

WOMEN'S RIGHTS IN THE WESTERN BALKANS
IN THE CONTEXT OF EU INTEGRATION:
INSTITUTIONAL MECHANISMS FOR GENDER EQUALITY

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Introduction: Key question, methodology and indicators

“Women’s Rights in the Western Balkans in the Context of EU Integration: Institutional Mechanisms for Gender Equality” is a research report assigned by MEP Marije Cornelissen as input for her initiative Report on this issue in the Committee on Women’s Rights and Gender Equality in the European Parliament. The initiative Report or the draft Proposal for a Motion for a Resolution will be discussed in the Committee on January 22. It is expected to be on the plenary agenda of the European Parliament on April 15, 2013.

The countries of the Western Balkans addressed in this report are, in alphabetical order: Albania, Bosnia and Herzegovina (BiH), Croatia, Kosovo (UNSCR 1244), Macedonia (FYROM), Montenegro and Serbia.¹ These seven countries are dealt with according to their progress on the road to the EU, which can be divided into four groups: Croatia as an acceding country, Montenegro having started the accession negotiations, Macedonia and Serbia as candidate countries and Albania, BiH, and Kosovo as potential EU candidates.

Rather than looking at the overall position of women in the region, the report specifically focuses on institutional mechanisms in the area of gender equality which are necessary for implementing EU criteria in this area. Women’s rights are defined as subsequent legal provisions guaranteeing this equality. In other words, these are “rights that promote a position of legal and social equality of women with men” (Oxford Dictionaries).

The **key question** this report addresses is the following: In view of the EU gender equality criteria for future member states, what is the current situation in the countries of the Western Balkans on the road to the EU concerning the existence of institutional mechanisms necessary for the implementation of these criteria and their actual effectiveness in practice?

Besides giving an overview of the EU enlargement criteria in the area of gender equality in Chapter 1, varying from country to country according to the membership status, this report further describes the existing institutional mechanisms necessary for implementation of these criteria in Chapter 2 and assesses their actual effectiveness in practice based on indicators defined on the EU level in Chapter 3. The main thematic challenges, encountered during the research, which are in need of further development, are brought together in Chapter 4.

The choice of indicators which define the effectiveness of institutional mechanisms or the **research methodology** chosen for this report is based on a combination of pointers used by the UN for reviewing the Implementation of the Beijing Declaration and Platform for Action and by the Council of the EU for an effective functioning of national structures in that respect. Each five years after the UN Declaration for equality, development and peace had been adopted at the fourth World Conference on Women in Beijing in 1995, a review is presented to the UN. The 2010 questionnaire which was designed for getting input from the governments having ratified the Declaration contains a part on institutional development (Part 3). It focuses on those structures and measures countries have put in place to support the promotion of gender equality and women’s empowerment. It requires information on the following elements: national machineries; capacity-building programmes for line ministries; resource allocation; statistics and indicators; monitoring and accountability mechanisms.²

¹ Kosovo (UNSCR 1244) and Macedonia (FYROM) : “Kosovo” and “Macedonia” in the rest of the report

² <http://www.un.org/womenwatch/daw/beijing15/questionnaires/questionnaire%20english.pdf>

Moreover, from the side of the EU additional quantitative and qualitative indicators had been developed in relation to the Beijing Platform for Action since 1999. These cover critical areas of concern, for example topics such as women in political decision-making (1999) and the gender pay gap (2010). Each year the Council of the EU, under leadership of the EU Presidency, adopts conclusions on these indicators. In 2006, the Finnish EU Presidency undertook a study on the institutional mechanisms in the Member States and the Council formulated conclusions based on that study.³ Besides, in preparation for the UN review in 2010, the Swedish Presidency of the Council of the EU issued a report about the state of affairs in the EU, which underlines the same principles.⁴ In the Conclusions of the 2767th Employment, Social Policy, Health and Consumer Affairs Council of November 30 and December 1, 2006, the Council stated that “in the framework of the Beijing Platform for Action, a national structure for the advancement of women is the central policy-coordinating unit inside government; its main task is to support government-wide mainstreaming of a gender-equality perspective in all policy areas” (point h). The necessary conditions for an effective functioning of national structures were further defined. These include: location at the highest possible level in the government; institutional mechanisms or processes that facilitate the involvement of non-governmental organisations from the grass roots upwards; sufficient resources in terms of budget and professional capacity; and the possibility of influencing the development of all governmental policies. The latter is also referred to as gender mainstreaming or the promotion of gender equality in all policy areas and activities.

The Conclusions also note the three indicators concerning governmental bodies for the promotion of gender equality as defined by the Finnish EU Presidency (point h):

“(1) Status of governmental responsibility in promoting gender equality

This concerns the existence and the responsibilities and capacity of the governmental gender equality body. Responsibility and accountability of the government and the body mandated with governmental power and capacities are prerequisites for the effective promotion of gender equality;

(2a) Personnel resources of the governmental gender equality body

Adequate personnel resources are a critical prerequisite for the creation of effective government gender equality policies;

(2b) Personnel resources of the designated body or bodies for the promotion of equal treatment of women and men

Adequate personnel resources are a critical prerequisite for the effective promotion and protection of equal treatment of women and men in accordance with the Directive 2002/73/EC;

(3) Gender mainstreaming

Governmental commitment, structures and methods for implementing gender mainstreaming are crucial for successful progress towards gender equality.”

³ http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/lssa/91957.pdf

⁴ Beijing+15: The Platform for Action and the European Union, Swedish Presidency of the EU, 2009.

Thus, the indicators determining effective institutional mechanisms for gender equality based on pointers defined by the UN and the EU can be divided into five main indicators which correspond to the subdivision in Chapter 2 and Chapter 3. The first indicator deals with the **existence of a national machinery for gender equality**, its mandate and access to decision-making processes as well as cooperation between different levels and focal points in line ministries (Chapter 2). At least one of the mechanisms of this machinery should be in the position to influence all government policies from a central policy-coordinating unit inside government. Ideally, they should be located at the highest possible level in the government. The second indicator relates to their functioning. It involves **legislation and policies** they deliver. This aspect also involves the facilitation of the involvement of non-governmental organisations from the grass roots upwards. Then gender-mainstreaming is also crucial in this respect, as the central unit should be able to exercise government-wide mainstreaming of a gender-equality perspective in all policy areas. This indicator is dealt with in Chapter 3.1. The third indicator of effective institutional mechanisms is that of responsibility and accountability. For mechanisms to be effective, they have to take responsibility in carrying out their policies and carry out regular **monitoring** according to clear indicators in order to ensure accountability. Chapter 3.2 deals with this feature by looking at how existing mechanisms evaluate progress in implementation of national commitments on gender equality. Another important indicator, discussed in Chapter 3.3., is the issue of **gender budgeting**. Efficient functioning of national structures includes sufficient resources in terms of budget and professional capacity, giving the possibility for setting up capacity building programmes. Mechanisms should have both adequate personnel resources and resources for the promotion of gender equality. The fifth indicator takes **statistical data** into consideration (Chapter 3.4.). This concerns the responsibility of statistical offices and government bodies to collect relevant data on gender equality in line with clearly defined indicators in support of monitoring, which would in their turn serve for influencing policy-making and planning.

In order to get an answer to the key question and assess the effectiveness of the institutional mechanisms, a **round table** on this topic was organised by MEP Cornelissen in Sarajevo on October 31, with government and civil society representatives from the region. In addition, a **questionnaire** (Annex I) was sent out to the diplomatic Missions to the EU, the gender equality bodies, the regional UN Women offices, and various civil society organisations and experts dealing with women's rights in the Western Balkans. **Meetings** were held with some of them, as for example the delegation of the Regional Women's Lobby for Peace, Security and Justice. Input was also provided by the European Commission and the European Institute on Gender Equality. A wide range of **printed and online sources** was also consulted. A list of main sources and names of individuals from who answers to the questionnaire were received, with whom **interviews** were held or who contributed to the report in another way can be found under References. Sincere thanks for a great cooperation go out to all of them.

On the basis of the information gathered and the input provided, in Conclusion an assessment is made of the effectiveness of the gender equality mechanisms in each country together with the challenges which remain for implementing the EU criteria in this field and recommendations are formulated for the purpose of the initiative Report of MEP Cornelissen.

It needs to be noted that this report by no means offers a complete overview of the effectiveness of the existing mechanisms for adopting the gender *acquis* in the countries of the Western Balkans. In order to do this, a more systematic and wide-ranging research would be needed over a longer period of time. Rather, this report offers an impression of the current state of affairs founded on data gathered in November and December 2012.

Chapter 1: EU gender equality criteria in the enlargement process

1.1. EU gender equality *acquis*

As mentioned in the introduction, there are four different stages in the EU integration process of the countries of the Western Balkans, ranging from accession and negotiations to candidate and potential candidate status. These stages are accompanied by different criteria according to progress, but all states aspiring to join the EU will eventually need to implement the full *acquis communautaire*.

After six years of negotiations, Croatia has signed the Accession Treaty in December 2011. Following the ratification procedure in all Member States, accession of Croatia to the EU as the 28th Member State is foreseen for July 1, 2013. During the negotiations, Croatia had adopted new regulations and laws in line with the EU standards. In the area of gender equality, the commonly used term is “gender equality *acquis*”. These are “all the relevant Treaty provisions, legislation and the case law of the European Court of Justice in relation to gender equality” (Prechal and Burri, 2011). These are divided in primary law as defined in the EU Treaties and secondary law stemming from other legislation. In addition to the *acquis*, there are also important non-binding EU objectives.

The following five articles cover **primary EU law**⁵ in the area of gender equality:

Article 2

“The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”

Article 8

“In all its activities, the Union shall aim to eliminate inequalities, and to promote equality, between men and women.”

Article 153 (i)

“Equality between men and women with regard to labour market opportunities and treatment at work.”

Article 157.3

“The European Parliament and the Council, acting in accordance with the ordinary legislative procedure, and after consulting the Economic and Social Committee, shall adopt measures to ensure the application of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation, including the principle of equal pay for equal work or work of equal value.”

⁵ Article 2 is from the Consolidated Version of the Treaty on European Union and the other Articles from the Consolidated Version of the Treaty on the Functioning of the European Union

Article 157.4

“With a view to ensuring full equality in practice between men and women in working life, the principle of equal treatment shall not prevent any Member State from maintaining or adopting measures providing for specific advantages in order to make it easier for the underrepresented sex to pursue a vocational activity or to prevent or compensate for disadvantages in professional careers.”

The first European legislation in this area guaranteed equal pay for women and men; it now extends to cover all forms of sex-based discrimination in the workplace as well as in the area of goods and services. Most laws in European countries concerning e.g. equal pay, maternity leave, sexual harassment or equal access to financial services have been adopted first by the European institutions. Lacroix (2008) offers a good overview of the existing Directives (**secondary law**) and the fields they apply to (p. 13-14).⁶ They cover, inter alia, equal pay for equal work; equal treatment regarding vocational training and working conditions; protection of pregnant and breastfeeding women; equal treatment in regards to social security schemes’ equal treatment in regards to access to goods and services; and parental leave.

The Lisbon Treaty (2009) additionally expanded the accession criteria to include the values the EU is founded on, stating that “any European state which respects the values referred to in Article 2 and is committed to promoting them may apply to become a Member of the Union”.⁷

Next to primary and secondary law, there are other specific criteria which are formulated in the accession process. In 1993 in Copenhagen, the European Council took a first formal decision on accession criteria. Politically, these Copenhagen criteria stipulate that there must be a stability of institutions guaranteeing democracy, the rule of law and human rights. Legally and institutionally, there must be an ability to take on the obligations of membership with attention being paid to the adoption and the enforcement of the EU *acquis* together with created conditions for integration by adapting the administrative structures.

These conditions inevitably mean that countries aspiring to join the EU must respect the value of equality between women and men, have institutions guaranteeing women’s rights, as human rights⁸, in place and adopt supporting administrative structures for the adoption and the enforcement of the gender equality *acquis*.

Lacroix (2008) points out that the whole of gender equality basically stretches across the three main domains that play a role in EU accession: political criteria, economic criteria and the adoption of the *acquis communautaire* (p. 13). In her opinion, the EU considers these as inevitably linked: economic criteria cover labour laws, equal pay and non-discrimination; political criteria cover political representation of women and the *acquis*, supporting human rights, covers domestic violence. For example, the implementation of the principle that men and women should receive equal pay contained in Article 119 of the Treaty is an integral part of the establishment and functioning of the common market (Directive 75/117/EEC). Likewise, equal participation of women and men in all aspects of society is crucial for lasting growth and democracy, and symbolises a society’s level of political maturity (EC EQUAL Guide on Gender Mainstreaming, 2005).

Also, the EU’s Roadmap for Equality 2010-2015, in its section on promoting gender equality in external actions, states that “candidate countries must fully embrace the fundamental

⁶ Annex II

⁷ Article 49 – Consolidated Version of the Treaty on European Union

⁸ The Treaty of Amsterdam (1997) recognizes women’s rights as human rights

principle of equality between women and men. Monitoring the transposition, implementation and enforcement of EU legislation in this area remains a priority of the enlargement process”.⁹

These different provisions of the gender *acquis* are reflected in the accession negotiations. Chapter 19 on social policy and employment requires minimum standards on equality and anti-discrimination, while Chapter 23 on judiciary and fundamental rights states that future members must ensure respect for fundamental rights and citizens’ rights, as guaranteed by the *acquis* and by the Fundamental Rights Charter. Chapter 24 on justice, freedom and security is also of great importance for gender equality as it ensures adequate legal implementation of common rules and effective law enforcement agencies.

These three Chapters apply to **Croatia** and **Montenegro**. However, the European Commission has established a new approach to Chapters 23 and 24. Montenegro is the first country it will be applied to. The intention of the Commission is to open these chapters early in the negotiating process and to close them at the end, with the aim of focusing on developing a track record and introducing interim benchmarks. Croatia has already largely adopted the thirteen European Directives in the field of equal treatment between women and men in the national legislation and Montenegro will have to do the same in the course of negotiations. Other candidate and potential candidate countries will follow.

Besides legally binding preconditioned criteria, there is also a possibility for the EU to express **non-binding opinions or recommendations** during the integration process. Such opinions can for example come from the European Parliament in forms of Resolutions which express the Parliament’s point of view, which is also the case for MEP Cornelissen’s Resolution. The last Resolution on the situation of women in the Balkans, adopted in 2008 (*rapporteur* MEP Zita Gurmai), has formulated, among other issues, the following opinion:

“Considers that the continuation of political and economic stabilisation and the creation of democratic institutions in the countries of the Balkans requires the active participation of women (given that they comprise just over half of the population)”;

*“Notes with anxiety that gender equality laws and practices (institutional, financial, human) are not fully guaranteed although there is a difference between countries which have started accession negotiations and those which have not.”*¹⁰

Other non-binding policy documents concern gender mainstreaming, the elimination of violence against women and equal representation, although there has been a recent legislative proposal from the Commission for 40% of women in non-executive board positions in publicly listed companies. Gender mainstreaming concerns the integration of a gender aspect in all EU related policies, governed by the soft Open Method of Coordination. The EU also provides funding for the elimination of violence against women (Daphne) and various non-binding goals for improving the representation of women in decision-making.

1.2. Gender equality in accords signed with the EU

⁹ COM (2010) 491 final

¹⁰ European Parliament Resolution of 4 December 2008 on the situation of women in the Balkans, 2008/2119 (INI), *rapporteur* MEP Zita Gurmai.

The above described principles are gender equality standards which the EU would like to see in place before a country joins the Union. Primary and secondary EU law will have to be implemented into national legislation sooner or later. It is also considered necessary to take into account the non-binding policy recommendations. As the countries of the Western Balkans have voluntarily expressed their wish to engage in the integration process and fulfil the criteria, there are several agreements which mark the different stages of integration.

For **Croatia**, Article 2 of the Accession Treaty states the following: “From the date of accession, the provisions of the original Treaties and the acts adopted by the institutions before accession shall be binding on Croatia and shall apply in Croatia under the conditions laid down in those Treaties and in this Act” (Council of the EU, 14409/11).

Croatia has also signed a Joint Memorandum on Social Inclusion, drawn up by the Government together with the European Commission, in which one of the challenges is defined as “to promote gender equality in combating poverty and social inclusion and to take into account gender differences in policy formulation and implementation; in the fight against poverty and social exclusion” (p. 58, EC, 2007).

Other countries of the region have made an agreement with the EU in the form of the Stabilisation and Association Agreement in which the two parties recognise the importance of the approximation of national legislation to that of the Union. Countries of the Western Balkans need to ensure that their existing laws and future legislation will be gradually made compatible with the *acquis*, thus also in the area of gender equality. Therefore, they have a legal obligation to adopt and implement EU law.

In the case of **Montenegro**, negotiations for membership have already started, but provisions agreed on in the Stabilisation and Association Process, in the Stabilisation and Association Agreement (SAA) and the European Partnership, both from 2007, remain in force. The Process is the EU’s policy framework for the Western Balkan, all the way to the eventual accession aiming at stability, swift transition to a market economic and regional cooperation. The first tool is a contractual association with emphasis on trade, while the Partnership serves as a checklist for progress identifying priorities which need to be addressed.

The SAA with Montenegro entered into force in May 2010. In relation to gender equality, provisions relate to social cooperation, and education and training, while the European Partnership refers to employment and social policy.

SAA Article 101 Social cooperation

“The Parties shall cooperate to facilitate the reform of the employment policy in Montenegro, in the context of strengthened economic reform and integration. Cooperation shall also seek to support the adaptation of the Montenegrin social security system to the new economic and social requirements, and shall involve the adjustment of the legislation in Montenegro concerning working conditions and equal opportunities for women and men...as well as the improvement of the level of protection of the health and safety of workers, taking as a reference the level of protection existing in the Community.”

SAA Article 102 Education and training

“The Parties shall also cooperate with the aim of ensuring that access to all levels of education and training in Montenegro is free of discrimination on the grounds of gender, colour, ethnic origin or religion.”

The European Partnership (2007/49/EC), Employment and social policies

“Upgrade the capacity of the Ministry of Labour and Social Welfare on policy formulation and monitoring, with emphasis on labour market integration of young people, women and vulnerable groups.”

In the case of **Serbia, Albania, Bosnia and Herzegovina**, the same two articles on social protection and on education and training are in place in their respective SAAs. The SAA with Albania entered into force in 2009, while that with Bosnia, signed in 2008, has not entered into force yet, awaiting ratification by the Member States. Serbia adopted the European Partnership, with priorities for the country's membership application, in 2008 and in 2009 it was formally applied. A year later, the ratification of the SAA began and in March 2012 the SAA became the Accession Agreement as Serbia was granted EU candidate status.

The SAA with **Macedonia** was slightly different, as it was signed a few years earlier. Macedonia became candidate in December 2005. The signing of the SAA happened as early as 2001 and it entered into force in 2004. Article 90 on social cooperation prescribes the adjustment of legislation concerning working conditions and equal opportunities for women and men and the improvement of the level of protection of the health and safety of workers (Council of the EU, 6726/01). However, there is no mention of education and training free of discrimination based on gender. The European Partnership was introduced in 2006, after the entering into force of the SAA, and became the Accession Partnership in 2008. It only mentions the need for the protection of the rights of women and children when it comes to social and economic rights.

The European Partnership for **Albania** in addition stipulates the following in the area of social and economic rights: “make further efforts to prevent domestic violence” and “ensure full protection against discrimination on all grounds, including through implementing legislation and strengthening of structures to address gender equality” (2008/210/EC). In the area of employment and social policies, the additional recommendation is the following: “facilitate women's inclusion in the labour market and their participation in the decision-making process” (2008/210/EC).

Moreover, for **Bosnia and Herzegovina** the European Partnership defines the need to strengthen the administrative capacity in preparation for implementing the SAA as well as the protection of the rights of women and children as one of its commitments in the field of social and economic rights (2008/211/EC). The latter is also the case with the European Partnership for **Serbia** and **Kosovo**. For these two, the European Partnership further specifies that in the area of human rights and protection of minorities, there is a need to “implement the law on gender equality”, “ensure mainstreaming of women's rights into in all existing policies and legislation needs” and “define and adopt a government programme to promote women's rights in Kosovo” (2008/213/EC).

Macedonia and **Bosnia and Herzegovina** also have special additional agreements with the EU, different from other potential candidates due to their specific situation. In Macedonia this concerns the name issue and in Bosnia the coordination issue. BiH is engaged in a High Level

Dialogue on the Accession Process, launched in June 2012, which includes a Roadmap for EU membership application. Representatives of the executive authorities and the main political parties of BiH agreed in a meeting with the European Commission to establish a coordinating mechanism that could meet the needs of future application for membership. This mechanism, providing for a common position in future negotiations, is also necessary in the area of gender equality. During the High Level Dialogue, the representatives of BiH agreed on the following:

“On the need to transpose EU legislation to the whole territory of Bosnia and Herzegovina in a harmonised and coordinated manner, and in accordance with the relevant constitutional competencies, as set out by the relevant EU law;

To ensure that positions communicated to the EU Institutions reflect the discussions with all competent Institutions and authorities in Bosnia and Herzegovina, following effective coordination. A functioning coordination mechanism needs therefore to be put in place;

As a follow up to today’s High Level Dialogue on the Accession Process, the Council of Ministers of Bosnia and Herzegovina and the Governments of the Federation of Bosnia and Herzegovina, including the Cantons, of Republika Srpska and of the Brčko District of Bosnia and Herzegovina should engage in a dialogue in order to agree on an effective coordination mechanism for engagement with the EU which will enable Bosnia and Herzegovina to come to an agreed position on EU issues so as to speak with one voice and to present a proposal on a Coordination mechanism on EU matters by 31 October 2012;

To improve and strengthen the efficient functioning of the administration at all levels of government in order for Bosnia and Herzegovina to be in a position to adopt, implement and enforce the laws and rules of the EU.”¹¹

The second round of the High Level Dialogue, which took place on November 27 in Sarajevo, did unfortunately not bring about change.¹² The Roadmap remains valid for the future. What is also disappointing is that gender equality as such has not been mentioned within the framework on the Structured Dialogue on Justice between BiH and the EU. The Commission has only posed technical questions on the number of female judges and women in other legal professions. The Gender Equality Agency emphasises that the gender equality mechanisms were not included in the dialogue, while women’s access to justice remains inadequate.

Macedonia has also started a high level dialogue with the European Commission in March 2012, based on the Commission’s new approach on Chapter 23 and 24. The Priorities of this High Level Accession Dialogue¹³ are, inter alia, the rule of law and the reform of public administration, both affecting women’s rights. Targets which were defined for the former include improvement of efficiency, quality and independence of justice, while for the latter these include improvement of human resources management.¹⁴ Unfortunately, also in this case, gender equality was not mentioned.

1.3. National EU integration plans

Taking into account the defined **EU gender equality criteria** combined with gender provisions in agreements signed with the EU, it is useful to make a **comparison** with the

¹¹ MEMO/12/503 Joint Conclusions from the High Level Dialogue on the Accession Process with Bosnia and Herzegovina and the Roadmap for BiH’s EU membership application, June 27, 2012

¹² MEMO/12/919 Encouraging High Level Dialogue in Bosnia and Herzegovina, November 27, 2012

¹³ MEMO/12/187 Start of the High Level Accession Dialogue with the Former Yugoslav Republic of Macedonia, European Commission, 15 March 2012

¹⁴ Conclusions, High Level Accession Dialogue, European Commission, Skopje, 15 March 2012

priorities in the process of EU integration which the candidate and potential candidate countries have defined for themselves. Each of the countries of the Western Balkans discussed in this report has a **national strategy for EU integration**. The strategies set out their priorities on the road to the EU and define the support that is given to institutional mechanisms. They are a good indicator of the overall top-down planning for gender equality and gender mainstreaming. The attention that is given to this issue outlines the attributed level of importance and the development to be expected for the future.

Albania has an ambitious National Strategy which defines equal opportunities as one of the strategic priorities: “equal opportunities will be established for men and women in the economic, political and social life and domestic violence will be prevented: by 2013, the labour force participation rate of women will grow” (p. 18).¹⁵ The issue of inequality between men and women as well as domestic violence is adequately described as a challenge. The Strategy indicates that although the Constitution proclaims equality, “in practice women and men do not enjoy the same rights” (p. 64). Besides, Albania specifies a large-scale list with clear goals for strategic priorities and policies which are, inter alia, the following (p. 64-65):

“Improve and enforce the legal and institutional framework that guarantees gender equality through amendments to the gender equality and social security legislation; create a database on domestic violence, establish an appeals institution in the role of a commissioner for cases of gender discrimination; establish new inter-ministerial structures, which will ensure interaction of this strategy with other sector strategies, especially employment, social insurance, health and education;

Increase the representation of women and girls in decision making processes through changes in the electoral law and increased awareness of the Albanian society for an active participation of women in political and executive structures;

Strengthen the economic position of women through an increased number of women entrepreneurs – by offering more opportunities for access to property, capital and credit, especially in rural areas – and special programmes to promote female employment;

Eliminate gender gaps in education through equal access for girls and women in quality education and improvement of teaching programmes and textbooks to promote gender equality;

Prevent domestic violence through: educating the children, the youth and the general public to appreciate good family relationships and to consider that domestic violence is an unacceptable crime; improving teaching curricula, school and non-school textbooks; training health, social and education service professionals to be able to identify victims of abuse early and provide support.

On the other hand, the Integration Strategy of **Bosnia and Herzegovina** only points out to the application of equal gender representation on election lists at all levels of governance in BiH (p. 33).¹⁶ There is a mention of human rights in general, but not women’s rights or gender equality in particular. With only one reference to gender equality, the BiH Gender Equality

¹⁵ National Strategy for Development and Integration 2007-2013, Council of Ministers, 2008

¹⁶ EU Integration Strategy of Bosnia and Herzegovina, Council of Ministers, 2004

Agency cannot say that enough attention has been paid to women's rights and gender equality in the EU accession process.¹⁷

In the case of **Kosovo**, gender equality is included in the European Integration Plan 2008-2010 through three foreseen actions: to ensure creation and advancing the policies to achieve the gender equality; further develop institutional capacities to ensure gender equality; to improve and execute the legal frame for gender equality and to ensure reflection for gender issues in all sector policies (points 39.1-3).¹⁸

The National Strategy for European Integration of **Macedonia** of 2004 did not mention gender equality, but there are adequate priorities in the 2009 version.¹⁹ Namely, short-term priorities include the implementation of the Law on Anti-Discrimination by means of training sessions, public debates and a campaign in cooperation with the NGO sector. Also, harmonisation of the legislation on education with the Law on Equal Opportunities is foreseen for the short term. An Operational Plan for the Implementation of the National Action Plan for Gender Equality 2007-2012 was scheduled to be developed in 2009, as a regular activity. Medium-term priorities also include the realisation of activities for establishing administrative capacities in the area of gender equality.

Montenegro can be compared to Albania in terms of ambitions related to ensuring gender equality by setting clear priorities in the context of EU accession. These provide for the harmonisation of the national legislation with EU law as well as gender mainstreaming.

The National Programme for Integration defines, inter alia, the following priorities (p. 37):²⁰

“Introduce the gender equality trend in all areas of the national policy;

*Translation and publication of *acquis communautaire* in the field of gender equality;*

National legislation will be harmonized with provisions of the Law on Gender Equality and regulations of EU;

Institutional mechanisms for implementation of the gender equality policy at local level will be established;

Cooperation between the Gender Equality Office, other government agencies, parliamentary Gender Equality Committee and institutional gender equality mechanisms at local level will be strengthened;

Gender segregated statistical indicators will be established and statistical data categorized by gender will be published;

Training programmes about gender equality matters will be carried out;

¹⁷ Reply to question 1 provided by the BiH Gender Equality Agency

¹⁸ Reply to question 2 provided by the Kosovo Gender Equality Agency

¹⁹ National Strategy for European Integration of the Republic of Macedonia, 2009, pp. 203-204

²⁰ National Program of Integration of Montenegro into the EU (NPI) 2008-2012 (unofficial translation – draft)

Cooperation with NGOs active in the domain of gender equality will be continued, for the purpose of reinforcing the role and importance of the civil society;

The EU and Council of Europe regulations, as well as international documents from the domain of gender equality will systematically be monitored and implemented;

The administrative capacities of the Gender Equality Office will be enhanced; three more people will be employed in the period 2008 – 2010.”

One of the key priorities of the National Integration Programme of **Serbia** is to enforce legislation for prevention of all kinds of discrimination and establish mechanisms for monitoring over the application of the law prohibiting discrimination, within the Ministry for Human and Minority Rights (p. 52).²¹ Another priority is a more effective and coherent implementation of the Law on Labour, including articles on prohibition of discrimination and sexual agitation (or violation). This Law will be complemented in order to ensure protection of dignity of women and men at work, including protection from psychological violence at work or “mobbing” (p. 53).

When we compare EU criteria in the area of gender equality and the plans in the national EU integration strategies in this respect, it can be noted that generally the **national integration plans need to be brought in line with the demands from the EU**.²² Of course, there is a difference in the level of progress in EU integration between the countries. As an accession country, Croatia has moved beyond this process. Montenegro and Albania both have included extensive concrete steps for improving gender equality and implementing EU criteria in this respect. Their integration plans over the whole meet the demands set out in agreements with the EU. A good example is the inclusion of the principle for systematic monitoring and implementation of EU regulation in Montenegro. Nevertheless, more attention could be paid to the adaptation of the social security system and the integration of women in the labour market, as stated in the SAA. That is also the case for Serbia and Bosnia and Herzegovina. Additionally, all countries could include the principle of gender mainstreaming in their national strategy, like Montenegro and Kosovo. It is also advisable to define strategies for further strengthening of the administrative capacities in the area of gender equality.

