

# STANDARD OPERATING PROCEDURES OF THE REPUBLIC OF SERBIA

FOR THE PREVENTION OF AND PROTECTION FROM GENDER BASED VIOLENCE AGAINST PEOPLE INVOLVED IN MIXED MIGRATION



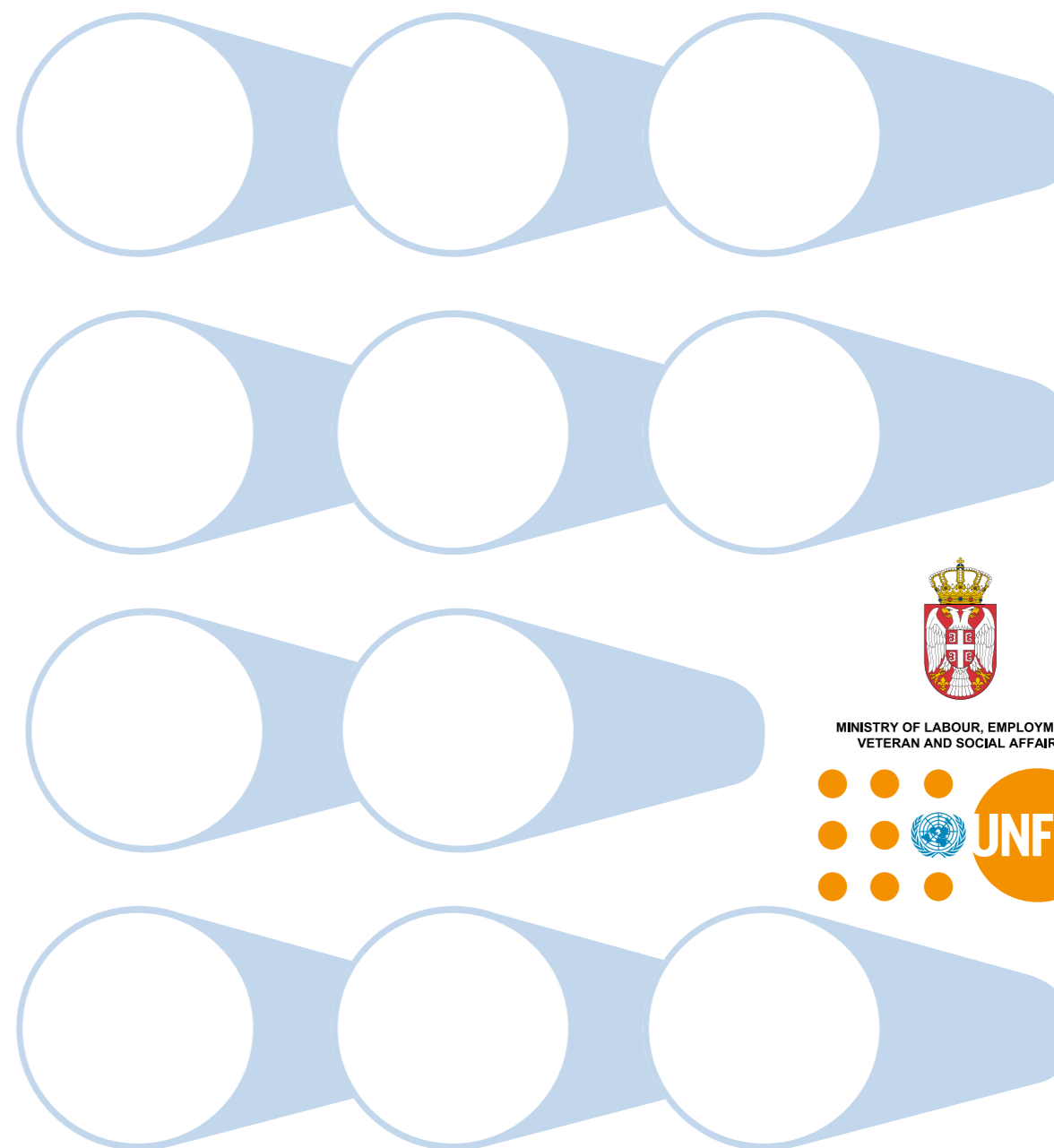
MINISTRY OF LABOUR, EMPLOYMENT,  
VETERAN AND SOCIAL AFFAIRS



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# ACRONYMS

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**APC** – Asylum Protection Centre

**BCHR** – Belgrade Centre for Human Rights  
(BCLJP – Beogradski centar za ljudska prava)

**BCM** – Balkan Centre for Migration and  
Humanitarian Activities

**CPRC** – Crisis Response and Policy Centre

**CRM** – Commissariat for Refugees and Migration of  
the Republic of Serbia

**CRS** – Catholic Relief Service

**CSO** – Civil society organisation

**DRC** – Danish Refugee Council

**GBV** – gender based violence

**IAN** – International Aid Network (Međunarodna  
mreža pomoći)

**IASC** – Inter-Agency Standing Committee

**IDC** – Initiative for Development and Corporation

**IOM** – International Organization for Migration

**OPHC** – Out-Patient Health Clinic

**PIN** – Psychosocial Innovation Network

**SOPs** – Standard Operating Procedures of the  
Republic of Serbia for the Prevention of  
and Protection from Gender Based Violence  
against People Involved in Mixed Migration

**SWC** – Social Welfare Centre

**UNFPA** – United Nations Population Fund

**UNHCR** – United Nations High Commissioner for  
Refugees

**UNICEF** – United Nations Children’s Fund

**WHO** – World Health Organisation

**WRC** – Women’s Refugee Commission

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# TABLE OF CONTENTS

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<b>ACRONYMS</b>	<b>5</b>
<b>I. INTRODUCTION</b>	<b>8</b>
Changed migration situation in Europe and the threat of gender-based violence	8
Preparation of SOPs	9
Who the SOPs are Intended for	11
<b>II. INTERNATIONAL LEGAL FRAMEWORK FOR SOPs</b>	<b>12</b>
<b>III. THE NATIONAL LEGAL FRAMEWORK FOR SOPs</b>	<b>15</b>
<b>IV. GENERAL PRINCIPLES, PURPOSE AND GOALS AND OBJECTIVES OF SOPs</b>	<b>21</b>
<b>V. DEFINITION OF TERMS</b>	<b>23</b>
<b>VI. MINIMUM SERVICE PACKAGE IN COMBATING GBV</b>	<b>27</b>
1. Vulnerability Criteria and Risk Factors	28
1.1. Vulnerability	28
1.2. Risk Factors	28
2. Outreach	31
3. Immediate Response – First Aid	31
3.1. Procedure for Placement and Care of Rape Victims	32
3.2. Urgent Medical Interventions and Protection of Sexual and Reproductive Health	34
3.3. Psychological First Aid	34
3.4. Special Protection Measures	36
<b>VII. PLACEMENT AND CARE (CASE MANAGEMENT) OF GBV VICTIMS</b>	<b>38</b>
1. Disclosure of GBV	39
2. Informing victims on procedures	40
<b>VIII. RESPONSE PROCEDURES AND RESPONSIBILITIES BY SECTOR</b>	<b>41</b>
1. Medical Response	42
2. Psychosocial Response	43
3. Security Response	44
4. Legal Aid	45
5. Police Procedures in GBV Cases	45
6. Criminal Prosecution	46
7. The Asylum Procedure	46
<b>IX. COORDINATION</b>	<b>47</b>
<b>X. PREVENTION</b>	<b>48</b>
<b>XI. RECORDS, DATA, MONITORING AND IMPLEMENTATION</b>	<b>50</b>
1. The Purpose of Keeping Records and Collecting Data	50
2. Documenting Reported Cases of Violence	51
3. Monitoring	51
4. Implementation	51



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# INTRODUCTION

“... In institutions and organisations in which the staff come across women victims of violence, they should keep in mind that traces of violence are not necessarily in the form of injuries, bruises or other physical manifestations. It is the professionals’ duty to detect and recognise other signs of violence and express suspicion about it, as well as to document it appropriately. This can be achieved by asking certain questions during their regular activities and providing other services, that is, perform a check of violence in all indicated situations. Except in situations when traces of violence are visible, the check for violence must be performed upon a credible statement of the victim or a witness, or when there are other circumstances, medical or psychological symptoms indicating the existence of violence. Whenever possible, it is necessary to ask the usual questions about violence, whether it is a police, health service or centre for social work intervention...”<sup>1</sup>

## Changed migration situation in Europe and the threat of gender-based violence

Gender based violence (GBV) threatens lives, health, human rights and security and is one of the greatest challenges that individuals, families and entire communities face. It is deeply rooted in gender inequality and customs that disenfranchise and discriminate against women. GBV can be on the rise in emergency situations due to increased risks and vulnerability and weaker protection offered by the family and community. Although both women and men can be victims of GBV, it is more frequently perpetrated against women and girls.

The official report „Protection Risks for Women and Girls in the European Refugee and Migrant Crisis”, jointly prepared by UNDP, UNHCR and WRC in November 2015, identified the core vulnerable groups in need of coordinated and proactive protection. These groups include women travelling alone or with children, pregnant women, breastfeeding women, adolescent girls, unaccompanied children, married children, who sometimes have children of their own, persons with disabilities, and elderly men and

women. The report also lists the greatest threats and cases of violence as described by persons involved in mixed migration (hereinafter: migrants) interviewed on route. These cases include coercion and exploitation, rape, human trafficking, and organ trafficking. Women and girls, especially those travelling alone, are exposed to an especially high risk of specific forms of violence, primarily sexual and gender based violence committed by traffickers, crime groups and individuals in the countries along their route.

The recently revised IASC Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action (2015)<sup>2</sup> state that, even though the number of reported cases is often low, all respondents in emergency situations must act under assumption that GBV is happening. They must treat GBV as a serious life threatening risk and undertake measures to reduce this risk through sectoral interventions, irrespective of whether there is concrete evidence of GBV, and irrespective of the number of reported cases.

Europe and the Middle East are currently going through the greatest migrant crisis since World War II. In 2015 alone, more than one million men, women and children embarked on the excruciating journey to reach Europe, fleeing from wars and violence in their countries of origin. Eighty percent of them passed through a large number of countries in only a few days before arriving in Greece; many of them passed through Serbia on their way to Northern and Western Europe. The inflow of migrants to Serbia plunged after the borders along the Balkan Route were closed. However, there are still several thousand migrants in the territory of Serbia. Most of them do not perceive Serbia as their final destination, but are forced to stay on in it for longer periods of time due to the current state of affairs on the Balkan Route.

Bearing in mind the above-stated facts, management of these flows poses a major challenge to all the countries along the migrant route. Putting in place adequate protection measures and procedures for implementing them is definitely one of the aspects of the challenge.

Combating this form of violence becomes even more complex in situations such as migrant crises, especially bearing in mind that protection must be provided to migrants who come from different countries, do not speak the language, are unfamiliar with the regulations, very often lack subsistence, or are sick, tired and scared.

The Standard Operating Procedures of the Republic of Serbia for the Prevention of and Protection from Gender Based Violence against People Involved in Mixed Migration (hereinafter: SOPs) have been prepared to respond to the challenge of providing protection to persons affected by the crisis, who are in transit, displaced, or temporarily living in Serbia. The recommendations, principles and guidelines in these SOPs are a valuable tool for protecting GBV survivors transiting through or displaced in Serbia.

## Preparation of SOPs

In late 2015, UNFPA defined the Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies (hereinafter: UNFPA Minimum Standards) in the endeavour to explain what effective and appropriate prevention of and response to GBV in emergency situations entails. These Minimum Standards offer specific procedures to be implemented in different kinds of emergencies.<sup>3</sup> Even though these Standards are primarily designated for UNFPA staff and their partners, they can also be adopted at a broader level and fully implemented in all GBV cases, especially those occurring in emergency situations. These Standards and their main guidelines can also be used to define the applicable standard operating procedures to be complied with by all those combatting GBV along the migrant route.

