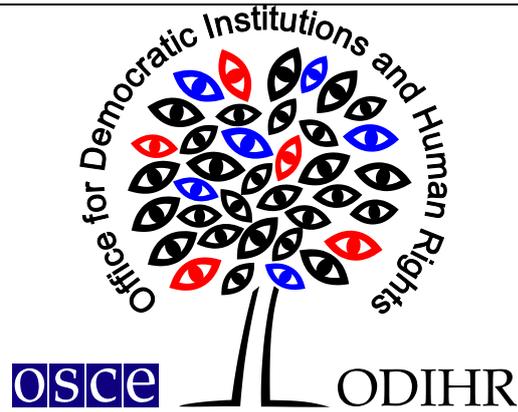


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**OPINION ON DRAFT AMENDMENTS
TO THE LEGAL FRAMEWORK
ON PREVENTING AND COMBATING
DOMESTIC VIOLENCE IN MOLDOVA**

**based on an unofficial English translation of the draft amendments
provided by the OSCE Mission to Moldova**

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Annex: Draft Amendments to the Legal Framework on Preventing and Combating Domestic Violence in Moldova

I. INTRODUCTION

1. *On 30 April 2015, the Head of the OSCE Mission to Moldova forwarded to the OSCE Office for Democratic Institutions and Human Rights (hereinafter “OSCE/ODIHR”) a request received from the Ministry for Labour, Social Protection and Family in Moldova, asking for a legal review of the Draft Amendments to the Legal Framework on Preventing and Combating Domestic Violence in Moldova (hereinafter “the Draft Amendments”).¹*
2. *The explanatory note attached to the Draft Amendments mentions as one of the main purposes of the amendments the harmonization of the national legal framework on preventing and combating domestic violence with the Council of Europe (hereinafter “CoE”) Convention on Preventing and Combating Violence against Women and Domestic Violence (hereinafter “the Istanbul Convention”)², with a view to signing and ratifying this Convention in the future.*
3. *On 22 May 2015, the OSCE/ODIHR First Deputy Director responded to this request, confirming the Office’s readiness to prepare a legal opinion on the compliance of these draft amendments with OSCE commitments and international human rights standards.*
4. *This Opinion was prepared in response to the above request. The OSCE/ODIHR conducted this assessment within its mandate as established by the OSCE Action Plan for the Promotion of Gender Equality, which states that “[t]he ODIHR, in co-operation with other international organizations and relevant national bodies and institutions, will assist OSCE participating States in complying with international instruments for the promotion of gender equality and women’s rights, and in reviewing legislation to ensure appropriate legal guarantees for the promotion of gender equality in accordance with OSCE and other commitments”.³*

II. SCOPE OF REVIEW

5. **The scope of this Opinion covers only the Draft Amendments, submitted for review. Thus limited, the Opinion does not constitute a full and comprehensive review of the entire legal and institutional framework governing the prevention of and protection from domestic violence, and the prosecution of perpetrators in Moldova.**
6. **The Opinion raises key issues and provides indications of areas of concern. In the interests of conciseness, the Opinion focuses more on those provisions that require**

¹ The Draft Amendments include draft amendments to the following legal acts: the Law on Preventing and Combating Domestic Violence (2008), the Law on the Functioning and Status of the Police (2013), the Law on State Guaranteed Legal Aid (2007), the Law on Local Public Administration Authorities (2007), the Law on Official Statistics (2005), the Law on the Legal Status of the Foreigners on the Territory of the Republic of Moldova (2010), the Law on the Legal Status of Arms and Ammunitions for Civilian Use (2012), the Criminal Code (2009), the Contravention Code (2009), the Criminal Procedure Code (2003) and the Code of Civil Procedure (2003) of the Republic of Moldova.

² The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, CETS No. 210 (hereinafter “the Istanbul Convention”) entered into force on 1 August 2014.

³ OSCE Action Plan for the Promotion of Gender Equality adopted by Decision No. 14/04, MC.DEC/14/04 (2004). See also OSCE Ministerial Council Decision 15/05 on Preventing and Combating Violence against Women (2005) which calls on OSCE participating States to, among others, adopt and implement legislation that criminalizes gender-based violence and establishes adequate legal protection.

improvements rather than on the positive aspects of the Draft Amendments. The ensuing recommendations are based on international standards and practices related to the prevention of and protection from domestic violence, and prosecution of perpetrators. Particularly, the Opinion refers to the Istanbul Convention and its Explanatory Report,⁴ given the Moldovan authorities' readiness to render the Moldovan legal framework compliant with the norms and principles contained therein. The Opinion will also seek to highlight, as appropriate, good practices from other OSCE participating States in this field.

7. This Opinion is based on an unofficial English translation of the Draft Amendments provided by the OSCE Mission to Moldova, which is attached to this document as an Annex. Errors from translation may result.
8. In view of the above, the OSCE/ODIHR would like to make mention that the Opinion is without prejudice to any written or oral recommendations and comments related to this and other related legislation of Moldova that the OSCE/ODIHR may make in the future.

III. EXECUTIVE SUMMARY

9. At the outset, OSCE/ODIHR welcomes Moldova's efforts and willingness to carry out a comprehensive reform of its legal framework on preventing and combating domestic violence, protecting victims⁵ from abuse, as well as bringing perpetrators to justice. It is particularly welcome that the Draft Amendments cover various pieces of legislation, as this demonstrates the intent of key stakeholders in Moldova to provide a holistic response to domestic violence.
10. The Draft Amendments also contain many positive aspects that address certain recommendations made by international human rights bodies and constitute a genuine attempt to render Moldova's legislation compliant with the Istanbul Convention. In particular, the newly introduced possibility for police bodies to issue emergency restraining orders on site is in line with international recommendations and good practices and should ensure better protection of victims of domestic violence. Moreover, the drafters and stakeholders are to be commended for a number of other amendments, particularly the criminalization of the violation of protection orders issued by courts, the willingness to exclude alternative dispute resolution mechanisms in domestic violence cases, the introduction of a new criminal offence for "acts of persecution" and of aggravating circumstances for certain criminal offences committed against a family member, as well as of a special statute of limitation in case of child victims of domestic violence, among others.
11. At the same time, in light of the latest case law of the European Court of Human Rights and recent reports from international human rights bodies, the main challenge remains the actual implementation of the relevant legislation in practice, and ensuring the effective investigation and prosecution of domestic violence cases in Moldova. A number of provisions of the Draft Amendments could be drafted in a clearer manner, to

⁴ Explanatory Report to the Istanbul Convention, available at <http://conventions.coe.int/Treaty/EN/Reports/Html/210.htm>.

⁵ For the purpose of this opinion, the term "victim" is used in its legal sense in connection with criminal proceedings and internationally recognized "victims' rights". This is without prejudice to other terms such as "survivor", which may be preferable in other specific contexts.

ensure their effective implementation and additional amendments to the legal framework on preventing and combating domestic violence in Moldova could be considered.

12. First, the OSCE/ODIHR recommends that a comprehensive review of the Criminal Procedure Code be carried out to ensure that appropriate provisions that protect victims' rights and victim-friendly procedural measures are in place. Further, the provisions relating to multi-agency co-operation could be usefully amended in order to render them more effective. More detailed provisions should also be introduced to ensure initial and continuous training on gender and human rights aspects, and how to deal with domestic violence cases, for all professionals involved in this field, particularly the police, prosecutors and judges. The drafters and stakeholders should also conduct a full financial impact assessment to analyze the amount of funding realistically required for the implementation of the Draft Amendments and clarify the respective legal obligations of the State and local authorities to take appropriate budgetary and administrative measures; in addition, more regular and sustainable funding mechanisms should be explored. Finally, all criminal justice agencies, civil society and other stakeholders should be fully consulted and informed throughout the discussions on amending the legal framework on preventing and combating domestic violence in Moldova, as this constitutes a real opportunity to raise awareness about domestic violence and would ultimately help enhance confidence in and ownership of the adopted amendments, as well as improve implementation.
13. More specifically, and in addition to what was stated above, OSCE/ODIHR makes the following recommendations to further enhance the Draft Amendments:
 - A. to clarify the definitions in Articles 2 and 3 of the Law on Preventing and Combating Domestic Violence to state that "domestic violence" may occur irrespective of the level or form of violence or injury and clarify the new definition of "members of the family", to ensure in particular that it covers persons who may have never lived together; [pars 19 and 22]
 - B. to specify the composition, roles, responsibilities, functioning and modalities of intervention of multi-disciplinary teams; [pars 29-31]
 - C. to ensure that adequate financial resources are allocated to preventing and combating domestic violence by carrying out a full financial impact assessment of the Draft Amendments, provide a clear obligation for all state and local entities to earmark dedicated funds in their annual budget and set up a more regular and sustainable funding mechanism; [pars 24-28 and 34]
 - D. to re-consider and adapt as appropriate the rules relating to mandatory reporting of domestic violence cases involving adult victims; [pars 43-44]
 - E. to review and simplify the provision relating to the issuance of protection orders by the court; [par 49] and
 - F. to amend the definition of "rape" provided in Article 171 of the Criminal Code by removing the reference to coercion and focusing instead on the question of whether consent to the sexual act was given voluntarily; to also provide, in this context, that the burden of proof is on the accused, who should prove that the victim gave his or her "freely given consent". [pars 59-60]

Additional Recommendations, highlighted in bold, are also included in the text of the opinion.

IV. ANALYSIS AND RECOMMENDATIONS

1. International Standards on Preventing and Combating Domestic Violence

14. The notion of an obligation for States to adopt legal and other measures to eliminate violence against women has become increasingly prevalent over the last twenty years, both at the national and international levels. While the UN Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “CEDAW”)⁶ does not directly mention violence against women, its Article 2 stipulates that “State Parties condemn discrimination against women in all its forms”, and obliges States to eliminate, through all appropriate measures, such discrimination. The UN Committee on the Elimination of All Forms of Discrimination against Women clarified that gender-based violence constitutes discrimination within the meaning of Article 1 of the CEDAW.⁷ In 1993, the UN General Assembly also issued a Declaration on the Elimination of Violence against Women,⁸ in which it explicitly affirmed that violence against women constitutes a violation of women’s human rights and urged States to “exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or private persons”. With regard to children, the UN Convention on the Rights of the Child (hereinafter “the CRC”)⁹ requires that legislative measures shall protect children from all forms of physical or mental violence, injury or abuse, neglect, maltreatment or exploitation.
15. At the European level, since the 1990s, the CoE has intensified its activities to combat all forms of violence against women, notably with the adoption of Recommendation (2002)5 by the Committee of Ministers on the protection of women against violence.¹⁰ Such efforts culminated in the entry into force on 1 August 2014 of the Istanbul Convention, the first legally binding instrument in Europe to create a comprehensive legal and policy framework to protect women from acts of violence as well as prevent, prosecute and eliminate all forms of violence against women and domestic violence.
16. OSCE participating States have also confirmed the importance of addressing violence against women, through the adoption of an Action Plan for the Promotion of Gender Equality (2004), which includes directives to OSCE structures to develop activities for the prevention of all forms of gender-based violence.¹¹ More specifically, the OSCE Ministerial Council Decision on Preventing and Combating Violence Against Women (2005) issues recommendations to OSCE participating States for measures to improve

⁶ UN Convention on the Elimination of All Forms of Discrimination against Women (hereinafter “CEDAW”), adopted by UN General Assembly resolution 34/180 on 18 December 1979. The Republic of Moldova acceded to this Convention on 28 February 2006.

⁷ See par 6 of the General Recommendation No. 19 of the Committee on the Elimination of All Forms of Discrimination Against Women (1992).

⁸ UN Declaration on the Elimination of Violence against Women, General Assembly Resolution 48/104, A/48/49 (1993), available at <http://www.un.org/documents/ga/res/48/a48r104.htm>.

⁹ UN Convention on the Rights of the Child (hereinafter “CRC”), adopted by General Assembly resolution 44/25 on 20 November 1989. The Republic of Moldova acceded to this Convention on 28 February 2006.

¹⁰ CoE Recommendation Rec (2002)5 of the Committee of Ministers to CoE Member States on the protection of women against violence, adopted on 30 April 2002, available at <https://wcd.coe.int/ViewDoc.jsp?id=280915>.

¹¹ OSCE Ministerial Council Decision MC DEC/14/04 on the 2004 OSCE Action Plan for the Promotion of Gender Equality of 7 December, 2004, Chapter 4, par 44.

prevention of violence and the protection of and assistance to victims, as well as prosecution of perpetrators, while addressing their need for appropriate treatment.¹²

17. Based on the above international standards on preventing and combating domestic violence, four main aspects can be distinguished in this regard, namely prevention, protection, prosecution, and partnership/multi-agency cooperation.¹³ The following review will address these aspects in separate sections on prevention, protection and prosecution, while integrating the aspect of partnership and co-operation, as appropriate.

2. General Comments

2.1. Main Definitions

18. The proposed amendment to Article 2 of the Law on Preventing and Combating Domestic Violence (hereinafter “the Law”) introduces a new definition of “domestic violence” which includes a wide array of acts committed by one family member towards another, of a physical, sexual, psychological, spiritual and economic nature, which is overall in line with the definition of Article 3 of the Istanbul Convention.¹⁴ It is also positive that such definition includes not only acts, but also the “threat” of such actions.
19. However, the definition further mentions that such acts shall result in “a material or moral damage [being] caused to the victim”. This seems to imply that the victim will have to provide evidence of certain damage, either physical or moral. First, in this context it should be stressed that the definition of domestic violence in the Istanbul Convention does not make reference to actual damage. Second, it is worth referring to the recent case law of the European Court of Human Rights (hereinafter “the ECtHR”) pertaining to Moldova, which notes with concern the fact that under the current law, state authorities will only take action if injuries caused to the victim are of a certain degree of severity.¹⁵ International recommendations highlight that state authorities should intervene in domestic violence cases regardless of the level or form of violence or injury.¹⁶ Consequently, **it is recommended to remove the reference to the causing of damages in the amended Article 2, or clarify that this applies not only in cases of actual damages but also in cases where such damages may be caused. Alternatively, the provision could be supplemented to make it clear that “domestic violence” may occur irrespective of the level or form of violence or injury.**
20. The new Article 2 of the Law, as amended, further supplements the definition of “spiritual violence” to also include the “constraint to join religious cult or perform spiritual practices and religious beliefs”. While it is true that “spiritual violence” is not mentioned as such in the Istanbul Convention and rarely appears in the definition of

¹² Such measures include *inter alia* the provisions of full, equal and timely access to justice and effective remedies; medical and social assistance, including emergency assistance; confidential counselling; and shelter. See par 4 of the OSCE Ministerial Council Decision MC DEC/15/05 on Preventing and Combating Violence Against Women (2005).

¹³ *Op. cit.* footnote 4, pars 63 and 116 (Explanatory Report to the Istanbul Convention).

¹⁴ Article 3 (b) of the Istanbul Convention defines “domestic violence” as “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”.

¹⁵ See par 47 in the case of *T.M. and C.M. v. Republic of Moldova*, ECtHR judgment of 28 January 2014 (Application No 26608/11), available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-140240#{"itemid":\["001-140240"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-140240#{).

