

# GENDER-BASED DIGITAL VIOLENCE

## INTERNATIONAL LEGAL FRAMEWORK AND COUNTRY CASE STUDIES: ALBANIA, MONTENEGRO AND SERBIA

Edited by Maja Munivrana and Marija Ivanović



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University of Sarajevo  
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Global Campus  
South East Europe

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Sarajevo, 2026.



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# Introduction

Maja Munivrana

We live in a digital world, and fundamental human rights in the modern era are being increasingly violated in online environments. Violence against women and girls is not an exception. In fact, information and communication technology (ICT) has enabled the perpetration of violence against women on a previously unknown scale globally,<sup>1</sup> including in the Western Balkan region. In fact, although research regarding this particular region is limited, fragmented data indicate that the scale of the problem is ever more pronounced, due to prevailing patriarchal norms, insufficient legislative response and the ensuing accountability gap.<sup>2</sup>

The specific countries chosen for these case studies are Albania, Montenegro and Serbia. All three countries are Western Balkan countries walking the same path of accession to the EU, although with different levels of success. Preliminary research points furthermore to another common feature - in all these countries, governments have been lagging behind in their legislative responses to specific online forms of gender-based violence, at least in part due to outdated stereotypes and gender inequalities. However, while these countries share many common features, they also show some idiosyncrasies.

The aim of this study is to identify common regional threads but also shed light on unique country-specific challenges and assess the adequacy of the different legal frameworks to respond effectively to gender-based digital violence (GBDV). In order to provide a comprehensive view, the country studies will examine not only the applicable legal framework *de lege lata*, but also policy initiatives, recommendations from relevant international monitoring bodies and domestic cases that reveal either the magnitude of the phenomenon or practical and legal obstacles hindering their effective prosecution.

Before moving to the country-specific studies, this introduction sets the scene by defining the basic concepts and providing a brief overview of existing legal responses at different levels of international governance. The country case studies presented in this collected-papers issue follow the same structure to make the results comparable across different legal systems. The first part of each paper is based on desk research and presents the respective domestic legal and policy frameworks. In the first part of the legal landscape overview, authors look at international documents and relevant monitoring bodies' country reports, which help trace problems, but also progress made in each of the countries analysed.

1 GREVIO. Recommendation No. 1 on the Digital Dimension of Violence against Women. Strasbourg: Council of Europe, 2021, para. 16.

2 Jessica Marvata, Nada Zamel, and Shrinwanti Mistri. *Online Gender-Based Violence in the Western Balkans: Where is the Accountability. Case Studies – Albania, Bosnia and Herzegovina, and Serbia*. (April, 2024), 2. Available at: <https://static1.squarespace.com/static/62faa412f1a9277bc1bdacc1/t/6628166dc88fbb3ad070e0cc/1713903345252/OGBV+in+the+Balkans+Jessica+Nada+Shrinwanti+Policy+Brief+%281%29.pdf>

The second part of these studies is based on qualitative data. The authors conducted structured interviews with a diverse group of pre-identified key stakeholders, based on a questionnaire, annexed to this publication. It covers a wide range of issues, from assessment of the existing legal framework and its functioning to recommendations for a more efficient preventive system. The aim was to interview a range of experts: representatives from the judiciary, namely prosecutors and judges, police officers, representatives of relevant civil society organisations (CSOs), ombudspersons for gender equality and children's rights, and lawyers representing victims of online gender-based violence - either independently or through CSOs. The latter were also seen as proxies for including victims' perspectives, given that direct contact with victims could raise ethical concerns. The intention was to capture the views of both professionals operating within the system and those offering an external perspective.

The participation of legal experts was intended to address possible gaps in the understanding of the legal framework by CSO representatives, as many are not formally trained in law. Conversely, the involvement of CSO's representatives was expected to provide an independent assessment of how the system functions in practice. Their contribution was also considered essential for gaining a broader perspective on prevention and other non-punitive responses to GBDV.

In practice, however, identifying and securing interviewees proved to be extremely challenging. While the original objective was to interview at least two representatives from each professional group, responses from police and judiciary representatives were not obtained in some of the countries studied. Each country chapter outlines the process of reaching out to interviewees and presents the outcomes. We believe that this lack of responsiveness itself reflects the degree to which state institutions prioritise—or fail to prioritise—the prevention and prosecution of online violence against women and girls.



# 1. Gender-Based Digital Violence Against Women and Girls

Maja Munivrana

## 1.1. Defining the Concept

Violence against women (VAW) is a form of discrimination of women, and as such includes “all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”.<sup>3</sup> The digital dimension of violence against women is often seen as a continuum of offline experiences.<sup>4</sup> While it is certainly true that: **a)** the causes of both online and offline VAW lie in gender stereotypes; **b)** that most, if not all forms of VAW can be committed in the digital space and **c)** that online and offline forms of gender-based violence are increasingly intertwined,<sup>5</sup> looking at online violence only as an extended hand of offline violence against women fails to recognize specific aspects of this phenomenon and the harm in which it can result.<sup>6</sup> This type of violence is intrinsically linked to the use of ICT, and those technologies are used to significantly amplify the severity of the harmful impact of the offence, thereby changing the characteristics of the offence.<sup>7</sup> A vivid example of the dangers associated with the use of ICT can be seen in a shocking case in Bosnia and Herzegovina, where a perpetrator brutally murdered his ex-wife, Nizama Hećimović and live-streamed the act on Instagram. According to media, the broadcast of this shocking murder was watched live by several thousand people, some of whom were even believed to have encouraged the attacker or at least endorsed the attack.<sup>8</sup>

There is no consistent terminology or universally accepted definition of online violence against women. A variety of terms are used, often interchangeably, to describe essentially the same phenomenon: technology-facilitated gender-based violence (UN Women), gender-based violence enabled by digital technology (EIGE), digital dimension of violence against women, cyberviolence against women and girls, gender-based cybercrime, digital/

3 Council of Europe. *Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence* (Istanbul Convention). Council of Europe Treaty Series No. 210 (Istanbul, May 11, 2011), Art. 3a. <https://www.coe.int/en/web/istanbul-convention>

4 GREVIO. Recommendation No. 1, 9-10, Platform of Independent Expert Mechanisms on Discrimination and Violence against Women (EDVAW Platform), Thematic Paper on the Digital Dimension of Violence against Women. Adopted November 17, 2022. Published November 29, 2022. Strasbourg: Council of Europe. Available at: <https://www.coe.int/en/web/istanbul-convention/edvawplatform>.

5 Jurasz, O. “Online violence against women: A Four Nations study”. (The Open University, 2024).

6 Not all forms of online violence against women can be committed offline or would constitute a criminal offence or offence that is prosecuted ex officio.

7 The Council of the European Union and European Parliament. Directive (EU) 2024/1385 of the European Parliament and of the Council of 14 May 2024 on Combating Violence against Women and Domestic Violence. Official Journal L 2024/1385 (24 May 2024), entered into force 13 June 2024, Celex 32024L1385, para 17. of the Preamble.

8 Euractiv. “Thousands March in Bosnia After Man Streams Partner’s Murder.” *Euractiv.com*, August 15, 2023. Available at: <https://www.euractiv.com/section/non-discrimination/news/thousands-marchin-bosnia-after-man-streams-partners-murder/>

online abuse, online and technology-facilitated violence against women, online violence against women, etc. In this study, we have decided to use the term ‘gender-based digital violence’ (GBDV) as an umbrella term for several reasons. It covers not just acts of violence committed online, but different types of violence against women and girls fuelled by the use of technology, and it emphasises the gender-based nature of the violence women and girls face. Whereas gender-based violence may target men and boys as well, in this study, we focus exclusively on violence against women and girls.

For the purpose of this study, we define GBDV as any act of gender-based violence against women and girls that is committed, facilitated or aggravated in part or fully by the use of ICT, such as mobile phones and smartphones, the Internet, social media platforms or email, against a woman/girl because she is a woman/girl, or affects women/girls disproportionately.<sup>9</sup>

Talking about GBDV is impossible without addressing the protection of children from sexual abuse and exploitation. The legal framework for combating sexual abuse of children is not framed as gender-based; yet perpetrators of GBDV against girls will be, as a rule, prosecuted for sexual abuse and exploitation of children rather than for equivalent forms under laws addressing VAW, as the child-centred legal framework generally offers stronger protection. In addition, certain forms of abuse and exploitation of girls (committed through the use of the Internet or ICT), such as online grooming and different forms of exploitation of children for pornography, do not constitute a criminal offence at all when it comes to adults.

