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促进和保护所有人权——公民权利、政治权利、  
经济、社会及文化权利，包括发展权

## 访问保加利亚

暴力侵害妇女及其原因和后果问题特别报告员的报告<sup>\*</sup>，<sup>\*\*</sup>

## 概要

暴力侵害妇女、其原因及后果问题特别报告员杜布拉夫卡·西蒙诺维奇于2019年10月14日至21日访问了保加利亚。她在报告中评述了国家在履行消除暴力侵害妇女及其原因和后果的义务方面存在的差距和挑战，并就该国防止和打击暴力侵害妇女的措施提出了建议。

<sup>\*</sup> 报告概要以所有正式语文分发。报告正文附于概要之后，仅以提交语文分发。

<sup>\*\*</sup> 因提交方无法控制的情况，经协议，本报告迟于标准发布日期发布。



**Annex****Report of the Special Rapporteur on violence against women,  
its causes and its consequences, on her visit to Bulgaria****Contents**

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## I. Introduction

1. The Special Rapporteur on violence against women, its causes and consequences, Dubravka Šimonović, conducted an official visit to Bulgaria from 14 to 21 October 2019, at the invitation of the Government. The main focus of the visit was to assess laws, policies and the provision of services and good practices, with a view to recommending measures aimed at eradicating gender-based violence against women and strengthening the implementation of the country's international obligations on violence against women and women's human rights.
2. The Special Rapporteur expresses her appreciation for the excellent cooperation extended to her by the Government before, throughout and after the visit. During the visit, she met with various government representatives, including representatives from the Ministry of Foreign Affairs, the Ministry of Justice, the Ministry of Education and Science, the Ministry of Health, the Ministry of Labour and Social Policy and the Ministry of the Interior. She also met with a judge of the Constitutional Court, a member of the parliament and representatives of the National Judicial Institute. She held a meeting with representatives of the National Commission for Combating Trafficking in Human Beings and with the National Council for Cooperation on Ethnic and Integration Issues. In addition, she met with the Deputy Mayors of Dimitrovgrad and Haskovo. She also met with the Ombudsperson and with the Chair of the Commission for Protection against Discrimination and convened meetings with a broad range of civil society organizations. The Special Rapporteur visited the women's correctional facility in Sliven and crisis centres for women fleeing violence in Sofia, Dimitrovgrad and Pernik.
3. She is very grateful to the representative of UNICEF Bulgaria and her staff for the invaluable support provided before and during the visit. She looks forward to a fruitful dialogue with the Government and other stakeholders on the implementation of the action-oriented recommendations included in the present report.

## II. General context

4. In the last 30 years, Bulgaria has taken important steps towards becoming a political democracy, starting with the adoption in 1991 of a new Constitution that provided a wide range of rights and freedoms. In 2007, Bulgaria officially joined the European Union. Nevertheless, the visit of the Special Rapporteur took place at a moment of regression and pushbacks on women's rights, exacerbated by a massive campaign against the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, (the Istanbul Convention) which Bulgaria signed in 2016. The campaign against its ratification, supported by eminent political figures and the Orthodox Church, was based on misinterpretation and distortion of the content of the Convention and the term "gender", which led to the creation of a hostile environment for women's rights' organizations and the lesbian, gay, bisexual, transgender and intersex community, and expressly cultivated homophobia, transphobia and bias against the term gender.
5. During her visit, the Special Rapporteur received worrying information about the open intimidation of activists and women's rights organizations working to prevent and respond to violence against women. Many of these organizations reported an increase in hate speech and the shaming of individuals and organizations that supported the ratification of the Istanbul Convention. The Special Rapporteur also noted the normalization and tolerance of gender-based violence against women, in particular domestic violence, which is rooted in patriarchal attitudes and gender stereotypes and is still considered a private matter that remains underreported.
6. The "anti-gender" campaign took place during the ratification process of the Istanbul Convention and prompted 75 members of the parliament to request the Constitutional Court to decide on the conformity of the Convention with the Bulgarian Constitution. The Constitutional Court delivered its judgment on 27 July 2018, with four

dissenting opinions, in which it declared that the Istanbul Convention was incompatible with the Constitution (article 3 (c) and article 4 (3)).<sup>1</sup> The Court also found that “despite its undeniable positive aspects, the Convention is internally contradictory and the meaning of some of its provisions goes beyond the Convention’s stated purposes and its title”. According to the Court, the Convention adopts the terms “gender” and “gender identity”, highlighting their social dimension, and that “distancing” of the term “gender” from the biological aspect, “blurs the differences between the sexes and thus deprives the principle of equality of any real meaning”. However, it should be noted that the terms “gender” and “gender identity” had already been introduced into Bulgarian legal system but had not been properly translated, discussed or applied. The term “gender”, for instance, was already present in the Equality between Men and Women Act of 2016. The judgment of the Constitutional Court stopped the ratification process of the Convention for the time being.

7. The visit of the Special Rapporteur took place in the context created by the failure to ratify the Istanbul Convention and the disappointment of many interlocutors, including government officials, that the Constitutional Court had blocked the process, with many feeling that nothing else could be done while the pushback against women’s rights continued. The Special Rapporteur expresses her hope that the current stalemate can be overcome.

8. During her meetings with government officials and other stakeholders, the failure to ratify the Istanbul Convention was discussed, as well as its relevance for the improvement of the legal framework on preventing and combating violence against women.

9. The Special Rapporteur found that the blocking of the ratification of the Istanbul Convention and the ongoing “anti-gender campaign” could be partially attributed to the lack of a consistent translation of the term “gender” in the Bulgarian language, on which she would like to offer her analysis and the reasons for her recommendation that the Istanbul Convention be ratified. In its analysis of the compatibility of the Istanbul Convention, in particular article 4 (3), which enumerates both “gender” and “gender identity” as grounds for non-discrimination, the Court used the translation of “social gender” (*социален пол*), whereas for all other articles of the Istanbul Convention and in other United Nations and European Union instruments and directives, the term “gender” was translated as “sex” (*пол*).

