

MONITORING REPORT

ON COMPLIANCE OF NATIONAL STANDARDS,
LEGISLATION AND PUBLIC POLICIES WITH THE
COUNCIL OF EUROPE CONVENTION ON PREVENTING
AND COMBATING VIOLENCE AGAINST WOMEN
AND DOMESTIC VIOLENCE

Association SOS Help-line for Women and Children – Victims of Violence

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**Monitoring report on compliance of national standards, legislation
and public policies with the Council of Europe Convention on Preventing
and Combating Violence against Women and Domestic Violence**

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Association SOS Help-line for Women and Children – Victims of Violence

The Association SOS Help-line for Women and Children – Victims of Violence was founded as the initiative of activist feminist women in 1989 and is the first non-governmental organisation in Slovenia specialised in dealing with violence against women, and helping women and children who are experiencing violence. We are a women's non-governmental, non-profit and humanitarian organization that works in a public interest in the field of social security and in the field of equal opportunities (statuses conferred by the state). We are the first Slovenian NGO with confirmed status in the field of equal opportunities.

Our mission is to help, support and counsel women and children who have experienced or are still experiencing violence in their families and relationships. Needs of users are a basis for all our services and work in the field of lobbying and awareness raising campaigns. The basic principle for the activities of the Association SOS Help-line is that the violence against women – even though it usually happens within families and intimate relations – is not a personal but a social problem, which has its roots in non-equal distribution of power between women and men. We believe, as also recognized by the United Nations Declaration on the Elimination of Violence against Women, that violence against women:

- constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms,
- is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women,
- is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men,
- is an obstacle to the achievement of equality, development and peace.

Acronyms

Analysis of compliance - Analysis of compliance with state standards, legislation and public politics with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

CEDAW Committee – UN Committee on the Elimination of Discrimination against Women

CoE – Council of Europe

Convention – The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

CSD – Centre for social work

EC – European Commission

EU – European Union

Explanatory Report – *Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210).*

FRA – *European Union Agency for Fundamental Rights*

Istanbul Convention – The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence

MDDSZEM – The Minister of Labour, Family, Social Affairs and Equal Opportunities

MIZŠ – Ministry of Education, Science and Sport

MNZ – Minister of the Interior

MP – Ministry of Justice

MZZ – Ministry of Foreign Affairs

NGO – Non-governmental organization

PIC – Legal-Informational Centre for NGOs

RS – Republic of Slovenia

UN – United Nations

ZRSZZ – Employment Service of Slovenia

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Introduction

Monitoring report on compliance of national standards, legislation and public policies with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence was created in scope of project »Coordinated efforts - Toward new European standards in protection of women from gender based violence«, which is co-funded by European Union and is running from 2012 to 2016. The partners in this project are: Autonomous Women's Centre (Serbia), which is the partner holder, the rest are: Centre for Women War Victims (Croatia), Association National Council for Gender Equality (Macedonia), United Women Banja Luka (Bosnia and Herzegovina), Women's Safe House (Montenegro) and WAVE (Austria) and Association SOS Help-line (Slovenia).

At the end of 2014 *Analysis of compliance with state standards, legislation and public politics with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (in Slovenia) (Veselič, Matko, 2014) was published. In June 2013 Legal-Informational Centre for NGOs (PIC) published the *Analysis of Influence of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) on the Slovenian legislation* (Šifkovič Vrbica, 2013), which was the basis for the above analysis. This report references both sources and indicates the changes in the legislation and public practises in the implementing of 51 articles of the Convention, which are monitored in the project.

This report is meant for monitoring the implementing of provisions of the Convention the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Convention) and it is an effort to have a short overview of changes that occurred after the *Analysis of Compliance* (Veselič, Matko, 2014) was published.

On implementing of the Convention

The Republic Of Slovenia has on 19 December 2014 with the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence¹ ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. Upon ratifying Republic of Slovenia took all possible reservations. The Republic of Slovenia took these reservations for the duration of five years with the possibility of extension.

¹ Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence came into force on 15. 2. 2015.

The reservations that the Republic of Slovenia took cover the following areas:

- Adequate state compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or state-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety. – Article 30, paragraph 2.
- Parties shall take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed by a person who has her or his habitual residence in their territory. – Article 44, paragraph 1, item e.
- For the prosecution of the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction is not subordinated to the condition that the acts are criminalised in the territory where they were committed. – Article 44, paragraph 3.
- For the prosecution of the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction in regard to items d and e of paragraph 1 is not subordinated to the condition that the prosecution can only be initiated following the reporting by the victim of the offence or the laying of information by the state of the place where the offence was committed. – Article 44, paragraph 4.
- Parties shall ensure that investigations into or prosecution of offences established in accordance with Articles 35, 36, 37, 38 and 39 of this Convention shall not be wholly dependent upon a report or complaint filed by a victim if the offence was committed in whole or in part on its territory, and that the proceedings may continue even if the victim withdraws her or his statement or complaint. – Article 55, paragraph 1 taking into account Article 35.
- Parties shall take the necessary legislative and other measures to ensure that the statute of limitation for initiating any legal proceedings with regard to the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, shall continue for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of proceedings after the victim has reached the age of majority. – Article 58.
- Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by internal law. – Article 59, paragraph 1.
- Parties shall take the necessary legislative or other measures to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to a residence status dependent on that of the spouse or partner as recognised by internal law to enable them to apply for an autonomous residence permit. – Article 59, paragraph 2.

- Parties shall issue a renewable residence permit to victims in one of the two following situations, or in both: (a) where the competent authority considers that their stay is necessary owing to their personal situation (b) where the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings. – Article 59, paragraph 3.
- Parties shall take the necessary legislative or other measures to ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status. – Article 59, paragraph 4.

The Convention promotes the acceptance of the necessary legislation changes. From this point of view the reservations that the Republic of Slovenia took are meaningless. From the Proposal of Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Erjavec, 2014), it can be seen that the reservations were taken wherever the legislation is not in accordance with the Convention, which is not the purpose of the reservations. These reservations have thus prevented the discussion on the changes of legislation and the acceptance of adequate measures, according to Obran (2015b).

Because provisions of the Convention do not interfere with provisions of internal law and binding international instruments, which are already in force or can become, because the Convention is not implemented the Non-governmental organizations (NGO) that operate in this area have begun with the activities for the implementations of the provisions of the Convention. To this end proposals for the change of legislation were created, a campaign for raising the awareness of general public and a campaign for decision makers were carried out. The NGOs have gathered at a meeting and have prepared the proposals for changing the Criminal Code and Family Violence Prevention Act. Additionally proposals for the following Acts were created: Legal Aid Act (Bervar Sternad, 2014), Family Violence Prevention Act (Obran, Hrovat, ed., 2015), Criminal Code (Obran, Bervar Sternad, ed., 2015), Police Tasks and Powers Act, Criminal Procedure Act, Proposals and remarks for the Resolution of National Programme of Family Violence Prevention 2009-2014 (Zabukovec Kerin, Hrovat 2015).

In 2015 an amendment to Criminal Code (KZ-1C) was adopted, which came into force on October 2015. In this amendment changes that result from compliance with the Convention are included, also new criminal acts have been included (Forced marriage or similar partnership, Article 132.a, Stalking, Article 134.a). NGOs are finding that only a small part of corrections which we proposed are included in the amendment. Some proposals of NGOs and other organisations from this field have been rejected in this way (e.g. new criminal act of disclosure of the location of crisis centres, safe houses and other safe shelters, change of criminal act family violence).

In 2015 at the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZEM) a working group for the preparation of new resolution on the national program for preventing family violence was created, the old resolution was valid until 2014, the working group is also preparing the amendments for the Family Violence Prevention Act. The group had its founding meeting in July 2015 and another meeting in December 2015.

A formation of Coordinating body at the Ministry of Labour, Family, Social Affairs and Equal Opportunities is in process, as defined in Article 10 of the Convention.

Even from everything written above it is seen, that the status in the field of implementing the provisions of the Convention not much has changed from 2014. The report covers 51 Articles of the convention which we also follow on the interactive database on the web page: <http://www.podpisem.org/slo/>. The Articles of the Convention are followed on the database in two ways, according to the status and with the help of indicators. Both documents and methodologies, to which the monitoring of the implementation of the Convention is carried out, have been developed in the scope of the project "Coordinated efforts - Toward new European standards in protection of women from gender based violence".

The report on compliance of the legislation and public policies

Chapter I – Purposes, definitions, equality and non-discrimination, general obligations²

Article 3 – Definitions

For the purpose of this Convention:

- a. *“violence against women” is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life;*
- b. *“domestic violence” shall mean all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim;*
- c. *“gender” shall mean the socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men;*
- d. *“gender-based violence against women” shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately;*
- e. *“victim” shall mean any natural person who is subject to the conduct specified in points a and b;*
- f. *“women” includes girls under the age of 18.*

We are still talking about the family violence and not about the violence against women or gender based violence. The national legislation does have an Act or an Article in the Act or any other legal document that would directly cover violence against women. In the legislation that refers to family based violence, this is not specifically defined according to gender. In legal documents or in documents that define public policies in Slovenia (i.e. resolutions and action plans), there is no definition of gender. There is still the non-compliance of the definition of a family member between the Family Violence Prevention Act and the Criminal Code (KZ-1). In ZPND an addition is necessary that also persons living in partnership without common habitat or children are family members. These are so called intimate-partner relationships, where there has been no formal forming of partnership.

Family Violence Prevention Act defines a family member, which suffers from violence of another family member as a victim in Article 3 of the Act and uses the same term in the rest of the Act.

² Articles are for the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Zakon o ratifikaciji Konvencije Sveta Evrope o preprečevanju nasilja nad ženskami in nasilja v družini ter o boju proti njima, Ur. l. RS – Mednarodne pogodbe, št. 1/15, 5. 1. 2015)

Regarding the children and victims of violence a victim is also defined an individual who was a witness to family based violence (Article 4).

Article 5 – State obligations and due diligence

1. *Parties shall refrain from engaging in any act of violence against women and ensure that state authorities, officials, agents, institutions and other actors acting on behalf of the state act in conformity with this obligation.*
2. *Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-state actors.*

Family Violence Prevention Act speaks about due diligence in this field in Article 5. State in regulations and procedures³ defines coordinated action of the authorities and organizations to deal with cases of violence. It also specifies the compulsory full-time education, training and professional training for male and female workers and employees of NGOs. Mentioned in particular are the police, health care, social care and educational institutions, professional workers and workers from the authorities and organizations responsible for carrying out tasks in the field of violence and of NGOs and judicial system.

State bodies and organizations except the Police (Kodre, 2015) did not lead the procedures of complaints against its employees regarding family violence. The field is insufficiently regulated; records of the content of the proceedings against the employees are not kept.

Sector for complaints against the police (Kodre, 2015) received in 2014 two complaints and in 2015 until 13 October 2015 one complaint against police officers in dealing with family violence. As regard to the complaints against the work of professional workers in social protection, Social inspection (Stefanovski, 2015), which operates at the Inspectorate of Labour, replied that data that are processed, do not include data on the content of the complaints. Thus, data on the number of complaints related to family violence cannot be forwarded.

The Inspectorate for Education and Sport (Kozlevčar, 2015) replied that they “address cases of violence in schools - peer, violence professionals, and have recorded two cases that question the adequacy of the action of the school on the basis of the Rules on dealing with family violence for educational institutions. Rules provide the conduct of employees of public educational institutions and private educational institutions that implement a publicly valid program on

3 Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centres in dealing with domestic violence - Pravilnik o sodelovanju organov ter o delovanju centrov za socialno delo, multidisciplinarnih timov in regijskih služb pri obravnavi nasilja v družini, Ur. l. RS, št. 31/09, Rules on procedures for dealing with domestic violence in the implementation of health activities - Pravilnik o pravilih in postopkih pri obravnavanju nasilja v družini pri izvajanju zdravstvene dejavnosti, Ur. l. RS, št. 38/11, Rules on police cooperation with other bodies and organizations in the detection and prevention of family violence - Pravilnik o sodelovanju policije z drugimi organi in organizacijami pri odkrivanju in preprečevanju nasilja v družini, Ur. l. RS, št. 25/10, Rules on the Treatment of Domestic Violence for Educational Institutions - Pravilnik o obravnavi nasilja v družini za vzgojno-izobraževalne zavode, Ur. l. RS, št. 104/09.

detection of violence against children in the family, forms of assistance to the child who is the victim of violence in educational institutions and the cooperation of educational institutions with the national authorities, bearers of public powers and providers of public services in cases of violence against children in the family.”

