

**Group of Experts on Action against Violence
against Women and Domestic Violence
(GREVIO)**

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

**Comments submitted by Albania
on GREVIO's final report on the implementation
of the Council of Europe Convention
on preventing and combating violence
against women and domestic violence
(Baseline Report)**

Received by GREVIO on 17 November 2017
GREVIO/Inf(2017)15

Published on 24 November 2017

**Albania's comments on GREVIO's
draft final report
on the implementation of the
Istanbul Convention**

TIRANA, NOVEMBER 2017

Executive summary

The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) is part of the Albanian legal system as of 1 August 2014. The process started with Convention signature on 19 December 2011 and its ratification on 4 February 2013, being the second Council of Europe member state to ratify the Convention without entering into any reservation.

Albania's level of Convention implementation assessment started by GREVIO by transmission of its questionnaire on 1 September 2016. The Albanian authorities report was subsequently submitted on 16 January 2017. A preliminary examination of the Albanian state report was conducted and of the additional information submitted by a number of NGOs, followed by GREVIO state dialogue with representatives of Albania on 5 April 2017 in Strasbourg. As a second step, GREVIO carried out an evaluation visit to Albania, which took place from 24 to 28 April 2017.

The baseline report was approved by GREVIO on 27 June 2017 and submitted to the Albanian authorities for comments on 7 July 2017. On 13 September 2017, the Albanian authorities provided comments and updates on the main legal developments and measures undertaken after GREVIO's evaluation visit, reflected by GREVIO in drawing up the final version of the report, which it formally adopted at its 12th meeting (Strasbourg, 9 – 13 October 2017).

In accordance with Article 68, paragraph 11 of the Convention, the report was transmitted to the Albanian authorities to submit any final comments by 17 November 2017.

The Albanian authorities remain highly committed to guarantee and ensure respect for women rights as human rights and therefore to take all the required legislative measures to bring the Albanian legislation in full compliance with international standards in general and the Convention in particular. The Albanian authorities are aware of the four levels of urgency identified by GREVIO observations and of the need to take a prioritized approach applied in timely manner.

This document provides comments to GREVIO's baseline report on Albania aiming at identifying and describing legislative measures and actions taken and/or planned by the Albanian authorities to effectively and timely address important aspects of the Istanbul Convention and GREVIO's recommendations. Some of the recent institutional developments and improvements have been achieved as a results of the implementation of the justice reform, which is still ongoing, as well as a result of the continuous joint efforts and contribution of the international organizations.

Albanian authorities remains committed to continue fulfilling its obligations stemming from the Istanbul Convention and other international human rights treaties.

I. Purposes, definitions, equality and non-discrimination, general obligations

B. Scope of the Convention (Article 2)

GREVIO urges the authorities to further their action against violence against women by ensuring that measures taken in accordance with the Istanbul Convention address all forms of violence against women, in a holistic and comprehensive fashion (Proposal 4).

Albanian authorities acknowledge the importance of increased efforts to further their action against all forms of violence against women. Considering GREVIO's observation, the Albanian authorities are confident that the National Strategy for Gender Equality 2016-2020 and its Action Plan represent comprehensive instruments and policies concerning other forms of gender-based violence. Both the Strategy and Action Plan clearly foresee detailed and elaborated ways and actions to address not simply Domestic Violence but also Gender Based Violence (kindly refer to the Strategic Aim no. 3 "Reduction of Gender Based Violence and Domestic Violence"). In this frame, Albanian authorities confirm that specific attention will be paid to the concrete implementation of the planned activities, in order to correctly address all forms of violence against women. In addition, some forms of violence against women are also specifically addressed in other country' strategies, i.e. trafficking of women and girls is a form of violence against women is elaborated in the specific National Strategy against Trafficking; or forced abortion is a form of violence against women highly discussed in actions undertaken mainly in the frame of implementation of the country' strategies and action plans related to health and reproductive rights. Albanian authorities are also aware that the improvements of the Criminal Code and the provisions of some forms of violence against women as crimes, are not enough; there are needed additional efforts to clearly address all forms of violence against women.

As per the above commitment, the proposed new article 3/1 "On applicable legislation" of the law on measures against violence in family relations, besides the reference to the principles envisioned in the Constitution of the Republic of Albania, it also *expressis verbis* stipulates the UN Convention on the Elimination of all forms of Discrimination against Women, the Council of Europe Convention "On prevention and fight against Violence against women and in family relations" (Istanbul Convention), as well as other international acts ratified by the Republic of Albania"

In addition, the Albanian authorities will consider other legal improvements to ensure that measures taken in accordance with the Istanbul Convention address all forms of Violence against Women