Chapter 2: Current gender equality mechanisms

2.1. Institutional mechanisms and their responsibilities

²¹ The Revised and Completed National Programme for the Integration of Serbia into the EU. , 2009

²² With the exception of Croatia

	Albania	BiH	Croatia	Kosovo	Macedonia	Montenegro	Serbia
Ministry	x						
Ministerial Department	x				x	x	x
Parliamentary Committee ²³		x	x	x	x	x	x
Gender Equality Body		x	x	x			
Anti-Discrimination Commissioner	x				x		x
Special Ombudsperson ²⁴			x	x	x	x	

After having had a look at the EU gender equality criteria, gender equality provisions in agreements signed with the EU and their inclusion in national strategies for EU integration, let us now take a look at the **institutional mechanisms responsible for their implementation**. Strategies and plans can be ambitious, but it is the existence of the institutional mechanisms, their position within the government together with their mandate and the cooperation between them which defines the level of proficiency. As outlined in the introduction, these mechanisms are structures put in place to support the promotion of gender equality and women's empowerment. They should include a central policy-coordinating unit inside government, located at the highest possible level, with the possibility to support government-wide mainstreaming of a gender-equality perspective in all policy areas. Institutional mechanisms should furthermore be mandated with governmental power, ensured through responsibilities and equipped with capacities for the effective promotion of gender equality. What could be added to this list is the existence of an independent mechanism, supported by the government, with the task to monitor the effectiveness of state policies.

The institution responsible for gender equality in **Albania** is the Ministry of Labour, Social Affairs and Equal Opportunities (MOLSAEO) with its Department for Equal Opportunities and Family Policies. Within the Department, there is a special sector dealing with gender equality and the fight against gender-based violence. Albania is the only country in the region which has a special Ministry dealing specifically with equal opportunities, implying equal opportunities between genders, mandated with governmental power. This is a good indication for the location of the mechanism at the highest possible level in the government. The Ministry is responsible for drafting the National Strategy and the Action Plan on Gender Equality and Domestic Violence (2007-2013). This institutional mechanism also monitors compliance with the laws in the area of gender equality as well as the principle of non-discrimination and equality between women and men. In the future it will also take on the role of coordinating and supervising gender equality in other ministries, assemble statistical evidence on gender issues and introduce a permanent monitoring system. This is a very good development in line with the advice for central policy coordination and gender mainstreaming. However, independent monitoring is not ensured in this manner, but cooperation with independent experts and consultants which Albania has already put in practice in 2011 is a satisfying substitute.

²³ With gender equality, women's rights or equal opportunities in the name of the Committee

²⁴ A special Ombudsperson for gender equality (Croatia: Ombudswoman for Gender Equality; Montenegro and Macedonia: Deputy Ombudsperson responsible for gender equality)

In a report on gender equality from the Ministry's Department for Equal Opportunities to the UN Economic Commission for Europe (UNECE) in the period between 2005 and 2009, it is stated that concerning the Gender Equality Strategy "the Government institutions at central level (line ministries and institutions depending from them), the institutions at local level (prefectures, municipalities) and the gender workers network at both central and local level, in partnership also with academic institutions, media, civil society and international organisations are involved in the implementation... and their coordination is carried out by the MOLSAEO as the responsible authority for gender equity" (p. 2). This practice is a good sign of adequate responsibilities for an effective promotion of gender equality. However, the 2011 national report on gender equality, the first in its kind, indicates that there is a need to strengthen capacities and efficacy of inter-ministerial collaboration and coordination in the implementation of actions in the field of gender equality (p. 40).²⁵

The MOLSAEO also chairs the Gender Equality Council, which serves as the highest inter-ministerial coordinating and policy body, even higher than the Ministry itself. That is a good position in the institutional structure for influencing policy. It is not an independent body, but supports the collaboration between different Ministries and the civil society sector. Chaired by the Minister of MOLSAEO, it is composed of 13 members: ten appointed by the Council of Ministers (the Minister and nine Deputy-Ministers) and three by the civil society. The Council advises the government on policies concerning gender equality and gender mainstreaming. It is also responsible for ensuring gender integration in all fields, especially political, social, economic and cultural. It meets regularly to deal with and address different issues such as the approval of sublegal acts, different annual reports that monitor the gender equality issues as well as to issue recommendations for central and local institutions. Although the Council is well-positioned in the government, its responsibilities do not go far enough as to be able to effectively promote gender equality as it is an advisory body issuing non-binding recommendations, but it is crucial in terms of inter-ministerial cooperation. The National Strategy for Integration also foresees additional future inter-ministerial structures which will ensure interaction on the strategy in the area of gender equality.

Another mechanism in Albania is the Office of the Commissioner for Protection from Discrimination established in 2010. This is an institution which exercises its authority independently, ensures efficient protection from discrimination and any kind of behaviour which among other forms of discrimination incites discrimination due to gender.²⁶ Besides monitoring of the anti-discrimination legislation, the Office has the power to sanction in matters related to the protection against discrimination, which aims to complement a shortcoming in the Gender Equality Law. It represents the interests of citizens, by supporting them to challenge discrimination not only committed by public administration but also by private subjects. Given the fact that this is a relatively new institution, it seems to be functioning well, although no structural legislation monitoring seems to be carried out. In April 2012, a strategic plan for 2012-15 and an Action Plan for 2012 were launched. According to the EU Delegation in Albania, this mechanism focused on capacity building and awareness-raising and was consulted on draft legislation, but public awareness of the right to appeal to the Office remain low as the practice of under-reporting of potential cases prevails (written contribution). Between October 2011 and September 2012, the Commissioner handled 41 cases, including 11 ex-officio investigations. An administrative sanction was imposed in one case. The complaints relate to the issues which include women's rights

²⁵ National Report on the Status of Women and Gender Equality in Albania" (2011), MOLSAEO and UN Women Albania

²⁶ www.kmd.al

aspects. The EU Delegation believes that there is a need to build a track record of cases brought to final completion to encourage potential victims to bring their cases to the Commissioner. The National Strategy for Integration also mentions the establishment of a special appeals institution in the role of a Commissioner for cases of gender discrimination, but that institution has not yet been established.

In addition, there is also the general Office of the Ombudsperson, established by the Albanian Parliament in December 2011. It is called the “People’s Advocate” with the mission to “safeguards the rights, freedoms and lawful interests of the individual from unlawful or improper actions or failure to act of public administration bodies”.²⁷ The Office of the Ombudsperson and the Commissioner are the two independent institutions which can assure balanced reporting and monitoring of the effectiveness of the government institutions and their policies in the area of gender equality, but their monitoring activities could be improved. The 2011 national report on gender equality also recommends an increased efficacy of the Ombudsperson’s structure and mechanism (p. 40).

On the other hand, Albania is the only country in the region which by name has no parliamentary committee addressing women’s rights, gender equality and equal opportunities. These issues are discussed within the Committee on Labour, Social Issues and Health, which examines laws, undertakes legal initiatives and collaborates with MOLSAEO in the area of gender equality. It would be advisable to establish a separate committee which could only concentrate on this issue and follow the ambitious programme set out by the government. Then again, the Speaker of the Parliament, Jozefina Çoba Topalli, the first woman Speaker of the Albanian Parliament, is quite active in the area of gender equality. Under her initiative, several campaigns are regularly undertaken, for example a campaign against domestic violence. The Speaker also advocates for strengthening the role of women in politics.

Concerning other mechanisms, according to the Gender Equality Law every ministry and local government body should have a Gender Equality Employee. They are responsible for guiding gender mainstreaming as well as for promoting and monitoring gender equality. They only exist in the Ministry of Health and Ministry of Defence (2011)²⁸ Several other ministries have informal Gender Focal Points, which should be replaced by Gender Equality Employees. MOLSAEO points out that on the local level, Gender Employees have been appointed in 17 municipalities while in 48 other municipalities there are only contact points. More Gender Equality Employees should therefore be appointed on the local level as well in line with the Law. The National Report on Women and Gender Equality in Albania (2011) highlights the fact that before the May 2011 local elections, roughly one fifth of all municipalities had such an Employee, but that in 11 out of 13 municipalities that person was removed or replaced by somebody appointed by the new administration, which resulted in a loss of expertise (p. 36). Knowledge management and continuation should consequently also be assured. In the 2011 National Report, there is the recommendation to accelerate the operationalisation and formalisation of these Employees in ministries and local government units (p. 40).

Institutional mechanisms in **Bosnia and Herzegovina** include a Gender Equality Agency, established in 2004, which is a part of the Ministry of Human Rights and Refugees. Gender centres on the entity level exist as well. They operate as expert bodies of the two entity governments. The mission of the state Agency is to contribute to the achievement of gender

²⁷ www.avokatipopullit.gov.al

²⁸ National Report on the Status of Women and Gender Equality in Albania” (2011), MOLSAEO and UN Women Albania, p. 36

equality in co-operation with other institutional mechanisms responsible for gender equality. This is mainly being done through gender mainstreaming in all areas of private and public life, indicated as one of the priorities in the area of European integration.²⁹ The Agency also acts as an Ombudsperson in a certain way as it has the right to take and process complaints of an individual or a group of individuals based on violations of the Gender Equality Law. The regular Ombudsperson institution is in place as well: the Human Rights Ombudsperson. This is an independent body dealing with the protection of rights of natural persons and legal entities in accordance with the constitution. It handles complaints related to poor functioning or to human rights violations committed by any organ of BiH, its entities and District Brčko.³⁰ There are three Ombudspersons representing the three constituent peoples, like the country Presidency. As the Human Rights Ombudsperson only deals with complaints concerning government bodies, an additional competence dealing with human rights violation cases committed by private subjects would be welcome, evidently also in case of breaches of the Gender Equality Law. Such an additional responsibility would also replace the Ombudsperson function of the Agency.

Another mechanism at the state level is the Committee for Gender Equality in the House of Representatives of the BiH Parliament. The Committee is responsible for promoting the status of women, considering draft legislation from a perspective of gender equality and prevention of violence against women, and other issues concerning the implementation of gender equality.³¹ On the entity level, there are special Committees dealing with gender equality in the two entity Parliaments. Also, on the level of the two entity governments, there are officials who deal with gender issues in every ministry. These could also be appointed in state ministries, which is currently not the case. Cantonal assemblies have Commissions on Gender Issues and Coordination Boards for gender issues have been formed in cantonal governments. However, the Agency specifies that some of these are not functioning and that it is therefore necessary to strengthen their capacities.³² On the level of municipalities, most councils or assemblies as well as mayors' cabinets have special bodies dealing with gender issues. Unfortunately, not all established bodies work properly and continuously, according to the Agency. On the other hand, what the Agency also points out is that all institutional mechanisms have precisely defined mandates, which shows the government's commitment to achieve gender equality and inclusion of gender issues in all segments of social life.

The whole state government responsibility for gender equality in BiH is concentrated on the Gender Equality Agency, whose mandated responsibilities and capacities for an effective promotion of gender equality and gender mainstreaming do not serve the purpose adequately. The European Commission also indicates that, in general, institutional mechanisms for ensuring gender equality continue to face resource restraints (Progress Report 2012).³³ There are no special departments within state ministries or coordinators responsible for gender equality. It would be advisable to add an additional layer of responsibility on the highest possible level in the government in order to strengthen the central policy-coordinating role or expand the mandate of the Agency. Besides, other than the mechanism of the Ombudsperson, there are no special independent mechanisms dealing with gender equality, which leaves the question of independent monitoring open. Another point of attention is the cooperation between the existing three institutions, which could be improved in the future. What the UN

²⁹ www.arsbih.gov.ba

³⁰ www.ombudsmen.gov.ba

³¹ www.parlament.ba

³² Replies of the Agency to the questionnaire

³³ SWD (2012) 335 final, p. 17-18

CEDAW Committee recommends in relation to institutional mechanisms for fighting violence against women, but which could be considered in a larger perspective, is to strengthen the Gender Equality Agency by giving it larger powers for estimation of laws, by-laws and other regulations from a gender aspect, in relation to relevant Ministries and the Council of Ministries of BiH, as well as additional human and financial resources, and to check the adequacy of positioning the Agency within the Ministry for Human Rights and Refugees (under whose authority it now falls).³⁴

Croatia runs a well-developed institutional machinery for gender equality. Croatia is the only country in the region, and one among a few in the EU, which has a special Gender Equality Ombudswoman who handles cases of discrimination based on sex/gender. The existence of this independent body was threatened last year as there was a law which proposed the merger of the Ombudspersons' offices with the Centre for Human Rights, but the law was revoked by the Constitutional Court and its existence was safeguarded with the installation of the new government.³⁵ On the other hand, some say that this mechanism is a victim of its own success. According to the new Gender Equality Act (2008), the Gender Equality Ombudswoman performs the tasks of an independent body in charge of combating discrimination in the field of gender equality. This mechanism also monitors the enforcement of the Gender Equality Law and other regulations on gender equality, and reports to the Parliament at least once a year. Through this structure, independent monitoring is fully ensured. Nevertheless, recommendations from this institution are not always taken into account, as the European Commission has indicated that proper follow-up of the recommendations need to be ensured (Progress Report COM (2011) 110). An additional extension of the mandate of this institution, giving the opportunity to "not just warn, but also act"³⁶, would contribute to advancing gender equality in Croatia. The European Commission also notes that, in general, the Ombudsoffices need to be strengthened further improve the human rights protection system (Comprehensive Monitoring Report 2012).³⁷ Other responsibilities of the Gender Equality Ombudswoman are the following:³⁸

- 1. receiving complaints from any natural persons or legal entities regarding discrimination in the area of gender equality;*
- 2. providing assistance to natural and legal persons who filed a complaint of sexual discrimination when instituting legal proceedings;*
- 3. taking steps to investigate individual complaints prior to the legal proceedings;*
- 4. conducting, with the consent of the parties involved, a mediation process with a possibility to reach an out-of court settlement;*
- 5. collecting and analysing statistical data on cases of sexual discrimination;*
- 6. conducting independent surveys concerning discrimination, publishing independent reports and exchanging available information with corresponding European bodies.*

³⁴ This recommendation is mentioned as one of the actions in the Gender Action Plan (Part II.8)

³⁵ Interview with Ombudswoman Višnja Ljubičić, Brussels, 29 November 2012

³⁶ Interview with the Ombudswoman, Brussels, 29 November 2012

³⁷ SWD (2012) 338, p. 6

³⁸ www.prs.hr

Next to the Office of the Ombudswoman, there is the regular institution of the Ombudsperson. One of the basic roles of the Ombudsperson as the equality body is to handle complaints of discrimination on all grounds. In this respect the responsibilities of the Ombudswoman and the Ombudsperson seem to overlap. The Office of the Ombudsperson further has the responsibility to collect and analyse statistical data on discrimination concerning all of the grounds stated in the Anti-discrimination Act as well as to inform the Croatian Parliament on the occurrences of discrimination on the basis of these grounds in the annual report, to conduct surveys concerning discrimination, to give opinions and recommendations, and to suggest appropriate legal and strategic solutions to the government.³⁹ In the Comprehensive Monitoring Report on Croatia, the European Commission makes a few comments on the improvement of the protection of human rights, under which women's human rights could be understood. Namely, the Ombudsman offices need to be strengthened to further improve the human rights protection system, which includes providing adequate financing and office premises, and setting up a joint database. The Commission further states that the general Ombudsman and specialised ombudspersons continue to play an important role in human rights protection.⁴⁰

Another institutional mechanism for gender equality in Croatia is the Parliamentary Committee for Gender Equality. Its duty is among other issues to promote and monitor the application of principles of gender equality in the national legislation, in particular to participate in the drafting of documents on the EU integration activities by amending and adapting legislation and executive measures to achieve gender equality according to the standards applied in the legislation and programmes of the EU.⁴¹ This mechanism is also responsible for monitoring the implementation of gender mainstreaming in legislation. In relation to its monitoring role, the Parliament could step up its efforts in holding the executive power accountable for implementing policies in the area of gender equality, in support of the Ombudswoman. For example, the presentation of the annual report of the Ombudswoman to the Committee received the response from one of the MPs that this presentation takes place in the Parliament because it is defined by law, but it should be presented in the media.⁴² Instead of taking measures to solve the issues brought forward by the Ombudswoman, such as discrimination of pregnant women by health insurance providers, the Committee reacted by saying that more attention is needed in the area of education and awareness raising.

Croatia further has an Office for Gender Equality which has been established in 2004 as an expert service of the government for conducting expert and administration operations related to establishing gender equality in the country. The Office plays an important coordinating role on the state level. According to Buzov (2012), the Office is officially chaired by the government. Deputy Prime Minister and Minister of Social Welfare Policy and Youth, Milanka Opačić, is responsible for the social aspect of gender equality on the government level. The Office is in terms of its mandate in a good position to conduct policy coordination and effectively promote gender equality, although this function could be further strengthened by increasing the support from the highest government level. Compared to the other countries in the region, there is relatively little high-level support for gender equality. The Ombudswoman believes that an important role in the implementation of the national legislation and policies is the unconditional support of all state actors and local authorities (Summary Annual Report 2011, p. 18). Additionally, the essential factor is the strengthening

³⁹ www.ombudsman.hr

⁴⁰ SWD (2012) 338

⁴¹ www.sabor.hr

⁴² Meeting of the Gender Equality Committee, 18 October 2012 - <http://www.sabor.hr/Default.aspx?art=50741>

of existing institutional mechanisms for gender equality, including the coordinators for gender equality in government bodies, according to the Ombudswoman.

Moreover, there are coordinators for gender equality on the national level, in each relevant ministry and state body, which cooperate with the Gender Equality Office. These also exist on the regional and the local level. Gender Equality Commissions exist as well on the level of the counties, municipalities and cities. They are the advisory working bodies responsible for promoting and coordinating all activities concerning gender equality and the advancement of women in society, as stipulated by the Gender Equality Act.⁴³ According to the Gender Equality Office, the system and coordination of institutional mechanisms for the promotion and implementation of gender equality at national and local levels have been upgraded in the recent period relating to the number of activities implemented by local commissions and the continuous growth of municipal and town gender equality commissions (21 on county level, 52 on town level and 30 on municipal level).⁴⁴

The institutional mechanisms for gender equality in **Kosovo** include a parliamentary commission, the Parliamentary Commission on Human Rights, Gender Equality, Missing Persons and Petitions. It would be advisable to establish a commission which would solely deal with women's rights and gender equality. There is also a Gender Equality Agency under the Office of the Prime Minister. This is a good example of locating the gender equality mechanisms at the highest possible level in the government, if accompanied by a matching governmental influence without political pressure. The Secretary General of the Office of Prime Minister assists in its working performance. The Agency has a mandate to execute and monitor the execution of the Law on Gender Equality by promoting equal values and possibilities regardless of the gender. Its responsibilities and capacities for gender mainstreaming and promotion of gender equality could be strengthened. Each Ministry also has a Gender Affairs Officer, responsible for the implementation of the gender equality strategy within the ministry. All Officers together form an Inter-Ministerial Council. Local government bodies also have gender equality offices. The Agency could strengthen its coordinating role in this respect.

In addition, the institution of an independent Ombudsperson exists as well. Its mission is to receive and investigate complaints from every person in Kosovo that claims her/his human rights have been violated by the Kosovo public authorities. Another task of the Ombudsperson is to monitor and protect human rights and freedoms of legal and natural persons from unlawful and irregular actions or inactions of the public authorities. In order to reach this goal, the Ombudsperson conducts investigations, issues recommendations, publishes reports, and provides services free of charge and public advocacy to all citizens of Kosovo.⁴⁵ However, the Ombudsperson has complained about the blockage of its activities by the authorities.⁴⁶ There is a special Gender Equality Attorney operating under the framework of the Ombudsperson. The Attorney monitors and supervises the implementation of the present law and reviews cases on gender rules violations or discrimination, with its decisions being subject to judicial review. This is a good development concerning independent monitoring. However, this mechanism only has the power of recommendation. That is why a proposal of the Ombudsperson has been directed towards amending the Gender Equality Law to contributing additional powers to this mechanism.⁴⁷ The report indicates that it is necessary for

⁴³ Answers to the questionnaire by the Gender Equality Office of Croatia

⁴⁴ Reply to question 8 of the questionnaire

⁴⁵ www.ombudspersonkosovo.com

⁴⁶ http://www.info-ks.net/clanak.php?id=20586&naziv=ombudsperson-upozorava-na-haos&nav_id=1&pod_nav=10

⁴⁷ Republic of Kosovo, Institution of the Ombudsman, 11th Annual Report 2011 (directed to the Assembly), p. 19

the judiciary and the administrative responsibilities to be formulated clearly. The Law should give the Ombudsperson the possibility to initiate court proceedings. At the moment, the procedure for initiating a court case based on gender discrimination is not defined. That is why the Law remains “a dead letter” on paper, according to the Ombudsperson (point 2.3.9.).

According to Igballe Rogova, Director of Kosova Women’s Network, the role of the Agency for Gender Equality is not optimal. Whereas MP Novobërdaliu highlights the advantage of high-level support and prestige of the Agency being placed within the Cabinet of the Prime Minister, Rogova emphasises the lack of independence in this setting and political nominations of the party in power, although the Agency is supposed to be independent.⁴⁸

Macedonia has a Department for Equal Opportunities within the Ministry of Labour and Social Policy, with a special Sector for Gender Equality. The Ministry is responsible for “the protection of women”. It deals with issues concerning gender equality and all forms of discrimination against women. The Department carries out activities for the improvement of the status of women and the establishment of equal opportunities and the protection from discrimination in the area of labour, social protection and social insurance. It consists of two units: Unit on Gender Equality and Unit for Prevention of and Protection against Discrimination. The Department is responsible for conducting procedures for determining unequal treatment and legal protection of those discriminated against. More attention could be paid to gender mainstreaming. According to the European Commission, “institutions do not appropriately exercise their role in ensuring better integration of the gender perspective into other policy areas” (Progress Report 2012).⁴⁹ Furthermore, the mandate of the Department could be strengthened in exercising a central policy coordination role as well as a coordinating role between the other institutional mechanisms, including a strengthening in terms of capacities. The Commission also points out that it lacks human and financial resources (p. 46-47). There is also an opportunity for strengthening the support for gender equality on the highest government level, especially by Prime Minister Gruevski who in a recent speech alluded to women’s rights as “some distorted values”.⁵⁰ Koteska (2012) proposes the introduction of a portion of the gender mainstreaming portfolio to one of the four Deputy Prime Ministers or to one of the three Ministers without Portfolio (p. 6).

The Department is also responsible for the protection of and the assistance to the victims of trafficking in human beings as the Office of the National Referral Mechanism for Victims of Trafficking operates within the Department. The European Commission has pointed out that “the process of strengthening the network of National Referral Mechanism for victims of domestic violence is on-going, albeit at a relatively slow pace” (Progress Report 2012). The citizens can also turn to a special Advisor for legal protection against unequal treatment between women and men, located within the Department, which is a good development. It is also striving to promote policies in the field of protection against discrimination, but according to the Commission it does not function properly (p. 15). The European Commission has pointed out that the Department lacks appropriate human and financial resources and that the capacity of the equal opportunity commissions at local level remains limited.⁵¹

There is moreover a Committee on Equality between Women and Men in the Parliament of Macedonia, which was established in 2006. Its responsibility is among other issues to take the

⁴⁸ Meeting in the European Parliament, 27 November 2012

⁴⁹ SWD (2012) 332 final, p. 15

⁵⁰ <http://www.youtube.com/watch?v=4G1fEf1PHaE> (minute 7-9)

⁵¹ SWD (2012) 332 final

gender perspective into account in proposed legislation, check the National Action Plan for Equality between Women and Men, monitor the system for elimination of equality undertaken by the above mentioned Department and encourage cooperation between different government bodies. One of its numerous activities is also to cooperate with the Commissions for equal opportunities between women and men in the local government units. The Parliament also holds a Women's Parliamentarians Club which is an informal group with the task to review present legislation and propose new legislation. Its mission is the achievement of gender equality and the promotion of women's rights.⁵² It can be noted that in Macedonia the parliamentary committee plays an important role, in close cooperation with civil society and through high media attention. Its influence could further be strengthened by including a wider scope of monitoring as well as ensure gender mainstreaming through legislation. The Chair of the Committee, MP Popovska, is quite active. However, the Committee as a whole could take a more independent stance in calling the government accountable for its policies. Koteska (2012) believes that the Committee mainly serves to promote governmental successes instead of discussing critical gender issues (p. 5). Also, the National CSO Network thinks that the parliamentary committee responsible for gender equality is not active on gender sensitive law screening.

The Department for Equal Opportunities further indicates that there are Committees for Gender Equality on the local level within 84 entities of local governance and that Coordinators for Equal Opportunities between Men and Women exist on the national and the local level.⁵³ On the local level, these are officials from the municipal administrations who deal with gender equality next to their other duties and who support the local Committee for Gender Equality. They are appointed by the mayor. Their functionality could be strengthened. Koteska points out that some of them have been assigned without being aware of the appointment and clear instructions for their specific work obligations have not been provided (p. 3). Besides, the local Committees aim at incorporating a perspective of equal opportunities in the local policy, promoting the position of women and implementing the strategic objectives of the National Action Plan on Gender Equality. They are also responsible for the adoption of the gender equality policies, their implementation, monitoring and evaluation of the achieved results. They are also requested to submit a report to the Ministry of Labour and Social Policy at least once a year.⁵⁴ This is an example of a good practice for connecting the local and the state level. However, the lack of inter-ministerial coordination is acknowledged by the government, as the 2010 UNECE report states that "we have to admit that we still have problems with the establishment of coordination between the coordinators, but also with the competent body, i.e. Department for Equal Opportunities" (p. 14).

Additionally, there is the institution of the Ombudsperson. This is an independent body with special status for protection of citizens' rights with the competence to undertake actions and measures for protection of principle of non-discrimination and adequate and equitable representation of community members in the state administration bodies, the local self-government units and the public institutions and agencies.⁵⁵ In particular, there is a Deputy Ombudsperson responsible for women and children, who also deals with gender equality. Members of the National CSO Network to End Violence against Women mentioned the Office of the Ombudsperson as a good example of institutional mechanisms. Although the mechanism of the Ombudsperson for women and children only makes recommendations and

⁵² www.sobranie.mk

⁵³ Answers to the questionnaire provided by the Department for Gender Equality

⁵⁴ Contribution from the Macedonian Women's Lobby

⁵⁵ www.ombudsman.mk

works of the basis of complaints in the public sector only, its work is considered as quite efficient and the mechanism is one of the most accessible to citizens.⁵⁶

What is also important is that Macedonia has installed a Commissioner for Protection against Discrimination in January 2011.⁵⁷ Citizens suffering from any kind of discrimination prohibited under the anti-discrimination law, including gender, can file in a complaint. The responsibility of the Commissioner is to receive and review complaints, prepare cases when there is a basis, offer opinions and recommendations, and inform the petitioners of their rights. The Commissioner is obliged to provide an opinion and recommend a way to remedy the violation within three months after having received the complaint. The Commissioner can also file a suit in court or use sanctions. Such an independent institution could also be charged with monitoring the implementation of the anti-discrimination legislation, but a method for independent monitoring in the field of gender equality is necessary as well.

A report by the Macedonian Women's Lobby on efficiency and transparency in gender equality policy offers an insight into the current situation.⁵⁸ A very critical conclusion is being drawn: "the practice registered through field researches and analyses shows that the mechanisms established are non-active to a large extent, i.e. a very small number of them implement concrete activities which will contribute to the advancement of the equal opportunities" (p. 45).

When it comes to **Montenegro**, a special Department for Gender Equality exists within the Ministry for Human Rights and Minority Rights. It was first located within the Ministry of Justice, but with the installation of the new government it was transferred to the Ministry of Human Rights, as the Gender Equality Law defines the Ministry for Minority Rights as the state body responsible for gender equality. Initially, the national body responsible for gender equality used to be the Gender Equality Office. Then it was transformed into the Department for Gender Equality within the Ministry for Justice in June 2012, keeping the same mandate. According to MP Drobňjak, this change allowed the Department to gain more influence.⁵⁹ The Office had no right to send comments on laws to the Parliament, which the Department could do directly. Irena Bošković, Head of the Department, still believes that the Ministry of Human Rights is a good position for influencing state policies.⁶⁰ According to the Gender Equality Law, the Ministry is responsible for following, preparing, initiating and reporting on measures in the area of gender equality. Other duties involve the coordination of activities in this field; the monitoring of the implementation of international obligations; the organisation of research and analysis; the preparation of action plans; and the cooperation with civil society. The Ministry or the Department can also give its opinion on discrimination cases, only on demand. Another responsibility is the monitoring of the implementation of the Gender Equality Law, which again does not assure independent monitoring. In terms of responsibilities, the mechanism is in a good position to effectively promote gender equality. Further efforts could be undertaken in ensuring the place of the Department as the central policy-coordinating unit, especially in terms of mandated governmental power and mainstreaming towards other government levels. Its capacities also need further strengthening, both in human and financial terms, as it currently employs only two people.

⁵⁶ Meeting in the European Parliament, 5 December 2012

⁵⁷ Marina Stojanovska, "Macedonians get new recourse against discrimination", SETimes, 19 January 2011

⁵⁸ Policy on Gender Equality: Perception of Efficiency and Transparency, Macedonian Women's Lobby, 2012

⁵⁹ Visit of MP Drobňjak within the Delegation of the Regional Women's for South East Europe to the European Parliament, November 27, 2012

⁶⁰ E-mail exchange, 7 December 2012

The European Commission also shares this opinion as it states that implementation of the institutional framework is hindered by the scarcity of human and financial resources (Progress Report 2012).⁶¹ More support for gender equality and this mechanism from the highest government level is furthermore desirable.

This point is also supported by gender expert Lovorka Marinović who made a thorough analysis of the country's gender equality mechanisms in an evaluation of the Gender Equality Action Plan 2008-2012.⁶² She proposes the creation of a National Team under leadership of a high-ranking official with representatives of all relevant mechanisms and representatives of civil society as equal partners, which would greatly contribute to the mechanisms' efficiency. Then, the establishment of the function of a National Coordinator from the Ministry of Human Rights or the Gender Equality Department would improve cooperation between different fields. Taking into account its successful functioning, the Department should be strengthened through increased human and financial resources, according to Marinović.

Another important mechanism is the Committee for Gender Equality in the Montenegrin Parliament. It is quite active as the Chair, MP Drobnjak, led the Office for Gender Equality. The National Programme for Integration offers a good description of its role (p. 36):

“The Committee for Gender Equality reviews and monitors exercise of human and citizen freedoms and rights specified by the Constitution that are related to gender equality, and above all: reviews bills and other documents important for exercising the principle of gender equality, encourages application and realization of this principle in Republic's laws; encourages and proposes signing of international documents about gender equality and monitors implementation of those documents in the Republic; proposes measures and activities for improvement of gender equality, particularly in the fields of education, healthcare, public information, social policy, employment, entrepreneurship, family relations, decision-making processes and similar; participates in preparation and development of documents and in harmonization of legislation in this field with EU standards and legislation; cooperates with NGOs involved in gender equality matters.”