<sup>1</sup> General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women within the Family and in Intimate Partner Relationships, Belgrade, 2011.

<sup>2</sup> Inter-Agency Standing Committee (IASC). 2015. Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action: Reducing risk, promoting resilience and aiding recovery., available at: [http://gbvguidelines.org/wp/wp-content/uploads/2015/09/2015-IASC-Gender-based-Violence-Guidelines\\_lo-res.pdf](http://gbvguidelines.org/wp/wp-content/uploads/2015/09/2015-IASC-Gender-based-Violence-Guidelines_lo-res.pdf)

<sup>3</sup> Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies, UNFPA, 2015.

As the UNFPA Minimum Standards state, the main principle in combatting GBV is:

**Survivor-centred approach:** a survivor-centred approach creates a supportive environment in which the survivor's rights and wishes are respected, their safety is ensured, and they are treated with dignity and respect and the risk of their re-traumatisation is minimised. A survivor-centred approach is based on the following guiding principles:

- Safety: The safety and security of the survivor and her/his children are the primary consideration.
- A relationship of trust: Victims have the right to choose who they want or do not want to tell their story; with the victim it is important to develop a relationship of trust based on information as well as complete notices.
- Respect of privacy: All actions undertaken should be based on respect for privacy and data and information may only be exchanged for the purpose of assisting and supporting the victim, taking into account the victim's freedom of choice, desire, right and dignity; the role of service providers is to facilitate the victim to recover and provide resources to assist the victim.
- Non-discrimination: Survivors should receive equal and fair treatment regardless of their age, gender, race, religion, nationality, ethnicity, sexual orientation or any other characteristic.<sup>4</sup>

In April 2016, UNFPA Serbia organized the first meeting on the subject of standard operating procedures in the case of gender-based violence, as well as highlighting the need for valuable cross-sectoral cooperation of all those involved in providing assistance and support to victims of gender based violence.

This meeting, which rallied the representatives of the relevant national ministries, notably, the Ministry of Health, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Interior, and the Ministry of Justice, as well as the representatives of the Commissariat for Refugees and Migration, the CSO Atina, the Danish Refugee Council, and the UN agencies, aimed to define the discussion platform for adapting the standard operating procedures for action by the relevant stakeholders involved in the prevention of and protection from GBV against migrants in the Republic of Serbia.

The participants in the meeting agreed that the SOPs should be adapted to the specific needs of the migrant crisis in Serbia, current practices and methodologies, as well as the necessary minimum levels of skills and knowledge, reflect the full understanding of the situation and acknowledge various levels of responsibility of all stakeholders involved in GBV prevention, identification, extension of psychosocial first aid, and referral of GBV cases.

The second meeting of the relevant stakeholders was held in June 2016. They discussed the minimum standards within each sector and the first draft of the SOPs. In addition to the representatives of the institutions that had attended the first meeting, the independent state human rights bodies joined the discussion, as did certain CSOs directly working in the field. The third meeting of the working group took place in September 2016. It discussed, among other things, the steps requisite to assist rape survivors, and improve coordination in the field. The stakeholders commented the draft and suggested improvements to it in writing and orally. Their input has been included in the document.

## Who the SOPs are Designed for

The SOP is aimed at all institutions and organizations operating along the migrant movement route, as well as those providing migrant care in Serbia - primarily regional police departments, health centers, competent public prosecutor's offices and courts of general jurisdiction, centers for social work, and other social welfare institutions providing accommodation services, centers for family accommodation and adoption, the Center for the Protection of Victims of Trafficking in Human Beings, the Commissariat for Refugees and Migration, the Asylum Office, public prosecutor's offices, courts of general jurisdiction Ministry of the Interior, the Red Cross of Serbia, the UNHCR, UNICEF and international and domestic CSOs (hereinafter: participants).

In this regard, prevention and response to gender-based violence require a common, syn-chronically accessed by all involved in solving the problem.

The stakeholders shall agree on the steps they will take, which will be elaborated in the Annex to the SOPs. This Annex shall be subject to changes depending on the situation in the field.

<sup>4</sup> Minimum Standards for Prevention and Response to Gender-Based Violence in Emergencies, UNFPA, 2015.



## INTERNATIONAL LEGAL FRAMEWORK FOR SOPs

The 1951 Convention Relating to the Status of Refugees<sup>5</sup> and its 1967 Protocol define a refugee as every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. In the case of a person who has more than one nationality, the term “the country of his nationality” shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of his nationality if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.

The Refugee Convention and Protocol do not list sex or gender among persecutory grounds, but relevant international bodies have taken the view that the term membership of a particular social group should be interpreted more broadly and that the Refugee Convention also provides protection from gender based persecution. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence<sup>6</sup>, adopted in Istanbul in 2011, for its part, lays down standards regarding asylum-seeking, migrant and refugee women. Article 6 of the Convention states that States Parties shall undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention and to promote and effectively implement policies of equality between women and men. Chapter VII of the Convention is devoted to migration and asylum and, among other things, lays down that States Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the meaning of Article 1, A(2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection. When it comes to women asylum seekers in European Union law, it is important to mention Directive 2011/95/EU of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for

persons eligible for subsidiary protection, and for the content of the protection granted (recast)<sup>7</sup>. Article 9(2) (f) of the Directive sets out that acts of persecution can, inter alia, take the form of acts of a gender-specific or child-specific nature.

It also needs to be noted that the International Covenant on Civil and Political Rights<sup>8</sup>, under which each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The International Covenant on Economic, Social and Cultural Rights<sup>9</sup> is also of importance for the enjoyment and protection of the migrants’ and asylum seekers’ economic and social rights. Mention also needs to be made of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment<sup>10</sup> and the International Convention on the Elimination of All Forms of Racial Discrimination<sup>11</sup>.

The following international instruments are also relevant to protection from domestic and intimate partner violence<sup>12</sup>:

- The United Nations Universal Declaration of Human Rights (1948);
- The United Nations Convention on Elimination of All Forms of Discrimination against Women (CEDAW) - this is the most important international treaty in the area of women’s rights. In its 1992 General Recommendation No. 19, the Committee on the Elimination of Discrimination Against Women (the CEDAW Committee) requires of State Parties to implement all measures to eliminate all forms of discrimination against women and overcome all forms of gender based violence, as well as take effective legal measures, including penal sanctions, civil remedies and compensatory provisions, to protect women against all kinds of violence;
- The United Nations Declaration on the Elimination of Violence against Women (1993) specifies the activities states should undertake to eliminate violence against women. These activities include the development of adequate criminal law and national plans of action, ensuring specialised assistance to women victims of violence, provision of training for public officials to sensitise them to the needs of women, and designation of adequate budget resources for combatting violence against women;
- The United Nations Commission on Human Rights Resolution 2003/45 on elimination of violence against women stresses that “States have an affirmative duty to promote and protect the human rights of women and girls and must exercise due diligence to prevent, investigate and punish acts of all forms of violence against women and girls”;
- The United Nations Convention on the Rights of the Child (1989) states that “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical and mental violence [...]”;
- The United Nations Convention on the Rights of Persons with Disabilities (2006) in Article 6 highlights that “States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.”;
- The Beijing Declaration and Platform for Action (1995) list the following priorities to prevent and eliminate domestic violence: to review and reinforce legislation and take other necessary measures, including the establishment of appropriate mechanisms ensuring that all women enjoy protection against violence against women which should be incriminated by law (paras 124-126);

7 „Directive 2011/95/EU of European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted”, *Official Journal L 337/9*.

8 Adopted in 1966, ratified by the Socialist Federal Republic of Yugoslavia on 13 January 1971 („Official Journal of the Socialist Federal Republic of Yugoslavia”, No. 7/71).

9 „Official Journal of the Socialist Federal Republic of Yugoslavia”, No. 7/71.

10 „Official Journal of the Socialist Federal Republic of Yugoslavia - International Treaties”, No. 9/91.

11 „Official Journal of the Socialist Federal Republic of Yugoslavia”, No. 1/67.

12 General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women within the Family and in Intimate Partner Relationships, adopted by the Republic of Serbia in 2011.

5 „Official Gazette of the Federal People’s Republic of Yugoslavia - International Treaties and Other Agreements”, No. 7/60.

6 „Official Gazette of the Republic of Serbia - International Treaties”, No. 12/13.



- The Millennium Development Goals, adopted at the UN Millennium Summit (2000) and the Sustainable Development Goals, adopted at the UN Sustainable Development Summit (2015); the third objective of sustainable development promotes healthy life and well-being of all people, of all ages, while the fifth objective of sustainable development relates to women's empowerment and the promotion of gender equality;
- Council of Europe Committee of Ministers Recommendation No. R (90) 2 on Social Measures Concerning Violence within the Family recommends the implementation of special measures in the areas of awareness raising, early detection of violence, reporting violence, providing aid and therapy (hotlines, crisis services and counselling centres), measures targeting children, measures targeting women, measures against perpetrators, measures in the field of education (e.g. creation of abuse prevention programmes for children in schools), etc.;
- Recommendation 1582 (2002) of the Parliamentary Assembly of the Council of Europe on domestic violence against women calls on the member states to recognise that they have an obligation to prevent, investigate and punish all acts of domestic violence and to provide protection to its victims;
- Recommendation 1905 (2010) of the Parliamentary Assembly of the Council of Europe, enacted in March 2010, highlights the necessity of protecting children witnesses of domestic violence, and refers to Resolution 1714 (2010) of the Parliamentary Assembly of the Council of Europe on children who witness domestic violence;
- Council of Europe Committee of Ministers Recommendation (2002)5 on the protection of women against violence;
- Council of Europe Convention on the Protection of Children from Sexual Exploitation and Sexual Abuse (2010).



## THE NATIONAL LEGAL FRAMEWORK FOR SOPs



Under Article 57 of the Constitution of Republic of Serbia<sup>13</sup> all foreign nationals reasonably fearing persecution on grounds of their race, gender, language, religion, national affiliation, membership of a particular group or political opinion, shall have the right to asylum in the Republic of Serbia and the asylum procedure shall be regulated by the law. In addition, Article 21 of the Constitution of the Republic of Serbia prohibits all direct or indirect discrimination on any grounds, particularly on grounds of race, sex, national affiliation, social origin, birth, religion, political or other opinion, property status, culture, language, age, mental or physical disability.

The constitutional prohibition of discrimination is elaborated by the Law on the Prohibition of Discrimination<sup>14</sup>, which governs the general prohibition of discrimination, forms and cases of discrimination and procedures for protection from discrimination. Article 2 of this Law lays down that discrimination and discriminatory treatment shall denote any, either overt or covert, unjustified distinction, unequal treatment or omission (exclusion, restriction or preferential treatment) with respect to individuals or groups, as well as members of their families or next of kin, on grounds of race, skin colour, ancestry, citizenship, national affiliation or ethnic origin, language, religious or political beliefs, sex, gender identity, sexual orientation, financial standing, birth, genetic characteristics, health, disability, marital or family status, criminal record, age, appearance, membership of political, trade union or other organisation and other actual or perceived personal characteristics. The Law, inter alia, prohibits physical and other forms of gender based violence, exploitation, expression of hate, disparagement, blackmail and harassment, as well as public advocacy and condoning of, and activities reflecting prejudices, customs and other social clichés of behaviour based on the idea of gender inferiority or superiority or stereotyped gender roles.

The Law on Asylum and Temporary Protection<sup>15</sup> regulates the status, rights and obligations of asylum seekers and persons to whom has been granted the right to asylum and temporary protection, the principles, conditions and procedure for approval and termination asylum and temporary protection rights, as well as

<sup>13</sup> „Official Gazette of the Republic of Serbia”, No. 98/06.

<sup>14</sup> „Official Gazette of the Republic of Serbia”, No. 22/09.