10. By doing this, the concept of gender-based violence was misinterpreted and portrayed as a “new foreign concept”, despite the fact that the term “gender” is well established in the international human rights framework. The Declaration on the Elimination of Violence against Women of 1993 uses the term “gender-based violence” against women as does the Committee on the Elimination of Discrimination against Women in its general recommendations No. 19 (1992) on violence against women and No. 35 (2017) on gender-based violence against women.<sup>2</sup> Moreover, the judgment of the Constitutional Court did not take into account nor refer to the Convention on the Elimination of All Forms of Discrimination against Women as a legally binding instrument. It was ratified by Bulgaria in 1982 and according to Bulgarian constitutional provisions, it is directly applicable and considered part of its national legal system. In fact, the obligations to prevent violence against women and provide adequate services and reparation, which are the core of the Istanbul Convention, are already established in the Convention on the Elimination of All Forms of Discrimination against Women, as explained in the Committee’s general recommendations No. 19 and No. 35 (para. 9), as well as in general recommendation No. 28 (2010) on the core obligations of States parties under article 2 of the Convention.

11. The term “gender” and “gender-based violence” are standard terms in European Union law, in particular directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime that all member States, including

<sup>1</sup> Constitutional Court case 3/2018, decision adopted on 27 July 2018.

<sup>2</sup> Gender-based violence is defined general recommendation No. 35 as “violence which is directed against a woman because she is a woman or that affects women disproportionately” and, as such, is a violation of their human rights (para. 1).

Bulgaria, were obliged to transpose into domestic legislation by 16 November 2017. In section 17 of the directive, gender-based violence is defined as “violence that is directed against a person because of that person’s gender, gender identity or gender expression or that affects persons of a particular gender disproportionately”. In section 9, it provides that victims of crime must be treated “without discrimination of any kind based on any ground such as ... gender, gender expression, gender identity, sexual orientation ...”. In that directive, the term “gender” was translated into Bulgarian as “sex”. Furthermore, article 4 of the Bulgarian Protection against Discrimination Act already prohibits discrimination on numerous grounds including “sexual orientation” and article 2 (3) (5) of the Equality between Men and Women Act confirms the principles of equal treatment of women and men, non-discrimination, the elimination of discrimination and gender-based violence and overcoming stereotypes, based on gender. Finally, in its very recent opinion on the compatibility of the Constitution of Armenia with the Istanbul Convention, the European Commission for Democracy through Law (Venice Commission) has emphasized that although the Convention provides a definition of gender, which is not intended in any event to replace the biological definition of sex, it does not require States parties to introduce this definition into their legal order.<sup>3</sup> The definition rather serves States parties as a tool to interpret, better understand and therefore apply the provisions of the Convention.

12. The Special Rapporteur would like to point out that the Istanbul Convention is a living human rights instrument and one of the most detailed treaties on the prevention of violence against women and domestic violence. The analysis provided so far by the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence in its first baseline evaluation dispels all the allegations and false information disseminated in Bulgaria and elsewhere by the “anti-gender campaign” on the implications of its ratification. Thirty-four member States of the Council of Europe have ratified it and the findings provided by the Group of Experts, the recommendations of the Committee of the Parties and the opinion of the Venice Commission have not revealed “internal contradictions” as identified by the Bulgarian Constitutional Court.

13. For all the reasons mentioned above, the decision of the Constitutional Court should be revisited in the light of the consistent mistranslation of the term “gender” and existing obligations.

### **III. Incorporation of the international and regional frameworks on violence against women**

14. Bulgaria is party to seven of the nine principal human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women, together with the Optional Protocol thereto, which it ratified in 2006. The State is also a signatory of the Rome Statute of the International Criminal Court and party to the Convention relating to the Status of Refugees and the United Nations Convention against Transnational Organized Crime.

15. The visit of the Special Rapporteur preceded the examination of the eighth periodic report of Bulgaria by the Committee on the Elimination of Discrimination against Women in February 2020. She therefore hopes that the recommendations provided in her report that are focused on gender-based violence against women will complement the Committee’s recommendations and will be implemented jointly and in line with the country’s commitments under the Convention on the Elimination of All Forms of Discrimination against Women. In support of the previous findings of the Committee (CEDAW/C/BGR/CO/4-7), the Special Rapporteur reiterates with concern that the Convention and the general recommendations of the Committee have not received sufficient visibility and have not been used as the legal basis for eliminating all forms of

<sup>3</sup> See Venice Commission, “Armenia: Opinion on the constitutional implications of the ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention)” (October 2019).

discrimination and gender-based violence against women. In the view of the Special Rapporteur, that lack of visibility, combined with the partial implementation of the Committee's recommendations in four cases related to gender-based violence brought against Bulgaria,<sup>4</sup> have contributed to the failure to ratify the Istanbul Convention.

## **IV. State response and measures to address violence against women**

### **Constitutional, legislative and policy framework**

16. Article 6 of the 1991 Constitution sets out the principle of equality between all persons and affirms that there shall be no privileges or restriction of rights on the grounds of sex and other grounds.<sup>5</sup> Article 14 states that: "The family, motherhood and children shall enjoy the protection of the State and society."

17. The Special Rapporteur recognizes that over the past 20 years Bulgaria has made significant improvements to its legislative framework on gender equality and domestic violence. Those steps include the 2003 adoption of the Protection against Discrimination Act, and the Combating Trafficking in Human Beings Act, the 2005 Protection against Domestic Violence Act and most recently the adoption in 2016 of the Equality between Women and Men Act.

### **The Protection against Domestic Violence Act**

18. The Protection against Domestic Violence Act was promulgated in 2005 and revised in 2009. With the amendments to the Criminal Code adopted in 2015, Bulgaria also criminalized the failure to comply with protection orders.<sup>6</sup> By adopting this law, Bulgaria has recognized the importance of combating domestic violence. The Act remains within the framework of the civil procedure, which allows victims to petition the provincial courts for protection by issuing protection orders (art. 1). It defines domestic violence as "any act of physical, sexual, psychological, emotional or economic violence as well as any attempt of such violence, coercive restriction of personal privacy, personal liberty and personal rights, committed against persons who are in a kinship, who are or were in a family relationship or in a de facto cohabitation" (art. 2). The protection orders can have a duration of 3 to 18 months and may include the removal of the perpetrator from the joint occupied dwelling for a term, the perpetrator prohibited from coming close to the victim, the obligation for the perpetrator to attend specialized counselling to address violent behaviour and provisionally designating the place of residence of the child with the victim parent or the parent who did not perpetrate violence, therefore granting temporary custody of any children to the victim, among other measures (art. 5). According to article 18, in cases of immediate risk to the life and health of the victim, the civil court may issue the orders within 24 hours of the application for protection being submitted.

19. Protection orders are not immediate; in the court of first instance of Sofia, for example, it can take days or even a week before a victim obtains one. In addition, for the protection order to be valid it has to be served on the alleged perpetrator, which could be a problem if the perpetrator cannot be found. This means that after filing a request for a protection order, a woman may have to wait and if there are no crisis centres available, she has to go back to the same household with the same abuser, with the chance that she will be subjected to further acts of violence.