A new institutional mechanism in Montenegro is the Ombudsperson called the Protector of Human Rights and Freedoms, established in 2011. This mechanism deals with complaints of violations of human rights and freedoms by state and municipal authorities as well as public services and other holders of public power. The Protector is assisted by one of the four Deputy Ombudspersons who is responsible for women's human rights. The main duty of the Ombudsperson is to offer protection and fight against discrimination, including discrimination based on gender. The mechanism of the Ombudsperson offers a form of free legal aid as citizens who are discriminated against can ask for help in drafting a legal complaint. Also, the Protector gives legal advice and even has the right to intervene in cases of legal proceedings. This mechanism reports to the Parliament through regular report on the state of discrimination. The cooperation with other mechanisms could be developed further, given the fact that the office of the Protector is quite new. As the application of the anti-discrimination legislation is monitored by the Protector of Human Rights and Freedoms, Marinović believes that this mechanism needs to be strengthened in terms of human, technical and financial resources. MP Drobnjak shares this opinion, in particular in relation to the Deputy responsible for gender equality.⁶³

⁶¹ SWD (2012) 331 final, p. 14

⁶² Plan aktivnosti za postizanje rodne ravnopravnosti u Crnoj Gori 2008-2012: Evaluacija

⁶³ Visit of MP Drobnjak to the European Parliament, 27 November 2012

Additionally, Coordinators for Gender Equality exist on the national and local level. On the national level each ministry and government body has one Coordinator. On the local level, 10 municipalities have mechanisms for gender equality (Marinović 2012). What is important and what has been mentioned by several critics is the necessity to clearly define the role of coordinators for gender equality. Marinović believes that their status needs to be regulated by systematising their position, which would contribute to continuity and efficiency.

Furthermore, critics in Montenegro are disappointed about the current transfer of the Gender Equality Department from the Ministry of Justice to the Ministry of Human Rights and Minorities. In the former Ministry, the Department had the possibility to provide direct comments on legislation in relation to gender equality. They also regret that the Department did not get the position of Sector within the Ministry, which is for example the case with Roma and disabled persons. If the Department were to become a Sector, which would create the position of a Deputy Minister responsible for Gender Equality or a special advisor to the Minister, it would create more space for development of gender equality in the country. Then there is also the issue of ministerial coordinators. Their position needs to be strengthened. It would be useful if they would get a clear description of duties for advancing gender equality as well as suitable trainings for effectively carrying out their activities. If they would then for example report to the Department for Gender Equality or the Minister, then a more coordinated system would be created. Critics furthermore also claim that the Parliamentary Committee could be strengthened, for example by being more active on giving comments on proposals for legislation from a gender equality point of view. Also, the Assembly as such needs to include the Committee more in its activities.

In the case of **Serbia**, the primary executive mechanism established in 2007 is the Directorate for Gender Equality within the Ministry of Labour, Employment and Social Policy. It consists of two units: the Law Drafting, Study and Analysis Unit and the Gender Equality Promotion Unit. The Directorate is responsible for analysis and recommendation of measures related to advancement of gender equality, drafting of laws and regulations, advancement of women's position and promotion of gender equality as well as equal opportunity policy. Its priorities are: drafting of the Gender Equality Law; setting up new and strengthening the existing institutions responsible for gender equality; developing the national strategy for advancement of the position of women and promotion of gender equality; establishing and defining the national policy focused on elimination of all forms of discrimination against women; advancing the status of women; integrating the principle of gender equality into all areas of operation of the institutional system; and implementing recommendations of the UN Committee on Elimination of Discrimination Against Women.⁶⁴ Also, coordinators within each ministry on the national level are required to be appointed, with the Directorate having the coordinating role between them. This mechanism is well-developed and fairly active, with a central policy-coordinating position and adequate responsibilities providing for gender mainstreaming. In comparison to other countries in the region, its wide-ranging responsibilities are a good example, in particular in relation to the mandate of setting up new mechanisms, drafting of laws and gender mainstreaming. Nevertheless, improvements could be made in strengthening its capacities and increasing independence. In the last progress report, the European Commission reports that further strengthening of the administrative capacity remains a challenge and that further streamlining of the administrative capacities of bodies dealing with gender equality is needed (SWD (2012) 333 final).

⁶⁴ <http://www.minrzs.gov.rs/cms/en/directorates/directorate-of-gender-equality>

Another mechanism on the parliamentary level is the Committee on Human and Minority Rights and Gender Equality. The Committee reviews draft laws and other governmental acts with the aim of improving gender equality. It also reviews the state of policies and law implementation in the area of gender equality conducted by the government and other state bodies. Again, it would be recommendable to establish a separate Committee focusing only on gender equality. Moreover, the monitoring function of the Committee could be further strengthened, in especially concerning law implementation.

Serbia also has a Commissioner for the Protection of Equality, which is an independent, autonomous and specialised state authority established in 2010 on the basis of the Law on Prohibition of Discrimination. This mechanism also deals with discrimination based on sex or gender. The Commissioner promotes and monitors gender equality, takes complaints of discrimination into consideration and submits an annual report about its activities to the Parliament. The new Commissioner for Protection against Discrimination cooperates well with civil society. It is a relatively new body which maintains a good cooperation with the NGO sector. In particular, the Commissioner advocates for improved access to government information, which is of great importance to organisations such as Women's Network Serbia.

Next to the Commissioner, there is also the mechanism of the Ombudsperson which protects rights and freedoms of citizens by controlling the functioning of public institutions, with a special Deputy Ombudsperson in charge of gender equality, children's rights and persons with disabilities, first elected in 2008. In addition, the Office of the Ombudsperson has recently, in 2012, established a special expert advisory body or the Council for Gender Equality in order to tackle domestic violence and other gender related issues. The advisory Council comes together from time to time. Stojanović says that it had a strong start, but it did not manage to establish itself as an effective mechanism.⁶⁵ Serbia also has an informal Gender Equality Synergy Group, an informal forum for exchange of information and opinions not functioning under any organisation or institution. It provides a forum for policy dialogue among key stakeholders. Another advisory body, which has been set up by the government in 2003, is the Gender Equality Council. It consists of representatives of relevant ministries, representatives of civil society and gender experts. It evaluates the situation concerning gender equality and makes recommendations to the government, with a direct responsibility to the government.

Uvalić notes that next to the national mechanisms, there are also provincial gender equality mechanisms in Serbia: the Secretariat for Labour, Employment and Gender Equality; the Ombudsperson, the Gender Equality Council; the Committee of the Assembly of Vojvodina; and the Institute for Gender Equality. In addition, notes Uvalić, there are local mechanisms established within local governments; some 50 municipality-level gender equality committees and many ombudspersons in local governments.

2.2. Possibilities for strengthening the institutional mechanisms

Although many differences exist between the countries and their gender equality mechanisms, a few general points can be made on ways for strengthening their organisational structure and their functioning in line with the mentioned indicators formulated by the UN and the EU.

⁶⁵ Phone interview, 28 November 2012

A possible way of doing that is by **increasing the power and the capacity of the mechanisms** for policy coordination and gender mainstreaming. What is now often the case is that the institutions have duties which do not correspond to their given responsibility. Gender mainstreaming is a difficult task if the mechanism has no governmental power to carry out such a policy. Also, the possibility to lead the gender equality policy from a central position is very important. Therefore, responsibilities should be centrally matched with corresponding powers. Also, even if these powers are given, effective implementation is not possible without sufficient capacities. So, responsibilities, powers and capacities should go hand in hand.

In view of the indicator of placing the mechanisms at the highest possible level in the government, at least **official support from the highest government level** should be assured. Currently, the relevant mechanisms are generally more or less isolated in their efforts, without the support of the government as a whole. That is why, for example, the Serbian Directorate would like to suggest to its national government and parliament “to take more seriously the institution of Gender Equality Directorate”, especially in view of all the results achieved over the past five years.⁶⁶ Taking this issue more seriously at the highest level and giving the responsible institutions the possibility to exercise a top-down approach is especially important for gender mainstreaming, a central part of the EU policy. In its annual report for 2011, the Serbian Directorate for Gender Equality points to the fact that gender equality is not a political priority, although this is developing, and that it can be expected to become more visible as Serbia progresses on its road to the EU (p. 22).⁶⁷

Another possibility for strengthening the existing mechanisms is to **appoint special Ombudspersons for gender equality and strengthen the role of existing ones**. This has successfully been done in Croatia, which could serve as an example for the whole region in this respect. Also Macedonia and Montenegro have special Deputy Ombudspersons responsible for gender equality, but these need further reinforcing as they are relatively new. In Kosovo, the Gender Equality Attorney fulfils the role of a specialised Ombudsperson for gender equality, but not much of its activities are publicly disclosed. Its powers are rather limited, as it for example has no right to refer cases to court, contrary to the situation in Croatia and Montenegro. The Macedonian Deputy Ombudsperson also lacks this power. Besides, it does not deal with violations committed by private individuals. This is partly compensated for by the Commissioner for Protection against Discrimination.

A sign of insufficient attention given to gender equality on the highest level are mandates of parliamentary committees responsible for this matter (Albania, Kosovo and Serbia). They deal with issues other than gender equality, which reduces their ability to act and thus their effectiveness in this field. Next to gender equality, the Serbian parliamentary committee deals with human rights and minority rights; the Kosovar with human rights, petitions and missing persons; and the Albanian with labour, social issues and health. On the contrary, ideally, each country should have a **parliamentary committee dealing only with gender equality, women’s rights or equal opportunities**.

Another issue relating to parliamentary committees is their inadequate monitoring function. They should keep an oversight of the gender equality policy and hold the executive power accountable for its actions in ensuring that it implements policies in accordance with the laws passed by the parliament. At the moment they rather adopt reports made by government bodies on their functioning, their strategies and their action plans, but they do not seem to

⁶⁶ Answer to question 17 of the questionnaire

⁶⁷ Ka dostizanju rodne ravnopravnosti u Srbiji, Jednogodišnji Izvještaj Uprave za Rodnu Ravnopravnost, 2011

have a systematic overview of the actual effect of government policies on the ground. That is why there should be more attention by **parliaments to monitor the implementation of the gender equality legislation**.

In addition to the monitoring role of the parliament, there should be an **independent monitoring possibility** with an overview of not only the legislation and the policies, but also the functioning of the institutional mechanisms. In Croatia this role is fulfilled by the Ombudswoman. In other countries, the central bodies are often not independent enough in order to offer an objective option for monitoring. That could be the reason behind the recent establishment of the Council for Gender Equality under the Ombudsperson in Serbia. If there is no independent body, then at least the existing mechanisms could consider cooperating with independent experts or consultants. This has successfully been done in Albania and Montenegro. However, this is not a sustainable long-term solution.

One other possibility for strengthening the institutional mechanisms is an additional **emphasis from the side of the EU on the importance of gender equality** and effective functioning of the institutions necessary for the implementation of the gender *acquis*, accompanied by more support through the Instrument for Pre-Accession Assistance (IPA). For example, the BiH Gender Equality Agency hopes to establish a more functional cooperation with the EU and in particular to put gender equality on the EU integration agenda. The Agency believes that “strong conditionality in the area of gender equality might contribute to strengthening of the gender machinery in the country, but might also lead to gender mainstreaming in the work of other institutions” (answer to question 18). More support is needed to define gender mainstreaming as a government priority, necessary for advancement in the area of gender equality. The BiH Gender Equality Agency indicates that there is no formal communication with the EU Delegation and the EU Special Representative. Only recently, in December 2012, there was an official initiative to formalise contacts with the relevant gender equality stakeholders. Communication with the Directorate for European Integration could also be improved, as this for the moment only concerns the progress reports. Therefore, while commenting on this issue its yearly progress report and marking limited progress, the Commission could do more in order to raise the importance of gender equality. In the case of Albania, such an approach has worked. In the 2010 Opinion gender equality was defined as a key priority and in the 2012 Progress Report some progress was said to have been booked.

Serbia agrees with the idea of the Commission using the tool of conditionality for advancing gender equality. The Directorate thinks that the EU could request from Serbia to include the Directorate in the process of negotiating Serbia’s EU accession (answer to question 18). They would also appreciate it if the European Institute for Gender Equality would be more open for cooperation with non-EU countries. This collaboration seems to be improving, as the Institute has announced the visit of a Serbian delegation in January 2013. The Croatian Office considers that the EU could advocate for intensifying the implementation of the EC Strategy for Equality between Women and Men. Also in the case of Montenegro, the Department believes that an important backing from the side of the EU would be necessary to support gender equality on Chapter 23, especially concerning the formulation of action plans.

Chapter 3: Effectiveness of the existing mechanisms in practice

3.1. Legislation, policies and gender mainstreaming

After having obtained an overview of the existing institutional mechanisms for gender equality, in order to assess their effectiveness it is also necessary to take a look at the way

they function. It can be assumed that effective mechanisms dispose of effective legislation and policies. Therefore, it is essential to look at **gender equality legislation and policies** adopted over the last few years. Although labour law might be considered as the most important law in relation to gender equality, this report focuses on **anti-discrimination regulations** because it can be said to have the most direct effect on the value of equality between men and women. Furthermore, these will be compared to the actual situation in practice as one of the markers of their effectiveness. Besides considering legislation and policies, in particular the **methods for implementing gender mainstreaming**, attention will also be paid to **capacity building programmes**. Furthermore, the processes that facilitate the **involvement of the non-governmental sector from the grass-roots upward** will be taken into account, particularly the existing cooperation between this sector and the government.

Ideally, the existing regulations should be compared to the gender *acquis* to see to what extent it has been transposed into national legislation. Unfortunately, this aim does not fit within the scope of this research. The European Commission is responsible for monitoring progress in this respect. According to a Commission official, Croatia now complies with the gender *acquis*. Albania has a gender equality law that is fully in line with EU standards, although its implementation is slow. Regarding Montenegro and FYROM, the national legislation presents several problems especially as regards the definition of discrimination and the independence of the competent equality body. Concerning Bosnia-Herzegovina, Kosovo and Serbia, there is little to very little progress in the area of gender equality (with the exception of Kosovo whose legislation has been improved last year) and many issues persist in the field.

An interesting piece of information, when considering the effectiveness of the institutional mechanisms for gender equality, is the **international gender-equality index**, compiled by UNDP since 2010.⁶⁸ It takes into account several human development indicators such as the labour participation rate among women and the number of seats in national parliaments that women hold. On the 2011 list with Sweden, the Netherlands and Denmark in the top three and Chad ranking 145, the countries of the Western Balkans occupy the following positions: Croatia 46, Montenegro 54, Serbia 59, Albania 70, BiH 74 and Macedonia 78 (Kosovo is not included in the ranking).

Albania has a broad legislation in place concerning gender equality. In 2008, the Law on Gender Equality in Society and the Law on Measures against Violence in Family Relations were adopted. Two years later, in 2010, the Law on Protection against Discrimination followed. The Gender Equality Law ensures effective protection against gender-based discrimination, defines measures to guarantee equal opportunities for men and women in order to eliminate gender-related discrimination, whereas the Law on Protection against Discrimination prohibits discrimination based on the grounds of sex, gender and gender identity. The Gender Equality Law also specifies the responsibilities of state authorities at all levels for drafting and implementing normative acts and policies that support gender equality.⁶⁹ It also includes the principle of gender mainstreaming, but in rather common terms referring to the process as belonging to the whole society, to be assured “by including the perspective of all genders in all the legislative, policy-making, implementing or monitoring processes”.⁷⁰ It is not defined as a top-down coordinated governmental process. However, the National Council on Gender Equality is indicated as the body responsible for ensuring gender

⁶⁸ http://hdr.undp.org/en/media/HDR_2011_EN_Table4.pdf

⁶⁹ National Report on the Status of Women and Gender Equality in Albania, MOLSEAO and UN Women Albania, 2011, p. 32

⁷⁰ Law on Gender Equality in Society, Article 4.4

mainstreaming, but this body only has advisory powers (Article 12.b.). In addition, gender equality employees are identified as responsible for gender mainstreaming in the sector in which they work. There is thus no adequate coordinated method for this practice, at least not legally defined.

Albania has furthermore adopted a National Strategy for Gender Equality and Eradication of Gender-Based Violence and Domestic Violence 2011-2015, accompanied by an action plan. This Strategy is the result of a review of the previous one covering the period between 2007 and 2010. The revision aimed at defining priorities to be implemented in order to meet the needs of citizens. The drafting was supported ONE UN programme for gender equality. The vision of the new strategy is the following: “A society where gender equality is respected assessed, taught, supported, and stimulated; a society that does not tolerate but punishes gender based violence; a society where victims are assisted and protected and where gender equality in opportunities and treatment is a common reality for all.”⁷¹ One of the main priorities is the strengthening of the institutional and legal Mechanisms. The Strategy also aims at increasing the participation of women in decision-making and economic empowerment as well as decreasing gender based violence. It is accompanied by a detailed action plan that is measurable and can be monitored, according to the Ministry. It also includes training courses for ministerial gender equality employees. It is also important to point out that training for judges exists relating to the abovementioned laws in the School for Magistrates. The novelty is that alongside the priorities, objectives and concrete measures, the budget, costs and sources of financing are defined. Financial support is ensured by the state budget, the budget of the local government and funds from different donors. In July 2012, a Council of Ministers decision on gender mainstreaming in the medium-term budget programme for all line Ministries was approved.

In relation to the implementation of the existing legislation and policies in practice, there is room for improvement. In the Commission’s Opinion on the application of Albania for EU membership, implementation is mentioned, namely the need “to effectively implement anti-discrimination policies”.⁷² Then, for example, the Gender Equality Law prescribes 30% of women in political decision-making positions while there are 16.4% of women in Parliament. In a contribution to the report, the EU Delegation in Albania reports the coordination between central and local government as well as awareness of the requirements of the gender equality strategy need to be improved and that the implementation of existing laws and policies needs to be stepped up. It also reports that the public knowledge of the Law on Protection from Discrimination is low. Furthermore, Aferdita Prroni, Executive Director of Human Rights in Democracy, claims that “on paper mechanisms and policies look beautiful, but not in practice.”⁷³ She also thinks that implementation and enforcement of laws face obstacles, partly due to the lack of monitoring and performance indicators. Monitoring the implementation of laws is one of the biggest challenges for Albania in her opinion. Also, government officials from the Ministry for Labour and UN Women believe that there are gaps in legislation. They recommend “gender sensitive revision” of women’s property rights, the penal code as well as electoral and labour laws.⁷⁴

⁷¹ Answers to the questionnaire by MOLSEAO

⁷² COM (2010) 690, p. 12

⁷³ Answers to the questionnaire provided by Aferdita Prroni, Executive Director of the Human Rights in Democracy Center

⁷⁴ National Report on the Status of Women and Gender Equality in Albania” (2011), MOLSAEO and UN Women Albania, p. 33

The EU Delegation further points out that the Albanian Parliament has ratified the Council of Europe's Convention on prevention and fight against violence against women and violence in the family (Istanbul Convention) in November 2012. This ratification brings along the establishment of an international mechanism to monitor its implementation at the national level. It will require further allocations of budgetary and human resources by the government, which has already partly been taken into account in the new strategy on gender equality.

Concerning processes that facilitate the involvement of non-governmental organisations in policies on gender equality, from the grass-roots upwards, the Law on Gender Equity obliges the Minister responsible for gender equality to cooperate with and offer support to non-profit organisations active in the field of gender equality and the local government bodies to cooperate closely with non-profit organisations (Article 13.2.c. and 14.2. respectively). However, there is no systematic approach. Prroni believes that the dialogue on gender equality between the government and the civil society in Albania happens on a sporadic basis. There are no regular activities related to women's rights and when they do take place the feedback of the NGOs is "not properly digested" by the government.

When it comes to the existence of capacity building programs, as an indicator of effective mechanisms, various trainings of officials exist. MOLSAEO reports about trainings for gender employees, civil servants and other professionals: police officers, prosecutors, court employees and other specialists in the fight against domestic violence. In 2011, 1500 persons in total, all programs included, are estimated to have been trained. Also, the ministerial and local employees who deal with gender issues are continuously trained on issues regarding gender equality, gender integration, gender budgeting and legislation on gender equality.⁷⁵ Yet, the European Commission comments on the system of assistance to victims of domestic violence, which is in its opinion not fully professional, with staff often not sufficiently specialised and unaware of some policies implemented by the central government.⁷⁶ Thus, more could be done on capacity-building programmes for assistance to victims.

Bosnia and Herzegovina has adopted a Gender Equality Law as early as 2003. The law prohibits direct and indirect discrimination based on gender and aims at installing full equality in all areas of life. The Law covers issues such as education, employment, social and health care, sports, culture, public life, media, prohibition of gender based violence, harassment and sexual harassment, statistics, court protection etc. Amendments were submitted in 2009 in order to bring the law in line with EU and international obligations. According to Director Savić of the BiH Directorate for European Integration, with the adoption of the unified version in 2010, the law has been harmonised with EU standards.⁷⁷ The Law prescribes equal representation of women and men in state and local government bodies, which means a 40% representation of one of the sexes. According to the Gender Equality Agency, as indicated in the answers to the questionnaire, the legislation on anti-discrimination, employment, social security, civil service, communications and education has been harmonised with the Gender Equality Law; the law prohibiting discrimination has been adopted in 2009.

In terms of policies, the country has an active approach; instead of a strategy for gender equality, there is the overall Gender Action Plan defining goals in the area of gender equality accompanied by the Operational Plan. This is an extensive list of goals ranging from European integration to information and communication technologies. Also, an Action Plan

⁷⁵ Answer to the questionnaire by MOLSAEO

⁷⁶ 2012 Progress Report Albania SWD (2012) 334 final

⁷⁷ Round Table on Women's Rights in the Western Balkans, 31 October 2012, Sarajevo

for Implementation of UNSCR 1325 was adopted among the first in the region in 2010. This Plan relates to the role of women in the area of peace, security and freedom. One of the main objectives is to improve the position of women civil victims of war and increase the position of women in decision-making, especially in security, police and peace missions. Then there is the Strategy for Prevention and Combating of Domestic Violence. Its goal is to ensure coordinated and adequate preventive actions on all levels of government and raise awareness among citizens about this issue.

Concerning the implementation of legislation and policies in practice, several harmonisation issues seem to be pending: further harmonisation of the legislation with the Gender Equality Law, harmonisation between the entity legislation and harmonisation with the *acquis*. The last point applies to all the other countries in the region as well. Concerning the situation in practice, the Gender Equality Agency states that “the available statistical data for the situation on the ground show that women and men do not have the same access to rights” (answer to question 11). This is especially the case in the area of decision-making, the security sector and the armed forces. According to the European Commission, legal provisions guaranteeing women’s rights and gender equality are in place. The implementation of the Action Plan on UN Security Council Resolution 1325 regarding Women, Peace and Security continued, but awareness and financial resources for its implementation need to be strengthened.⁷⁸ What the Commission further states is that limited progress was made to harmonise entity and cantonal laws with the state Law on Gender Equality, and in the Federation the Law on Domestic Violence remains to be amended to enhance victim protection. In general, the Commission believes that institutional mechanisms for ensuring gender equality continue to face resource constraints whereas the implementation of the state strategy against domestic violence remains weak. The Agency also thinks that the number of harmonised laws is not at the appropriate level yet. Therefore, the harmonisation with the Gender Equality Law should be continued, especially in relation to Electoral Law. Further to the practice of implementation, Zvizdić claims that implementation of existing legislation is lagging behind as there is no proper monitoring.⁷⁹ Idžaković from *Rights for All* shares this opinion as she believes that “implementation in practice is a problem due to the lack of resources” and that “everything is signed in theory, but it does not function in practice”.⁸⁰ Furthermore, in a report on women’s rights and law implementation, Idžaković and Čatović (2012) state that the implementation of international standards, internal laws and policies is a challenge for BiH (p. 8).

Another piece of expert analysis on the implementation issue comes from the Helsinki Citizens’ Assembly Banja Luka.⁸¹ One of the comments the report makes is that the awareness among the citizens of BiH is low when it comes to gender based discrimination and violence. According to the analysis, research has shown that different layers within the society do not accept gender based violence due to traditional perceptions, which also influence court proceedings in the sense that only the most drastic cases are dealt with (p. 7). Authors also point out that BiH has its legislation in order, but the question of efficacy in implementation remains legitimate. This point of view is supported by a coalition of women’s rights organisations in BiH in an alternative report on the implementation of CEDAW and women’s

⁷⁸ SWD (2012) 335 final

⁷⁹ Interview 30 October 2012, Sarajevo

⁸⁰ Round Table on Women’s Rights in the Western Balkans, 31 October 2012, Sarajevo

⁸¹ Hajrija Hadžiomerović-Muftić, Fedra Idžaković, Natalija Perić, Adisa Zahiragić – Komentar: Zakon o ravnopravnosti (s)polova u BiH, Helsinški parlament građana Banja Luka, maj 2011

human rights.⁸² They call for the governmental institutions to become more responsible in the implementation of their commitments as well as to include clearly stated objectives in their policies, measures and actions with deadlines, including clearly identified accountability of state institutions for their enforcement and precisely allocated budget funds (p. 67).

The Agency further declares that there are certain issues related to maternity leave, due to unsatisfactory regulation in the Federation. Salary compensations during maternity leave are not equally regulated throughout the country, as there is a difference between the entities. It can happen that two women doing the same job, but one living in the Federation and the other in the Republic, do not get the same coverage for maternity leave. That is because in the Republic the funded in ensured from the entity budget and on the Federation level from the cantonal budgets with non-uniform regulation with different levels of remuneration. This issue needs to be tackled in the future.

Additionally, when it comes to the existing methods for gender mainstreaming, the Action Plan defines the main goal in this area which is to cooperate and coordinate with all institutions of authority in the gender integration process (Part II.3). There is a long list of mechanisms responsible for this action: the Agency, the entity centres, the parliamentary committees as well as the cantonal and the municipal commission, in short all government institutions. On the other hand, there is no method defined for these institutions for proceeding with gender mainstreaming. The Agency thinks the institutional partners do not have sufficient capacities in this respect. They still need to continue acquiring knowledge and skills in order to be able to mainstream gender into their regular annual planning processes and legal documents.⁸³ Additionally, it would be valuable if one institution would take the coordination role for gender mainstreaming, equipped with the necessary mandate.

Capacity-building programmes are well present, but they need to be reinforced. In the review of the Gender Action Plan 2006-2011, the Gender Equality Agency states that special attention has been paid to trainings of civil servants, judges and prosecutors (p. 4). At the moment, training courses on international humanitarian law for personnel in the judicial sector are provided by OSCE. The Agency believes that the institutional capacities needed for an efficient implementation of the Law on Gender Equality are not at the appropriate level. That is why one of the actions defined in the Action Plan aims at strengthening human resources through continued advanced training and education. The Agency could use additional support from the side of the government in this respect.

Cooperation with the civil society in BiH seems adequate in quantity, but perhaps less so in quality. The NGOs dealing with women's rights generally say that they are enough opportunities for them to be involved, but the cooperation is neither structured nor officialised. Also the Agency says that there is no formal dialogue, although the dialogue remains open for consultations, partnerships and even cooperation on the drafting of new policies. Collaboration is especially evident in the management of shelters for victims of domestic violence. The Agency believes that the cooperation should be further improved through a more efficient use of each other's resources, knowledge and experiences. From the side of the NGO sector, the opinions are similar. There seems to be an adequate level of approval from the NGO side, but they would like to see a more structured cooperation.

⁸² Rights for All, Budućnost Modriča, Helsinki Citizens' Assembly, Organizacija Žena Sara, CURE, Forum Žena Bratunac, Udružene, Žene Ženama, *Alternative Report on the Implementation of CEDAW and Women's Human Rights in Bosnia and Herzegovina*, October 2010

⁸³ Answer to question 12 of the questionnaire

Idžaković and Čatović (2012) point out that there is a lack of a regular dialogue and partnership between government and non-government organisations working on advancement and protection of women's human rights (p. 8). They also claim that the existing knowledge, experience and analysis of non-government organisations as well as mechanisms influencing decision-making are not being used effectively. They would like to see more opportunities for NGOs to express their opinion. This could be done by organising public debates in case of discussion or adoption of legislation, creating a permanent system of cooperation, organising public hearings when discussing reports on ministerial activities and providing public information on legislative drafts and proposals. Also, Zvizdić would like to see a legally structured form of cooperation in which civil society would be considered as an equal partner, as for the moment "there is a roof, but there is no foundation".⁸⁴

In the case of **Croatia**, according to a report from DG Justice on gender equality law in 33 countries (Update 2011), "it is safe to say that most of the main anti-discrimination instruments prescribed by the EU sex/gender equality *acquis* have been more or less faithfully transposed into Croatian laws" (Goran Selanec, p. 18). The Gender Equality Act and the Suppression of Discrimination Act both date from 2008. The National Policy for Gender Equality covers the period between 2011 and 2015. The adoption of a new national strategy is also a component of the programme for the adoption of the *acquis* in 2011. According to Buzov (2012), the policy includes the European Commission's strategic directions and objectives, as well as the development of policies integrating gender as a horizontal issue. Gender mainstreaming is thus also in place. Buzov further points out that some aspects have been improved in the area of maternity and parental leave; the promotion of women entrepreneurs; women's participation in political life; gender equality in the labour market and the fight against domestic violence. Quotas, on the other hand, are not applied, but there is a call for balanced representation of both sexes in decision-making and special measures if that is not the case (below 40%). Croatia also has a national strategy for the protection against domestic violence 2011-2016 with an accompanying protocol for action.

