations and NGOs. The main measures for this stage include:

- Training of specialists who will be in direct contact with the potential victims;
- Developing awareness, maintaining good family relations, and overall providing for avoidance of the possible consequences of violence against women and domestic violence;
- Creating programs for primary and secondary education, with the aim of teaching and sensitizing students on issues of gender equality and peaceful solution of conflicts in their family;
- Incorporate print and broadcast media to develop programs, debates, and campaigns by printing brochures and posters aimed at educating society to eradicate stereotypes on gender (in)equality, and promote mutual harmony;
- Setting up centers with specialized programs for the treatment of perpetrators of domestic violence.

The second stage comes when state institutions and NGOs have failed to prevent violence. At this stage, after the violence has occurred, the obligation of the state authorities remains to protect and secure victims and / or witnesses of violence from further consequences. Specialized police counseling centers and shelters for the victims of domestic violence and battered women play a key role at this stage. The role of the police remains crucial at this stage as it has an obligation to provide security to the victim and to enable her to have a free access to use all the instruments that she considers as a guarantee for the protection of her violated rights. It should also monitor and check if the perpetrator is breaching the protection order to stay away from the victim's home or to be restricted to go near the house, if and when such orders have been court ordered.

The third stage is the prosecution and punishment of the perpetrators, as well as an attendance of counseling sessions in order to be re-socialized. Under international law, states must intervene in the punishment of perpetrators for crime against women, and apply an adequate preventive and protective measures for the female victims of abuse. This is no less important stage, and it focuses on the conviction of the perpetrator of violence against women, and on the role of the

¹⁸ Guide to Psychological Assistance and Support to Victims of Domestic Violence, Handbook, Association for Emancipation, Solidarity, and Equality of Women of RNM - ECE, Skopje, 2010, p. 9-10;

public prosecutors and of the courts in gathering the material needed to file an indictment, and making a meritorious decision against the perpetrator.

VI. CONCLUSION

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (The Istanbul Convention) is one of the key international and regional instruments that guarantee the achievement of the highest standard regarding the protection against violence against women and against domestic violence. Preventing violence, protecting the victims and prosecuting the perpetrators, are the cornerstones of this convention. In essence, the convention is a new call for gender equality, given that violence against women is deeply rooted in the history of social inequality and has continued to be so because of gender intolerance and denial over the gravity of customs and traditions, as well as past stereotypes. Equality between women and men, husband and wife, and among other family members, remains the duty of each state party with the aim of promoting mutual respect and finding peaceful solutions to such problems. States parties to this convention undertake specific tasks with a view to amending legislation, developing policies and measures to enhance their institutional and professional capacity to prevent violence, and to protect victims of violence in accordance with the standards provided by the Convention. The Convention has instigated important changes in the positive law of countries, including North Macedonia, especially by providing for additional guarantees, mostly because it clearly qualifies which actions are deemed to be criminalized, what are the concrete actions needed to be taken by each state institutions, as well as the non-governmental organizations. Effective combating of this phenomenon also requires collection of data from state authorities on criminal offenses in this regard, the type of offenses committed, and the measures taken for each of them, including with respect to the achieved effects.

Bibliography:

1. Arta Mandro&Vjollca Meçaj&Tefta Zaka&Arjana Fullani, E drejta familjare, Tiranë, 2006;
2. James Ptacek, Battered Women in the Courtroom: The Power of Judicial Responses, The Maple Press Company In Binghamton NY, Northeastern University Press, 1999;
3. Sara De Vido, The Ratification of The Council Of Europe Istanbul Convention by The Eu: A Step Forward in the Protection of Women From Violence in The European Legal System, European Journal of Legal Studies, Vol. 9, No. 2, 2017;
4. Prof. Dr. Carol Hagemann-White, Combating violence against women, Stocktaking study on the measures and actions taken in Council of Europe member States, University of Osnabrück, Germany, Directorate General of Human Rights Strasbourg, 2006, Equality Division Directorate General of Human Rights Council of Europe;
5. Vivienne M. O'Connor, Colette Rausch, Hans-Jörg Albrecht, Goran Klemenčič, Model Codes for Post-Conflict Criminal Justice, Model Criminal Code, Volume I, US Institute of Peace Press, 2007;

6. Julie Stubbs, Domestic violence and women's safety: Feminist challenges to restorative justice, The University of Sydney, Sydney Law School, Legal Studies Research Paper, No. 08/16, January 2008;
7. Sylvia Walby, Collection and Research on Violence against Women and Domestic Violence: Article 11 of The Istanbul Convention, A collection of papers on the Council of Europe Convention on preventing and combating violence against women and domestic violence, Professor of Sociology and UNESCO Chair of Gender Research, Lancaster University, United Kingdom, 2016;
8. Zlatka Rakovec-Felser, Domestic Violence and Abuse in Intimate Relationship from Public Health Perspective, Health Psychology Research, The National Center for Biotechnology Information (NCBI), Maryland US. 2014;
9. The Council of Europe Convention on preventing and combating violence against women and domestic violence
10. The Report of Helsinki Committee for Human Rights in North Macedonia, November 25, 2019 in Skopje;
11. Action Plan for the Implementation of the Convention on Preventing and Combating Violence Against Women and Domestic Violence in the Republic of North Macedonia 2018-2023;
12. General Recommendation No. 19: Violence against women, UN Committee on the Elimination of Discrimination Against Women (CEDAW), CEDAW, 1992;
13. Guide to Psychological Assistance and Support to Victims of Domestic Violence, Handbook, Association for Emancipation, Solidarity, and Equality of Women of RNM - ECE, Skopje, 2010, p. 9-10.