C. Definitions (Article 3), with reference in particular to domestic violence

GREVIO strongly encourages the Albanian authorities to take all necessary measures, including legislative measures, to harmonize its definition of domestic violence in domestic law with the Convention and to ensure the effective application of such a harmonized definition in practice. The

authorities should further introduce a clear gendered approach in their legislation to acknowledge fully the gendered nature of domestic violence which predominantly affects women and girls. (Proposal 9)

The Albanian authorities remain fully committed to bring the legislation in full compliance with international standards, by reflecting best practices aiming at human rights guarantee. The proposed amendments to the law on measures against violence in family relations aim at better harmonization of domestic violence definition and other provisions with the Istanbul Convention and CEDAW. This will ensure the effective application of such harmonized definitions in practice. Protective measures provided for in the proposed amendments have been improved in the context of the immediate protection orders and the protection orders and responsibilities of courts, local Domestic violence coordinator and other relevant local state and non-state actors are better stipulated. These amendments ensure better access to courts and contribute to better enforcement of judicial procedures. In short, the proposed amendments ensure better protection for victims of domestic violence and further harmonization with international and regional standards set by the above-mentioned conventions.

Furthermore, the review and improvement of the law is a measure envisioned in accordance with Strategic Purpose 3 "Reducing Gender-Based Violence and Domestic Violence", Goal 3.3.1 "Improving the Legal Framework with regard to Gender-Based Violence and Domestic Violence" of the National Strategy on Gender Equality 2016-2020. A stakeholders' consultation roundtable was held on November 3, 2017.

E. Gender-sensitive policies (Article 6)

GREVIO urges the authorities to:

- a. promote a clear understanding within society of the gendered nature of Violence against women which affects women not because of their educational level and socio-economic background, but because they are women;**
 - b. challenge attitudes in society which justify intra-family violence;**
 - c. have a clear gendered approach when developing targeted measures to address forms of Violence against women other than domestic violence.**
- (Proposal 22)

The Albanian authorities in collaboration with international organizations have made it clear in their campaigns the gendered nature of Violence against Women. This year, for example, the 16 activism days' moto is "Together to fight Violence against women and girls". The calendar event, covering November 24 – December 10, is designed based on joint efforts of the Ministry of Health and Social Protection (MoHSP), Local Government Units (LGUs), members of the National Referral Mechanism and national NGOs with the support of UN agencies. Activities will have a wide geographical coverage (Tirana, Durres, Elbasan, Pogradec, Puke, etc), target all communities, as well a use of a variety of awareness instruments such as: audio message broadcasting with a focus on the main priorities of the National Strategy on Gender Equality. It will be launched over platforms of social media and radio Tirana. Promotional materials will be prepared on the Campaign motto and recommended

slogan for this year. Distribution in open public of the newspaper, including supplements about gender based and domestic violence issue; awareness activity with women in Prisons under slogan "I am Painting Against Violence"; open discussions with youth and religious women and trainings; real life stories documentary and exhibition on women, silent heroes that have stood up against Gender Base Violence and Domestic Violence and became agents of change in their communities. Furthermore, some activities focus on all forms of Violence against women and girls with disabilities; Activities of the campaign will focus specifically towards community and individual engagement at local level through "door to door" awareness events in the main squares of the cities, schools, universities, theaters and boulevards. Men and boys, women and girls coming from all walks of life, local and national state authorities and NGOs are involved through these activities. For the recent three years the 16 days of activism have rolled out throughout the year beyond 16 days of activism. This will continue through 2018 as well.

II. Integrated policies and data collection

A. Financial resources (Article 8)

GREVIO strongly encourages the Albanian authorities to:

- a. strengthen the machinery for combating Violence against women by providing appropriate human and financial resources at both the central and municipal levels;**
- b. expand significantly the budget allocated to the entity responsible for preventing and combating Violence against women;**
- c. commit budgetary resources dedicated to preventing and combating Violence against women for other concerned line ministries;**
- d. pursue and step up efforts in implementing gender responsive budgeting so as to be able to allocate appropriate funding and to monitor public spending dedicated to combating Violence against women and to measure progress achieved. (Proposal 27)**

The Ministry of Health and Social Protection (MoHSP) is the authority in charge with gender equality issues and the fight against domestic violence challenge, following the Government new organizational structure after the June 2017 parliamentary elections. The MoHSP is responsible for policy development to address the issues of gender-based violence, abuse of children, women and other groups, gender equality, protection of children's rights, non-discrimination based on sexual orientation, disability, ethnicity and minority (Council of Ministers decision no. 508, dated 13.9.2017 "In defining the scope of state responsibility of the Ministry of Health and Social Protection").

The above responsibilities will be accomplished through a close cooperation between a three-tier institutional model including the Sector of Policies and Strategies for Social Inclusion within the Directorate of Policies and Development of Health and Social Protection, which is part of a General Directorate of Policies and Development of Health and Social Protection at the Ministry of Health and Social Protection.