Regarding the proceedings before international courts on the due diligence in 2015 the Case (441107/10) Y. v. Slovenia was held at the European Court of Human Rights. European Court of Human Rights in that case ruled in favour of the applicant Y in August 2015. The court found that the Article 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms was violated. The Court found that the Slovenian authorities did not ensure prompt investigation and prosecution in connection with the application’s complaint of sexual abuse and also that the Article 8 of the Convention was violated. The Slovenian authorities in criminal proceedings concerning sexual abuse failed to protect the applicant’s integrity.

Chapter II – Integrated policies and data collection

Article 7 – Comprehensive and co-ordinated policies

- 1. Parties shall take the necessary legislative and other measures to adopt and implement state-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.*
- 2. Parties shall ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all relevant agencies, institutions and organisations.*
- 3. Measures taken pursuant to this article shall involve, where appropriate, all relevant actors, such as government agencies, the national, regional and local parliaments and authorities, national human rights institutions and civil society organisations.*

Co-ordinating policies on the prevention and combating of domestic violence are defined in the Family Violence Prevention Act (ZPND), as well as the rules and procedures⁴ in this field. At the Ministry of Labour, Family, Social Affairs and Equal Opportunities (MDDSZEM) a new Resolution of National Programme of Family Violence Prevention and the amendment to the ZPND is in preparation in the working group. In the process of setting up the coordinating body for monitoring the implementation of the Convention at the MDDSZEM is, they began with the process of selecting representatives of NGOs in this body.

⁴ Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centres in dealing with domestic violence - Pravilnik o sodelovanju organov ter o delovanju centrov za socialno delo, multidisciplinarnih timov in regijskih služb pri obravnavi nasilja v družini, Ur. l. RS, št. 31/09, Rules on procedures for dealing with domestic violence in the implementation of health activities - Pravilnik o pravilih in postopkih pri obravnavanju nasilja v družini pri izvajanju zdravstvene dejavnosti, Ur. l. RS, št. 38/11, Rules on police cooperation with other bodies and organizations in the detection and prevention of family violence - Pravilnik o sodelovanju policije z drugimi organi in organizacijami pri odkrivanju in preprečevanju nasilja v družini, Ur. l. RS, št. 25/10, Rules on the Treatment of Domestic Violence for Educational Institutions - Pravilnik o obravnavi nasilja v družini za vzgojno-izobraževalne zavode, Ur. l. RS, št. 104/09..

The Republic of Slovenia is a state party to The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). The CEDAW (2008) Committee already in 2008, in the concluding observations in paragraph 24 urged the Republic of Slovenia that the issue of gender-based violence has to be comprehensively addressed, in accordance with the General Recommendation No. 19 from 1992. It is concerned about the absence of a comprehensive national strategy and programs for action against all forms of violence against women and girls. The Committee recommends to the State to develop a comprehensive strategy or action plan to prevent and eliminate all forms of violence against women and girls. The country was invited to include an analysis of the effects of the implementation of the ZPND in its next periodic report, and analyse all cases of murders of women by their intimate partners. On this basis, the state should take effective measures to protect women against this form of violence.

In The fifth and sixth periodic report to the CEDAW Committee (2013) number of murders in the family from 2008 to 2012 is stated and the fact that the majority of victims are women. Analysis of the effects of the implementation of the ZPND is not mentioned.

CEDAW Committee in the concluding observations (2015, item 20c) in the November 2015 from the hearing of The fifth and sixth periodic report to the CEDAW Committee (2013) urged the State to establish a permanent mechanism to coordinate, monitor and assess the effectiveness of measures to address violence against women and that this mechanism has adequate human and financial resources.

Article 8 – Financial resources

Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat all forms of violence covered by the scope of this Convention, including those carried out by non-governmental organisations and civil society.

Financial resources dedicated for this field in the previous years have not changed. Programs (programs to prevent violence, treatment of victims of violence and programs for work with perpetrators of violence) are co-financed on the basis of the Resolution on the national social assistance programme 2013-2020. Resolution is the basic program document of Slovenia in the field of social assistance for the period until 2020 and has been adopted in April 2013. The MDDSZEM co-finance up to a maximum of 80 % of the value of the program, the rest however, providers must obtain from other sources. The programs are co-financed by the funds provided by local communities and grants.

Funding allocated in 2014 amounted to EUR 2,228,732 (Smolej et al., 2015), 80% of which was allocated to NGOs.

The funding of preventive programs is insufficient, since in practice the lack of it is very clear. Co-financed are only curative programs. NGOs each year, at least during the Day for the Elimination

of Violence against Women from 25 November to 10 December organize public awareness campaigns with regard to the phenomenon of violence against women and domestic violence.

On the need to finance awareness-raising campaigns in its conclusions noted also the CEDAW Committee (2015, item 20g).

Due to the intervention laws that have been adopted in the light of the austerity policies due to the economic crisis, impact on the super saturation of the work of competent state institutions is visible. In particular, this is observed in the work of police and Centres for Social Work (CSD). Due to overload of staff in the police, the courts and to the CSD and elsewhere, the practice in this area is deteriorating. In 2015, still we see a lot of distrust of the public as well as women – victims of violence for the work of institutions in the field of preventing violence against women.

Article 9 – Non-governmental organisations and civil society

Parties shall recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.

Family Violence Prevention Act (ZPND) defines the operation of NGOs and their role in dealing with domestic violence, giving them a special place in the network of actors in the field of prevention of domestic violence (Article 10, Article 17). Participation of NGOs in working bodies in the preparation of changes in this area is satisfactory.

NGOs in Slovenia provide a confidential, anonymous and free telephone counselling for individuals experiencing violence. Personal counselling and other psychosocial support for women and children who are experiencing violence. Safe accommodation in a safe house and/or crisis centre for individuals who are experiencing violence. Self-help groups for women who are experiencing violence. Companion to the institutions for women experiencing violence. Advocacy for individuals who are experiencing violence. Individual counseling and self-help groups for women who experience violence. Advice for individuals who cause violence and social skills training for men, causing violence against women. Socializing - individual assistance to children and young people who are experiencing violence. Counselling for victims of human trafficking, crisis accommodation for victims of human trafficking and assistance for victims of trafficking in organizing their return home. Help to the victims of human trafficking to (re)-social and labour inclusion. Workshops for pupils and students of primary and secondary school. Education, awareness and information for experts, stakeholders and the general public. Organizing social action, cooperating with the media and issuing publications and others.

Article 10 – Co-ordinating body

1. *Parties shall designate or establish one or more official bodies responsible for the co-ordination,*

implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by this Convention. These bodies shall co-ordinate the collection of data as referred to in Article 11, analyse and disseminate its results.

2. *Parties shall ensure that the bodies designated or established pursuant to this article receive information of a general nature on measures taken pursuant to Chapter VIII.*

3. *Parties shall ensure that the bodies designated or established pursuant to this article shall have the capacity to communicate directly and foster relations with their counterparts in other Parties.*

In Slovenia, in 2015, the co-ordinating body is in the phase of setting up. Ministry of Labour, Family, Social Affairs and Equal Opportunities is establishing the co-ordinating body. The body will be made up of representatives of all relevant ministries, representatives of NGOs working in the field of prevention of domestic violence.

The Republic of Slovenia is one of the countries which in the time of writing these document have failed to fulfil the requirement of establishing a co-ordinating body for preventing and combating violence against women, which would in addition to monitoring the implementation of policies and measures also concern for evaluation in the field of violence against women (Veselič, Matko, 2014).

Article 11 – Data collection and research

1. *For the purpose of the implementation of this Convention, Parties shall undertake to:*
 - a. *collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention;*
 - b. *support research in the field of all forms of violence covered by the scope of this Convention in order to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement this Convention.*
2. *Parties shall endeavour to conduct population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of this Convention.*
3. *Parties shall provide the group of experts, as referred to in Article 66 of this Convention, with the information collected pursuant to this article in order to stimulate international co-operation and enable international benchmarking.*

CEDAW Committee in the concluding observations (2015, item 20f) from addressing the Fifth and Sixth official report of the Republic of Slovenia urged the State to establish unified mechanism for the systematic collection of statistical data, disaggregated by sex, age and relationship between the perpetrator and the victim, on complaints, investigations, prosecutions, convictions and sentences imposed on perpetrators of violence against women.

There is still a large part of the violence against women and domestic violence that is not reported. The data therefore does not show the real picture about such acts. Awareness of professional and general public on the reporting of violence is still at a low level. This is reflected in the attitudes and tolerance of violence against women and domestic violence. Data in this

area is generally very deficient.

With the adoption of the Family Violence Prevention Act (ZPND) the Social work centres became responsible for managing the data on all cases that they dealt with (PIC, 2011).

Republic Slovenia in the Resolution of National Programme of Family Violence Prevention 2009-2014 also committed to improve national statistics on domestic violence and for this purpose the competent ministries should develop a plan of data collection on violence in the private sphere and partner relations on the basis of the indicators adopted by the European Community (Veselič, Matko, 2014). It failed to fulfil its commitment as NGOs have identified in the Proposals at the drafting of a new Resolution of National Programme of Family Violence Prevention (Zabukovec Kerin, Hrovat, 2015).

The collection of data is regulated by the Personal Data Protection Act, which does not refer directly to violence against women and domestic violence and is regulating everything concerning the collection of data collected by state institutions.

Regarding the data collection on violence each area has its own regulation (Leskošek, 2013a). The definitions of violence as well as data collected at each institution are specified differently, and in accordance with the protection of personal data. Institutions have for the purpose of data collection set up special departments which are responsible for data collection.

The creation of a specific offense Domestic violence (Article 191) in the Criminal Code made it possible to monitor the number of cases dealt with domestic violence in official statistics, which previously due to the “diversification” in the number of offenses was not possible. It should be understood that the offense Domestic violence includes in addition to psychological and economic violence only mild forms of physical violence, whose victims had not suffered injury. Severe forms of violence and sexual violence remain in official statistics still “hidden” in the context of severe (general) criminal offenses (Filipčič, 2013).

The national survey entitled The incidence of violence and responses to violence in the private sphere and partnership relations (Pojavnost nasilja in odzivnost na nasilje v zasebni sferi in partnerskih odnosih) (Leskošek, Urek, Zaviršek, 2010) was made in 2010, last year the EU-wide survey was published, which was made by the European Union Agency for Fundamental Rights – FRA (FRA, 2014).

Chapter III – Prevention

Article 15 – Training of professionals

1. *Parties shall provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this Convention, on the prevention and detection of such violence, equality between women and men, the needs and rights*

of victims, as well as on how to prevent secondary victimisation.

2. Parties shall encourage that the training referred to in paragraph 1 includes training on co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this Convention.

The Family Violence Prevention Act (ZPND) and Resolution of National Programme of Family Violence Prevention 2009-2014 includes education and training of professional workers (Šifkovič Vrbica, 2013). The working group on the MDDSZEM is preparing a new Resolution and the amendment to the Family Violence Prevention Act.

Education and training of professional workers are still unsatisfactory. In practice, a special lack of knowledge in the work of court experts is noted. In practice, it may still happen that a woman - victim of violence comes into contact with a police officer, social worker, doctor who does not know the issue of violence against women.

When the CEDAW Committee considered the official report of the RS at its session in October 2015 in the recommendations (2015, item 20g) also noted on education of professional workers. In particular, the Committee draws attention to the training of judges, prosecutors and other law enforcement staff.

Article 16 – Preventive intervention and treatment programmes

1. Parties shall take the necessary legislative or other measures to set up or support programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in interpersonal relationships with a view to preventing further violence and changing violent behavioural patterns.

2. Parties shall take the necessary legislative or other measures to set up or support treatment programmes aimed at preventing perpetrators, in particular sex offenders, from re-offending.

3. In taking the measures referred to in paragraphs 1 and 2, Parties shall ensure that the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programmes are set up and implemented in close co-ordination with specialist support services for victims.

The Family Violence Prevention Act (ZPND) (Article 14) provides that the national program also includes preventive activity. Resolution of National Programme of Family Violence Prevention 2009-2014 includes the strategy about work with perpetrators of domestic violence.

The Association for Nonviolent Communication provides programs for the perpetrators. Since 2004 it is implementing the program of social skills training for men, causing violence against women (DNK, 2014). The program has over time expanded and is currently taking place in seven towns in Slovenia (Ljubljana, Celje, Nova Gorica, Murska Sobota, Slovenj Gradec, Koper, Novo mesto). In 2014 (DNK, 2015) 370 users were involved; of which approximately five users participate in the program, due to the recurrence of violence.