<sup>15</sup> „Official Gazette of the Republic of Serbia”, No. 24/18.



other issues relevant to asylum and temporary protection. This law also regulates the types of documents issued by the Ministry of the Interior to persons registered in the Ministry's records.

The Law on Migration Management<sup>16</sup> regulates the management of migration, sets out the principles and designates the competent migration management authority and provides for a nationwide system for the collection and exchange of data in the field of migration management. In addition, this Law designates the competent authorities for the accommodation and integration of persons granted asylum or subsidiary protection.

The Law on Foreigners<sup>17</sup> regulates the conditions for entry, movement, stay and return of foreigners, as well as the competence and tasks of state administration bodies of the Republic of Serbia, in relation to entry, movement, stay of foreigners in the territory of the Republic of Serbia and their return from the Republic of Serbia. This law does not apply to aliens who have applied for asylum or who have been granted asylum or temporary protection in the Republic of Serbia, unless otherwise provided by law. This law also regulates the determination, duration, dismissal, remedies, house rules and rules at the refugee shelter, as well as humanitarian residence.

The Law on Border Control<sup>18</sup> regulates border control, police powers in the exercise of border control in order to prevent the commission and detection and reporting of criminal offenses and misdemeanors, to prevent irregular (illegal) migration and to prevent and detect other acts that violate public order and peace, legal order and public security, as well as cooperation between state administration bodies responsible for integrated border management. One of the non-military challenges, risks and threats at the state border is the migrant crisis. This law also regulates the affairs of the border police outside the border crossing area.

The Law on Gender Equality<sup>19</sup> regulates the creation of equal opportunities for women and men to exercise their rights and fulfil their obligations, provides for the taking of special measures to prevent and eliminate gender-based discrimination and a legal protection procedure. This Law guarantees gender equality in line with generally accepted principles of international law, ratified international treaties, the Constitution and the law.

The Family Law<sup>20</sup> prohibits domestic violence and entitles everyone to protection against domestic violence in accordance with the law. In addition, this Law governs marriage and inter-spousal relationships, non-marital cohabitation, relations between children and parents, adoption, fosterhood, guardianship, maintenance, family property relations, family-related proceedings, and personal names.

The Law on Prevention of Domestic Violence<sup>21</sup> regulates the prevention of domestic violence and the actions of state bodies and institutions in preventing domestic violence and providing protection and support to victims of domestic violence and victims of criminal offenses referred to in Art. 4 st. 1 of the law when they need such protection and support. This law does not apply to minors who commit violence

The aim of this law is to regulate in a general and unique way the organization and operation of state bodies and institutions, thus enabling the effective prevention of domestic violence and the urgent, timely and effective protection and support of victims of domestic violence and victims of crimes referred to in Art. 4, paragraph 1 of the Law on Prevention of Domestic Violence through the Coordinated Work of All Institutions.

The provisions of Art. 3 of this Law stipulates that the prevention of domestic violence consists of a set of measures that reveal whether an imminent threat of domestic violence is threatening and a set of measures that are applied when an imminent danger is detected. An imminent danger of domestic violence arises when it appears from the behavior of a possible perpetrator and other circumstances that he or she is ready to commit,

16 „Official Gazette of the Republic of Serbia”, No. 107/12.

17 „Official Gazette of the Republic of Serbia”, Nos. 24/18 and 31/19.

18 „Official Gazette of the Republic of Serbia”, No. 24/11.

19 „Official Gazette of the Republic of Serbia”, No. 104/09.

20 „Official Gazette of the Republic of Serbia”, Nos. 18/05 and 72/11.

21 „Official Gazette of the Republic of Serbia”, No. 94/16.

for the first time or for the first time, or repeat domestic violence. Domestic violence, within the meaning of this Law, is the act of physical, sexual, psychological or economic violence of the perpetrator against the person with whom the perpetrator is in the present or earlier marital or extra-marital or partnership relationship or with the person with whom the blood relative is in a straight line, and in a sloping line to the second degree, or with whom he or she is related to the second degree, or to whom he or she is an adoptive parent, adoptive parent, breadwinner or breadwinner, or to another person with whom he lives or has lived in a joint household. The law also introduced a number of newspapers regarding the organization and actions of the competent authorities (prosecutor's office, police, social welfare center), ordered mandatory multisectoral cooperation, as well as urgent measures that could be imposed on the abuser (temporary removal of the perpetrator from the apartment, temporary measure prohibiting the perpetrator from contacting and approaching a victim of violence), as well as the obligation of the competent authorities and institutions to give the victim full information on organs, legal entities and bodies in the first contact with the victim of domestic violence or the victim of the crime referred to in this Law. and the language that the victim of violence understands. In addition, this law provides for the development of an individual plan of protection and support for the victim of violence and criminal offenses referred to in Art. 4 st. 1 of the Law, which contains safeguards and support measures and which must specify the specific perpetrators of the measures, as well as the deadlines within which the measures must be taken - Art. 31 laws, as well as the introduction of the Central Register, kept by the Republic Public Prosecutor's Office. This law has been effective since June 1, 2017.

The Code of Criminal Procedure in Art. 103 1. provides conditions for determining the characteristics of a particularly sensitive witness, who, in view of age, life experience, lifestyle, sex, medical condition, nature, manner or consequences of the crime, or other circumstances of the case, is particularly sensitive when the organ of the proceedings may determine ex officio witness status ex officio or at the request of the parties or the witness himself. Also, if it deems it necessary to protect the interests of a particularly sensitive witness, the procedural authority will decide on the appointment of an attorney to the witness, and the public prosecutor or court president will appoint an attorney in the order from the list of attorneys submitted to the court by the competent bar for the appointment of defense attorneys. duties (Article 76).

In addition to the enumerated laws, it is important to mention the Law on Social Protection,<sup>22</sup> which stipulates that beneficiaries of social protection may be foreign nationals and stateless persons, in accordance with the law and international treaties. This law also prescribes the competence of social welfare institutions. Also, the provisions of Art. 41 of this law prescribes that a minor and an adult up to the age of 26 are beneficiaries of social protection rights and services when their family and other life circumstances threaten their health, safety and development, or when it is certain that without the support of the social protection system, can achieve an optimal level of development, optimal level of development, especially if there is a risk that will become a victim or if it is a victim of abuse, neglect, violence and exploitation, or if physical, psychological or emotional well-being and development that is, if physical, psychological or emotional well-being and development are threatened by the giving or failing of a parent, guardian, or other carer, but also an adult of his or her age 26 years when his well-being, security and productive life in society are at risk due to age, disability, illness, family and other circumstances, especially if there is danger that will become a victim or if it is victim of self-neglect, neglect, abuse, exploitation and domestic violence.

Of great importance is the Law on Health Care<sup>23</sup> which in addition to prohibiting discrimination in the provision of health care services, regulates the health care system, organization of health service, social care for the health of the population, general interest in health care, rights and obligations of patients, health care of foreigners. as well as other issues of importance for the organization and implementation of health care. This law prescribes, as one of the general interests, the provision of emergency medical care to persons of unknown residence and to other persons who do not exercise the right to emergency medical care otherwise in accordance with the law. The provisions of Art. 238-243 of this law health care of aliens is prescribed, and it is of great importance to pay from the budget of the Republic of Serbia the payment to health institutions according to the price list of health services adopted by the compulsory health insurance

22 „Official Gazette of the Republic of Serbia”, No. 24/11.

23 „Official Gazette of the Republic of Serbia”, No. 25/19.

organization for health services covered by compulsory health insurance, namely for health services which are among others, provided to foreigners granted asylum in the Republic of Serbia, if materially unsecured, as well as to foreigners who are victims of trafficking.

Also important is the Law on the Protection of Persons with Mental Disorders<sup>24</sup> which regulates the basic principles, organization and implementation of mental health care, manner and procedure, organization and conditions of treatment and placement without consent of persons with mental disabilities in inpatient and other health care institutions. This Law also defines the concept of a person with a mental disability, which is defined as an underdeveloped person, a person with a mental health disorder, or a person suffering from a disease of addiction (abuse of psychoactive substances - alcohol, drugs).

The Criminal Code<sup>25</sup> incriminates offences related to GBV in various Chapters (offences against life and limb, offences against the rights and freedoms of man and citizen, sexual offences, offences related to marriage and family, offences against public peace and order). The Law Amending the Criminal Code<sup>26</sup> adopted in November 2016 defines new criminal offences, such as: female genital mutilation, stalking, sexual harassment, exposing a child to an act of sexual intercourse, and forced marriage. One of the goals of its authors was to align the Criminal Code with the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence.

Mention should also be made of the Law on the Education System<sup>27</sup>; the Law on Public Peace and Order<sup>28</sup>; the Law on Misdemeanour Offences<sup>29</sup>; the Law on Health Insurance<sup>30</sup>; and the Law on the Prevention of Discrimination against Persons with Disabilities<sup>31</sup>; as well as of the following strategies: the National Strategy for Gender Equality for the 2016-2020 Period and its Action Plan for the 2016-2018 period<sup>32</sup>; and the Program for the Protection of Women from Domestic and Intimate Partner Violence of the Autonomous Province of Vojvodina for the 2014-2020 Period, which is in compliance with the Council of Europe Convention.

In view of the fact that domestic violence is a specific form of violence that the perpetrator commits by abusing power and that this form of violence jeopardises the fundamental human rights and dignity not only of the victim, but of every member of the community as well, the need arose to regulate the activities of and cooperation among the institutions, authorities and organisations in the society in a comprehensive manner, to facilitate their adequate response to cases of domestic and intimate partner violence against women. With that in mind, the Serbian Government in 2011 enacted the General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women within the Family and in Intimate Partner Relationships. The Protocol lays down the obligations of the following entities to respond to domestic violence: the police, social welfare institutions and other service providers in the social welfare system, health institutions and other healthcare service providers, educational institutions in cases involving children witnesses of violence, public prosecution services, courts of general jurisdiction and misdemeanour courts. The following Special Protocols have also been enacted: the Ministry of Health's Special Protocol for the Protection and Treatment of Women Victims of Violence<sup>33</sup>, the Special Protocol on Action by Social Welfare Centres – Guardianship Authorities in Cases of Domestic and Intimate Partner Violence against Women<sup>34</sup>, the Special Protocol on the Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women<sup>35</sup> and the Special Protocol for the Judiciary in Cases of Domestic and Intimate Partner Violence against Women<sup>36</sup>.

24 „Official Gazette of the Republic of Serbia”, No. 45/13.  
25 „Official Gazette of the Republic of Serbia”, Nos. 85/05,88/05-correction, 107/05-correction, 72/09,111/09, 121/12, 104/13, 108/14 and 94/16.  
26 „Official Gazette of the Republic of Serbia”, No. 94/16.  
27 „Official Gazette of the Republic of Serbia”, Nos. 88/17, 27/18 - other law and 10/19.  
28 „Official Gazette of the Republic of Serbia”, Nos. 6/16 and 24/18.  
29 „Official Gazette of the Republic of Serbia”, Nos. 65/13, 13/16 and 98/16 –Constitutional Court decision.  
30 „Official Gazette of the Republic of Serbia”, No. 25/19.  
31 „Official Gazette of the Republic of Serbia”, Nos. 33/06 and 13/16.  
32 „Official Gazette of the Republic of Serbia”, No. 4/16.  
33 Ministry of Health, 2010.  
34 Ministry of Labour, Employment and Social Affairs, 2013.  
35 Ministry of Interior, 2013.  
36 Ministry of Justice and Public Administration, 2014.

The main goal of these Protocols is to initiate prompt, efficient and coordinated procedures that immediately halt the violence, protect the victim from further violence, regulate the manner of documenting the victims' injuries after extending them medical aid, and ensure appropriate legal and psychosocial aid, thus facilitating the rehabilitation and integration of the victims.