<sup>4</sup> The Government informed the Special Rapporteur of measures taken to implement the Committee's recommendations, including paying compensation related to three complaints, and holding internal discussions regarding possible amendments to the Domestic Violence Protection Act. It also informed her of recent changes in the legislation and the specialized training being provided by law enforcement agencies on domestic violence.

<sup>5</sup> The Constitution enlists the following grounds: race, nationality, ethnicity, sex, origin, religion and personal, social and economic status.

<sup>6</sup> See article 296 (1) of the Criminal Code.

20. Despite the invaluable advantages of the Protection against Domestic Violence Act, some of its provisions do not comply with international standards and norms. Article 10 establishes a 30-day limit for a victim to request a protection order. In its concluding observations, the Committee on the Elimination of Discrimination against Women called on the State to “amend article 10 (1) of the Protection against Domestic Violence Act so as to remove the one-month time limit to file a petition for a protection order” (CEDAW/C/BGR/CO/4-7, para. 26 (b)). In the case of *S.L. v. Bulgaria*, the Committee noted that “the failure by the State party to amend article 10 (1) of the Protection against Domestic Violence Act directly affected the possibility for the author to claim justice and to have access to effective remedies and protection” (CEDAW/C/73/D/99/2016, para. 7.1).

21. The Special Rapporteur also notes that article 3 of the Act does not protect women in same-sex relationships, meaning that a victim of domestic violence from a same-sex partner does not have legal protection under this law.

22. Additionally, under article 5 (1) (5), perpetrators of domestic violence may be ordered by the courts to attend specialized programmes for rehabilitation and anger and aggression management. Such orders are mandatory, according to article 296 of the Criminal Code, however compliance with such orders has not been enforced and cases of non-conformity are not regularly prosecuted.

### **Criminal Code**

23. In its concluding observations of 2012 the Committee on the Elimination of Discrimination against Women called on Bulgaria to “amend its Criminal Code and Criminal Procedure Code in order to specifically criminalize domestic violence and marital rape and to introduce the possibility of ex officio prosecution for both offences” (CEDAW/C/BGR/CO/4-7, para. 26 (a)). The revision of the Criminal Code, which entered into force in February 2019, included domestic violence as an aggravating circumstance in homicides, bodily injuries, abduction, unlawful imprisonment, coercion and death threats, and also the criminalization of stalking.

24. According to the revision, a crime is committed “in the conditions of domestic violence” if it is preceded by the perpetrator carrying out a “systemic exercise of physical, sexual or psychological violence, placing in an economic dependence, forced restriction of [one’s] private life, personal freedom and personal rights and is carried out with respect to an ascendant, descendant, spouse or former spouse, a person they have a child with, a person they co-habit or co-habited with, or a person they live with or have lived with in the same household”.<sup>7</sup>

25. Despite these important amendments, the Special Rapporteur notes that the reform was only partial and did not address a number of provisions in the Criminal Code that are not in line with international standards.

26. According to paragraph 31 of article 93 of the Criminal Code, for a crime to be considered as having been committed in conditions of domestic violence it has to be preceded by “systematic violence”. The Office of the Prosecutor issued an ordinance that interpreted “systematic” as three separate acts of violence by the same perpetrator, which means that victims must have been subjected to three episodes of physical, sexual or psychological violence for a public prosecution to be opened.<sup>8</sup> That provision could expose victims of domestic violence to serious risk, put on them an unbearable and avoidable heavy burden of proof and present significant limitations to their access to justice.

27. In the Criminal Code, bodily harm is further categorized according to the level of severity as severe, average and light (arts. 128–135). These categories have implications in terms of their prosecution. Article 161 regulates the cases in which criminal prosecution is initiated upon complaint of the victim, namely for light and medium bodily harm. Paragraph 2 of the same article, amended in February 2019, provides that for average bodily harm caused to an ascendant, descendant, spouse, brother or sister, the prosecution is

<sup>7</sup> Criminal Code, art. 93 (31).

<sup>8</sup> Information provided by the Office of the Prosecutor.



private-public, which means that a criminal prosecution of a general nature will be instituted upon a complaint of the aggrieved person to the prosecution and it cannot be terminated at her or his request. These provisions indicate that domestic violence is still considered a private matter. The Special Rapporteur recalls that according to international standards, States have the obligation to ensure that, for physical violence, the prosecution shall not be wholly dependent upon the report or complaint filed by the victim (ex parte) and that the public prosecution under way may continue even if the victim has withdrawn her or his statement or complaint (ex officio).<sup>9</sup>

28. The definition of rape in article 152 of the Criminal Code is not in line with international standards. Marital rape is not explicitly criminalized, the definition of rape covers only women, it is not fully based on the lack of consent and it does not cover all types of rape. It should be noted that article 152 includes the notion of “consent” explicitly in its wording and lack of consent is established as the constituent element of the offence. However, lack of consent is linked to the use of force and threat by a perpetrator and therefore, when there is no clear sign of resistance from the victim or in the absence of physical violence, the lack of consent itself will not be considered an element of crime. In the case of *M.C. v. Bulgaria*, the European Court of Human Rights concluded that any non-consensual sexual act, including in the absence of physical resistance by the victim, should be penalized and effectively prosecuted. It further added that “any rigid approach to the prosecution of sexual offences, such as requiring proof of physical resistance in all circumstances, risks leaving certain types of rape unpunished and thus jeopardizing the effective protection of the individual’s sexual autonomy”.<sup>10</sup>

29. Furthermore, the definition of rape provided for in article 152 does not cover all types of rape, contrary to international human rights standards, as elaborated in the jurisprudence of the Committee on the Elimination of Discrimination against Women in the case of *V.P.P v. Bulgaria* (see CEDAW/C/53/D/31/2011) and in article 36 of the Istanbul Convention. All other types of sexual coercion, including coercive oral or anal penetration, irrespective of whether it is with the penis, with another part of the body or with an object, are interpreted as “fornication” but not as rape.<sup>11</sup>

### Protection against Discrimination Act

30. In 2003, Bulgaria adopted the Protection against Discrimination Act. In article 4 (1) direct or indirect discrimination are prohibited on 19 grounds, including sex, sexual orientation, race, extraction, ethnicity, nationality, origin, religion or faith, as well as other grounds established by law or by an international treaty to which Bulgaria is a party. Article 7 lists the cases in which different treatment of a person does not constitute discrimination, including the possibility of affirmative action or special measures benefiting disadvantaged persons or groups identified in article 4 (1). Between 2014 and 2019, the Protection against Discrimination Act was amended by introducing provisions such as the shift of the burden of proof in cases of discrimination, the inclusion of transgender cases in the definition of gender-based discrimination, the definition of indirect discrimination, unfavourable treatment and provisional promotional measures (which, under this law, do not constitute discrimination). However, gender identity or gender expression are not included among the grounds explicitly listed, although sexual harassment is considered a form of discrimination and is prohibited under article 5 of the Act. The definition of sexual harassment in the Act reads: “any unwanted conduct of a sexual character expressed physically, verbally or in any other manner, which violates the dignity or honour or creates a hostile, degrading, humiliating, intimidating or threatening environment and, in particular when the refusal to accept such conduct or the compulsion thereto could influence the taking of decisions, affecting the person” (additional provision 1 (2)).