Regarding the referral of perpetrators of violence to the appropriate educational, psycho-social and medical programs carried out by bodies and organizations and NGOs, the organizations suggested in the amendment to the ZPND (Obran, Hrovat, ed., 2015) that the act in order to increase the safety of victims and preventing further violence includes a new measure, which would be issued by the court, this is the referral of the perpetrators of violence to the appropriate educational, psycho-social and medical programs carried out by bodies and organizations and NGOs. For the prevention of domestic violence it is not enough only to help the victims, but also the in-depth work with the perpetrators of violence (and of course full implementation of prevention work). Perpetrators of violence on their own in most cases are not motivated to engage in such programs, so the motivation must come from outside. Also the referral itself is insufficient but has to be accompanied by an appropriate sanction for not attending a program.

Chapter IV – Protection and support

Article 18 – General obligations

1. *Parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence.*
2. *Parties shall take the necessary legislative or other measures, in accordance with internal law, to ensure that there are appropriate mechanisms to provide for effective co-operation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence covered by the scope of this Convention, including by referring to general and specialist support services as detailed in Articles 20 and 22 of this Convention.*
3. *Parties shall ensure that measures taken pursuant to this chapter shall:*
 - *be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;*
 - *be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment;*
 - *aim at avoiding secondary victimisation;*
 - *aim at the empowerment and economic independence of women victims of violence;*
 - *allow, where appropriate, for a range of protection and support services to be located on the same premises;*
 - *address the specific needs of vulnerable persons, including child victims, and be made available to them.*
4. *The provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator.*
5. *Parties shall take the appropriate measures to provide consular and other protection and support to their nationals and other victims entitled to such protection in accordance with their obligations under international law.*

In accordance with the Resolution of National Programme of Family Violence Prevention 2009-2014 measures in the Family Violence Prevention Act (ZPND) only complement the already existing measures and do not replace or diminish their importance. This emphasis is especially important in the protection of juvenile victims of domestic violence. Protection of children at risk, which also include minor victims of domestic violence are governed by the Marriage and Family Relations Act (ZZZDR), and is irrespective of the type or source of threats to the system regulated by family legislation. Childcare requires also other approaches, as is the duty of the state to follow the child, irrespective of his desire or expectation. Therefore, the ZPND with regard to measures for the protection of minor victims refers to the law governing family relations. The mutual provision of information and assistance between national authorities, public authorities, public service, local government bodies and NGOs, structure, composition and working methods of multidisciplinary teams to deal with domestic violence in the Centres for social work, inter alia is defined in the Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centres in dealing with domestic violence (Veselič, Matko, 2014).

Existing services are free of charge; the problem represents a regionally uneven distribution of services and the lack of easy access to free psychotherapeutic treatment and free legal aid. Services are funded from the public budget - the Ministries and the local communities - foundations and donations. Research and practice testify to the fact that the institutions in which women seek help, do not always work in accordance with the principles of the protection of victims of violence, victims in proceedings which are long experience secondary victimization, in practice, a lot of work still has to be done to achieve the purpose of the provisions of the Convention.

Shortcomings in the assistance to women - victims in Slovenia are different. They do not have equal access to the various forms of assistance in many regions in Slovenia, They remain in violent partner relationships because of economic dependence. They have problem with housing when their period of stay in a safe house expires. Also, the strict availability of financial assistance increases their economic dependence.

The needs of vulnerable groups: Roma women, migrant women, older women, women with mental health problems, addictions, and disabilities are not addressed. Institutions often women - victims of violence direct to safe houses, instead of removing the perpetrator of violence from the family home.

Insufficient human resources at the police, the prosecutor's offices, courts, the Centres for social work and elsewhere, consequently law of protection against violence is deteriorating. Professional workers who have contact with victims or perpetrators of violence against women and domestic violence are often not adequately trained and do not have knowledge in this issue.

Article 19 – Information

Parties shall take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.

In practice, the NGOs note that there is no proper and timely information for victims of all forms of violence, as foreseen by the Convention and is stated in the Explanatory Report to the Convention (CoE, 2011).

Police Tasks and Powers Act (ZNPPol), requires from the police duty to immediately inform the competent Centre for social work about the imposed measure injunction, in accordance with the Rules on police cooperation with other bodies and organizations in the detection and prevention of domestic violence but the police must notify the Centre for social work of any other cases of perceived violence in the family. The purpose of the notice is to offer assistance to the victim from the Centre for social work within its jurisdiction and coordination assistance of other authorities and organizations. Unfortunately, an analysis of victims' cooperation with the Centre for social work after such notification by the police has not been done summarizes Filipčič (2013).

A measure of the operative part of which is the competence of the police, in addition to that another important goal of this is to allow the centres for social work and NGOs to enter into a family with a view to providing assistance to the victim. Police Tasks and Powers Act (ZNPPol) in Article 60 states: "About a planned action police immediately notifies the relevant local Centre for social work, which gives the victim the information on organizations that are available to her for the material and non-material assistance and on her desire to facilitate contact with such organization" (Filipčič, 2014b).

For information an important role play NGOs which provide professional support services, as is often the case that victims have a bad experience and mistrust in government institutions that provide general support services.

Article 20 – General support services

1. *Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.*

2. *Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced and professionals are trained to assist victims and refer them to the appropriate services.*

Services in this area are not particularly specialized in working with victims of violence.

None of the authority and organization (except for some NGOs) is established for the sole purpose of helping victims of domestic violence. This means that it is dealing with domestic violence just as one of their many tasks. Therefore, the Family Violence Prevention Act (ZPND) clearly states that cases of violence are addressed as a priority over other tasks that are otherwise required to carry out (Filipčič, 2014b).

Centres for social work are those with which victims most often come into contact, but we see that professional workers are often not sufficiently aware of the issue of violence against women and domestic violence. This leads to false readings and errors in the work with victims of violence. The basic task of Centres for social work or social assistance is to help individuals solve the problems; they cannot solve themselves, as enshrined in Article 1 of the Social Security Act (ZSV): Social care organization comprises of preventing and solving social problems of individuals, families and groups. With the ZPND, the Centres for social work got specific tasks, which are linked to the treatment of victims of domestic violence.

Victims are referred to various institutions and also cooperate with the Employment Service of Slovenia (ZRSZZ), if necessary, but the victims of violence in these institutions are not receiving special treatment.

Women remain in violent partner relationships mainly due to economic dependency. Special programs to reduce unemployment are needed and the solutions for housing problems of victims of violence, and to add the special factor – violence to obtain social assistance.

With regard to housing in some municipalities in the public tenders for renting non-profit housing provides that women and women with children who are victims of violence receive for the status, certified by the Centre for social work or NGO (safe houses, maternity home) a certain number of points.

Ministry of the Environment and Spatial Planning has for the implementation of public tenders accepted Rules on the rental of non-profit apartments, as it is uploaded to the Housing Act (SZ-1). This policy pays special attention to solving the housing problems of victims of domestic violence as follows:

- Victims of domestic violence may participate in tenders for non-profit housing in the temporary place of residence (which is an exception to the general rule that a person can apply for housing only in the municipality of residence). The provision of paragraph 2 of Article 3 of the Rules states: "Victims of domestic violence with the temporary residence in maternity homes/shelters, help centres for crime victims, can participate in the tender for non-profit housing in the place of temporary residence."
- Among possible priority categories the allocation of non-profit housing specifically lists the victims of domestic violence (Article 6 of the Rules). Renters and landlords, are the ones who in the actual tender to identify priority categories. In the absence of the analysis calls for

non-profit housing, we do not know in how many cases non-profit housing have been rented to victims of domestic violence as a priority category in the tender (Filipčič, 2014b).

Victims of violence are according to the ZPND, Article 27 entitled to free legal aid running on the victim's proposal for measures under Articles 19 and 21 of this Act.

With regard to the counselling programs we note the lack of programs and regional non-coverage with these programs. The comments and proposals for the preparation of a new resolution on preventing of family violence (Zabukovec Kerin, Hrovat, 2015) has highlighted the need for the establishment of a network of free counselling assistance programs for victims of violence throughout the country, including the establishment of free specialized therapeutic programs providing assistance to victims of violence.

Article 21 – Assistance in individual/collective complaints

Parties shall ensure that victims have information on and access to applicable regional and international individual/collective complaints mechanisms. Parties shall promote the provision of sensitive and knowledgeable assistance to victims in presenting any such complaints.

As we wrote in the Analysis of the Compliance (Veselič, Matko, 2015, p. 81) Republic of Slovenia is the party to most major international mechanisms of human rights. A special mechanism to assist victims in filing complaints to this mechanism does not exist, except lawyers and attorneys.

Article 22 – Specialist support services

- 1. Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short- and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.*
- 2. Parties shall provide or arrange for specialist women's support services to all women victims of violence and their children.*

Resolution on the national social assistance programme 2013-2020 provides a network of programs for the prevention of violence, programs to help victims of violence and programs for work with perpetrators of violence:

- Preventive programs,
- Information and Advisory Program and telephone counselling,
- Programs of coordination, support and implementation of aid and self-help,
- Accommodation programs,
- Therapeutic programs (Veselič, Matko, 2014).

These programs are verified and have been co-financed by the MDDSZEM⁵ for many years. The Ministry annually issues a Call for tenders for social protection programs. Applicants should, in their actions demonstrate the verification document, or at least have a positive opinion of the Social Chamber of Slovenia. The call for tenders for social protection programs lists conditions to which programs must conform. On verification of the programs the adequacy of the program is verified on spot. In accordance with the legislation the Ministry monitors the programs. Their providers are mainly NGOs and humanitarian organizations as well as individuals, and in the area of programs for the disabled, organizations for people with disabilities. The programs are designed to address social distress of individuals and groups in a way that mostly take into account users' needs and the specific needs of the local environment in which they are implemented. Co-financing of programs is gained by the State, local communities and users and other interested parties.

Article 23 – Shelters

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.

According to the MDDSZEM (Ferlan Istinič, 2015) 13 safe houses are co-financed, which are spread over 17 locations. In 2015 the first co-funded program that covers violence against people with disabilities was established, under which it is possible to secure accommodation at a secret location. Program is carried out by the Society for physically handicapped people with disabilities Slovenia – Vision, the program can accommodate 5 people who are physically disabled.

Four shelters are run by social work centres and 12 by women's NGOs, one is provided by a religious organization.

Association SOS Help-line has since 2009 a place in a shelter that can accommodate a woman or a child with physical disabilities. One shelter is specialized in accommodation of women users of illegal drugs and those on the substitution therapy who have survived or are experiencing violence in the family, a relationship, by pimps on the street and in need of a safe place (Stigma, društvo za zmanjševanje škode zaradi drog).

The condition for the implementation of public social welfare programs of the Resolution on the national social assistance programme 2013–2020 is to candidate in the tender for co-financing of social security programs, compliance with the tender conditions, a contract with the ministry and subsequent verification program.

⁵ For more see the web page: http://www.mddsz.gov.si/si/delovna_podrocja/sociala/programi_socialnega_varstva/, 20. 11. 2015.

Number of places in shelters meets the standard (one place for a family per 10,000 inhabitants).

Shelters are geographically spread across Slovenia (Smolej et al., 2015).

The shelters are not accessible 24 hours/day, for 24 hours per day the crisis centres are accessible, to where women and their children can be admitted immediately.

In Slovenia there are three crisis centres that operate 24 hours per day. In the network of social assistance programs operates one crisis centre for victims of violence (KC Ljubljana), two crisis centres for victims of violence and their children work as part of the public service under the of the Centre for Social Work in Maribor (KC Maribor) and the Centre for Social Work Piran (KC Piran) (Ferlan Istinič, 2015).

In 2014 were 584 women and children – victims of violence in Shelters (Ferlan Istinič, 2015).

Article 24 – Telephone helplines

Parties shall take the necessary legislative or other measures to set up state-wide round-the-clock (24/7) telephone helplines free of charge to provide advice to callers, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of this Convention.

Resolution on the national social assistance programme 2013-2020 provides telephone for counselling (telephone counselling programs).

In Slovenia, since 1989 there is a program of SOS Help-line for Women and Children - Victims of Violence at the Association SOS Help-line for women and children - victims of violence. SOS Help-line works 10 hours per day on working days and 4 hours during weekends and holidays.

Free counselling help-line SOS Help-line for women and children - victims of violence - 080 11 55: operates on weekdays from 12:00 to 22:00 (10 hours); Saturdays, Sundays and holidays from 18:00 to 22:00 (4 pm) – women counsellors at the SOS Help-line are available to users 58 hours per week. SOS Help-line does not operate 24 hours a day, due to financial and personnel reasons (Veselič, Matko, 2015).

Program SOS Help-line operates in the field of social protection. It is aimed at addressing and alleviating social distress and difficulties with the implementation of various forms of psychosocial assistance, especially for women and children - victims of domestic violence, in partner and other family relationships (Društvo SOS telefon, 2015a).