Regarding GREVIO's observation on gender responsive budgeting, the Albanian authorities are aware of the importance of a cumulative approach to provide both

human resources and financial ones. Establishing a stable economy in the context of an economic global crises and developing a responsive budget to current reforming efforts, remains a big challenge. Anyhow, the draft Mid-term Budgeting Program 2018-2020), reflects an increase from 11 to 13 of the number of Line Ministries that has already included gender budgeting elements in their 2018 budget plan. In addition, the number of budgeting programs is increased from 24 (2017) to 28 (2018), but the monetary funds has remained at the same level, i.e. approximately 15 milliard Albanian leks or 3% of mid-term Budgeting Program.

B. Data collection and research (Article 11)

1. Law enforcement and criminal justice sector

GREVIO strongly encourages the Albanian authorities to:

- a. make domestic Violence against women and the gendered nature of other forms of Violence against women more visible in the crime statistics presented to the public, by clearly identifying the number of women victims per type of offence. This would include the visible presentation to the public of information on the number of homicides of women at the hands of men (gender-related killing of women);**
- b. develop data categories on the type of relationship between perpetrator and victim for all forms of Violence against women that would allow the nature of their relationship to be more specifically documented;**
- c. ensure that these and any other data categories in use, including the type of violence and location where the offence is committed, are harmonised across the various sectors;**
- d. conduct studies on conviction rates for all forms of Violence against women and make public the results of such studies. (Proposal 41)**

Albanian authorities will continue to cooperate with law enforcement agencies in order to ensure crosscutting actions plans are in place. Prosecution system, in the framework of the justice reform, will get a new dimension and profile that will be continuously analysed and better reshaped by the High Prosecutorial Council, a new justice system independent institution.

2. Civil justice sector

GREVIO encourages the Albanian authorities to ensure the collection and publication of data from the civil justice sector on the number of protection orders, the sex, age and relationship of all parties involved, as well as on the authorisations granted by courts for underage marriages. (Proposal 44)

Albanian authorities remain committed to ensure accurate statistical data in order to better shape and define the measures and actions to address all forms of Violence against women and girls. GREVIO' observation brings the need for better coordination with the courts and is confident that this commitment will be meet in the near future with the High Judicial Council establishment, a new justice system

institution, tasked by the Constitution with the authority to ensure the independence, accountability and appropriate functionality of the judicial system.

III. Prevention

A. Awareness raising (Article 13)

GREVIO strongly encourages the Albanian authorities to sustain and further develop their awareness-raising efforts in support of a general anti-violence message. Targeted campaigns should be developed to:

- a. raise awareness about the harm caused to children who witness domestic violence;**
- b. challenge social norms, attitudes and stereotypes regarding women's inferior status in the domestic unit which contribute to the acceptance of intra-family violence;**
- c. reach vulnerable groups of women and girls and deal with their specific needs. (Proposal 58)**

Albanian authorities are aware that awareness-raising efforts remain a must to support general anti-violence approach. Besides stakeholders separate agenda, joint efforts has been a solid basis for a successful implementation of the 16 days activism awareness campaign. It represents a consolidated instrument designed and implemented in a way that brings the special events in line with GREVIO recommendation. Domestic violence remains still a private matter. Mentality of a society needs time and efforts to better improve. Therefore among the events planned for 2018, an exhibition is planned aiming to bring to the attention of everyone the voice of Domestic Violence youth survivors through their works, showing challenges and successes in their personal struggle against violence. Paintings prepared by children who have witnessed violence will be presented. School children and students awareness in SDGs will be of a special focus aiming at their engagement in their fulfilment. Activities of the campaign will focus specifically towards community and individual engagement at local level through "door to door" awareness events in the main squares of the cities, schools, universities, theaters and boulevards. Men and boys, women and girls coming from all walks of life, local and national state authorities and NGOs are involved through these activities. For the recent three years the 16 days of activism have rolled out throughout the year beyond 16 days of activism. This will continue through 2018 as well. Albanian authorities are confident that similar initiatives can become the change agent if designed, planned and implemented through joint efforts, as the example of the 2018 one.

C. Training of professionals (Article 15)

With the aim of endowing professionals with the necessary attitudes, knowledge and skills regarding Violence against women, GREVIO strongly encourages the authorities to:

- a. introduce Violence against women as a compulsory topic in vocational curricula and whilst respecting academic freedom, encourage higher education to introduce such a topic in university study programs, where it is lacking, such as for bailiffs and healthcare professionals, especially for physicians and nurses;**
 - b. ensure on a continuous and regular basis in-service training on all forms of Violence against women, based on up-to-date and clear protocols and guidelines that set out the standards staff are expected to follow in their respective fields⁷⁷;**
 - c. integrate in all professional development schemes the dimension of professionals' duties and responsibilities when faced with cases of Violence against women, including as members of the referral mechanisms.**
- In implementing the above, the authorities should take full ownership of the training process, in particular by guaranteeing the application of harmonised standards and monitoring the quality of training. (Proposal 69)**

Albanian authorities recognize the importance to further consolidate and expand the capacity of professionals to deliver an effective and sensitized response to Violence against women through training. In this context, the Albanian School of Public Administration, with the support of UN agencies, has conducted a revision and upgrade process of all the curricula on Gender Base Violence and domestic Violence. The updated curricula with best practices is applicable to all level of management for public employees at both central and local level.