General and special protocols for the protection of children against abuse and neglect are also of major importance. They list the criteria for distinguishing child abuse from child neglect and interlink the institutions charged with protecting abused and neglected children (the General Protocol for the Protection of Children against Abuse and Neglect, the Special Protocol on Actions of Judicial Authorities to Protect Minors from Abuse and Neglect; the Special Protocol for the Protection of Children against Abuse and Neglect in Social Welfare Institutions; the Special Protocol on Actions by Police Officers to Protect Minors against Abuse and Neglect; the Special Protocol of the Healthcare System for the Protection of Children against Abuse and Neglect; the Special Protocol for the Protection of Children and Pupils against Violence, Abuse and Neglect in Educational Institutions<sup>37</sup>).

The Government has established a Working Group for Addressing Mixed Migration Flow Issues<sup>38</sup>. The Group is chaired by the Minister of Labour, Employment, Veteran and Social Affairs, and its members comprise the Minister of Interior, the Minister of Defence, the Minister of Health, the Minister of Foreign Affairs, the Minister without Portfolio charged with EU integration, and the Commissioner for Refugees and Migration. The Working Group is tasked with monitoring, analysing and reviewing the issues of mixed migration flows in the Republic of Serbia, focusing on problems in this area, as well as with preparing situation analyses and suggesting measures to address the identified problems and harmonise the positions of the competent state authorities and other organisations and institutions dealing with mixed migration flows.

Fully aware of the importance of human rights and anti-discrimination, the Republic of Serbia has ratified the most important universal and regional agreements on human rights and prohibition of discrimination. Furthermore, it enacted a set of anti-discrimination laws over the past ten years, thus creating a solid legal anti-discrimination framework. As an EU candidate state, Serbia is currently in the process of aligning its legislation with the *acquis communautaire* of the EU.<sup>39</sup>

In this regard, the Republic of Serbia has been taking measures to further improve the legal framework, both in the field of anti-discrimination and in the areas of asylum, family relations and social welfare.

37 [https://www.unicef.org/protection/57929\\_58022.html](https://www.unicef.org/protection/57929_58022.html)  
38 Decision of the Government of the Republic of Serbia, 05 No.: 02-6733/2015 of 18 June 2015.  
39 Regular Annual Report of the Commissioner for the Protection of Equality for 2015.

# IV

## GENERAL PRINCIPLES, PURPOSE AND GOALS AND OBJECTIVES OF SOPs



It is necessary that all participants in the protection of GBV victims comply with the following general principles<sup>40</sup>:

1. The safety (security) of the victim is a priority in the work of professional services.
2. The safety and well-being of the child shall be achieved by ensuring safety and supporting the autonomy of the non-violent parent.
3. The perpetrator is solely responsible for the violent behavior.
4. All interventions should take into account the power inequality between the victim of domestic violence and the abuser.
5. The needs, rights and dignity of the victim must be respected.
6. The urgency of the procedure is consistent with the assessment of the danger of the situation and the vulnerability of the victim.
7. Institutions, within their roles, responsibilities and missions, are responsible for stopping violence and taking safeguards.
8. Professional competences should be raised by planning education and affirming good practice examples.

The Standard Operating Procedures have been developed in order to standardise, align and coordinate the work of all stakeholders dealing with the protection of migrants against GBV. Furthermore, the purpose of the SOPs is to ensure that all stakeholders have a common understanding of the risks to which victims of GBV are exposed in emergencies and to ensure that GBV victims receive the relevant support whenever they need it and in line with their wishes.

**The goal** of the SOPs is to align the roles and activities of all the stakeholders involved in the protection of migrants and addressing the refugee and migration crisis, in order to facilitate the fast identification and adequate protection of GBV victims and ensure their physical and emotional security.

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Decision of the Government of the Republic of Serbia, 05 No.: 02-6733/2015 of 18 June 2015.

**SOPs aim to achieve the following objectives:**

1. Standardise the GBV response mechanism and define the roles, responsibilities and procedures to be complied with by all stakeholders extending support to GBV victims;
2. Put in place a reference baseline on the basis of which all stakeholders will identify and determine GBV response priorities and achieve a common understanding of the purpose and goals of the fundamental principles of protection;
3. Improve the position of GBV victims and ensure that all measures taken to protect them are implemented in their best interests;
4. Avoid procedures that may result in the secondary victimisation of GBV victims.
5. Ensure that all GBV stakeholders comply with the best practices and minimum standards in line with international guidelines.

The SOPs reflect a victim-centred and human rights based approach to GBV prevention and response interventions. The SOPs recommend the implementation of comprehensive activities to prevent GBV and protect its victims, whilst indicating which organisations and/or institutions are responsible for particular actions in the four main sectors extending assistance to GBV victims: health, social welfare, security and justice.

The SOPs are not a standalone document, and should be perused together with other relevant national and international documents on GBV, as well as IASC, UNFPA, UNHCR, UNICEF and WHO guidelines.



## DEFINITION OF TERMS



**Gender-Based Violence (GBV)** is an umbrella term for any harmful act that is perpetrated against a person's will and that is based on socially ascribed (i.e. gender) differences between males and females. It includes acts that inflict physical, sexual or mental harm or suffering, threats of such acts, coercion, and other deprivations of liberty.<sup>41</sup>

**Gender-Based Violence against Women** shall mean violence that is directed against a woman because she is a woman or that affects women disproportionately.<sup>42</sup>

**Violence against women** is understood as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.<sup>43</sup>

**Sexual Gender-Based Violence (SGBV)** is a form and thus a sub-category of GBV.<sup>44</sup>

According to the *international Gender-Based Violence Information Management System (GBVIMS)*, the following categories of violence are reported as the most common in situations of emergency:

**Sexual violence, including rape** refers to engagement in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object; engaging in other non-consensual acts of a sexual nature with a person; and causing another person to engage in non-consensual acts of a sexual nature with a third person. Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.<sup>45</sup>

41 IASC, Guidelines for Integrating Gender-Based Violence Interventions in Humanitarian Action, p. 5.  
 42 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), Article 1(3)(d).  
 43 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), Article 3(1)(a).  
 44 Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons Guidelines for Prevention and Response, UNHCR, 2003.  
 45 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (2011), Art. 37.

**Sexual assault:** any form of non-consensual sexual contact that does not result in or include penetration. Examples include: attempted rape, as well as unwanted kissing, fondling, or touching of genitalia and buttocks<sup>46</sup>.

**Female genital mutilation** is an act of violence directed at female genitalia, and should also be understood as a form of sexual assault qualifying as criminal offense of Female genital mutilation by the RS Criminal Code (Article 121a).<sup>47</sup>;

**Physical assault:** an act of physical violence that is not sexual in nature. Examples include: hitting, slapping, choking, cutting, shoving, burning, shooting or use of any weapons, acid attacks or any other act that results in pain, discomfort or injury;

**Forced marriage:** a marriage made against the will of the individual<sup>48</sup>. This includes **early marriage** if not arranged in accordance with positive regulations;

**Denial of resources, opportunities or services:** is the denial of full access to economic resources, or the refusal to employ or dispose of earnings, or the denial and restriction of money to non-employed persons (economic violence), and the denial of education, health or other social services. Examples include a widow who has been denied access to an inheritance, a woman forcibly recruited by an intimate partner or family member, a woman who is not allowed to use contraception, a girl who is not allowed to attend school, etc. Denial in this respect does not apply to reports on general poverty;<sup>49</sup>

**Psychological/emotional abuse:** infliction of mental or emotional pain or injury. Examples include: threats of physical or sexual violence, intimidation, humiliation, forced isolation, stalking, harassment, unwanted attention, remarks, gestures or written words of a sexual and/or menacing nature, destruction of cherished things, etc.

**Human trafficking and sexual exploitation:** they are recognised as a combination of different types of GBV often escalating in emergencies.

*Other relevant terms and definitions:*

**Confidentiality:** an ethical principle associated with the medical and social service professions. Maintaining confidentiality requires that service providers protect the gathered information and agree only to share information with the client's explicit permission and in other cases laid down in the law. All written information, including in electronic format, should be kept in locked files and only authorised staff should have access to them. Maintaining confidentiality about violence means never discussing case details with family or friends, or with colleagues whose knowledge of the abuse is deemed unnecessary. That means that the victim's personal information (as well as all data that can identify a specific victim) will be shared only with other service providers directly participating in the provision of support to this specific victim in line with the law, while the other stakeholders will receive only

aggregated data allowing the statistical monitoring of GBV, but not the identification of the individual victims. When working with children, decisions concerning data confidentiality are to be made in the best interest of the child.

**Persons with disabilities:** persons with a congenital or acquired physical, sensory, intellectual or emotional disability who, due to social or other obstacles, have no or merely limited opportunities to engage in social activities at an equal level with others, irrespective of whether they are capable of conducting such activities with the help of technical aids or support services.<sup>50</sup>

**Informed consent:** the voluntary agreement of an individual who has the legal capacity to give consent. To give informed consent, the individual must have the capacity and maturity to understand the services being offered and be legally able to give his or her consent.

**Informed assent:** the expressly given consent to participate in services by younger children, who are by definition too young to give informed consent, but old enough to understand and agree to participate in services.<sup>51</sup>

**Mandatory reporting:** everyone must report GBV or imminent risk of GBV to the police or the public prosecutor without delay.<sup>52</sup> The law regulates the obligation of state authorities and other bodies, as well as natural and legal persons, to report all criminal offences that are prosecuted *ex officio* they are informed of or they become aware of in another manner, under the conditions laid down in law or other regulations.<sup>53</sup>

**Psychosocial support:** support that aims to protect or promote psychosocial wellbeing and/or prevent or treat mental disorder<sup>54</sup>.

**Foreigner:** is any person who is not a national of the Republic of Serbia, irrespective of whether he/she is a foreign national or a stateless person.<sup>55</sup>

**Asylum seeker:** a foreigner who has filed an application for asylum in the territory of the Republic of Serbia, and on whose application a final decision is pending.<sup>56</sup>

**A Refugee:** shall be understood to mean a foreigner who, owing to well-founded fear of being persecuted for reasons of race, sex, language, religion, nationality, or membership of a particular social group, or political opinion, is outside the country of his/her origin, and is unable or, owing to such fear, is unwilling to avail .<sup>57</sup>

**Migrants in vulnerable situations** are persons who are unable to effectively exercise their human rights, are at increased risk of misconduct and abuse, and are therefore entitled to invite an increased duty of care of the duty holder.<sup>58</sup>

**Victim/survivor:** a person who has suffered gender-based violence. Based on international standards, knowledge and good practices, these SOPs use two terms - "victim" and "survivor" - to denote persons subjected to GBV to refer to two co-existing aspects: victimisation (also for medical and judicial purposes) and resilience (for psychosocial support and empowerment).

<sup>46</sup> That could be qualified as illegitimate sexual act in the sense of Art. 182 of the Criminal Code.

<sup>47</sup> Forced marriage, Art. 187a of the Criminal Code.

<sup>48</sup> Law on Personal Data Protection (Official Gazette of RS, Nos. 97/2008, 104/2009 - other law, 68/2012 - decision of the US and 107/2012) - Art. 13. - without the consent of the person, if the processing is necessary for the performance of activities within its jurisdiction determined by law for the purpose of pursuing the interests of national or public security, defense of the country, prevention, detection, investigation and prosecution of criminal offenses, economic or financial interests of the state, protection health and morals, protection of rights and freedoms and other public interest. New Law on Personal Data Protection, "RS Official Gazette", no. 87/2018 (with effect from 21.08.2019) in Art. 12. paragraph 1 t. 1 states as a condition for the lawful processing of personal data that the data subject agrees to the processing of his / her personal data for one or more specific purposes. However, in Art. 12th c. 3 states that this does not apply to processing carried out by the competent authorities for specific purposes. For special purposes, Article 6, paragraph 3 of the Law provides for the processing of data carried out by competent authorities for the purpose of preventing, investigating and detecting criminal offenses, prosecuting offenders or committing criminal sanctions, including prevention and protection against threats to public and national security. In that case, pursuant to Art. 13 of the Law, the processing of data, without the consent of the data subject, is lawful, since it is necessary for the performance of the tasks of the competent authorities and is prescribed by law.