However, the European Commission points out that there is still some work to be done in completing the aligning of the Occupational Safety and Health Act with Directive 92/85/EEC, on the introduction of measures to improve safety and health of pregnant workers and workers who have recently given birth or are breastfeeding in the workplace.⁸⁵ Also Selanec highlights a gap in the anti-discrimination legislation (Gender Equality Law in 33 European Countries, 2011). According to him, Article 9 of the Suppression of Discrimination Act lays down exceptions to the guarantee of equal treatment between the sexes which are in conflict with the EU gender equality *acquis* as they go too far (p. 24). Likewise, the Commission's Interim Report on Judiciary and Fundamental Rights in Croatia states that the country needs to make further progress in implementing the Anti-Discrimination Law.⁸⁶

The Office for Gender Equality notes that there is still room for improvement on raising awareness on the new anti-discrimination legislation (answer to question 6). An opinion poll conducted in 2009 shows that as many as 63% of Croatians do not know or do not believe that gender discrimination is punishable by law.⁸⁷ Therefore, the Office considers that additional measures need to be taken in the future in order to inform the public about the legislation that

⁸⁴ Interview, 30 October 2012, Sarajevo

⁸⁵ SWD (2012) 338

⁸⁶ COM (2011) 110

⁸⁷ "Perceptions, experiences and opinions about gender discrimination in Croatia"

regulates the issue of gender equality, with the support of the media. What could also be improved according to the Office is “the speedier closing of the gap between *de facto* and *de jure* equality and the elimination of structural reasons for the inequality between men and women in various areas of society” (answer to question 11).

Moreover, the Office believes that legislative and institutional changes, accompanied by numerous campaigns, have brought certain progress. Nevertheless, like all other countries, Croatia “is faced with continuous challenges concerning the speedier closing of the gap between *de facto* and *de jure* equality, and the elimination of structural reasons for the inequality of power between men and women in various areas of society”.⁸⁸ According to Štimac Radin, the Head of the Office, “the most important indicators of the unequal status of women can still be seen in their unfavourable position in the labour market, their under-representation in the process of political and public decision-making, the frequency of various forms of violence against women, including domestic violence, and the persistence of gender stereotypes”. The gap between *de facto* and *de jure* equality is underlined by the Croatian Women’s Network. Mirjana Kučer declares the following on equality: „we have it, but we don't have it“.⁸⁹ She further adds that gender laws are not reflected in real life and that their implementation is inadequate. Furthermore, the Ombudswoman specifies that the National Strategy for Prevention of Domestic Violence 2011-2016 has been mainly carried out at the state level, whereas the implementation at the local level is poorly visible, including the measures from the National Policy on Gender Equality (Summary Annual Report 2011, p. 8).

Gender mainstreaming is an area which could be reinforced. Mirjana Kučer believes that this concept is not sufficiently developed. The National Policy for Gender Equality indicates that measures prescribed for improving the implementation of gender mainstreaming are included in different government programmes and strategies (p 8.). Also, strengthening and coordinating the work of institutional gender mainstreaming mechanisms is identified as one of the key preconditions for the more efficient implementation of policies at national and local levels (p. 66). However, there seem to be no overall methods defined for gender mainstreaming together with clearly outlined procedures and responsibilities.

Capacity-building programmes are well-developed in Croatia, although more attention could be given to judges and professionals offering assistance to victims of violence. The Gender Equality Office mentions that the Training Centre for Civil Servants of the Ministry of Public Administration has introduced, as part of the anti-discrimination and protection of human rights sphere, a training programme for civil servants entitled “Legal provisions on gender equality” (answer to question 14). Likewise, as the Office specifies, state authorities and civil society organisations run various forms of training on combating violence against women, its causes, and on the need to improve direct practical work with the victims. This training is targeted to professionals who work with victims of domestic or other forms of violence against women. Various forms of cooperation between state administration bodies and civil society organisations allow for the printing of educational material about all forms of violence against women, which is then distributed to the general public. Nevertheless, the Office believes that there is a need to improve the system of training professional staff. Additionally, the Ombudswoman considers that, in order to improve legislation implementation, more emphasis should be put on training of employees in the field of judiciary, public administration and prosecution offices on the implementation of anti-discrimination

⁸⁸ Answers to the questionnaire provided by Helena Štimac-Radin, Croatian Office for Gender Equality

⁸⁹ Round Table on Women’s Rights in the Western Balkans, 31 October 2012, Sarajevo

legislation.⁹⁰ According to the Ombudswoman, judges are „hungry for knowledge in this area and willing to learn about international practices“.⁹¹

In the area of cooperation with civil society, the situation is good, but there is room for additional improvement. The Office describes that support is provided to NGO projects at state and local levels. The Agency has the obligation to cooperate with civil society organisations. This is done by calls for cooperation, financial support for projects and other activities, promotion of the Agency in different forums and establishment of partnerships through various common projects. Projects are supported in the area of combatting gender-based discrimination. The Office is on average dedicating 11% of its annual budget to projects run by NGOs. Other institutional mechanisms, including the parliamentary committee for gender equality, also frequently cooperated with NGOs, according to the Office (answer to question 8). Thematic meetings were held related to the implementation of the national policy. What the Office further describes as a good practice is a special report of the Croatian Radio and Television Council on promoting awareness on gender equality. On the other hand, not all NGOs seem to be satisfied with the current form of cooperation. Kučer from the Croatian Women's Network confirms that there is a dialogue, but the civil society sector is not adequately represented.⁹²

In **Kosovo**, a framework Programme for Gender Equality 2008-2013 has been adopted, accompanied by an action plan. Its aim is to stimulate the dialogue on the integration of gender equality in Kosovo, which means equal participation of women and men in social, economic and political life. The Law on Gender Equality was adopted in 2004, prescribing equal participation in institutions and leading bodies with 40% of “the particular gender”. This also goes for central and local government bodies. Additionally, there is a 33% quota for assigned seats in the national and municipal assemblies. There is also a Law on Anti-Discrimination, prohibiting discrimination on the basis of sex and gender.

Gender mainstreaming is taken into account in state policies, but it needs to be improved in practice according to the Gender Equality Agency. The Agency further says that the government cooperates with the civil society in drafting policies and monitoring strategic documents, which should be the case for the Programme for Gender Equality as well. However, the Agency believes that despite the presence of legal mechanisms, plans and strategies in the area of gender equality, improvement of their implementation is improper and slow. The challenge lies in gender mainstreaming as well as coordination between the institutions. Another issue is the lack of resources (financial, material and human) for the implementation of the adopted legislation. That is why “the situation on the terrain is not on the satisfactory level” (answer to question 8).

MP Suzan Novobërdaliu points out that the implementation of the adopted legislation is very slow.⁹³ Overall, the implementation in the area of equal opportunities is lagging behind. What the European Commission reports is that Kosovo's legal framework provides for women's rights and gender equality is well enshrined in the legal system, but just as Novobërdaliu mentioned, implementation is slow. Also, the legislation on antidiscrimination is adequate although its practical enforcement remains a challenge and the implementation of the law on protection against domestic violence needs to be improved. Novobërdaliu believes that the law against discrimination is not implementable as the Centre for Equal Treatment does not

⁹⁰ Interview, 29 November 2012, Brussels

⁹¹ Interview with the Ombudswoman, Brussels, 29 November 2012

⁹² Round table “Women's Rights in the Western Balkans”, 31 October 2012, Sarajevo

⁹³ Visit of MP Novobërdaliu to the European Parliament, 27 November 2012

exist yet. The role of the Ministry of Labour responsible for this issue is taken over by the Ombudsperson who treats complaints of discrimination. Also, Gender Affairs Officers appointed in each Ministry overlap with those for human rights in general as they are member of Human Rights Units. Their tasks are not well defined and “nobody consults them” in the view of MP Novobërdaliu. Rogova, Kosova Women’s Network, is also not optimistic about implementation of legislation.⁹⁴ In her opinion, the mechanisms are in place, but implementation is not. There is a need for the government to be accountable.

Another important piece of expert opinion is a report issued by OSCE in September 2012: *Implementation of Legislation Impacting Human Rights in Kosovo*. OSCE advises the government to take serious steps for overseeing the implementation of laws in a comprehensive and systematic manner. Another key recommendation is for each Ministry to conduct systematic monitoring of implementation of the respective legislation in an independent way (p. 27). In the area of anti-discrimination, OSCE advises the government to approve an Action Plan for the implementation of the Law on Anti-Discrimination 2012–2015 as a priority issue and establish the Centre for Equal Treatment with a clear mandate, as prescribed by the Law on Anti-Discrimination (p. 28). Also, UN Women in Kosovo is not satisfied with implementation of existing legislation. Regarding the implementation of the Law on Gender Equality, the response to the questionnaire by Gojani shows that it has been found that there is a lack of implementation of the Law at the central level and even more so at the local level.⁹⁵ In particular, gender representation is neither satisfactory in quantitative terms nor in decision-making positions. Currently the Commission on Human Rights, Gender Equality, Missing Persons and Petitions is finishing its Monitoring Report of the Law on Gender Equality and Anti-Discrimination Law.

In the area of capacity-building programmes, there are a few initiatives, but they need to be taken further. It needs to be pointed out that the police officers in Kosovo receive training in the area of domestic violence and gender equality. For example, Colonel Elmina Mahmuti from Kosovo Police called attention to the fact that the police officers in Kosovo know well how to deal with cases of domestic violence.⁹⁶ Training of government officials dealing with gender equality, Gender Affairs Officers, judges and prosecutors needs to be provided. Also, cooperation between the public authorities and the civil society organisations needs progress.

In **Macedonia**, the Law on Equal Opportunities between Women and Men was adopted in 2006 and the Law on Anti-Discrimination only in 2010, prohibiting discrimination based on sex and gender. The former is regularly updated in order to be harmonised with EU law, such as alignment with the Directive 2002/73/EC and 2004/113/EC at the beginning of 2012. The Gender Equality Action Plan exists as well, covering the period between 2007 and 2012. Also, a National Strategy for Protection against Domestic Violence 2012-2015 has been adopted. Macedonia even has a programme for equal opportunities between women and men in the Ministry of Defence and the Army (2009). At the moment the Ministry for Employment and Social Policy is preparing a national Strategy for Gender Equality (2013-2020). Thus, legislation and policies on gender equality are plentiful in Macedonia.

In the area of harmonisation, a lot still needs to be done according to a review on the EU law on gender equality carried out by the European Network of Experts on Gender Equality. In the review for 2011, it is stated that overall progress has been marked in transposing EU law

⁹⁴ Visit of Igballe Rogova to the European Parliament, 27 November 2012

⁹⁵ Answers to the questionnaire provided by Nita Gojani, UN Women Albania

⁹⁶ Visit of Col. Mahmuti to the European Parliament on November 27, 2012

in national law. However, there are a few issues which could be improved. Certain EU Directives still need to be transposed. Gender based harassment; sexual harassment and mobbing are not defined as criminal offence. According to Najcevska, there are no provisions on the process of harmonising the Law on Harassment with all other national laws; thus the relationship with the Law on Equal Opportunities is not clear. She also points to the need to further amend this Law and bring other laws concerning gender equality in line with its provisions (p. 115). Similarly, the Law on Labour seems to have a discriminatory provision: “during the conclusion of the contract of employment the applicant is obliged to provide the employer with evidence of all conditions and all known facts which are important for the working relationship, as well as any diseases or other circumstances that could be important for the performance of the working obligations” (Article 26). Furthermore, Najcevska states that in practice a father cannot take parental leave or sick leave for a child (p. 116).

Implementation of gender equality legislation and policies is also lagging behind. The Department for Gender Equality is working on it, according to its capacities. Activities are being undertaken for strengthening the existing mechanisms and prevention of discrimination in order to contribute to an effective implementation. This opinion is shared by the National Civil Society Organisations Network to End Violence against Women and Domestic Violence in Macedonia.⁹⁷ The members who took part in the meeting believe that there is a lack of political will for the implementation of legislation. What the European Commission claims is that there is no strategic approach to implementing national strategies and action plans and the national action plan for gender equality for 2008-2012 is implemented in a piecemeal approach, depending largely on external financing.⁹⁸

In the area of gender mainstreaming, some initiatives have been taken, but these need to be extended further. The Gender Equality Department writes that mainstreaming includes some programmes and line ministries, for example programmes for employment, agriculture and defence.⁹⁹ However, a comprehensive system for mainstreaming containing well-defined responsibilities and methods is lacking. According to the European Commission, the institutions do not appropriately exercise their role in ensuring better integration of the gender perspective into other policy areas.¹⁰⁰ Gender mainstreaming is to be ensured through Gender Equality Coordinators, but their appointment is not carried out adequately. Koteska (2012) points out that the Gender Equality Law is laying a general groundwork for gender equality and in a smaller part for gender mainstreaming (p. 3). In fact, she believes that “awareness for gender mainstreaming, whereas it departs from gender equality, is on a very low level” (p. 5). Efforts to include gender mainstreaming as an important cross-cutting topic should be a priority according to Koteska, to be supported by more political will. She further notes that the Department has a legal obligation to control other institutions, such as ministries, in their implementation of gender mainstreaming, but that their capacities to exercise such control through fieldwork are unrealistic (p. 4).

Regarding capacity-building programmes, there are many good initiatives, but there is a need for further development, especially at the national level. The National Action Plan for Gender Equality 2007-2012 of Macedonia indicates training of lawyers, judges and police officers on domestic violence as a strategic objective. In 2012, based on the information obtained from the Academy for training judges and public prosecutors “there have been a total of four trainings on the topic UN Convention on elimination of all forms of discrimination against

⁹⁷ Meeting in the European Parliament, 5 December 2012

⁹⁸ SWD (2012) 332 final

⁹⁹ Answer to question 12 of the questionnaire

¹⁰⁰ SWD (2012) 332 final

woman and the Facultative protocol, which were attended by total of 115 participants, out of whom 35 were judges, 16 were public prosecutors, 29 were professional associates from the courts, six were advisors from the prosecution offices and 29 were representatives from other institutions. Attorneys did not attend any of the conducted trainings.”¹⁰¹ A good example is also the Gender Sensitive Education Programme for primary school teachers. Training is also provided to Gender Equality Coordinators within Ministries, but Koteska points out that their level of gender expertise is low and continuous training is needed (p. 3). Trainings are furthermore provided on the local level large number of trainings delivered on the local level for representatives from the sector of police, health, judiciary, social work, education and NGOs. Training of the prevention of domestic violence is also provided at the local level.

In relation to cooperation with civil society, the situation seems to be positive. Non-governmental organisations are involved in the preparation of different documents such as strategies and action plans. MP Liljana Popovska commented on the synergy created between the legislative, the strong NGO sector in the area of women’s rights and the media.¹⁰² In a reaction from the Macedonian Women’s Lobby, the cooperation between the government and the civil society organisations seems to be satisfactory. The Lobby mentions the existence of a strategy for mutual cooperation. This strategy was adopted in 2004 with the creation of a Cooperation Unit within the General Secretariat of the government. These strategies also exist at the local level. The Unit prepares the strategy and provides a review of the legislation in relation to the cooperation. It also foresees a budget for financing projects of public interest. Other opinions are less positive. According to Koteska, NGOs are lacking inclusion, depending heavily on foreign funding, and “the government agencies display only the minimum willingness to include them in the developing policies and legislations” (p. 5). Also, the European Commission has pointed out that, in general, an inclusive approach with civil society (including more regular consultation between government and civil society) needs to be taken forward.¹⁰³

Montenegro has enacted the Law on Gender Equality in 2007. This Law specifies the manner of ensuring and exercising rights on the ground of gender equality as well as measures for elimination of discrimination on the grounds of sex and creation of equal opportunities for participation of women and men in all spheres of social life. The country also has an Action Plan for the Achievement of Gender Equality 2008-2012 in place. Development of the new National Action Plan for Accomplishing Gender Equality is under way. It is expected to be adopted mid December 2012 or early 2013. The Plan represents a development document for implementation of the gender equality policy. It is based on international and domestic legal sources that treat the problem of gender equality. The following action areas have been identified: education, healthcare, violence against women, economy and sustainable development, politics and decision-making, media and culture and institutional mechanisms for definition and implementation of gender equality policies.

Regarding the implementation of the existing laws and regulations in practice, it can be said that this process could be reinforced and speeded up, especially with the progress necessary in the EU integration process. For example, the translation of the gender *acquis* has not yet been carried out, contrary to the plans of the National Integration Plan, but its translation and

¹⁰¹ Republic of Macedonia, Shadow Report on the Implementation of CEDAW (2012), Association for Emancipation, Solidarity and Equality of Women of Republic of Macedonia, ESE and Akcija Združenska, p. 9

¹⁰² Round Table on Women’s Rights in the Western Balkans, 31 October 2012, Sarajevo

¹⁰³ MEMO/12/766 Key findings of the 2012 Progress Report on the Former Yugoslav Republic of Macedonia, European Commission, 10 October 2012

publication is expected in 2013. Marinović indicates the non-implementation of legislation as one of the weaknesses of the gender equality system in Montenegro. Irena Bošković, the Head of the Department, comments on the effectiveness of gender equality mechanisms by saying that further efforts are needed for eliminating stereotypes and prejudices concerning the role of women in society in order for laws to truly become alive in practice.¹⁰⁴ Above all the government needs to ensure full implementation of the existing laws as well as improve the position of women in decision-making and do more to empower women economically. In relation to human rights in general, under which women's human rights, the European Commission states that there are concerns related to the effectiveness of anti-discrimination policies and relations with the civil society; the implementation mechanisms for preventing, monitoring, sanctioning and prosecuting discrimination cases need to be strengthened, and the anti-discrimination law needs to be fully implemented.¹⁰⁵ In the Commission's opinion, implementation of the legal and institutional framework for promoting and enforcing gender equality is hindered by the scarcity of human and financial resources. Financial and human resources for efficient functioning of gender equality mechanisms and for implementation of the activities foreseen by the Gender Equality Action Plan remain too limited.¹⁰⁶

Another important input from government and non-government representatives and experts in gender equality in Montenegro is the outcome of the two-day conference "Women to politics, politics to women" held in Miločer on December 15 and 16, 2012 (organised by UNDP Montenegro under the IPA Gender Programme 2010). The conclusions of the conference include, inter alia, the following recommendations: harmonise national legislation with the EU *acquis* and accordingly build the institutional mechanisms and policies that are being created and implemented in the process of European integration; further improve regulatory framework (legislation and by-laws) for increasing the participation of women in public and political life of Montenegro in accordance with standards and conventions ratified by the UN and in accordance with the best EU practices.

The system of gender mainstreaming is not easily to be respected in practice given the lack of the political support for gender equality at the highest level. Gender mainstreaming needs to be strengthened further, according to Bošković. Also, in the evaluation of Marinović, the concept of gender mainstreaming is according to the majority of interviewees unfamiliar to most institutions. The Gender Equality Law prescribes specific goals and measures for achieving gender equality in all areas of society, especially in areas such as employment, education, protection from violence etc. (Article 12). For these specific areas, measures are defined, but further reaching coordinating methods could be envisaged.

Capacity-building programmes are well developed in Montenegro, although increased efforts are necessary in view of the country's negotiating process with the EU. A training program on gender equality for public officials and state employees from government agencies of Montenegro is being carried out. The goal of the programme is to contribute to formation of a critical mass of employees in government agencies who will improve their knowledge about the problem of gender equality and then contribute to introduction of the gender equality trend in all areas of the national policy (National Integration Plan, p. 36). Training in the domain of gender equality also exists for judges. For example, this year in May, the Ministry for Minority Rights organised together with UN Women a two-day workshop for justice officials in the framework of the project "Strengthening Economic and Social Rights of Women in Montenegro" with the aim to improve the efficiency of implementation of national legislation

¹⁰⁴ Answers to the questionnaire provided by Irena Bošković, Head of Department for Gender Equality

¹⁰⁵ COM (2010) 670

¹⁰⁶ SWD (2012) 331

in the area of gender equality. In the evaluation of Marinović, 95% of interviewees believe that national institutional mechanisms for gender equality need to be strengthened through promotion and education at the highest decision-making level.

Relating to grass-roots influence of civil society organisations, the situation is not bad; there are many possibilities for cooperation, but still some NGOs would like to see an improvement in this area. For example, in the National Plan for EU Integration the role of the civil society is emphasised and offers space for actions (p. 36). Also, the new Action Plan is being developed in cooperation with women rights' NGOs. A proposal for the new Plan has been discussed with government and civil society representatives on December 11, 2012. They commented on long court proceedings in divorce cases and subsequent property division.¹⁰⁷ It was therefore suggested to include the speeding up of these in the Plan. Also, the representation of both men and women in EU negotiating teams was mentioned, under the responsibility of the Ministry of Foreign Affairs. Concerning the negotiating teams for EU accession in which civil society representatives are directly included for the first time in this process, no organisations which deal specifically with women's rights or gender equality are included in negotiations on Chapter 23 and 24.¹⁰⁸ However, the procedure for choosing these organisations goes via an open call, so any organisation is free to apply, although some critics believe that this process is not completely impartial. Other organisations partly dealing with gender equality such as *Centar za građansko obrazovanje* are included in the team. It is also noteworthy that the majority of the team for Chapter 23 covering justice and fundamental rights are women. In negotiations on these two chapters, gender equality is also taken into account, especially when it comes to carrying out of measures adopted under the *acquis*. Nevertheless, as regards relations with civil society on human rights in general, the existing dialogue is not fully satisfactory according to the European Commission: in some cases, the most critical NGOs have been exposed to political and administrative pressures.¹⁰⁹ The Commission further points out that the dialogue with NGOs dealing with social reform and gender equality needs to be further strengthened.¹¹⁰

Marinović identifies the cooperation with civil society as an opportunity. She points out that the NGOs are willing to cooperate, that there is a chance to cooperate on the national and the international level, and that there is room for improvement of legislation in this respect. On the other hand, what might threaten the current development is the lack of support from the side of high-ranking officials alongside general public support in the patriarchal society. Marinović further writes that that the coordination and cooperation between the government and the NGO sector is viewed differently by the two sides, with a grade of 3.7 by the latter and 1.6 by the former (on a scale of 5).

In this respect, cooperation with the civil society organisations is going well according to the Department for Gender Equality. There are regular exchanges of information and NGOs are also included in negotiating teams. Three women's rights organisations are following developments within Chapter 23 from a coalition of NGOs. One of these is the Centre for Women's Rights which is requesting adequate implementation on the Law on Domestic Violence and inclusion of access to justice for women in Chapter 23.¹¹¹

¹⁰⁷ http://www.minmanj.gov.me/organizacija/saradnja_nvo/118384/Odrzan-X-sastanak-Foruma-za-dijalog-sa-predstavnicima-civilnog-drustva.html

¹⁰⁸ E-mail exchange with the Mission of Montenegro to the EU.

¹⁰⁹ COM (2010) 670

¹¹⁰ SWD (2012) 331

¹¹¹ Centar za ženska prava: *Vlada da se posveti rješavanju nasilja nad ženama*, Vijesti, 25 november 2012

In the case of **Serbia**, the Law on Gender Equality entered into force in 2009. It provides for the establishment of equal opportunities in the fields of employment, social and health protection, family relations, education, culture and sports and in political and public life. The Law also provides for special measures to eliminate gender-based discrimination and for the legal protection of persons subject to discrimination foreseeing judicial protection in this area as well as special measures and programmes for victims of domestic violence that envisage provision of shelters, social, legal and other assistance and a compensation for victims. Equal pay for equal work is also guaranteed, otherwise penalties can be imposed. Additionally, the Law Prohibiting Discrimination was adopted in 2009, in line with EU Directive 2000/78/EC relating to equal treatment in employment.¹¹² Uvalić (2012) points out that the European Commission finds that the law is broadly based on EU norms, but certain aspects remain to be aligned with the EU *acquis*, notably the scope of exceptions from the principle of equal treatment which are now wider than allowed under EU legislation.

Also, the Strategy for the Advancement of Women and Gender Equality was adopted in 2009 for the period 2010-2015 and the Action Plan was adopted in 2010. According to Uvalić, this document shows a consistent and comprehensive state policy for eliminating discrimination against women. She further lists the strategic priorities: realisation of women's right to take part in decision-making on an equal footing with men; eradication of economic inequalities between women and men; elimination of direct and indirect discrimination and more effective use of women resources in socio-economic development; achieving gender equality in education and mainstreaming gender into education policy; improving women's health and mainstreaming gender into health policy; prevention and elimination of all forms of violence against women and establishing a comprehensive system of protection of women victims of violence (p. 5). A process for the drafting of a national strategy against discrimination has been launched last year by the Ministry of Human and Minority Rights.

The country also has a National Strategy for the prevention and elimination of violence against women 2011-2015. It addresses domestic violence in general and physical, sexual, psychological and economic violence in particular. A General Protocol has also been adopted in 2011 on procedures and cooperation between government bodies in the area domestic violence. There is an obligation of adopting and defining specific procedures for combatting this phenomenon by the responsible ministries (labour, employment and social policies; interior; health and justice). Close cooperation between all service providers is the goal, together with the exchange of information. 28 municipalities also have action plans.

In practice, the amount of these legislations and policies does unfortunately not correspond to their implementation in practice. The European Commission reports that, although Serbia has both legislation and implementation bodies in place as regards both anti-discrimination and gender equality, effective implementation of the existing legislation and further strengthening of the administrative capacity remain major challenges; in particular, the independence of the bodies responsible for the implementation of the main international instruments should be strengthened.¹¹³ Furthermore, the implementation of the national strategies against domestic violence remains slow.¹¹⁴ The action plan for the implementation of the National Strategy for Prevention and Suppression of Violence against Women has yet to be adopted. Ignjatović

¹¹² Statement to the UN General Assembly on advancement of women by Marina Ivanović, Counsellor to the Permanent Representation of Serbia to the UN, 24 October 2010

¹¹³ SEC (2011) 1208

¹¹⁴ SEC (2011) 1208

says that „the legal framework seems to be in the centre of the state gender equality efforts, but insufficient attention is paid to its implementation in practice” (answer to question 1). In her opinion, the speed of the adoption of new laws does not guarantee their implementation or effective application in practice; there is “a hyper-production of such documents and plans” without precise distribution of responsibilities, frameworks for implementation and reporting on the results. Slavica Stojanović from Women’s Network Serbia is also not satisfied with the level of effective implementation of legislation as she explained that the government is not assuming its responsibilities.¹¹⁵ Another NGO, *Alternativni Krug*, emphasises the lack of implementation of gender equality principles in the area of security, at a meeting on the implementation of the UNSCR 1325. According to Srđana Tucaković, the situation is not good.¹¹⁶ Institutional mechanisms exist, including more than 100 local government bodies, but the system is not well coordinated, especially between the state bodies and the local bodies, says Tucaković. Coordinators at the ministerial level are only beginning to be appointed and there is no adequate monitoring on implementation. In general, awareness on gender equality is lacking in practice; as a recent survey shows the citizens recognise the topic of gender equality and have some basic knowledge of it, but stereotypes and prejudice prevail.¹¹⁷ Milica Uvalić from the European Network of Experts on Gender Equality believes that the priorities for the future should be focused on implementation of legislation and awareness raising. Uvalić rightly points out that “given that many legal documents and measures are of relatively recent date, effective implementation has often not taken place” (p. 8).

Gender mainstreaming is not considered as a state-wide policy with a clear method of coordination. The government unit dealing with gender equality, the Directorate, does not have the power, the competence or the possibility to mainstream a gender perspective into other policies. It is therefore necessary to consider implementing this policy in different ways for it to have a government-wide effect. For Serbia Ignjatović writes that „the concept of gender mainstreaming is not well known in the state structure outside the gender equality mechanisms” (answer to question 12).

In the area of capacity-building programmes, there are many initiatives which need continuity in the future. The Directorate for Gender Equality is organising trainings for civil servants with the aim to include the gender equality principle in the functioning of the state institutions. Trainings for media representatives are also organised. The Directorate has furthermore developed specialised curricula in the area of gender equality and gender-based violence for the Judicial Academy, the Police Academy and the state Department for Human Resources Management. They are now part of their educational programmes. Courses on gender equality and anti-discrimination for judges are provided through a partnership between OSCE and Serbia’s Judicial Training Academy, first of which was offered in December 2011. If we look at the cooperation with the civil society organisation as an indicator of effective mechanisms, the situation is again considered positive by the authorities and negative by the NGO sector. The truth must be somewhere in the middle. The Directorate for Gender Equality testifies of an existence of this kind of cooperation (answer to question 4). Several forums were organised in 2008 and 2009 during the drafting process of the National Action Plan. Civil society representatives were also members of a working group drafting different strategies related to the prevention of domestic violence. Every year the Directorate provides grants for implementing projects focusing on the priorities of the national strategy. On the

¹¹⁵ Interview with Slavica Stojanović, Women's Network Serbia, 28 November 2012

¹¹⁶ <http://www.youtube.com/watch?v=VvDXcWmHPno>

¹¹⁷ Survey on *Citizens of Serbia on Gender Equality* implemented by the Institute of Social Sciences for the needs of the Gender Equality Directorate of the Ministry of Labour and Social Policy, 2011

other hand, Ignjatović of the Autonomous Women's Center writes that there is no substantial dialogue. She further notes that „under the pretext of ‘participation’, women CSO are formally invited to participate in working groups for creation of state policies, but without substantial impact” (answer to question 4). In her opinion, the Directorate “tends to marginalise the role of women’s civil society organisations and ignores long year experience and expertise in this field”. Also Stojanović thinks that there is no adequate cooperation between the two sides. The annual forum which is supposed to foster cooperation does not live up to the expectations, as there is no place for real debate, says Stojanović. Comments made by the civil society organisations are not taken into account. That is why 44 women's rights organisations sent an open letter to the Directorate in 2009, requesting the improvement of relations, but the situation has apparently not changed in the meantime.

3.2. Monitoring and evaluation

As the institutional mechanisms for gender equality need to take responsibility and show **accountability** for their policies, as well as for developments in the field, a regular monitoring system evaluating their performance is necessary for their well-functioning. This system should include clearly defined **indicators** for the responsible state authorities on how to carry out the monitoring and according to which criteria, which should ideally correspond to the objectives set out in the existing legislation and policies. The monitoring is preferably also to be carried out in an **independent** manner or at least contain elements of independent evaluation. The legislative power plays an important role in this respect in holding the executive power accountable. The results of the monitoring should then serve the purpose of evaluation and improvement of the existing practices, ideally putting the **recommendations** into practice. In the following paragraphs, these procedures will be examined and the main findings of the current monitoring reports will be given.