Aiming at ensuring a unified approach, the same process has been implemented, through UN agencies support and expertise, by the Albanian State Police Academy. The training curricula on Gender Base Violence and domestic Violence is now applicable for all levels of management at the police forces.

E. Participation of the private sector and the media (Article 17)

GREVIO encourages the Albanian authorities to:

- a. continue to engage the media as a key partner to raise awareness on Violence against women;**
- b. encourage media, including social media, to develop and monitor the use of self-regulatory standards in the area of Violence against women and gender equality, having due regard to relevant existing international standards. (Proposal 74)**

GREVIO invites the authorities to seek the involvement of employers in the prevention of Violence against women. To this end, employers should be encouraged to take part in the implementation of policies such as awareness-raising campaigns, as well as to foster a work environment where Violence against women is openly condemned and victims feel that they can be heard and supported. (Proposal 77)

The MoHSP will play an active role during the 16 days activism awareness campaign, which will include among others, distribution of ribbons, leaflets and brochures with information on 25 of November, the International Day against Violence.

IV. Protection and support

C. General support services (Article 20)

2. Healthcare services

GREVIO urges the authorities to bring the health care system to the forefront of efforts to combat all forms of Violence against women, by:

- a. achieving the support and commitment of the heads and decision makers of different sectors of health care to address Violence against women as a matter of priority and professional mandate;**
- b. ensuring that health professionals assume their responsibility and exercise their expertise in the early detection and prevention of Violence against women;**
- c. developing and/or upgrading adequate protocols and procedures, and providing the corresponding training, to bring professionals' attitudes, skills and responses to Violence against women, including sexual violence, up to the required standards;**
- d. setting up rape crisis or sexual violence referral centres, where forensic examinations are available in line with internationally recognised standards¹⁰⁶;**
- e. reinforcing the co-operation of the health sector with the referral mechanism.**

Regarding reporting by healthcare professionals, GREVIO further urges the authorities to:

- f. uphold victims' right to equal protection from the law and to access to just and effective remedies, by guaranteeing that frontline medical staff operating in hospitals and healthcare centres issue victims with a medical report documenting their injuries;**
- g. develop informed consent procedures whereby victims are systematically and sufficiently informed that any medical evidence will only be released to the authorities with their consent, in full compliance with the right for respect for private life and the protection of personal data, subject to the exceptions foreseen in the following paragraph. (Proposal 98)**

The informed consent procedures should *inter alia* include straightforward examples of potential consequences of domestic violence to one's physical and mental health, including the risk of premature death due to trauma, as well as its harmful consequences on child witnesses. Such procedures should exceptionally allow for the reporting to their authorities without the victim's consent, whenever there are grounds to believe that a serious act of violence has been committed and further serious acts of violence are to be expected, in accordance with the provision of Article 28 of the Convention. Further exceptions should be allowed for patients with impaired decision making capacity and children. It should be recalled in this connection that in some jurisdictions, reporting might even be mandatory with respect to injured children, especially if they sustain serious injuries or if sexual violence is suspected. (Proposal 99)

The Albanian authorities remain committed to ensure that a new approach will be taken by health care system. This process has signed positive developments in two directions. First the Ministry of Health and Social Protection is the main responsible institution to address the violence issue, therefore its leadership structures will support any effort to turn this topic into a priority cause, through coherent decision-making and stable cooperation. Second, the Albanian authorities, in close cooperation with UN agencies, are developing the [Standard Operating Procedures for Victims of Gender-Based Violence](#). These standards are based on the Essential Services Package for Women and Girls subject to Violence, previously developed by UN agencies. This comprehensive package will be adapted to the Albanian context and subsequently approved by the relevant normative framework. One of the modules of the Standard Operating Procedures (SOPs) relates to the health sector and addresses all health consequences, including the physical, mental and sexual and reproductive health consequences, of Violence against women.