<sup>49</sup> Law on the Prevention of Discrimination against Persons with Disabilities («Official Gazette of the Republic of Serbia», Nos. 33/06 and 13/16).

<sup>50</sup> Sexual and Gender-Based Violence against Refugees, Returnees and Internally Displaced Persons Guidelines for Prevention and Response, UNHCR, 2003.

<sup>51</sup> Law on the Prevention of Domestic Violence («Official Gazette of the Republic of Serbia», No. 94/16).

<sup>52</sup> Criminal Procedure Code («Official Gazette of the Republic of Serbia», Nos. 85/2005, 88/2005-correction, 107/05-correction, 72/09, 111/09, 121/12/, 104/13, 108/14 and 94/16).

<sup>53</sup> Guidelines on Mental Health and Psychosocial Support in Emergencies, IASC 2007.

<sup>54</sup> Law on Asylum («Official Gazette of the Republic of Serbia», No. 109/07, Article 2 (1) (3)).

<sup>55</sup> Law on Asylum («Official Gazette of the Republic of Serbia», No. 109/07, Article 2 (1) (5)).

<sup>56</sup> Convention relating to the Status of Refugees adopted by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons, with Annexes, drafted in Geneva on July 28th 1951. Put into force on April 22nd 1954, in line with article 43 43. («Official Gazette of the Federal People's Republic of Yugoslavia - International treaties and other agreements» No. 7/60) Article 1.

<sup>57</sup> Law on Asylum (Official Gazette of the Republic of Serbia", No. 109/07, Article 2 (1) (6).

<sup>58</sup> <https://www.ohchr.org/Documents/Issues/Migration/PrinciplesAndGuidelines.pdf>



**Perpetrator:** a person, group or institution that directly inflicts or otherwise supports violence or other abuse inflicted on another against her/his will.<sup>59</sup>

**Torture:** any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.<sup>60</sup>

<sup>59</sup> IASC Guidelines On GBV Interventions.

<sup>60</sup> The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and the International Convention on the Elimination of All Forms of Racial Discrimination („Official Gazette of the Federal People's Republic of Yugoslavia - International Treaties and Other Agreements" No. 9/91).



## MINIMUM SERVICE PACKAGE IN COMBATING GBV



The minimum service package in the fight against gender based violence in emergency situations has been developed under the expert guidance of UNFPA. The standards are not specific to any particular country and relate to the 2015-2016 migrant crisis. This section provides guidelines for extending care to victims of gender based violence in emergencies, with particular reference to the following:

1. Identification of **vulnerability criteria and risk factors;**
2. **Outreach;**
3. Provision of **urgent response/first aid services.**

In emergency situations characterised by fast movements of migrants through various countries in the region, it is necessary to quickly identify the vulnerabilities and risk factors, especially those that are not personal in character, in order to facilitate the elimination of the gravest threats and obstacles to security and extension of life-saving services within an integrated, accessible and on-site package.

The SOPs constitute an instrument that can be employed in various emergencies, when the population is struck by a crisis, to strengthen the link between the needs for protection and the protection itself in situations when the circumstances or developments render the provision of or access to services more difficult.

The above situations call for speed, mobility and pro-activeness in the delivery of the minimum service package.

The GBV vulnerability criteria and risk factors, serving to identify risk-prone cases, combine the principles of GBV protection and child protection in emergencies, and are the result of a joint endeavour by UNFPA and UNICEF.

## 1. Vulnerability Criteria and Risk Factors

### 1.1. Vulnerability

Persons who are “vulnerable to GBV” are mostly women, girls and boys who have been already exposed to GBV, or threatened with it in their countries of origin, permanent or temporary reception centres or camps for asylum seekers, refugees and migrants, or in countries in which they had previously stayed along their migration route. In other words, persons who can be easily physically, emotionally or psychologically hurt or assaulted.

Migrants seeking protection in third countries bear grave traumas and injuries. They have lost all their known protection mechanisms, and are extremely vulnerable in the sense that it is extremely likely that they will experience violence and abuse of their rights during their journey. Some of them are now at even greater risk of further GBV and SGBV victimisation.

According to international experiences and standards and feedback provided by humanitarian staff dealing with the current refugee and migrant crisis in Europe and Serbia, the following have been identified as the most vulnerable to GBV and SGBV:

- Adolescent girls;
- Widows, separated or unmarried women/girls;
- Women travelling alone with children, unaccompanied by their spouses, common law partners or other male adult family members;
- Female-headed households;
- Elderly women and men;
- Children in male-headed households;
- Unaccompanied or separated girls and boys;
- Persons belonging to ethnic/religious minorities;
- Persons with physical or mental disabilities;
- Persons with health issues (suffering from grave or chronic diseases, STDs/HIV-AIDS, etc.);
- Pregnant or breastfeeding women;
- Persons with a history of sexual violence (as victims and/or witnesses, including also early marriage);
- Persons who have been politically affiliated/recruited;
- LGBTI+ persons.

It is highly likely that these persons have already been exposed to GBV and are in threat of further victimisation.

### 1.2. Risk Factors

Risk factors include current or prior circumstances likely to result in gender based violence or the development of illnesses or injuries caused by the violence suffered, especially when individuals are removed from a setting in which their rights and freedoms are protected and their physical and psychological integrity defended.

Depending on the circumstances, the risk factors may be: (a) personal - regarding an individual’s personal situation, and (b) external – regarding external impacts.

Prior victimisation or exposure to GBV risks can lead to long-lasting trauma and affect the health of the victims. This is why it is necessary to identify GBV victims as soon as possible and provide them with adequate care.

Bearing in mind the nature of the external factors, the relevant stakeholders should consider the implementation of appropriate prevention measures to mitigate or fully eliminate such risks.

In most cases, individual risk factors require a specific level of personal assessment, which can be conducted during initial communication with the refugees and migrants.

It is important to highlight that GBV exposure can be ongoing or could have occurred in the past. Nonetheless, GBV exposure at any time leaves long-lasting trauma and affects the victims’ health, wherefore they need to be provided with assistance as soon as GBV is identified.

The most significant GBV vulnerability risk factors are:

#### a) Personal risk factors:

- Lack of support from male family members (ensuring protection and social acceptance by the community); it must, however, be borne in mind that a woman can also be exposed to GBV risk from a male family member, i.e. that male presence can also be a GBV risk;
- Lack of financial means;
- Lack of access to basic subsistence (food, water, hygiene supplies, sleep);
- Absence and/or loss of personal documents (related to personal identity, parenthood, property);
- Certain personal characteristics (sex, gender identity, sexual orientation, disability, etc.).

#### b) External risk factors:

- Lack of access to information;
- Unsafe modes of transportation, including public transport such as unsupervised and overcrowded trains and buses, private transport, unsupervised taxis, illegal transport or smuggling, or parts of the road travelled on foot without supervision;
- Abuse of power (unlawful detention, lack of legal aid);
- Inadequate level of security in permanent and temporary reception centres, including overcrowded bathrooms and toilets; dark and isolated rooms;
- Absence of gender-separated rooms for men and women; no special rooms for children; no disability-friendly rooms; no separate rooms in which professionals can talk to potential GBV victims in private;
- Lack of control of compliance with regulations on separate male and female bathrooms and toilets;
- Inappropriate gender structure of outreach and protection staff;
- Poor supervision of activities and services provided in the centres;
- Inappropriate conduct by humanitarian staff;
- Accommodation in informal centres.

Recognition of GBV vulnerabilities and risk factors is essential when approaching migrants in order to identify those in need of assistance, notably:

- Accelerated procedures minimisation procedures (prevention and protection);
- Accelerated procedures for life-saving purposes.

Some vulnerable persons may be less exposed to risk factors, wherefore they may only be in need of preventive measures, such as fast-tracking and transit-related assistance. On the other hand, others may be exposed to risk factors even though they are not recognised as vulnerable, wherefore they need not only prevention measures, but also first aid services or even further national and trans-national referral, depending on the circumstances of the case.



Risk assessment is based on available information and must be conducted as soon as possible.

When performing a risk assessment, one must pay particular attention to the following: whether the alleged perpetrator had already committed GBV, earlier or immediately prior to the risk assessment, and whether s/he is capable of committing it again; whether s/he threatened to commit murder or suicide; whether s/he is armed; whether s/he is suffering from a mental illness or abusing psychoactive substances; whether the victim is living in fear and how s/he assesses her own GBV risks, then proceeding to divorce or leave, or separation from a violent partner, if children are present, whether they are already, or could be injured, threats to the victim, her family, friends, escalation of monitoring, stalking and harassment of the victim, her family or friends, history of a possible offender's jealousy of the victim, suicidal thoughts and behavior of the victim, history of contempt of a possible offender, forced sexual intercourse, unemployment and financial problems, property disputes, isolation of women (social or geographical), reluctance to leave the home, the fact that he or she does not know (sufficiently well) the language or nationality, certain types of disabilities or chronic illnesses, pregnancy, age / age of the victim and other risks.

The combination of the vulnerability degree and risk factors enables the staff in the field to classify cases by level of risk and likelihood of GBV occurring and define the type of assistance needed.

All the stakeholders providing services to migrants at permanent and other facilities intended for the accommodation of asylum seekers, as well as local service providers, should be aware of the GBV vulnerability levels and risk factors, properly trained, and prepared to take appropriate action in line with these SOPs.

All humanitarian staff should be able to fast-track vulnerable individuals; staff not directly involved in the provision of first aid services should know how to refer the identified cases to stakeholders providing specialised services.

		VULNERABILITY	RISK FACTORS	TYPE OF RISK	RISK LEVEL
→ RISK GROWING →	1.	LOW vulnerability	LOW exposure to risk factors	Low likelihood of ongoing and past victimisation	LOW
	2.	HIGH vulnerability	LOW exposure to risk factors	High likelihood of past victimisation	MEDIUM
	3.	LOW vulnerability	HIGH exposure to risk factors	High likelihood of ongoing victimisation	HIGH
	4.	HIGH vulnerability	HIGH exposure to risk factors	High likelihood of ongoing and past victimisation	VERY HIGH

## 2. Outreach

Outreach is an effort to bring services or information to people where they live or spend time. Due to well-known obstacles related to GBV in any context, such as feelings of shame and stigma, mistrust in service providers, fear of re-victimisation and death threats, service providers should insist on an "outreach mode" of delivering their services in languages that potential or actual GBV victims understand, thus replacing the traditional service provision mode that expects beneficiaries to seek help by coming to the service providers' offices.

The outreach model of communication with migrants, especially victims of GBV, requires that a safe space, even of minimum size, be ensured so that victims and service providers can speak in private, in a safe and accessible setting.

Outreach can also be implemented by medical professionals, social workers, psychologists and human rights activists, as well as trained mediators. In addition, it is necessary to pay attention to the gender structure of the outreach stakeholders, to prevent communication barriers caused by cultural, religious, or other reasons. Whenever possible, the interpreter should be of the same sex as the victim; in any case, interpreters must first attend the necessary training focusing on the principle of confidentiality.

Outreach roles and responsibilities should be agreed among the relevant stakeholders to facilitate coordination.

The stakeholders in charge of outreach should carry out their activities by addressing migrants at the venues at which they gather, using simple ice-breaking questions carrying key messages. Outreach also includes dissemination of information on where, how and which types of services are provided, on the consequences of GBV and benefits of seeking protection and support. Furthermore, the messages must be formulated in such a way that the victims can accept and understand them. The victims should clearly understand that service providers care for their wellbeing. In addition, the messages must be conveyed in languages the victims understand and fully respect their cultural sensitivities.

Given the very difficult experiences the victims are going through, service providers must inform them of many important issues, starting with very simple information such as:

- the availability of healthcare services;
- the presence of stakeholders charged with security in the centre; and
- the possibility to apply for asylum.