## 1.2. Different Forms of Gender-Based Digital Violence

There is currently no universally accepted taxonomy of GBDV, and there is a growing vocabulary which is not used consistently across different legal systems. This inconsistency applies not only to the overarching phenomenon but also to its many specific forms. GBDV manifests in a wide range of conduct, including: online stalking, online (sexual) harassment, image-based abuse - often inaccurately referred to as ‘revenge porn’, cyberbullying, sextortion, online hate speech, online grooming, sexting, trolling, doxing, swatting, flaming, and more.<sup>10</sup> As digital technologies evolve, so too do the forms and tactics of GBDV. Existing labels do not cover the full range of behaviour, nor do they highlight the gender pattern in the abuse.<sup>11</sup> Furthermore, many overlapping terms and forms cause not only linguistic, but also legal, confusion and inconsistency – especially as different terms are sometimes used to describe the same conduct, and the same terms are used to describe different conduct.<sup>12</sup>

9 Šimonović, D. *Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences on Online Violence against Women and Girls from a Human Rights Perspective*. UN Human Rights Council, A/HRC/38/47 (Geneva: United Nations, 18 June 2018), par 23.

10 Definitions of all these types on online violence against women are available at <https://babe.hr/neonvrste-nasilja/>.

11 GREVIO, General Recommendation No. 1, § 28-29.

12 For example, image-based abuse is also referred to as revenge porn and the Directive incriminates it as Non-consensual sharing of intimate or manipulated material which also covers conduct often referred to as sextortion (see Council of the European Union and European Parliament, Directive (EU) 2024/1385, art. 5(1)(c)).

Different forms of GBDV are not of the same severity, and not all of them meet the threshold for criminal prosecution (*ex officio*) within individual states.<sup>13</sup> Research shows that harm suffered by women victims of online violence is often perceived as less serious than harm suffered from equivalent offline forms of violence, and consequently not recognised as sufficient to constitute a criminal offence.<sup>14</sup> This can lead to a clash between women's experience of harm and the actual illegality of these behaviours.<sup>15</sup>

Legal responses to GBDV vary across countries and can generally be divided into three main categories:

- A** Introduction of specific offences addressing the online dimension of VAW – where such offences exist, they are most commonly focused on image-based abuse.
- B** Reliance on general criminal offences – where existing laws are interpreted to cover conduct committed online or through digital technology, such as misogynistic hate speech, stalking, sexual harassment, etc.
- C** Non-recognition of online VAW as illegal conduct – certain forms of online abuse are acknowledged as harmful but are not easily captured by traditional criminal law, particularly offences prosecuted *ex officio* (e.g. upskirting, various forms of cyberbullying, the role of online bystanders, or those who approve or encourage violence).

Even when a particular form of online violence can be subsumed under existing ordinary offences, it is questionable whether these offences can capture and express the specific harm resulting from online violence.<sup>16</sup> Research is needed to understand the capacity and willingness of state organs to recognise, address and respond to these forms of violence as well as recognise the specific needs of their victims.

### 1.3. The Impact and Consequences of GBDV

Recognising the needs of victims of GBDV requires understanding the impact and consequences of GBDV. The preamble of the new EU Directive on combating violence against women and domestic violence recognises various levels of harm. Online violence against women can have the effect of silencing women and hindering their societal participation on

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<sup>13</sup> Ibid.

<sup>14</sup> Olga Jurasz, professor at The Open University Law School, and director at the Centre for Protecting Women Online, a (UK) at the International Conference Surf and Sound, Zagreb (and online), 31 January 2025.

<sup>15</sup> Focus on criminal justice disregards that victims often find civil remedies more important - what they want is for the image to be taken down.

<sup>16</sup> For example, in certain legal systems image-based abuse can be classified as unauthorized taking of pictures, yet the rationale of this offence is not to cover abuse of sexual images specifically, but any type of unauthorized photo shooting, which is why the prescribed punishment is usually relatively low.

an equal footing with men, with women in politics, journalists and human rights defenders predominantly at risk, and particularly detrimental effects in educational settings, such as schools and universities. In terms of individual consequences, it negatively affects their mental health, causes social exclusion, anxiety, and induces the desire to inflict self-harm. In extreme cases, it can even lead to suicide.<sup>17</sup> Research reveals an intersectional dimension of online violence against women, too – persons affected by intersectional discrimination are at a heightened risk of experiencing offline forms of gender-based violence.<sup>18</sup> These are foremost young women, women with disabilities, women from national minorities, including the Roma community, LGBTI women, women from rural areas, migrant, asylum-seeking and refugee women, women without a residence permit, women with addiction, and women in prostitution.<sup>19</sup>

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17 Council of the European Union and European Parliament. Directive (EU) 2024/1385, para. 17. of the Preamble.

18 Ibid., para. 6.

19 GREVIO, General Recommendation No. 1, para. 9.

## 2. International Legal Framework

Maja Munivra

### 2.1. General Overview

Analysing the international legal landscape addressing GBDV is complex, as it involves not only instruments related to discrimination and VAW, but also legal frameworks aimed at protecting children - including girls - from various forms of online violence, as well as international legal sources that focus on cybercrime in general. In addition to the horizontal diversity of different frameworks, one must also consider the vertical dimension, which involves three distinct international levels - the United Nations, the Council of Europe and the European Union. At each level, a set of instruments tackles GBDV from different angles, resulting in a net of applicable sources that complement one another. As noted by GREVIO in its General Rec. no. 1, “[d]iscourses around information and communication technology, participation, access rights and safety in technology and online are often not informed by a narrative of gender-based violence against women – despite its high prevalence. Similarly, (...) responses to gender-based violence against women, and in particular domestic violence, rarely include the digital dimension of such violence.”<sup>20</sup>

Given this complexity and piecemeal approach, presenting the international normative landscape comprehensively is not an easy task. Therefore, the purpose of this section is merely to outline the most relevant sources, with a focus on legally binding instruments and their interpretation by the respective monitoring bodies. Finally, even though none of the countries analysed in this publication are EU Member States, the following analysis will present the most important developments at the EU level. This is important not only because the EU legislation highlights the progressive trends, but also due to the fact that Albania, Montenegro, and Serbia are all aspiring Member States which have opened negotiations with the EU and should align their domestic legislation with the *acquis* in the process of accession.<sup>21</sup>

### 2.2. The United Nations

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW Convention) is the first international legally binding UN document, often described as an international bill of rights for women.<sup>22</sup> Considering its origins in the late 1970s, it is not

<sup>20</sup> Ibid., para. 17.

<sup>21</sup> Directorate-General for Neighborhood and Enlargement Negotiations. “Growth Plan for the Western Balkans.” (European Commission, 9 April 2024). Accessed August 7 2025. Available at: [https://enlargement.ec.europa.eu/enlargement-policy/growth-plan-western-balkans\\_en](https://enlargement.ec.europa.eu/enlargement-policy/growth-plan-western-balkans_en). Montenegro is a candidate country since 2010, Albania since 2012 and Serbia since 2014.

<sup>22</sup> UN Women. Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) for Youth. (UN Women Headquarters Office, December 2016). Accessed August 7, 2025. <https://www.unwomen.org/en/digital-library/publications/2016/12/cedaw-for-youth>

surprising that the Convention itself does not deal with gender-based violence, let alone, with its online dimension. However, its monitoring body, the CEDAW Committee, has issued general recommendations<sup>23</sup> and decisions (in respect of communications) dealing with violence against women and girls.<sup>24</sup> Particularly important is its General Rec. no. 35 in which the CEDAW Committee recognised that violence against women takes place in a “continuum of multiple, interrelated and recurring forms, in a range of settings, from private to public, including technology-mediated settings”.<sup>25</sup> The text also refers to contemporary forms of violence “occurring online and in other digital environments.”<sup>26</sup>

Regarding girls, i.e., children in general, the most comprehensive document, which is also the most widely ratified UN treaty,<sup>27</sup> is the 1989 Convention on the Rights of the Child,<sup>28</sup> along with its three Optional Protocols. The most relevant in this context is the Optional Protocol on the sale of children, child prostitution and child pornography from 2000. Whereas the Protocol does not explicitly recognise the gender-based nature of certain forms of violence, it clearly states that “girl children are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited”.<sup>29</sup> It also expresses concerns with respect to “growing availability of child pornography on the Internet and other evolving technologies.”<sup>30</sup> The Protocol, however, does not go further than to require states to criminalise the sale of children, child prostitution and child pornography, regardless of the specific format and technology used. Other forms of online violence have not been directly dealt with either by the Protocol or by the CRC Committee.