<sup>9</sup> See the Istanbul Convention and Committee on the Elimination of Discrimination against Women, general recommendation No. 35.

<sup>10</sup> *M.C. v. Bulgaria*, European Court of Human Rights judgment of 4 December 2003, para. 166.

<sup>11</sup> See, for example, <http://domino.vks.bg/bcap/scc/webdata.nsf/Keywords/DFC2A9BF472658BAC225779300476901>.



31. In its concluding observations of 2018, the Human Rights Committee recommended that Bulgaria amend the Protection against Discrimination Act to explicitly include gender identity as a ground of discrimination and fully recognize the equality of same-sex couples (CCPR/C/BGR/CO/4, para. 12). The Committee further raised concerns “at the persistence of stereotypical attitudes, prejudice, hostility and discrimination against lesbian, gay, bisexual, transgender and intersex persons, including as reflected in the Constitutional Court’s decision No. 13/2018 of 27 July 2018” (ibid., para. 11). The Special Rapporteur was alarmed to hear that after the decision of the Constitutional Court, attacks on lesbian, gay, bisexual, transgender and intersex persons had increased. She also received with concern information from civil society claiming that cases regarding discrimination against such persons submitted to the Commission on the Prohibition against Discrimination since 2014 had been overwhelmingly rejected for lack of grounds.<sup>12</sup> The Commission is a quasi-judicial independent body that resolves disputes related to complaints about discrimination.

### **Equality between Men and Women Act**

32. The Equality between Women and Men Act was adopted in 2016. It imposes obligations on the Minister of Labour and Social Policy to “coordinate the establishment and the maintenance of a system for gender equality monitoring, and the drafting of a report on gender equality in the Republic of Bulgaria” (see CEDAW/C/BGR/8, para. 4). The Act also regulates the role of the relevant institutions in the development and functioning of the gender equality monitoring system. While recognizing the progress achieved in setting up these necessary institutional mechanisms, the Special Rapporteur is concerned by the challenges that remain for achieving equality between men and women in practice. Data published in 2018 by the National Statistical Institute in the field of employment, wages and income revealed persistent economic gender inequality: women get lower wages, lower pensions and spend more time on unpaid domestic work and care.

## **V. National machinery and independent human rights institutions**

33. At the institutional level, Bulgaria does not have a centralized body that deals with issues related to violence against women. The Special Rapporteur welcomes the establishment in October 2019 of an interministerial Working Group within the Ministry of Justice to amend the Protection against Domestic Violence Act and a national coordination body responsible for the coordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence against women. However, until October 2017 the lack of an inter-agency and interministerial coordination body caused delays in responding to cases of domestic violence and often led to the reoccurrence of violence against victims and loss of trust by victims in the system for protection and assistance.

34. On 31 March of every year, the Council of Ministers adopts a programme of national domestic violence prevention and protection, which indicates the activities to be implemented during the year, the responsible structures, the sources of funding, the respective time frames for the implementation of those activities and the expected results. The scope of the programme includes services for victims of domestic violence, raising public awareness, training for service providers and the protection of victims, as well as mechanisms for coordinating and monitoring the activities. The Ministry of Justice is responsible for the annual allocation of funding for projects for the development and implementation of programmes for the prevention of domestic violence and protection by non-profit entities under the same law (art. 6). The Special Rapporteur received numerous

<sup>12</sup> The disaggregated data on complaints related to discrimination based on sexual orientation received since 2014 is not available for all years in the Commission’s annual reports. In 2018, the Commission reported having received 751 complaints and opened 721 cases: of these, 459 concerned discrimination on the basis of disability; 180, personal status; 57, social status; 51, age; 28, ethnicity; 23, financial status; 21, education; 20, convictions; 19, sex; and only 1 related to sexual orientation.

reports that the budget for non-governmental organizations (NGOs) is allocated for only six months (from April to October) and that many NGOs deem the budget allocated insufficient.

35. Other relevant national programmes are the national Roma integration strategy (2012–2020) and the national programme on prevention and counteracting human trafficking and the protection of its victims.<sup>13</sup>

36. In partnership with the Social Assistance Agency, the Ministry of Labour and Social Policy is in charge of providing funding for and supervising service providers (NGOs or municipalities) of crisis centres, consultation services, legal aid and psychological support for victims of domestic violence and trafficking. The management of these services is assigned to the mayors of the respective municipalities. The municipalities are in charge of developing social services at the local level. Referral to the services provided by the Social Assistance Agency is done through helplines or law enforcement officials under the responsibility of the Ministry of the Interior. The Ministry is also responsible for the implementation of the Equality between Men and Women Act and the 2016–2020 strategy on gender equality.

37. In Bulgaria, there are two independent human rights institutions: the Ombudsperson and the Commission for Protection against Discrimination. The Ombudsperson, as an independent state organ established in 2005, has the obligation to protect the rights of citizens. It is regulated by the Ombudsperson Act, according to which it is mandated to consider complaints against actions and omissions by government bodies and the private sector concerning human rights. In March 2019, the Ombudsperson was granted “A” status by the Sub-Committee on Accreditation of the Global Alliance for National Human Rights Institutions. The Ombudsperson also acts as the national preventive mechanism on torture and meets regularly with NGOs and citizens.

38. The 2003 Protection against Discrimination Act established the Commission for Protection against Discrimination. The proceedings before the Commission are free of charge and everyone receives free counselling and assistance when submitting complaints. The Commission is also competent to make decisions on gender-based discrimination complaints where gender-based discrimination defines behavioural patterns that could escalate to sexual harassment, which constitutes a form of discrimination under the Act. Despite the progress made by the Commission on discrimination in the field of employment, the Special Rapporteur regrets that all cases related to discrimination against lesbian, gay, bisexual, transgender and intersex persons have been rejected owing to lack of sufficient grounds, according to civil society organizations.