## 3. Immediate Response – First Aid

Those delivering first aid services do not need to know whether the victimisation occurred recently, in the current country of transit, or at another location at another time. The timeframe of the event needs to be ascertained only in cases of rape and the clinical care of rape victims, in order to prevent STDs, HIV and unwanted pregnancy. Furthermore, the timely recognition of risks leads to selecting the proper prevention and protection measures and minimising the likelihood of the victimisation continuing in the current circumstances. This information may also be important for the potential identification and punishment of GBV perpetrators.

First aid denotes emergency assistance provided to an ill or injured person, or a person at risk of recurrent or continued GBV or further exposure to violence, with a view to preventing the deterioration of the survivor's health, which may even result in death.

In terms of responding to GBV in emergencies, first aid means that, when a victim asks for assistance, those extending aid should give priority to the following emergency interventions:

- Urgent medical procedures and assistance related to sexual and reproductive health;
- Psychological first aid;
- Special protection measures.

The key activities for providing first aid to migrants include:

- Immediate interventions, including psychosocial support where appropriate;
- Referral of the victim to the appropriate support and legal representation (if required), with the consent of the victim (or in the child's best interests if the victim is a child);
- Accompanying the victim to a place of safety and protection, to social, medical and legal service providers, and offering support in accessing their services;
- Exercising caution when seeking information from the victims in the presence of their family or other members of the community, so as not to jeopardise their safety;
- Joint designation (by all stakeholders) of trained contact persons who will be in charge of referring the victims within the GBV referral system (two such persons: one contact person and one deputy).

### 3.1. Procedure for Placement and Care of Rape Victims:

The victims should receive information in direct communication and/or through outreach material (posters or leaflets in languages victims and potential victims mostly understand, displayed in easily accessible locations, visible to a large number of refugees and migrants) clearly specifying where rape victims can seek assistance or a medical examination. During the medical examinations, the victims are to be provided with information about the available healthcare, how they can access it and pursue further treatment (if necessary).

Acts of violence, which had taken place before the victims came to the Republic of Serbia, are identified if the victims themselves report them or come forward accompanied by a family member or a CSO member. In the event it transpires that the act of violence has occurred in the territory of the Republic of Serbia, healthcare professionals are to immediately take action in the field and report the case to the police, the social welfare centre, and the medical facility in the centre for the accommodation of migrants or any other primary healthcare institution.

#### a) First Contact:

- Healthcare professionals should talk to the rape victims using the communication guidelines (see Table in section 3.3 - Psychological First Aid);
- Physicians/nurses should recognise violence by looking for the presence of any of its clinical indicators, specified in the Serbian Health Ministry's Special Protocol for the Protection and Treatment of Women Victims of Violence;
- Healthcare professionals should take the medical history data from the victim and perform a physical examination<sup>61</sup>, and may examine (and keep) the clothes or shoes as evidence;
- It is recommended that the physician and interpreter be of the same sex as the victim. The

61

If the victim refuses to be examined, it is very important for healthcare professionals to talk to the victim, to tell her that for her safety, she needs to say what she is afraid of and what are the reasons why she does not want the examination (probably because she is afraid, ashamed and fearful of the possible consequences that may arise for her if the perpetrator learns this), it is important to be aware of all the procedures and the fact that she may be examined at the behest of the public prosecutor, and that this can remove her «responsibility» for the inspection performed.

interpreter may be present only with the consent of the victim. It is also recommended that the interpreters attend appropriate training that primarily focuses on confidentiality. If the victim so wishes, a third person may also be present, unless there is reasonable doubt that the said person is the perpetrator of the violence or a family member who might prevent the victim from disclosing accurate and full data crucial for the extension of adequate training and protection.

#### b) Collection of Documentation:

- The form in the Serbian Health Ministry's Special Protocol for the Protection and Treatment of Women Victims of Violence and other common medical documentation should be filled.

#### c) Procedures after the Medical Examination:

- The physician may refer the victim for further examinations, analyses and treatment;
- If the victim is under 18 years of age, the case must be reported to the social welfare centre, in accordance with the law and the general and special protocols governing the protection of children;
- Health professionals are under the obligation to issue referral forms and extend medical supervision.

#### d) Possible Procedures and Interventions during the Medical Examination:

- Medical treatment of injuries or the victim's emergency condition;
- Administration of the "Day After" pill to prevent unwanted pregnancy to victims of acute violence;
- Administration of prophylactics for the most common STDs;
- Testing (for HIV, hepatitis, and other STDs);
- Recommendation for follow-up therapies;
- Referral to specialist medical examinations, in line with the physician's assessment.

#### e) Training for Healthcare Professionals in:

- Communication with victims of sexual violence and rape, in line with the Serbian Health Ministry's Special Protocol for the Protection and Treatment of Women Victims of Violence;
- Ability to respect cultural and religious differences;
- Continuous training on the needs of victims of violence and modern approaches to identifying and treating victims.

#### f) Respect for the Victim's Rights:

- Once the victim is informed about the treatment and the procedures that the physician must follow (report the case to the Ministry of Interior and the social welfare centre), the victim's choice on how to proceed must be respected.

### 3.2. Urgent Medical Interventions and Protection of Sexual and Reproductive Health:

- Treatment of injuries;
- Clinical care of rape victims;
- Prevention or termination of unwanted pregnancy;
- Post-abortion services;
- Prevention and treatment of STDs and HIV.

### 3.3. Psychological First Aid

Psychological first aid is a preventive procedure that aims to prevent the deterioration and occurrence of long-term negative consequences on one's health, in order to achieve the wellbeing of people struck by disasters and great hardship.

GBV victims facing acute stress and in need of psychological aid may behave in the following ways or display the following symptoms:

- Tremor, fatigue, headache, loss of appetite, general aches and pains;
- Crying, sadness, depression, grief;
- Anxiety, fear;
- Being "on guard" or "jumpy";
- Fear that something "really bad" is going to happen;
- Insomnia, nightmares;
- Irritability, fury;
- Guilt, shame;
- Confusion, emotional numbness;
- Appear withdrawn or very still (not moving);
- Not respond to others, not speak at all, appear disorientated (e.g. not know their own name, where they are from or where they are);
- Inability to look after themselves or their children (e.g. refuse to eat or drink, inability to make simple decisions).

It is important to note that a victim may also appear stable, without exhibiting any of the above symptoms or behaviours.

Victims of violence in need of psychological first aid most probably will not ask for any form of help.

It is essential that providers recognise the symptoms of acute stress and act upon them. In such cases, they should identify the victim's basic and/or urgent needs - including problems that may appear minor or secondary but are perceived by the victim as urgent and crucial - and respond to them in a timely fashion.

Should the victim respond positively, the providers may suggest s/he undergo a medical examination or talk to a psychologist. Please note that, in many cultures, the word 'psychologist' is associated with mental illness, social stigma and feelings of shame. A psychologist should thus be presented as a healthcare professional, who is educated and a good listener and can help and offer advice. Where possible, communication should be carried out with the help of an interpreter of the same sex, who had undergone appropriate training focusing primarily on confidentiality.

WHAT <b>TO</b> SAY OR DO	WHAT <b>NOT TO</b> SAY OR DO
Find a quiet place to talk (an isolated room, empty office, etc.) and minimise any possible outside interference - the place should be connected to a "female medical facility" - mobile gynaecology clinic.	Do not initiate communication in a place where the person obviously feels unsafe or uncomfortable.
Clearly say that you do not have to hear the entire story to "believe" it, but that you are willing to hear it if s/he wants to tell it.	Do not pressure the victim into telling you his/her story.
Sit/stand close to the person, but keep an appropriate distance, depending on his/her age, gender and culture.	Do not touch the person if you are unsure whether it is an appropriate gesture.
Let the person know you are listening carefully (for example: by nodding your head or occasionally saying "a-hmm").	Do not judge the person for having or not having done something, or because of the way s/he feels. Do not say: "You shouldn't feel that way", or "You should be happy you're alive".
Respect the person's privacy and maintain the confidentiality of all the information s/he shared with you.	Do not tell someone else's story. Do not talk about your own problems.
Be patient, accommodating and calm.	Do not interrupt or rush the person while s/he is telling his/her story (e.g. by glancing at your watch or talking too fast).
Respect how the person feels. Acknowledge his/her sadness, pain, anger, etc. ("I'm so sorry, I can imagine how difficult that was for you"). Acknowledge how difficult it must be to express these feelings and share them with others.	Do not just wait, passively or insensitively, for the person to share information with you.
Show you are aware that violence does happen and that it affects people who are victims of armed conflict and displacement and that you know how hard that it, especially on women.	Do not think or act like you have to solve all the person's problems instead of him/her.
Always emphasise the connection between the understanding shown for the suffered violence and the distress and the possibility that the victim will feel better and get help.	Do not give false promises or raise false hopes.
While talking to the person, provide her with information on the available assistance and the solutions satisfying her immediate needs.	Do not talk about people in a negative way (e.g. do not call them crazy or idiots).

WHAT <b>TO</b> SAY OR DO	WHAT <b>NOT TO</b> SAY OR DO
Provide the information you have. Tell the person honestly what you do or do not know ("I don't know, but I will try to find out and let you know").	Do not make things up if you do not know something.
Provide information in a clear, simple and understandable way.	Do not use overly technical terms.
Acknowledge the person's strength and the fact that s/he has managed to withstand the hardship.	Do not belittle the personal strength of the person and his/her feeling that s/he is capable of taking care of himself/herself.
Allow the person to cry and reasonably control the crying. Make physical contact, if appropriate, to calm the person down (hold the person's hand, place your hand on his/her shoulder). Talk about crying in positive terms, as a step leading to overcoming her/his current condition.	Do not show your discomfort or surprise if the person talks about his/her stress, or abuse that s/he survived, or has a strong emotional reaction.
While communicating and extending aid, keep on emphasising that the person is safe – bear in mind all the currently available protection measures – tell the person about all the available protection measures.	Do not force the person to communicate or share information if s/he clearly feels unsafe or uncomfortable.
Allow silence.	Do not insist on verbal communication.
Escort the person to a place where s/he can receive further assistance, if s/he asks or it; inform him/her of further referral, if appropriate and if that is his/her wish.	Do not leave the person before you are certain that his/her psycho-physical condition is stable and that s/he is referred to the place where she will receive further assistance - in case of an emergency and at his/her request.

### 3.4. Special Protection Measures

Special protection measures refer to actions that are agreed upon on the spot and tailored to each specific case. Their objective is to remove the victim i.e. person at risk from the identified immediate GBV risks and threats. Such measures most often require speedy on site coordination of a number of stakeholders, both within the country and abroad. Protection may be extended to the victims or persons at risk and their family members when this would increase their safety and the safety of their dependants.

Together with the victim/person at risk, the case officer must first carefully assess the best way to remove the former from the immediate threats and risks. Given that the victim's safety is of absolute priority, all the relevant stakeholders need to be contacted in such cases to identify, agree and implement the necessary protection measures.

Herewith some examples of actions that may be considered special protection measures against GBV:

- Alternative or escorted transportation through certain parts of the migration route;

- Fast-tracking;
- Removal of the victim/person exposed to risk from the group s/he is traveling with (without delaying departure or keeping the person in separate accommodation);
- Referral of the victim/person at risk to separate, supervised accommodation (during the night, hours of rest, or while waiting); this may include accommodation in a reception centre or safe accommodation in a healthcare institution or another properly equipped facility (e.g. shelter for victims of human trafficking or domestic violence, et al) if their safety is threatened;
- Alerting service providers in other countries along the route that a particular person needs alternative protection measures and fast-tracking procedures;
- Assistance in seeking asylum in the country;
- Accommodation in a safe setting (safe house), if a person's safety is threatened.