Finally, even though it has not yet entered into force, a new document at the UN level deserves mention. On 31 December 2024, the United Nations General Assembly adopted the UN Convention against Cybercrime,<sup>31</sup> which can be seen as a landmark document in this field at the UN level. Its contribution to the fight against GBDV can be found in strengthening international cooperation and resolving technical and legal questions concerning electronic evidence and

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23 In 1992, CEDAW adopted its General Recommendation no. 19 on violence against women, which was updated in 2017 with the adoption of General Recommendation no. 35 on gender-based violence against women.

24 Exchange Chambers. “CEDAW Committee Decisions.” Exchange Chambers, accessed August 7 2025. <https://www.exchangechambers.co.uk/cedaw-committee-decisions/>

25 Committee on the Elimination of Discrimination against Women. General Recommendation No. 35 on Gender-Based Violence against Women. Updating General Recommendation No. 19, CEDAW/C/GC/35, July 14, 2017. <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-recommendation-no-35-2017-gender-based>, para. 6.

26 Ibid., para. 20.

27 UNICEF. “Frequently Asked Questions on the Convention on the Rights of the Child,” accessed August 7 2025, <https://www.unicef.org/child-rights-convention/frequently-asked-questions>

28 United Nations General Assembly. Convention on the Rights of the Child. Adopted November 20, 1989, entry into force September 2, 1990, United Nations Treaty Series, vol. 1577, p. 3. <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

29 United Nations General Assembly. Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography. Adopted May 25, 2000, entered into force January 18, 2002. <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rightschild-sale-children-child>, preamble.

30 Ibid.

31 United Nations. United Nations Convention against Cybercrime: Strengthening International Cooperation for Combating Certain Crimes Committed by Means of Information and Communications Technology Systems and for the Sharing of Evidence in Electronic Form of Serious Crimes. Adopted by the UN General Assembly December 2024; open for signature October 2025; enters into force after forty ratifications.



different types of cybercrime, including GBDV, but it goes a step further. The Convention requires State Parties to establish as criminal offences, inter alia, different types of online violence against women and girls, i.e. children more generally; namely, offences related to online child sexual abuse or child sexual exploitation material (art. 14), solicitation or grooming for the purpose of committing a sexual offence against a child (art. 15) and nonconsensual dissemination of intimate images (art. 16). With respect to the latter, the emphasis of the offence is on sharing of intimate images without the consent of the victim and reasonable expectations of privacy at the time recording was made. The Convention, to be named the Hanoi Convention, will enter into force 90 days after the fortieth ratification is deposited.<sup>32</sup>

## 2.3. The Council of Europe

At the Council of Europe level, the most significant documents are the Convention on the Protection of Children against Sexual Abuse and Sexual Exploitation from 2007 (Lanzarote Convention),<sup>33</sup> the 2001 Budapest Convention on Cybercrime<sup>34</sup> and the 2011 Convention on preventing and combating violence against women and domestic violence (Istanbul Convention). Whereas none of these international conventions addresses GBDV as a distinct phenomenon or prescribes certain forms of GBDV as specific offences, these instruments are complementary and work in synergy.

The Lanzarote Convention does not explicitly highlight girls or the gendered nature of the crimes it addresses. Instead, it adopts a gender-neutral language referring to children in general. It requires states to criminalize a number of offences concerning sexual abuse (Art. 18), child prostitution (Art. 19), child pornography (Art. 20) or participation of a child in pornographic performances (Art. 21), corruption of children (Art. 22) and solicitation of children for sexual purpose (Art. 23). Only the last one explicitly captures the digital dimension by requiring states to incriminate intentional proposal, through ICT, of an adult to meet a child who has not reached the age of consent – for sexual abuse and exploitation, where this proposal has been followed by a material act leading to such a meeting. This offence is often referred to as online grooming.<sup>35</sup>

The Budapest Convention focuses on cybercrime in general<sup>36</sup> and requires state parties to criminalise offences against or by means of computer data and systems. The only

32 See art. 65. The Convention is to be open for signatures at the formal ceremony to be held in Hanoi on 25 October 2025, Government of Vietnam and United Nations, “Hanoi Convention Signing Ceremony & High-level Conference.” HanoiConvention.org, accessed August 7, 2025. Available at: <https://hanoiconvention.org/>.

33 Council of Europe. Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention). CETS No. 201 (Lanzarote, 25 October 2007). Available at: <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=201>.

34 Council of Europe, Convention on Cybercrime (Budapest Convention). CETS No. 185 (Budapest, 23 November 2001). Available at: <https://www.coe.int/en/web/conventions/full-list?module=treatydetail&treatynum=185>.

35 See e.g. Childnet International, “Online Grooming.” Childnet.com, last modified 2023, accessed August 7, 2025. Available at: <https://www.childnet.com/help-and-advice/online-grooming/>.

36 The first additional Protocol is more narrowly concerned with racism and xenophobia, Council of Europe, *Additional Protocol to the Convention on Cybercrime, Concerning the Criminalisation of Acts of a Racist and Xenophobic Nature Committed Through Computer Systems*, CETS No. 189 (Strasbourg, 28 January 2003), <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treatynum=189>.

content-related offences the States Parties must establish as criminal offences are those related to ‘child pornography’ as described in article 9. The Budapest Convention further requires states to secure electronic evidence and effectively facilitate international cooperation not only in relation to the cybercrime offences defined in the Convention, but also for any offence where the evidence exists in electronic form, including offences related to GBDV.

The Istanbul Convention, on the other hand, focuses entirely on VAW, including girls,<sup>37</sup> but without any explicit reference to its online dimension. The criminal law pillar of the Convention requires states to criminalize certain conduct amounting to psychological violence (Art. 33), stalking (Art. 34), physical violence (Art. 35), sexual violence including rape (Art. 36), forced marriage (Art. 37), female genital mutilation (Art. 38), forced abortion and forced sterilization (Art. 39) and sexual harassment (Art. 40). However, in its General Recommendation no. 1 on the digital dimension of violence against women from October 2021, GREVIO, a monitoring committee of the Istanbul Convention, highlighted that the drafters of the Istanbul Convention did not intend to distinguish between online and offline experiences of gender-based violence against women.<sup>38</sup> According to GREVIO, non-consensual image or video sharing, coercion and threats, including rape threats, sexualised bullying and other forms of intimidation, online sexual harassment, impersonation, online stalking or stalking via the Internet of Things as well as psychological abuse and economic harm perpetrated via digital means against women and girls all come under the definition of violence against women as set in Article 3a of the Istanbul Convention.<sup>39</sup> Consequently, States Parties are under an obligation to set up the necessary legal and policy framework with respect to these forms of violence as well (Art. 5). GREVIO further gave examples of different types of behaviours committed online or through the use of ICT, such as non-consensual image sharing, non-consensual taking, producing or procuring of intimate images or videos, exploitation, coercion or threats, sexualized bullying and cyberflashing, online hate speech, monitoring or gathering private information on the victim, identity theft, damage to reputation, etc., which could constitute:

- A sexual harassment under Article 40 of the Istanbul Convention,
- B stalking under Article 34 of the Istanbul Convention and/or
- C psychological violence described in Article 33 of the Istanbul Convention.

While many forms of violence women experience online may indeed meet the threshold of offences set in Articles 33, 34 and 40 of the Istanbul Convention, and the GREVIO

37 According to Art. 3.f: “women” includes girls under the age of 18.

38 GREVIO. Recommendation No. 1, para. 31. The point was illustrated by reference to the Explanatory report which mentions stalking in the virtual world as a form of stalking. Council of Europe, *Explanatory Report to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)*, CETS No. 210 (Istanbul, 2011), <https://rm.coe.int/168008482e>, par. 182.

39 GREVIO, *ibid.*, para. 33.

recommendation serves as an excellent point of reference in this regard, online forms of violence against women are often considered less severe by national authorities.<sup>40</sup> Furthermore, they are less likely to be reported<sup>41</sup> or recognised as gender-based forms of violence or as criminal offences/misdemeanours even when all constituent elements are present.