In **Albania** the Ministry of Labour, Social Affairs and Equal Opportunities is responsible for monitoring compliance with the relevant laws as well as the principle of non-discrimination and equality between women and men. Over the past two years, the Ministry has taken on new roles, including intra-ministerial coordination, assembling of gender statistics and a permanent monitoring system, which is a good development. Before this change had taken place, the whole system of monitoring was the responsibility of the Department for Equal Opportunities, for which purpose a Technical Secretariat had been set up. The Secretariat drafted an annual report in accordance with the periodical reporting from the ministries and the local authorities. It was then presented to the Gender Equality Council chaired by the Minister of Labour. However, through a recent procedural change, more independent monitoring with clearly defined indicators has been assured through cooperation with UN Women, supported by foreign funding. The National Report on the Status of Women and Gender Equality in Albania 2011, first in its kind, was produced by the Ministry of Labour, with technical support from UN Women. The Report is based on the Set of Harmonised Indicators on Gender Equality and the Status of Women in Albania, endorsed and adopted by the government in 2010, which is a sign of progress relating to accountability. It is the result of two-year efforts of the Inter-Ministerial Working Group on Monitoring Gender Equality in Albania, led by the Ministry of Labour. This is a comprehensive report with proper recommendations, to be published every two years. It was endorsed and adopted by the Gender Equality Council. In this respect, although the content is objective, the top layer of the monitoring system is not independent, as the Ministry responsible for gender equality presents the annual report to its own Minister. Although nine other Ministers and three members of

civil society sit in the Council, impartial control is not adequately guaranteed. Besides, the parliament is not involved in this process as the supervisor of the government. What is more, given the fact that the Council only has an advisory mandate, the results of the monitoring might not be adopted in the policy cycle.

Nine policy areas of key importance to gender equality were covered in the Report: national development indicators, demographics, legal frameworks and institutional mechanisms, health, education, work, entrepreneurship and property rights, social policies and social services, political representation and participation, and domestic violence. For each area the two key questions were: what is the status of women today and how does the status of women compare to that of men? In monitoring progress, a national set of harmonised gender indicators has been used, which served as a co-ordinated system of data collection and monitoring. Overall, progress has been booked, for example in the collection of sex-disaggregated data. Some progress has been made in gender research, but adequate research for supporting data analysis is still lacking. The report states that “the status of women has improved with regard to the legal framework, the new strategy, and the national gender mechanisms” (p. 12). This is also the case in the field of education, health, parliamentary representation and service provision in the area of domestic violence. In contrast, the report also highlights significant gender gaps and inequalities, “evident is the high prevalence of domestic violence, women’s significant underrepresentation in public and political life, and in the labour force” (p. 12).

Following the Gender Equality Law of **Bosnia and Herzegovina**, the body responsible for monitoring the implementation of the law is the Ministry for Human Rights and Refugees, in particular the Gender Equality Agency. For this purpose, the Agency follows implementation and carries out coordination of the Action Plan for Promotion of Gender Equality; assesses the legislation adopted by the Council of Ministers; and prepares yearly reports to the Council of Ministers on the status of gender equality in the country, in cooperation with the two entity gender equality centres (Gender Equality Law, Article 23). The monitoring reports are also discussed by the Parliament, which is a good practice. However, these yearly reports come in the form of reports on action plans and strategies, not on the situation in the country. They also lack clearly defined indicator for monitoring. Besides, neither the state Agency nor the entity centres have the necessary capacities and coordinating mandates in order to carry out full-scale monitoring as prescribed by the Law. They can also not guarantee independence in this respect. This gap is being filled by the non-governmental sector, which actively reports on the status of gender equality in the country in all its aspects and thus takes over the duty of the government. Therefore, cooperation in monitoring, following the example of Albania, is highly advisable. Both sides have indicated that each other’s knowledge and experience is not being used efficiently, so joining forces on monitoring is a perfect opportunity for change.

The Agency has submitted a review of the Action Plan 2006-2011 to the Council of Ministers on March 30, 2012, which the Council has adopted.¹¹⁸ In the review, the Agency indicates that there was an attempt at reaching the indicated deadlines, but certain issues related to financial and human resources arose.¹¹⁹ A more efficient implementation of the Action Plan has been assured by an additional financial mechanism, the Financial Mechanism for the Implementation of the Gender Action Plan 2009-2014. What is further important in the findings of the review is that the progress in EU integration is one of its leading principles.

¹¹⁸ Izvještaj of realizaciji Gender akcionog plana Bosne i Hercegovine (2006-2011), Agencija za ravnopravnost spolova Bosne i Hercegovine (oktobar 2011. godine)

¹¹⁹ <http://www.arsbih.gov.ba/en/home/117-vijee-ministara-bih-usvojilo-izvjetaj-o-realizaciji-gap-bih>

All activities were implemented with the aim to adopt EU standards on gender equality (p. 4). In 2007, a regional conference on gender action plans and gender equality in the context of EU integration was organised and an analysis was carried out on the implementation of the Directive 2006/54/EC on equal opportunities. Also, a gender component was integrated in half of the project proposals for IPA in 2009, in cooperation with the EU Delegation and the Directorate for European Integration. However, the Agency believes that this cooperation needs to be improved, especially concerning the implementation of standards and mechanisms for gender equality in all segments relating to EU integration. What could also be improved is the capacity of institutions responsible for gender equality, especially the Agency, in order to foster efficiency.

For **Croatia**, the gender equality monitoring system is well developed, with clear indicators for surveying, although the monitoring results could be better integrated for the purpose of evidence-based policy. The Gender Equality Act stipulates that determination of grounds for methods for implementation monitoring shall be adopted by all government bodies, legal entities vested with public authority and legal entities whose majority shareholders are the state and units of local and regional self-government (Article 11). On the national level, the Office for Gender Equality is responsible for developing a national policy for the development of gender equality and monitoring its implementation as well as the level of harmonisation and implementation of laws and other regulations relating to gender equality in relation to international documents (Article 18). The monitoring reports are then presented to the government and discussed in the parliament. The report covering the last two years is expected to be presented in February 2013. The latest report covers the years 2009 and 2010. According to the Office, the activities carried out in this period have resulted in further increase in awareness raising on gender based discrimination, adoption of new strategic documents, completion of campaigns in the area of domestic violence and political participation of women as well as women's health, strengthened cooperation with civil society, enforced institutional mechanisms, and development of gender statistics and methodology for gender research (p. 7).¹²⁰

In addition, the Ombudswoman ensures the independent side of monitoring, as she monitors the enforcement of the Gender Equality Law and other regulations on gender equality as an independent body and reports to the Croatian Parliament at least once a year. She also makes an overall evaluation of the situation in the country in relation to gender equality. In May 2012, the Ombudswoman represented a report explaining the activities of the Office of the Ombudswoman for 2011 as well as analysing gender equality in different areas ranging from employment to media. As a first response from the Parliament, MP Branko Lukšić has pointed out that the discussion on gender equality is being led mainly by women and as long men serve only as “decoration” in these discussions, reports by the Ombudswoman will only get a few minutes of attention and business will continue as usual, which in his opinion proves that “there is no gender equality in the Croatian society”.¹²¹

The conclusions of the Ombudswoman further claim that domestic violence persists within the society with the majority of victims being women and recommends continuous training of all officials involved in the protocol for the treatment of victims (police, social services and judicial authorities).¹²² Moreover, women are still under-represented in the political sphere and managerial positions, which for the latter indicates that they are discriminated against in

¹²⁰ http://www.ured-ravnopravnost.hr/site/preuzimanje/dokumenti/nac_strat/izvjestaj-prov-nac-pol-06-10.pdf

¹²¹ Meeting of the Croatian Parliament, 31 May 2012 - <http://itv.sabor.hr/video/default.aspx?VideoID=9852>

¹²² Annual Report 2011, March 2012

their career advancement. Therefore, the Ombudswoman concludes that “not enough efforts have been put into facilitating the harmonisation of family and professional responsibilities of women” (p. 44). The education system is also being mentioned in terms of introducing topics of gender equality and anti-discrimination in the educational curriculum with the aim of eliminating stereotypes. Teachers also need to be educated in this respect. Another comment is on the media which “often abuse their social role and public space for the perpetuation of gender stereotyping, mostly at the expense of women, thereby reinforcing the stereotypes that affect how women and men will be validated in social power” (p. 45).

During the above mentioned parliamentary meeting, in response from the Parliament, a crucial proposal has been made by MP Ruža Tomašić (HSP – Croatian Party of Rights). Instead of listening to the same recommendations made by the Ombudswoman every year, the Parliament should request from the government a report on the implementation of the recommendations made by the Ombudswoman. Otherwise, the mechanism of the Ombudswoman will remain just a “shoulder to cry on”. In her opinion, “if all laws would be implemented, then this country would be wonderful”. She also points out the need for sanctions, for example in ensuring equality in human resources of government bodies. Otherwise, nothing will change without effective enforcement. MP Đurđica Sumrak further supports the proposal of the Ombudswoman for gender-sensitive measures in education as well as awareness raising among judges. Despite good legislation, according to MP Sumrak still 63% of citizens does not know or does not think that gender discrimination is forbidden whereas only 12% know about the existence of law in this area.

When it comes to **Kosovo**, the Parliament plays the key role in monitoring. The government reports to the Parliament on the implementation of the Programme for Gender Equality. Consequently, the legislation provides for the Parliament to review and approve a resolution on the Programme (Gender Equality Law, Article 4.3). In addition, the Parliament takes this task a bit further by also monitoring legislation implementation in the area of gender equality. Currently, the parliamentary Committee for Gender Equality is finishing its latest Monitoring Report of the Law on Gender Equality and Anti-Discrimination Law. Nevertheless, the monitoring of the overall situation in the country concerning gender equality could also be taken into account alongside the definition of indicators for monitoring, which could be carried out in a more coordinated manner involving all the relevant institutions. What could also be improved is the independent side of monitoring, preferably involving independent experts. Also, the results of the monitoring should be followed up and integrated into policy again. Gojani indicates that the government should implement and oversee in a timely and decisive manner recommendations arising from monitoring of laws and policies against discrimination and for protection of gender equality.¹²³

During the latest session of the parliamentary committee responsible for gender equality on November 12, 2012, it has been said that three working groups have been established in order to review three laws (gender equality, anti-discrimination and Ombudsperson).¹²⁴ The monitoring is on-going. Additional questions have been asked concerning the representation of women in decision-making. From the answers which have been received, it can be perceived that the situation is not bad, but this might not be the case for the local level. For the law against discrimination which is being monitored for the first time in 2012, it is difficult to conduct monitoring as it is difficult to identify provisions of this law which are not being respected or in which respect discrimination against certain persons is taking place, thus the

¹²³ Answers to the questionnaire, in coordination with the Kosovo Assembly and the Kosovo Police

¹²⁴ http://www.assembly-kosova.org/common/docs/proc/proc_2012_11_12_10_4587_sr.pdf

need for indicators. Also for the monitoring of the law concerning the Ombudsperson, it has been said during the meeting that is not clearly defined in which cases this law is not being respected as administrative instructions were lacking. Therefore, it would be necessary to define clear indicators for compliance and non-compliance with these laws. Likewise, the Gender Equality Agency believes that indicators for monitoring of policies and programs need to be adopted, with a special focus on gender budgeting.

Monitoring in **Macedonia** is assured in a partly independent way with a defined methodology for evaluation. It is being carried out by the Department for Gender Equality within the Ministry of Labour, more particular the monitoring on women's position in society, promotion of gender equality and implementation of international agreements as well as enforcement of laws. In the 2010 UNECE report, it is stated that for the purpose of "monitoring for evaluation of the progress upon the implementation of the national policies, strategies, action plans, as well as international obligations, the Sector for Equal Opportunities has engaged international and local experts, who submit reports regarding the progress and special measures, on the basis of special methodologies for the evaluation of the progress, which should be undertaken in order to improve the gender equality and equal opportunities in the Republic of Macedonia".¹²⁵ Accordingly, entities responsible for enforcement (political parties, state administration bodies, ministries, Ombudsperson, local authorities) are due to deliver periodic reports on their activities to the Department. On the basis of these reports, the Department then prepares an annual report, which is subsequently submitted to the government. Thus, there is a developed system of monitoring with the required methodologies, but according to the National CSO Network there is still a lack of systematic and well-defined monitoring in the area of gender equality and a complete lack of monitoring in the area of anti-discrimination. What is also remarkable is that the Parliament does not play a role in the monitoring process and a proper follow-up is not taken into account

The latest monitoring report analysing equal opportunities legislation in Macedonia, drafted by the Department for Equal Opportunities, has been published last year.¹²⁶ On June 15, 2011, there has been a public debate on this report bringing together the government, the non-governmental sector and the international organisations. In their comments, they have highlighted the efforts which have been undertaken for the promotion of equal opportunities legislation among citizens, which has been a priority for awareness raising in the last five years. Another priority concerned the development of institutional mechanisms in this field. Cooperation has been established between the Ministry of Labour and the Ministry of Education for establishing or promoting equal opportunities in education, but the necessary legislation is lacking as the law on education is not gender-sensitive. The percentage of women in decision-making is still below the prescribed target of 40%. Gender Equality Coordinators are also mentioned in the monitoring report with the message that not all governmental bodies have such a Coordinator in place and that they do not conduct policy aimed at equal opportunities, although they have a legal obligation to do so, which is also confirmed by the representatives of the CSO Network against Domestic Violence. There are also difficulties in delivering sex-disaggregated data by public authorities to the Statistical Office. Another important piece of information is that the Advisor for legal protection against unequal treatment, two years after being established within the Department, has only received 6 complaints on gender based discrimination, two of which are unfounded and four of which

¹²⁵ Response to a questionnaire on the implementation of the Beijing Declaration and Action Platform (1995) by the Ministry of Labour and Social Policy, Sector for Equal Opportunities, 2010, p. 13

<http://www.unece.org/fileadmin/DAM/Gender/documents/Beijing+15/Macedonia.pdf>

¹²⁶ http://www.mtsp.gov.mk/WBStorage/Files/analiza_zem.pdf

have been forwarded to the Ombudsperson or the Commissioner against Discrimination. Also, no offences have been registered on this ground.

What is further concluded in the report is that despite the existing legislative and institutional framework, the implementation of the equal opportunities law is unsatisfactory. A low number of activities which the existing mechanisms have foreseen are not carried out, which shows that this issue is not taken seriously. In the same line, the interest of the Parliamentary Committee in bringing a gender perspective to proposed legislation is low, which is a missed opportunity for broadly strengthening equal opportunities through law. Also, the existing Law on Equal Opportunities needs to be amended according to the Department: “discrimination based on gender” needs to be added to Article 4.3; “gender character” of mobbing in Article 4.7 needs to be replaced by “sexual nature” and “special measures for equal opportunities” need to be defined. (p. 24-25). A long list of proposed changes is being given, the last of which, but surely not the least, concerns the introduction of adequate enforcement or penalties for those who do not respect this law, in other words the alignment with the penal code.

In **Montenegro**, according to the Law on Gender Equality, the Ministry for Human and Minority Rights is in charge of monitoring the implementation of international documents and conventions and adopted standards in the field of gender equality; undertaking measures for its implementation in the legal system and creating qualitative monitoring of the respect of those documents. The Ministry then presents the monitoring report to the government. For that purpose, in 2010 a special Commission has been formed for following the implementation in the field of gender equality, which is a good development. On the other hand, the Parliament is not taking part in the monitoring procedure, which is a missed opportunity for accountability. Also, the monitoring is not independent enough.

The latest report assessing the implementation of the Action Plan on Gender Equality covering the period between December 2009 and June 2011 has been adopted by the government in November 2011.¹²⁷ One of the conclusions that the Monitoring Commission has reached is that the decisions taken by the government following the monitoring report of 2010 have not been respected. Each Ministry was supposed to design a programme for gender equality. This has only been done by the Ministry of Defence so far, which is by the way led by a female Minister. That is why the Department for Gender Equality has held two seminars and consequently has developed such a plan for the Ministry of Interior, Culture, Youth, and Sport, whereas for the Ministry of European Integration this plan is being drafted. The Commission advises the government to oblige other bodies which have not yet done this to do so before the end of 2012 at the latest. One of the main reasons for incomplete implementation of the Plan is the undefined status of civil servants who deal with these questions (p. 22). There is a need for a continuous and professional dealing with issues concerning gender equality in all responsible bodies. A good example in this respect is the working of local authorities which have systematically introduced posts for this purpose. The concluding verdict is that the Plan has not been carried out fully. Another complaint of the Commission is that its members have been denied compensation for their activities as there is apparently no legal obligation to do so. Therefore, the Commission is demanding to amend the government decision on the formation of this body.

Moreover, the Commission believes that it is “essential to continue with activities on further strengthening and empowering gender equality mechanisms, both at the national and the local

¹²⁷ <http://www.minmanj.gov.me/organizacija/nap/109764/Vlada-Crne-Gore-usvojila-drugi-izvjestaj-osprovođenju-Plana-aktivnosti-za-postizanje-rodne-ravnopravnosti.html>

level” and that “an effective implementation of the Law no longer has an alternative” (p. 23). The responsible Ministry should be obliged to conduct monitoring on implementation and report to the government, which means that this is not the case at the moment. Now only monitoring of the Action Plan exists, but not the legislation in this field as a whole. Also, clear indications are necessary for each particular area on how to carry out monitoring and on which grounds. Moreover, preventive activities need to be undertaken in each area of life; education activities need to be continued and all responsible actors need to be sensitised; public awareness need to be raised; current legal decisions need to be implemented and new ones need to be taken; and gender mainstreaming needs to be sustained (p. 23).

A thorough evaluation of the Gender Equality Action Plan 2008-2012 has also been made by Lovorka Marinović.¹²⁸ This evaluation in the framework of the UNDP Gender Programme, funded by IPA, fills the gap in independent monitoring from the side of the institutions. What needs to be done according to Marinović is the creation of an effective mechanism for an on-going analysis and evaluation together with regular reports from the Commission which would follow the implementation of the gender equality policy in cooperation with independent experts from different sectors (Marinović 2012). From consultations with 33 individuals from state institutions and civil society organisations, Marinović made a useful SWOT analysis. As strengths, she formulates the established organisational structure from the national to the local level, acquired experience and high motivation as well as human resources, credits and trust. The weaknesses are the following: lack of directions and criteria for work; lack of personnel; lack of logistical, technical and human resources; insufficient coordination and cooperation; inadequate education and competencies of a part of personnel; insufficiently developed awareness on the meaning and the importance of gender equality policies; non-preciseness of the Gender Equality Action Plan in terms of responsibility, timing, monitoring indicators and on-going evaluation; and non-implementation of laws.

Article 52 of the Gender Equality Law in **Serbia** designates the Ministry for Labour as the body responsible for surveillance over the application of this Law. At least once a year, the Ministry is obliged to submit to the government and the responsible parliamentary committee a report on the state of affairs in relation to protection and promotion of gender equality. It seems that this report comes in the form of an overview of the activities of the Directorate for Gender Equality. During a meeting in February 2012, the parliamentary committee had adopted the report for the last year. There was no mention of an encompassing report on the general state of affairs. This is confirmed by Ignjatović from the Autonomous Women’s Centre. She thinks that reports of institutional mechanisms “at best enumerate the activities of these bodies, but not the effects of conducted activities and the changes made in this field” (answer to question 11). Also, she mentions that there are neither publicly available reports on the implementation of the Gender Equality Law nor sanctions for non-implementation, which “practically means that the law has the character of recommendations” (answer to question 10). In her opinion, “the EU should monitor law enforcement and support watch-dog activities of the civil sector in this area” (answer to question 18).

The 2010 UNECE report offers a good monitoring overview of developments over the past few years.¹²⁹ Overall, Serbia has made substantial effort, but some severe obstacles remain, especially when it comes to enforcing the existing policy. The position of women in decision-making and their economic status is in general well behind those of men. Competences of institutional mechanisms are not clearly defined and are sometimes overlapping. In addition,

¹²⁸ Plan aktivnosti za postizanje rodne ravnopravnosti u Crnoj Gori 2008-2012: Evaluacija

¹²⁹ <http://www.unece.org/fileadmin/DAM/Gender/documents/Beijing+15/Serbia.pdf>

the officials in those mechanisms do not understand their obligations or the importance of realisation of policy on equal opportunities and gender equality. This principle is not being questioned, but the matter is still not being treated as one of state's priorities. The report also rightly points out that "it is however considerable, that the enforcement of the policy of equal possibilities is inseparable from the process of stabilisation and association to the EU" (p. 6). Finally, the patriarchal mentality needs to be changed, stereotypes need to be suppressed and public awareness needs to be raised. In this respect, "the state administration plays an interactive role with the NGO sector" and that "research and conclusions coming from this sector, which in most cases has more comprehensive data, are often used in the process of strategic document elaboration, reporting upon implementation degree and monitoring" (p. 3). This cooperation partly covers the need for independent monitoring, but it could be more systematic and elaborate. Also, an adequate follow-up of the evaluation is not ensured.

3.3. Gender budgeting

Another indicator of effective institutional mechanisms is a suitable budget to cover the set objectives, both in terms of providing an **adequate budget** to meet the needs and conducting a **gender-responsive budgeting policy**. Proper resource allocation, especially for personnel, is crucial for an efficient gender equality policy. Generally speaking, it can be said that adequate budgetary provisions for the implementation of gender equality regulations in the countries of the Western Balkans are lacking, especially in view of the economic crisis of recent years. National government have fewer resources available while funds from foreign partners, on which gender equality mainly depends, are less frequent or less obtainable. Personnel resources are in particular affected by this development, but they are at the same time indispensable. In general, budgets for human resources for conducting gender equality policies need to be increased. Nevertheless, it is essential to point out that some countries have tried to take the budgetary constraint into account in conducting their policies.

In **Albania**, the National Gender Equality Council plays a role in gender-responsive budgeting. Capacity building towards this end has been indicated in the Ministry of Finance, the Council of Ministers and the Ministry of Labour. This practice already exists at the level of municipalities, with the support of UN Women. National gender equality strategies and action plans are supported partially by the state and partially by ONE UN programme. Gender-responsive budgeting is, however, not taken on board at all levels of government. In general, the level of budgeting is not sufficient, that is why the National Report on the Status of Women (2012) recommends determining a share of the national budget and sector-wide budgets for the implementation of the Gender Equality Law and the Law on Domestic Violence (p. 41). The European Commission reports that in July 2012, a Council of Ministers decision on gender mainstreaming in the medium-term budget programme for all line Ministries was approved, which is a good step in introducing gender budgeting.¹³⁰

A good practice coming from **Bosnia and Herzegovina** is the FIGAP Programme 2009-2014 or the Financial Mechanisms for the Implementation of the Gender Action Plan, which is a partnership between the Council of Ministers and the Embassies of Sweden, Austria and Switzerland. Through this tool, a good system of gender-responsive budgeting is provided, but the actual availability of an adequate budget for meeting strategic objectives is still an issue. The Agency can even offer funding to civil society organisation. One of the goals of

¹³⁰ 2012 Progress Report Albania SWD (2012) 334 final

FIGAP considers European integration, aiming at self-preservation and development. One other goal, which is a good practice, focuses on the role of men for improving gender equality. The Law on Gender Equality also provides for the assurance of a budget for implementation. In its review for 2006-2011, the Agency for Gender Equality states that progress has been marked in instructions for designing frameworks budgets, which require an indication on how policies, strategies and programmes influence the improvement of gender equality. According to the Agency, this practice needs to continue and gender responsive budgeting needs to be speeded up in institutions at all levels, which will contribute to a more efficient planning, implementation, monitoring and evaluation (p. 5).

Gender budgeting has been introduced in **Croatia** in 2006. The National Policy obliges the local governments to provide financial means toward the implementation of the gender equality policy, the state budget to fund gender research and the government to provide support to NGOs in raising awareness on human rights amounting to 4.5%.¹³¹ In general, all public authorities are responsible for ensuring adequate budgets, but in practice the budgets available could be increased. Ivanka Buzov from the European Network of Experts on Gender Equality writes in the 3rd quarterly report on Croatia that the Government Office for Gender Equality has translated, printed and widely disseminated a handbook entitled “Gender Budgeting: Practical Implementation” in 2010 and that it is expected that the gender equality infrastructure and the policy makers will continue developing such tools to assist in the implementation and monitoring of gender budgeting.

For **Kosovo**, the Gender Equality Law requires the Gender Equality Attorney and the Office for Gender Equality to be funded by the consolidated budget. The Gender Equality Agency says that the practice of gender budgeting is quite a new subject which requires concrete support from the EU for adequate planning and implementation (answer to question 15). Gender budgeting clearly needs to be improved in terms of availability and policy.

In **Macedonia**, the Department for Equal Opportunities is funded through the state budget and the funds of foreign donors. The largest percentage of the finances comes from foreign donors within the framework of different projects.¹³² The concept of gender-sensitive budgeting has been developed in 2008 in the framework of the Gender Equality Action Plan. Macedonia is also involved in a pilot project on gender responsive budgeting in the Council of Europe. Also, another strategy has been adopted, a five-year strategy on gender-responsive budgeting, which is currently in the process of being implemented. This is confirmed by Lozanoska (2012), who further states that this strategy “aims at the adjustment of the on-going processes through planning and budgeting of various policies and programs by taking into account the implications these have on men and women” (p. 4). She further notes that gender responsive budgeting, especially in the area of employment and social protection, is making a contribution. UN Women also praises this move as a “vital step towards gender equality”.¹³³ This opinion is being shared by the State Counsellor for Equal Opportunities, Elena Grozdanova, who has pointed out that “the new approach to budgeting will see the government take a new beneficiary-oriented approach, in line with gender equity goals”.¹³⁴ However, available budgets need to be increased in terms of matching the defined objectives.

¹³¹ UNECE 2010 Report, p. 3: <http://www.unece.org/fileadmin/DAM/Gender/documents/Beijing+15/Croatia.pdf>

¹³² <http://www.unece.org/fileadmin/DAM/Gender/documents/Beijing+15/Macedonia.pdf>

¹³³ <http://www.unwomen.org/2012/08/writing-women-into-the-budget-fyr-macedonia-welcomes-its-first-strategy-on-gender-responsive-budgeting/>

¹³⁴ Idem

The National CSO Network states that strategies are generally not linked to budgets. For example, oddly enough there is no budget for actions on “gender-responsive budgeting”.

For **Montenegro**, the yearly budget of the Department for Gender Equality within the Ministry of Human Rights is very limited, but a high number of projects are being carried out in cooperation with international organisations which complements the lack of financial resources.¹³⁵ In the monitoring report for the Gender Action Plan, it is also stated that the government has not fulfilled its commitments in budget allocations reserved for gender equality and that this should still be done. In particular, the Ministry of Finance is advised to ensure the necessary finances for carrying out the Plan. Also, for more qualitative actions in this respect the Department should be strengthened in terms of financial and human resources, and all responsible levels should ensure adequate funding for their activities. In preparations for the new Action Plan 2013-2017, MP Drobnjak stressed the need for institutions to set aside budgetary resources for carrying out gender equality activities. Marinović reports that a ‘financial blockage’ has been detected within the institutions in carrying out the Gender Equality Action Plan, which is considered as a fulfilment of the norm rather than an achievement of actual change. A budget for gender equality activities needs to be sorted out.

The lack of available budgets and coordinated gender-responsive budgeting is also evident in **Serbia**. There are no systematic activities conducted in terms of gender equality regarding budget preparations. They are mainly limited to sporadic attempts related to personal initiatives and projects led by particular expert groups. According to the latest UNECE report, the main obstacles are related to insufficient capacities of gender equality mechanisms, lack of sensibility in public institutions and rather slow reforms of public administration and public finances. Having in mind the economic crisis, any large-scale expenditure shall be postponed. The report goes on to conclude that “material and human resources of institutional mechanisms are insufficient for the competence and range of tasks which they are entrusted with” (p. 8). Public authorities are aware of the fact that more needs to be done. In a meeting of the Committee for Gender Equality in the Serbian Assembly, the Chair Gordana Paunović Milosavljević said that a lot has been done on the normative and institutional level to achieve gender equality, but that it is necessary to raise the awareness of the decision-makers and the public of the importance of this issue as well as allocate the necessary funds.¹³⁶ Also, the OSCE representatives who attended the session said that budget allocation for gender equality needs to comply with the needs.¹³⁷

Between 2006 and 2010, UNIFEM has led a regional project called *Gender Responsive Budgeting in South Eastern Europe: Advancing Gender Equality and Democratic Governance through Increased Transparency and Accountability* involving Albania, Bosnia and Herzegovina, Macedonia and Serbia. Several regional meetings were held in the framework of this project and several pilot projects were initiated. The goal was to support the establishment of corresponding capacities for gender responsive budgeting as well as to provide resources and support for active associations in this area. Gender-responsive budgeting was promoted across different government levels and institutions.¹³⁸ One of the

¹³⁵ Exchange of e-mails with Irena Bošković, 7 December 2012

¹³⁶ Thirty-third sitting of the Gender Equality Committee, attended by the representatives of the OSCE Mission to Serbia, the National Assembly of Serbia, 12 October 2011

¹³⁷ Thirty-sixth sitting of the Gender Equality Committee, attended by the representatives of the OSCE Mission to Serbia, the National Assembly of Serbia, 29 February 2012

¹³⁸ http://www.gender-budgets.org/index.php?option=com_joomdoc&view=documents&path=resources/by-region-country/europe-cee-and-cis-documents/gender-responsive-budgeting-in-south-eastern-europe-unifem-experiences&Itemid=542

lessons learned is that the transparency of public policy and budget data is still not a given, but rather relies on the will of senior officials. This coincides with the need for increased political support for gender equality at the highest level across the Western Balkans.

3.4. Statistics, with a focus on police and judiciary

As all countries in the region have an obligation for collecting gender-specific data, it is useful to take a look at them as indicators of the **implementation of gender equality policies** and to a certain degree the effectiveness of the institutional mechanisms. Especially, given the fact that gender equality is assured by law and discrimination on the basis of gender is prohibited, looking at figures of cases reported to police and treated the judiciary as reflecting actual access to justice can reveal a lot about the actual everyday situation. Moreover, what is important is the existence of the concrete **practice of gathering sex-disaggregated data**, in particular by statistical offices. Also, in this practice there should be a certain kind of wide-ranging **coordination** including all institutions responsible for gender equality with clearly defined corresponding legal obligations and collecting procedures. In turn, it should be supported by **indicators** on what kind of data to collect, ideally in line with the objectives defined in the adopted legislations and policies. These data should then be made accessible to the public, especially the civil society organisations, and consequently used in support of evidence-based policy in the future.