39. Bulgaria also has a National Council for Cooperation on Ethnic and Integration Issues, established in 1997 by the Council of Ministers and headed by the Deputy Prime Minister. Its mandate is to coordinate State programmes and policies related to ethnic minorities and monitor the implementation of integration policies, in consultation with government bodies, civil society and other relevant stakeholders. NGOs representing ethnic minorities, including Roma, are members of the Council. Despite the adoption of the Roma integration strategy (2012–2020), the Special Rapporteur was informed that the Council had not made tangible progress and she believes that there is a need for more effective measures to promote the integration of Roma women and girls, including access to justice, prevention of domestic violence, access to adequate sexual and reproductive health care and education (E/C.12/BGR/CO/6, paras. 12–13).

40. The National Commission for Combating Trafficking in Human Beings, established in 2004 by the Combating of Trafficking in Human Beings Act and under the Council of Ministers, coordinates State institutions and organizations in the implementation of the national policy and strategy in this field. Through its secretariat, the Commission acts as

<sup>13</sup> According to the Government, the programme is the operational implementation of the national strategy for combating trafficking in human beings (2017–2021). It also incorporates all the actions undertaken under the national mechanism for referral and support of victims of trafficking of human beings.

coordinator of the national mechanism for referral and support of victims of trafficking and also functions as the equivalent mechanism of a national rapporteur. The Special Rapporteur welcomes the significant progress made by the Commission in recent years in combating the trafficking of women and girls, including the implementation of prevention campaigns tailored to local, regional and national levels; strategies for reaching out to potential victims in partnership with civil society organizations and health providers; and the provision of shelters and centres for the support of potential or confirmed victims of human trafficking.

### **Provision of shelters and services to victims of violence**

41. Access to services for women victims of violence in Bulgaria remains a challenge. The Special Rapporteur was concerned by the fact that almost all interlocutors with whom she met pointed out the shortage of adequate shelters across the country. She was informed that there were 19 crisis centres for children, with a total capacity of 196 places, and only 6 crisis centres for adult victims of domestic violence, trafficking or other forms of exploitation, with a total capacity of 64 places for the entire country. Five of those six crisis centres were managed by NGOs with a State-delegated budget. Only one shelter in Plovdiv was run by the municipality.<sup>14</sup> The Special Rapporteur visited three crisis centres and was informed that the maximum duration of a woman's stay in a shelter was three months. Some of the crisis centres also provided for legal support, counselling and support for reintegration. Nevertheless, social workers stressed that the lack of coordinated and comprehensive essential services for survivors of violence at the State level was particularly concerning and that shelters lacked adequate resources to provide holistic assistance to victims.

42. The Special Rapporteur is particularly alarmed that in Sofia, a city of 2 million inhabitants, there is only one shelter with eight available places, which does not comply with the minimum standards of the Council of Europe, according to which there should be at least one place for every 10,000 residents in a crisis centre.<sup>15</sup> The Special Rapporteur was informed that the shelter for victims of trafficking in Sofia was shut down in early 2019, owing to lack of funds. Sofia is the main exit point of victims of trafficking and the lack of shelters in the capital is of considerable concern. The Special Rapporteur notes that the moment a shelter is opened, the number of cases of domestic violence reported and alerts received double, because when services are provided women feel more protected and more willing to seek support (see A/HRC/35/30).

43. The Special Rapporteur welcomes the efforts made in establishing free 24-hour helplines run by NGOs. The Alliance for Protection from Gender-Based Violence runs a helpline specifically for victims of domestic violence operated by paid staff. The Animus Foundation runs a broader-ranging support helpline, which receives around 2,000 calls per year and is staffed by volunteers. A third helpline is offered by the Pulse Foundation.

### **Protection**

44. The Special Rapporteur received information from a variety of sources to the effect that protection orders were not effective and immediate, despite what was provided in the Protection against Domestic Violence Act. Women who managed to receive protection orders usually did so thanks to the support of a lawyer. While the Special Rapporteur welcomes the 2016 amendments to the Legal Assistance Act, which extended free legal assistance to survivors of domestic violence, she fears that illiterate or marginalized women face avoidable barriers to obtaining redress in cases of domestic violence. A woman victim of violence who is staying in a shelter or in a location other than her usual place of residence does not receive any notification of a protection order being issued but must proactively call the civil courts to obtain information on the status of her request.

<sup>14</sup> Information provided by the Ministry of the Interior.

<sup>15</sup> Council of Europe, "Combating violence against women: minimum standards for support services" (September 2008).

45. The Special Rapporteur was informed that police officers did not issue restrictive orders. According to article 65, chapter V, of the Ministry of Interior Act of 2014, the police have the authority to warn orally or in writing a person against whom there is enough evidence that they might commit a crime or a violation of public order. The Special Rapporteur is worried about the effectiveness of these written or oral warnings and raises concerns about the lack of immediate measures to protect women in cases of domestic violence.

#### **Education and awareness-raising**

46. The Special Rapporteur was informed of the variety of training courses provided to professionals. She welcomes the development by the Ministry of the Interior of a methodological instruction on the activities of police bodies, as foreseen by the Protection against Domestic Violence Act. Nevertheless, she expresses serious concerns about the persistence of stereotypes among police officers and the fact that some police officers do not recognize the gendered dynamics of domestic violence.

47. The National Institute of Justice, the institution in charge of training justice sector professionals, has implemented a project aimed at strengthening the capacity of those professionals to apply European human rights standards and best practices in the area of domestic and gender-based violence. While noting the efforts of the Government to deliver training workshops to prosecutors and judges, the Special Rapporteur points out that, overall, they are not yet familiar with the international standards for combating gender-based violence, particularly the Convention on the Elimination of All Forms of Discrimination against Women, general recommendation No. 19 of the Committee on the Elimination of Discrimination against Women and the Declaration on the Elimination of Violence against Women. They do not therefore apply these instruments in cases of violence against women.

#### **Data collection**

48. The Special Rapporteur notes that Bulgaria lacks a mechanism for the systematic collection of statistical data or analysis of data and cases related to violence against women, femicide or gender-related killing of women and girls. As a result, the real dimensions and specifics of the problems and issues cannot be easily identified. The Office of the Prosecutor collects data on the number of protection orders issued and, in cases of homicide, data are disaggregated on the basis of sex and the relationship between the perpetrator and the victim. Indirect information on the dimensions of domestic violence cases can be derived from the statistics provided by the regional courts on the number of restraining orders issued in domestic violence cases. According to those data, the number of victims of domestic violence who have sought protection and have received restraining orders from the courts has been consistently increasing in the last five years, with 2,398 orders issued from January to 30 September 2019.<sup>16</sup> The Special Rapporteur was informed that the higher number of protection orders issued in the past year was partially due to an increased awareness of women's rights, but it also shed light on the widespread and systematic nature of this violation.