This is why introducing new legislation to tackle the digital dimension of violence against women may be necessary<sup>42</sup> to provide sufficient and effective protection of women's fundamental human rights, such as the right to protection from humiliating and degrading treatment and the right to private and family life without discrimination, as demonstrated by the jurisprudence of the European Court of Human Rights (ECtHR).

The issue of different forms of online violence against women has already arisen in front of the ECtHR under articles 3 and 8 of the European Convention on Human Rights (ECHR). In the case of *Volodina v. Russia*,<sup>43</sup> the Court emphasized that even though the existing framework equipped Russian authorities with legal tools to prosecute the acts of cyberviolence of which the applicant was a victim, the manner in which they actually handled the matter – notably a reluctance to open a criminal case and a slow pace of the investigation resulting in the perpetrator's impunity – disclosed a failure to discharge their positive obligations under Article 8 of the Convention.<sup>44</sup> Whereas in *Volodina v. Russia*, as in another well-known case, *Buturuga v. Romania*,<sup>45</sup> the legal frameworks per se were seen as sufficient to respond to the online dimension of violence against women, in *M.S.D. v. Romania*,<sup>46</sup> the Court found that Romania's inadequate legal framework failed to protect M.S.D. from online gender-based violence and resulted in ineffective investigation, thus violating both substantive and procedural prongs of article 8 of the ECHR.<sup>47</sup> The gist of that case lies in the national authorities' inadequate response to the applicant's allegations of, inter alia, non-consensual sharing of her intimate images by her ex-boyfriend. In the absence of a specific provision that would cover the phenomenon of non-consensual intimate image sharing, national prosecuting and judicial authorities relied on existing traditional offences. The Court noted that even if certain 'ordinary' offences could have been used to hold V.C.A. accountable for some of the acts imputed to him by the applicant, these offences could not have afforded the applicant the requisite type of protection, in terms of both form and extent, against all the acts allegedly perpetrated by V.C.A. In the light of these considerations, the Court concluded that at the relevant time the respondent State had not put in place an adequate

40 Council of Europe Commissioner for Human Rights. "Stop Cyberviolence against Women and Girls." 2020. Accessed August 7, 2025. Available at: <https://www.coe.int/en/web/commissioner/-/stop-cyberviolence-against-women-and-girls>.

41 Olga Jurasz which emphasizes particularly troubling finding that young girls are least likely to report incidents of online violence which leads to its normalization, the International Conference Surf and Sound, Zagreb (and online), 31 January 2025.

42 As emphasized in a set of GREVIO's recommendations.

43 *Volodina v. Russia*, Application No. 41261/17, European Court of Human Rights, judgment of April 9, 2019

44 *Ibid.*, para 68.

45 *Buturuga v. Romania*, Application No. 56867/15, European Court of Human Rights, judgment of February 11, 2020. Available at: <https://hudoc.echr.coe.int/eng#%7B%22documentcollectionid%22%3A%5B%22GRANDCHAMBER%22%2C%22CHAMBER%22%5D%7D>

46 *M.Ş.D. v. Romania*, Application No. 28935/21, European Court of Human Rights, judgment communicated 8 July 2022.

47 *Ibid.*, para. 128.

criminal legal framework capable of providing the applicant with the requisite protection against the specific acts of V.C.A.<sup>48</sup>

## 2.4. The European Union

The only binding international document, at least when it comes to EU member states, which directly deals with prevention and punishment of GBDV is the EU Directive on combating violence against women and domestic violence.<sup>49</sup> Member states were given three years from its adoption on 14 May 2024, to transpose the Directive into their domestic legal systems. Most important for this research is the obligation it places on EU member states to establish six criminal offences, four of which pertain to computer-related crime – specifically, forms of GBDV. These are Non-Consensual Sharing of Intimate or Manipulated Material (art. 5.), Cyber Stalking (art. 6.), Cyber Harassment (art. 7.) and Cyber Incitement to Violence and Hatred (art. 8.). Non-Consensual Sharing of Intimate or Manipulated Material covers not just: (a) making accessible to the public, by means of ICT, images, videos or similar material – (b) including the so-called deep-fake – depicting sexually explicit activities or the intimate parts of a person, without that person’s consent, where such conduct is likely to cause serious harm to that person; but also (c) the so-called sextortion, i.e. threatening to engage in such conduct unless a person does, acquiesces to or refrains from a certain act. While definitions of Cyber stalking and Cyber Incitement to Violence and Hatred very much reflect their offline counterparts, the definition of Cyber Harassment is broader and includes:

- A** Repeatedly or continuously engaging in threatening conduct directed at a person, at least where such conduct involves threats to commit criminal offences, by means of ICT, where such conduct is likely to cause that person to seriously fear for her own safety or the safety of dependants;
- B** engaging, together with other persons, by means of ICT, in publicly accessible threatening or insulting conduct directed at a person, where such conduct is likely to cause serious psychological harm to that person;
- C** the unsolicited sending, by means of ICT, of an image, video or other similar material depicting genitals to a person, where such conduct is likely to cause serious psychological harm to that person;
- D** making accessible to the public, by means of ICT, material containing the personal data of a person, without that person’s consent, for the purpose of inciting other persons to cause physical or serious psychological harm to that person.

<sup>48</sup> Ibid., para. 135-137.

<sup>49</sup> Council of the European Union and European Parliament, Directive (EU) 2024/1385.

In addition to defining these offences, the Directive also determines the so-called minimum and maximum punishments for these offences, which are at least one year of imprisonment. To provide broad protection to victims, the Directive requires Member States to ensure that their jurisdiction is established also in situations where the criminal offence is committed by means of ICT accessed from their territory, regardless of whether the intermediary service provider is based in their territory (Art. 12(3)). Finally, from the perspective of victims, perhaps equally important as the prosecution of perpetrators is the removal of online material which constitutes image-based abuse, cyber harassment and cyber incitement to violence and hatred. According to Article 23 of the Directive, States must take a set of measures to remove or disable access to such illegal material. Removal is also regulated by the Digital Service Act (DSA),<sup>50</sup> a regulation directly applicable in all EU member states. The illicit so-called content that must be removed from the Internet explicitly includes sharing of images depicting child sexual abuse, the unlawful non-consensual sharing of private photos and online stalking.<sup>51</sup>

Finally, at the EU level too, there is a document protecting children from various forms of sexual abuse and exploitation - the Directive on combating the sexual abuse and sexual exploitation of children and child pornography. As the preamble points out, these offences are often facilitated by the use of ICT, such as the online solicitation of children for sexual purposes via social networking websites and chat rooms.<sup>52</sup> Still, the offences in the Directive are defined in broader terms to cover both online and offline forms of sexual abuse and exploitation. The Directive, initially adopted in 2011, is currently undergoing revision—primarily driven by the recognised need to address its limitations. Key among these is the replacement of outdated terminology (notably, substituting “child pornography” with “child sexual abuse”) and the need to reflect significant technological developments in recent years.<sup>53</sup>

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50 European Union. Regulation (EU) 2022/2065 of the European Parliament and of the Council of 19 October 2022 on a Single Market for Digital Services and Amending Directive 2000/31/EC (Digital Services Act). Official Journal of the European Union L 277, October 27, 2022, 1–102, <https://eurlex.europa.eu/eli/reg/2022/2065/oj>.

51 Ibid., para. 12.

52 Ibid.

53 European Parliamentary Research Service (EPRS). Combating child sexual abuse Revising Directive (2011/93/EU). EPRS Briefing (Brussels, July 2024). Available at: [https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI\(2024\)762374](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2024)762374).



### 3. Country Case Study: Albania

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Desara Dushi

#### Introduction

Recent years have seen a sharp rise in violence against women and girls online in Albania, particularly in online stalking through social media. A 2023 study shows that 41% of Albanian women active online have experienced some form of technology-facilitated violence in their lifetime. More than one-third of women in Eastern Europe and Central Asia who face such violence experience it on social media platforms like Facebook and Instagram, with Instagram being the most common platform for this type of violence in Albania. The main perpetrators are current or former partners, followed by family members and employers.