In **Albania**, the Gender Equality Law obliges all state bodies to collect “sex-disaggregated data”. The Minister of Labour is responsible for establishing mechanisms for collecting sex-disaggregated data in cooperation with the Institute of Statistics and other state institutions, which is a good indicator. The latest overview from the Statistical Office dates from 2008: “Women and Men in Albania”. It provides general information on the number of women in the area of education, health, employment and women in decision-making. For example, the employment rate is 63% for men and 45.6% for women (out of a total for men and women separately). These data are quite general; there are no indicators for a more detailed sex-disaggregated picture provided to the state bodies responsible for collecting such data.

The police and the judiciary in Albania focus on domestic violence in particular, as no other systematic statistical information is available when it comes to gender equality and anti-discrimination. This might again be considered as an indication of the priorities and the implementation of policies. This system for collecting data on domestic violence is well developed, all the way from the national to the local level. The National Report on the Status of Women and Gender Equality (2011) gives a good overview of data collected by the police and the judiciary. The General Directory of Police had registered 4037 cases of domestic violence between 2008 and 2010, with 62.1% of victims being wives and 1.5% sisters (p. 106). In the same period, the number of immediate protection orders increased by 70%, from 377 in 2008 to 1234 in 2010, while there was an increase of about 40% in the number of registered cases. This might reflect the raised awareness on this issue by the police, which might be a result of training in recent years. Out of 3215 cases of domestic violence in 2009 and 2010, only 911 were referred to the Prosecutor’s Office, which is not even one third. In other cases, police offered consultation or protection orders to the victims (p. 107). The Report also points out that, although the number of court cases in domestic violence has increased, the number of those experiencing violence, but not filing reports, is expected to be much higher (p. 107). The information provided by the Ministry of Labour of Albania, also mentions judicial decisions in the area of domestic violence. In 2011, there were 1094 rulings

for protection, out of which 412 for immediate protection, while in 2012 those figures were 489 and 139 respectively.¹³⁹ Also, Prroni from the Human Rights in Democracy Centre had direct access to data from the District Court in Tirana. They show that there was only one case of gender discrimination which was on top of that dismissed and now appealed.¹⁴⁰

Relating to **Bosnia and Herzegovina**, the Gender Equality Law obliges all state bodies to collect sex-disaggregated data (Article 22). The State Office of Statistics has compiled sex-disaggregated data, the last of which dates from 2008, “Women and Men in Bosnia and Herzegovina”. As in the case of Albania, these are general data. There are no indicators for more detailed data collection or coordinated procedures of collecting them. It is interesting to note that the publication starts with a number of proverbs or sayings about women, not women-friendly in all cases. For example, late Gadhafi has apparently once profoundly said “Man is Man and woman is woman” (p. 13 – including capitals). The publication shows that between 2003 and 2005, there were 137 criminal offences related to sexual freedom and morality (98% committed by men), 354 related to marriage, family and youth (96% committed by men) and 327 related to freedom, human rights and rights of citizens (out of which 97% by men).¹⁴¹ Also, a survey of the Statistics Office for 2011 reveals that women constituted only 37.1% of the work force.¹⁴² Other data such as complaints at police stations relating to gender equality or domestic violence or such cases handled in courts are not available. The European Commission rightly observes that the availability of statistical data on gender equality remains insufficient (2012 Progress Report).

Female judges in BiH are well represented. For example, in 2007, there were 50% more female than male judges. Prosecutors, on the contrary, are mostly men, with a 20% difference in relation to women in 2007. Surprisingly, more than 60% of lawyers in the country in 2007 were male. The data are slightly different for 2011.¹⁴³ The number of judges has gone down and the number of prosecutors up, approximately 55 and 50% respectively. The numbers for lawyers have stayed about the same, with an average of 26% of female lawyers. Female representation on electoral lists is a bit higher, one third according to the regulations, but the number elected is much lower. For example, the lists presented for the Parliament of the Federation in 2007 amounted to 31.7% while there were only 20.4% actually elected (p. 109). In the 2010 general elections, the number is even lower: 37% candidates versus 17% elected.¹⁴⁴ This downward trend seems to be continuing as from the general elections in 2002 the percentage of women in decision-making positions is decreasing (p. 29).

What the Gender Equality Agency points out in relation to statistics (answer to question 13 and 14) is that data on domestic violence is not yet complete due to the lack of a unified model for collecting data. The available figures show that there are around 600 sentences of cases of domestic violence per year out of which 75% are sanctioned with probation, 15 are sanctioned with financial fines and 10% are sentenced with imprisonment. The Agency also notes that there are no data on gender equality cases, because these are not collected or published. Data are collected in criminal courts, but still not in civil courts. There are only a limited number of cases of discrimination in general according to the Agency.

¹³⁹ Answers to the questionnaire provided by the Albanian Ministry of Labour

¹⁴⁰ Answers to the questionnaire provided by Aferdita Prroni, Executive Director of the Human Rights in Democracy Center

¹⁴¹ Women and Men in Bosnia and Herzegovina 2008, State Office for Statistics, p. 102

¹⁴² Labour Force Survey 2011, Agency of Statistics of Bosnia and Herzegovina, November 2011, p. 20

¹⁴³ Round Table on Women’s Rights in the Western Balkans, 31 October 2012, Sarajevo

¹⁴⁴ Opći izbori u BiH: Naučene lekcije, p. 25

Legislation in the area of gender equality in **Croatia** shows that the obligation for the collection of sex-disaggregated data does not apply to all state bodies (on the national, regional and local level), but that the judicial bodies are also obliged to collect data on cases of sex discrimination and submit them to the Ministry of Justice.¹⁴⁵ There is a well-developed practice in collecting data, but they could be more detailed. What is more, the Ministry of Justice does not seem to make the information on cases of sex discrimination publicly available. The 2012 report “Women and Men in Croatia” published by the Statistical Office gives important data. Convicted adult perpetrators of offences against freedom and rights of man and citizens amounted to 1633, 91.9% being male, and against marriage, family and youth 1921, 85.2% of which were male (p. 49). The large majority of victims of such offences were and still are women. It is also important to note that the representation of women in decision-making bodies in Croatia revolves around 20% on average. For example, there were only 19.9% female MPs in December 2011 (p. 55). The average of 20% also applies for posts for Ministers and Ambassadors as well as local assembly representatives. Only in the case of functionaries and public officers does this amount to 30%. President Josipović believes that the percentage of women in politics, the economy, labour market and army are still unsatisfactory and that figures of 60% of unemployed being women are alarming.¹⁴⁶ The last point was also raised by Commissioner Andor responsible for employment, social affairs and inclusion. In September 2012 he called on Croatia to address the remaining structural weakness in the labour market, particularly with regard to employment of women.¹⁴⁷

Additionally, the report of the Office of the Croatian Ombudswoman for 2011, gives a good impression of the state of play in everyday life. There has been an increase of 87.5% in the number of gender equality cases compared to the previous year: 1391 and 742 respectively. Only 315 cases opened upon complaints of citizens and 1051 upon the Ombudswoman’s initiative from monitoring the implementation of the Gender Equality Act or on the basis of statements received from other institutions, organisations or legal entities.¹⁴⁸ The number of women discriminated against was 63.9% and the number of men 23.1%. The most part of complaints concerned gender discrimination (76.6%), with the majority related to employment and social rights. In relation to a relatively small number of cases of indirect discrimination, the Ombudswoman suggests that “this legal guarantee has not yet taken hold in practice, and that citizens have a problem with understanding it” (p. 9). What is further important to mention is that the Ombudswoman has the right to intervene in court trials, including cases in which there is a suspected bias from the side of the judge. In 2011 the Ombudswoman intervened in six trials (p. 10).

A UNICEF analysis of gender issues (2011) further shows that there were 67441 adults accused for domestic violence petty offence in the period between 2000 and 2008, with a considerable increase every year ranging from 773 in 2000 to 14069 in 2008.¹⁴⁹ In the same period the number of men accused dropped from 94.3% to 82.6%. 6255 adults were reported for domestic violence criminal offence, out of which on average a constant of 94% men. Women constitute around 75 to 80% of victims in that case (p. 32). Still, the non-reporting of violence appears to be one of the key problems, according to the Gender Equality Office,

¹⁴⁵ Gender Equality Act, Article 17

¹⁴⁶ *Idem*

¹⁴⁷ http://ec.europa.eu/commission_2010-2014/andor/headlines/news/2012/09/20120919_en.htm

¹⁴⁸ Annual Report 2011, Ombudsperson for Gender Equality, Republic of Croatia, March 2012, p. 8-9

¹⁴⁹ Women – Analysis on Gender Issues, Women in Transition over the last 10 years 1999-2009, UNICEF Office Croatia, 2011, p. 31

affecting not only the social perception but also the work of the institutions (answer to question 14). President Josipović has underlined the seriousness of this issue as well. At a conference of the Regional Women's Lobby, the President said that over the past decade 300 women had been killed as a result of family violence.¹⁵⁰ In his opinion, despite improved legislation, the law still too often treats the victims more harshly than the perpetrator.

In relation to court cases of sex discrimination, the Ombudswoman carried out a research on the judiciary practice in the area of anti-discrimination covering the period between October and December 2010 in order to see how courts interpret legislation in this domain. The need for such a research shows that the data provided by the Ministry of Justice are not adequate. Due to limited financial resources, the research only focused on the Municipal Civil Court in Zagreb, partly the County Court in Zagreb and the electronic database of the Supreme Court. From 2005 till 2010, the Municipal Civil Court, which is the biggest court in the country, has only registered one single case involving discrimination based on sex.¹⁵¹ However, there were 89 cases of discrimination in general, out of which 52 were classified as "mobbing" at workplace or "violation of dignity" of employees. The Ministry of Justice provided information on 33 cases of discrimination related to employment in 2010, whereas in 2009 there have been only 15. In comparison, the Office of the Ombudswoman has received 176 complaints related to gender discrimination in 2010. Therefore, the Ombudswoman rightly concludes that the judicial practice in the area of anti-discrimination develops at a slow pace (p. 4). In conclusion, the Ombudswoman states that there is certain insecurity in judiciary practice when it comes to interpreting and implementing anti-discrimination legislation as well as a weak reliance on the practice of the European Court of Justice. Croatian judges need professional training in this area; otherwise Croatia will not be able to offer its citizens effective legal protection resulting from the *acquis* (p. 10).

In **Kosovo**, according to the Gender Equality Law, all data and statistical information collected by the central and local bodies, public services and institutions, public and private undertakings and other entities shall be presented according to the "gender structure" (Article 9.1). The latest publication from the Statistical Office, "Women and Men in Kosovo", dates from 2010. General information is provided on the following areas: population, education, labour market, employment, decision-making, family violence and living conditions. More detailed information is needed for assessing the implementation of gender equality policies. On the whole, the Gender Equality Agency reports that sex-disaggregated data is collected, but many fields still remain uninvestigated (answer to question 13). This makes it difficult to create a clear picture of the situation of the fields such as economy, access in justice, ownership of property etc. Therefore, the Agency recommends an increase in capacities to analyse statistical data in the socio-economic field.

Statistical data from the Kosovo Police show that women represent 13.95% of police employees in general, whereas 8.8% represent leading positions.¹⁵² There is also information on domestic violence: there were 944 registered cases in 2010 and 1042 in 2011. For 2011, further differentiation is as follows: 108 sheltered victims, 824 criminal charges, 228 arrests, 80 protection orders, and 813 female and 239 male victims (78% and 22% respectively). Further case division is made according to the type of criminal offence. In regional police stations in 2011, there were 2286 criminal offences against human rights and freedom, 7

¹⁵⁰ <http://daily.tportal.hr/221017/More-than-300-women-dead-due-to-family-violence-in-last-10-years.html>

¹⁵¹ Istraživanje sudske prakse u području antidiskriminacijske zaštite, Pravobraniteljica za ravnopravnost spolova, 2010, p.4

¹⁵² Kosovo Police Annual Report 2011, p. 77

against working rights and relations, 159 against sexual integrity and 250 against marriage and family (p. 8). Trafficking in human beings is also reported: there were 3 cases reported in 2011, but their sex is not indicated. Furthermore, as stated by Colonel Mahmuti, police officers receive training related to domestic violence and they are aware of this issue.¹⁵³ However, Kosovo still lacks an SOS number for victims of domestic violence as the only country in the region.

In relation to the above mentioned topic, in a report by the Kosova Women's Network on justice providers to domestic violence, it is stated that "further training is needed for police in order to apprehend correctly the provisions of the DV Regulation and to ensure correct application of its procedures".¹⁵⁴ Conclusions of this report reveal that in general citizens seem willing to make use of law to get justice in cases of domestic violence, but in practice they are less likely to report it because of social condemnation, economic dependence or fear of repercussion. Also, citizens seem not to trust the justice system. After a first attempt to report domestic violence, almost a third would not do it again and 21% were not sure, as they were disappointed (p. 72). Other complaints are non-confidential treatment of information by the institutions as well as nepotism, bribery, high fees and backlog in courts. The Network further draws attention to the fact that nearly half of the respondents to the 2008 survey was not aware of the existence of domestic violence regulations, which of course calls for awareness raising among citizens. Only one third of victims turn to the police while another third talks to the civil society organisations, shelters or activists, and one fifth to centres for social work. In terms of performance with various institutions, only 66% were happy with judges and a mere 55% with the police (p. 74). The Kosovo Judicial Institute offers training on domestic violence to judges and prosecutors, but further continuation is necessary as the Network believes that some of them seem reluctant to prosecute or rule judgments and some prosecutors seem to be withdrawing quickly from further investigation or prosecution (p. 77).

In a report on the implementation of the UNSCR 1325, the Kosova Women's Network claims that "assessing quantitatively women's overall access to justice in challenging, considering the insufficient data collection systems".¹⁵⁵ No national registry of cases exists and EULEX's record-keeping system is not much better. Only three cases of domestic violence were reported by EULEX, cases in which husbands murdered their wife. Moreover, the Network states that progress has been made in establishing institutional mechanisms, but "institutions must now enforce it" (p. 128). Women do not have sufficient access to justice due to "dysfunctional courts, customary law, the backlog of cases, prejudicial judges, nepotism, corruption, and (the fact) that cases affecting women were not considered a priority" (p. 129).

Publicly available data provided by the courts in Kosovo does not seem to include any reference to sex, discrimination based on sex or gender and domestic violence. There exists a Data Management Information System, an online tool introduced in 2009 for tracking cases in courts and prosecutors' offices (funded by the European Commission). The Kosova Women's Network recommends the registration of cases of domestic violence through this system. However, EULEX reports that this system has not been fully implemented due to lack of training and incompatibility of the software.¹⁵⁶ Overall, the European Commission states that in Kosovo "enforcement of judgments, both civil and criminal cases, is weak" and that

¹⁵³ Visit of Colonel Mahmuti to the European Parliament, 27 November 2012

¹⁵⁴ More than words on paper? The Response of Justice Providers to Domestic Violence in Kosovo, Kosova Women's Network with support of UNDP, 2009, p. 48

¹⁵⁵ 1325 Facts & Fables, The Kosova Women's Network, 2011, p. 128

¹⁵⁶ EULEX 2011 Programme Report, p. 38

“Kosovo needs to focus more on creating the means to implement and enforce legislation and judicial decisions”.¹⁵⁷

For **Macedonia**, the collection of gender statistics is in an early stage, without clear indicators and detailed information. No census has been carried out since 2002, so the basic statistic information on the number of women in society is lacking. In the publication “Women and Men in Macedonia” for 2012, information is provided on education, communication, labour market, social welfare and justice. In the area of justice, the publication mentions crimes against freedoms and human and citizens’ rights (217 – 93% by men), against sexual freedom and sexual morality (54 – 96% by men), and against marriage, family and youth (279 – 79% by men).¹⁵⁸ An example of good practice is that Macedonia has a special unit responsible for gender statistics in the Statistical Office, as Tavares da Silva reports (2010, p. 73). On the other hand, the police under the Ministry of Internal Affairs does not offer any statistical data related to sex or gender. Furthermore, the Department for Gender Equality indicates that till now there have been no judicial cases on the basis of gender equality or equal treatment.¹⁵⁹ Data from the Office of the Ombudsperson for 2010 show that there were 20 complaints against discrimination in general, which is a low number according to the Ombudsperson, “not because there is no discrimination, but because citizens probably do not recognise it in most cases”.¹⁶⁰ There is no information on discrimination based on sex or gender.

For **Montenegro**, the Law on Gender Equality prescribes the collection of gender statistics and their public availability. The main findings are collected in “Women and Men in Montenegro” with data given in the area of education, health, social welfare, justice, employment and wages, politics and decision-making, and domestic violence.¹⁶¹ Again, like in other countries of the region, more detailed indicators and consequent coordinated collection of statistics is necessary. When it comes to sex or gender related crimes, statistical data show that in 2010 there were 17 cases involving offences on sexual integrity, all committed by men. There were further 199 offences in the area of marriage and family, 17 of which committed by women. Information in the area of justice administration only differentiates between male and female offenders. The Court Council of Montenegro gives more detailed information. It needs to be pointed out that cases with potential sex or gender character are quite low in number, but around 70% are resolved over the whole. The report on the activities of the courts in Montenegro gives an overview of offences against sexual integrity, namely 87 in 2010 and 31 in 2011.¹⁶² These are not divided according to sex. Out of the 31 cases in 2011, 67.74% were resolved. In cases concerning marriage and family, there were 535 cases in 2010 and 413 in 2011, out of which 76.27% were resolved in 2011. It is remarkable that in the area of labour rights, there were only 7 cases in 2010 and 14 in 2011, with a 71.43% rate of resolve.

The Montenegrin police also reports on the number of registered criminal offences in the area of sexual integrity.¹⁶³ Out of 36 registrations in 2010, 24 actual charges were pressed, among which 5 against rape, 1 against an attempt to rape and 13 against forbidden sexual acts. There were 26 registered victims of these offences, 22 of them were women (p. 17). Further, the police report informs on a downturn in the number of registered offences of domestic and

¹⁵⁷ Analytical Report SWD (2012) 339 final/2, p. 10

¹⁵⁸ Women and Men in Macedonia 2012, State Statistical Office, p 129

¹⁵⁹ Answers to the questionnaire provided by Merdita Saliu, Ministry of Labour, Department for Gender Equality

¹⁶⁰ Marina Stojanovska, “Macedonians get new recourse against discrimination”, SETimes, 19 January 2011

¹⁶¹ Women and Men in Montenegro, Statistical Office of Montenegro, Podgorica, 2012

¹⁶² Annual Report 2011, Court Council of Montenegro

¹⁶³ Report on Police Activities and Safety in 2010 - www.upravapolicije.com/index.php?IDSP=440&jezik=lat

family violence, 21% less in 2010 than in 2009 (p. 21). In 2010, there were 385 cases registered, with 366 charges against men (94%). The majority of victims were women.

Serbia has good practices in place in the area of gender statistics. The Statistical Office differentiates on sex in yearly reports in different areas. The Law on Gender Equality prescribes broad regulations for collecting sex or gender-sensitive data. Next to the general obligation for state authorities, the collection of gender specific data is further obligatory for employers and courts (Article 12 and 51 respectively). Courts are obliged to hand all final decisions awarded as the result of civil cases instituted for protection from gender-based discrimination this over to the Ministry of Labour. The Ministry is obliged to keep a record of cases of discrimination based on gender. What is more, the Ministry is legally obliged to proscribe a method and manner in which records are to be maintained and documents kept (Article 51). This is a very good development in defining detailed indicators. Also, in the area of domestic violence, the Law stipulates that responsible authorities and institutions shall communicate statistical reports on domestic violence to responsible ministries, statistical services and general public (Article 29). Overall, statistical information provided is starting to get a more detailed character. The Directorate for Gender Equality has reported that a new tool has been developed with specific indicators for future collection of gender specific data in the area of employment, education, decision-making and domestic violence. Ignjatović also indicates that the Statistical Office improved the availability of data, but gender sensitivity of some surveys is still deficient (answer to question 16). Gender is only mentioned in the 2011 report on judiciary, in which there were 33 convictions related to gender freedom.¹⁶⁴ Marija Anđelković (Astra) points out that gender statistics are not standardised nor compared, which prevents effective analysis.¹⁶⁵

The publication “Women and Men in Serbia” for 2011, offers more information. Concerning decision-making, there are around 20% of women in the National Assembly and Government (p. 157). Data for convicted adult perpetrators by criminal offence in 2010 are the following: against civil freedoms and rights 258 with 91% male, against sexual freedom 164 with 95% male and against marriage and family 1836 with 90% male (p. 129). Within the last group, there were 1059 cases of domestic violence, 95% of which was committed by men. Unexpectedly, the report also pictures a graphic with results of a 2010 survey among 15-29-years-old who believe a husband is justified in hitting or beating his wife.¹⁶⁶ According to the survey, around 4% of male think that this is justified if the wife neglects the children, around 3% if she argues with him, 2% if she goes out without telling him and 1% each for refusing to have sex or for burning food (total population 7.24 million; 15-29 age group around 35%).

Ignjatović reports that in Serbia there are no precise data on the number of reported domestic violence cases and other forms of gender-based violence. The police can, however, disclose the number of reported cases of domestic violence on request, but this data is not publicly available. She also notes that there is no adequate exchange of information between the different services offering assistance to victims of domestic violence. What she further writes is that “in one third of procedures for the crime of domestic violence, public prosecutors dismiss charges; from the moment of filing criminal charges to the first instance decision, intolerable long period of time passes” (answer to question 13). These can last up to a year, although these cases should be considered as urgent according to Family Law. Also, the relevant institutions do not fully use their legal authorisation in these cases. Ignjatović indicates that only 6 Public Prosecutor’s Offices (out of 58) filed civil suits in 2011 and that

¹⁶⁴ Statistical Yearbook of the Republic of Serbia, Judiciary, 2012, p. 380

¹⁶⁵ <http://www.youtube.com/watch?v=H5u2NNeFBaI>

¹⁶⁶ Carried out by Multiple Indicator Cluster Surveys, SORS and UNICEF, p. 132

the social welfare centers in Serbia identified 8481 cases of violence in 2011, but only filed 294 suits for the issuance of protection measures.

What is also worth mentioning is that the number of complaints received by the Commissioner for Protection of Equality has increased, as writes Ignjatović. In 2011, 36 complaints for discrimination based on sex were received: 18 in the field of labour and employment and 2 in the field of sports. For seven of these the Commissioner found that there was no discrimination, whereas in six cases discrimination was detected and opinions with appropriate recommendations were issued. In total, three lawsuits were filed in 2011: one related to Roma discrimination, the second against the Football Association of Serbia for discriminating women's female clubs and the third on financial assistance to married couples. In none of these cases a judgment has been reached yet.

Chapter 4: Main thematic challenges and opportunities

Although thematic challenges in the area of gender equality in the countries of the Western Balkans do not answer the key question on the effectiveness of institutional mechanisms, it would be a missed opportunity not to mention them as they offer additional insight into the core issues the mechanisms have to deal with. What is more, they paint a picture of everyday concerns and difficulties women across the region are faced with. Throughout the research process, a few topics kept coming back both in publications and in interviews, indicating the main challenges in society as well as perhaps the main opportunities. Not all the countries were discussed for each topic, depending on the availability of information.

4.1. Mentality and education

One of these challenges is the need to raise awareness and change **mentality** on gender equality. The question of mentality, or better to say the need for change of mentality, is possibly the biggest challenge when it comes to gender equality, both among men and women. The Western Balkans is a region still largely dominated by a patriarchal system of values full of stereotypes and prejudices. For example in Croatia, MP Tomašić refers to a female judge saying to her daughter to clean up after her brother, “because she is a girl and girls should do that”.¹⁶⁷ Public authorities recognise this challenge, but sometimes they use it as an excuse for non-implementation of laws. It is true that many women are unaware of their rights. For example, as a research by Kosova Women’s Network has shown, half of women do not know about their rights when it comes to domestic violence and in Croatia only 63%, both women and men, do not know or do not believe that gender discrimination is punishable by law.¹⁶⁸ Yet, it is also the responsibility of the government to make them understand their rights. Civil society organisations are filling a gap in this respect. Change has to come from both sides, women need to be empowered and become more active in claiming their rights, assisted by women’s rights organisations, but at the same time governments need to assume responsibility and take on accountability in ensuring proper implementation of their policies, also by contributing to awareness raising.

For this purpose, men need to be more involved in contributing towards gender equality. This goes both for men in decision-making positions and men in private life. Men need to pay more attention to this issue and a better understanding between men and women needs to be created when it comes to the right to equality. As Croatian MP Lukšić has said, as long as men serve as „decoration“ in this process, not much will change.¹⁶⁹ Governments need to pay more attention to men and include this aspect of awareness raising in their strategies and activities. A good example comes from Montenegro where a campaign „find time to be daddy“ is taking place. A research in 2009 showed that only 9% of fathers attend their child's birthday.¹⁷⁰ On the other hand, there is also the question of awareness among women. In many cases, it seems that women are not aware of their rights, given the fact that gender equality laws are in many countries relatively recent. However, even when they are aware of their rights, they often do not dare to or simply do not want to exercise them because of fear of consequences or loyalty to traditional female roles.

The way to influence a change in mentality and raise awareness on gender equality is through **education**. What is important in this respect is the continuation of reform in the education system, especially concerning books used in primary and secondary schools.¹⁷¹ This is a process that can considerably contribute to fighting stereotypes in society. Some good initiatives are already taking place, but these need to be reinforced. The Croatian Gender Equality Office for example reports that gender sensitive language and content in school textbooks was prescribed in 2007, but the Ombudswoman believes that there is still room for improvement. Also, the Serbian Department for Gender Equality initiated research on the gender dimension in textbooks ranging from primary school to university.

4.2. Labour market

¹⁶⁷ Meeting of the Croatian Parliament, 31 May 2012 - <http://itv.sabor.hr/video/default.aspx?VideoID=9852>

¹⁶⁸ “Perceptions, experiences and opinions about gender discrimination in Croatia”, Ombudswoman Office, 2009

¹⁶⁹ Meeting of the Croatian Parliament, 31 May 2012 - <http://itv.sabor.hr/video/default.aspx?VideoID=9852>

¹⁷⁰ <http://www.pobjeda.me/2012/11/09/pocela-kampanja-nadi-vremena-da-budes-tata/>

¹⁷¹ Interview with the Ombudswoman, 29 November 2012

One of the crucial issues that are frequently raised in government and civil society reports is the need to improve the position of women on the **labour market**, both in fighting discrimination of female employees and exclusion of integration in the labour market. Fighting inequalities on the labour market is considered as a significant component in contributing to a more advantaged position of women in other aspects of society. As the Deputy Secretary General of the Regional Cooperation Council (RCC), Jelica Minić, rightly pointed out, “everything depends on employment” in the area of gender equality.¹⁷² Increasing economic empowerment and raising the number of employed women is crucial in current times of economic downturn. Fighting discrimination on the labour market is also important together with further efforts for a better balance of private and professional life. In Bosnia and Herzegovina women constitute 51.7% of population of working age, while only 35.6% are employed, which is according to the Gender Equality Agency the lowest percentage in South East Europe.¹⁷³ The employment policy should therefore pay attention to increasing the number of employed women. Also in **Croatia**, the Gender Equality Office writes that one of the most important goals in achieving full equality is to improve the status of women in the labour market regarding employment and equal pay. A good example is the project “Women in the Labour Market” of the Croatian Employment Service aiming at including women who are faced with specific difficulties in employment in the labour market (funded through IPA). However, the Croatian Ombudswoman notes that “the activities related to the decrease of female unemployment in the labour market were insufficiently implemented”.¹⁷⁴

Also in **Macedonia**, according to MP Popovska, women are running behind on the labour market as only 35.3% of employees are women, which at the same time contribute to high unemployment among them.¹⁷⁵ MP Popovska points out that this issue is a priority of the government for the moment and that economic empowerment of women comes first in the country’s equal opportunities policy. Then for example in the case of Montenegro, women are discriminated against on the labour market, as a study by the European Movement Montenegro shows.¹⁷⁶ Although women in Montenegro are legally speaking equal to men, the study points out that exercising their rights is made more difficult in practice and that the overall social status of women is less favourable than that of men: “there is a huge gap between proclaimed principles and concrete practice” (p. 4). The study shows that women in general earn 14% less than men. Sexual harassment at work or “mobbing” is also an issue, not only in Montenegro but throughout the region. The outcomes of the UNDP conference “Women to Politics, Politics to Women” concerning employment of women in Montenegro recommend the following: “consider the overall position of employed women, improve the normative solutions, policy and practical measures that can help to create conditions for economic empowerment of women and to involve women in the economy at the local and at the national level”.¹⁷⁷

Economic empowerment is also necessary in **Serbia**. On average women are still paid lower salaries than men, including for the same job, and their unemployment rate is higher (20.1% in April 2010, against 18.6% for men), according to the European Commission.¹⁷⁸ Furthermore, a research by *Viktimološko društvo* from September 2012 (2007-2012) shows that 61% women on the labour market are discriminated against and that only one in ten

¹⁷² Round Table „Women's Rights in the Western Balkans“, 31 October 2012, Sarajevo

¹⁷³ Answers to the questionnaire provided by the BiH Gender Equality Agency

¹⁷⁴ Summary of the Annual Report 2011, p. 5

¹⁷⁵ Round Table „Women's Rights in the Western Balkans“, 31 October 2012, Sarajevo

¹⁷⁶ “Gender Pay and Income Gap: Position of Women in on the Labour Market”, 2010

¹⁷⁷ <http://www.gendermontenegro.me/montenegrin-zakljucci-i-preporuke-sa-konferencije-zene-politici-politika-zenama/>

¹⁷⁸ SEC (2011) 1208

actually asks for help.¹⁷⁹ The most common forms of discrimination include questions on marital status and family planning during employment interviews as well as imposition of so-called “female” tasks not mentioned in the job description, such as making coffee, and comments on physical appearance. Over the last five years, 22.1% of women were victims of sexual harassment, 79.5% of which through verbal comments and 15.2% through physical contact. Other forms of discrimination included unequal pay for equal work (8.2%) and impossibility of promotion (8.1%). When it comes to reporting discrimination, one in ten women turned for help, but not to independent government bodies or non-governmental organisations. That is because women believe that they can solve the problem alone or that nobody can help them (70%). Most women who asked for help complained to their superior, whereas 17.5% went to another individual and 15% to employment inspection. Only 5% went to court. Recommendations were made on the need to improve the legal framework and institutional practices as well as to advance in the collection of statistical data on this issue.