¹⁶ Regarding e.g., the initiation of criminal investigations, see page 70 of 2014 UNODC Blueprint for Action: an Implementation Plan for Criminal Justice Systems to Prevent and Respond to Violence against Women (hereinafter “2014 UNODC Blueprint for Action on VAW”), available at http://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf.

domestic violence in national legislation of the OSCE region, it is sometimes considered as an under-acknowledged form of violence which should be taken seriously.¹⁷ Generally, this form of domestic violence may fall under the notion of “psychological violence”. Regarding specifically the relationship between parents and their children, international standards recognize that parents have the right to ensure the religious and moral education of their children (Article 18 par 4 of the ICCPR), but that this should also be consistent with the evolving capacities of the child (Article 14 (2) of the UN CRC). It is uncertain, however, whether such an exception is contemplated by the amended Article 2. Moreover, the relatively vague wording (e.g., “imposing an unacceptable personal system of values”) used in the definition lends itself to abuse given its potential for arbitrary interpretation. **The drafters and stakeholders should discuss whether and how the provision should be clarified and supplemented, depending on the national context and needs.**

21. It is particularly welcome that the definition of “perpetrator” under the revised Article 2 contemplates the possibility of mutual accusation of committing acts of violence and requires the review of a number of surrounding circumstances to identify the primary “initiator of the violence”. This should avoid the situation of dual arrests and charges of both the victim and perpetrator.¹⁸ However, **it is important that equal weight be given to all the factors and that the police report includes reasons for determining the predominant aggressor.**¹⁹ **The Law and other relevant legislation, such as Chapter I of Title V of the Criminal Procedure Code on “Apprehension”, should be supplemented accordingly.**
22. As regards the new definition of “members of the family” (Article 3 of the Law), the provision makes it clear, as does the current version, that the joint residence of the perpetrator and the victim is not required, which is in line with international standards.²⁰ However, the wording of the provision still appears to exclude certain relationships, e.g. relationships between persons who are currently in an intimate, romantic or sexual relationship, but do not or have never lived together, whereas Article 3 par 2 (b) only refers to past relationships.²¹ It is also unclear why certain relationships are mentioned only with regard to “separate habitation” (e.g., adopted children) whereas they are not mentioned under the provision relating to “joint habitation”; with others, the opposite is the case (e.g., relatives in collateral line are only mentioned under the provision on

¹⁷ See page 23 of the Final Report of the Group of Specialists for Combating Violence against Women of the Council of Europe Plan (2000), available at [http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-against-women/EG-S-VL\(97\)1_en.pdf](http://www.coe.int/t/dghl/standardsetting/equality/03themes/violence-against-women/EG-S-VL(97)1_en.pdf).

¹⁸ See page 36 of the 2012 UN Women Handbook for Legislation on Violence against Women (hereinafter “the 2012 UN Women Handbook for Legislation on Violence against Women”), available at http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2012/12/UNW_Legislation-Handbook%20pdf.pdf. See also page 98 of the 2012 Human Rights Report on the Implementation of the Republic of Moldova’s Domestic Violence Legislation, by the Advocates for Human Rights, the Bulgarian Gender Research Foundation and the Women’s Law Centre, available at http://www.theadvocatesforhumanrights.org/uploads/moldova_reportupload.pdf.

¹⁹ See the Section on “Determining the Predominant Aggressor” from the UN Women Virtual Knowledge Centre to End Violence Against Women and Girls, available at <http://www.endvawnow.org/en/articles/437-determining-the-predominant-aggressor.html?next=438>.

²⁰ *Op. cit.* footnote 4, par 42 (Explanatory Report to the Istanbul Convention).

²¹ *Op. cit.* footnote 18, Section 3.4.2.2. (2012 UN Women Handbook for Legislation on Violence against Women). See also, for example, the Spanish Organic Act on Integrated Protection Measures against Gender Violence (2004) which defines domestic relationships broadly to include relationships with a spouse or former spouse, non-marital relationships, non-cohabiting relationships, romantic and sexual relationships, as well as relationships between family or household members, such as ascendants, descendants, persons related by blood, persons residing together and minors or disabled individuals under guardianship or custody.

“joint habitation”). It would be advisable to **simplify the wording of the definition by listing the types of relationships, using the broadest possible scope as recommended at the international level,²² while specifying that this is irrespective of whether the perpetrator and the victim are sharing (or have previously shared) the same residence or not, hence also encompassing persons who may never have lived together.²³ The same comments apply to the new Article 133¹ of the Criminal Code which provides a definition of “family members” that mirrors the one used in the Law.**

23. It is welcome that Article 5 of the Law will be supplemented to also include “non-discrimination” as one of the principles governing the implementation of the Law; however, it is not clear from the content of the legislation whether grounds such as “sexual orientation” and “gender identity” are included therein. While the scope of the discriminatory grounds mentioned in Moldovan legislation goes beyond the scope of this Opinion, it must be highlighted that the Istanbul Convention also seeks to protect same sex partners.²⁴ Hence, the protection offered by the Law should be irrespective of the “sexual orientation” or “gender identity” of the victim/survivor.²⁵

2.2. Institutional Framework, Funding and Co-ordination at National and Local Levels

24. The new Article 8 par 1¹ of the Law identifies more clearly the Ministry of Labour, Social Protection and Family as the central body in charge of policy-making, public awareness-raising and of setting up a free nation-wide 24-hour telephone helpline. It is unclear however, **how such services will be financed and particularly whether this should be covered by the budget of such entity. This should be clarified.**
25. Regarding the establishment of the free helpline, while the practice varies greatly from country to country, most states require the state to finance support services for victims of violence against women, while providing for accreditation mechanisms for selected non-governmental organizations (hereinafter “NGOs”) to run such services. In any case, even if the implementation of certain support services to victims of violence is carried out by NGOs, this should not release States from their responsibility to protect victims and allocate adequate funding, and from their overall accountability for support services. Also, as mentioned in par 27 *infra*, there is a need to carry out a proper financial assessment of the costs for setting up and managing the free 24-hour telephone helpline.²⁶

²² *Op. cit.* footnote 18, Section 3.4.2.1 (2012 UN Women Handbook for Legislation on Violence against Women).

²³ See Article 3(b) of the Istanbul Convention. See also *op. cit.* footnote 18, Section 3.4.2.2. (2012 UN Women Handbook for Legislation on Violence against Women).

²⁴ See Article 3(b) of the Istanbul Convention; see also par. 46 of the Annex to the CoE Committee of Ministers Recommendation CM/Rec(2010)5 to Member States on measures to combat discrimination based on sexual orientation or gender identity adopted on 31 March 2010 available at <https://wcd.coe.int/ViewDoc.jsp?id=1606669>.

²⁵ For the purpose of this opinion, the term “survivor” is used where appropriate, in non-legal settings, to refer to persons who have suffered from violence while the term “victim” is used in its legal sense in connection with criminal proceedings and internationally recognized “victims’ rights”.

²⁶ See pars 136-137 of the Explanatory Report to the Istanbul Convention. See page 61 of the Handbook 116006 for a Good Implementation of 116006 Helplines (2012), available at http://www.apav.pt/pdf/Handbook_116006_EN.pdf, referring to the funding of a number of national helplines across the European Union, and best practices and recommendations in this respect. In France, for example, which counts a population of approximately 66 million inhabitants, 910,000 Euros were allocated annually to the Fédération Nationale Solidarité Femmes (FNSF) which gathers 65 associations, to ensure the functioning of a state-wide free of charge telephone hotline in 2012 (which did not, however, yet function for 24 hours), see page 36 of the FNSF 2012 Annual Report, available at <http://pimcore.francedit.galilee.fr/website/var/assets/fnsf->

26. As to the issue of funding, certain new provisions introduced by the Draft Amendments specifically provide that local public administrations should plan their local budgets accordingly, and provide funding to the centers/services for assistance and protection of victims of domestic violence and their children, as well as to the centres for perpetrators. They shall also fund other activities relating to awareness-raising and assistance to victims (new Article 8 par 2 (c) and (d) of the Law and draft amendments to the Law on Local Public Administration Authorities). The current version of Article 16 of the Law also addresses the issue of funding in general by stating that “the implementation of the law shall be funded from the state budget, the budgets of territorial-administrative units within the limits of annually established funds, and from other sources not prohibited by law”. However, such a general and vague provision is unlikely to guarantee the regular and sustainable funding of the implementation of the legislation. While budgetary mechanisms of governments are variable, at a minimum, **the ministries mentioned in Article 8 par 1 of the Law should have the obligation to earmark dedicated funds for the implementation of the Law in their annual budget. The draft amendments to the Law should be supplemented accordingly.**
27. For that purpose, should this not have taken place already, it would be advisable to conduct a full financial impact assessment to analyze the funding needed to implement all measures provided by the Draft Amendments²⁷ and more generally for the implementation of the Istanbul Convention.²⁸ In this context, it is reiterated that cases of domestic violence lead to quite significant costs for any state; such costs have been estimated to lie between 1.2 and 2 percent of a state’s Gross Domestic Product,²⁹ which does not take into account the major physical, mental, health, sexual and reproductive, and maternal health issues caused by domestic violence.³⁰ A comprehensive financial assessment should include, apart from the free 24-hour telephone helpline, an evaluation of the costs for ensuring one shelter/refuge place for every 10,000 inhabitants,³¹ one women’s advocacy and counseling centre for every 50,000 women³² and one rape crisis

[ra2012complet.pdf](#). See also the example of Spain and its 24-hour Helpline 016 in cases of gender-based violence, which is funded by 1.1 million Euros (for 2012), for an average of 182 calls a day, see page 8 at http://ec.europa.eu/justice/gender-equality/files/exchange_of_good_practice_es/es_discussion_paper_en.pdf. See also, for example, the Manual for Work on SOS Hotline for (Potential) Victims of Human Trafficking: NGO ASTRA Experience (2009), available at <http://www.astra.org.rs/eng/wp-content/uploads/2008/07/ASTRA-SOS-Manual.pdf>.

²⁷ *Op. cit.* footnote 18, Section 3.2.2. (2012 UN Women Handbook for Legislation on Violence against Women).

²⁸ *ibid.* Section 3.2.2. (2012 UN Women Handbook for Legislation on Violence against Women).

²⁹ See page 25 of the Paper “Intimate Partner Violence: Economic Costs and Implications for Growth and Development” (2013) commissioned by the World Bank Group, available at

<http://www.worldbank.org/content/dam/Worldbank/document/Gender/Duvvury%20et%20al%202013%20Intimate%20Partner%20Violence%20Economic%20Costs%20and%20Implications%20for%20Growth%20and%20Development%20Jan%209%202014.pdf>. In this paper, various categories of costs are taken into consideration (e.g., costs for health and medical care, police interventions, criminal justice systems and prison costs, social services, operation and management of shelters and crisis services, indirect costs due to decreased productivity, etc.). See also the UN Women Virtual Knowledge Centre to End Violence against Women and Girls (<http://www.endvawnow.org/en/articles/301-consequences-and-costs-.html>) and the CoE Overview of Studies on the Costs of Violence against Women and Domestic Violence (26 October 2012), available at http://www.coe.int/t/dghl/standardsetting/convention-violence/Background%20info/Overview%20of%20studies%20on%20the%20costs%20of%20violence%20against%20women%20and%20domestic%20violence_INTERNET%20VERSION.pdf.

³⁰ Available from <http://www.who.int/mediacentre/factsheets/fs239/en/index.html>.

³¹ *Op. cit.* footnote 4, par 135 (Explanatory Report to the Istanbul Convention). The shelters should provide safe emergency accommodation, qualified counselling and assistance in finding long-term accommodation.

³² *Op. cit.* footnote 18, Section 3.6.1. (2012 UN Women Handbook for Legislation on Violence against Women). Such centres should provide proactive support and crisis intervention for complainants/survivors, including legal advice and support, as well as long-term support for complainants/survivors, and specialized services for particular groups of women.

centre for every 200,000 women.³³ Recent surveys show that the number of shelters in Moldova and other support services is insufficient and that they are not widely available throughout the country.³⁴

28. Diverse modalities for a more sustainable and reliable funding mechanism should be explored, instead of leaving this only up to the respective state entities and local public administration authorities, which may result in a situation where the budget allocation may vary greatly from one year to the other or depending on the location. **To ensure a more regular and sustainable funding mechanism, other financial sources could be explored, such as fines or confiscated assets of persons convicted of crimes³⁵ and other taxation schemes.³⁶ Moreover, some incentives for private donors who may wish to fund the implementation of programs to end violence against women could also be considered, for instance taxation incentives or public-private partnerships.³⁷**
29. Regarding multi-agency co-ordination at the local level, Article 8 par 3 (a) broadly states that social assistance and family protection sections/departments “collaborate with the police bodies to identify persons inclined to commit acts of family violence” while Article 8 par 6 (m) mentions the duty of police bodies to “collaborate with the appropriate authorities in the field and with civil society to prevent and combat family violence”. However, there is no specific mention of **a duty to collaborate at the local level for education and medical institutions. It is recommended to expressly state such duty under Article 8.**
30. Furthermore, it is positive that Article 8 par 2 (b) of the current Law states that local public administration authorities shall “create multi-disciplinary teams in the field”; multi-sectoral and multi-agency co-ordination at both national and local levels has been highlighted as being key to facilitating prevention and protection of victims and the prosecution of perpetrators.³⁸ However, **the exact composition of the “multi-**

³³ *Op. cit.* footnote 4, par 142 (Explanatory Report to the Istanbul Convention).

³⁴ See page 68 of the Gender Equality Commission (GEC) of the Council of Europe Analytical Study of the Results of the Fourth Round of Monitoring the Implementation of Recommendation Rec(2002)5 on the Protection of Women against Violence in Council of Europe member states, March 2014, available at <http://www.coe.int/t/dghl/standardsetting/convention-violence/Docs/Analytical%20Study%20ENG.pdf>.

³⁵ See e.g., the example of Canada which funded certain capacity development activities using the proceeds from civil forfeitures (<http://endvawnow.org/en/articles/852-funding-implementation.html?next=136>); see also page 47 of the Study on Rights, Restoration and Recovery: Compensation for Trafficked Persons in the Republic of Moldova (2013), available at <http://antitrafic.gov.md/libview.php?l=en&idc=32&id=231&t=/Reports/International-partners-Reports/RIGHTS-RESTORATION-AND-RECOVERY-COMPENSATION-FOR-TRAFFICKED-PERSONS-IN-THE-REPUBLIC-OF-MOLDOVA>.

³⁶ For instance, a tax imposed on insurance contracts or a tax levied on certain alcoholic beverages. See e.g., in France the funding modalities of the Fund for the Compensation of Victims of Terrorism and other Offenses, which is not funded by the State budget but exclusively from a tax fixed by a decree of the Minister in charge of Insurance, from the amounts recovered by the Fund from the offender and from investment incomes. The tax amounted to 3.30 Euros for 2013 and is imposed for every property damage insurance contract (see Article L. 422-1 of the Insurance Code available at <http://www.legifrance.gouv.fr/affichCodeArticle.do?cidTexte=LEGITEXT000006073984&idArticle=LEGIARTI000006801956&dateTexte=&categorieLien=cid>). See also page 47 of the Study on Rights, Restoration and Recovery: Compensation for Trafficked Persons in the Republic of Moldova (2013), available at <http://antitrafic.gov.md/libview.php?l=en&idc=32&id=231&t=/Reports/International-partners-Reports/RIGHTS-RESTORATION-AND-RECOVERY-COMPENSATION-FOR-TRAFFICKED-PERSONS-IN-THE-REPUBLIC-OF-MOLDOVA>.