Albanian authorities of central and local level, with UN agencies support, have taken concrete actions in establishing a working group to assess what is already in place with regard to the working protocols of each sector involved in the National Referral Mechanism and see how these working protocols can be standardized in accordance with the global SOPs for the referral mechanism that deal with victims of Gender Base Violence and domestic Violence. Next steps expected are the localization of these global SOPs for the Albanian context and adopt them. The comprehensive package constitutes Essential Guidelines of Multi Sectoral Response to Gender Base Violence ; SoPs for the Multi Sectoral Response to Gender Base Violence They are being consulted within technical group composed of all sectors representatives such as health, police, legal, social services and education. A road map for the approval and dissemination has been consulted with the Ministry of Health and Social Protection and will be revisited in December and January. Next year it will be shared with the National Mechanism and respective institutions will take on the dissemination for capacity building of respective staff. One important area is the development of the SoP to address Gender Base Violence in emergencies and humanitarian setting which will be part of the whole package

E. Telephone helplines (Article 24)

GREVIO encourages the authorities to ensure the financial sustainability of the new national hotline serving all victims of Violence against women. (Proposal 108)

Financial sustainability is ensured through some agreements signed between the Ministry of Health and Social Protection with mobile operators in Albania, which provide for free of charge prone call services.

F. Support for victims of sexual violence (Article 25)

GREVIO urges the authorities to set up rape-crisis centers and/or sexual violence referral centers. Such measures should be taken in the frame of a multi-sectorial response targeting the community at large and aiming at breaking the existing taboos in regard to sexual violence. Thus, GREVIO strongly encourages the authorities to take measures to encourage reporting and address the needs of victims. (Proposal 110)

Albanian authorities remain committed to address this observation and establish the rape-crisis/sexual violence referral centers in line with Istanbul Convention. This process has already started with UN agencies support by developing the model of the rape-crisis centers and/or sexual violence referral centers, which will offer a multi-sectorial response, in accordance with the Istanbul Convention. This process aims at exposing the relevant Albanian authorities to international /regional experiences and support them in understanding and better conduct a multi-sectorial response to design a model that addresses the Albanian context needs.

V. Substantive law

A. Civil law

1. Civil lawsuits and remedies (Article 29)

GREVIO urges the authorities to:

- a. include elements regarding the civil responsibility of public officials in information provided to victims in pursuance of Article 19,**
- b. clearly state the principle of civil responsibility of public officials in codes of conduct and raise their awareness in relation thereto, for instance during relevant trainings;**
- c. monitor progress in this area by keeping data on numbers of civil claims and their outcome.**

GREVIO further invites the authorities to assess which are the prevailing reasons preventing victims from accessing civil remedies against state authorities and, based on their findings, to take measures to address such causes. Such measures could include, for instance, the setting up of a specific system making it possible for court users to be compensated following dysfunctions within the court system which have affected them. (Proposal 114)

The Albanian Code on Criminal Procedures was amended in May 2017 in the context of the ongoing reform of the justice sector. (Law No.35/2017 “On amendments the law No.7905/21/03.1995 on the Code on Criminal Procedures. These amendments include a new provision (Article 58) that provides a number of guarantees for victims of crimes, including victims of gender-based violence, in criminal proceedings in accordance with international standards. The new provision aims at empowering victims of crimes by recognizing inter alia the right to various support services, the right to use his/her own language during the proceedings, the right to be informed at all stages of the proceedings, including about the arrest and release of the offender, the right to claim compensations, etc.

Paragraph 2 of Article 58 requires the public authority in charge of the criminal procedures to immediately notify the victim on the rights mentioned in paragraph 1 of this Article and keep minutes about the notification .

This provision serves as the basis for establishing civil responsibility of public officials in case they fail to provide information to victims of violence in accordance with Article 19 if the Istanbul Convention.

In addition, the amendments include e specific provision (Article 58/b) for victims of sexual violence and human trafficking recognizing their rights to: be interrogated

duly by a police officer or prosecutor of the same gender; refuse to respond to questions about their private life that clearly are not related to the case in question and c) request to be heard or testify through audiovisual technology.

2. Compensation (Article 30)

GREVIO strongly encourages the Albanian authorities to adopt measures to facilitate and guarantee access to compensation for victims of all forms of Violence against women, in particular by:

- a. reviewing the criminal and civil procedures regarding compensation from perpetrators with a view to improving their effectiveness;**
- b. ensuring that victims are systematically informed of their right to exemption from court fees;**
- c. ensuring that victims are systematically informed of their right to claim compensation and the procedures to be followed, in accordance with Article 58, paragraph 1, indent g of the Albanian Code of criminal procedure¹²¹;**
- d. enabling victims to exercise their right to compensation by guaranteeing them effective access to legal assistance and legal aid;**
- e. strengthening the capacity of law practitioners to help victims claim compensation and incorporating the issue of compensation in training programs aimed at members of the law enforcement agencies and the judiciary;**
- f. setting up a state compensation scheme accessible to victims;**
- g. monitoring progress in this area, by keeping data on numbers of compensation claims filed by victims and their outcome. (Proposal 116)**

The new amendments of the Code on Criminal Procedures, previously mentioned (article 58) recognize the right of victims of any crime, including gender-based violence, the right to request compensation and be accepted as civil plaintiff in criminal proceedings.