The position of women on the labour market in **Bosnia and Herzegovina** is similar. The European Commission reports that “women continue to face unequal access to the labour market and the level of female participation in the workforce remains low” and that “discrimination in employment with regard to maternity rights remains widespread”.¹⁸⁰ Also, an analysis by Women to Women BiH on inequalities on the labour market shows that the reality women have to deal with is largely in contrast with legally established rights. Equal employment opportunities are guaranteed by law, including prohibition of discrimination based on gender both before and during employment.¹⁸¹ However, more than half of women interviewed (55.8%) claims that they have experience with vacancies in which gender had been mentioned as a precondition for employment, which violates the Law on Employment and the Gender Equality Law. The former also guarantees the right to privacy and confidentiality of individual data, but 67.4% of women claim that during interviews questions were being asked about their marital status and the number of children whereas 51.2% received questions on family planning. The analysis further emphasises that for the situation to change, mechanisms for gender equality besides gender mainstreaming or the adoption of gender equality in all sphere of social life, also have to create conditions for that equality to become alive as it were. Otherwise, the economic stagnation leading to further rise in poverty levels, especially among women, could lead to even more traditional gender roles.

What is also important in terms of economic empowerment is that the **number of women who own land or property is quite low**. If a woman owns no property, then that makes it more difficult to for example take a loan and start a business. Despite formal equality before the law, women still face difficulties to access land and property ownership. For instance, only 6 to 8 % of Albanian women own land.¹⁸² A common practise has been a registration of the property under the name of the household (male). Women are often deprived of property rights during marriage. Particularly in rural areas, the property is owned by the oldest male head of the household and is transferred to sons. Daughters traditionally move to the household of the husband and care for the husbands’ parents. Male siblings are traditionally given preference in inheritance in order to keep the property inside the family. On the other hand, as pointed out by Duška Pejović during a UNDP conference on gender equality in Montenegro, women have the right to property through marriage, but they do not use it. Normally in marriage provisions, the property is shared between husband and wife. However,

¹⁷⁹ <http://www.euractiv.rs/ljudska-prava/4776-ene-diskriminisane-i-kad-rade-i-kad-trae-posao>

¹⁸⁰ SWD (2012) 335 final

¹⁸¹ These conclusions are defined in the Final Analysis. The whole report has not been published yet.

¹⁸² Contribution from the EU Delegation in Albania

in case of registration of for example houses the name of the husband is being given in the majority of cases. According to Pejović, this could be changed by a simple visit to the notary, but this does not happen in practice. Then, in divorce cases this property goes to the husband. Therefore, for economic empowerment, campaigns on awareness raising are advisable.

4.3. Political decision-making

Another main regional challenge is the position of women in **political decision-making**. The number of women in key leading political positions is relatively slow compared to the fact that they account for just over 50% of the total population. For example, Bosnia and Herzegovina has no female Ministers on the state level; Albania has one; Kosovo two; Croatia, Macedonia and Montenegro three; and Serbia five. In the case of BiH, the European Commission states that political participation of women remains low.¹⁸³ For Croatia, the Gender Equality Office writes that “women remain under-represented in public and political decision-making processes, i.e. in their participation in representative and executive power”, although some progress has been made in this respect (answer to question 11). Also, the position of women in decision-making positions in Kosovo needs to be improved. According to the Gender Equality Agency there are only 13% of women in leading positions.¹⁸⁴

Concerning the outcome of the general elections in **Montenegro**, it can be noted that women now hold 17% of places in the Parliament. This is the highest percentage ever in the history of the Assembly, as shows a research of MP Drobnjak.¹⁸⁵ Not even with Yugoslavia were there as many women in the Assembly as today, which can be seen as a sign of progress. The highest percentage was measured in the period 1963-65 with 15.75% of women, mainly as members of committees dealing with social issues. Within the government, women also hold 17% of ministerial posts. Out of 17 ministries, women are ministers in three of them (science, defence and without portfolio). Still, a study by Ipsos (June 2012) shows that Montenegro is below the world average of 19.6% when it comes to the number of women in the parliament (p. 13).¹⁸⁶ According to Ipsos, this percentage is even below the percentage in the countries formed after the disintegration of Yugoslavia: Bosnia and Herzegovina (21.4%), Croatia (23.8%), Macedonia (30.9%) and Serbia (32.4%). Conversely, 69% of citizens of Montenegro think that higher representation of women (above 30% in parliament and government) would result in increased quality in political life of Montenegro (p. 13).

What is significant when it comes to improving the position of women in political decision-making is the **respect for gender quotas** and the **alignment of gender equality legislation with laws on elections**. The fact is that most Western Balkan countries have defined legally obliging percentages for women’s representation in political decision-making, in contrast to the general practice in the EU. This development is a positive step in improving gender equality. However, in some countries gender equality legislation stipulates fixed percentages of women in public decision-making positions, but these are consequently often not transferred to other relevant legislation. What is more, they are not respected in practice. This is the case in Albania, BiH and Kosovo: neither the electoral nor the gender equality law are respected. For BiH and Kosovo, it is advisable to establish penalties for non-respect of defined quotas, which already happens in Albania. What also happens in Albania at the same time is that lists which do not meet the quota are not rejected, which is should be changed in

¹⁸³ SWD (2012) 335 final

¹⁸⁴ Answer to question 11 of the questionnaire by the Kosovo Gender Equality Agency

¹⁸⁵ *Ženska strana parlamenta*, Nada Drobnjak, Skupština Crne Gore, Decembar 2010.

¹⁸⁶ „Women in Politics: Attitudes towards Women in Politics in Montenegro“, Ipsos, 2012

practice. On the other hand, Montenegro has no quota for representation whereas a quota for election lists exists, which in practice results in relatively low levels of women in elected political decision-making bodies. In Croatia, the legally binding quota for election lists is not respected in practice and no corrective measures are undertaken. The situation in Macedonia and Serbia is different. There are limited provisions of quotas, only for election lists and only for certain authorities, but they are in fact being respected, which is a good example.

Legislation in **Albania** requires the representation of at least 30% of the less well-represented sex in all governing and political bodies, which also goes for election lists. The EU Delegation in Albania notes that electoral code amendments approved in August 2012 included increased penalties for parties not respecting the gender quota while not providing for rejection of lists that are not in line with the quota. This calls for a further amendment of the code. At the moment, for example in the Albanian Parliament there is a discrepancy of 13.6% between the prescribed quota and the number of female MPs. Therefore, stricter application of the gender quota is necessary in view of preparation for the next parliamentary elections in 2013, according to the European Commission.¹⁸⁷

In **Bosnia and Herzegovina**, the Gender Equality Law clearly prescribes equal representation of women and men in all state bodies at all levels of organisation, including the legislative, executive and judicial power (Article 20). Equal representation exists in cases when one of the sexes is represented with at least 40%. That is a clear legally binding quota of 40% for women in political decision-making. However, in an analysis of the general elections in BiH in 2010 Zvizdić highlights the discord between the prescribed quota and the actual percentage of around 18% of women in the Parliamentary Assembly of BiH.¹⁸⁸ Zvizdić also emphasises the fact that despite the legal provision none of the state bodies actually has regulations on how to guarantee equal representation. Local elections which took place in 2012 showed some limited progress, as the number of women in leading positions in municipalities increased slightly. However, in the past four years only 3 out of 140 mayors were women.¹⁸⁹ Furthermore, during the 2012 elections many irregularities were reported. Women were as usual not assured of representation even if they had the sufficient amount of votes, because party leadership in some cases decided to give the position to a male candidate with fewer votes. Also, there were cases of women who were on elections lists, but who did not even know about it. They just figured there in order to formally fulfil the norm, with their names given by their male colleagues. What is further remarkable in BiH is that the electoral law further includes a quota of 33% for candidates on election lists with sanctions for non-compliance, which is in contrast to the 40% prescribed by the Gender Equality Law which clearly includes elections. The Gender Equality Agency believes that further efforts are necessary for these instructions to be effectively applied in practice. A supporting step would be the adaptation of the Electoral Law and the Law on the Financing of Political Parties, for bringing them in line with the Gender Equality Law. In 2009, the state parliamentary Committee for Gender Equality filed in a proposal for amending the electoral law, but this was rejected.

In **Croatia** there are no legally binding quotas, but the Gender Equality Act rather gives the possibility of the establishment of special measures to promote equal opportunities if one of the sexes is substantially underrepresented, accounting for less than 40% of representatives in

¹⁸⁷ Progress Report Albania SWD (2012) 334 final

¹⁸⁸ M. Zvizdić, "Žene i Izbori u BiH" in *Bosna i Hercegovina: Opći Izbori 2010, Naučene Lekcije*, pp. 111-123

¹⁸⁹ <http://www.slobodnaevropa.org/content/izborni-rezultati-pokazali-raste-povjerenje-gradjana-u-zene-na-funkcijama/24736646.html>

political decision-making bodies (Article 12.3). However, there is a legal obligation for specific measures for preventing imbalance on election lists, according to the 40% objective. Namely, “political parties and other entities authorised to submit election lists shall introduce specific measures to prevent a substantial imbalance in the representation of men and women on the lists for the election of representatives to the Croatian Parliament, members to be elected to the representative bodies of units of local or regional self-government and for members of the European Parliament in accordance with Article 12 paragraph 3 of this Act” (Article 15.2). It is necessary to follow the election lists for the European Parliament in 2013 in this respect. Despite this nicely formulated Article, the Ombudswoman reports that for Parliamentary elections in 2011 two-thirds of political parties have not met the prescribed quota from Article 15.2.: namely, out of 313 lists of candidates, 37.7% had more than 40% of female candidates whereas 62.3% had less than 40% of women nominated.¹⁹⁰ This has produced a result in which women account for 23.8% in the current composition of the Croatian Parliament.¹⁹¹

For **Kosovo**, the Gender Equality Law stipulates the implementation of legal and affirmative measures to establish equal participation for both females and males in legislative, executive and judicial bodies of all levels in public institutions (Article 3.1). Equal representation is achieved with a 40% participation of one of the sexes. There is a legal obligation of 40% of women in decision-making bodies, but in the government of Kosovo this percentage is as low as 9%. The Gender Equality Agency writes that reaching equal participation of women in decision-making positions remains a challenge. Legislation in this field is not being implemented in practice. Women are not sufficiently represented in leading positions in public institutions: in 2011 there were over the whole 13.10% women and 86.90 % men in leading positions.¹⁹²

In the case of **Macedonia** it is not the Gender Equality Law, but the Election Code (2006) which stipulates that one in every three positions on a party’s candidate list for parliament and for municipal council must be filled by a woman.¹⁹³ If this rule is not respected, then the Election Commission rejects the proposed list. On the other hand, there are no quotas on the actual representation. Nevertheless, the quotas for election lists generally correspond with the number of women elected for decision-making positions. The 2009 local elections resulted in a percentage of 27 of municipal councillors. Also, in the 2011 parliamentary elections this number amounted to 32.5%, which is a very good result given the fact that before the introduction of the Electoral Code in 2006 there were only 17.5% of women in the Parliament. This is thus a good practice as the authorities assume their responsibilities. Still, the Code is limited to municipal and parliamentary election lists. For other decision-making positions such as mayors, the situation is completely different, as Antonovska states. Namely, there are no women mayors in Macedonia. When it comes to the government, out of 19 ministries only two ministries are led by a woman (10.5%), the Ministry of Interior and the Ministry of Culture. Therefore, it is advisable to extend the Election Code to include “every third woman” provision on election lists for all political decision-making positions of public authorities.

In **Montenegro**, there are no quotas for the actual representation of women in political decision-making, but there is a legal obligation for political parties to have 30% of women on

¹⁹⁰ Ombudswoman Office, Summary of the Annual Report 2011, p. 36

¹⁹¹ <http://www.ipu.org/wmn-e/classif.htm>

¹⁹² Answer to question 8 of the questionnaire provided by the Kosovo Gender Equality Agency

¹⁹³ Contribution from Daniela Antonovska, Macedonian Women's Lobby

election lists. This does not mean every third woman on the list, which is a significant difference. The result is that most women end up at the bottom of the list. There was an attempt to change this practice or to align the quota for election lists with the actual representation during the big modification of the election law in 2011, focusing on minorities. However, an amendment for ensuring 30% of women in leading political positions did not make it through. Political parties managed to agree on the amendment, especially their female representatives, but at the final stage the representatives who at first supported the amendment voted against or abstained under political pressure. Critics argue that a big opportunity was missed.¹⁹⁴ When the law was changed under pressure from the EU, all minorities were assured of an “affirmative action” actually guaranteeing seats while women were left out.

In **Serbia**, there was a positive change in the representation of women in the Parliament after the change of the electoral law. Serbia is a good example for other countries in this respect. In 2008, political parties were required to include the less-represented gender as every fourth candidate and no less than 30% of the candidates altogether appearing on the electoral lists. Nevertheless, after the elections, the political parties were free to choose which candidates from the lists received mandates. This in fact annulled the provision of 30%. The Directorate for Gender Equality indicates that although there were legal encouragements for participation of women in politics, women were still underrepresented in parliament, holding 21% of the mandates (answer to question 11). However, in May 2011, amendments of the electoral law pushed the number of women on the electoral lists from every fourth candidate to among every three candidates. What is more important is that the Electoral Commission intervened 10 days after the date of the publication of the election results and granted mandates to the candidates following the order of the list. This pushed the number of women in the Serbian Parliament up by 13%, from 21% in 2008 to 34% in 2012. Although the electoral provisions do not apply to the government, which is not directly elected, there is a relatively high percentage of female ministers, namely 35.7% which is the highest percentage in the region.

4.4. Domestic violence

If we take into account other thematic concerns women in the Western Balkans are faced with, then **domestic violence** is a phenomenon present across the whole region wherein patriarchal attitudes still prevail, especially nowadays in times of economic downturn. A Bosnian proverb says “poverty at the door, love through the window”.¹⁹⁵ The need to fight the high prevalence of domestic violence in society is well reflected in national policies and action plans. Next to the general gender equality strategies, every country in the region has a special strategy devised to fight domestic violence, which shows the seriousness of the issue.

What furthermore shows the seriousness of the issue is that **murder** is in some cases the consequence of domestic violence, which is a quite worrying sign pointing to the need for further efforts to combat this phenomenon. For example, according to Useful to Albanian Women (UAW) 11 women were killed by domestic violence in Albania in 2010 and the number keeps rising. UAW representatives also concluded, after a visit to one of the largest women prisons in Tirana, that 90% of women had been sentenced for killing their husbands.¹⁹⁶ The progress report on Albania notes that domestic violence remains widespread and the need to strengthen the protection of women against all forms of violence remains.¹⁹⁷ Also in

¹⁹⁴ *Novi izborni zakon ponovo zaobišao žene*, Radio Slobodna Evropa, Esad Krcić, 12 september 2011

http://www.slobodnaevropa.org/content/novi_zakon_o_izboru_poslanika_opet_zaobisao_zene/24326141.html

¹⁹⁵ *Bijeda na vrata, ljubav kroz prozor*.

¹⁹⁶ Linda Karadaku, *Group aids domestic violence victims in Albania*, 12 May 2011, SETimes online

¹⁹⁷ SWD (2012) 334 final

Croatia, 300 women have been killed in the last decade due to domestic violence. According to Ignjatović, 26 women were killed in 2010 and 29 in 2011 as a result of domestic violence (answer to question 13).

What is necessary for reinforcing efforts in the fight against domestic violence is the **amendment of legislation** for a more adequate protection of victims. Women need an better access to justice in this respect. For example, in BiH if a woman is beaten by her husband and she reports it to the police, then it is the owner of the property who has the right to stay in the house, which is in the majority of cases the husband. Women are thus obliged to leave their house and often their children. What is more, in Serbia for example, when women go to shelters in such cases there is even the danger that their children might be taken away from them if they cannot protect them from their violent father.¹⁹⁸ Therefore, more attention should be paid to amending the penal codes and other relevant laws in order to adequately protect the victims and punish the perpetrators.

A good example concerning legal changes in the area of fighting against domestic violence comes from **Albania**. Amendments to the Criminal Code introducing sanctions of up to five years of imprisonment for the specific offence of domestic violence were adopted in March 2012 and that awareness-raising has led to an increase in domestic violence cases reported to the police. Also, judges need to start to implement a legal measure obligating the perpetrator to participate in a long-term rehabilitation programme (aiming at behavioural change), as reports the EU Delegation. Nevertheless, the situation on the ground remains alarming. The EU Delegation in Albania reports that around two thirds of all Albanian women have suffered from some kind of domestic violence in their lifetime. The Delegation further notes that more efforts need to be invested in working with men and boys in order to change attitudes to domestic violence in society, which can be said about the whole region in line with the need for a change of mentality.

For **Bosnia and Herzegovina**, the Gender Equality Agency qualifies domestic violence as “one of the biggest challenges” in the society. The Agency believes that the implementation of legislation against domestic violence and other policy instruments needs to be supported further; shelters need to be offered possibilities for sustainable functioning and a unified data base of statistics concerning domestic violence needs to be established.¹⁹⁹ National policies also take the inclusion of men and boys in the prevention of domestic violence into account.

In **Macedonia**, a National Coordination Body for preventing domestic violence has been established in 2008, which is a good development for internal cooperation and concerted action. It is composed of representatives of the relevant in-line ministries that work on issues in the area of domestic violence as well as representatives of other institutions and civic organisations. This body works on prevention, raising of public awareness, education of professional service providers and improvement of the overall system. Also, the civil society organisations dealing with the prevention of domestic violence have joined forces in the National CSO Network to End Violence against Women and Domestic Violence, which is a good regional example. One of the members of the Network, Reactor – Research in Action, has carried out a research on gender based violence in urban public spaces in Skopje.²⁰⁰ The

¹⁹⁸ Answer to question 13 of the questionnaire by Tanja Ignjatović, Autonomous Women’s Center Belgrade

¹⁹⁹ Izvještaj of realizaciji Gender akcionog plana Bosne i Hercegovine (2006-2011), Agencija za ravnopravnost spolova Bosne i Hercegovine (oktobar 2011. godine), p. 7

²⁰⁰ „Scoping Study on Gender Based Violence and Discrimination against Women and Girls in Urban Public Spaces of the City of Skopje“, Reactor, 2012

research shows a wide-spread need for legislative changes. It is stated that “pressure from women’s rights groups and the international community has influenced the political commitment to deal with gender equality and violence against women in the past decade in Macedonia” (p. 9). Still, gender-based violence is neither recognised as violence nor discrimination in national legislation. The research further shows that “violence is structurally rooted in institutions of the system” (p. 81). Institutions such as the police and the local governments, who should protect the victims, still lack the knowledge and the understanding of gender based violence according to Reactor (p. 81-82). The research also points out to the fact that a “lack of trust towards the institutions of the system results in women reacting to violence by refraining to use the institutional mechanisms” by primarily not reporting the violations to the police (p. 79).

The European Commission believes that violence against women remains an area of concern in **Serbia**. Very often, domestic violence goes unreported and greater coordination is needed, e.g. on collecting and sharing data between all actors in the system for protecting women from violence.²⁰¹ These findings are supported by a research on violence against women in 2010, which shows that 54.2% of women in Serbia endure some form of family violence during their lifetime (Vojvodina and Kosovo not included).²⁰² The percentage for 2010 amounted to 37.5%, although these figures are on the lower side considering the fact that some women do not report cases of domestic violence. This concern is over the whole recognised by public authorities. A public hearing on domestic violence was held in the Serbian Parliament in November 2012.²⁰³ The matter was defined as a public problem, but it was also noted that many women still do not report it. More efforts need to be undertaken in raising public awareness on realising that domestic violence is unacceptable in society as well as in improving the legislative framework and the monitoring thereof. The ratification of the Council of Europe Convention against domestic violence was also announced, together with the preparation of a national strategy and the formation of a national team to tackle this issue.

Another issue connected to domestic violence is the overall inadequate availability of **shelters** for victims of domestic violence alongside inadequate funding. Overall dependence of shelters on donors for funding does not assure a continuous existence, meaning that sometimes they cannot offer assistance to victims. In fact, these shelters are also often simply social welfare centres providing services by social workers who take care of all kinds of different cases. These generally do not provide special care for women nor is their staff well trained to deal with specific gender sensitive cases. In other cases, services are simply provided by SOS centres or women’s rights organisations. For example, in Albania there is only one national shelter for victims of domestic violence, opened in Tirana in 2011, whereas other four shelters are run by civil society organisations. In Bosnia and Herzegovina there are 9 safe houses and 2 SOS lines for victims of domestic violence (with two different numbers for the two entities). By the way, Kosovo is the only country in the region which still has no SOS line for victims of domestic violence. In BiH, the financing of shelters should be provided according to the following formula: 40% from the federal, 30% from the cantonal and 30% from the local level. This formula is regularly not respected in practice. In Sarajevo there is only one shelter which has assured a full government subsidy. The European Commission reports in the 2012 Progress Report that financing of shelters for victims is not

²⁰¹ SWD (2012) 333 final

²⁰² *Mapping violence against women*, SeConS – Group, 2010 (part of the project *Combating sexual and gender based violence* of the Serbian Directorate for Gender Equality)

²⁰³ http://www.parlament.gov.rs/Odrzano_javno_slusanje_na_temu_„Borba_protiv_nasilja_u_porodici“.16819.941.html

sufficient.²⁰⁴ The Gender Equality Office of Croatia reports that there are 11 shelters run by NGOs and 8 by public service institutions (answer to question 9). State funding is assured by the Ministry of social policy and youth, the county and the local municipality (each contributing one third). However, according to Mirjana Kučer from the Croatian Women's Network this funding is not always adequately provided.²⁰⁵ The problem in Kosovo, according to MP Novobërdaliu (meeting in the EP), is the very short duration of allowed stay in shelters for the victims which ranges from 10 to 20 days, but can be prolonged up to six months in more serious cases. This obliges some women in some cases to go back to their homes shortly after domestic violence has taken place. According to the Directorate for Gender Equality, there are 13 safe houses in Serbia (answer to question 9); 9 are funded by the state and 4 by NGOs.

Free legal aid is also very important when it comes to ensuring adequate implementation of legislation and proper assistance to victims of domestic violence, but its provision is insecure throughout the region. It is often not assured by state structures, but rather provided by civil society organisations. For Albania, BiH and Croatia, civil society representatives have pointed out that legal representation in court is not free of charge.²⁰⁶ Idžaković and Čatović (2012) therefore propose the adoption of legislation on free legal aid in BiH (p. 8).

In Albania the State Commission for Legal Assistance has been established in 2011. It is composed of 5 members: representatives of executive and judiciary power as well as representatives of civil society. During the last two years the sublegal framework that ensures the functioning of this Commission in its full capacities was completed, according to the Ministry of Labour (questionnaire). Also, free legal advice is provided by specialised centers in some parts of the country, but the situation in practice could be improved. The National Report on the Status of Women in Albania (2011) points to state-sponsored legal aid to women seeking redress from acts of domestic violence and discrimination, but that “the current level of support remains unsatisfactory, especially for women in remote and rural areas, and poor and ethnic-minority women” (p. 112).

Croatian, Montenegrin and Macedonian legislation also provide for free legal representation depending on the financial status of the person concerned whereas Kosovo provides the same possibility through the Free Legal Aid Law (2012). In the case of Bosnia, the 2012 Progress Report indicates that a web-based free legal providers' network of governmental and non-governmental organisations exist, but that the system remains fragmented and unregulated in some Cantons.²⁰⁷ In Croatia, a free legal aid system has been established in 2009. This system is being strengthened through the implementation of a Twinning Light project (October 2011 - April 2012). It aims at improving the legal framework, the system of implementation, better access to information and strengthening the administrative capacities.²⁰⁸

Kosovo has a Legal Aid Commission, with five legal aid bureaus providing free legal aid in criminal, civil and administrative cases. However, the European Commission reports on a backlog of cases and limited progress in ensuring legal aid in terms of funding and

²⁰⁴ SWD (2012) 335 final

²⁰⁵ Round table “Women's Rights in the Western Balkans”, 31 October 2012, Sarajevo

²⁰⁶ Round Table on Women's Rights in the Western Balkans, 31 October 2011, Sarajevo

²⁰⁷ SWD (2012) 335 final

²⁰⁸ *Programme of the Republic of Croatia for the adoption and the implementation of the acquis for 2012*, Government of Croatia, February 2012, p. 15

resources.²⁰⁹ Free legal aid exists in Macedonia, but it is run solely by the Ministry of Justice and according to not sufficiently independent with danger of a conflict of interests.²¹⁰ Citizens' associations also provide free legal aid in Macedonia. In Montenegro, the free legal aid instrument was put into practice this year. In cooperation with the UNDP Office in Montenegro and Norwegian and Dutch governments, free legal aid services in all basic courts in Montenegro are to be established.²¹¹ The 2012 Progress Report confirms the establishment of these services, but comments on the length of court proceedings and the need to further develop administrative capacity.²¹² In Serbia, exemption of costs for legal representation is possible only to those who are not able to pay for it.²¹³ Furthermore, the European Commission notes that legislation and funding for an effective system of legal aid still need to be developed.²¹⁴ Legal aid is also offered by municipalities in Serbia, pro bono lawyers and civil society organisations.

4.5. War crimes

Another main challenge for the countries of the Western Balkans which went through conflict is the provision of access to justice to women victims of wartime crimes, rape in particular, for which purpose perpetrators should be prosecuted and those women should be recognised as victims of war crimes. Disputes still exist between the countries on the definition of wartime crimes committed against women as “crimes against humanity”, although the ICTY has recognised it as such. Nevertheless, there is no doubt about the fact that sexual violence took place during the war and that many victims are still waiting for justice. For example, in Kosovo the Human Rights Watch documented 96 rapes during the war and not a single perpetrator of sexual violence has been convicted by the ICTY, according to Kosova Women's Network.²¹⁵ For BiH, Amnesty International reports that during the war thousands of women and girls were raped.²¹⁶ According to Amnesty, obstacles to justice include stigmatisation of rape, unwillingness of witnesses to testify (sometimes because of fear of repercussion or inadequate witness protection) and lack of evidence, as it is difficult to recall what exactly happened 14 to 20 years ago. In BiH, victims of wartime sexual violence have no reparations nor do they have the right to social benefits. Amnesty states that BiH authorities have investigated and prosecuted only a limited number of cases and that still inadequate legal frameworks persist both at the state and the entity level (p. 61).

The issue of rape of women and girls during war in BiH, Kosovo and Croatia is also raised by the Regional Women's Lobby. All legal institutions in the region are invited by the Lobby to begin processes to bring to justice perpetrators of war rape and prosecute these crimes as well as establish legal frameworks which recognise victims of rape during war as civilian victims of war. Access to justice in general and access to transitional justice for women is post conflict countries is further being emphasised, together with the need to improve cooperation between women leaders from the governmental and the civil society sector in this respect.

²⁰⁹ 2011 Progress Report SEC (2011) 1207 final

²¹⁰ Žarko Hadži-Zafirov and Goče Kočevski, *Fairytales or Reality!? Free Legal Aid in the Republic of Macedonia*, March 2012, p. 83

²¹¹ *Montenegro puts free legal aid instrument into practice*, Ministry of Justice, 25 November 2011

²¹² SWD (2012) 331 final

²¹³ Law on Law Proceedings, Republic of Serbia

²¹⁴ SWD (2012) 333 final

²¹⁵ 1325 Facts and Fables, Kosova Women's Network, 2011, p. 82-84

²¹⁶ Whose Justice? Bosnia and Herzegovina's women are still waiting, Amnesty International, 2009

4.6. Regional cooperation

As an exception, all **leading EU integration government officials** throughout the region are **women**, except in Montenegro, which could be considered as an opportunity to push for progress in the area of gender equality in the context of EU integration. This is a good development in women's position in political decision-making. In Albania, Majlinda Bregu is the Minister for European Integration; in Bosnia and Herzegovina Nevenka Savić is the Director of the Directorate for European Integration; in Macedonia Teuta Arifi is the Deputy Prime Minister responsible for European Affairs; in Serbia Suzana Grubješić is the Vice President of the Serbian Government responsible for European integration; in Croatia Vesna Pusić is the Croatian Minister for Foreign Affairs and European Integration; and in Kosovo Vlora Çitaku is the Minister for European Integration of Kosovo. Only in Montenegro both the Minister and the State Secretary responsible for European integration are male whereas Gordana Đurović held the latter post until January 2011. The high number of female leaders in the area of EU integration is a good opportunity for joint action, especially when it comes to exchanging best practices and raising awareness on gender equality. They could for example join forces with the Regional Women's Lobby for Peace, Security and Justice which brings women leaders from the Western Balkans together. Minister Bregu and Deputy Prime Minister Arifi have already joined the Lobby.

Regional cooperation in this respect is well under way. Another initiative, the Regional Initiative for Networking of Gender Equality Institutions was initiated by the Serbian Directorate for Gender Equality in 2008. The Directorate would like to further develop this initiative and thinks that EU assistance in institutionalising this form of cooperation would be welcome. Further regional cooperation in the area of gender equality in the framework of EU accession, supported by the EU, would indeed be welcome as the countries of the Western Balkans deal with similar challenges and walk the same road to the EU.

Conclusion: Progress, challenges and recommendations

In conclusion, we need to come back to the **key question** this report has tried to answer: In view of EU criteria in the area of gender equality, what is the current situation in the countries of the Western Balkans concerning the existence of institutional mechanisms necessary for their implementation and the actual effectiveness of those mechanisms in practice?