³⁷ See e.g., <http://endvawnow.org/en/articles/852-funding-implementation.html?next=136>.

³⁸ See Sections 2.1.1. and 3.3.1. of the 2012 UN Women Handbook for National Action Plans on Violence against Women, available at <http://www.unwomen.org/~media/Headquarters/Attachments/Sections/Library/Publications/2012/7/HandbookNationalActionPlansOnVAW-en%20pdf.pdf>.

disciplinary team” to be set up at the local level is unclear. Whatever form is chosen, it is generally considered as good practice to include social assistance bodies, local government representatives, representatives from education and medical institutions, the police and NGOs.³⁹ It is recommended to clarify Article 8 in that respect.

31. When elaborating on the role and responsibility of such multi-disciplinary teams, Article 8 should at a minimum clearly state the core principles of intervention, and clearly designate the body/person meant to lead and co-ordinate these efforts. It is important to specify in this context that any victim assistance should take due consideration of victims’ safety, needs and choices. To enhance the functioning of such mechanisms, good practices in other countries show that it is important to provide, in the legislation itself, for the development of standard operating procedures or protocols for co-operation at the community level.⁴⁰ Positive lessons learned⁴¹ and the 2014 UNODC Implementation Plan for Criminal Justice Systems to Prevent and Respond to Violence against Women⁴² may serve as useful references for the Moldovan context. Consequently, to ensure the efficiency and effectiveness of the multi-disciplinary team, **it is recommended to specify under Article 8 its composition, which should include focal points from the police and from NGOs respectively. Moreover, the Law should designate clearly which entity will be leading the multi-disciplinary team and provide for the development of tools for co-ordinated intervention.**⁴³
32. Regarding specifically the role of police bodies, it is unclear why the reference to ensuring the security and safety in victim rehabilitation centers has been deleted from new Article 8 par 6 (k) of the Law. It must be noted that close co-operation between such centers and the police is generally considered as being key to ensuring victims’ safety, which is one of the key functions of the police in the context of combating

³⁹ See pars 43-44 of the OSCE/ODIHR Opinion on the Impact of the Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence on Legislation in Montenegro, 10 September 2014, available at

http://www.legislationline.org/download/action/download/id/5613/file/FINAL%20ODIHR%20Opinion%20on%20the%20Impact%20of%20the%20Ratification%20of%20the%20CoE%20Istanbul%20Convention_Montenegro_10Sept2014_ENGLISH.pdf. See also the Section on “Coordinated Community Response” from the UN Women Virtual Knowledge Centre to End Violence Against Women and Girls, available at <http://www.endvawnow.org/en/articles/405-coordinated-community-response.html?next=406>.

⁴⁰ See <http://www.endvawnow.org/en/articles/405-coordinated-community-response.html?next=406>. See also the example of Finland and the program to support municipalities in developing coordinated responses to domestic violence, page 85 of the OSCE Compilation of Good Practices “Bringing Security Home: Combating Violence against Women in the OSCE Region” (2009) (hereinafter “2009 OSCE Compilation of Good Practices on Combating VAW”), available at <http://www.osce.org/gender/37438?download=true>.

⁴¹ See also, for instance, the example of Belgium with the designation of an independent case manager (not related to the police, justice or welfare), pages 31 and 40 of European Crime Prevention Network, Toolbox Series No. 4 on “Tackling Domestic Violence in the EU: Policies and Practices” (December 2013), available at <http://www.bukstipri.lt/uploads/1112.pdf>. See also *op. cit.* footnote 38, Section 3.2.6. (2012 UN Women Handbook for National Action Plans on VAW); see also Article 32 of Spain’s Organic Act 1/2004 of 28 December 2004 on Integrated Protection Measures against Gender Violence, available at http://www.isotita.gr/var/uploads/NOMOTHESIA/VIOLENCE/SPANISH%20LAW%20Organic%20Act%201_28-12-04%20on%20Violence.pdf; and the Duluth Model in the United States of America, *op. cit.* footnote 40, page 84 (2009 OSCE Compilation of Good Practices on Combating VAW).

⁴² Available at http://www.unodc.org/documents/justice-and-prison-reform/Strengthening_Crime_Prevention_and_Criminal_Justice_Responses_to_Violence_against_Women.pdf.

⁴³ See e.g., the Section on “Implementation of a coordinated Community Response” from the UN Women Virtual Knowledge Centre to End Violence Against Women and Girls, available at <http://www.endvawnow.org/en/articles/406-implementation-of-a-coordinated-community-response.html?next=407>.

domestic violence.⁴⁴ The drafters and stakeholders should **re-consider the deletion of the reference to security and safety from new Article 8 par 6 (k) of the Law.**

33. The newly introduced paragraphs 7 to 9 of Article 8 elaborate further the roles and responsibilities of focal points that should be designated by local public authorities and local public services to deal with domestic violence issues. This includes, among others, information-sharing and a range of protection and support services to victims, as well as certain measures to ensure the social integration of perpetrators. However, it is not clear whether such **focal points are also members of the multi-disciplinary teams, although this would be advisable. It is recommended to clarify this issue. The new paragraph 8 of Article 8 states that an order shall be issued by “the chairperson” designating those professionals which shall be included into the territorial multidisciplinary team. It is unclear which chairperson this provision is referring to.**
34. Finally, it is widely acknowledged that NGOs often play a critical role in the area of prevention and protection, particularly in terms of awareness-raising, public outreach, operation of helplines, providing counseling services, including legal assistance to victims,⁴⁵ operating victim crisis centers and/or shelters, conducting capacity-development for a range of professionals, and, more generally, advocacy efforts and monitoring the implementation of laws and the effectiveness of the legal system.⁴⁶ While the Law and Draft Amendments specifically mention NGOs on several occasions,⁴⁷ they do not outline a systematic approach to partnering with them in these areas of work. The Draft Amendments should be supplemented to reflect such systematic approach. Furthermore, it is noted that Article 8 of the Istanbul Convention requires the allocation by the State of appropriate financial and human resources for its implementation, including measures and programmes carried out by NGOs and civil society. Consequently, consideration may be given to **amending Article 16 of the Law, to reflect the possibility of state funding for such organizations when they carry out measures on preventing and combating domestic violence.**

⁴⁴ See e.g., the Section on “Security strategies and features in shelter facilities” from the UN Women Virtual Knowledge Centre to End Violence Against Women and Girls, available at <http://www.endvawnow.org/en/articles/1412-security-strategies-and-features-in-shelter-facilities.html>. See also par 16 (g) of the 2011 UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice, A/RES/65/228, 31 March 2011, available at https://www.unodc.org/documents/justice-and-prison-reform/crimeprevention/Model_Strategies_and_Practical_Measures_on_the_Elimination_of_Violence_against_Women_in_the_Field_of_Crime_Prevention_and_Criminal_Justice.pdf.

⁴⁵ In terms of early access to legal aid, see pages 29, 69 and 73 of the UNDP-UNODC Handbook on Early Access to Legal Aid in Criminal Justice Processes (2014), available at http://www.unodc.org/documents/justice-and-prison-reform/eBook-early_access_to_legal_aid.pdf, where the roles of non-governmental organizations and civil society organizations are particularly highlighted in terms of educating the community, raising awareness of legal aid options, and providing legal aid services; see in particular page 115, where it is stated that “NGOs, civil society organizations and educational institutions all have an important role to play in the organization and delivery of effective early access, in ensuring that the special needs of particular groups are adequately catered for, in sustaining and improving the provision of such access and in improving public knowledge and understanding of the right to such access”.

⁴⁶ See e.g. *op. cit.* footnote 40, pages 96 and 99 (2009 OSCE Compilation of Good Practices on Combating VAW). For instance, the Austrian experience is considered as a good practice, where intervention centers funded by the Federal Ministry of the Interior and the Ministry for Women but operated by women’s NGOs have been established in each province of the country for the purposes of coordinating police and social service activities and taking a proactive approach to assisting victims.

⁴⁷ See e.g., Article 7 par 3 of the Law, which provides that civil society representatives are part of the Inter-Ministerial Council in the Field of Prevention and Combating of Family Violence; Article 8 par 1 states that a range of ministries should collaborate with non-government organizations; Article 8 par 6 (m) mentions that the police bodies collaborate with civil society

3. Prevention

35. In relation to the prevention of domestic violence, the amendments to Article 8 of the Law contain a reference to the organization of awareness-raising campaigns by the Ministry of Labour, Social Protection and Family, with the involvement of local public administrations. Given the central role of the media in reporting on cases of domestic violence and informing public debate, **the media could also be specifically mentioned as a partner here, while also highlighting that its participation shall be qualified by the freedom of expression and by media independence** (see also Article 17 of the Istanbul Convention on this topic). It should also be highlighted again that **sufficient financial and human resources should be allocated to cover the related costs of awareness-raising campaigns.**
36. In terms of data collection and research, it is positive that the Draft Amendments seek to supplement the Law on Official Statistics to require that data collected shall be *disaggregated by sex* and provide for the development of a methodology for the “collection, processing and generalization of the statistical information disaggregated by sex”. A new paragraph 3 has been added to Article 19, which also provides that all information collected by various entities, including central and local public administration authorities, shall be disaggregated by sex before it is submitted to the official statistical bodies. However, other parts of the Draft Amendments do not specifically refer to the obligation to collect data or to the disaggregation of such data by sex. Good practices in terms of data collection on domestic violence recommend that data should at a minimum be **disaggregated by sex, age of the victim and of the perpetrator, type of violence and the relationship between the perpetrator and the victim** (current/former partner, marital status, cohabitation or not, family relationship).⁴⁸ Other data collected could also include information about disabilities, if any,⁴⁹ or on whether there is a weapon in the household, as done in other OSCE countries such as the United States. It is noted that the new Article 8 of the Law on Preventing and Combating Domestic Violence generally refers to the **systematic collection of statistical data in the related field by the central specialized public administration authorities (Article 8 par 1 (d)). However, such a provision is relatively vague and should be supplemented in line with the above-mentioned international good practices.** This would address some of the recommendations made to the Republic of Moldova by the CEDAW Committee.⁵⁰
37. It is understood that police statistics in Moldova already record the sex of the victims and perpetrators, and the relationship between them (but not the age of the victim and perpetrator); police bodies also prepare a national report which specifically addresses domestic violence.⁵¹ It is thus recommended **to supplement the Law on the Police or**

⁴⁸ See Recommendations on pages 21-23 of the CoE Study on Administrative data collection on domestic violence in CoE member states (2008) available at [http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-DC\(2008\)Study_en.pdf](http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-DC(2008)Study_en.pdf).

⁴⁹ See par 53 of the Thematic Study on the Issue of Violence Against Woman and Girls and Disability, Report of the Office of the UN High Commissioner for Human Rights, 30 March 2012, available at <http://www.ohchr.org/Documents/Issues/Disability/ThematicStudyViolenceAgainstWomenGirls.pdf>.

⁵⁰ See par 20 (e) of the Concluding Observations of the CEDAW Committee on the combined 4th and 5th reports of the Republic of Moldova, 29 October 2013, available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fMDA%2fCO%2f4-5&Lang=en.

⁵¹ *Op. cit.* footnote 34, pages 43 and 79 (2014 CoE Analytical Study of the Results of the Fourth Round of Monitoring the Implementation of Recommendation Rec(2002)5 on the Protection of Women against Violence).

other relevant legislation to also include the collection of data pertaining to the age of victims and perpetrators. This is all the more important given that Article 14 of the CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse⁵² (hereinafter “the Lanzarote Convention”) provides for specific data collection for the purposes of observing and evaluating the phenomenon of sexual exploitation and the sexual abuse of children.

38. Generally, unless it exists already, a central inter-agency database would be a welcome introduction,⁵³ providing that adequate resources are available, either in the Draft Amendments, or in secondary legislation; this would help ensure that data collection is done in a centralized and concerted manner. **The Draft Amendments should clearly identify the entity responsible for the development and management of such a database in the long run. The public entity in charge should be responsible for organizing, monitoring, controlling and giving uniform instructions, as well as for training staff from all government agencies involved in data collection on the collection of administrative data on violence against women and domestic violence.**⁵⁴
39. Regarding the capacity development of professionals involved in the prevention and combat of domestic violence, international good practices have shown that specialization of services provided by the police, prosecution service and courts, and their training, tend to increase reporting, trust and engagement of the victims of domestic violence with the criminal justice system.⁵⁵ **The lawmakers and stakeholders should discuss establishing more specialized services to deal with domestic violence cases, provided that sufficient funds are available.** The Criminal Procedure Code and other relevant legislation could be supplemented to that effect.
40. Furthermore, a recent survey shows that the initial vocational training and/or further training of certain professionals such as lawyers, medical and media professionals does not address the issue of violence against women.⁵⁶ In this context, it is key that all professionals receive adequate training/evaluation on gender and human rights aspects (e.g., on equality between women and men, gender-specific needs and rights of victims, prevention and detection of cases of violence, specific needs of children, continuous training on the issue of “secondary victimization”, as well as on multi-agency co-ordination and co-operation).⁵⁷ While the strengthening of the capacities of human resources in the field of preventing and combating family violence is listed under Article 8 par 1 (e) as one of the duties of the ministries listed therein, **amendments to the relevant legislation regarding initial and continuous training of all professionals**

⁵² CoE Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, Council of Europe Committee of Ministers (CETS No. 201) (hereinafter “the Lanzarote Convention”) which entered into force on 1 July 2010. Moldova ratified this Convention on 12 March 2012.

⁵³ See par 31 of the Report of the UN Secretary-General to the General Assembly on Intensification of efforts to eliminate all forms of violence against women, 2 August 2010, available at http://www.iodm.int/jahia/webdav/shared/mainsite/policy_and_research/un/65/A_65_208.pdf

⁵⁴ See Section 3.2. of the Recommendations on pages 21-23 of the CoE Study on Administrative data collection on domestic violence in CoE member states (2008) available at [http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-DC\(2008\)Study_en.pdf](http://www.coe.int/t/dg2/equality/domesticviolencecampaign/Source/EG-VAW-DC(2008)Study_en.pdf).

⁵⁵ See page 10 of the draft of the European Union Handbook of Best Police Practices on Overcoming Attrition in Domestic Violence Cases, December 2012 (hereinafter “2012 Draft EU Handbook on Overcoming Attrition in Domestic Violence Cases”), available at <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2012719%202012%20REV%202>.

⁵⁶ *Op. cit.* footnote 34, pages 77-78 (2014 CoE Analytical Study of the Results of the Fourth Round of Monitoring the Implementation of Recommendation Rec(2002)5 on the Protection of Women against Violence).

⁵⁷ *Op. cit.* footnote 4, pars 98 to 101 (Explanatory Report to the Istanbul Convention).

involved in this field should be introduced to ensure that gender and human rights issues, including specific training on dealing with domestic violence cases, are covered.

41. Finally, regarding specifically the prevention of child abuse, as required by Article 5 par 3 of the Lanzarote Convention, State parties should take the necessary legislative or other measures to **ensure that candidates applying for professions which imply regular contacts with children, are screened, to check whether they have not been convicted of acts of sexual exploitation or the sexual abuse of children.** If not already the case, relevant Moldovan legislation, for instance in the field of health, social services and education, could be supplemented in that respect.