In 2014 in the program SOS Help-line there were 3502 services (Number of advisory services represents the number of all the consulting activities and special treatment on the reported cases to the institutions in 2014) (Društvo SOS telefon, 2015a).

Article 25 – Support for victims of sexual violence

Parties shall take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims.

Resolution on the national social assistance programme 2013-2020 provides the network programs, which also include counselling programs, which include programs of counselling services for victims of violence, where also the victims of sexual violence can receive support.

In Slovenia there is no crisis centre that would also provide medical and forensic examination, support and assistance to the victims. There are programs counselling of NGOs that focus on victims of sexual violence. Victims of sexual violence who need an accommodation can be accommodated in existing safe accommodation - shelters for victims of violence (CoE in Veselič, Matko, 2015, p. 86).

Article 26 – Protection and support for child witnesses

1. *Parties shall take the necessary legislative or other measures to ensure that in the provision of protection and support services to victims, due account is taken of the rights and needs of child witnesses of all forms of violence covered by the scope of this Convention.*
2. *Measures taken pursuant to this article shall include age-appropriate psychosocial counselling for child witnesses of all forms of violence covered by the scope of this Convention and shall give due regard to the best interests of the child.*

The children - witnesses of violence are under Slovenian legislation especially protected (Family Violence Prevention Act (ZPND), Marriage and Family Relations Act (ZZZDR), Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centres in dealing with domestic violence, the UN Convention on the Rights of the Child).

From the text written above it can be concluded that the legislation on the protection of children - witnesses of violence is well regulated, but practice shows a different picture. In this respect there are different experiences with the Centres for social work - some professional workers treat children as victims of violence, some do not (according to experience, less of them treat the child as a victim). Even with the courts the story is similar or worse, since the experience is that they set up contacts with the father, if the child is “only” an indirect victim (Fras, 2014).

Interests of the child mean that the state or its bodies pursue the principle of the child’s interests in all proceedings conducted where the child is involved. It should be noted that the term interests of the child is in practice understood primarily general. What is the interest of the child shall always be determined in each procedure (Fras, 2014).

Article 27 – Reporting

Parties shall take the necessary measures to encourage any person witness to the commission of acts of violence covered by the scope of this Convention or who has reasonable grounds to believe that such an act may be committed, or that further acts of violence are to be expected, to report this to the competent organisations or authorities.

Family Violence Prevention Act (ZPND) in Article 6 speaks about duty to report family violence. Officials in accordance with Article 281 of the Criminal Code (KZ-1) are required to immediately report family violence.

In Slovenia, the reporting of violence is possible to the relevant institutions (police, Centres for social work, the prosecutor's office). Anonymous reporting to the police and Centres for social work is also possible, via a free of charge anonymous phone of police or by an anonymous e-mail. It can also be reported to NGOs working in this field, also as anonymous reporting and the NGOs then report to the competent state institutions.

Despite the duty of reporting violence of agencies and organizations, and professional workers, this does not happen often; moreover, there are no mechanisms that would promote it. In cases where violence is reported there is no comprehensive support - psychosocial, legal, that the victim could receive irrespective of where she is located.

Reporting of violence by witnesses of violence in Slovenia is low because the awareness of domestic violence is low. It is still ruled by prejudices such as that violence is a private problem, or a family secret. All this cannot help victims, because they feel more shame and guilt because of this kind of denial of the social environment. The silence of the surroundings the victims can understand in a way that the surrounding sympathizes more with the perpetrators than with them. The tolerance for violence is still high. Recent research shows that the tolerance is even increasing, especially among younger generations (Sedmak, Kralj, 2013).

Article 28 – Reporting by professionals

Parties shall take the necessary measures to ensure that the confidentiality rules imposed by internal law on certain professionals do not constitute an obstacle to the possibility, under appropriate conditions, of their reporting to the competent organisations or authorities if they have reasonable grounds to believe that a serious act of violence covered by the scope of this Convention, has been committed and further serious acts of violence are to be expected.

The Family Violence Prevention Act (ZPND) regulates the duty of reporting in Article 6. Article 6 imposes reporting on all authorities and organizations to report violence to Centres for social work.

For the suspension of a report the ZPND does not provide any sanctions. Sanctions are set in the Criminal Code (KZ-1) in the context of the offense suspension of complaint of the crime or the perpetrator of Article 281. It does not matter whether a child or an adult was victim of a crime. Essential is the weight of the offense, as it sets over the penalty in KZ-1. The duty of reporting is stricter in the case of an official, since she faces a penalty of suspension of the reporting also for lighter criminal offences. Thus, certain duty to report for individuals is established in the criminal law over several decades (Filipčič, 2014b).

ZPND regulates one exception, when the duty to report is not included. This is where the victim is strongly opposed to the report and it is not a criminal offense that is prosecuted ex officio. In this way, the ZPND recognizes the autonomy of the victim in deciding whether her experience with violence can be disclosed, but this is limited to mild forms of violence, when a criminal offense is prosecuted by private prosecution or on proposal (Filipčič, 2014b).

The annual report on the work of the Police for 2014 (MNZ, 2015) says that the number of useful anonymous e-applications received by the police in 2014 was 589 (these were specific incriminating events and data to allow further investigation), 91 on domestic violence.

Organizations that have submitted Proposals to the Family Violence Prevention Act (Obran, Hrovat, ed., 2015) are reminding that the text of Article 6 is not proper, because professional workers from different areas are not familiar with the descriptions of the criminal offenses, and not with the elements of the offense that law enforcement authorities are looking for. It is inadequate that professional workers who are not professionally educated in the legal field should assess whether an act of violence is causing offense and whether the offense is prosecuted ex officio. Therefore, the wording of the provision should be rewritten so that the duty to notify will not be connected with the knowledge of the Criminal Code or the law. In practice, it happens that professional workers do not report violence or they are finding excuses in that the victims oppose the reporting, as described in Article 6. But when it comes to suspicion that the victim is a child, they must immediately inform the Centre for Social Work, the police or the Prosecutor's Office.

Chapter V – Substantive law

Article 29 – Civil lawsuits and remedies

1. *Parties shall take the necessary legislative or other measures to provide victims with adequate civil remedies against the perpetrator.*
2. *Parties shall take the necessary legislative or other measures to provide victims, in accordance with the general principles of international law, with adequate civil remedies against state authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers.*

According to the Code of Obligations (OZ-UPB1) it is possible to file a civil complaint against the accused, in so far as the criminal court has not decided within the framework of criminal proceedings on the property legal claim to which the defendant was prior warned (Šifkovič Urbica, 2013).

Legal means exist, but to assess the effectiveness of measures/provisions no data is available.

Article 30 – Compensation

1. *Parties shall take the necessary legislative or other measures to ensure that victims have the right to claim compensation from perpetrators for any of the offences established in accordance with this Convention.*
2. *Adequate state compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or state-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety.*
3. *Measures taken pursuant to paragraph 2 shall ensure the granting of compensation within a reasonable time.*

The Republic of Slovenia took a reservation regarding the paragraph 2 of Article 30 of the Convention. Obran (2015b) says about the reservation taken, that according to the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Erjavec, under Section 3. Reservations and Declarations, states that the Republic of Slovenia will under the paragraph 2 Article 30 of the Convention, took a reservation because the Crime Victim Compensation Act (ZOZKD) states that the formal conditions for recognition of a compensation, is that the applicant is a citizen of the Republic of Slovenia or another EU Member State (Article 5), among material conditions for the recognition of compensation also provides that “there are reasonable grounds for believing that against the applicant a violent intentional act was committed “ (1st indent of Article 6), and that the offense was committed “in the territory of the Republic of Slovenia, Slovenian ship or on a Slovenian aircraft, irrespective of locating of the criminal offense “. That means, Obran (2015b)

says, that the Act does not recognize the right to compensation for victims of crimes which have been committed by negligence, to victims who are aliens, and at the same time not citizens of EU Member States, and even if the offense was committed abroad, it is under jurisdiction of the Republic of Slovenia. The state must abolish the discrimination, and thus remove the reason for the reservation of paragraph 2 of the Article 30 of the Convention.

Criminal Procedure Act (ZKP) and the Code of Obligations (OZ) and the Crime Victim Compensation Act (ZOZKD) speak about compensations.

The Code of Obligations (OZ) regulates when and who and under what conditions may file an action for damages (Šifkovič Vrbica, 2013).

According to Obrán (2014b) the Crime Victim Compensation Act (ZOZKD) is discriminatory because the formal requirement to obtain compensation under this Act is the citizenship of the Republic of Slovenia or any other EU Member States. As noted already above.

Article 31 – Custody, visitation rights and safety

1. *Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account.*
2. *Parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.*

Family Violence Prevention Act (ZPND) in Article 20 (protection of children), in conjunction with Article 19 (prohibition of violent conduct), which provides in paragraph 2 the duty of Centres for social work to carry out specific measures for the protection of the child in accordance with the Marriage and Family Relations Act (ZZZDR-UPB1). Marriage and Family Relations Act (ZZZDR-UPB1) is governing the protection of minors, regardless of the source or the nature of the threat (Šifkovič Vrbica, 2013).

About care and upbringing of the children Centre for social work writes an opinion, a court decides in the case of divorce (which is typical in cases of domestic violence).

In practice, we are observing a lot of shortcomings in regulating the contacts with children:

- The perpetrator of violence asks for the contact with children, shortly after victim's arrival in the women's shelter,
- In practice it is not understood that a child is a victim of violence, even if he/she is the witness,
- In determining custody for the child and establishing the contacts it is insufficiently taken into account that the family violence was present or this fact is minimized,
- In the case of sexual violence the contacts are often enabled under control, since the fathers deny to child abuse and they say that the mother is lying, etc.

Article 32 – Civil consequences of forced marriages

Parties shall take the necessary legislative or other measures to ensure that marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim.

Marriage and Family Relations Act (ZZZDR-UPB1) inter alia lays down the conditions for an establishment and validity of marriage. It may be concluded between two persons of different sex through freely consensus statement on marriage before the competent national authorities. Statement by the spouses on marriage must be free as is in the case that consent was forced or given in error, the marriage invalid. For the marriage both must be adults. In exceptional cases a marriage may also be allowed to a minor, but after a preliminary interview with the minor, its future spouse, their parents or guardian and the Centre for Social Work. Annulment of marriage must be requested before the court and the same rules apply for a divorce. In some cases, cancellation of the marriage may be requested (Article 34 of ZZZDR-UPB1) in addition to the spouse also anyone who has an interest (i.e. the heirs of the deceased) and the public prosecutor (Šifkovič Vrbica, 2013).

In order to satisfy the requirements of the Convention, all these proceedings should exempt victims from all fees and costs. It can be implemented on the basis of instructions (Šifkovič Vrbica, 2013).

Article 33 – Psychological violence

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of seriously impairing a person's psychological integrity through coercion or threats is criminalised.

P psychological violence (Filipčič, 2014a) is in the Convention defined as “an act which by force or threat affects mental integrity of the persons covered by the following criminalization of the Criminal Code (KZ-1):

- in the criminal offense under Article 296 (Violent Conduct) various forms of placing another in a subordinate position are covered, which is psychological violence. According to the Constitutional Court (decision I Ips 194/2009) this is a collective criminal offense for the commission of which is not enough a onetime conduct.
- in the criminal offense under Article 135 (Threat) a threat to another person for the purpose of intimidation or excitement are contained, with no intention of ferrying that person in a subordinate position. Unlike Article 296 and Article 191 KZ-1 a onetime conduct is enough to complete this offense. This means that, according to paragraph 181 of the Explanatory report that it is psychological violence, enforced by the threat, criminalized even stricter than those required by the Convention.

KZ-1, in addition to offenses stated above specifically criminalizes psychological violence in the two areas where victims are particularly vulnerable (Filipčič, 2014a):

- Psychological violence in the family or other living communities covered by the criminal act of Family violence under Article 191, covers executing the same shape as the Article 296 (in addition to them also stalking), only that the penalty is higher if they had been made in existing or dissolved family or other permanent community.
- Psychological harassment in the workplace is covered by the criminal act of hazing in the workplace in Article 197 of the KZ-1.

Dr. Katja Filipčič (2014a) in her opinion to the Ministry of Justice argues that the KZ-1 is in line with Article 33 of the Convention.

In 2015 the amended Criminal Code (KZ-1C) to the criminal offense Threats (Article 135) was adopted. After the amendment the offense is again prosecuted on the proposal.

Article 34 – Stalking

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of repeatedly engaging in threatening conduct directed at another person, causing her or him to fear for her or his safety, is criminalised.