A 2025 annual report reveals a nearly 67% increase in reports of serious online incidents involving children and youth in 2024, compared to a nearly 67% increase in reports of serious online incidents involving children and youth in 2023.<sup>54</sup> Girls and young women remain the primary victims and reporters of online abuse: 62% of reports were submitted by girls.<sup>55</sup> According to this report, the most frequently reported issues included online threats, stalking, and blackmail, with TikTok being identified as the main platform where such incidents occur.<sup>56</sup>

Research conducted by the Albanian Ombudsman and Commissioner for Protection from Discrimination has documented the routine discrimination, abuse, false accusations, and offensive language faced by women in Albanian politics, including online, such as in the media.<sup>57</sup> Fifty per cent of respondents report having experienced degrading talk or false rumours on digital and social media.<sup>58</sup>

Furthermore, two recent tragedies in Albania highlight the devastating intersection of domestic violence, digital abuse, and insufficient protection mechanisms. In January 2024, in Durres, a 41-year-old woman's suicide was linked to domestic violence compounded by cyberbullying.<sup>59</sup> Despite her attempts to seek help and report the online harassment she

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54 National Report on Internet Safety for Children and Young People in Albania – 2024. (Tirana: iSigurt.al, June 2025). Available at: <https://isigurt.al/qendra-burimore-trainimeve/raporte/>

55 Ibid.

56 Ibid.

57 United Nations Development Programme (UNDP). Albanian Ombudsman and Commissioner for Protection from Discrimination. Violence against women in politics. (Tirana: UNDP, 2021). Available at: <https://www.avokatipopullit.gov.al/media/manager/website/reports/VIOLENCE%20AGAINST%20WOMAN%20IN%20POLITIC.pdf>

58 Ibid. The number of female political candidates in the parliamentary elections of 2021 was 732 out of 1,841 total candidates. The UNDP study surveyed 152 women and 154 men political candidates. The purpose of the survey was to understand the types, motives, and impacts of violence that targets politicians as well as gender differences.

59 Artur Korriku and Sokol Dema, “Vetëvrasja e 41-vjeçares, u gjet me shenja jete në dhomën e ndenjës, vdiq një ditë më vonë në spital! Burrit i gjejnë video kërcënuese në celular [41-year-old woman commits suicide, found with signs of life in living room, dies a day later in hospital! Threatening videos were found on the husband's mobile phone]”. *Shqiptarja.com*, January 7, 2024. Available at: <https://shqiptarja.com/lajm/vetevrasja-e-41vjeçares-ne-durres-burri-ne-polici-u-vet-helmua-per-shkak-tebullizimit-ne-tiktok>

experienced, authorities failed to provide adequate protection or intervention, exposing critical gaps in both legislative frameworks and enforcement mechanisms designed to address such offences. In a similar case in Tirana, in February 2024, a 27-year-old woman took her own life following the non-consensual distribution of intimate photographs online by a 39-year-old man, who has since been arrested.<sup>60</sup> The violation of her privacy and subsequent psychological trauma proved overwhelming, with fatal consequences that might have been prevented through proper support systems and timely intervention.

These incidents cannot be viewed as isolated tragedies but must be recognised as manifestations of a broader, systemic failure to protect women from various forms of gender-based violence. They represent the end of a continuum of violence that many Albanian women and girls face, where physical abuse often intersects with psychological torment and digital harassment. The cases underscore the urgent need for comprehensive approaches that address not only traditional forms of domestic violence but also emerging threats in digital spaces. They reveal persistent challenges in implementing existing protections and highlight the life-threatening consequences when systems designed to safeguard vulnerable individuals fail to function effectively.

The following sections provide an analysis of the current legal framework and policy initiatives addressing gender-based digital violence in Albania, along with country monitoring reports from international organisations and interviews with experts in the field.

### 3.1. Domestic Legal Framework

While the Albanian legal system does not explicitly recognise GBDV, Article 108/a of the Criminal Code provides some level of protection by criminalising sexual harassment, which is defined as “sexual acts that violate the dignity of a person, by any means or form, creating a threatening, hostile, degrading, humiliating or offensive environment.”<sup>61</sup> This offence is punishable with imprisonment ranging from one to five years. The phrase “by any means or form” is of crucial importance for the criminalisation of the digital component of gender-based violence covered by this provision. However, this phrase alone is insufficient, considering the growing spread of such crimes. A clear criminalisation of the digital component of gender-based violence is required.

Sexual harassment is also recognised as a form of discrimination, with the recent amendments to the Law on Protection from Discrimination.<sup>62</sup> However, the legal definition of sexual harassment provided in this law does not mention the online dimension of the crime and is not gender sensitive.

60 “27 vjeçarja u vetëvra pasi i publikuan foto intime ne TikTok [27-year-old woman commits suicide after intimate photos of her were published on TikTok]”. *Tv Klan*, February 12, 2024. <https://tvklan.al/27-vjecarja-uvetevra-pasi-i-publikuan-foto-intime-ne-tiktok>

61 Law No. 7895, dated 27.1.1995, Criminal Code of the Republic of Albania. [https://qbz.gov.al/share/\\_YCv102dROybrYpg2hNERg](https://qbz.gov.al/share/_YCv102dROybrYpg2hNERg)

62 Article 3(14) of the Law No. 10 221, dated 4.02.2010 “On Protection from Discrimination”, defines sexual harassment as “unwanted behaviour, verbal or non-verbal, of a sexual nature, which has the purpose or effect of violating the dignity of the person and creating an environment of intimidation, hostility, contempt, humiliation or offence.”



The offence of stalking (Article 121/a of the Criminal Code) includes threatening or harassing someone repeatedly to cause anxiety or fear for one's safety or that of a close person, or to force them to change their lifestyle. It is punishable by imprisonment for a term of six months to four years. When an ex-spouse, former cohabitant, or someone with whom the victim had a relationship commits this crime, the punishment is increased by one-third of the original sentence. If stalking is committed against a minor, a pregnant woman, or a defenceless person, or if it involves the use of a mask or weapons, the penalty is raised by up to half of the original sentence. However, online stalking is not criminalised, creating a legal gap that leads to general negligence in such acts and a frivolous perception when stalking occurs online.

Intentionally insulting someone is considered a misdemeanour by the Albanian Criminal Code (Article 119). The criminal offence of public insults conducted via electronic means (Article 119/b) covers ethnicity, nationality, race, and religion, but fails to address any gender-related motivations. Defamation, defined in the Albanian Criminal Code as “the intentional dissemination of statements, as well as any other information, knowing that they are false, that violate the honour and dignity of a person”, can offer some recourse. However, the burden of proof lies with the victim, which can be difficult, especially in proving the falsity of deepfake content. Additionally, the provision on defamation focuses on false statements rather than false images and videos, offering limited applicability.

A potentially applicable provision is Article 121, which addresses unjust interference in private life. This offence, which constitutes a misdemeanour, includes setting up devices that serve for listening, recording, or transmitting words or images, as well as the storage for publication, or the publication of data that exposes an aspect of the private life of an individual without their consent. While this provision appears to be the closest reference to gender-based violence in the form of non-consensual sharing of intimate images, it fails to cover elements such as altering or modifying intimate images or threats of distribution of images.<sup>63</sup> The definition of consent is also lacking.

The Criminal Code, in its general part, recognises gender as an aggravating circumstance under Article 50(j), potentially allowing for harsher penalties when gender is a motivating factor in criminal conduct. Additionally, in certain offences related to computer systems, gender is regarded as an integral element of the criminal act, grouped alongside ethnicity, nationality, race, and religion. For example, Article 265 of the Albanian Criminal Code defines hate crimes as “inciting hatred and strife, due to race, ethnicity, religion or sexual orientation” including “the preparation, dissemination or storage, to spread writings with such content, committed by any means or form”. While gender is not included as one of the discriminatory grounds within this provision, sexual orientation is.

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63 Megi Reçi. *Combating Image-Based Sexual Abuse Online: A Legal Perspective on the Western Balkans*. (DCAF, 2025), 6. Available at: <https://www.dcaf.ch/sites/default/files/publications/documents/CombatingImagBasedSexualAbuseOnline.pdf>

When discussing the legal protection of girls in the digital realm, we also have to look at existing legal protection for children, as this category is not gender sensitive in the national or even international law. Albanian criminal legislation is focused on punishing the classic forms of Child Sexual Abuse and Exploitation (CSAE), centred around physical abuse, such as sexual abuse and child prostitution. Online grooming of girls and boys for sexual purposes is covered by Article 108, paragraph 4 of the Criminal Code. However, this article does not criminalise the exchange of sexual conversations between an adult and a child – otherwise known as ‘sexting’ – when the purpose is not to arrange a meeting for the subsequent sexual abuse of the child.