## **VI. Manifestations of violence against women, its causes and consequences**

#### **Domestic violence against women**

49. According to the European Institute for Gender Equality, Bulgaria has one of the lowest rates of reporting domestic violence among European Union member States.<sup>17</sup> Violence against women continues to be a serious and persistent problem in the country. According to the European Institute for Gender Equality in 2017, at least 28 per cent of

<sup>16</sup> Statistics provided by the Ministry of Interior.

<sup>17</sup> European Institute for Gender Equality, "Gender equality index 2019: Bulgaria".

women had experienced domestic violence, but 48 per cent of those women had not informed anyone.<sup>18</sup> In another study, it was estimated that in 2015 70–80 per cent of domestic violence cases went unreported, while for Roma women, the rate of non-reporting was as high as 90 per cent owing to fear of retaliation and lack of family and institutional support.<sup>19</sup> These data reveal that domestic violence is still considered a private matter, tolerated and normalized, and women are still facing social and legal barriers to reporting domestic violence.

### **Femicide or gender-related killings of women**

50. Some official administrative data on gender-related killing of women and girls are available. In the past three years, femicides of women committed by spouses, partners and close relatives have increased. In 2016, 22 women were killed, in 2017 the number was 27 and in 2018, 33.<sup>20</sup> The data from 2018 shows that the killings were perpetrated by the persons closest to the women and it further reveals that 18 murders were motivated by jealousy. Seventeen perpetrators had previous convictions for other crimes and six had been convicted for femicides. The Special Rapporteur raises concerns about the lack of femicide prevention mechanisms, including a lack of a proper risk assessment tool, which could prevent the recurrence of these violations.

### **Child, early and forced marriages and school dropouts**

51. Article 6 of the Family Code establishes the minimum legal age for marriage as 18; however, a district judge may exceptionally authorize marriage for those aged 16 or more. Although in Bulgaria the practice of child marriages has decreased in the past years, it persists among some Roma communities. Child marriage is often accompanied by early and frequent pregnancies and childbirth and Bulgaria remains the European Union country with the second highest birth rate among teenagers.<sup>21</sup> The Special Rapporteur was informed of “marriages” of girls as young as 13 or 14 years old, mainly from the Roma community. These early marriages are very rarely prosecuted. According to the National Statistical Institute, the number of child marriages in Bulgaria increased by more than 450 per cent between 2010 and 2017. The population most affected by this were girls, who accounted for 95 per cent of the minors who married in 2017 (649 in total). Child marriages and early pregnancies are considered a harmful practice according to the Committee on the Elimination of Discrimination against Women and the Committee on the Rights of the Child.<sup>22</sup> The two Committees stated that: “A child marriage is considered to be a form of forced marriage, given that one and/or both parties have not expressed full, free and informed consent” (para. 20) and that: “Child marriage also contributes to higher rates of school dropout, especially among girls, forced exclusion from school and an increased risk of domestic violence, in addition to limiting the enjoyment of the right to freedom of movement” (para. 22).

52. The Special Rapporteur was also informed of a very high rate of school dropout among Roma girls. The Special Rapporteur was alarmed to hear that the National Council for Cooperation on Ethnic and Integration Issues and the National Statistical Institute do not collect data on school dropouts disaggregated by ethnicity, which would allow the specific needs of Roma communities to be extrapolated.<sup>23</sup> The three main reasons for dropping out of school in Roma communities are early pregnancies, early marriages and fear that a girl would be abducted to be married. The Special Rapporteur notes that as soon

<sup>18</sup> Ibid., “Gender equality index 2017: Bulgaria”.

<sup>19</sup> United States Department of State, “2016 Country reports on human rights practices – Bulgaria”.

<sup>20</sup> Statistics provided by the Ministry of Interior.

<sup>21</sup> Eurostat, “Teenage and older mothers in the EU” (August 2017), available at <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20170808-1>.

<sup>22</sup> See joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child (2014) on harmful practices.

<sup>23</sup> Civil society reported a 65 per cent dropout rate for Roma girls between the sixth and eighth grades. The Government stated that it could not corroborate that.



as a girl steps out of school at such a young age, she becomes extremely vulnerable to violence and abuse. She also lacks the economic means to leave her abusive partner and may therefore remain trapped in a vicious cycle of violence.

53. The Special Rapporteur welcomes a set of initiatives implemented by the Ministry of Labour and Social Policy involving children and pupils in compulsory preschool and school education, such as the collection of early warning information about the students at risk of leaving school. According to the specifics of each case, the appropriate local institutions will be activated to work with students and their families to prevent their early dropout from school. Since the start of these initiatives three years ago, 14,000 students have returned to school.<sup>24</sup>

### **Trafficking of women and unborn children**

54. Bulgaria has made significant efforts in the prevention of trafficking of human beings, including women and girls, thanks to a very active National Commission for Combating Trafficking in Human Beings and the effective application of the 2003 Combating Trafficking in Human Beings Act. However, Bulgaria remains one of the primary source countries in Europe for men, women and children subjected to trafficking and sale for sexual exploitation. Women are especially vulnerable, since disaggregated data shows that 87 per cent of the victims of trafficking in the past three years were women.

55. The Special Rapporteur is alarmed to hear about the existence of a new form of trafficking of women and unborn children to neighbouring countries, especially in the area of Burgas, where women sell their babies to traffickers for illegal adoption in Greece. According to the information provided, women are promised an amount that ranges from 10,000 to 20,000 euros for each baby, but very rarely do they get that amount. Desperation, a lack of economic opportunities and marginalization are the main reasons for this disturbing new form of trafficking and gender-based violence against women. The Special Rapporteur was encouraged to hear that a prosecution is initiated as soon as a case of trafficking of unborn babies is registered. In the city of Burgas, where most of such cases are recorded, 50 per cent of all convictions are for this form of gender-based violence. However, in other regions such cases are still underreported.<sup>25</sup>

### **Migrant and refugee women**

56. Bulgaria has a detailed Law for Asylum and Refugees, adopted in 2002, which regulates the reception of asylum seekers, the assessment of their claims and their rights upon recognition. The State Agency for Refugees is responsible for registering and examining applications for international protection and administers six open registration reception centres and one closed one. Bulgaria also has a Law on Foreigners, adopted in 1998, which is applicable to all foreigners who have not made an application for international protection or whose claims have been finally refused. The Directorate of Migration is in charge of administering immigration detention facilities for foreigners falling under the scope of the Law on Foreigners.