In the event of GBV, first aid comprises three main areas of intervention that must be implemented in an integrated manner:

- When the victim asks for medical assistance first, or is referred to it by another person.** If the victim/person at risk of GBV requests medical services first, or is referred to it by another person, a trained psychologist should work closely with the doctor, gynaecologist and nurses and extend aid. A private waiting area should be designated in the proximity of the mobile gynaecology clinic or the centre's medical unit. A trained psychologist should be present in the waiting area; s/he should create an atmosphere conducive to the person seeking help and prepared to extend psychological first aid if needed and on request. In the event the clinical medical staff tending to a rape victim recognise s/he is under acute stress, they should inform him/her that psychological first aid and special protection measures are available and facilitate access to it. Interpreters must be available to enable basic communication with the survivor of violence.
- When the victim asks for psychological assistance first, or is referred to it by another person.** If the victim/person at risk of GBV requests psychological services first, or is referred to them by another person, a trained psychologist (or social worker) should talk to such a person in the proximity of the mobile gynaecology clinic or the centre medical unit, as described in item a). The psychologist should always highlight the link between psychological and physical health and encourage the victim to seek both so that s/he could continue the journey risk-free. The psychologist must be acquainted with the available sex and reproductive health measures and feasible protection measures in emergencies and notify the victim/person at risk thereof. If necessary and at the person's request, the psychologist may stay with the person during the medical examination and the meetings with the protection officers.
- The person's safety should be a priority.** If a victim/person at risk requests special protection measures first, protection officers familiar with GBV cases and related risks should always acknowledge the importance of seeking integrated, life-saving health services in a timely fashion (urgent medical assistance, sex and reproductive health services and psychological first aid).



## VII



## PLACEMENT AND CARE (CASE MANAGEMENT) OF GBV VICTIMS

Placement and care (case management) of GBV victims is “a collaborative, multidisciplinary process based on cooperation, which serves to assess, plan, implement, coordinate, monitor and evaluate options and services aimed to meet an individual’s needs through communication and available resources to promote quality, effective outcomes.”<sup>62</sup>

The four principles of placement and care are:

- Individualised provision of services based on the choices made by the victim;
- Comprehensive assessment, used to identify the victim’s needs;
- Development of an individual plan of protection and support that meets the needs of the victim and is developed in cooperation with him/her;<sup>63</sup>
- Good coordination of service delivery.<sup>64</sup>

The objective of the placement and care of GBV victims is to empower them by letting them know that different options are at their disposal, supporting them in taking informed decisions, and raising their awareness of the fact that an array of services is available. Placement and care of GBV victims is focused primarily on meeting their health, safety, psychosocial and legal needs following an incident.

<sup>62</sup> Case Management Society of Australia, 1998, as cited by IRC, 2012, p. 70.

<sup>63</sup> This plan shall be drawn up in accordance with Art. 31 of the Domestic Violence Prevention Act. It is made by a group consisting of a public prosecutor, a social work center employee and a competent police officer, as permanent members, and representatives of health, educational institutions, civil society organizations and the victim, if needed, also participate in the development, if his/her emotional and physical condition allow it. If the victim does not participate in the development of the plan it is obligatory to be informed about its contents. This plan is a broader term and includes a plan of service measures developed by the center for social work, as well as a security plan drawn up with the victim by a center for social work or a civil society organization providing support to the victim of domestic violence or the victim of the crime referred to in Art. 4 st. 1 of the Domestic Violence Prevention Act.

<sup>64</sup> Adapted from IRC, 2012.

Throughout the process, the person in charge of placement and care should ensure that:

- All hard-copy documents are stored in their own individual files, in accordance with the laws and bylaws;
- All referrals and case information forwarded by electronic mail are password-protected and exchanged only between the stakeholders charged with the placement and care of victims;
- Confidentiality and safety of information is maintained. Original copies of the filled registration forms and consent forms are to be filed in locked cabinets in adequate offices. All forms that contain the information on the basis of which they will identify themselves, including the consent form, are stored separately from the statement form, which is encrypted and contains event details;
- To maintain safety, security and confidentiality of information, the filled registration forms may never be transferred or shared, unless a criminal offence has been committed, in which case all the evidence must be submitted to the prosecutor on his/her request. In addition, information may be shared without the consent and agreement of the person concerned only if so prescribed by the law and under conditions stipulated by law;
- All hard copy case files are to be kept in a secure place in locked cabinets. All rooms in which hard copy and electronic information is stored must be securely locked whenever staff leave the room. All staff must be aware of the importance of being vigilant as to who is entering their workplace.

### 1. Disclosure of GBV

GBV must be disclosed carefully, to reduce the possibility of secondary victimisation, with full respect for the dignity of the person and confidentiality of information.

Some victims of GBV choose not to disclose GBV or seek help. The reasons for this may include:

- Persistent hope that abuse will stop;
- Belief that abuse is their personal problem;
- Belief that they themselves are provoking abusive behaviour;
- Stigma and shame;
- Belief that nothing can be done about it;
- Belief that service providers are unable to help;
- Constant presence of the perpetrator;
- Fear of the consequences of disclosure, such as escalation of violence, break-up of the family, deprivation of custody of the children;
- Economic consequences of separation.

As regards disclosure of violence, migrant victims might experience additional barriers, such as:

- Fear that they will lose the status of asylum seeker or refugee or the granted subsidiary protection if they leave the abuser;
- Lack of awareness of their rights and entitlements in a foreign country;
- Social isolation resulting from their emotional dependence on the perpetrator.

Disclosure of violence requires a high degree of trust in the person to whom the disclosure is made.

The following needs to be done to ensure that victims who want to disclose GBV feel supported and reas-

sured that they are doing the right thing:

- **Listen** - Give the victims the opportunity to share their experiences in their own words and in their own time. Try not to interrupt them or ask too many questions. Do not feel you have to fill every single moment of silence that occurs during the conversation. Providing the victims with appropriate space and sufficient time to talk will help them feel valued and supported;
- **Be non-judgmental** – do not be judgmental, wherefore it is not a good idea to ask questions indicating that you are; do not pressure them to walk out of a violent relationship, as that may have negative consequences, including the risk of a physical assault;
- **Let the victims know you believe them** - it is very important that the victims know you believe them; you can win their trust by saying e.g. “that must have been very frightening for you”;
- **Validate the person’s decision to disclose violence** - victims may be struggling with feelings of guilt and self-doubt; highlight their courage and strength for taking adequate action;
- **Emphasise the unacceptability of violence** – indicate to the victims that violence is unacceptable and encourage them to disclose it, whilst ensuring that they do not perceive such encouragement as you passing judgment on them;
- **Emphasise confidentiality** – maintaining confidentiality when a victim decides to step forward and disclose GBV is of paramount importance.
- **Refer the victims to the appropriate support organisations** – there are many civil society organisations that provide protection to migrants as well as GBV victims; identify the first relevant stakeholder to whom to refer the victim based on the victim’s needs.

## 2. Informing victims on procedures

The victims’ informed consent should be obtained<sup>65</sup> before referring them to service providers or sharing their information. To ensure that consent is informed, service providers must provide the following information to the victims, in a language and manner they understand (sign language, pictures, written information, verbal information, etc.):

- Which options are available;
- That information will be shared (with their consent) with the other stakeholders with a view to them extending other services;
- Exactly what is going to happen when they agree to accept the other services;
- The advantages and disadvantages of the services;
- That they are entitled to refuse a service;
- The limits to confidentiality.

It sometimes take a long time to win the trust of victims of sexual violence.

Informed consent is an ongoing process within the placement and care procedure, which means that you should talk to the victims and provide them with various information throughout the procedure.

<sup>65</sup> This obligation arises from Art. 29 of the Prevention of Domestic Violence Act.



# RESPONSE PROCEDURES AND RESPONSIBILITIES BY SECTOR



General principles for all responses:<sup>66</sup>

- Ensure full cooperation and assistance of all stakeholders involved in the prevention of and response to GBV. This includes sharing information, analyses and assessments to avoid duplication and overlapping of procedures, and maximising the shared understanding of the situation;
- Establish and maintain carefully coordinated multi-sectoral and inter-organisational interventions for GBV prevention and response;
- Engage the community in the promotion of gender equality and respect of the rights of women and girls;
- Provide for equal and active participation of women, men, girls and boys in assessing, planning, implementing, monitoring and evaluating the programmes in the community;
- Integrate and mainstream GBV interventions into all community programmes and all the sectors;
- Ensure accountability at all levels;
- All staff and volunteers involved in the prevention of and response to GBV, including interpreters, should understand and sign a Code of Conduct or a similar document setting out the same standards of conduct for all.

Guiding principles for working with individual victims:

- Ensure the safety of victims and their families at all times;
- Respect the confidentiality of victims and their families at all times;
- Respect the integrity and dignity of victims;
- Prohibit discrimination.

<sup>66</sup> GBV Resource Tool: Establishing GBV Standard Operating Procedures (SOP Guide), IASC Working Group on Gender and Humanitarian Action, 2008.

When working with child victims of GBV, decisions taken on their behalf must be based on their best interests, with their involvement and respect for their opinions depending on their age, in accordance with the law and general and special protocols.

## 1. Medical Response

The priority is to extend medical care to GBV victims. Victims should be given information concerning medical procedures in all phases involving medical assistance. The availability of healthcare and access to health services need to be ensured.

### a) Collection and Exchange of Information

When collecting and exchanging information, it is necessary to:

- Respect the victim's wishes – the victim has the freedom of choice (whether or not to request assistance, what type of assistance, and from which organisation or institution);
- Provide the victims with complete information on relevant medical services and the accessibility and availability of such services, how to contact the medical institutions or teams operating in the field, and offer them your help and interpretation services if possible. However, let the victims make an informed decision concerning how, with whom, and what sort of information about GBV they will share;
- Collect data, keep records and share information whilst fully respecting the dignity of the GBV victims and the confidentiality of the information about them, in accordance with the law.

### b) Treatment/Medical Examination:

- A properly registered comprehensive medical (including genital) examination performed by a healthcare professional;
- In case of rape, a properly registered comprehensive medical (including genital) examination performed by a physician and trained forensic expert. All injuries must be documented. Provide emergency contraceptives and prophylactic therapies against STDs, including HIV therapy;
- Timely treatment of all injuries and, if necessary, referrals;
- Emotional support to the victims and their families or companions.

### c) Child Victims of GBV<sup>62</sup>:

- Include field staff specialised in child protection;
- Medical examinations are to be performed by healthcare professionals;
- Ensure safety;
- Refer child victims to services specialised in working with children.

### d) Follow-Up Procedures

- In case of rape or aggravated SGBV, refer the victim to the police and have them perform a forensic examination, with the victim's prior consent. Whenever possible, review the possibility of simultaneously conducting the medical and forensic examinations, to reduce the victim's additional traumatisation.

## 2. Psychosocial Response

Psychosocial response is an integral part of first aid provided to people in crisis situations.

GBV places an enormous strain on the mental health of the victim and can cause very serious problems, including continuous feelings of fear, shame or guilt. It may also result in illnesses such as PTSD, depression and anxiety, sleeping and eating disorders, as well as psychotic disorders. Some victims are apparently able to recover from the trauma (and are capable of functioning without any obviously serious problems) by subconsciously activating their coping mechanisms such as forgetting, denial and deep repression of the survived traumatic event, but all victims require additional support if they are to continue with their lives. Family members of GBV victims may also experience a variety of harmful emotions, which is why they, too, need support.

Harmful emotional, psychological and social consequences of GBV should be treated carefully, and exclusively by trained healthcare professionals and specially trained and qualified volunteers. Also, special attention should be paid to psychosocial aid provided to child victims of GBV. Such aid should be tailored to children and provided by healthcare professionals adequately trained to work with children.