3. Custody and visitation rights (Article 31)

GREVIO urges the authorities to ensure that any determination of the modalities for the exercise of custody and visitation rights courts comply with the requirements of Article 31. To this end, the authorities should:

- a. *ex officio* enquire whether in case of a request for a protection order for a victim of domestic violence there are children involved and examine whether a protection order should be issued for them as well;**
- b. within the framework of any decision to issue a protection order or any other relevant court decision settling family matters where there has been/is violence (for instance, in cases of separation or divorce), make the appropriate determinations regarding custody and visiting rights, having due regard to the violence and to the best interest of the child based on a case-by-case assessment;**
- c. remedy any gap that might exist in the law as to settlement of custody and visiting rights in the course of any judicial proceedings, such as in the case of appeal against a divorce ruling;**

- d. ensure that implementing contact orders will not expose victims and their children to the risk of further harm;**
- e. monitor the courts' practice in this field and measure progress.**
(Proposal 121)

Protection of children' rights remaining among the main priorities of the Albanian authorities. This commitment is fully reflected by the approval of the new law no. 18/2017, "On the Rights and Protection of the Child", which ensures, among other guarantees, the protection of children from any form of violence.

Regarding observation 'a': Article 55 of the law, which is dealing with protection measures provides for certain types of protection measures for the children, as well as the conditions under which these measures are exercised.

The law no.18/2017 introduced for the first time conditions and criteria for issuance of protection measures for children at risk or in need of protection (see article 55). Protection orders include:

- Immediate protection measure;
- Protection measure for child assigned to alternative care;
- Protection measure for child specialized supervision.

Protective measures are taken by the Child Protection Officer and validated by the director of the social welfare structure in the municipality. Pursuant to article 62, point 6 of this law "The child protection worker, in cases of domestic violence, who also serves as a case manager, in addition to the request for the validity of the emergency protection measure or the protection measure, may initiate the process of issuing an immediate protection order or a protection order to the competent court. In this case, both requests are examined by the same judge.

On observation "b": Law 18/2017 "On the Rights and Protection of the Child", provides in article that public and non-public authorities, as well as the courts, have as the primary consideration the highest interest of the child in all actions and decisions taken in about the children. In addition, article 9 point 2 stipulates that:

- In any case, the child has the right to be heard and taken opinion or consent by the court accordance with his age and ability to understand.
- A child separated by one or both parents has the right to spend time or maintain regular personal relationships and have direct meetings with them, unless the court decides that it is inconsistent with the highest interest of his.
- Parents or guardians can not stop the child from having personal relationships with relatives, unless the court decides otherwise for reasons that impair the physical, psychological or moral development of the child.

Regarding 'Protection measure for child assigned in alternative care', article 57, paragraphs 4 and 5 stipulate that: "4. The person or institution to which the child is placed in alternative care has the same duties, responsibilities and rights as those of the guardian provided for in the Family Code, while the parents of the child, during the time of the protection measure's validity, can not exercise their parental responsibility." And "5. During the implementation of this protective measure, the child protection worker follows these issues with priority:

- a) the treatment and psycho-emotional state of the child placed in alternative care;
- b) helping and creating opportunities for parents to maintain personal contact and personal relationships with their children;
- c) the preparation of the relevant documents requested by the court in the judicial process, to confirm or not the protection measure and the placement of the child into custody;
- ç) the need to change or remove the protective measure, depending on the progress, circumstances and conditions of the case.

On observation “c”: Article 9 of this law foresees several measures related to the procedures of visits, which cover the gap that may be created in a possible case. Point 5 of this article provides that:

"In cases where there is a dispute between parents about the ways of exercising their rights to maintain contact with the child, the court establishes a timed schedule according to the age of the child, the intensity of the emotional connection the child has with the parent with whom he does live, the behavior of the latter, as well as other important aspects for the court decision on each case. This criterion is followed by the court in determining the contact of the child with other persons close to it.

Also, Article 30/6 of this law provides that: “In the event of a dispute between the parents regarding the exercise of parental rights and the fulfillment of their obligations towards the child, any one of them may seek the settlement of the dispute by the competent court. After both parents have been heard and the child's opinion is taken, the court decides in accordance with the best interest of the child.

On observation “d”: Reflected by article 62 of law no.18/2017, which provides for the protection of abused, neglected, abused and abused children, which stipulates that: “Child protection structures, based on his or her best interests, have the right to access to the apartment of the parent or natural person, as well as at the residence of the legal person who is legally responsible for the child, to verify the situation of a child identified or reported as a victim of abuse, neglect, ill-treatment and violence. When, based on circumstances and facts it is necessary, the child protection structures require support from the State Police structures.