57. The Special Rapporteur was informed that, despite the positive amendments to the Law for Asylum and Refugees introduced in 2015 that explicitly recognize gender-specific acts of persecution and gendered forms of violence and discrimination, such acts are not consistently identified and addressed in the assessment of claims for protection. Women and men who are granted international protection face a number of legal and practical barriers in exercising specific rights to which they are entitled, such as housing and social assistance. Once granted refugee status, they may be allowed to remain at the reception centres run by the State Agency for Refugees on a discretionary basis and for a period of up to six months, but are not entitled to receive food. Owing to the lack of available language and vocational courses, they are prevented from having opportunities to become self-

<sup>24</sup> Information provided by the Ministry of Labour and Social Policy.

<sup>25</sup> Official records would suggest a downward trend, as the number of cases peaked in 2017 (97) and then declined through 2019 (56). It is unclear whether underreporting varied in that period and whether that could make the trend of actual cases differ from those that are reported.

reliant, which exacerbates the risk of poverty and homelessness, particularly for women. Access to social housing is difficult, owing to the legal provisions that require the applicant to have resided in a particular area for an extended period and for one of the family members to be a Bulgarian citizen; that automatically excludes refugees, including refugee women.

### **Situation of women in detention**

58. The Special Rapporteur visited Sliven prison, the only female prison in the country, where she spoke with prison personnel and with a number of inmates, both women and girls. At the time of the visit, there were 220 inmates, including one baby. While the Special Rapporteur acknowledges that vocational education is provided at the request of the detainee, she raises concerns over the inadequate re-entry programmes aimed at preventing reoffending. She was also concerned to hear that some women with whom she spoke had been incarcerated for minor, non-violent offences, for which non-custodial measures should be preferred, as indicated in the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok rules).

59. The Special Rapporteur welcomes the several renovations that have been carried out in the last years in the low-security detention facility at Sliven and notes that the conditions of detention were reasonably fair. Nevertheless, she regrets that no gynaecologist had been available in the three months that preceded her visit and that the position had instead been filled by a dentist. She was informed that only the day before her visit, a gynaecologist had been assigned to the facility. The women with whom the Special Rapporteur interacted said that the health care they received was poor and that they were very rarely referred to medical specialists. The Special Rapporteur was also informed that the number of women affected by mental health issues and disabilities had reached an all-time high of 46 out of 223 inmates<sup>26</sup> and that, once released, adequate support was not provided owing to the lack of adequate community-based services.

### **Situation of Roma women and girls who encounter multiple and intersecting forms of discrimination**

60. The Special Rapporteur is particularly concerned that Roma women face multiple and intersecting forms of discrimination. They remain disproportionately affected by violence, poverty and social exclusion and face obstacles in the enjoyment of their rights. Furthermore, they continue to face discrimination in the fields of education, housing and health and their situation is worse than that of Roma men.<sup>27</sup> According to the Roma inclusion index for 2015, only 46 per cent of Roma women had received primary school education, only 7 per cent of them had finished secondary education and only 1 per cent had finished tertiary education.<sup>28</sup>

61. Although the situation of Roma in the area of employment has slightly improved in recent years, Roma women have a 42 per cent lower employment rate than the total population (17 per cent compared to 60 per cent).<sup>29</sup> Discrimination against Roma in the provision of health care is alarming. Only 47 per cent of Roma women in Bulgaria have health insurance, which means that the majority of them do not have access to health-care services, which leads them to be at a higher risk of complication during pregnancy than the majority of the population.<sup>30</sup> The Special Rapporteur was informed that Roma women

<sup>26</sup> Figures provided by the Ombudsperson in her submission to the Special Rapporteur, based on information provided by the prison administration.

<sup>27</sup> See European Union Agency for Fundamental Rights, "Discrimination against and living conditions of Roma women in 11 EU Member States" (2014).

<sup>28</sup> Decade of Roma Inclusion Secretariat Foundation, "Roma inclusion index 2015" (September 2015), p. 37.

<sup>29</sup> Ibid.

<sup>30</sup> European Roma Rights Centre, "Collective complaint against Bulgaria concerning the segregation and other discriminatory treatment of Romani women in Bulgarian maternity wards" (May 2017), p. 7.



were segregated in maternity wards in certain maternity hospitals and were often victims of verbal and physical abuse by the medical staff.

### **Lesbian, bisexual, transgender and intersex women**

62. Lesbian, bisexual, transgender and intersex women face multiple and intersecting forms of discrimination. The social and legal obstacles faced by such women have been exacerbated by the campaign against the ratification of the Istanbul Convention, which triggered a toxic debate on the use of the term gender, interpreted as a dangerous ideological concept seeking to eliminate the differences between men and women. The Special Rapporteur regrets that same-sex couples cannot enter into any form of legally recognized union and that marriages concluded abroad are not registered in Bulgaria, although civil registration of marriages contracted abroad is allowed.<sup>31</sup> The non-registration of same-sex marriages has dire consequences for the lives of lesbian, bisexual, transgender and intersex women and results in the deprivation of inheritance rights, tax benefits, matrimonial shared property and options for child adoption.

### **Issues related to child custody**

63. The Special Rapporteur is particularly concerned about the information received on gender bias against women in custody decisions and the lack of attention paid by courts to patterns of abuse by fathers. According to the information received, this concept is often used by abusive fathers against mothers as a means of retaliation for having reported the violence or left the household. The Special Rapporteur emphasizes that ignoring intimate partner violence against women in the determination of child custody can result in serious risks to the children and must thus be considered to ensure their effective protection.<sup>32</sup>

## **VII. Conclusions and recommendations**

64. Based on the findings above and in a spirit of cooperation and dialogue, the Special Rapporteur offers the following recommendations on a number of different issues.