### a) Collection and Exchange of Information

When collecting and exchanging information, it is necessary to:

- Provide the victims with complete information on the relevant psychological procedures and their limitations, the accessibility and availability of such services and how to get in touch with the relevant service providers; offer them your help and interpretation services if possible. However, let the victims make an informed decision concerning how, with whom, and what sort of information about GBV they will share;
- Collect data, keep records and share information whilst fully respecting the dignity of the GBV victims and the confidentiality of information about them, in accordance with the law;
- Respect the victims' wishes – the victims have the freedom of choice (whether or not to request assistance, what type of assistance, and from which organisation or institution).

### b) Treatment /Counselling:

- Prior to extending this type of aid, become familiar with the guiding principles on psychosocial support to GBV victims;
- Psychosocial first aid, security risk assessments, and individual and group counselling should be provided by a trained service provider;
- Time permitting, implement activities to increase the victims' sense of self-worth and interaction with other people in the community;
- Provide emotional support to the victims and their families or companions.

### c) Child Victims of GBV:

- Assessment is to be conducted by a specially trained social welfare centre professional;
- Ensure safety;
- Refer child victims to services specialised in working with children.



#### d) Follow-Up

In the event of severe trauma, the victim should be referred to a mental healthcare service provider, and also to a psychiatrist, if there is a need to consider medication therapy. Medication therapy programme may be introduced only by a specialised psychiatrist, who is to make the decision independently, based on expert assessment.

### 3. Security Response

Security is the first and foremost priority of all GBV victims. The state authorities are to play the leading role in guaranteeing such security, by acting in accordance with the law.

#### a) Collection and Exchange of Information

When collecting and exchanging information, it is necessary to:

- Extend confidential, timely and appropriate care to GBV victims;
- Ensure this type of protection is extended by gender-sensitive staff, capable of understanding and collecting gender-sensitive information;
- Provide the victim with complete information about the appropriate security procedures, deadlines and options, as well as about all the constraints, shortcomings and challenges;
- Provide the victims with complete information about the appropriate security procedures, accessibility and availability of services and how to contact the relevant institutions. However, let the victims make an informed decision whether or not they want to accept such services at the moment;
- Provide the victims with 24/7 emergency hotlines they can use to report violence;
- Collect data, keep records and share information whilst fully respecting the GBV victims' dignity and confidentiality of the information about them, in accordance with the law.

#### b) Treatment:

- Provide alternative accommodation/safe house;
- Ensure security and psychological safety for the GBV victims, notify the competent police administration, involve the local competent social welfare centre, if necessary include the prosecution service and the court, and ensure access to healthcare services;
- Time permitting, implement activities to increase the victims' sense of self-worth and interaction with other people in the community;
- Extend emotional support to the victims and their families or companions.

#### c) Child Victims of GBV:

- The child's best interests are to be assessed by a specially trained social welfare centre professional;
- The perpetrator is to be punished in accordance with the law;
- Child victims are to be referred to services specialised in working with children.

#### d) Follow-Up Procedures:

- In case of family break-up, arrange visitation time if necessary.

### 4. Legal Aid

GBV victims are in need of legal aid (legal counselling and representation), especially **if they wish** to press criminal charges against the perpetrator or request a domestic violence protection measure, or if they require legal aid during the asylum procedure.<sup>67</sup>

#### a) Collection and Exchange of Information:

When collecting and exchanging information, it is necessary to:

- Ensure this type of protection is extended by gender-sensitive staff, capable of understanding and collecting gender-sensitive information;
- Whenever possible, publish a phone number of a hotline that can be used to report violence. Migrants should have access to free phone services in case they need to report violence, in a language they understand;
- Inform the victims about the legal procedures and services, anticipated timeframes and constraints, and the accessibility and availability of the services, including contact details of the relevant institutions and CSOs extending assistance to GBV victims in a language they understand. However, let the victims make an informed decision whether or not they wish to accept legal services at the moment;
- Provide the victims with 24/7 hotlines they can use to report violence, in a language they understand;
- Collect data, keep records and share information whilst fully respecting the GBV victims' dignity and confidentiality of the information about them, in accordance with the law.

#### b) Treatment:

- Provide appropriately trained interpreters, preferably of the same sex;
- Provide the GBV victims with information about protection measures provided for by law;
- Provide the GBV victims with information about court proceedings and the asylum procedure, including the anticipated timeframes.

#### c) Child Victims of GBV:

- The child's best interests are to be assessed by the social welfare centre;
- Older children should be informed of the possibility of testifying before a court of law, and involved in the decision making process.

#### d) Follow-Up Procedures:

- Establish links with social welfare institutions;
- In case of family break-up, arrange visitation time if necessary.

### 5. Police Procedures in GBV Cases

Fast, efficient and coordinated procedures that momentarily halt the violence, protect the victim from further violence, and facilitate the extension of adequate legal and psychosocial aid are the key prerequisite for adequately responding to violence.

<sup>67</sup>

Law on Free Legal Aid (implementation begins in October 2019).

The Police (with the Public Prosecutor's Office) is primarily a repressive state body which, in cases of gender-based violence, has an obligation to provide protection to the victim of violence and, at the same time, to take measures against the perpetrators of violence, not only when the characteristics of the crime have been achieved, but also when there is low-intensity violence or the imminent danger of it.

## 6. Criminal Prosecution

The victim reports that wants to have a confidential interview at the main police counter at the asylum center or other facilities designed to house seekers.

Once a criminal offence related to GBV has been reported, the police are obliged to act on the report: a police officer is to take a statement from the victim and collect information relevant to the investigation of the crime.<sup>68</sup>

Interviews with GBV victims and any witnesses are to be conducted by police officers who had undergone the relevant training. Whenever possible, the interview should be conducted by an officer of the same sex as the victim.

The authorised police officer drafts a report on receipt of the criminal report and collects facts and other information (e.g. from healthcare professionals) in accordance with the law and notifies the public prosecutor thereof.

The public prosecutor suggests the type of evidence that should be collected during the process. In this way, the victim can prove at any given moment that s/he had reported the incident, and ask that evidence be forwarded to any country in which s/he wishes to report the crime.

The police take prompt action within their remit without delay, even if the medical report is incomplete.

If the legal requirements are fulfilled, the police, upon the order of the public prosecutor, imprison and detain the suspect, then file a criminal complaint with the public prosecutor and bring the suspect to a hearing, when the public prosecutor may also propose to the pre-trial judge to determine some of the suspects. of measures to secure his presence, in accordance with the Criminal Code procedure.

## 7. The Asylum Procedure

Victims must be informed about their rights and obligations relating to the asylum procedure. Asylum seekers may avail themselves of free legal aid and representation by UNHCR and CSOs extending legal aid to asylum seekers. In addition, depending on the circumstances, stakeholders should urge that asylum claims filed by GBV victims be given priority in the asylum procedure and establish cooperation with the Asylum Office to provide GBV victims with private accommodation, if required by the circumstances.

<sup>68</sup> If it is a criminal offense under Art. 4 st. 1 of the Law on Prevention of Domestic Violence, a police officer is obliged to inform the competent police officer about this as well, and the latter is obliged to refer the case to a meeting of the coordination and cooperation group chaired by the public prosecutor.



# COORDINATION



Coordination denotes aligned multi-sectoral action involving multiple stakeholders acting in the fields of healthcare, judiciary, social welfare, education, human rights and security, as well as other areas relevant to the implementation of procedures for the prevention of and protection from GBV against migrants. It is the main prerequisite for effectively preventing this type of violence and protecting the refugees and migrants from it.

Coordination is organized in line with the law and the adopted protocols.

To work together to prevent gender-based violence and protect migrants who are victims of such violence, participants, members of the Coordination and Cooperation Group, are involved in the assistance, care and protection process at regular or extraordinary meetings<sup>69</sup> to undertake protection and support and resolution of specific cases through the individual victim protection and support plan.

<sup>69</sup> Multisectoral cooperation is mandatory and is regulated by the Law on Prevention of Domestic Violence (provisions of Articles 24-26 of the Law) through the work of the Coordination and Cooperation Group. However, it is important to emphasize that in complex cases it is appropriate to organize a case conference which provided for in the General Protocol, which is not derogated by the said law.



## PREVENTION

The causes of GBV are deeply rooted in society, in the cultural norms of gender inequality and discrimination. This is why prevention of gender based violence requires changes in gender relations, within the roles, responsibilities, expectations, limitations, opportunities and privileges societies assign individuals based on their gender. Prevention activities should therefore be organised with the aim of changing social and cultural norms, which will consequently result in the change of attitudes and behaviours.

Given that, in the context of migration, prevention activities target potential perpetrators, potential victims and those who can assist them, GBV prevention activities must include migrants, humanitarian staff and all assistance providers, as well as the nationals and state authorities of the host country.

Prevention measures may vary from one country to another and from one situation to the next. However, the most important GBV prevention measures and activities are identified and prescribed in international standards.

In the context of migration, adequate design of support services and facilities for migrants plays a very important role in prevention activities. The following issues need to be borne in mind during the development of these services and facilities, that:

- All relevant stakeholders are involved;
- All adult migrants are issued registration cards;
- Refugees and migrants are informed of their rights and obligations;
- The community, especially women and girls, are involved in the planning and implementation of activities;
- Reproductive health programmes are implemented;
- Safety and security programmes are in place;
- Consideration is given to the host country's population;

- Understanding and respect of gender issues is ensured in all the stages of programme planning and implementation.

Individuals involved in preventing GBV against migrants and protecting GBV migrant victims need to attend the relevant training on the treatment of GBV victims, to enable them to adequately respond to such cases and provide efficient aid, support and protection

The stakeholders can take the following steps to involve the community in supporting and actively participating in the prevention of GBV and protection of its victims:

- Build the capacity of community-based organisations;
- Establish services for children and families, as well as youth and women's centres extending multi-sectoral services to women and children;
- Implement awareness-raising activities concerning the protection of children, among the children, parents and/or caregivers;
- Implement awareness-raising activities concerning GBV among women, men and children;
- Involve men and boys in the prevention of violence;
- Use art, social media and mass media to raise awareness and encourage dialogue on violence prevention.



## RECORDS, DATA, MONITORING AND IMPLEMENTATION

### 1. The Purpose of Keeping Records and Collecting Data

Existence of data and access to professional interpretation of the collected (qualitative and quantitative) data are of key importance for improved planning of initiatives for the prevention of GBV against refugees and migrants and their protection from this form of violence.

Apart from pursuing the goal of improving information and understanding of GBV in emergency situations, data collection and analysis should also serve to:

- Support the relevant stakeholders in the field in collecting basic and coherent information on GBV in emergency situations;
- Ensure safe and confidential data management in accordance with the law and best international practices;
- Integrate information on GBV into the national data collection system;
- Ensure that decisions are made based on data, coordination and needs;
- Allow data aggregation and thematic reporting on GBV in emergency situations;
- Raise the awareness of donors, UN agencies and other international stakeholders of additional actions that need to be taken to improve the prevention of GBV and protection of GBV victims among migrants.

### 2. Documenting Reported Cases of Violence

Stakeholders working within the system for the prevention of GBV violence against migrants and their protection from GBV are to collect and keep identifiable data and information collected in the course of counselling and in the subsequent stages of extending care to the victims in accordance with the law.

Individuals charged with collecting data from the victims are to undergo appropriate training on what kinds of data to collect and data management in line with the guiding principles.

### 3. Monitoring

The competent stakeholders are to monitor the implementation of the SOPs, as well as their effects, with a view to improving their response aimed at preventing GBV against migrants and protecting them from this type of violence.

### 4. Implementation

**Familiarisation with the SOPs.** All the stakeholders involved in the prevention of GBV against migrants and protection of migrants from GBV are to familiarise their staff with the content of the SOPs, and the implementation and monitoring activities.

**Training on the implementation of SOPs.** All the stakeholders involved in the prevention of GBV against migrants and protection of migrants from GBV are to provide, commensurate to their capacity, appropriate training for their staff on the implementation of SOPs, as well as training on the treatment of GBV victims, to enable them to appropriately respond to such cases and extend efficient aid, support and protection to the victims.





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