Currently, the provision on child pornography, Article 117, criminalises the production, importation, offering, making available, distribution, transmission, use, or possession of child pornography, as well as knowingly creating access to it, by any means or form. Additionally, the third paragraph of Article 117 criminalises the recruiting, using, coercing, or persuading a child to participate in pornographic performances, or participating in pornographic performances involving children. The added words “by any means or form” are of crucial importance for the criminalisation of new forms of online child pornography.

However, the phrase “by any means or form” alone is not sufficient, considering the rapid spread of child pornography on the Internet and the growing threat to children, and young boys and girls of such a crime. A clear criminalisation of online child sexual abuse and exploitation is required. Additionally, the lack of a definition of the concept of child pornography and pornographic performance, which constitutes a discrepancy between international standards and Albanian legislation, may limit the application of this article.

At the time of writing this report, Albania’s Criminal Code was undergoing extensive amendments that had begun couple of years ago. The amended draft law opened for public consultations in August 2025.<sup>64</sup> The published draft law introduces the offence of “cybernetic harassment” under an ambiguous provision (draft Article 265), which, at its current form, is a conflation of online harassment, online stalking, blackmailing, abuse of personal data, interference with private life, insult and defamation into a single, overly broad provision. This provision fails to incorporate any gender-sensitive considerations, lacking recognition of gendered harassment patterns.

The published draft introduces also the offence of online harassment (Article 841) as an act of “attacking, in collaboration with a third party, another person by making threatening or abusive materials accessible to a number of end users through information and communication technologies, causing significant psychological harm to that person” and online stalking (Article 840) as including acts such as continuous online threats, continuous surveillance, and unauthorized public dissemination of personal information.

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64 Projektligj “Kodi Penal i Republikës së Shqipërisë [Draft law “The Criminal Code of the Republic of Albania”]. Available at: <https://www.konsultimipublik.gov.al/Konsultime/Detaje/867>

Other newly introduced provisions include violation of one's personality (Article 849), illegal use of one's image (Article 842), online dissemination of sexual acts (Article 814), including deepfakes (Article 814(b)) and degradation of sexual integrity (Article 813). While the draft provisions seek to remedy statutory gaps in the Criminal Code's treatment of online misconduct, the proposed framework fails to account for gender-based considerations, rendering the provisions inadequately tailored to address the gendered nature of digital violence. Most of these offences are considered misdemeanours, and the burden of proof lies on the victim.

A notable law covering protection from gender-based violence is the Law on Measures against Violence in Family Relations, first adopted in 2006. This law aims to prevent and reduce domestic violence in all its forms, through appropriate legal measures, and "guarantee the protection of family members who are victims of domestic violence, with special attention to children, the elderly and persons with disabilities" through legal measures.<sup>65</sup> The law focuses on administrative and civil measures that the Ministry of Health and Social Protection, as the main responsible institution, together with the Ministry of Internal Affairs, the Ministry of Health and the Ministry of Justice, have to undertake to protect victims of domestic violence. The main legal measure regulated by this law is the protection order. In the 2006 text of this law, women and girls are not mentioned as a special category deserving protection, with only children, the elderly and people with disabilities being listed. The 2020 amendments to the Law on Measures against Violence in Family Relations formally recognised women and girls as special categories, deserving specific legal protection<sup>66</sup>, alongside children, the elderly, and people with disabilities.

In 2024, an 'informal' draft law focusing on combating digital violence against women and girls was unveiled.<sup>67</sup> The draft law was proposed by the Coalition for Legal Women's Group (CLWG) in Albania. Sources reveal that the draft law seeks to introduce several key provisions designed to address digital violence, including a definition of digital violence that would incorporate acts like harassment, online stalking, and the nonconsensual sharing of intimate images.<sup>68</sup> At the time of writing, the draft law has not yet been made publicly available, and it is an informal proposal that, at the time of writing, was not being discussed in parliament yet.

A critical analysis of the Albanian legal framework reveals significant disconnects between cybersecurity regulations and gender-based violence protections. While data protection laws recognise sexual orientation as sensitive personal data, there remains a persistent conceptual separation between technological security and gender-based violence. This separation stems

65 Article 1, Law No.9669, dated 18.12.2006 on Measures against Violence in Family Relations.

66 Article 1, paragraph 1, of the amended Law on Measures against Violence in Family Relations. Available at: <https://qbz.gov.al/preview/ca8b14a0-12a5-42c4-a03a-b93443ffdd03/fz>.

67 "UNDEF Partner Unveils Draft Law to Tackle Digital Violence Against Women and Girls". UN Democracy Fund. <https://www.un.org/democracyfund/news/undef-partner-unveils-draft-law-tackle-digital-violence-againstwomen-and-girls>

68 "Albania's New Draft Law: A Major Leap Towards Online Safety and Gender Equality." fundsforNGOs, February 20, 2025. <https://news.fundsforngos.org/2025/02/20/albanias-new-draft-law-a-major-leap-towardsonline-safety-and-gender-equality/>

from historical perspectives that considered state and citizen security as public issues while relegating violence against women to the private sphere.

The cybersecurity sector in Albania continues to employ gender-blind definitions and approaches, failing to recognise different forms of GBDV as legitimate cybercrime despite being perpetrated through identical technological tools. The current framework largely conceptualises internet infrastructure as economic assets requiring protection, with limited consideration for human security dimensions, particularly those affecting women and other marginalised groups.

## 3.2. Country Monitoring Reports and National Policy Framework

### 3.2.1. Country Reports of the Relevant Monitoring Bodies

The 2024 GREVIO report acknowledges that Albania has made significant strides in its legislative framework against domestic violence and violence against women.<sup>69</sup> A particularly commendable achievement highlighted in the report is the nationwide extension of a coordinated referral mechanism across all Albanian municipalities, bringing institutionalised and coordinated protection closer to victims of gender-based violence.<sup>70</sup> Additionally, Albania has enhanced its data collection capabilities through the introduction of a new database that better integrates information from various stakeholders, demonstrating the authorities' commitment to building a robust legal framework to combat such violence.

Despite these positive developments, GREVIO identified several critical areas requiring urgent attention from Albanian authorities to comply with the Istanbul Convention fully.<sup>71</sup> Traditional beliefs, gender roles, and stereotypes continue to present serious challenges in Albanian society, particularly concerning sexual violence and rape, which remain severely underreported. The report points out that Albania has only one crisis management centre for sexual violence victims in the entire country, which is insufficiently utilised. GREVIO emphasised the urgent need for authorities to implement more sustained awareness-raising measures and establish additional support services for victims.

Furthermore, GREVIO noted the troubling pattern of reported cases of violence against women being dismissed at various stages of the judicial process without resulting in convictions. This was further raised as a concern also by civil society interviewees, particularly regarding online gender based violence. GREVIO observed a significant gap between the political will for reform and the actual implementation of protective measures, which continues to undermine victims' trust in the system. While GREVIO focused on all

69 GREVIO. *First thematic evaluation report: Building trust by delivering support, protection and justice: Albania*. (17 September 2024), 6. <https://rm.coe.int/grevio-s-first-thematic-evaluation-report-onalbania/1680b1a0ca>

70 Ibid.

71 Ibid.

forms of gender-based violence, this observation appears to have a particularly strong impact on victims of GBDV, especially given a complete lack of attention to this phenomenon, as revealed through the analysis of national strategies and the interviews conducted.

In its second monitoring round on the protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs) of March 2023, the Lanzarote Committee observed that Albania does not have a legal definition to describe “child sexual abuse material” (CSAM) in its legislative framework.<sup>72</sup> Furthermore, the Committee observed that the possession of self-generated sexual images and/or videos (CSGSIV), the distribution and transmission of their own CSGSIV by children is criminalised in Albania. The Committee invited Albania to introduce explicit references in its respective legal frameworks to conduct concerning CSGSIV, identifying the circumstances when children should not be held criminally liable and when they should be prosecuted only as a last resort; to contemplate appropriate legal responses to conduct involving non-visual CSGSIV produced by children in the context of offences covered by the Convention; and to consider criminalising the offence of “grooming” (solicitation of children for sexual purposes), even when it does not lead to a face-to-face meeting or producing CSAM.<sup>73</sup> In the written response to the Lanzarote Committee’s recommendations, provided in March 2025, the Albanian government stated that the Ministry of Justice was in the process of drafting a new Criminal Code, where the Lanzarote Committee’s concerns would be taken into consideration.<sup>74</sup> The Albanian government provided the same response to all individual issues raised by the Lanzarote Committee, without providing any details or specifics.