The amendment to the Criminal Code (KZ-1C) added a new criminal offense of Stalking in Article 134.a.

Before the adoption of the amendment stalking has been in the Criminal Code as a criminal act only if committed in a family or other community (even after it has collapsed) in Family Violence Article 191 of the Criminal Code (KZ-1). The Protection of Public Order Act (ZJRM-1) in the Article 6 defines as an offense the conduct of anyone who “stalks”. Police deals with this violation in an emergency procedure (Filipčič, 2014a).

Obran (2015a) is saying that on the basis of the new Article 134.a of the KZ-1C stalkers, who repeatedly threaten or frighten individuals (not as a short-term fear, but as a more permanent state of fright) in their normal work, movement, activities or of privacy, can be prosecuted. The executing of repetitive behaviour is essential, disposable onetime harassment is not enough.

Article 35 – Physical violence

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of committing acts of physical violence against another person is criminalised.

The Criminal Code (KZ-1), according to dr. Filipčič (2014a) is in line with Article 35 of the Convention. KZ-1 criminalizes the different intensities of physical violence in a number of articles (both in Chapter Crimes against life and body, as well as outside, eg. Violent Conduct in Article 296, Family Violence in Article 191, Threat in Article 135).

PIC (Šifkovič Vrbica, 2013) says that Slovenian legislation governs physical violence or violent conduct in the same way as is in the Convention, because in the two statutory provisions (the first governs relations only in family communities, while others govern violent conduct in general - therefore, irrespective of the personal relationship between the offender and the victim) such conduct is defined as a criminal offense. KZ-1 in Article 296 simply further specifies what actions may be considered as violent conduct - but these actions are listed by way of example, which means that other actions or behaviour are not excluded. It is not an exhaustive determination of practices which would exclude any other, because the first paragraph of that statutory provision expressly provides that the crime of violence also means differently forcibly limiting the same rights of the person, who is brought into a subordinate position.

Article 36 – Sexual violence, including rape

1. *Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:*
 - a. *engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object;*
 - b. *engaging in other non-consensual acts of a sexual nature with a person;*
 - c. *causing another person to engage in non-consensual acts of a sexual nature with a third person.*
2. *Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.*
3. *Parties shall take the necessary legislative or other measures to ensure that the provisions of paragraph 1 also apply to acts committed against former or current spouses or partners as recognised by internal law.*

The Criminal Code (KZ-1), according to dr. Filipčič (2014a) is consistent with this Article. KZ-1 criminalizes rape (Article 170) and other forms of violations of sexual integrity (sexual violence - Article 171, sexual abuse of defenceless persons - Article 172, violation of sexual integrity by abuse of position - Article 174). Slovenia has introduced a rich legal practice regarding the understanding of the legislation on sexual intercourse and sexual violence, which covers all the acts listed in the first paragraph of Article 36 of the Convention. Therefore Filipčič believes that complementing of these crimes by enforcing practices, such as those listed in paragraph 1 of Article 36 of the Convention, is not necessary. From the descriptions of specific offenses in the KZ-1 it is clear that the relationship between the perpetrator and the victim cannot be an exculpation reason, which stresses in particular the 3rd paragraph of Article 36 and Article 43 of the Convention.

Also, according to the PIC (Šifkovič Vrbica, 2013) KZ-1 defines sexual violence in a similar way as the Convention. With regard to the 3rd paragraph of Article 36 of the Convention, the provisions of the KZ-1 also show that these offenses are prosecuted for both current and former spouses and partners. The mere fact that the prosecution for the crime of rape under Article 170 KZ-1 and for sexual violence by Article 171 KZ-1, if the perpetrator is a person with

whom the victim lives in a marriage, extramarital or registered same-sex partnership, is only started on a proposal does not alter the fact that such conduct is criminalized even between spouses, cohabiting partners or partners in a registered same-sex partnership. Regarding the former spouses, unmarried partners and same-sex registered partners these are subject to the general provisions. All the requirements of this Article of the Convention are in Slovenian legislation already satisfied.

Reports of sexual violence and rape in Slovenia are very few, fewer than these crimes actually happen as estimated by NGOs⁶.

Article 37 – Forced marriage

1. *Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised.*
2. *Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or state other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.*

In the amendment to the Criminal Code (KZ-1C) a new Article 132a Forced marriage or the establishment of similar relationship was added.

In 2014 The Social Protection Institute of the Republic of Slovenia made a report entitled Forced marriages of Roma girls (Narat et al., 2014). The results of the report show that the problem of forced marriages of Roma is all but negligible. Centres for social work due to the protection of personal data of persons are not dealing with the ethical origin and therefore they do not want or cannot report data on ethnic origin. According to the authors of the report, the number of cases of forced marriages is higher than those that were acquired for the purpose of the report. In favour of the fact that the number of forced marriages of children in reality is much higher than shown, is that this kind of marriage is often informal, done according to traditional practices or cohabitation is already considered as marriage. The waiver of a minor age, which can be confirmed only by Centres for social work, is thus not necessary, and consequently information about such marriage practices fail to reach competent institutions or at least not according to these channels. The information obtained by gender we have to therefore take with a reservation (it has been shown that it is not necessary that only females are victims of forced marrying, because a similar fate may befall boys). Girls are frequently taken in foreign countries (e.g. In Germany, Italy, France, Sweden), while the boys find brides in countries such as Albania, Macedonia, Bosnia and Herzegovina, Bulgaria - the latter may be in the statistics of Centres for social work even more frequently recorded as a girl, just because of the alleged frequent demand after seeing a minority in the competent centres. According to what is written above the authors propose the introduction of an offense of forced marriage and the inclusion of forced marriage as a form of violence in the relevant strategic documents, awareness of the existence of the problem of forced marriages, to provide adequate and accessible emergency

6 More is about sexual violence in Slovenia written in Analysis of Compliance (Veselič, Matko, 2015, p. 107).

accommodation for victims of forced marriage, to promote the organization of events, debates and conferences on the topic of forced marriage, the organization of education and training of various target groups, development of programs offering anonymous forms of assistance to (potential) victims of forced marriage, keeping of records of data on forced marriages and tracking the undertaking of multidisciplinary approach to solving the problem of forced marriages.

Experience of NGOs shows that institutions in Slovenia prosecute only a few cases and don't bring the cases to a positive conclusion for the victim and often do not react (the belief that forced marriages is Roma culture, "Gypsy business", that the girls are mature, that it is a matter of choice, fear and prejudices against Roma). The girls because of fear or belief do not escape, and they have very little information (Djoković, 2014).

Article 38 – Female genital mutilation

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- a. excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris;*
- b. coercing or procuring a woman to undergo any of the acts listed in point a;*
- c. inciting, coercing or procuring a girl to undergo any of the acts listed in point a.*

According to dr. Filipčič (2014a) the female genital mutilation (all forms listed in Article 38 item a) is represented in the Slovenian criminal legislation as the injury. Depending on the intensity of the interference in the body and the continuity of consequences of female genital mutilation in the context of serious or grievous bodily harm, this is also a punishable offence. Detailed description of forms of genital mutilations in the Convention does not affect the previous findings and such a casuistic approach of the Convention does not oblige the state to explicitly list all forms as a statutory criminal offense, if the traditional approach to criminalizing is different, more abstract and, according to the settled interpretation of bodily injury it is indisputably clear that it criminalizes all forms of individual female genital mutilation.

Article in item b also criminalises the "coercing or encouraging women to undertake acts described in item a". In paragraph 200 of the Explanatory Report it is explained that assistance to the perpetrator of the mutilation of the genitals is criminalized (and is not relevant to the question of the consent of adults in mutilation or to solicit adult women to undergo mutilation, as is apparent from paragraph 201 of the Explanatory Report). Help to offense after Article 38 of the Criminal Code (KZ-1) is also criminal, and thus help the offender at risk of female genital mutilation, as described in item b in Article 38 of the Convention. Filipčič emphasizes that the theory of criminal law, the consent of the women in the mutilation would not deprive the unlawful conduct of the perpetrator (Bavcon in Filipčič, 2014a).

Article 38, item c refers to the minor victims and disseminates a set of practices that constitute

an aid to perpetrator of the offense in such a way that the conduct referred to in item b adds “Incitement” of adolescent girls to undergo mutilation. Paragraph 201 Explanatory report specifically emphasizes that with this extra treatment it wanted to include the pressure of parents or relatives to young girls. According to the definition of criminal support under Article 38 KZ-1 it is not an impediment to the conduct of such parents identified to support in the act of the perpetrator, but also as a separate offense under the criminal offense under Article 192 KZ-1: Neglect and Maltreatment of a Child. Filipčič (2014a) says that KZ-1 is in line with Article 38 of the Convention.

Awareness of this criminal act in Slovenia is low. It is happening behind closed doors, high profile media event hasn’t happened yet as, for example, can be said of forced marriage, so also there is not much public awareness.

The Ministry of Justice (Pličanič, Ban, 2013) in 2013 in respect of this criminal offense, inter alia, stated: “that the wording of Article 38 in its present form is suitable for Third World Countries where the problem of female genital mutilation is still present and where there are problems with criminalization of harmful practices. In Slovenia and other Member States of the Council of Europe, where the practice does not occur, such wording in the Criminal Code is not required, especially because female genital mutilation is already criminalized under the classical offense serious injuries⁷.”

Article 39 – Forced abortion and forced sterilisation

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalised:

- a. performing an abortion on a woman without her prior and informed consent;*
- b. performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure.*

Dr. Filipčič (2014a) says that sterilization constitutes interference in the human body with permanent consequences, and therefore the legislation of the Republic of Slovenia constitutes an offense of serious injuries in the Criminal Code (KZ-1) and it is not necessary to specifically criminalize it. Sterilization is always illegal (and represents a criminal offence) when the statutory conditions laid down in the Health Measures in Exercising Freedom of Choice in Childbearing Act (ZZUUP) (age 35 years old, an explicit request for sterilization, committee that make decision...) are not fulfilled. According to the legislation, sterilization is illegal unless the following criteria are met; the prior consent of the women, if they have not met the other legal requirements (age, proceeding), which means that the Slovenian legislation is more stringent than the Convention. Filipčič conclude that KZ-1 is in line with this Article of the Convention.

⁷ More is about female genital mutilation in Slovenia written in Analysis of Compliance (Veselič, Matko, 2015, p. 114 – 116).

Article 40 – Sexual harassment

Parties shall take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction.

PIC (Šifkovič Vrbica, 2013) says that Slovenian criminal legislation is criminalizing only sexual harassment in the workplace, because there, based on the facts of sexual harassment most often occurs. Even if sexual harassment is not specifically criminalized in criminal legislation, this does not mean that the provision of the Convention is not already embedded in our legal system. The provision of the Convention, which governs sexual harassment, provides that States Parties shall take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical sexual acts with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, will be criminally or otherwise legally sanctioned.

It requires from that States Parties to criminally or otherwise legally sanction sexual harassment. As it is obvious, the Convention does not provide for criminal liability only and consequent penal sanctions, but also different legal sanctions - an alternative to imposing sanctions. Article 179 of the Code of Obligations (OZ-UPB1) provides fair financial compensation to the victim, if the circumstances of the case, in particular the degree of pain and fear and their duration justify it, for the endured physical pain, for suffered psychological pain due to the reduction of life activities, defamation of reputation and honour or degradation of freedom or personal rights or death of a person close to them and fear, regardless of any pecuniary damages recovered, even if no pecuniary damage. The amount of compensation for non-material damage depends on the interest of the affected goods and the purpose of the compensation, but it may not support the aspirations incompatible with its nature and purpose. Article 181 of the Code of Obligations (OZ-UPB1), which governs the violation of dignity, stipulates that the right to a fair financial compensation for mental anguish of suffering person who was by deception, coercion or abuse of some relationship of subordination or dependency seduced to a criminal sexual intercourse or another sexual act, as well as the person against whom some other crime against dignity of personality or morality was committed.

The scope of research field of sexual harassment and gender based harassment in Slovenia is defective. Last Slovenian national representative survey on the phenomenon of sexual harassment, which was made in the area of sexual harassment in the workplace was conducted in 1998 under the Slovenian public opinion polls, says Jogan (in Veselič, Matko, 2014, p. 120), this is five years before Slovenia brought prohibition of sexual harassment in labour legislation.

Article 41 – Aiding or abetting and attempt

1. *Parties shall take the necessary legislative or other measures to establish as an offence, when committed intentionally, aiding or abetting the commission of the offences established in accordance with Articles 33, 34, 35, 36, 37, 38.a, and 39 of this Convention.*
2. *Parties shall take the necessary legislative or other measures to establish as offences, when committed intentionally, attempts to commit the offences established in accordance with Articles 35, 36, 37, 38.a and 39 of this Convention.*

Aiding or abetting an attempt to all crimes (not only those put forward by the Convention) are punishable under Article 37 and 38 of the Criminal Code (KZ-1). Both forms are punishable even if the offense remains in the attempt (Article 39 KZ-1) (Filipčič, 2014a).