4. Protection and Support

4.1. Restrictive, Protective Orders and Other Protective Measures

42. The amendments to Article 12 of the Law are positive, as they introduce a distinction between the obligation to report cases of domestic violence against children and reporting requirements in cases involving adult victims, which should depend on the consent of the victim – whereas before, the obligation to report was provided in *all* cases.⁵⁸ It is unclear, though, which authorities such reports would be made to, since paragraph 3 refers to the “authorities responsible for preventing and combating domestic violence” (i.e. those listed under Article 7 of the Law), while paragraph 4 refers to “empowered authorities”; this should be clarified.
43. Article 12 par 4 specifies that the consent of the victim is not necessary “in cases when medium or severe bodily injuries or damages to health have been inflicted, cases when guns are used and cases when victims are extremely vulnerable because of their disability or reduced intellectual capacity”. Mandatory reporting in cases of use of firearms or where violence is committed against persons with reduced mental capacity may be justified. However, persons with disabilities may still have the capacity to give consent, and should thus have the possibility to participate in the decision-making processes concerning them.⁵⁹ Moreover, Moldova has also ratified the UN Convention on the Rights of Persons with Disabilities⁶⁰ (hereinafter “CRPD”); in accordance with Articles 12 and 13 of the Convention, specific and adequate assistance measures should be put in place to ensure that persons with disabilities are supported in the exercise of their legal capacity in a manner that respects their rights, will and preferences while guaranteeing access to justice in case they are victims of domestic violence.⁶¹ In situations where, after significant efforts have been made, it is not practicable to

⁵⁸ *Op. cit.* footnote 4, par 148 (Explanatory Report to the Istanbul Convention); see also par 49 of the CRC Committee General Comment No. 13 on the right of the child to freedom from all forms of violence (2011) which states that “the reporting of instances, suspicion or risk of violence should, at a minimum, be required by professionals working directly with children. When reports are made in good faith, processes must be in place to ensure the protection of the professional making the report.”

⁵⁹ See chapter 6 of the Handbook for parliamentarians on the Convention on the Rights of Persons with disability: from exclusion to equality realizing the rights of persons with disabilities (2007), issued by the Office of the UN High Commissioner for Human Rights, available at <http://www.un.org/disabilities/default.asp?id=212>.

⁶⁰ UN Convention on the Rights of Persons with Disabilities (hereinafter “the CRPD”), adopted by General Assembly resolution 61/106 on 13 December 2006. The Republic of Moldova ratified this Convention on 21 September 2010.

⁶¹ See e.g., pars 16-17 of the UN CRPD Committee General Comment No. 1 (2014), available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRPD/C/GC/1&Lang=en. See also pars 66-76 in the case of *Shtukaturov v. Russia*, ECtHR judgment of 27 March 2008 (Application no. 44009/05).

determine the will and preferences of an individual, the “best interpretation of will and preferences” should be relied on.⁶² Hence, **Article 12 of the Law could specify that in cases of persons with disabilities or reduced capacity, the professionals should try to seek the consent of the victim, possibly with the assistance of a psychologist, psychiatrist or other relevant professional or family member or guardian, and if not practicable, should decide whether to report the case based on the “best interpretation of will and preferences” of the victim.**

44. Furthermore, while some countries have adopted provisions on mandatory reporting of domestic violence cases involving any adult victim by certain professionals, such as health care providers,⁶³ the effectiveness of such mandatory reporting is sometimes questioned at the international level.⁶⁴ Indeed, the obligation to report may act as a deterrent for adult victims to seek health assistance or other support, and generally impinge on victims’ autonomy.⁶⁵ Hence, reporting requirements in cases involving adult victims should in principle depend on the consent of the victim.⁶⁶ It must be highlighted that Article 28 of the Istanbul Convention provides that reporting by certain professionals bound by confidentiality rules should be possible (not mandatory) in cases of serious acts of violence subject to “appropriate conditions”, such as the prior consent of the victim or in cases of underage victims.⁶⁷ This matter should be discussed and lawmakers and stakeholders should **re-consider the obligation to report without the victim’s consent in cases of medium or severe bodily injuries or damages to health and remove such an exception from the revised Article 12 of the Law. Alternatively, if mandatory reporting in these cases is retained, at a minimum, the professionals shall be required to first provide comprehensive information to the victim explaining their obligation to report and next steps.**⁶⁸
45. It is particularly welcome that the new Article 12¹ of the Law (and new sub-paragraph 13¹ of Article 25 par 5 of the Law on the Police) introduces the possibility for the police to immediately issue emergency restraining orders in case of a reasonable suspicion that domestic violence acts have or will be committed. This is an effective measure to enhance the protection of victims and is in line with recommendations made by the CEDAW Committee.⁶⁹ However, amendments to the Law on Police only refer to the application by the police of “emergency restraining order under the law” without specifying the applicable legislation. To avoid legal uncertainty, it is recommended to

⁶² *ibid.* par 21 (UN CRPD Committee General Comment No. 1 (2014)).

⁶³ For instance, certain states in the United States of America (see http://www.acf.hhs.gov/sites/default/files/fysb/state_compendium.pdf) and in Australia.

⁶⁴ See e.g., page 41 (Recommendation 37) of the World Health Organization Clinical and Policy Guidelines on Responding to Intimate Partner Violence and Sexual Violence against Women (2013), available at http://apps.who.int/iris/bitstream/10665/85240/1/9789241548595_eng.pdf; and page 6 of the WHO Briefing on reducing violence through victim identification, care and support programmes (2009), available at http://www.who.int/violence_injury_prevention/violence/programmes.pdf. See also <http://www.endvawnow.org/en/articles/657-ensure-relevant-laws-are-in-place.html>.

⁶⁵ *ibid.* (World Health Organization Clinical and Policy Guidelines on Responding to Intimate Partner Violence and Sexual Violence against Women (2013)); and <http://www.endvawnow.org/en/articles/441-criminal-penalties-and-procedures.html>.

⁶⁶ *Op. cit.* footnote 39, par 79 (2014 ODIHR Opinion on Preventing and Combating Violence against Women and Domestic Violence in Montenegro); see *op. cit.* footnote 4, par 148 (Explanatory Report to the Istanbul Convention).

⁶⁷ See *op. cit.* footnote 4, par 148 (Explanatory Report to the Istanbul Convention).

⁶⁸ See <http://www.endvawnow.org/en/articles/441-criminal-penalties-and-procedures.html>.

⁶⁹ See *op. cit.* footnote 50, par 20 (b) (2013 Concluding Observations of the CEDAW Committee on Moldova). See also *op. cit.* footnote 18, Section 3.10.4 (2012 UN Women Handbook for Legislation on Violence against Women). See also *op. cit.* footnote 44, par 15 (h) (2011 UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice).

include a specific cross-reference to the Law on Preventing and Combating Domestic Violence.

46. The duration of such orders may extend to up to 10 days, which is overall in line with international standards;⁷⁰ this provides the victim with enough time to solicit the issuance of a protection order by court, in which case the duration of the emergency restraining order will be extended until the court protection measures commence (Article 12¹ par 6). New Article 12¹ par 4 further states that the violation of the emergency restraining order “shall result in liability as prescribed by law”. It is unclear from this provision whether this will trigger administrative, civil or criminal liability. In that respect, it is usually acknowledged that criminalizing the violation of restrictive or protective orders is extremely important in ensuring the effectiveness of legislation.⁷¹ The new Article 320¹ of the Criminal Code introduces a new criminal offence for the violation of a court protection order, which is welcome. A new Article 318¹ of the Contravention Code provides for a fine of 100 up to 150 conventional units or administrative arrest from 5 to 10 days in case of violation of an emergency restraining order. To avoid legal uncertainty, it is thus recommended **to clarify in the new Article 12¹ par 4 that the violation of court protection orders is subject to criminal liability as defined by the Criminal Code, while the violation of emergency restraining orders issued by police bodies shall lead to liability as defined by the Contravention Code.**⁷² Similarly, the new Article 15² which states that the failure to comply with the requirements of the emergency restrictive order/protection order shall “attract liability under the law” should be clarified.
47. Regarding specifically the sanction provided by the Contravention Code, it must be noted that the imposition of fines on a perpetrator of domestic violence may actually impact negatively on the victim/survivor and may therefore constitute an inappropriate form of punishment for the perpetrator.⁷³ Hence the **drafters and stakeholders should discuss whether to exclude such monetary sanctions and eventually replace them with community services or expressly include an exception to the imposition of fines, where doing so would cause financial hardship to the victim/survivor and/or children.**
48. Regarding the issuance of protection or restraining orders by court, it is welcome that new paragraph 2¹ of Article 13 (and revised Article 318¹ of the Code of Civil Procedure) now requires that the victim or his/her legal representative (or other third parties upon his/her request) personally files the application whereas before, the involvement of the victim was not required. This is in line with international standards which usually

⁷⁰ See e.g., par 30, Part IV, “A Framework for Model Legislation on Domestic Violence”, Report of the Special Rapporteur on violence against women, its causes and consequences (1996), available at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G96/104/75/PDF/G9610475.pdf?OpenElement>. See also, e.g., the situation in Canada, where certain Canadian Provinces require judicial confirmation of emergency orders within a specific period of usually 3 to 7 days by a Superior Court within the jurisdiction. The exception to this rule is Manitoba Province, which instead provides for the right of the respondent to contest the emergency order within 20 days of service of the order; see also the Law of Bulgaria on Protection against Domestic Violence Act (State Gazette issue 27 of 29 March 2005), section 4(2).

⁷¹ See page 9 of the UN Expert Group Meeting on Good Practices in Legislation on Violence Against Women, Expert Paper by Cheryl A. Thomas on Legal Reform on Domestic Violence in Central and Eastern Europe and the Former Soviet Union, 17 June 2008, available at [http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/expertpapers/EGMGPLVAW%20Paper%20\(Cheryl%20Thomas\).pdf](http://www.un.org/womenwatch/daw/egm/vaw_legislation_2008/expertpapers/EGMGPLVAW%20Paper%20(Cheryl%20Thomas).pdf). See also Section 3.10.9 of the UN Women Handbook for Legislation on VAW.

⁷² For examples of criminal penalty imposed in other countries, see *op. cit.* footnote 18, Section 3.10.9 (2012 UN Women Handbook for Legislation on Violence against Women).

⁷³ See Article 48 par 2 of the Istanbul Convention. See also *ibid.* Section 3.11.4 (2012 UN Women Handbook for Legislation on Violence against Women).

recognize that the victim/survivor's wishes should be respected since they are often in the best position to evaluate their best interests and potential risks to their own safety.⁷⁴

49. It must be highlighted that good practices at the international level suggest that live testimony or a sworn statement of the complainant/survivor should constitute sufficient evidence for the issuance of a protection order and that no further evidence should be required from the victim/survivor.⁷⁵ New paragraph 1¹ of Article 318³ provides that “for issuance of protection order in cases of imminent danger for acts of physical violence to be committed, the independent statement of the victim alone shall suffice”. It is unclear, however, which criteria will be considered by the court to assess the existence of an imminent danger that acts of physical violence may be committed. Moreover, the Article further states that “[u]pon necessity, the court may request the social assistance authority or police to present a report on the situation” and that it may also request other documents necessary for the examination of the application. Consequently, this creates the potential for numerous exceptions to the principle that the statement of the victim alone shall suffice. It is recommended **to reconsider such limitations and rather provide for the reversal of the burden of proof or at a minimum, clearly specify, as is done in certain other countries, that where no other evidence exists, the court shall issue a protection order based solely on the statement made by the victim.**⁷⁶
50. Finally, the Draft Amendments do not clearly provide for an information-gathering system relating to orders issued by the police and those issued by a court. It would be useful to establish a consolidated registration system or database for protection, restraining or barring orders, so that the police or criminal justice officials can quickly determine whether an order is in force, and take immediate action upon infringement.⁷⁷ For instance, some countries oblige courts to notify a special entity in charge of a central and unified database about all issued orders, which is accessible to all criminal justice actors.⁷⁸ New Article 15 par 2 states that the territorial police inspectorate shall be immediately informed about the issuance of a protection order and new Article 15² par 1 provides that the public order police is in charge of supervising the execution of the emergency and protection orders. However, nothing is said as to whether a consolidated registration system already exists in Moldova or about the designation of a body in charge of maintaining such a system. The lawmakers and stakeholders should therefore **discuss which central body should be in charge of collecting all information relating to protective measures and maintaining such a system, and supplement the Draft Amendments accordingly.**

4.2. Assistance and Support Services to Victims

51. It is welcome that a new Article 8 par 2 (c)¹ of the Law expressly provides that local public administrations should contribute to the social inclusion of victims by offering employment opportunities and ensuring access to social housing, as this would strengthen women's economic independence in particular and could also help reduce

⁷⁴ See *op. cit.* footnote 18, Section 3.10.6 (2012 UN Women Handbook for Legislation on Violence against Women).

⁷⁵ *ibid.* Section 3.10.7 (2012 UN Women Handbook for Legislation on Violence against Women).

⁷⁶ See e.g., Article 13 (3) of the Protection against Domestic Violence Act of Bulgaria (2005), available at <http://www.legislationline.org/documents/action/popup/id/15572>.

⁷⁷ See *op. cit.* footnote 44, par 16 (h) (2011 UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice).

⁷⁸ See e.g., Article 34 of the Law on Domestic Violence Protection of Montenegro, available at <http://www.legislationline.org/topics/country/57/topic/7>.

the dependence of women on perpetrators. This is all the more important since such dependence is often one of the reasons for women victims' unwillingness to report cases of domestic violence or press charges.⁷⁹ However, the proposed provision is unlikely to yield proper results if the relevant legislation on social housing, which sets out the criteria to be assessed when allocating social housing, is not amended as well. It is thus recommended **to amend the respective legislation on social housing, to include the situation where an applicant requesting social housing may be a victim of domestic violence and provide that his/her case should consequently be considered as a matter of priority.**⁸⁰ It must be noted though that access to social housing should not be a substitute to the provision of shelters, which should provide immediate/emergency accommodation and other support services to victims. Moreover, given the particular situation of victims of domestic violence, it would be advisable to state in the relevant legislation that in cases where the spouse of an applicant is the alleged perpetrator of domestic violence, his/her income should not be taken into account when considering the income and assets of the applicant to apply for social housing.⁸¹

52. The same applies as regards measures relating to employment to support victims of domestic violence. Good practices from certain OSCE participating States suggest that unemployment benefits should also be paid if someone was forced to leave his or her employment in order to escape domestic violence (see e.g., in France, Canada and most US States).⁸² The lawmakers and stakeholders should consider supplementing the relevant legislation of Moldova accordingly.
53. The amendments to Article 19 of the Law on State Guaranteed Legal Aid regarding persons entitled to receive qualified legal aid expressly refers to "victims of domestic violence" as a separate category of persons entitled to legal assistance – which is positive as this acknowledges the specific situation of such victims. However, this provision does not specify any criteria based on which the respective authorities will determine whether a person qualifies as a "victim of domestic violence". **This should in principle be irrespective of the filing of a complaint or of having started a civil or criminal case. The Law on State Guaranteed Legal Aid shall be amended accordingly.**

4.3. Temporary Stay in the Country

54. Amendments to the Law on the Legal Status of Foreigners in Moldova provide for specific measures relating to the extension of the right to temporary stay in the country for victims of domestic violence, which is overall in line with Article 59 of the Istanbul Convention.⁸³ However, one of the conditions listed under the new Article 42¹ par 1 sub-par d of the Law on the Legal Status of Foreigners to obtain such extension includes

⁷⁹ *Op. cit.* footnote 4, par 118 (Explanatory Report to the Istanbul Convention).