A parent, legally responsible person, whether a natural or legal person, has a duty to cooperate with the child protection structures and provide them with the necessary information to address the situation or the case. If the abovementioned persons refuse to cooperate or impede the protection structures to make the necessary verifications, then the verification is done forcefully, with the support of the State Police bodies. Non-cooperation or prohibition of child protection structures for verification, when it does not constitute a criminal offense, constitutes an administrative offense and is punishable by a fine.

If child protection structures, after assessments, reach the conclusion that there are inherent reasons that support the existence of a high / immediate danger to the child then they have the right to take emergency measures protection for the placement of the child in alternative care.

If the assessment of a child's case results in abuse, neglect, mistreatment or violation by a person legally responsible for the care of a child as an employee of public or private care institutions, guardians, foster families, relatives, to whom the child is assigned because of a protection measure, then the defense structures take immediate measures to isolate the child from these persons and immediately notify

the police and prosecution authorities.

On observation “e”: According to article 49 of the same law no.18/2017: “The Child Protection Unit in the municipality compiles and adjusts once a year, the list of procedural representatives for children in conflict with the law, child victims and witnesses in the criminal process and sends it to local structures of the State Police, the Prosecution and the district and appeal court. Criteria and procedures for selecting procedural representatives are defined by a joint instruction of the minister coordinating the work on child rights and protection issues and the Minister of Justice.

For cases where protection measures are given to the child, the law 18/2017 in Article 51 provides for the role and competencies of the Child Protection Officers, as follows: “It monitors the progress of the implementation of the protection measure, the progress of the child's development, for which the protection measure has been set. Other professionals involved in the implementation of the protection measure or the Individual Protection Plan are obliged to keep the child protection worker informed about the progress, challenges and problems encountered during their implementation; proposes to change or remove the protection measure and / or change or end the Individual Protection Plan if there are no longer any conditions for which a measure and plan has been established or when it serves the child and / or is in its highest interest;

The law no.18/2017 has identified that the court decides on the removal of the protection measure on the basis of the request of the employee for the protection of the child, when during the main trial it is verified that the reasons that led to its placement have ceased.

In addition to the above legislative improvements, Albanian authorities, with UN agencies support, are reviewing the law on measures against violence in family relations with a specific focus on a better protection mechanisms for DV victims including children. A working group has been established by the MoHSP for improving this particular law and at present consultation process has started.

B. Criminal law

8. Sexual harassment (Article 40)

GREVIO strongly encourages the authorities to:

- a. conduct studies to gain insight into the prevalence of sexual harassment in various settings and the main obstacles preventing this phenomenon from emerging; and based on their findings, take targeted actions to lift these obstacles;**
- b. adopt codes of conducts on sexual harassment in the workplace at all levels of public administration and provide training accordingly;**

- c. strengthen data collection regarding this form of Violence against women, covering criminal, civil and disciplinary proceedings;**
- d. reinforce the role of the People’s Advocate and that of the Commissioner against discrimination in combating sexual harassment.** (Proposal 156)

Regarding observation “a”: A pilot study has been conducted in three areas of the Municipality of Tirana in the context of the “Safe Cities” initiative to identify the perception of residents (women, girls, boys and men) in relation to safety of public spaces and the impact that the infrastructure and public services have on women and girls who could potentially become target of harassment and sexual violence in these areas. Similar studies have been planned to be conducted in other districts of Tirana and other municipalities.

On observation “b”: The Albanian State Police has approved an internal policy to prevent and address harassment (including sexual harassment) in the workplace. Following the adaption of this regulation, a number of trainings have been conducted at different levels of State police. This regulation has also been integrated in the curricula of State Police Academy.

12. Prohibition of mandatory alternative dispute resolution processes or sentencing (Article 48)

b. Conciliation in civil procedures

GREVIO urges the authorities to take the necessary measures, including amending the relevant legislation, to:

- a. clearly exclude the applicability of conciliation in the course of the proceedings for the issuance of protection orders;**
- b. establish the principle that conciliation cannot be obligatory in divorce proceedings where there is violence;**
- c. incorporate a risk assessment and safeguards to ensure the full and free consent of the victim in the frame of any voluntary conciliation procedure.** (Proposal 175)

Paragraph 173 of GREVIO’s report makes a reference to Article 158/b of the Code on Civil Procedures related to reconciliation procedures. This article has been subject to the new amendments to the Code in the context of the justice reform, and has changed into **Article 158/ç** (in force as of November 5, 2017). Regarding the quote included, it is not complete, as the full sentence in the Code on Civil Procedures reads as follows: “Make every effort to settle the dispute amicably during the preparatory stage, when this is acceptable from the nature of the case”. This means that the judges have the discretion to decide on a case by case basis whether conciliation procedures are acceptable. However, the exclusion of the applicability of conciliation in the course of the proceedings for the issuance of protection orders need to be continually raised in the trainings of judges and brought to the attention of the new justice institutions such as High Judicial Council once established.