According to Article 8 of the Minor Offences Act (ZP) it is punishable as abetting or assisting in the offense, but only if the offense is also completed (Article 10 of the Minor Offences Act (ZP) states that an attempt of the offense is not punishable). That is only relevant in connection with stalking under Article 34 of the Convention, which (outside the family or other separation) is defined as an offense⁸. However, since the Convention in paragraph 1 of Article 41 is not accurate to an extent that would specifically require the criminalization of participation practices, even if unlawful conduct remains in an attempt dr. Filipčič (2014a) concludes that the Slovenian legislation is in line with paragraph 1 of Article 41 of the Convention.

The attempts defined in paragraph 2 of Article 41 of the Convention under the provisions of Article 34 of the KZ-1 for all criminal offenses for which a sentence of three years' imprisonment or more, and for minor criminal offenses only if in the criminal offense this is expressly provided (Filipčič, 2014a).

Article 42 – Unacceptable justifications for crimes, including crimes committed in the name of so-called “honour”

1. *Parties shall take the necessary legislative or other measures to ensure that, in criminal proceedings initiated following the commission of any of the acts of violence covered by the scope of this Convention, culture, custom, religion, tradition or so-called “honour” shall not be regarded as justification for such acts. This covers, in particular, claims that the victim has transgressed cultural, religious, social or traditional norms or customs of appropriate behaviour.*
2. *Parties shall take the necessary legislative or other measures to ensure that incitement by any person of a child to commit any of the acts referred to in paragraph 1 shall not diminish the criminal liability of that person for the acts committed.*

Dr. Filipčič (2014a) in her opinion on this article wrote:
Paragraph 1 of Article 42 refers to the prohibition of unlawful exclusion of crimes to

⁸ With the new criminal act defined in Article 34 of this document this change.

take into account the culture, traditions, honour and other similar reasons. According to the legislation of the Republic of Slovenia, the unlawfulness of actions can be ruled out because of self-defence, justifiable extreme force, the consent of the offender (only for dispositive goods). Within any of these institutes cannot be taken into account culture, tradition or honour as the reasons for the exclusion of unlawful acts.

Although the term “justification” referred to in paragraph 1 as a rule does not cover the exclusion of guilt Filipčič (2014a) emphasizes that our system cannot exclude guilt because of the perpetrator referencing said circumstances. This could possibly be only the recognition of the unavoidable legal error (if the perpetrator has valid reason to believe that his conduct was not prohibited), but such a reason did not fall within the framework of compelling reasons under paragraph 2 of Article 31 of the KZ-1. The term “justification” does not cover attenuating circumstances, because they are already in the area of sentencing, when therefore there are no grounds for exclusion of illegality or guilt.

Paragraph 2 of Article 42 requires from the States to ensure the criminal liability of persons who induce minors (under the age of criminal responsibility) to commit any of the offenses under the Convention. According to the legislation of the Republic of Slovenia, the instigator can be punishable as if the offense was committed by himself (Article 37 KZ-1) and his liability is not dependent on the direct fault of the perpetrator. In addition, the Criminal Code also knows the institute of indirect perpetrator (Article 20 KZ-1) in cases where influencing the direct perpetrator exceeds the definition of incitement (Filipčič, 2014a).

Article 43 – Application of criminal offences

The offences established in accordance with this Convention shall apply irrespective of the nature of the relationship between victim and perpetrator.

All offenses under the Convention are treated as criminal offenses regardless of the relationship between the offender and the victim (the type and form of the relationship does not affect the illegality of an act). For certain offenses, the relationship between them affects the shape of law enforcement or the amount of the penalties, which the Article 43 of the Convention does not cover. The Criminal Code (KZ-1) is consistent with this Article, says dr. Filipčič (2014a).

The same also argues PIC (Šifkovič Vrbica, 2013) when it wrote that, in view of the fact that all these crimes are criminalized in the KZ-1 are addressed with whatever the nature of the relationship between the victim and the perpetrator is. 4 and 6 Article 1 of the KZ-1, which govern its personal value, do not exclude the illegality and criminality of the conduct constituting criminal offenses, because of the relationship between the victim and the perpetrator, so that also this provision is already included in the KZ-1.

Article 44 – Jurisdiction

1. *Parties shall take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention, when the offence is committed:*
 - a. *in their territory; or*
 - b. *on board a ship flying their flag; or*
 - c. *on board an aircraft registered under their laws; or*
 - d. *by one of their nationals; or*
 - e. *by a person who has her or his habitual residence in their territory.*
2. *Parties shall endeavour to take the necessary legislative or other measures to establish jurisdiction over any offence established in accordance with this Convention where the offence is committed against one of their nationals or a person who has her or his habitual residence in their territory.*
3. *For the prosecution of the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction is not subordinated to the condition that the acts are criminalised in the territory where they were committed.*
4. *For the prosecution of the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, Parties shall take the necessary legislative or other measures to ensure that their jurisdiction as regards points d and e of paragraph 1 is not subordinated to the condition that the prosecution can only be initiated following the reporting by the victim of the offence or the laying of information by the state of the place where the offence was committed.*
5. *Parties shall take the necessary legislative or other measures to establish jurisdiction over the offences established in accordance with this Convention, in cases where an alleged perpetrator is present on their territory and they do not extradite her or him to another Party, solely on the basis of her or his nationality.*
6. *When more than one Party claims jurisdiction over an alleged offence established in accordance with this Convention, the Parties involved shall, where appropriate, consult each other with a view to determining the most appropriate jurisdiction for prosecution.*
7. *Without prejudice to the general rules of international law, this Convention does not exclude any criminal jurisdiction exercised by a Party in accordance with its internal law.*

Republic of Slovenia took a reservation on item e of the first paragraph of Article 44 of the Convention and the 3rd and 4th paragraphs of this article.

Obran (2015b) in respect to item e of the first paragraph of this article says that the Proposal of the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Erjavec, 2014), explains that the Slovenian substantive criminal law does not recognize the concept of habitual residence (*običajno prebivališče*). This concept does not exist in other areas of legislation. In this respect, the reservation is meaningful.

With regard to the 3rd paragraph of Article 44 of Obrán (2015b) points out the text from Proposal of the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Erjavec, 2014), namely that in the Slovenian legislation

there is double criminality requirement for jurisdiction of the Republic of Slovenia if the crime was committed abroad (paragraph 3 of article 14 of the Criminal Code (KZ-1)), in some cases, the offender may be prosecuted with the permission of the Minister of Justice. However Obran thinks it would be good to reconsider amending this provision KZ-1 as one can imagine cases where a Slovenian citizen commits a crime of family violence in any of the countries where violence against women is not a criminal offence (because also in this case Slovenian KZ-1 applies for a Slovenian citizen, even if the offense is committed abroad, as it says in Article 12 KZ-1). Obran added that we are aware of that a thorough consideration would be required on the amendment of those provisions, but we believe that a reservation stops any attempt to do this or to have a debate on the amendment and should therefore be eliminated.

For the 4th paragraph of Article 44 the Government of the Republic of Slovenia in Proposal of the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Erjavec, 2014), explains that in Convention, certain offenses like rape and sexual violence are in the Republic of Slovenia prosecuted on the proposal if they are committed in the marriage, cohabiting or registered same-sex partnership. From this perspective, the reservation is meaningful, says Obran (2015b).

The amendment to the Criminal Code (KZ-1C) in Article 15.a enforced a change in the prosecution of perpetrators of crimes committed in damage of minors; the perpetrators are prosecuted *ex officio*.

Article 45 – Sanctions and measures

1. *Parties shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include, where appropriate, sentences involving the deprivation of liberty which can give rise to extradition.*
2. *Parties may adopt other measures in relation to perpetrators, such as:*
 - *monitoring or supervision of convicted persons;*
 - *withdrawal of parental rights, if the best interests of the child, which may include the safety of the victim, cannot be guaranteed in any other way.*

Dr. Filipčič (2014a) says that the Convention leaves the determination of the type and level of penalties to States Parties, while keeping them responsible that the sanctions will be effective, proportionate and dissuasive to the gravity of criminal acts. Exhaustive list of some sanctions recommended to the Parties for acceptance, but they are not bound to do so. Filipčič says that the Criminal Code (KZ-1) is in line with Article 45.

PIC (Šifkovič Vrbica, 2013) says that KZ-1 in Articles 2 and 3 governs the legality of criminal sanctions and a system of criminal sanctions. The second paragraph of Article 3 states that the penalties must be in proportion to the seriousness of the offense and the guilt of the perpetrator.

NGOs are concerned since Family Violence Prevention Act (ZPND) (Obran, Hrovat, ed., 2015) does not introduce sanctions for valuating of the measures that are defined in the Act.

Article 46 – Aggravating circumstances

Parties shall take the necessary legislative or other measures to ensure that the following circumstances, insofar as they do not already form part of the constituent elements of the offence, may, in conformity with the relevant provisions of internal law, be taken into consideration as aggravating circumstances in the determination of the sentence in relation to the offences established in accordance with this Convention:

- a. the offence was committed against a former or current spouse or partner as recognised by internal law, by a member of the family, a person cohabiting with the victim or a person having abused her or his authority;*
- b. the offence, or related offences, were committed repeatedly;*
- c. the offence was committed against a person made vulnerable by particular circumstances;*
- d. the offence was committed against or in the presence of a child;*
- e. the offence was committed by two or more people acting together;*
- f. the offence was preceded or accompanied by extreme levels of violence;*
- g. the offence was committed with the use or threat of a weapon;*
- h. the offence resulted in severe physical or psychological harm for the victim;*
- i. the perpetrator had previously been convicted of offences of a similar nature.*

Dr. Filipčič (2015a) on this Article says that the Criminal Code (KZ-1) is in line with it.

Aggravating (and mitigating) circumstances KZ-1 lists only in some cases in paragraph 2 of Article 49 and thus leaves the court the possibility that in sentencing takes into account all the circumstances in the actual case affect the assessment of penalties (i.e. the circumstances mentioned in Article 46 of the Convention). Slovenia's legislation also leaves the judge wide discretion in sentencing. That provision of the Convention (with an explanation, in paragraph 235 of the Explanatory Report) explicitly states to take into account aggravating circumstances "in accordance with the domestic law of the Party", thereby Convention allows different approaches to determining of aggravating circumstances or sentencing (Filipčič, 2014a).

Equal opinion is shared by PIC (Šifkovič Vrbica, 2013) when it says that the levying of punitive sanctions under the jurisdiction of the court which handed down the sentence. Slovenian legislation lays down the rules for levying fines that are the framework through case law, however, through court practice they also lay down specific criteria for what is considered an aggravating circumstance. The KZ-1 lists only examples of mitigating and aggravating circumstances and the court shall then in each individual case decide which will take into account in sentencing the offender. It is therefore an essential fact that the KZ-1 does not exclude some of the aggravating circumstances provided for by the Convention and listed in the second paragraph of Article 49.

Article 47 – Sentences passed by another Party

Parties shall take the necessary legislative or other measures to provide for the possibility of taking into account final sentences passed by another Party in relation to the offences established in accordance with this Convention when determining the sentence.

This option Slovenia already made by the European Convention on Mutual Assistance in Criminal Matters and the Slovenian legislation are so both in line with Article 47 of the Convention says Filipčič (2015a).

PIC (Šifkovič Vrbica, 2013) says that the Cooperation in Criminal Matters with the Member States of the European Union Act (ZSKZDČEU-1) – govern cooperation in criminal matters between the competent authorities of the Republic of Slovenia and the other Member States of the European Union. In the area of international legal assistance in criminal matters, Slovenia is bound by a number of multilateral treaties. International legal assistance in criminal matters governed by numerous bilateral agreements and the Criminal Procedure Act (ZKP) in XXX. Chapter - Procedure for international legal assistance and enforcement of international treaties in criminal matters.

Article 48 – Prohibition of mandatory alternative dispute resolution processes or sentencing

- 1. Parties shall take the necessary legislative or other measures to prohibit mandatory alternative dispute resolution processes, including mediation and conciliation, in relation to all forms of violence covered by the scope of this Convention.*
- 2. Parties shall take the necessary legislative or other measures to ensure that if the payment of a fine is ordered, due account shall be taken of the ability of the perpetrator to assume his or her financial obligations towards the victim.*

In the legislation the alternative methods of treatment of offenders (mediation, settlement, and deferred prosecution) are known, but they are not prescribed as mandatory. However, practice shows that it is necessary to continuously further draw attention to the inadmissibility of mediation, conciliation and settlement of cases of violence. NGOs in practice are seeing pressure on victims to be settled or in pressure to the process of mediation.