### 3.2.2. National Policy Framework

The National Strategy for Gender Equality in Albania 2016-2020 claimed to adopt a zero-tolerance approach to gender-based violence. Notably, it failed to include specific measures addressing online manifestations of GBV. This omission reflects a broader lack of understanding regarding technology-facilitated abuse and its significant impact on women’s participation in digital spaces. The conclusion of this strategy in 2020 presented an opportunity to incorporate more comprehensive approaches to GBDV in future policy frameworks.

The new National Strategy for Gender Equality 2021-2030 continues on the same path as the previous one, adopting a zero-tolerance approach to gender-based violence. However, this strategy also fails to include any specific measures addressing online manifestations of GBV. The new strategy provides a brief overview of the achievements from the previous

<sup>72</sup> Lanzarote Committee’s 2nd Monitoring Round on: “The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs): addressing the challenges raised by child self-generated sexual images and/or videos (CSGSIV)” Compliance Procedure – Albania. (Council of Europe, March 2025) <https://rm.coe.int/factsheetalbania-the-protection-of-children-against-sexual-exploitation/1680aecd3>

<sup>73</sup> Ibid.

<sup>74</sup> Ibid., 4-5.

strategy, claiming that the reduction of gender-based violence and domestic violence has been achieved by 84.8%,<sup>75</sup> without giving any details as to the forms of gender-based violence tackled. It also notes the establishment of Coordinated Referral Mechanisms for domestic violence cases in 61 municipalities, emphasising the need for ongoing support to ensure the effectiveness and sustainability of these mechanisms. The strategy reports the increased number of specialised support services for the treatment of victims/survivors of domestic violence and gender-based violence, noting, however, the limitations in human and financial resources, infrastructure, proper application of standards and protocols, and sustainability. In terms of criminal justice, the strategy emphasises the need for improvements in the criminal law, particularly in its implementation by respective institutions. Lastly, the strategy highlights the challenge of collecting disaggregated data and analysing the situation of specific groups of women and girls in a systematic manner, which impacts the very commitment and sustainability that this process requires from a set of institutions.<sup>76</sup>

The new strategy lists among the main challenges identified during the assessment of the previous national strategy: adding new services in line with the needs and specificities of various vulnerable groups; opening public debates and addressing gender stereotypes, harmful patriarchal practices and forms of violence against women, a challenge, which cannot be overcome without well-coordinated actions and the dedication of appropriate resources and tools. The strategy, however, does not refer to any particular gender element in this challenge. Once again, the national strategy fails to recognise the significant impact of the digital aspect of gender-based violence and women's and girls' participation in the digital environment.

### 3.3. Expert Perspectives on Gender-Based Digital Violence: Interview Findings

The qualitative component of this research involved semi-structured interviews with experts working on issues related to online gender-based violence in Albania. Initial outreach was conducted to several experts in the field, resulting in three confirmed participants: an independent researcher specialising in human rights and gender-based violence, an advocate and law professor, and a social worker working for the civil society organisation Woman to Woman. The independent researcher and the advocate were based in Tirana. At the same time, the social worker represented Gruaja tek Gruaja [Woman to Woman] organisation, an organisation focused on empowering women and families in the city of Shkodra and nearby areas. All interviews were conducted online.

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75 Ministry of Health and Social Protection (Albania). Strategjia Kombetare per Barazine Gjinore 2021-2030 [National Strategy for Gender Equality 2021-2023]. (April, 2021), 21.  
<https://qeverisjavedore.gov.al/wpcontent/uploads/2024/06/Projektvendim-nr.-3-Draft-SKBGJ-2021-2030.pdf>

76 Ibid., 23.

### 3.3.1. Interview Findings

Interview findings indicate that stalking constitutes the most prevalent form of online offence against women and girls in Albania, followed by sexual harassment and threats. According to a social worker from the Gruaja tek Gruaja organisation, these offences predominantly affect young women aged 15-30. The social worker further observed that online gender-based violence represents a recently emerging area of discourse in Albania. She noted that “this topic was entirely absent from university curricula during my academic studies, which I completed in 2017, and only entered public discourse following increased advocacy efforts by civil society organizations”.<sup>77</sup>

The most prominent concern raised by the interviewees in this study centres on the absence of specific legal provisions that criminalise GBDV. This legislative gap creates a cascade of institutional challenges that fundamentally undermine efforts to understand and address the phenomenon. Without explicit criminalisation, law enforcement agencies lack clear legal frameworks for prosecution, while statistical reporting systems fail to capture the true nature of these crimes. The result is a systematic invisibility of online gender-based violence within official crime data, despite evidence from advocacy organisations, media reports, and other sources suggesting an increasing prevalence of such incidents.

This documentation crisis has implications for both policy development and victim support services. As the independent researcher explained, “Unfortunately, because the police and prosecution organise crime statistics based on criminal code articles and since these violations are not explicitly covered in the criminal code, they fall outside the statistics, or they are captured by some other crime that is related to what happened. But you cannot clearly identify them as online violence. For example, they could be registered under stalking in these statistics, but still, you cannot tell if this is online or real-life stalking.”<sup>78</sup> The consequences extend beyond statistical categorisation, as the same participant noted: “Law enforcement do not proceed with most cases because they do not have the legal basis, so they do not register them at all. They do not go forward. So they are lost, let’s say. So if we judge from media and public reporting on cases, it seems that there is an increasing trend. But without data to confirm this specifically.”<sup>79</sup> This institutional failure was corroborated by the interviewed lawyer, who confirmed that: “The absence of specific legal provisions directly prevents cases from progressing through the judicial system.”<sup>80</sup> This creates a vicious cycle where the lack of legal precedent reinforces prosecutorial reluctance, while simultaneously depriving the legal system of the case law necessary to develop more effective approaches to GBDV. The resulting legal vacuum not only fails to provide justice for victims but also hampers the development of comprehensive policy responses based on empirical evidence.

<sup>77</sup> Personal interview with T. Çela, on 26 May 2025. Interview conducted online.

<sup>78</sup> Personal interview with M. Reçi, on 11 July 2025. Interview conducted online.

<sup>79</sup> Ibid.

<sup>80</sup> Personal interview with N. Bërdufi, on 3 June 2025. Interview conducted online.



According to the interview data, instances of online gender-based violence are typically categorised under existing criminal provisions such as stalking, interference with private life, or threats to life when explicit threats are present. One participant referenced a case from several years prior in which an individual was charged with causing suicide following a woman's suicide, which had resulted from sustained online threats and harassment perpetrated by her former partner. The interviewee's analysis of this case reveals the inadequacy of the current legal framework: "the police could prosecute him only for causing suicide, which is very concerning because it definitely allows the police to act after something grave or terminal has taken place."<sup>81</sup> This reactive approach to prosecution highlights the systemic failure to prevent harm through proactive legal intervention. The interviewee further identified critical legislative gaps, including the absence of provisions criminalising threats to distribute explicit content, rules governing platform responsibility, and even the lack of a legal definition of consent regarding the sharing of intimate images. These deficiencies collectively demonstrate how existing legal structures fail to address the preventative and regulatory dimensions necessary for comprehensive protection against online gender-based violence.

Regarding procedural law, the independent researcher observed that the burden of proof for such offences rests with the victim, as Most forms of GBDV are classified as misdemeanours under Albanian law and carry minimal sanctions. The initiation of prosecution requires victims to file a lawsuit, a procedural requirement that may serve as a significant deterrent to reporting while potentially subjecting victims to secondary traumatising through the legal process itself.