⁸⁰ *Op. cit.* footnote 39, par 100 (2014 ODIHR Opinion on Preventing and Combating Violence against Women and Domestic Violence in Montenegro).

⁸¹ *ibid.* par 100 (2014 ODIHR Opinion on Preventing and Combating Violence against Women and Domestic Violence in Montenegro).

⁸² See Sections 3.3 and 5.1. respectively on pages 14 and 31 of the 2013 International Labour Organization (ILO) Comparative review of unemployment and employment insurance experiences in Asia and worldwide, available at <http://www.social-protection.org/gimi/gess/RessourceDownload.action?ressource.ressourceId=40477>.

⁸³ Article 59 of the Istanbul Convention requires the State Parties to ensure that "victims whose residence status depends on that of the spouse or partner as recognized 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 existence of “reasonable grounds that the life or the physical integrity of the foreigner shall be jeopardized or that he shall be subjected to torture, inhuman or degrading treatments if returning to his/her country”.

55. First, it must be stressed that such a condition should in itself allow the victim to seek asylum in accordance with the 1951 Convention relating to the Status of Refugees. The asylum claim would then prevent him/her from being returned to the country where his/her life would be at risk or where he/she may be subjected to torture or inhuman or degrading treatment or punishment until completion of the asylum proceedings.⁸⁴ Second, this condition may be difficult to fulfil or to prove in practice, and would thus run counter to the main purpose of Article 59 of the Istanbul Convention, which is to ensure that the risk of losing residence status should not constitute an impediment to victims leaving an abusive or violent relationship.⁸⁵ Consequently, it is recommended **to remove such a condition from the new Article 42¹ of the Law on the Legal Status of Foreigners.**
56. It must be noted though that Article 60 of the Istanbul Convention also requires the adoption of necessary legislative or other measures to ensure that **gender-based violence against women may be recognized as a form of persecution within the meaning of the 1951 Convention relating to the Status of Refugees. It is recommended to supplement the relevant legislation of Moldova in that respect.**⁸⁶
57. As regards the documents to be submitted to request the extension of temporary stay (new Article 42¹ par 2 of the Law on the Legal Status of Foreigners), the provision requires in particular “an order of the criminal investigation body stating his/her status of an injured party or the protection order of the domestic violence victim issued on his/her behalf”. Such types of documents may not necessarily be easy to obtain for a victim of domestic violence, all the more when he/she is a foreigner. As mentioned in the Explanatory Report to the Istanbul Convention, evidence of violence may include, among others, police records, a court conviction, a barring or protection order, medical evidence, an order of divorce, social service records or reports from women’s civil society organizations.⁸⁷ To avoid limiting the possibility for victims of domestic violence to seek the extension of their temporary stay, **the drafters should consider broadening the list of the kind of documents that can be submitted under new Article 42¹ par 2.**

⁸⁴ See par 36 of the Guidelines on International Protection No. 1 on Gender-Related Persecution within the context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 7 May 2002, available at <http://www.unhcr-centraleurope.org/pdf/resources/legal-documents/unhcr-handbooks-recommendations-and-guidelines/unhcr-guidelines-on-gender-related-persecution-2002.html>. See also relevant ECtHR case law which provides that deportation shall be prohibited where a state would expose an individual to a real risk of loss of life under Article 2 of the ECHR or to torture or inhuman or degrading treatment or punishment under Article 3 of the ECHR; e.g. *N v. Sweden*, ECtHR judgment of 20 October 2010 (Application no. 23505/09) where the ECtHR, while noting that there were no specific circumstances in the present case substantiating that the applicant would be subjected to various forms of violence by family members and/or the Afghan society, recognized the cumulative risk of reprisals indicated by statistics and international reports and held the deportation of the claimant to Afghanistan to be in violation of Article 3 of the ECHR. See also pars 159-160 of *Opuz v. Turkey*, ECtHR judgment of 9 June 2009 (Application No 33401/02), available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-92945#{"itemid":\["001-92945"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-92945#{).

⁸⁵ See *op. cit.* footnote 4, par 302 (Explanatory Report to the Istanbul Convention).

⁸⁶ See *op. cit.* footnote 39, pars 115-117 (2014 ODIHR Opinion on Preventing and Combating Violence against Women and Domestic Violence in Montenegro).

⁸⁷ See *op. cit.* footnote 4, par 303 (Explanatory Report to the Istanbul Convention).

5. Investigation, Prosecution, Procedural Law and Protective Measures

5.1. Liability of the Perpetrator

58. The amendments to the Criminal Code introduce a number of positive developments which overall should strengthen the legal framework for combating domestic violence in Moldova, particularly the revision of the statute of limitations for child victims (new par 2¹ of Article 60), the introduction of new aggravating circumstances such as the nature of the family relationship between perpetrator and victim for murder (new sub-par e¹ of par 2 of Article 145), the introduction of a new criminal offence for stalking (new Article 177¹) and stronger penalties for cases of domestic violence (amended Article 201¹) as well as the criminalization of the violation of protection orders (new Article 320¹).
59. At the same time, it should be highlighted that no amendment to the definition of “rape” is contemplated. Article 171 of the Criminal Code of Moldova defines rape as a “sexual intercourse committed by the physical or mental coercion of the person, or by taking advantage of the victim’s incapacity to defend himself/herself or to express his/her will”. The wording of this provision seems to suggest that one of the constitutive elements of this criminal offence is some degree of violence or use of force. It must be pointed out here that ECtHR case law requires the penalization and effective prosecution of any non-consensual sexual act, including in the absence of physical resistance by the victim.⁸⁸ Moreover, it seems that in practice, Moldovan prosecution authorities generally require a high evidentiary threshold before initiating criminal proceedings in cases of rape and sexual abuse in accordance with Article 274 of the Criminal Procedure and that thus, such criminal offences are not always effectively investigated.⁸⁹ Consequently, to ensure a broad application of the Article even in the absence of physical resistance by the victim, **it would be preferable if this provision would not refer to “coercion” but would focus instead on whether consent to the sexual act was given voluntarily, as a result of the person’s free will, in light of all the circumstances** (see, in this context, Article 36 par 2 of the Istanbul Convention). This would also be in line with what is recognized as best practices of rape prevention at the European level.⁹⁰ A number of countries go even further and require the existence of certain “coercive circumstances” instead of the proof of lack of consent; in that case, a broad list of such coercive circumstances should be provided.⁹¹
60. **To avoid “secondary victimization”,⁹² the legislation should make it clear that in rape cases, the burden of proof is on the accused, who should prove that the victim**

⁸⁸ See par 166 in the case of *M.C. v. Bulgaria*, ECtHR judgment of 4 December 2003 (Application No 39272/98), available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61521#{"itemid":\["001-61521"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-61521#{).

⁸⁹ See e.g., par 33 in the case of *I.P. v. Moldova*, ECtHR judgment of 28 April 2015 (Application No. 33708/12), available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-154152#{"itemid":\["001-154152"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-154152#{).

⁹⁰ See page 81-82 of the Study of the European Parliament “Overview of the Worldwide Best Practices for Rape Prevention and for Assisting Women Victims of Rape” (2013), available at [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493025/IPOL-FEMM_ET\(2013\)493025_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2013/493025/IPOL-FEMM_ET(2013)493025_EN.pdf).

⁹¹ *Op. cit.* footnote 18, Section 3.4.3.1. (2012 UN Women Handbook for Legislation on Violence against Women).

⁹² i.e., when the victims suffer further harm not as a direct result of the criminal act but due to the manner in which the institutions and other individuals deal with the victim (see par 1.3 of the Appendix to CoE Recommendation Rec(2006)8). Secondary victimization may be caused, for instance, by repeated exposure of the victim to the perpetrator, repeated interrogation about the same facts, the use of inappropriate language, unintentionally insensitive comments made by all those who come into contact with victims, and insensitive media reporting of cases. See also pars 3.3 and 12.2 of the Appendix to CoE Recommendation Rec(2006)8 and Chapter 5 of the 2009 Report on Non-Criminal Remedies for Crime Victims prepared by the Group of Specialists on Remedies for Crime Victims (CJ-S-VICT) nominated by the

gave his or her “freely given consent”. The rules relating to evidence and the burden of proof in criminal matters should be amended accordingly.

5.2. Investigation and Prosecution of Acts of Domestic Violence

61. The Amendments to the Criminal Procedure Code also introduce some positive changes, such as the obligation of the prosecution to immediately request the enforcement of protection measures during the trial (new Article 215¹). It is also welcome that the express mention under Article 276 par 5 of the possibility to reconcile in cases of domestic violence, which then lead to the discontinuation of criminal cases, has now been repealed. However, it is unclear whether such a deletion would imply that conciliation is excluded in all cases of domestic violence. Given the risk that such a procedure would be imposed on the victim, who may simply not object to reconciliation for fear of reprisal or due to intimidation by the accused/defendant,⁹³ it would be advisable **to expressly exclude from its scope all cases of domestic violence and other criminal offences where the perpetrator is a family member of the victim.**⁹⁴
62. One of the main challenges in domestic violence cases is attrition (i.e., the phenomenon whereby domestic violence cases fail to make it through the criminal justice system and do not result in a criminal conviction). Various human rights monitoring bodies have noted the low level of reporting cases of domestic violence, particularly of sexual violence, as well as ineffective investigation and prosecution of such cases in Moldova.⁹⁵ Attrition often stems from different causes and sources, either victim-related or system-related. Lawmakers and stakeholders should analyze the factors that would explain such low levels of reporting, since this could inform the need for potential legislative changes, as well as other policy interventions. The draft European Union Handbook of Best Police Practices on Overcoming Attrition in Domestic Violence Cases could serve as a useful tool for that purpose.⁹⁶
63. The amendments to the Law on Police, while important since they introduce the issuance of emergency restraining orders on the spot, are minimal. Additional amendments to the Law on the Police could be contemplated, such as including a clear statement that the assistance to victims and a victim-centered approach constitutes a key principle guiding all police activity;⁹⁷ the specialization of police forces/specialized police investigative units for domestic violence cases;⁹⁸ a duty to collaborate with

Committee of Ministers of the Council of Europe, under the aegis of the European Committee on Legal Co-operation (CDCJ), available at http://www.coe.int/t/dghl/standardsetting/victims/victims%20final_en%20with%20cover.pdf (hereinafter “2009 Report on Non-Criminal Remedies for Crime Victims”).

⁹³ See e.g., par 33 in the case of *I.P. v. Moldova*, ECtHR judgment of 28 April 2015 (Application No. 33708/12), available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-154152#{"itemid":\["001-154152"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-154152#{).

⁹⁴ See e.g., *op. cit.* footnote 39, par 133 (2014 ODIHR Opinion on Preventing and Combating Violence against Women and Domestic Violence in Montenegro).

⁹⁵ *Op. cit.* footnote 50, pars 19-20 (2013 Concluding Observations of the CEDAW Committee on Moldova).

⁹⁶ See *op. cit.* footnote 55 (2012 Draft EU Handbook on Overcoming Attrition in Domestic Violence Cases).

⁹⁷ See par 35 of the OSCE/ODIHR Opinion on the Draft Law of Ukraine on Police and Police Activities (2014), available at http://www.legislationline.org/download/action/download/id/5752/file/260_GEN_UKR_1Dec%202014_en.pdf. Such an approach focuses on assisting victims in their engagement with the criminal justice process, rather than holding them responsible for any “reluctance” to co-operate with the criminal justice system (see *op. cit.* footnote 16, page 34 (2014 UNODC Blueprint for Action on VAW)).

⁹⁸ Good practices have shown that the specialization of police services, and focused training sessions tend to increase reporting, trust and engagement of the victims, and more generally the efficiency and effectiveness of the criminal justice system; see *op. cit.* footnote 55, page 10 (2012 Draft EU Handbook on Overcoming Attrition in Domestic Violence Cases). See also pages 52-53 of the UNODC Handbook for Effective Police Responses to Violence Against Women

various state and non-state entities;⁹⁹ the collection of disaggregated data (see additional comments in pars 36-37 *supra*); initial and continuous training relating to human rights and gender, including the handling of cases of domestic violence;¹⁰⁰ among others. Given the recent case law of the ECtHR showing the lack of effective investigations of domestic violence cases in Moldova,¹⁰¹ adequate provisions specifying the conditions and modalities of an independent public complaints mechanism against the police should be included, that would, for instance, deal with cases where the police failed to intervene.¹⁰² Furthermore, as noted at the international level, one important step to winning the trust of individuals and minority communities is to pursue greater gender balance and diversity in the police forces throughout all ranks and functions.¹⁰³ The drafters and stakeholders **should consider whether additional amendments on the Law of Police would be appropriate.**¹⁰⁴

64. It is noted that the amendments to the Criminal Procedure Code do not affect provisions pertaining to the roles and responsibilities of the prosecution bodies and to the investigation of domestic violence cases, including the role of the police in that respect. First, it must be reiterated that, as recommended by human rights bodies, **the existing guidelines on investigation of rape and other forms of sexual assault in Moldova should be amended** and made more compliant with international human rights standards.¹⁰⁵ Second, the **criminal procedural rules could be supplemented to expressly include a duty for the prosecution services to investigate all allegations of criminal offences of a certain type (to be determined), including domestic violence.** At the same time, legislative measures are often ineffective unless accompanied by changes in law enforcement standards, values and conduct.¹⁰⁶ **Various tools have been developed at the international level to encourage consistent police and prosecution**

(2009), available at https://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_Effective_police_responses_to_violence_against_women_English.pdf.

⁹⁹ Such as prosecution, courts, prisons, healthcare and social service providers, NGOs, civil society and local community and religious leaders (see *ibid.* page 91 (2009 UNODC Handbook for Effective Police Responses to Violence Against Women)).

¹⁰⁰ See page 132 of the 2013 OSCE TNTD/SPMU Publication on “Police Reform within the Framework of Criminal Justice System Reform”, July 2013, available at <http://www.osce.org/secretariat/109917?download=true>; and *op. cit.* footnote 4, pars 98 to 101 (Explanatory Report to the Istanbul Convention).

¹⁰¹ See in particular the cases of *Eremia v. Republic of Moldova*, ECtHR judgment of 28 May 2013 (Application No 3564/11), available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119968#{"itemid":\["001-119968"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-119968#{) and of *T.M. and C.M. v. Republic of Moldova*, ECtHR judgment of 28 January 2014 (Application No 26608/11), available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-140240#{"itemid":\["001-140240"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-140240#{).

¹⁰² See e.g., the Opinion of the Council of Europe Commissioner for Human Rights concerning Independent and Effective Determination of Complaints against the Police, CommDH(2009)4, 12 March 2009, available at <https://wcd.coe.int/ViewDoc.jsp?id=1417857>; and pars 56, 64-67, and 123-124 of the OSCE/ODIHR Opinion on the Draft Law of Ukraine on Police and Police Activities (2014), available at http://www.legislationline.org/download/action/download/id/5752/file/260_GEN_UKR_1Dec%202014_en.pdf.

¹⁰³ See par 127 of the OSCE Guidebook on Democratic Policing, May 2008 (hereinafter “2008 OSCE Guidebook on Democratic Policing”), available at <http://www.osce.org/spmu/23804?download=true>.