VI. Investigation, prosecution, procedural law and protective measures

C. Emergency barring and protection orders (Articles 52 and 53)

GREVIO urges the authorities to:

- a. review legal provisions applying to EBOs to ensure that in situations of immediate danger, EBOs can be issued without undue delay in order to ensure the victim's safety;**
- b. without prejudice to the need to ensure victims' immediate safety, integrate a risk assessment in the procedure for the issuance of emergency barring orders and protection orders ;**
- c. promote a more pro-active role of law enforcement, prosecution and courts by encouraging them to make use of their prerogatives whilst respecting the victims' informed choices;**
- d. ensure an effective enforcement of emergency barring orders and protection orders by the responsible agencies, in particular bailiffs¹⁶⁷;**
- e. prosecute perpetrators who violate emergency barring orders and protection orders and apply the relevant criminal sanctions;**
- f. hold to account officials who fail to enforce emergency barring orders and protection orders, by applying the relevant criminal sanctions;**
- g. identify further areas of improvement by analysing the reasons behind the high numbers of victims who do not pursue their protection under the emergency barring order/protection order mechanism. (Proposal 188)**

Having regard to the requirement in Article 53 that restraining or protection orders be available to victims of all forms of violence covered by the Convention, GREVIO further urges the authorities to introduce such forms of protection for victims of Violence against women other than domestic violence. (Proposal 189)

The MoHSP with the UN agencies support is reviewing the law on measures against violence in family relations. The proposed amendments to this law are currently under review and consultation process. The proposed amendments to this law take the compliance approach with the Istanbul Convention and CEDAW. The proposed amendments aim at better harmonization of domestic violence definition and other relevant terms with the Istanbul Convention and CEDAW. This will ensure the effective application of such harmonized definitions in practice. Protective measures provided for in the proposed amendments have been improved in the context of the immediate protection order and the protection order and responsibilities of courts, local DV coordinator and other relevant local state and non-state actors are better stipulated. These amendments ensure better access to courts and contribute to better enforcement of judiciary procedures. In short, the proposed amendments ensure better protection to involved parties, better harmonization with international and regional standards set by the above-mentioned conventions and provides for more effective protection measures for DV victims.

GREVIO urges the authorities, in close co-operation with the Order of Psychologists, to take the necessary measures to ensure that:

- a. in all cases where a protection order is issued for victims of domestic violence, the situation of child witnesses is systematically – regardless of a specific request from the applicant – examined to determine whether they too should benefit from a protection order;**
- b. psychological reports submitted before courts respond to the necessary criteria of professionalism and objectivity;**
- c. the fees for the obligatory psychological report do not constitute a barrier to access justice. (Proposal 191)**

The newly approved law no.18/2017 “On the rights and protection of children” (in force as of 09.06.2017) provides for the right of every child to free of charge legal and psychological aid during an administrative or judicial trial (article 29). Regarding the advising and coordinating institutional mechanism for the protection of children rights, the law provides that those do exist at both levels: central and local level (article 34).

E. Measures of protection (Article 56)

GREVIO invites the authorities to ensure that all the requirements in Article 56 on protective measures are effectively implemented in practice, for all women victims of violence. (Proposal 203)

The recent amendments of the Code on Criminal Procedures provide a number of guarantees for victims of crimes, which are to a considerable extent in accordance with the requirements of indents b (on the right to be informed of the release from prison of the perpetrator), c (right to be informed), d (right to be heard), e (right to be supported) and h (right to interpretation) of paragraph 1 of Article 56.

In addition, the amendments include a specific provision (Article 58/b) for victims of sexual violence and human trafficking recognizing their rights to: be interrogated duly by a police officer or prosecutor of the same gender; refuse to respond to questions about their private life that clearly are not related to the case in question and c) request to be heard or testify through audiovisual technology.

Finally, the new article 58/a of the Code on Criminal Procedures provides a number of additional rights to children victims of crimes.

F. Legal aid (Article 57)

GREVIO urges the authorities to take the necessary legislative and other measures to:

- a. establish and fund appropriately an effective system of legal aid for the victims of all the forms of Violence against women covered by the Convention, based amongst others on the involvement of adequately trained lawyers;**
- b. ensure that victims are properly informed of their right to access legal aid;**
- c. recognize, support and promote the work of NGOs specialized in procuring legal assistance to victims. (Proposal 206)**

With the support of UN agencies and the EU, a new draft law on legal aid has been developed and is under review process. The draft law on legal aid underwent consultation rounds with NGOs experienced in free legal aid . The latest draft provides for victims of Domestic Violence, victims of sexual violence and victims of trafficking as special beneficiaries that would benefit free legal automatically. The draft law on free legal aid after being reviewed by the Laws Commission was approved in principle and is foreseen to get approval by the Parliament by end of this year.