In order to provide an answer to this question, **five indicators** determining effective institutional mechanisms for gender equality based on indicators recommended by the UN and the EU in relation to the Beijing Declaration have been defined and discussed. The first indicator concerns the **existence of national machinery for gender equality**, its mandate and access to decision-making processes as well as cooperation between different levels and focal points in line ministries. At least one of the mechanisms of this machinery should be in the position to influence all government policies from a central policy-coordinating unit inside government. Ideally, they should be located at the highest possible level in the government. The second indicator relates to their functioning. It involves **legislation and policies** they deliver. This aspect also involves the facilitation of the involvement of non-governmental organisations from the grass-roots upwards. Then gender-mainstreaming is also crucial in this respect, as the central unit should be able to exercise government-wide mainstreaming of a

gender-equality perspective in all policy areas. The third indicator of effective institutional mechanisms is that of responsibility and accountability. For mechanisms to be effective, they have to take responsibility in carrying out their policies and carry out regular **monitoring** according to clear indicators in order to ensure accountability. Another important indicator, fourth in line, is the matter of **gender budgeting**. Efficient functioning of national structures includes sufficient resources in terms of budget and professional capacity, giving the possibility for setting up capacity-building programmes. Mechanisms should have both adequate personnel resources and resources for the promotion of gender equality. The fifth indicator takes **statistical data** into consideration. This concerns the responsibility of statistical offices and government bodies to collect relevant data on gender equality in line with clearly defined indicators in support of monitoring, which would in their turn serve for influencing policy-making and planning.

When we take into account the fact that the countries of the Western Balkans are going through a serious transformation, we cannot but agree that **considerable progress has been made in the area of women's rights and gender equality** in recent years. Surely, some experts such as Zvizdić from *Women to Women* in BiH, would argue that during socialism women enjoyed much better rights, that these rights were lost during the war and that it is very difficult to win them back. Women are still fighting to do so. Nevertheless, the countries across the Western Balkans have managed to establish continuing peace, new institutions and new legal frameworks. A great transformation has taken and is still taking place, triggered by the eventual goal of joining the EU, and for Croatia this is soon to become reality.

On the other hand, besides the substantial progress that has been, future membership of the EU requires specific developments including a proper functioning of institutions, also in the area of gender equality. Thus, based on the overview of the EU criteria which clearly define what is expected from candidate and potential candidate countries, the mechanisms which they have put in place for fulfilling these criteria, the legislation and policies they use in order to reach that goal, the monitoring and budget provisions ascribed and the statistics which give an impression of the actual situation, it can be concluded that **more needs to be done to ensure effective institutional mechanisms** for gender equality before these countries can actually join the EU, with the exception of Croatia.

On the whole, substantial progress has been made in establishing gender equality mechanisms. This has been done in a relatively short time in the last five to ten years. In the process of European integration, the countries of the Western Balkans have taken measures to improve gender equality in their states. They have created special departments, directorates and agencies to deal with this matter. Parliaments have established special committees dealing with gender equality (except Albania). Draft legislation is thus usually considered through a perspective of gender equality. To a certain extent, the governments have appointed coordinators at different levels to follow developments. Even specialised mechanisms against discrimination have been called to life, for example the Commissioner for Protection against Discrimination in Albania and Macedonia or the Commissioner for Protection of Equality in Serbia. In other cases, special Ombudspersons, for example the Croatian Ombudswoman or Deputy Ombudspersons, have been appointed to deal specifically with women's rights and gender equality. Therefore, a very **good development** is on the way when it comes to the **existence of gender equality mechanisms**.

Progress has also been booked in **adopting legislation and policies** in the area of gender equality and anti-discrimination. Every country has a gender equality and anti-discrimination

law in place, although some have been adopted only two or three years ago. Also, in view of EU membership, all countries are trying to harmonise their legislation in line with the *acquis*, even if the accession negotiations have not even started yet. Government officials are generally aware of the current EU Directives in this domain and they realise the importance of gender equality. Not only legislation, but also additional policies were developed. National plans for European integration generally pay attention to gender equality, which proves that the governments find this issue important on their road to the EU. Furthermore, strategies and action plans in this area are plentiful, which is a good step in the right direction. Awareness has also been raised on the need for gender mainstreaming, although this needs improving.

What could be done to **strengthen the existing mechanisms**, as explained in Chapter 2.2., is to **increase their power and the capacity for policy coordination and gender mainstreaming**. What is now often the case is that the institutions have duties which do not correspond to their given mandate. Gender mainstreaming is a difficult task if the mechanism has no governmental power to carry out such a policy. Also, the possibility to lead the gender equality policy from a central position is very important. For example, in BiH the total state executive responsibility for gender equality is in the hands of the Gender Equality Agency whereas this mechanism neither has the necessary mandate nor capacity to carry out its legal obligations. Gender mainstreaming is for instance a prerogative, but the Agency has no mandate to coordinate this process among the state institutions. Responsibilities, powers and capacities should go hand in hand. Another possibility for strengthening the existing mechanisms is to **appoint special Ombudspersons for gender equality and strengthen the role of existing ones**. This has successfully been done in Croatia, which can serve as a good example for the whole region. Also Macedonia and Montenegro have special Deputy Ombudspersons responsible for gender equality, although in Macedonia for example this institution lacks the power to refer cases to court.

When it comes to challenges, a big **challenge**, if not the biggest, is the **non-implementation of legislation and policies**. It is remarkable that, in Macedonia for example, two years after the implementation of the law on anti-discrimination the Department for Gender Equality has recorded no cases of discrimination based on gender. This is not only the case in Macedonia. Overall, the number of cases is low, as data from police and judiciary confirm, partly due to a lack of awareness on the existing legislation and the fact that most laws are relatively new. These still need to find their way of operating. Regional Women's Lobby also states that in relation to the UN Resolution 1325 concerning the role of women in the security sector and decision-making, all countries of the region have legal frameworks, but implementation thereof remains a problem. Furthermore, non-implementation is visible in non-appointment of coordinators responsible for gender equality. There are no administrative procedures in place for their appointment (Montenegro) or they are simply not appointed as authorities are not taking their responsibilities seriously (BiH, Kosovo, Macedonia, Serbia). Even when they are appointed, their scope of work overlaps with human rights in general or it is not clearly defined. It is necessary for the governments across the region to ensure proper implementation of their own rules, to define clearly which mechanism bears the main responsibility for gender equality and to set up well-defined systems of cooperation and coordination.

Another crucial challenge connected to non-implementation is **non-enforcement**. From data collected from police and judiciary, the adopted legislation and policy has not adequately been transferred to the area of law enforcement. In Macedonia for example, sexual harassment mainly affecting women is not an offence. Therefore, what has been decided on the level of government and parliament cannot be assured in practice and this damages the effectiveness

of the mechanisms in place. Penal codes and other relevant corrective legislation need to be brought in line with laws on gender equality and anti-discrimination. Then again, police and judges need to know what this means on the ground and have clear guidelines explaining cases of violation of relevant laws, accompanied by additional trainings. Over the whole, **capacity-building programmes** for all officials need to be multiplied.

If we again take the EU criteria in the area of gender equality, then we can conclude that **further harmonisation of national legislation with EU law is necessary**. A detailed overview of the progress made in this area is outside the reach of this report, but over the whole, as pointed out by a Commission official, Croatian law is fully harmonised and Albanian as well in theory, though implementation in Albania is slow; in Montenegro and Macedonia, there are issues with the definition of discrimination and the independence of the gender equality body, while the level of progress in BiH, Kosovo and Serbia is low, although the legislation in Kosovo has improved. For Croatia, the Commission points to the need to improve alignment with the EU provisions on the protection of pregnant and breast-feeding workers. Other countries of the Western Balkans still need to step up their efforts. In Bosnia and Herzegovina further legal harmonisation between the entities is needed.

Concerning the indicator that at least one of the mechanisms should be in the position to influence all government policies from a central policy-coordinating unit, ideally located at the highest possible level in the government, it can be said that this is not the case. Responsibility for **gender equality and gender mainstreaming is not assured at the highest level of government**. It does not seem to be taken seriously enough at the top government level. It can be said that in none of the countries gender equality is regarded as a priority. Currently, the relevant mechanisms are generally more or less isolated in their efforts, without the support of the government as a whole. To a certain extent, the need for gender equality policies still needs to be justified. That is why, for example, the Serbian Directorate for Gender Equality would like to suggest to its national government and parliament to take it more seriously. On the other hand, Kosovo might be considered as an exception in this respect, as the Gender Equality Agency is located under the Office of the Prime Minister, although in practice questions might be asked on whether this actually increases or decreases the effectiveness of the Agency.

What is connected to the need to pay attention to gender equality at the highest level of government is the position this topic takes on the level of the legislative power. Although each country has a parliamentary committee responsible for gender equality, they often also deal with other issues such as missing persons and petitions (Kosovo), rights of minorities (Serbia) or health (Albania). In Albania, women's rights or gender equality is not even included in the name of the committee. This shows the level of attention these mechanisms give to this matter. On the contrary, each country should have a **parliamentary committee dealing only with gender equality**, women's rights or equal opportunities. This would then increase the level of responsiveness to **gender-sensitive screening of draft legislation**, which is at the moment in general not satisfactory. They should keep an oversight of the gender equality policy and hold the executive power accountable. At the moment they adopt reports made by government bodies on their functioning, their strategies and their action plans, but they do not seem to have a systematic overview of the actual effect of government policies on the ground. That is why there should be more attention of **parliaments to monitor the implementation of the gender equality legislation**.

One other possibility for strengthening the institutional mechanisms is an additional **emphasis from the side of the EU on the importance of gender equality** and the effective functioning of the institutions necessary for the implementation of the gender *acquis*, accompanied by more support through the Instrument for Pre-Accession Assistance (IPA). For example, the BiH Gender Equality Agency believes that strong conditionality in the area of gender equality might contribute to strengthening of the gender machinery in the country and lead to gender mainstreaming in the work of other institutions. Serbia fully supports this idea. Also Croatia could use more pressure from the EU on the implementation of the EC Strategy for Equality between Women and Men. Therefore, the **European Commission and the Member States should attribute greater importance to gender equality** in the enlargement process, especially in terms of conditionality and ‘carrots and sticks-policy’. Also, the **European Institute for Gender Equality should focus more on enlargement countries and progress monitoring**, as requested in the 2008 EP Resolution by *rapporteur* MEP Gurmai, and increase cooperation with candidate and potential candidate countries.

What is also important for effective implementation of government policies is the **need to improve cooperation with civil society**. EU indicators for effective mechanisms in the area of gender equality, defined by the Council of the EU, clearly state the need for grass-roots involvement. Although progress has been made, more needs to be done to involve civil society organisations in debates for preparing and monitoring legislation and policies. In that way governments could benefit from their expertise and assure a wider awareness among citizens. In Albania and Macedonia for example, experts from civil society are already cooperating with governments when it comes to monitoring. The Regional Women’s Lobby conference which took place in Zagreb in October 2012 concluded that is necessary to establish a synergy between state institutions and the non-governmental sector in promoting women’s human rights; in that way they can reach out to the public and change traditional social behavioural patterns. Civil society organisations throughout the region feel excluded and frustrated, although they often have the best expertise in the field which could be better used by institutions for moving the situation forward. Transparency and access to official documents needs to be improved, as several organisations struggle in obtaining information. Many of them claim that cooperation is a pro-forma process, serving just to tick the box and fulfil the criteria formally whereas a genuine dialogue with open public debates and public hearings is missing. Also, the cooperation seems to be sporadic and not well structured. However, both sides agree that they could use each other’s knowledge and expertise in a better way for joining forces in fighting inequality between women and men. As MP Popovska from Macedonia rightly points out, progress is only possible if women work together with strong commitment from women in public authorities, civil society and media.

The **lack of comprehensive monitoring** is another challenge. In general, monitoring exists to a certain extent. However, this not always include the whole legislation and policy on gender equality, but rather certain segments or only monitoring of activities of institutions. Monitoring in practice means that the executive or the legislative power, or in some countries both, approve the report on the working of the central gender equality body. In some case, the parliament is completely out of the picture in this process, like for example in Macedonia. In Montenegro, only the action plan on gender equality is being monitored. In Kosovo, the Parliament is responsible for monitoring and it is now preparing what seems to be its first monitoring report. Only Croatia has a proper monitoring mechanism in place, the Office of the Ombudswoman as an independent mechanism and the Office for Gender Equality as the internal state mechanism. However, the recommendations resulting from their monitoring reports are sufficiently taken into account in practice. Then again, “monitoring of the

monitoring” would be necessary for the whole region, in other words monitoring of the implementation of the recommendations resulting from the initial monitoring.

In addition, there should be **independent monitoring** with an overview of not only the legislation and the policies, but also the functioning of the institutional mechanisms. Most monitoring mechanisms are not objective as they monitor their own policies. There is a need for more impartial ways of monitoring and evaluation in order to form a proper assessment of the situation. In Croatia this role is fulfilled by the Ombudswoman. In other countries, the central bodies are often not independent enough in order to offer an objective option for monitoring. For example, in Albania the Department for Gender Equality presents the monitoring report to an advisory body chaired by its own Minister, not the Parliament. The lack of independent monitoring affects the effectiveness of the mechanisms, depriving them of a chance to properly analyse challenges and take concerted action. If there is no independent body, then at least the existing mechanisms could consider cooperating with independent experts. This has successfully been done in Albania and Montenegro. However, this does not offer a sustainable long-term solution.

Then, in the area of **gender-responsive budgeting**, possibly under influence of the UNIFEM project in this field, awareness has improved. Attempts are being made to include gender budgeting over the whole in relation to gender mainstreaming. However, suitable budgets for covering the set objectives, both in terms of providing an adequate budget to meet the needs and conducting a gender-responsive budgeting policy. Proper resource allocation, especially for personnel, is crucial for an efficient gender equality policy. Generally speaking, it can be said that adequate budgetary provisions for the implementation of gender equality regulations are lacking, especially in view of the economic downturn in recent years. National governments have fewer resources available while funds from foreign partners, on which gender equality mainly depends, are less frequent or less obtainable. Personnel resources are in particular affected by this development, but they are at the same time indispensable. In general, budgets for human resources for conducting gender equality policies need to be increased. Nevertheless, it is essential to point out that some countries have tried to take the budgetary constraint into account in conducting their policies. A good practice in the area of gender-responsive policy coming from Bosnia and Herzegovina is the Financial Mechanisms for the Implementation of the Gender Action Plan 2009-2014, which is a partnership between the Council of Ministers and the Embassies of Sweden, Austria and Switzerland.

Some advancement is visible in the field of statistics, but the **lack of targeted statistical data and indicators for collecting them** in relation to existing laws is still an issue. Official state collection of gender-based statistics generally only makes simple distinctions between the number of men and women in for example a certain profession. Governments are trying to formulate more specific indicators for the purpose of law or action plan monitoring. They also demand this information from the authorities at the local level. Serbia has for example very good legislative regulations in this respect, but the execution could be improved. More attention should be paid to this issue and a streamlined approach to sex-disaggregated data should be introduced, not only involving the authorities and the statistical offices, but also police, judiciary, shelters and other relevant bodies. It is remarkable that neither police nor courts mention or differentiate between cases of discrimination based on gender, gender based violence or other offences such as mobbing, which could be to a certain extent said about all the countries in the region. Data necessary for effective monitoring or analysis of legislative implementation, i.e. statistics reflecting legal provisions, are largely not available, not even in the case of Croatia. As a consequence, the Croatian Ombudswoman and civil society

organisations across the region are obliged to demand information directly from the courts, often going through piles and piles of court proceedings in order to find “sex” or “gender” mentioned somewhere. Instead, all courts as well as police should be instructed by law to assemble specific data such as complaints related to domestic violence or gender-based discrimination. Moreover, data collected by Ombudspersons, state departments, municipalities or other state bodies should be gathered in a streamlined way in cooperation with the statistical office, and finally delivered to the mechanism responsible for monitoring.

Lastly, throughout the analysis of institutional mechanisms, **six thematic issues** kept coming back, which can be considered as main challenges or opportunities for the countries in the region. One of these, if not the most important, is the need for a change of **mentality**. Awareness raising is needed from the grass-roots level upwards, both among women and men. For example, the assumption that women should make coffee for their colleagues at work just because they are women is unacceptable, but still widely present in society. Increased awareness raising campaigns in cooperation with civil society are crucial. What is connected to the matter of mentality is **education**. If in their textbooks at school children are given examples of unequal treatment or if they keep seeing examples of unequal treatment like “you should clean up after your brother, because you are a girl” at home, then prospects for advancing gender equality in the future are not bright. Then women will continue to be discriminated against and excluded from integration in the **labour market**, which is currently a considerable challenge. High unemployment rates among women, sexual harassment at work, low levels of property ownership and discrimination of pregnant employees, just to name a few, are still widely spread.

Also, the representation of **women in political decision-making** is inadequate to say the least. For example, BiH has not one female minister on the state level and the percentage of Montenegrin MPs is 17%. What is even more alarming in this respect is that many countries have legally obliging quotas in this area, but they are simply not respected. For example, contrary to a 40% quota for women in decision-making bodies in Kosovo, for the government this percentage is as low as 9%. Furthermore, **domestic violence** remains a wide-spread phenomenon, although awareness has been raised on this issue in recent years due to numerous campaigns in this area. Still, for example, around half of female population in Serbia experiences some kind of gender-based violence in their life. Related to this issue is the inadequate availability of free legal aid as well as inadequate availability of shelters or safe houses for victims of domestic violence. For example, women who are beaten by their husbands often have to leave the house when seeking assistance, as usually their husbands own the house and therefore have the right to stay in it. Then, if they have to leave the shelter after a limited period of time due to a lack of financial resources and do not get assistance in seeking justice, then they find themselves in a very difficult position. In such a position are also women who are still waiting, now for up to 20 years, for justice in relation to **wartime crimes of sexual violence** committed against them. Legal disputes and shortfalls, such as the disputed labelling of such crimes as “crimes against humanity” and inadequate legal frameworks, prevent women’s access to justice while perpetrators remain unpunished.

In conclusion, it can be said that, except partially in the case of Croatia, a lot can still be done in order to improve the effectiveness of the existing gender equality mechanisms in the Western Balkans. What could offer support in making these mechanisms more effective is a strong **linkage between the key indicators**. Primarily, gender equality should be taken as a priority on the level of government, assuring full support across all ministries together with their underlying mechanisms and thus sustaining gender mainstreaming. This priority should

be accompanied by an appropriate budget, involving the Ministry of Finance. Then, gender mainstreaming should be linked to proper independent monitoring across all fields reinforced by clear indicators for collecting sex-disaggregated statistics, especially for police and judiciary. Monitoring, once streamlined and coordinated with statistics, should offer a clear picture of necessary changes for implementation and enforcement. Then, finally, these recommendations should be brought into practice, with assured grass-roots involvement of civil society in the whole process.

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Liljana Popovska, Chair of Committee for Equal Opportunities, Parliament of Macedonia
Nada Drobnjak, Chair of Committee for Gender Equality, Parliament of Montenegro
Jelica Minić, Deputy Secretary General Regional Cooperation Council
Sonja Lokar, Central Eastern European Network for Gender Issues

Meetings

Delegation from the Regional Women’s Lobby for Peace, Security and Justice

Nada Drobnjak, Chair of Committee for Gender Equality, Parliament of Montenegro
Luljeta Vunijqi, Executive Director of Kosova Gender Studies Center
Irina Pockova, President of Women's Chapter of SDA political party of Sv. Nikola Macedonia

Delegation from Kosovo

Igballe Rogova, Executive Director Kosova Women’s Network
Col. Elmina Mahmuti, Regional Director Kosovo Police
Nita Gojani, Project Coordinator UN Women

Delegation from Macedonia²¹⁸

Sanela Shkiljelj, Programme Coordinator, Association for Local Rural Development
Neda Chalovska, Legal Adviser Helsinki Committee for Human Rights
Neda Korunovska, President REACTOR-Research in Action
Ivona Paunovich Bishevac, National Project Coordinator UN Women Skopje

²¹⁷ In total 65 individuals were invited ranging from representatives of governments, parliamentary committees for gender equality, UN women and several civil society organisations.

²¹⁸ Members of the National CSO Network to End Violence against Women and Domestic Violence in Macedonia

Interviews

Iilir Nezaj, Mission of Albania to the EU
Nuna Zvizdić, Women to Women BiH
Ivan Tavra, Associate at the Directorate for European Integration BiH
Marina Kavaz-Siručić, Spokesperson of the Directorate for European Integration BiH
Višnja Ljubičić, Croatian Ombudswoman for Gender Equality
Trajče Rušev, Mission of Macedonia to the EU
Slavica Stojanović, Women's Network Serbia
Detlev Boeing, European Commission DG Enlargement
Katja De Sadeleer, European Commission DG Enlargement

Replies to the questionnaire (Annex I)

Aferdita Prroni, Human Rights in Democracy Center Albania
Semia Tapia, UN Women Albania
Iilir Nezaj, Mission of Albania to the EU (provided by MOLSEAO)
Adnan Kadribašić, Gender Equality Agency BiH
Helena Štimac Radin, Office for Gender Equality Croatia
Edona Hajrullahu, Gender Equality Agency Kosovo
Višnja Ljubičić, Croatian Ombudswoman for Gender Equality
Nita Gojani, UN Women Kosovo
Daniela Antonovska, Macedonian Women's Lobby
Merdita Saliu, Sector for Equal Opportunities, Ministry of Labour Macedonia
Irena Bošković, Department for Gender Equality Montenegro
Tanja Ignjatović, Autonomous Women's Center Belgrade
Natalija Mićunović, Gender Equality Directorate Serbia

Contributions

Andrea Chalupova, EU Delegation in Albania
Lovorka Marinović, Gender Expert Croatia
Elena Grozdanova, Department for Gender Equality Macedonia
Duška Pejović, Journalist, Montenegro
Ervina Dabižinović, NGO Anima, Montenegro
Kaća Đuričković, UNDP Montenegro
Robert Markić, Mission of Montenegro to the EU
Nicolas Iliopoulos, European Commission DG Justice
Judith Litjens, European Commission DG Justice
Stefan Draškić, Mission of Serbia to the EU
Virginija Langbakk, European Institute for Gender Equality
Amandine Bach, European Women's Lobby
Monserrat Conde, UN Women Brussels

ANNEX I

RESEARCH

“WOMEN’S RIGHTS IN THE WESTERN BALKANS IN THE CONTEXT OF EU INTEGRATION”

- on the initiative of Marije Cornelissen, Member of the European Parliament

Research questions:

1. Is there enough attention for women’s rights and gender equality in the EU accession process in your country? Are there any specific initiatives or actions in this respect?
2. Are women’s rights adequately included in the national strategy for EU integration?
3. Are there aspects of national legislation in your country which surpass the EU standards, like for example in the area of maternity leave (at least 14 weeks in the EU)?
4. Does a dialogue between the civil society and the government exist on this issue?
5. Is the civil society in general aware of EU criteria in the area of gender equality?
6. Which civil society organisations are the most active in this field?
7. What are the key challenges for women’s right and which issues are the most critical?
8. Which mechanisms exist in your country for implementation of women’s rights, such as government institutions, parliamentary bodies, agencies, shelters and SOS numbers?
9. Are shelters for women funded by the government? If not, in which way are they funded?
10. What are the current provisions, laws or regulations in your country in the area of gender equality concerning equal opportunities, representation in decision-making bodies, employment, social security, education and anti-discrimination?
11. Are implemented laws being enforced? What is the actual situation on the ground?
12. Does your country pay attention to gender mainstreaming?
13. If a woman in your country becomes a victim of violence and goes to the police, what kind of support can she expect? How are the police and the judiciary dealing with the matter?
14. How high is the number of gender equality cases in courts and what is their outcome?
15. Which mechanisms and policies are successful and which need further development?
16. How are these being evaluated? Does your country collect gender statistical data?
17. What would you like to suggest to your national government/parliament/civil society?
18. What could the EU do to help foster further development in this field?

ANNEX II

EU Directives in the area of gender equality (Lacroix, 2008)

Directive 75/117/EEC

The **principle of equal pay** entails that **the same work, or work to which equal value is attributed, should be carried out in equal conditions and remunerated with no discrimination on the grounds of sex** (article 1). The principle should be implemented in national legislation (article 3, 6, 8) and the state should take care that employees are aware of their rights (article 7). States should also take all necessary measures to ensure that provisions in wage agreements and the like are nullified if they are not in line with the principle (article 4). Finally, citizens should be able to enter into a judicial process if they find themselves wronged (article 2) and should be protected against dismissal by the employer as a reaction to a complaint (article 5).

Directive 76/207/EEC

Equal treatment of men and women in the area of promotion, vocational training, working conditions and social security means that **there shall be no discrimination whatsoever on grounds of sex either directly or indirectly by reference in particular to marital or family status, unless the sex of the worker constitutes a determining factor** (article 2). There shall be no discrimination on grounds of sex when it comes to selection criteria for access to all jobs and posts (article 3). The same goes for access to all levels and types of vocational training (article 4) and working conditions (article 5). States should ensure that their national laws comply with these demands and that those who are wronged can pursue their claims by judicial process (article 6) and be protected against dismissal by the employer as a reaction (article 7).

Directive 79/7/EEC

Men and women should be treated equally in the field of social security and other elements of social protection (article 1). This equal treatment also includes self-employed persons and those who are retired or invalided (article 2). Included are schemes that protect against sickness, invalidity, old age, accidents at work and occupational diseases, and unemployment, but not to the provisions concerning survivors' benefits nor to those concerning family benefits (article 3). **The scope of the statutory schemes and conditions of access, the contributions to the schemes, and the calculation of benefits should not depend on sex, either directly or indirectly** (article 4).

Directive 86/378/EEC

In addition to Directive 79/7/EEC, this one gives more details on the areas where discriminatory treatment is particularly to be avoided (article 6), concentrating on **occupational social security schemes**.

Directive 86/613/EEC

This is particularly **aimed at self-employed workers and their spouses** (article 1, 2). Member states should take all necessary measures to eliminate all provisions which are contrary to the principle of equal treatment, especially in respect of the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity including financial facilities (article 4). Member States must also ensure that the conditions for the formation of a company between spouses are not more restrictive than the conditions for the formation of a company between unmarried persons (article 5). Member States shall examine under what conditions **recognition of the work of the spouse** may be encouraged (article 7). Voluntary membership of social security schemes should be possible (article 6) and women who face interruptions in their occupational activity owing to pregnancy and motherhood have access to some form of social security (article 8).

Directive 92/85/EC

Measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or who are breastfeeding must be taken (article 1). If an employee faces working conditions that reveal a risk to the safety or health or an effect on the pregnancy or breastfeeding of a worker (night work included in article 7), the employer should remove the risk by temporarily adjust the working conditions and/or the working hours or, if this is not possible, moving the employee to another job, or, if that is not possible, be granted leave (article 5). **Maternity leave** should be at least 14 weeks (article 8) and women should be allowed time off for ante-natal examinations without loss of pay (article 9). Exercising these rights should not lead to dismissal of the worker (article 10).

Directive 96/34/EC

Parental leave is an important means of reconciling work and family life and promoting equal opportunities and treatment between men and women (preamble). **Men and women are assigned an individual, non-transferable right to parental leave on the grounds of the birth or adoption of a child for at least three months, until a given age up to 8 years.** After the leave the worker should have the right to return to the same or an equivalent job (clause 2).

Directive 96/97/EC

This is an amendment to Directive 86/378/EEC on the implementation of the principle of equal treatment for men and women in occupational social security schemes that mostly states definitions.

Directive 97/80/EC

In order for the Directives on equal treatment to be made more effective, people who think they are being treated unjustly should not bear the burden of proof. Instead, **the respondent should show that there has been no breach of the principle of equal treatment** (article 4).

Directive 97/81/EC

The purpose of this Directive is to implement the Framework Agreement on part-time work concluded on 6 June 1997 (article 1).

Directive 2002/73/EC

This is an amendment to Directive 76/207/EEC about treatment for men and women as regards access to employment, vocational training and promotion, and working conditions. It clears up **definitions of direct and indirect discrimination, as well as harassment** (new article 2). Direct discrimination: where one person is treated less favourably on grounds of sex than another is, has been or would be treated in a comparable situation. Indirect discrimination: where an apparently neutral provision, criterion or practice would put persons of one sex at a particular disadvantage compared with persons of the other sex, unless that provision, criterion or practice is objectively justified by a legitimate aim, and the means of achieving that aim are appropriate and necessary. Harassment: where an unwanted conduct related to the sex of a person occurs with the purpose or effect of violating the dignity of a person, and of creating an intimidating, hostile, degrading, humiliating or offensive environment. Sexual harassment: where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment. Member states should also put in charge **bodies that promote and monitor equal treatment and involve NGOs and social partners in combating discrimination** (amendment to article 8).

Directive 2004/113/EC

Discrimination based on sex in access to and supply of goods and services should be remedied (article 1). The Directive applies to all persons who provide goods and services, which are available to the public, including public bodies, and which are offered outside the area of private and family life and the transactions carried out in this context (article 3). **The use of sex as a factor for calculating premiums and benefits for insurances and related financial services should not result in differences in individuals' premiums and benefits. Member states may however decide to allow proportionate differences where the use of sex is a determining factor, based on statistical data** (article 5). Member states should set up a body that concentrates on issues like independent assistance to victims of discrimination, and surveys and reports on the topic (article 12).

Directive 2004/81/EC

Third-country nationals who are, or have been victims of offences related to the trafficking in human beings, even if they have illegally entered the territory of the member states should be granted a reflection period allowing them to recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether to cooperate with the competent authorities (article 6) and have access to treatment, help and means of subsistence (article 7).

Directive 2006/54/EC

The Directive reinforces earlier decisions on parental leave, burden of proof and non-discrimination. These are to be made more effective by **the establishment of appropriate procedures** (article 1). A number of examples of discrimination are given (article 9). Member states should introduce into their national legal system measures to ensure **real and effective compensation or reparation** when someone has been injured as a result of discrimination on grounds of sex (article 18). Also, the state should put in place **equality bodies** (article 20), encourage **social dialogue with social partners and NGOs** (article 21, 22). Those who infringe on the rules adopted after this Directive should be justly punished (article 25). **Gender mainstreaming** as a concept is introduced (article 29): member States shall actively take into account the objective of equality between men and women when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas referred to in this Directive.

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