¹⁰⁴ *ibid.* par 130 (2008 OSCE Guidebook on Democratic Policing). See also pars 21-22 of the General recommendation of the CEDAW Committee No. 25, on article 4, paragraph 1, of the Convention on the Elimination of All Forms of Discrimination against Women, on temporary special measures, available at [http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20\(English\).pdf](http://www.un.org/womenwatch/daw/cedaw/recommendations/General%20recommendation%2025%20(English).pdf).

¹⁰⁵ *Op. cit.* footnote 50, par 20 (d) (2013 Concluding Observations of the CEDAW Committee on Moldova); see also par 87 (e) of the Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to the Republic of Moldova (from 20 to 31 May 2012), 15 March 2013, available at <http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/CountryVisits.aspx>.

¹⁰⁶ See *op. cit.* footnote 44, page 3 and par 3 (2011 UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice). See also page 3 of the 2010 UN Handbook on Effective Police Responses to Violence against Women, available at [http://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_Effective_police_responses_to_violence_against_women_English.pdf](https://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_Effective_police_responses_to_violence_against_women_English.pdf).

responses to incidents of domestic violence; these can serve as useful references when amending the guidelines for the exercise of prosecutorial functions¹⁰⁷ and/or developing other standard operating procedures for police responses to cases of domestic violence.¹⁰⁸ Finally, apart from providing adequate initial and continuous training to sensitize police bodies and prosecution services on the importance of investigating and prosecuting cases of domestic violence (see pars 39-40 *supra*), good practices in that respect also recommend the introduction of pro-arrest policies.¹⁰⁹

65. More generally, given the importance to ensure timely and expedited judicial proceedings, the drafters may also consider **introducing in the Criminal Procedure Code, or in other legislation, where appropriate, ‘fast-track’ procedures for cases of domestic violence.**¹¹⁰

5.3. Procedural Measures and Protection from Re-victimization

66. When dealing with cases of domestic violence, it is particularly important to ensure that certain measures are in place to avoid the “secondary victimization”¹¹¹ of victims. **OSCE/ODIHR recommends that a comprehensive review of the Code of Criminal Procedure Code be carried out to ensure that appropriate gender and child-sensitive measures are included.**¹¹²

¹⁰⁷ See the UNODC Handbook on Effective Prosecution Responses to Violence against Women and Girls (2014), available at http://www.unodc.org/documents/justice-and-prison-reform/Handbook_on_effective_prosecution_responses_to_violence_against_women_and_girls.pdf.

¹⁰⁸ *ibid.*, page 44 (2010 UN Handbook on Effective Police Responses to VAW). See also the 2006 Model Policy for Police Responding to Domestic Violence Calls developed by the International Association of Chiefs of Police, available at www.theiacp.org/portals/0/pdfs/DomesticViolencePolicy0606.doc. See also *op. cit.* footnote 44, par 8 (2011 UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice).

¹⁰⁹ *Op. cit.* footnote 55, page 10 (2012 EU Handbook on Overcoming Attrition in Domestic Violence Cases). See also *op. cit.* footnote 106, page 44 (2010 UN Handbook on Effective Police Responses to Violence against Women). See also *op. cit.* footnote 18, Section 3.8.3. (2012 UN Women Handbook for Legislation on Violence against Women).

¹¹⁰ See also *op. cit.* footnote 18, Section 3.9.2. (2012 UN Women Handbook for Legislation against VAW).

¹¹¹ i.e., when the victims suffer further harm not as a direct result of the criminal act but due to the manner in which the institutions and other individuals deal with the victim. Secondary victimization may be caused, for instance, by repeated exposure of the victim to the perpetrator, repeated interrogation about the same facts, the use of inappropriate language, unintentionally insensitive comments made by all those who come into contact with victims, insensitive media reporting of cases. See also pars 3.3 and 12.2 of the Appendix to CoE Recommendation Rec(2006)8 and Chapter 5 of the 2009 Report on Non-Criminal Remedies for Crime Victims prepared by the Group of Specialists on Remedies for Crime Victims (CJ-S-VICT) nominated by the Committee of Ministers of the Council of Europe, under the aegis of the European Committee on Legal Co-operation (CDCJ), available at http://www.coe.int/t/dghl/standardsetting/victims/victims%20final_en%20with%20cover.pdf (hereinafter “2009 Report on Non-Criminal Remedies for Crime Victims”).

¹¹² See *op. cit.* footnote 44, par 15 (2011 UN Updated Model Strategies and Practical Measures on the Elimination of Violence against Women in the Field of Crime Prevention and Criminal Justice). See also e.g., Section 4 of the OSCE/ODIHR Opinion on the Draft Criminal Procedure Code of the Kyrgyz Republic (19 June 2015), available at <http://www.legislationline.org/countries/country/20>. This should include, among others, modalities to avoid contact between perpetrator and the victim at all stages of the criminal proceedings, including investigations on police premises, unless contacts are necessary or useful for the proper conduct of proceedings; the presence of third parties such as psychologists or other professionals, in addition to the defence lawyer or legal representative, to support the victim; having the intake interview/interrogation carried out by same sex officer, unless the victim requires otherwise; the use of video equipment for all interviews of child victims and witnesses; ensuring that safety risks, including the vulnerability of victims, are taken into account in decisions concerning non-custodial or quasi-custodial sentences, the granting of bail, conditional release, parole or probation, especially when dealing with repeat and dangerous offenders; the obligation to notify victims when the accused/convicted person is released from custody or escape; ensuring that risks affecting victim safety are taken into account in decisions regarding the release of perpetrators; the possibility for victims and witnesses to testify without being seen by other participants in the trial, for instance via video transmission; exclusion of cases of domestic violence from the procedure of plea-bargaining/conciliation; various confidentiality and privacy measures; and

67. In particular, Article 277 of the Criminal Procedural Code provides the obligation for the prosecution body to explain the rights and obligations of the participants to the criminal case. However, such a provision is relatively vague and it is unclear which rights and at which stage of the procedure they will be notified to victims. The duty to inform the victims of crimes shall enter into play from their first contact with a competent authority. The 2012 EU Directive 2012/19 establishing minimum standards on the rights, support and protection of victims of crime¹¹³ provides more details as to the range of victims' rights that should be provided in national legislation and may provide useful guidance to supplement the Criminal Procedure Code of Moldova and other relevant legislation.

5.4. Civil Lawsuits, Compensation and Remedies

68. It is welcome that current paragraph 4 of Article 11 of the Law, which provides for the possibility of mediating domestic violence cases, has been repealed. This is in line with international standards, which recommend to prohibit mediation in all cases of violence against women.¹¹⁴ New paragraphs 4 and 4¹ of Article 11 of the Law also constitute positive developments as they expressly provide that victims of domestic violence may claim compensation not only from the perpetrator, but also from the state, where moral and material damage resulted from the omission to provide adequate aid and protection; these provisions are also in line with international standards.¹¹⁵

69. Specifically, new paragraph 4¹ of Article 11 seems to refer to a state compensation scheme for victims of crimes under the “conditions provided for in the legislation”. It is unclear, however, whether such a scheme is already in place. If it does already exist, it is recommended to explicitly include a cross-reference to relevant legislation, to enhance legal certainty. In that respect, **the OSCE/ODIHR would like to refer back to recommendations made regarding the drafting of legislation on compensation of victims of crimes, particularly to ensure that the requirements for seeking compensation and the criteria to determine the level of compensation do not constitute potential barriers for victims of domestic violence to obtain compensation.**¹¹⁶

6. Final Comments

70. Recognizing that statistically, the majority of victims of domestic violence tend to be women, it is important to note that any legislative reform on preventing and combating

more generally, a victim-centered approach and a duty to inform victims about their rights at all stages of the criminal justice process.

¹¹³ EU Directive 2012/29/EU adopted on 25 October 2012, particularly Article 4, available at <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32012L0029&from=en>. See also the DG Justice Guidance Document related to the transposition and implementation of the Directive 2012/19 (December 2013) available at http://ec.europa.eu/justice/criminal/files/victims/guidance_victims_rights_directive_en.pdf. See also *op. cit.* footnote 103, pars 52-54 (2008 OSCE Guidebook on Democratic Policing) pertaining to police support to victims and witnesses of crimes.

¹¹⁴ See e.g., *op. cit.* footnote 18, Section 3.9.1 (2012 UN Women Handbook for Legislation on Violence against Women); see also Article 48 of the Istanbul Convention which prohibits mandatory alternative dispute resolution processes in cases of domestic violence.

¹¹⁵ See *op. cit.* footnote 4, par 162 (Explanatory Report to the Istanbul Convention).

¹¹⁶ See the OSCE/ODIHR Opinion on the Draft Law on Compensation of Damages for Victims of Criminal Acts in Montenegro, CRIM-MNG/253/2014, dated 28 July 2014, Montenegrin version available at <http://www.legislationline.org/documents/id/19167>.

domestic violence should be accompanied by more general initiatives to raise awareness on gender equality and support the empowerment of women in all spheres of life, with the aim to reduce women's vulnerability to violence. Special measures to promote gender equality in the employment sector and the labor market, in political and public life, and to strengthen women's economic independence, could also help reduce the dependence of women on perpetrators. This is all the more important since such dependence is often one of the reasons for victims' unwillingness to report cases of domestic violence or press charges.¹¹⁷ **Particularly, the drafters and stakeholders should consider reviewing other pieces of legislation which are of particular relevance to this field to ensure that they are not discriminatory and promote gender equality, particularly legislation pertaining to marriage, family relations, inheritance, succession and divorce,¹¹⁸ as well as laws on social protection, unemployment benefits and insurance.**

71. Finally, recommendations at the international level highlight the need for direct and meaningful participation of all criminal justice agencies, civil society and other stakeholders throughout the process of amending legislation on preventing and combating violence against women.¹¹⁹ This should include participation of women survivors, women and men from marginalized groups, service providers, representatives from law enforcement and justice sectors, media, health sector, private sector and development partners, and government bodies, both at the highest decision-making levels and across all levels.¹²⁰ **Consequently, policy and law makers in Moldova should ensure that all the above-mentioned stakeholders are, and continue to be, fully consulted and informed, and that they are able to submit their views throughout the amendment process.** Public discussion and an open and inclusive debate will increase all stakeholders' understanding of the various factors involved, enhance confidence in and ownership of the adopted legislation, and ultimately improve implementation.

[END OF TEXT]

¹¹⁷ *Op. cit.* footnote 4, par 118 (Explanatory Report to the Istanbul Convention).

¹¹⁸ Such legislation should for instance provide for the right of the victim/survivor of domestic violence to stay in the family dwelling after divorce, include a statutory presumption against awarding child custody to a perpetrator, and include the principle of equal division of the joint property of spouses, taking into account the support that one spouse may have provided in the form of household and family care (see e.g., *op. cit.* footnote 18, Section 3.13. (2012 UN Women Handbook for Legislation on Violence against Women)). See also *op. cit.* footnote 50, pars 39-40 (2013 Concluding Observations of the CEDAW Committee on Moldova) which recommends to ensure the full implementation of the provisions on inheritance and succession contained in the Civil Code and to close the gap between the law and practice, in line with paragraphs 51 to 53 of the Committee's general recommendation No. 29 on the economic consequences of marriage, family relations and their dissolution. See also pars 43-44 of the CEDAW Committee General Recommendation on Article 16 of CEDAW on the Economic Consequences of Marriage, Family Relations and their Dissolution (2013), available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/29&Lang=en.

¹¹⁹ See *op. cit.* footnote 16, page 44 (2014 UNODC Blueprint for Action on VAW).

¹²⁰ *Op. cit.* footnote 38, Section 3.3.2 (2012 UN Women Handbook for National Action Plans on VAW). See also *op. cit.* footnote 16, page 44 (2014 UNODC Blueprint for Action on VAW).

ANNEX:

Draft

LAW

On amendments and supplements to a number of legal acts

The Parliament adopts this organic law.

Article I. – Law No. 45-XVI of 1 March 2007 on Preventing and Combating the Domestic Violence (The Official Gazette of the Republic of Moldova, 2008, no. 55-56, art.178), with the existent amendments and supplements, shall be supplemented and amended as follows:

1. In the preamble, the words "To strengthen, protect and support the family, to ensure observance of the fundamental legal principles referring to the family, to ensure equal opportunities for women and men to exercise their human right to life free of violence," shall have the following wording: "To strengthen, protect and support the family and to ensure observance of the fundamental legal principles referring to the family recognizing the fact that realization of the gender equality between women and men constitutes the key element in preventing violence against women, also recognizing that women are disproportionately affected by the domestic violence,"

1. In the Article 2:

The definition of domestic violence shall be as follows:

Domestic violence

– all acts of physical, sexual, psychological, spiritual or economic violence, with exception of self-defence or defence of another person, including threatening with such actions, committed by a family member against another member of the same family, in result of which a material or a moral damage has been caused to the victim;

In the definition of ***spiritual violence***, after the words "imposing an unacceptable personal system of values" is supplemented with the text "or constraint to join a religious cult or perform spiritual practices and religious beliefs;"

definition of ***moral damage*** shall be worded as follows:

moral damage – causing physical and/or psychic suffering, which resulted in humiliation, fear, abjection, inability of defence against violence, feelings of frustration and other similar consequences;

The definition of ***the perpetrator*** is supplemented with a new sentence as follows:

"In case of complaints made by several family members, containing mutual accusations of committing acts of violence, the perpetrator shall be identified by taking into consideration the following circumstances: who, out of the involved subjects, has acted in his/her or other person's defence; the probability of occurrence of critical situations for each person involved; the way of acting during the scene of violence and the severity of injuries caused by each person; previous complaints of domestic violence and other circumstances indicating the initiator of violence.";

shall be supplemented with new definitions as follows:

"critical situation/ critical situations - all circumstances presenting an imminent danger to life and/or to the physical and/or psychological integrity of the person and which require an emergency intervention and provision of protection measures;"

"emergency restraining order – a provisional protection measure for the domestic violence victim applied by police aimed at the immediate removal of the perpetrator from the family home and establishing certain legal interdictions in order to prevent recurrence / committing of violent actions, thus ensuring safety for the victim and other family members in their home;.

3. Article 3 shall have the following content:

”Article 3. Subjects of domestic violence

(1) Subjects of domestic violence are the perpetrator and the victim, members of the same family.

(2) Members of the family, in the terms of this law, shall be as follows:

a) in joint living - conditioned by cohabiting - persons in marriage relationship, former spouses, persons under guardianship, their relatives and in-laws in straight or collateral line, relatives of the spouse, persons who are in relations similar to those between spouses (concubines) or between parents and children;

b) in separate habitation: persons in marriage relationships, their relatives and in-laws in straight line, adopted children, persons under guardianship, former spouses, persons which have been in relationships similar to those between spouses (concubines).”.

4. Article 5 letter b) shall be supplemented with the phrase “and non-discrimination;”.

5. Article 7 paragraph (1):

in letter b) the phrase “ specialised local public authorities” shall be substituted by the phrase “level two specialised local public authorities”;

the words “ law enforcement bodies” shall be substituted by the words “police bodies”;

letter c) shall be excluded;

letter d) shall read as follows:

“d) centres/ services for social assistance and protection of the victims of domestic violence and their children and centres/services for social assistance and counselling for perpetrators of domestic violence;”.