65. On incorporating the international and regional frameworks on violence against women into Bulgarian legislation, the Government should:

(a) Ratify the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention);

(b) Counter the misinterpretation of the term “gender”, translate, interpret, explain and promote the terms “gender” and “gender-based violence against women”, as contained in the Istanbul Convention, in line with their translations in European Union instruments applicable to Bulgaria, European Union directive 2012/29/EU on victims’ rights and general recommendations No. 24 (1999) on women and health, No. 28 and No. 35 of the Committee on the Elimination of Discrimination against Women;

(c) Seek the opinion of the Venice Commission on the constitutional implications of the ratification by Bulgaria of the Istanbul Convention in its revised translation;

(d) Submit the improved translation of the Istanbul Convention to the Constitutional Court and request it to assess the possible influence of that translation and its interpretation in the light of relevant European Union directives and the recommendations of the Committee on the Elimination of Discrimination against

<sup>31</sup> Marriages concluded under the laws of a foreign State between same-sex persons can be recognized (arts. 75, 76 and 77 of the Bulgarian Private International Law Code).

<sup>32</sup> See statement by the Platform of United Nations and independent expert mechanisms on discrimination and violence against women (led by the Special Rapporteur), available from [www.ohchr.org/Documents/Issues/Women/SR/StatementVAW\\_Custody.pdf](http://www.ohchr.org/Documents/Issues/Women/SR/StatementVAW_Custody.pdf).

Women on the Court's judgment No. 13/2018 of 27 July 2018 (CCPR/C/BGR/CO/4, para. 12);

(e) Amend article 10 (1) of the Protection against Domestic Violence Act so as to remove the one-month time limit and thereby ensure that protection orders can be obtained without placing undue administrative and legal burdens on applicants, and ensure that the provisions of the Act ease the burden of proof in favour of the victim;

(f) Amend article 3 (2) of the Protection against Domestic Violence Act to remove the requirement of cohabitation for a victim to obtain a protection order;

(g) Expand the scope of article 3 of the Protection against Domestic Violence Act to include all cases of intimate partner violence, in order to include same-sex couples and other contexts of violence;

(h) In cases of domestic violence, introduce the possibility of prosecuting "ex-officio" medium and serious bodily harm under articles 128 and 129 of the Criminal Code;

(i) Repeal article 152 of the Criminal Code, so as to ensure that all acts of sexual violence against women and girls, especially rape, are defined in line with international standards, explicitly include the lack of consent and are effectively investigated, and that perpetrators are prosecuted and receive sentences commensurate with the gravity of their crimes;

(j) Revise the Criminal Code to include a rape provision based on the lack of consent, include all forms of penetration and explicitly include marital rape;

(k) Consider amending article 149 of the Criminal code and increase the age of sexual consent from 14 to 16;

(l) Repeal article 93 para 31 of the Criminal Code, under which for a criminal offence to have been committed "in conditions of domestic violence" it must be preceded by systematic physical, sexual or psychological violence, and remove the word "systematic" to guarantee that victims have access to justice;

(m) Expand the scope of article 4 of the Protection against Discrimination Act to explicitly include gender identity as a ground of discrimination and fully recognize the equality of same-sex couples;

(n) Amend the Family Code at article 6 by removing the exception to allow marriage at the age of 16 years old, in order to prevent early marriages and early pregnancies;

(o) Urgently ensure that there are an adequate number of State-funded crisis centres, including rape crisis centres, and other services, in line with European Union directive 2012/29/EU, and provide support to NGOs offering shelter and other forms of support to victims of violence;

(p) Guarantee the effectiveness of protection orders and ensure that urgent protection orders are issued immediately;

(q) Establish a Femicide Watch/Observatory or entrust the Ombudsperson, or another body such as the national coordination mechanism on violence against women, once established, with implementing a femicide prevention watch that includes the collection of administrative data by police and other relevant stakeholders on:

(i) All gender-related killings of women by intimate partners (intimate partner femicide) and of girls, based on the relationship between the victim and the perpetrator (for example, husbands, ex-husbands, partners);

(ii) Family-related gender-based killings of women and girls based on the family relationship between the victim and the perpetrator (family-related femicide);

(iii) Other gender-related killings or femicide;

(r) Ensure careful analysis of all cases of femicide on an annual basis to identify any failure within the protection chain, with a view to improving and developing further preventive measures, in close cooperation with the Ombudsperson and representatives from civil society, as recommended in the Special Rapporteur's thematic report on this topic (A/71/398);

(s) Strengthen collaboration between State institutions and civil society organizations, ensuring the legal and social conditions for the regular exercise of their activities in defence of women's rights and for the elimination of violence against women, and protecting them from undue restrictions and attacks on their work;

(t) Guarantee the systematic participation of women's organizations in the formulation, implementation and evaluation of policies and other decision-making processes concerning the protection of women's rights at the national and local level;

(u) Implement strategies aimed at the reduction of school dropouts, not only as a way to empower women from marginalized communities, but also as a way to prevent domestic violence;

(v) Duly consider prior incidents of intimate partner violence against women when determining child custody and consider the rights and safety of the victim and/or children when determining visitation rights, in line with the Istanbul Convention and general recommendation No. 35 of the Committee on the Elimination of Discrimination against Women;

(w) Implement measures to enforce court orders for participation in rehabilitation programmes and prosecute cases of non-conformity, in accordance with article 296 of the Criminal Code.

66. For migrant and refugee women, the Government should:

(a) Ensure that gender-related forms and grounds of persecution are recognized as legal grounds for granting international protection and that safeguards are in place to ensure the asylum procedure is gender-sensitive;

(b) Facilitate the effective integration of beneficiaries of international protection, in particular women and girls, with a view to achieving their full and effective access to socioeconomic rights and promoting self-reliance, including by reviewing and amending discriminatory legislation and practice in relation to access to social housing and social assistance, and providing targeted integration measures, taking into account the specific needs of women and girls, including support for language training.

67. For women facing multiple and intersecting forms of discrimination, in particular Roma women and girls, the Government should:

(a) Adopt targeted action on Roma women and girls to prevent their dropping out from school and enhance their social inclusion and integration;

(b) Adopt educational programmes and awareness-raising campaigns on sexual and reproductive health to prevent early pregnancies;

(c) Investigate and prosecute early marriages of girls below the age of 16;

(d) Guarantee access to dignified sexual and reproductive health care for all Roma women and girls.

68. For purposes of training and awareness, the Government should:

(a) Provide mandatory training to law enforcement officers and members of the judiciary, including judges and prosecutors, on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, the general recommendations of the Committee on the Elimination of Discrimination against Women and the Committee's jurisprudence on violence against women and interpreting national legal provisions in the light of that jurisprudence;

**(b) Strengthen efforts to combat discriminatory gender stereotypes among law enforcement officials dealing with domestic violence;**

**(c) Conduct continuous training for law enforcement officials on gender equality and determination and assessment of cases of violence against women.**

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