With regard to paragraph 1 of this Article of the Convention Filipčič writes that in the Slovenian criminal law there are several alternative methods of treatment of offenders (mediation, settlement, deferred prosecution), but the Criminal Procedure Act (ZKP), does not prescribe them as mandatory in any case (Filipčič, 2014a).

According to the Explanatory report, the purpose of the provisions of paragraph 2 is that the burden of payment of the fine would not affect victims, particularly when the offender and the victim are family members of the community (and the perpetrator's income is the only income

of the family unit). The purpose of providing the Criminal Code (KZ-1) with the provision of paragraph 3 of Article 47 of imposing the court, when determining the amount of the daily amount to also take into account the individual family responsibilities (Filipčič, 2014a).

The Court assesses the amount of penalties depending on the mitigating and aggravating circumstances, which are not all set in advance. Among the cases which the law states as examples there is no material position of victims.

PIC (Šifkovič Vrbica, 2013) says that in Slovenia in criminal matters we are not talking about mediation, but there are settlement procedures in criminal matters, with the aim of concluding an agreement which contains certain moral or material reparation to the victim for the crime committed by the suspect. This procedure is governed by the Criminal Procedure Act (ZKP). However, practice shows that it is necessary to continuously further draw attention to the inadmissibility of mediation, conciliation and settlement of cases of violence.

Chapter VI – Investigation, prosecution, procedural law and protective measures

Article 49 – General obligations

1. *Parties shall take the necessary legislative or other measures to ensure that investigations and judicial proceedings in relation to all forms of violence covered by the scope of this Convention are carried out without undue delay while taking into consideration the rights of the victim during all stages of the criminal proceedings.*
2. *Parties shall take the necessary legislative or other measures, in conformity with the fundamental principles of human rights and having regard to the gendered understanding of violence, to ensure the effective investigation and prosecution of offences established in accordance with this Convention.*

The Criminal Procedure Act (ZKP) in Article 15 provides in general the efforts of the court that the proceedings take place without undue delay and with care, in order to prevent any abuse of rights by the participants in the proceedings (Šifkovič Vrbica, 2013)

In this respect, the rule that the victim should be placed in the centre and protected is not working properly, often during these proceedings secondary victimization of the victim occurs.

Article 50 – Immediate response, prevention and protection

1. *Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies respond to all forms of violence covered by the scope of this Convention promptly and appropriately by offering adequate and immediate protection to victims.*
2. *Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies engage promptly and appropriately in the prevention and protection against all forms of violence covered by the scope of this Convention, including the employment of preventive operational measures and the collection of evidence.*

As says dr. Filipčič (2014a) speed of competent authorities and organizations is crucial in providing assistance to victims. And not just for the safety of victims of violence, but also because “the victim does not lose confidence in the effectiveness of the authorities and organizations and that the perpetrator of violence receives a clear message that the country will not allow its behaviour. ... Therefore, the Family Violence Prevention Act (ZPND) clearly states that cases of violence are to be addressed as a priority over other tasks that are otherwise required to be carried out.” ZPND regulates this in paragraph 1 of Article 10.

The Criminal Procedure Act (ZKP) takes into account the duty of law enforcement which the Convention provides for all forms of violence within the scope of the latter in general for all crimes, which means that the appropriate arrangements for response, prevention and protection, according to this provision are made (Article 145, Article 146, Article 201, Article 195a) writes PIC (Šifkovič Vrbica, 2013).

Article 51 – Risk assessment and risk management

1. *Parties shall take the necessary legislative or other measures to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide co-ordinated safety and support.*
2. *Parties shall take the necessary legislative or other measures to ensure that the assessment referred to in paragraph 1 duly takes into account, at all stages of the investigation and application of protective measures, the fact that perpetrators of acts of violence covered by the scope of this Convention possess or have access to firearms.*

A professional works elaborates a security plan at Centres for social work. Together with the victim they investigate the situation and identify the problem of violence, identifying who are (potential) victims of family violence, assess the physical and mental state of the victim, the social support network of the victims, along with her elaborate also the initial risk assessment, identify ways of conduct to ensure the safety and strengthen her power, the victim is informed of all the rights and opportunities on the basis of various laws. Centre for social work conducts an interview with the victim, makes risk analysis, makes the initial threat assessment and produces an individual security plan⁹.

After examining the circumstances the Centre for social work is obliged to provide victims with the forms of support under the Social Security Act (ZSV), and to assess whether it is necessary to draw up a plan of assistance. The plan shall be drawn up whenever it is necessary to ensure a safe environment for victims for a longer duration of action and more action is needed for the help of various institutions. A plan is prepared for the reduction of risk and harm that is aligned with the skills and experience of the victim and her wishes. The victim is actively involved in the preparation of the plan. The necessary measures are provided and dealt with in the various programs and technical assistance by different operators. If the victim of violence is a child, the plan of assistance shall also provide measures for the protection of the child after the regulations governing relations in the family. The task of the Centre for social work is to obtain information on the various integration programs for victims and perpetrators of family violence that can be successfully redirected to appropriate programs that will help solve their distress and problems. In addition to immediate assistance to victims of family violence, it is our common task to provide for their long-term security and prevent further violence. Centres for social work cooperate in a team effort with various departments and the victim of violence and form the most effective plan of assistance. In designing the plan of assistance or security with adult victims of family violence the agreement or cooperation is required, in the case of a child who is a victim of violence, the Centre for social work has legal duty and power to protect it from further threats or abuse (Milek Ogrinc, 2014).

NGOs, in the proposals to amend the Family Violence Prevention Act (Obran, Hrovat, ed. 2015) in respect to Article 15, which speaks of the assistance plan, proposed amendment to this

⁹ Task of CSD on prevention family violence. Available at: <http://www.scsd.si/rezultati-iskanja.html?keywords=-nasilje+v+dru%C5%BEini>, 22. 11. 2015.

Article, namely noting that when the Centres for social work have knowledge of family violence, they should draw up a plan of assistance to the victim in any event, not only to assess whether it is necessary. Informing of victims with the possibilities and designing specific arrangements to ensure security is one of the key things for their empowerment and therefore all the institutions and bodies are obliged to have victims of violence acquainted with measures to ensure the safety of victims of violence, and the procedures that will take place during the hearing, and other forms of assistance to victims of violence, provided by yourself, and focus on the victims of violence by other competent institutions and bodies.

Article 52 – Emergency barring orders

Parties shall take the necessary legislative or other measures to ensure that the competent authorities are granted the power to order, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Measures taken pursuant to this article shall give priority to the safety of victims or persons at risk.

The police can, according to the Police Tasks and Powers Act (ZNPPOl), issue a restraining order on the spot. The prohibition lasts for 48 hours and then the investigating judge decides if it is to be extended. According to this Act the policewomen and policemen may impose the measure on the violator and not just at the place where the offense was committed, but it can be imposed on the offender as soon as he is caught, regardless of the location. The minimum distance to which the offender must not approach the victim is no longer defined, as practice has shown that the purpose of the measure is already achieved if the offender is set with a lesser distance than the previous minimum (Tretje periodično poročilo, 2014, p. 7).

Family Violence Prevention Act (ZPND) from 18 to Article 24 provides for measures to ensure the safety of victims.

Measures imposed due to the violence in the family that can be delivered by the district court are laid down in Articles 19, 21 and 22 of the ZPND. These are: Article 19 - Prohibitions in Case of Acts of Violence, Article 21 - Transfer of the Accommodation in Common Use, Article 22 - Accommodation Protection in Case of Violence in Divorce.

As mentioned above, the ZPND has a number of shortcomings. In particular the absence of sanctions for violation of the measures, which means that the perpetrator of violence freely and with impunity violates the measures imposed by the ZPND. When the victims in this case, call the police, they cannot impose sanctions on the perpetrator, but rather the victims have to impose further procedures. This means in practice that the victim must submit a proposal to the court for enforcement, which must also propose a fine in the event of a breach, then wait for the court to issue a decision to authorize the execution, only then can after the repeated infringement expect police intervention (Ramšak et al., 2014).

Article 53 – Restraining or protection orders

1. *Parties shall take the necessary legislative or other measures to ensure that appropriate restraining or protection orders are available to victims of all forms of violence covered by the scope of this Convention.*
2. *Parties shall take the necessary legislative or other measures to ensure that the restraining or protection orders referred to in paragraph 1 are:*
 - *available for immediate protection and without undue financial or administrative burdens placed on the victim;*
 - *issued for a specified period or until modified or discharged;*
 - *where necessary, issued on an ex parte basis which has immediate effect;*
 - *available irrespective of, or in addition to, other legal proceedings;*
 - *allowed to be introduced in subsequent legal proceedings.*
3. *Parties shall take the necessary legislative or other measures to ensure that breaches of restraining or protection orders issued pursuant to paragraph 1 shall be subject to effective, proportionate and dissuasive criminal or other legal sanctions.*

A restraining order is most frequently issued by the police (Filipčič, 2014b). In 2013 adopted the Police Tasks and Powers Act (ZNPPol) has attained the police authority in cases of ordering the detention of the offender who fails to comply with such a ban (Article 60 and Article 61).

Restraining order is also provided for in the Criminal Procedure Act (ZKP) and the Family Violence Prevention Act (ZPND).

Prohibition of Approaching a specific person, place or area, According the Police Tasks and Powers Act (ZNPPol) Article 60 (Prohibition of Approaching) and Article 61 (Extension of Prohibition of Approaching)¹⁰:

10 Data received from the General Police Directorate in September 2015.

	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Number of measures	14	151	282	504	556	1121	1080	1034	894	932	1046
Number of minor offences								70	35	68	75
Number of annulments	/	11	26	42	36	54	39	40	31	34	30
Percentage of annulments	/	7,3 %	9,2 %	8,3 %	6,5 %	4,8 %	3,6 %	3,8 %	3,5%	3,6 %	2,9 %
Extension to 10 days	/	107	198	369	405	873	823	760	642	671	726
Extension to 60 days	/	20	55	81	96	152	151	160	160	174	220
Number of violations of measure	6	95	140	201	237	312	307	349	258	306	353
Percentage of violations of measure	42,8 %	62,9 %	49,6 %	39,9 %	42,6 %	27,9 %	28,4 %	33,7 %	28,8 %	32,8 %	33,7 %
Detention (ZNPPol-2013)	0	0	0	0	0	0	0	0	0	13	22

With the amendment to Criminal Code (KZ-1C) also its Article 71.a is defying the restraining order and prohibition of communication with the victim of criminal offense.

Data on measures ordered were obtained from the Police, other information were not accessible. The police make publicly available information about all imposed measures. With regard to data segregated by gender and on the renewals of the measure it is necessary to additionally apply with personal application.

Article 54 – Investigations and evidence

Parties shall take the necessary legislative or other measures to ensure that, in any civil or criminal proceedings, evidence relating to the sexual history and conduct of the victim shall be permitted only when it is relevant and necessary.

Civil Procedure Act (ZPP) and Criminal Procedure Act (ZKP) provide for the possibility that a witness may forego the answer to the questions submitted to the extent that it is supported by sound reasons (Šifkovič Vrbica, 2013).

Data on how often this happens in practice is not accessible.

In the letter to the Supreme Court of the Republic of Slovenia (Struna, 2015) it was written that the program for data they use allows only the search of the predefined criteria (customer, date, reference number, etc.), among this there is no specific criteria (such as evidence relating to the sexual history and or behaviour of victims). Based on the above the searched data could not be provided because they do not possess such statistics.

Article 55 – *Ex parte* and *ex officio* proceedings

1. Parties shall ensure that investigations into or prosecution of offences established in accordance with Articles 35, 36, 37, 38 and 39 of this Convention shall not be wholly dependant upon a report or complaint filed by a victim if the offence was committed in whole or in part on its territory, and that the proceedings may continue even if the victim withdraws her or his statement or complaint.

2. Parties shall take the necessary legislative or other measures to ensure, in accordance with the conditions provided for by their internal law, the possibility for governmental and non-governmental organisations and domestic violence counsellors to assist and/or support victims, at their request, during investigations and judicial proceedings concerning the offences established in accordance with this Convention.

Republic of Slovenia took the reservation on this Article in the light of Article 35. Obran (2015b) says that the Republic of Slovenia took the reservation because certain offenses, for example light corporal injury are prosecuted on proposal.