6. Article 8:

in paragraph (1):

letter a) is supplemented after the words “for prevention” with the words “and combating”, and further as the text follows.”;

letter c) shall read as follows:

”c) ensures access to information of the persons regarding the mechanism of measures for preventing and combating the acts of domestic violence and contributes to maintaining of the Web page dedicated to domestic violence, by transfer of general information on performed activities, implemented projects and gathered statistical data;”;

letter e) shall be supplemented by the words “, their initial and continuous training;”;

letter d) shall read as follows:

”d) systematically gathers statistical data in the related field, offers support in performing researches of the domestic violence phenomenon;”

The Article shall be supplemented with a new paragraph (1¹) with the following content:

”(1¹) The Ministry of Labour, Social Protection and Family, as the central public authority body empowered to elaborate and promote policies aimed at preventing and combating domestic violence, and at rendering social assistance services to the victims and perpetrators, shall:

a) ensure creation and maintaining of the Web page dedicated to domestic violence, to ensure for population the access to information on the mechanism for resolving the cases of domestic violence, the infrastructure of social work services for the victims of domestic violence and perpetrators, and the results of the surveys and researches in the field;

b) organize an emergency hotline operating in an uninterrupted regime of 24 hours of 24, 7 days a week, aimed at providing free advice regarding all forms of domestic violence in a confidential manner and with the observance, in a due way, of the person’s anonymity.;

c) organize in partnership with the development partners surveys and awareness raising campaigns dedicated to domestic violence.”

In paragraph (2):

Letter a) shall be excluded;

Letter c) shall have the following content:

”c) establishes and provides funding to the centres/services for assistance and protection of victims of domestic violence and their children and centres/services for assistance and counselling of perpetrators. In case of limited resources, the allocation of funds aimed at supporting the centres/services for assistance and protection of domestic violence victims shall constitute a priority.”

it is proposed that letter c)¹ is included, worded as follows:

”c)¹ contributes to the social inclusion of victims by creating opportunities for their retraining and/or employment, ensures the victims’ access to social housing. In case of limited resources, the allocation of funds aimed at supporting the centres/services for assistance and protection of domestic violence victims and their children shall constitute a priority;”;

letter d) shall have the following content:

”d) contributes to the inclusion of the prevention and combating domestic violence issue into the local development programs; plans local budget resources for the organization of surveys and awareness raising campaigns dedicated to supporting the social services and other measures of assistance rendered to victims of domestic violence combating the domestic violence; contributes to the implementation of the system recording the domestic violence cases.”;

letter e) after the word “patronages” is supplemented with the phrase “with religious organisations”;

letter f) shall be excluded;

at paragraph (3):

in letter a) the words “law enforcement authorities” shall be substituted by the words “police bodies”;

in letter h) the words “centres/services for victims and perpetrators, ensures informational and methodological support to these centres/services” shall be replaced with the words “centres/services for assistance and protection of the victims of domestic violence and centres/services for assistance and counselling for perpetrators of domestic violence, ensuring the informational and methodological support of these entities;”;

paragraph (5) shall be supplemented with the letter c¹) as follows:

” c¹) solves, within the limits of its authority, the request of the victims for issuance of the forensic document on the trace evidence of crime:”

In the paragraph (6):

in the title of paragraph (6) the words “law enforcement bodies” are replaced by the words “police bodies”;

letter f) shall read as follows:

“f) orders the issuance of the emergency restraining order regarding the perpetrator, if the circumstances, as stated by the risk assessment on site, indicate to the existence of a reasonable suspicion that acts of domestic violence have been committed and / or to the existence of imminent danger that the violent acts are repeated / committed;”;

in the letter g) the words “ ensures implementation,, shall be replaced with the words “ensures supervision of implementation”;

letter j) is excluded;

letter k) shall read as follows:

“k) ensures public order in the centres/services of assistance to the victims of domestic violence and their children, in compliance with the legislation;”.

paragraphs (7) - (9) are added with the following content:

“(7) Designated persons under Art.7, para.(4) and para.(5) of this Law:

- a) identify the potential families affected by violence and keep records of the violence cases in their settlement;
- b) identify the risk situations and carry out the referral of the domestic violence victims to the specialised services;
- c) carry out exchange of information with other persons involved in the case examination;
- d) inform the social worker about the identified case and undertaken measures; inform the guardianship authority about the violence caused to children;
- e) offer the necessary support to the police bodies during the criminal investigation of the domestic violence cases;
- f) provide information to victims and perpetrators regarding their rights, as well as about the empowered agencies in the field and the available infrastructure of social services;
- g) if requested, offer to the legal and law enforcement bodies the findings regarding the domestic violence cases, as well as to the conflicting parties or their representatives;

- h) carry out other actions within their competence aimed at the prevention and combating the acts of violence, the efficient protection of the domestic violence victims and the social integration of the perpetrators.

(8) In order to ensure a systematic approach towards protection and assistance of the domestic violence subjects and to conduct joint preventing and combating activities in case of domestic violence, including the activities referred to in para. (7), an order shall be issued by the chairperson, designating the professionals to be included into the territorial multidisciplinary team.

(9) A member of the territorial multidisciplinary team:

- a) bears responsibility of the performed work;
- b) maintains confidentiality of the information regarding the victim's identity and private life ;
- c) collaborates in an efficient manner with the other members of the team;
- d) participates at the reunions of the team;
- e) carries out his task in due terms.”.

7. Article 9 shall have the following content:

”Article 9. Functions of the probation service.

(1) Persons in conflict with the law or persons convicted for domestic violence crimes shall be obliged to attend special counselling, applied within the probation activity.

(2) The probation activity is carried out by the probation service within the Law.”

8. Article 10 shall have the following new content:

”Article 10. Centres/services for assistance and protection of the victims of domestic violence and their children and centres/services for assistance and counselling for perpetrators of domestic violence.

(1) Types of centres/services:

(a) for victims of domestic violence: hot line; shelters (placement); day centres/services for counselling; centres/services specialised for the victims of sexual violence; and other.

(b) for perpetrators: centres/services for assistance and counselling for perpetrators of domestic violence.

(2) Centres/services for assistance and protection of the victims of domestic violence and their children offer specialised support services, such as: shelter (placement), legal aid, social, psychological assistance, emergency medical aid and other types of assistance.

(3) Organization and functioning of the centres/services for assistance and protection of the victims of domestic violence and their children shall be carried out in compliance with the framework Regulations and minimum quality standards approved by the Government.

(4) Centres/services may be established:

- a) by the Government, at the proposal of the Ministry of Labour, Social Protection and Family;
- b) by local public authorities;
- c) by international and non-governmental organisations, with informing of the Ministry of Labour, Social Protection and Family;

d) by public authorities institutions and non-governmental or private organisations, based on joint agreements.

(5) In case of limited resources, the creation of funds for support of the centres/services for assistance and protection of the victims of domestic violence and their children shall have priority.”

9. Article 11:

paragraph (4) shall have the following content:

“(4) The victim of domestic violence is entitled under the Law to claim compensation from the perpetrator for the moral and material damage inflicted by acts of violence, and from the state the compensation of the moral and material damage which resulted from omission to provide adequate aid and protection.”

A new paragraph (4¹) shall be added with the following content:

”(4¹) Victims of domestic violence, which have suffered severe bodily injuries or damages to health, shall receive from the state financial compensation, due for the damages inflicted by a crime, compliant to the conditions provided for in the legislation.”;

paragraph (6) shall be supplemented by a phrase with the following content:

”Forensic physical examination of the victim and filling out of the forensic examining documents of the crime shall be performed free of charge.”

10. Article 12 shall have the following content:

”Article 12. Reporting cases of domestic violence

(1) A victim shall have the right to report any case of domestic violence and to request protection.

(2) Representatives of competent bodies are forbidden to undertake any actions aimed at discouraging the victim to report the violence acts she is subject to.

(3) Any person witnessing acts of domestic violence or which has reasonable suspicion that such an act was committed, or that violence acts might possibly occur, shall have the right to inform the authorities responsible for preventing and combating domestic violence about this fact.

(4) Professionals, who under the Law are obliged to observe the confidentiality rules, are required to report to the empowered authorities all cases when they have reasonable grounds to believe that an act of violence against children has been committed. Reporting violence against adults shall be done only with the consent of the victim. The consent of the victim is not necessary in cases when medium or severe bodily injuries or damages to health have been inflicted, cases when guns are used and cases when victims are extremely vulnerable because of their disability or reduced intellectual capacity.

(5) The police is obliged to immediately respond to reports regarding cases of domestic violence and is not entitled to underestimate the importance of combating acts resulted from all forms of domestic violence.”.

11. A new Article 12¹ is added, with the following content:

“Article 12¹. Issuance of the emergency restraining order

(1) If the circumstances established by the risk assessment on site generate a reasonable suspicion that domestic violence acts have been committed and / or there is imminent danger that the violent acts could be repeated / committed, then the police

authorities shall immediately order the issuance of the emergency restraining order on the perpetrator, with the goal to eliminate the jeopardy, while also performing necessary fact finding procedural actions regarding the crime of domestic violence. The emergency restraining order shall be issued irrespective of the wish of the victim.

(2) The emergency restraining order is issued for a period of up to 10 days and enters into force immediately, and the perpetrator and the victim, and in case of children – the legal guardian, shall be informed of the applied limitations, rights and obligations and of the liability in case of non-compliance with the requirements listed in the restraining order.

(3) Police authority orders the perpetrator to quit the family home, explaining also the right to take with him some personal items (clothes, documents, personal hygiene items). If the perpetrator refuses to quit the family home voluntarily, the police body is entitled to undertake needed measures to overcome resistance to legal orders, in compliance with the law.

(4) During the action of the emergency restraining order, the perpetrator shall be prohibited to return to his place of residence and shall be prohibited to contact in any form the victim, her children, other persons dependant on her. Failure of the perpetrator to comply with the requirements of the emergency restraining order shall result in liability as prescribed by the law.

(5) The perpetrator is entitled to appeal in court the emergency restraining order, under administrative trial procedure. Filing pursuant application in court does not suspend the validity of the emergency restraining order.

(6) The victim is entitled to solicit the issuance of protection order, within the validity period of the emergency restrictive order and as conditioned by the law. In this case, the action period of the emergency restraining order shall be extended by law and shall cease when protection measures established by the court have been commenced.”.

12. Article 13:

In paragraph (1) letter a) shall read as follows:

“ a) at police authority; ”.

Shall be supplemented with a new paragraph (2¹) with the following content:

“ (2¹) The application for issuance of protection order is filed by the victim personally or by his/her legal representative. In case of impossibility for the victim to file an application, due to health issues, age, other reasonable grounds, the application for issuing a protection order may be filed in the interests of the victim, at the latter’s request, by the police authority, social assistance authority or the prosecutor. The application for issuance of the protection order on behalf of the child or an incapable person may be filed by the guardianship or the prosecutor and in the absence of the request from the victim or her legal representative.”;

paragraph (3) shall have the following content:

“(3) Filing an application in the court of law for issuing a protection order shall be exempted of a state fee.”.

13. In the Article 14:

In paragraph (1) the text “in the law enforcement body” shall be substituted with the text “in the police”.

Paragraph (2) the word “request” shall be substituted with the text “the request or the application for issuing a protection order”.

14. Article 15:

paragraph (1) after the words “assistance to victim” shall be supplemented with the words “and her children”.

paragraph (1) letter b) is supplemented with the words: ”, excluding in this way any visual contact with the victim, the latter’s children and other dependents on her;”;

letter c) shall have the following content:

”c) prohibiting any contact, including by telephone, by mail or in any other way with the victim, her children or other dependents on her;”;

letter d) shall have the following wording:

”d) the prohibition to approach certain places: the victim's work place, the children’s education institutions, other specified places regularly attended or visited by the victim; ”;

letter f) shall be excluded;

paragraph (2) shall have the following content:

“(2) The territorial police inspectorate shall be immediately informed about the issuance of the protection order, which notifies without delay the perpetrator of the applied measures.”;

is supplemented with a new paragraph, (2¹) with the following content:

“(2¹) In cases when a protection order has been issued during the validity period of the emergency restraining order, the prohibitions established under the restraining order are suspended as of the moment when the enforcement of the protection measures disposed by the protection order has been initiated. ”;

in paragraph (3) the words: “can be suspended as of the moment when the jeopardy which served as grounds for undertaking these measures has disappeared” are replaced with the words “ may be revoked under this Law”;

shall be supplemented with a new paragraph 4¹ with the following content:

” During the action of the protection order the parental rights shall be exerted by the parent-victim. Upon the request of the parent-perpetrator of violence, the visiting of the child may be performed based on a program approved by the guardianship authority.”

paragraph (5) shall have the following content:

“(5) Supervision of the execution of measures prescribed by the protection order shall be exercised by the police body, as provided by the Law.”;

paragraph (6) shall be excluded;

paragraph (7) becomes paragraph (6).

15. It is supplemented with two new Articles 15¹ and 15² with the following content:

” Article 15¹. Revocation of the protection measures

(1) At the victim's justified request the court may revoke before term the established protection measures.

(2) Revocation may be ordered provided that the following conditions are integrally met:

- a) the perpetrator has observed the established interdictions and obligations;
- b) the perpetrator has attended/attends the psychological counselling or the treatment as established;
- c) justified facts exist demonstrating that the perpetrator no longer poses any real jeopardy for the victim or her family;
- d) the victim is imposed by no one to request the revocation.

(3) The court shall examine if the victim's will has been freely expressed, and shall check if the victim has had a real access to assistance and protection.

(4) The request for revocation is settled in the presence of the parties and the police representative who exercised supervision over the execution of the protection order, for which revocation is requested.

Article 15². Supervision of the execution of the emergency restraining order and the protection order

- (1) Supervision of the execution of the protection measures for the victim of the domestic violence established by the emergency restraining order and the order of protection lies with the public order police.
- (2) The police shall inform the perpetrator about the established protection measures of the victim and, if needed, explain them.
- (3) If the perpetrator is due to quit the family home, the police shall request him to immediately hand over all keys to the house, which shall be transmitted to the victim later or taken to the police station for provisional safekeeping. The perpetrator, while quitting the family home, may fetch, under the police supervision, only the strictly necessary personal effects (clothes, documents and hygiene items).
- (4) The police is entitled to apply to the perpetrator refusing to voluntarily quit the family home measures necessary to overcome the resistance to legal orders, within the limits stipulated in the legislation.
- (5) Perpetrator's refusal or failure to comply with the requirements of the emergency restrictive order/ protection order, shall attract liability under the law.

16. Article 16:

In paragraph (2) the words “centres/services for rehabilitation of the victims and perpetrators” shall be substituted by the words “centres/services for assistance and protection of victims of domestic violence and their children and centres/services for assistance and counselling of perpetrators of domestic violence”;

in paragraph (2) after the words “from the envisaged funds” shall be supplemented with the words “to the state budget” and further as in the text.

The paragraph shall be supplemented at the end with the following text:

” In case of availability of limited resources, the allocation of financial resources for the support of the centres/services for assistance and protection of victims of domestic violence shall constitute a priority.”

17. Article 17:

paragraph (2) shall have the following content:

”(2) Committing acts of domestic violence which contain the components of crime, shall attract criminal liability under the law, regardless of the fact that protection measures have been established.”.

Article II. –Law No. 320 of 27 December 2012 on the functioning of the police and the policeman status (Official Gazette of the Republic of Moldova, 2013, No.42-47, article 145) with its subsequent amendments and supplements is hereby amended as follows:

1. Article 21, letter n) the phrase „order of protection” shall be replaced with the phrase „enforced protection measures”.

2. Article 25, paragraph (5) shall be supplemented with item 13¹) with the following wording:

”13¹) to apply to the perpetrator, in the case of domestic violence, an emergency restraining order under the law;”.

Article III. - Law No.198-XVI of 26 July 2007 on State Guaranteed Legal Aid (Official Gazette of the Republic of Moldova, 2007, no.157-160, art.614), with its subsequent amendments and supplements, shall be amended as follows:

1. Article 7, letter e¹) shall be supplemented after the word ”offences” with the following wording ”and victims of domestic violence;”:

2. Article 19:

In paragraph (1) letter c) the phrase "Article 69, paragraph (1) item 2) -12) of the Criminal Procedure Code of the Republic of Moldova" shall be replaced with the phrase "Article 69, paragraph (1), item 2) -13) of the Criminal Procedure Code of the Republic of Moldova.”.

paragraph (1¹) shall be supplemented after the word “offences” with the following phrase ”and victims of domestic violence;”;

3. Article 26:

In paragraph (3¹) after the words “his legal representative”, shall be supplemented with the following phrase: ”and the victim of domestic violence”;

Article IV. - Law no.436-XVI on the Local Public Administration Authorities of 28 December 2006 (Official Gazette of the Republic of Moldova, 2007, no.32-35, art.116), with its subsequent amendments and supplements, is hereby amended as follows:

1. Article 14, paragraph (2) shall be supplemented with letter y²) with the following content:

“y¹) approves the development programmes of social services according to the needs of the community and identifies the necessary funds, during the adoption of local budget;”.

2. Article 29:
paragraph (1) shall be supplemented with letter i¹) and i²) with the following content:

i¹) carries out surveys aimed at establishing the types of social services needed for the community and develops, based on the identified needs, development programs of the social services and submits them for approval to the local council;

i²) identifies financial resources necessary for development and functioning of the community social services, at the elaboration of the local budget;”.

3. Article 43:

paragraph (1) shall be supplemented with the letter j¹) with the following content:

”j¹) approves programs for development of social services, in conformity with the needs of the district and identifies necessary funds;”.

4. Article 51, paragraph (2) shall be supplemented with the letter b¹) with the following content:

“b¹) ensures the identification of the district needs for social services and develops proposals of development of social services in conformity with the identified needs;”.

5. Article 53:

paragraph (1) shall be supplemented with the letters c¹), c²) with the following content:

“c¹) organizes the identification of the district needs per categories of social services and submits to the district council for approval the development program of social services in line with the identified needs;

c²) ensures the implementation of the district council decisions regarding the establishment of the public institutions entitled to provide social services within the territorial-administrative unit.”

Article V. –Law No. 412-XV of 9 December 2004 on the official statistics (Official Gazette of the Republic of Moldova, 2005, No.1-4, art. 8) with its subsequent amendments and supplements, is hereby amended as follows:

1. Article 4, paragraph (1) letter a) shall have the following content:

„a) collection, processing, generalisation, centralization, analysis, estimation of the current statistical data disaggregated by sex and their dissemination.“.

3. Article 10, paragraph (2) shall be supplemented with letter a¹) with the following content:

“ a¹) to develop the methodology to be applied in the collection, processing and generalisation of the statistical information disaggregated by sex ;”.

4. Article 19 shall be supplemented with the paragraph (3) with the following wording:

“(3) The central and local public administration authorities, parties and other socio-political organizations, legal and physical entities running businesses shall submit the necessary information disaggregated by sex to the official statistical bodies.”.

Art. VI. – Law No. 200 of 16 July 2010 on the legal status of the foreigners on the territory of the Republic of Moldova (Official Gazette of the Republic of Moldova, 2010, No.179-181, article 610) with subsequent amendments and additions, is hereby amended as follows:

1. Article 31:

in the paragraph (1) the wording “of the case envisaged in the article 42¹” shall be substituted with the wording “of cases envisaged in the art. 42¹ and art. 42².”.

paragraph (2) shall be supplemented with letter e²) with the following content:

„e²) for the protection of the victim of domestic violence;”.

2. Article 39, paragraph (1) shall be supplemented with letter d) with the following content:

„d) is a victim of the domestic violence.”.

3. Shall be supplemented with a new Article, 42² , with the following content:

” Article 42². Extension of the right to temporary stay in the country for victims of domestic violence

(1) The right to a temporary stay in the country can be extended for a foreigner, who is at present or has been a victim of domestic violence, provided the following conditions are met:

- a) the foreigner presents no danger for the national security and/or for the public order;
- b) the foreigner qualifies for domestic violence victim’ status;
- c) the stay of the foreigner in the country is required for the proper development of the trial in court or for proper carrying out of procedures in front of another relevant authority;
- d) there are reasonable grounds that the life or the physical integrity of the foreigner shall be jeopardised or that he shall be subjected to torture, inhuman or degrading treatments if returning to his/her country.

(2) By way of derogation from Article 32, paragraph (2) and Article 33 letter (d), the foreigner shall attach the documents listed below to the application requesting the extension of temporary stay right for victims of domestic violence:

a) an order of the criminal investigation body stating his/her status of an injured party or the protection order of the domestic violence victim, issued on his/her behalf;

b) the document certifying the state border crossing or any other document confirming his/her identity;

c) the document certifying the home address or the residence in the Republic of Moldova.

(3) At the request of the victim the right to temporary stay for victims of domestic violence may be granted for a period of 6 months with the possibility of extension for further periods of up to six months, under the conditions spelled out in par. (1). After the expiration date of the right of temporary stay, the general provisions regarding the regime of foreigners in Republic of Moldova are applied with respect to victims of domestic violence.

(4) The right of provisional residence for the victims of domestic violence is guaranteed and the permit of provisional residence shall be granted free of charge.”.

Art. VII. – The article 18 of the Law No.130 of 8 June 2012 on the legal status of arms and ammunitions for civilian use (Official Gazette of the Republic of Moldova, 2012, No. 222-227, art.721) as amended and supplemented, in paragraph (2) shall be supplemented with letter d) as follows:

”d) is the person to which restriction measures for protection of domestic violence victim’ have been applied.”.

Article VIII. - The Criminal Code No. 985-XV of 18 April 2002 of the Republic of Moldova (Republished in the Official Gazette of the Republic of Moldova, No. 72-74 of 2009), as amended and supplemented, shall be amended and supplemented as follows:

1. Article 60 shall be supplemented with a new paragraph (2¹), with the following content:

”(2¹) In case of sexual offenses committed against a child, the limitation period starts running from the date when the victim attains the age of majority. If the minor victim died before reaching adulthood, the limitation period starts to run from the date of death.”.

2. Article 77 paragraph (1):

in letter a) the words “has been convicted for a similar crime or other acts relevant to the case” shall be substituted by the words ”committed a similar offence or acts which are relevant to the case”;

letter g) after the words “through” is supplemented with the words “or in the presence of”.

3. In the Article 109 paragraph (4) shall be supplemented with the digit ”201¹”.

4. Article 133¹ shall have the following content:

”Article 133¹. Family member

(1) The term “family member” shall mean:

- a) in case of co-habitation - persons in marriage relationship, former spouses, persons under guardianship, their relatives and the in-laws in straight or collateral line, spouses of the relatives, persons who are at present in relationships similar to those between

spouses (concubines) or between parents and children;

b) in case of separate habitation: persons in marriage relationship, their relatives and the in-laws in straight or collateral line, adopted children, persons under guardianship, former spouses of the relatives, persons who have been in relationships similar to those between spouses (concubines).”.

5. Article 145, paragraph (2) shall be supplemented with letter e¹), with the following content:

”e¹) against a family member;”.

6. It is supplemented with a new Article 177¹ with the following content:

” Article 177¹. Acts of persecution

Persecution of a person in a repeated manner which resulted in causing a state of anxiety or fear for his/her own safety, of a close relative, thus constraining this person to alter his/her way of life, committed by:

- a) Stalking of the person;
- b) Contacting or attempt to contact the person by any means or through any other person;
- c) Dissemination of any information regarding the person;
- d) Controlling the access by the person of socialisation networks, internet or phone;
- e) Threatening the person with committing acts of violence

shall be punished by a fine of 200 up to 500 conventional units or imprisonment up to two years.

7. Article 201¹ shall have the following content:

“Article 201¹ Domestic violence

(1) Intentional action or inaction committed by a family member against another family member, expressed in the form of:

a) ill treatment, beatings and other violent acts leading to physical pains or to light or mild injuries of bodily integrity or of health;

b) imprisonment, isolation, intimidation with the purpose of imposing his/her own will or personal control over the victim;

c) deprivation of the primary existence means or of basic necessities for life, neglect, in case mild injury to health, or material or moral damage was caused,

shall be punished with unpaid community service work of 150 to 180 hours or with imprisonment of 1 up to 3 years.

(2) Actions listed under paragraph (1):

- a) committed against two or more family members;

- b) committed in connection with the application for protection measures;
- c) committed by a person who in the past committed the same actions;
- d) which have caused medium level injuries of the bodily integrity or of health,

shall be punished with unpaid community service work of 180 to 240 hours or with imprisonment from 3 up to 6 years.

(3) The same actions that have:

- a) caused severe injuries of the bodily integrity or of health;
- b) have led to suicide or attempted suicide, shall be punished with imprisonment from 6 up to 12 years.

(4) Violent actions against family members, which have led to the death of the victim, shall be punished with imprisonment from 8 up to 15 years.

8. The Criminal Code shall be supplemented with a new article 320¹, as follows:

”Article 320¹. Failure to observe the measures prescribed by the protection order regarding the victim of domestic violence

Intended failure or omission to observe the measures prescribed by the court in the protection order regarding the victim of domestic violence,

shall be punished with unpaid community service work of 160 to 200 hours or with imprisonment up to 3 years.”.

Art. IX. - Contravention Code of the Republic of Moldova No 218-XVI of 24 October 2008 (Official Gazette of the Republic of Moldova, 2009, No.3-6, article 15) as amended and supplemented, shall be amended and supplemented as follows:

1. Article 78 shall be supplemented with a new paragraph (4), with the following content:

”(4) Provisions of this article shall not apply to domestic violence cases.”.

2. It is supplemented with a new Article 318¹, with the following content:

3.” Article 318¹. Failure to observe the emergency restraining order

Intended failure or omission to observe the requirements specified in the emergency restraining order shall be punished with a fine of 100 up to 150 conventional units or administrative arrest from 5 to 10 days.”.

3. Article 395:

In paragraph (1) subparagraph 1) letter b) the digit “318” shall be replaced with “318¹,”;

4. Article 400:

paragraph (4) after the number “243” shall be supplemented with the number “318¹,”;

paragraph (6) after the number “243 ” shall be supplemented by the number “318¹”.

Art. X. – The Criminal Procedure Code of the Republic of Moldova No. 122-XV of 14 March 2003 (republished in the Official Gazette of the Republic of Moldova No. 248-251 of 2013), as amended and supplemented, shall be amended and supplemented as follows:

1. Article 69:

paragraph (1) shall be supplemented with item 13) with the following content: „13) it is necessary to ensure legal defence for the suspect, indicted or convicted person during the interrogation of a juvenile, as stipulated in article 110¹.”.

2. Article 71:

in paragraph (2) the text “art. 69 para.(1) items 2)-12)” shall be substituted by the text “art.69 para.(1) items 2)-13)”.

3. Article 118:

In paragraph (2) after the first sentence a new sentence shall be included as follows:

”In domestic violence cases the examining on site of the domicile may be performed with the consent of the victims, and if the victim is a juvenile, with the consent of the adult family member, other than the perpetrator.”.

4. Article 215¹:

paragraph (1) and (2) shall have the following content:

„(1) If during the criminal trial it is stated that the victim of domestic violence is in danger of being subjected to violence or to other illegal acts, including the destruction of her/his property, the prosecuting authority or the prosecutor shall be obliged to immediately request the enforcement of protection measures.

(2) The disposal requesting the application of protection measures could be made by the criminal investigation body or by the prosecutor and also based on the application of the injured party.”;

paragraph (3):

within the paragraph, after the text words ”victim’s protection” the words “and her children” shall be inserted;

letter b) shall be supplemented at the end with the words ”, also excluding any visual contact with the victim, her children, other dependent on her persons;”;

letter c) shall have the following content:

”c) prohibiting any contact with the victim, including by telephone, via mail or in any other way, as well as with the victim’s children or other dependents of hers;”;

letter d) shall have the following content:

”d) the prohibition to come closer to certain places: the victim's workplace, the children’s school and other specified places that the protected person attends;”;

In paragraph (5) the words „, and the social assistance body” are excluded.

5. In Article 276 paragraph (5) the text „In domestic violence cases, the prosecutor or the court shall consider whether the victim freely expresses his/her wish of reconciliation, ensuring that the victim has had real access to assistance and protection.” shall be excluded.

Art. XI. - The Code of Civil Procedure of the Republic of Moldova No. 225-XV of 30 May 2003 (republished in the Official Gazette of the Republic of Moldova, No.130-134 of 2013), as amended and supplemented, shall be supplemented as follows:

1. In Article 77, paragraph (1), letter c) the phrase „Art.304 and 316” shall be replaced with the phrase „Art. 304, 316 and 318³”;

2. Article 318¹ paragraph (1) shall have the following content:

“(1) An application for a protection order shall be lodged by the victim personally or by her/his legal representative. In case of impossibility of the victim to lodge the application due to health issues, age, other well-grounded reasons, the police body, the social assistance body or the prosecutor, at her/his request can file the application of issuance of the protection order, in the interests of the victim. An application requesting the issuance of a protection order in the interests of the child, or of an incapable person, can be lodged by the guardianship authority or the prosecutor regardless of the existence of an application from the victim or her/his legal representative.”

3. Article 318³

Shall be supplemented with the paragraphs (1¹) with the following content:

„(1¹) In examining the victim’s application requesting the application of protection measures, the court shall request the coordinator of the territorial office of the National Council for State Guaranteed Legal Aid to appoint a lawyer entitled to defend the victim’s interests. The legal aid provided to the victim shall be free of charge.”;

Paragraph (2) shall read as follows:

(2) For issuance of protection order in cases of imminent danger for acts of physical violence to be committed, the independent statement of the victim alone shall suffice. Upon necessity, the court may request the social assistance authority or police to present a report on the specifics of the envisaged family and of the perpetrator. The court may also request other documents pursuant for the examining of the application.”.

4. Article 318⁴:

paragraph (2):

letter b) shall be supplemented with the words ”, excluding any visual contact with the victim;”;

letter c) shall have the following content:

”c) prohibiting any contact with the victim, including the telephone contact, via mail or in any other way, as well as with the victim’s children or other dependents of hers;”;

letter d) shall have the following content:

”d) the prohibition to come closer to certain places: the victim's workplace, the children’s school and other specified places that the protected person attends; ”;

letter f) shall have the following content:

”f) obligation to participate in a special treatment or counselling program, if such action has been ordered by the court as a necessary measure for reducing or ceasing of violence;”;

in paragraph (4) the words „and the social assistance authority” shall be excluded;

in paragraph (5) letter f) shall be excluded.

4. Article 318⁵ :

The title shall have the following content: ”Extension of the term of protection order”, paragraph (2) is excluded.

Chairman of the Parliament