In accordance with Article 78 of the Convention reservation to this article is possible only in conjunction with Article 35 - physical violence with minor offenses. Physical violence as defined in Article 35 of the Convention shall be prosecuted *ex officio*, as well as sexual violence (with the exception of rape by Article 170 of the Criminal Code (KZ-1) and sexual violence, according to Article 171 KZ-1 that was committed against a person with whom the perpetrator lives in a marital, extramarital relationship or a registered same-sex partnership), genital mutilation (except in the case of a bodily injury, then the prosecution begins on the proposal) and forced abortion. It is evident, therefore, that the vast majority of offenses covered by the Convention, the Slovenian substantive criminal law legislation shall begin *ex officio*, so the criminal proceedings shall be completely independent of the will of the victim. Even in cases of prosecution and representation charges of crimes whose prosecution under Slovenian criminal law provisions shall enter on a proposal from the victim may hereafter take the public prosecutor (Šifkovič Urbica, 2013).

According to the Family Violence Prevention Act (ZPND) the rights of victims are:

- To choose a companion (who accompanies the victim in proceedings related to violence, to protect her integrity, assists in the search for solutions and provides psychological support)
- To choose the advocate or counsel (who, in accordance with specific rules is to protect her benefits in the procedures and activities which concern her).

Such procedures shall be open to organizations that provide these services.

NGOs are in practice often faced with problems relating to these articles, as many judges do not allow the presence of companion at the court, even if an application is submitted prior to the event. NGOs have in the proposals to amend the Family Violence Prevention Act (Obran, Hrovat, ed., 2015) wrote that the practice appears unclear whether the said Article is also applicable in institution other than the court, and in proceedings from which it the public is excluded, i.e. in matrimonial matters and disputes arising from relationships between parents and children. According to Civil Procedure Act (ZPP 3/295) the court may allow the presence of more than two persons at the request of the parties, but in practice it often happens that the court asks the opposite side, the perpetrator of violence, if he agrees that the companion is present in courtroom. The presence of attendants is crucial for the victims to be equivalent parties in the proceedings.

Often authorities claim, after a victim withdraws their report or does not wish to report, that there is nothing in their power to do, because the victim does not wish to participate.

NGOs wrote in the Proposals to amend the Family Violence Prevention Act (Obran, Hrovat,

ed., 2015) an appeal to the State to urgently adopt a special law regulating the right to legal counsel (Article 8 of the ZPND), in order for the victims of family violence to exercise all the rights conferred on them by law. It is unacceptable that the state does not fulfil its obligations and in this way prevents the victims of family violence to have complete protection against violence.

Article 56 – Measures of protection

1. *Parties shall take the necessary legislative or other measures to protect the rights and interests of victims, including their special needs as witnesses, at all stages of investigations and judicial proceedings, in particular by:*

- a. *providing for their protection, as well as that of their families and witnesses, from intimidation, retaliation and repeat victimisation;*
- b. *ensuring that victims are informed, at least in cases where the victims and the family might be in danger, when the perpetrator escapes or is released temporarily or definitively ;*
- c. *informing them, under the conditions provided for by internal law, of their rights and the services at their disposal and the follow-up given to their complaint, the charges, the general progress of the investigation or proceedings, and their role therein, as well as the outcome of their case;*
- d. *enabling victims, in a manner consistent with the procedural rules of internal law, to be heard, to supply evidence and have their views, needs and concerns presented, directly or through an intermediary, and considered;*
- e. *providing victims with appropriate support services so that their rights and interests are duly presented and taken into account;*
- f. *ensuring that measures may be adopted to protect the privacy and the image of the victim;*
- g. *ensuring that contact between victims and perpetrators within court and law enforcement agency premises is avoided where possible;*
- h. *providing victims with independent and competent interpreters when victims are parties to proceedings or when they are supplying evidence;*
- i. *enabling victims to testify, according to the rules provided by their internal law, in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies, where available.*

2. *A child victim and child witness of violence against women and domestic violence shall be afforded, where appropriate, special protection measures taking into account the best interests of the child.*

Family Violence Prevention Act (ZPND) specifies the tasks for Centres for social work, regional service coordination and assistance to victims, NGOs. Childcare is regulated by the Marriage and Family Relations Act (ZZZDR-UPB1). The arrangement is such that promotes the highest interests of the child in all proceedings whose participants they are (Šifkovič Vrbica, 2013).

Dr. Škrk (2014) in her opinion on Article 56 of the Convention states that: In terms of equal protection of rights (Article 22 of Constitution of the Republic of Slovenia) and legal guarantees in criminal proceedings (Article 29 of the Constitution of the Republic of Slovenia) has no concerns about the inconsistency with the Constitution of the Republic of Slovenia with Article 56 of the Convention, which requires Parties to ensure specific legislative or other measures to protect victims and witnesses in criminal proceedings against the perpetrators of violence against women or family (items g. and i. of the first paragraph). In particular, no concerns in the case of the protection of juvenile victims or witnesses (second paragraph of Article 56), which (in part) are already covered by Article 178 of the Criminal Procedure Act (ZKP) which for certain offenses against minors does not allow the presence of the accused at the hearing of a witness

under 15 years of age who is a victim of such crimes.

In connection with the protection of the identity of victims (Article 9 of the ZPND), there is also a need to emphasize the protection of the identity of the reporter and witnesses. Practice has shown that there are cases when for example staff at Centres for social work disclosed the identity of the applicant in cases of family violence (for example NGOs, relatives, neighbours ...), which is contrary to the purpose of this provision, because no one who performed the duty of applications of such acts, should suffer the consequences (PIC, 2011).

In July 2014 the NGOs sent a letter to the Supreme Court of the Republic of Slovenia with a request to regularize the problems relating to the monitoring of victims of domestic violence in various legal proceedings, as we have noticed a lot of problems in the implementation of this institution (Obran, Zabukovec Kerin, 2014). The Answer from the Supreme Court is listed in Analysis of Compliance (Veselič, Matko, 2014, p. 149).

Obran (2014a) wrote that national authorities do not inform the victim of violence on the release or escape of persons prosecuted or sentenced for an offense that concern these victims, from detention or imprisonment. Such information is now prevented by law, except in cases when the accused or convicted person agrees to notify the victim about his release.

Article 57 – Legal aid

Parties shall provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law.

Family Violence Prevention Act (ZPND) in the fourth part regulates free legal aid in proceedings of family violence, in Article 26 refers to the Legal Aid Act (ZBPP), which lays down the conditions for entitlement to free legal aid.

Legal Aid Act (ZBPP) at the end of 2014 underwent a renovation. Proposals put forward by NGOs were not respected. Suggestions included a variety of solutions to make free legal aid more accessible (Bervar Sternad, 2014).

The big problem is the long time period for granting the right to legal aid. Verification procedures for granting the right according to the experience of the courts last between one to two months, as the courts have to in the meantime obtain financial information of applicants from other bodies. For the approval of half-hour advice it is therefore necessary to wait for at least 720 hours (PIC, 2015).

Article 58 – Statute of limitation

Parties shall take the necessary legislative and other measures to ensure that the statute of limitation for initiating any legal proceedings with regard to the offences established in accordance with Articles 36, 37, 38 and 39 of this Convention, shall continue for a period of time that is sufficient and commensurate with the gravity of the offence in question, to allow for the efficient initiation of proceedings after the victim has reached the age of majority.

The Republic of Slovenia in the light of this Article took a reservation. The Proposal for the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Erjavec, 2014) states that Slovenian substantive criminal law provides with regard to the limitation except only in cases of crimes against sexual integrity and

crimes against marriage, family and youth, committed against a minor, for which the period for limitation of criminal prosecution begins to run from the coming of age of the injured party (third paragraph of Article 90 of the Criminal Code (KZ-1)) and therefore the Republic of Slovenia has expressed its reservation in respect of Article 58 of the Convention. Obran (2015b) says that this exception is intended to protect minor injured party and proves that the period of limitations for criminal prosecution can be run from the coming of age of the injured party, and therefore there is no reasons to have the Convention offenses remain exempt.

The 3rd paragraph of Article 90 of the KZ-1 provides that in cases of crimes against sexual integrity and crimes against marriage, family and youth committed against a minor, the period of limitations for criminal prosecution begins to run from the coming of age of the injured party, says PIC (Šifkovič Vrbica, 2013).

Chapter VII – Migration and asylum

Article 59 – Residence status

1. *Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by internal law.*
2. *Parties shall take the necessary legislative or other measures to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to a residence status dependent on that of the spouse or partner as recognised by internal law to enable them to apply for an autonomous residence permit.*
3. *Parties shall issue a renewable residence permit to victims in one of the two following situations, or in both:*
 - a. *where the competent authority considers that their stay is necessary owing to their personal situation;*
 - b. *where the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings.*
4. *Parties shall take the necessary legislative or other measures to ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status.*

Republic of Slovenia regarding this Article took a reservation. The Proposal for the Act ratifying the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Erjavec, 2014) states that the Aliens Act (ZTuj-2) does not enable these options; this is the reason for the reservation to Article 59. Obrán (2015b) says that the purpose of the Convention is precisely in the adoption of appropriate measures and that there is no need for the measures in the time of ratification to already exist. This means that the reservation is unnecessary and with it the State avoids a debate on the appropriate measures, which is wrong and contrary to both the Convention and the very institution of reservations.

The issue of working with foreign women is in despair of their situation, especially if they lack of legal permanent residence permit. They do not have means of subsistence in cases where they can obtain only the temporary resident permission. To their origin State they often cannot return because of the children, even if they wish to (family matters in court are not yet regulated), fathers are typically Slovenian citizens and request custody or at least regular contacts with children. Work as foreigners is for them difficult to obtain, often they do not even know the language, and also come from distant countries (Thailand, Philippines, Ukraine, and Dominican Republic). Conditions for a residence permit without providing a permanent source of income (before departure from home, it was the source of husband/partner) cannot be fulfilled, if they want to separate from the perpetrator. Thus, these foreign women are in a vicious circle, materially depending on a violent husband/partner (Društvo SOS telefon, 2015b).

In the Aliens Act (ZTuj-2) in IV. Chapter Residence of aliens from Article 31 and forward the conditions for resident permissions are defined.

Article 60 – Gender-based asylum claims

1. *Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the meaning of Article 1, A (2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection.*
2. *Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.*
3. *Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.*

Paragraph 2 of Article 26 of the International Protection Act (ZMZ) provides for prosecution of offenses under 1A. Article of the Geneva Convention, but not including gender based violence. The amendment of the International Protection Act (ZMZ) would be necessary also to ensure the requirements of paragraph 2: Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection (Šifkovič Vrbica, 2013).

In the sixth paragraph of Article 27 of the International Protection Act a new third sentence is added which reads as follows:

In determining membership to a particular social group or identifying a characteristic of such a group, aspects related to gender, including gender identity should be taken into account. Admission procedures, support services, guidance and asylum procedures, including refugee status determination and application for international protection should be designed in a way to take into account the gender perspective (Šifkovič Vrbica, 2013).

The Office for Migration (Potočnik, 2015) says that in Slovenia for the application for asylum whether the women are victims of family violence or victims of human trafficking and prostitution is taken into account. For recognized status or acceded requests they do not keep information on the reason why the request was granted, and therefore may indicate only data on applications made by females (including children) and their positive applications, regardless of the reason.

At the national level, there are Standard operating procedures, which aim to facilitate the joint operation of all involved in preventing sexual violence and gender-based violence and take action in such cases (standard operating procedures to prevent and respond to cases of sexual violence and gender-based violence). Standard operating procedures were in 2008 signed by representatives of the Ministry of Interior, Ministry of Justice, UNHCR's Regional Representative in Budapest, Ključ - Centre for Combating Trafficking in Human Beings, the Association for Non-Violent Communication, Jesuit Association of Refugee Slovenia, the PIC and Slovenian Philanthropy. A working group was established for the prevention of sexual violence and gender based violence on the basis of standard operating procedures. In cases of sexual violence and gender based violence in the context of standard operating procedures the person is given a comprehensive treatment, which also includes mechanisms for their protection, such as: providing specific psychological or psychiatric help, can the person be transferred from the asylum home to a safe place... (Potočnik, 2015).

Article 61 – Non-refoulement

1. *Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law.*
2. *Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.*

The Aliens Act (ZTuj-2) in Article 72 defines the Prohibition of deportation of an alien (Šifkovič Vrbica, 2013):

The principle of non-refoulement referred to in this Act and customary international law shall mean an obligation of the Republic of Slovenia not to deport an alien to a country in which his life or freedom would be threatened on the basis of race, religion, nationality, membership of a special social group or political conviction, or to a country in which the alien would be exposed to torture or other cruel, inhumane and humiliating treatment or punishment.

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