When questioned about the most effective legal reforms for addressing online genderbased violence, both the researcher and the lawyer concurred that amendments to the criminal code would prove more efficacious than enacting standalone legislation specifically targeting gender-based violence against women. They argued that this approach would prevent legal fragmentation, given that analogous protections are required for children and other groups that experience disproportionate targeting and victimisation in online spaces. Such comprehensive reform could be achieved through criminal code amendments, thereby addressing the needs of all affected populations simultaneously. Furthermore, they noted that certain broadly applicable provisions already exist within the criminal code, requiring only minor modifications to extend their applicability to online contexts. The lawyer further noted: "Albanian judges and prosecutors have established a longstanding practice of relying predominantly on the criminal code, thereby creating a risk that new specific legislation may be undermined and remain merely theoretical rather than practically implemented."<sup>82</sup> The lawyer further observed that "perhaps the only scenario in which *lex specialis* legislation would receive the necessary attention and achieve practical implementation would be through a comprehensive law addressing all forms of cybercrime, rather than a law focused specifically on gender-based violence."<sup>83</sup>

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81 Personal interview with M. Reçi, on 11 July 2025.

82 Personal interview with N. Bërdufi, on 3 June 2025.

83 Personal interview with N. Bërdufi, on 3 June 2025.

Conversely, the social worker identified implementation challenges that persist even when adequate legal frameworks exist to address the phenomenon. She reported that police officers, judges, and prosecutors demonstrate a lack of interest in training on these issues.

When questioned about the effectiveness of criminalisation in reducing online genderbased violence, the independent researcher noted that discussions of punishment severity are premature, given the absence of any punitive framework. As the researcher explained, “We are discussing the existence of punishment whatsoever. Because they are not covered in the first place. It’s not that the discussion is; let’s make this graver, let’s make this harsher. It’s not there at all, and these go entirely unpunished [...] So in this case, the discussion is very, very basic [...]”<sup>84</sup>

The social worker emphasised that criminal sanctions for online offences tend to be less severe than those imposed for offline offences, failing to adequately reflect the gravity of this form of harm. As she stated: “Such crimes are seen lighter than physical ones, even in awareness on the issue (...) people still seem to lack awareness of the gravity of this online phenomenon.”<sup>85</sup>

The interviewees acknowledged that legislative measures alone would prove insufficient to address the problem comprehensively. They identified law enforcement training and awareness, public education campaigns, victim support services, national strategies, and complementary policies as essential components that must accompany the criminalisation of online gender-based violence against women and girls. They focused qualitative and quantitative research on the topic as essential components that must accompany the criminalisation of online gender-based violence against women and girls. The social worker further emphasized the significance of implementing education and awareness-raising initiatives already at the school level, as a measure that would not only lead to increased case reporting but also deter young people from becoming future perpetrators.

When examining institutional responses to reports of online gender-based violence against women and girls, interview data reveal deficiencies that extend beyond legislative gaps. One participant’s assessment illuminated multiple barriers hindering effective institutional action: “I don’t think it’s only because of the lack of clear legislation. It’s to a good extent because of that, because if they cannot prosecute for a specific crime, they will just drop the report, and nothing is going to be done about it. But in the cases where something can be done, I have seen them only reacting after the fact.”<sup>86</sup> This reactive approach fundamentally undermines prevention efforts, as the interviewee observed: “So prevention is not on the table at all, and unfortunately, it just seems like it becomes serious or something’s done about it if it becomes an issue in real life, if some other violent crime or threat takes place, then it may gain some more attention.”<sup>87</sup> The social worker identified the diminished

84 Personal interview with M. Reçi, on 11 July 2025.

85 Personal interview with T. Çela, on 26 May 2025.

86 Personal interview with M. Reçi, on 11 July 2025.

87 Ibid.

attention given to online gender-based violence as a significant problem. She referenced multiple cases in which victims who reported incidents to police were dismissed without any investigation. As she explained, “We had cases where girls went to report the case to the police station and were sent back home, being told that this won’t happen again. Or even worse cases when the police knew the perpetrator and they sent the girls back home, saying there won’t be any further problems.”<sup>88</sup> She attributed this reaction to law enforcement’s insufficient understanding of the severity of these crimes. The social worker further revealed that despite her organisation’s efforts to conduct awareness-raising trainings on the issue, co-organised with international organisations and competent institutions, they do not participate in these educational initiatives. According to her, there is a certain level of attendance from police officers because they are obliged by law to follow such training, but a complete lack of interest from judges and prosecutors.

The analysis reveals that institutional inadequacies stem from multiple converging factors rather than solely from gender bias or insensitivity. Human resources and infrastructure constraints significantly impair response capabilities, as evidenced by the fact that “the cybercrime unit within the police, for example, covers the entire country. And they don’t have units in other cities.”<sup>89</sup> This resource limitation creates a bottleneck effect where a small team located only in Tirana cannot adequately address all the cases requiring investigation. Furthermore, the absence of regulatory frameworks governing platform cooperation creates additional investigative obstacles, as authorities “cannot force any platform to respond to provide them with evidence”<sup>90</sup> or cooperate with investigations. This multifaceted analysis demonstrates that addressing GBDV requires comprehensive reform encompassing legislative, institutional, and regulatory dimensions rather than isolated interventions.

None of the interviewed participants reported awareness of any educational initiatives specifically targeting police, prosecutors, or judicial personnel on GBDV, whether currently implemented or previously conducted. Some interviewees noted that even when such training programs exist, they are typically organised and/or funded by international organisations rather than domestic institutions.

The interviewed participants indicated the absence of any national strategy, action plan, or governmental policy specifically designed to prevent or suppress GBDV. While the issue receives acknowledgement in certain official documents, such as in the Strategy on Gender Equality, which dedicates only one paragraph to the phenomenon, no concrete measures or implementation frameworks have been established to address these challenges.

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<sup>88</sup> Personal interview with T. Çela, on 26 May 2025.

<sup>89</sup> Personal interview with M. Reçi, on 11 July 2025.

<sup>90</sup> Ibid.

## Conclusion

The Albanian legal framework addressing online gender-based violence remains underdeveloped despite some general provisions that could be applied to such cases. GBV in the country is reduced mainly to domestic violence. Digital violence is not yet recognised as a form of violence. Online security and GBV often seem to be unrelated.<sup>91</sup> There is no reference to GBDV as a cybercrime either. Acts like non-consensual distribution of intimate images, and other forms of online violence against women and girls are not criminalised, instead relying on a patchwork of general provisions across various legal instruments.

This legislative gap creates significant challenges in addressing the growing prevalence of technology-facilitated gender-based abuse. Recent research shows a profound lack of sensitivity and urgency in institutional responses to reported cases, with law enforcement and the judiciary often failing to recognise the severity of these crimes, viewing online threats as less severe than physical harm.<sup>92</sup> Despite Albania's commitments to various international instruments and ongoing legislative reforms, the intersection between gender-based violence and digital technologies remains inadequately addressed in the current legal framework. The disconnect between cybersecurity governance, cybercrime, and gender-based violence protection creates significant gaps in the legal response to technology-facilitated abuse. As Albania continues to develop its digital governance frameworks, integrating gender-sensitive approaches to cybersecurity and cybercrime will be essential to ensure comprehensive protection for all citizens in digital spaces.

As the interviews revealed, tackling digital violence demands comprehensive action to build a more just and inclusive society. This challenge requires coordinated efforts across multiple fronts: updating legal frameworks to address emerging forms of online harm, strengthening enforcement mechanisms to ensure accountability, and expanding education initiatives that promote responsible digital behaviour. Such measures are essential for safeguarding vulnerable populations, especially women and girls who disproportionately experience online harassment and abuse. Through these combined efforts, we can transform digital spaces into environments that empower rather than endanger, creating online environments where everyone can navigate safely.

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91 Eugenia Dorokhova, Aida Mahmutović, hvale vale Vasilika Laçi. *Cyber Violence against Women and Girls in the Western Balkans: Selected Case Studies and a Cybersecurity Governance Approach*. (DCAF, 2021), 20. Available at: [https://www.dcaf.ch/sites/default/files/publications/documents/CyberVAWG\\_in\\_WB.pdf](https://www.dcaf.ch/sites/default/files/publications/documents/CyberVAWG_in_WB.pdf)

92 Megi Reçi. *Combating Image-Based Sexual Abuse Online: A Legal Perspective on the Western Balkans*. (DCAF, 2025), 5. Available at: <https://www.dcaf.ch/sites/default/files/publications/documents/CombatingImagBasedSexualAbuseOnline.pdf>



## 4. Country Case Study: Montenegro

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Marija Šćekić

### Introduction

Gender-based digital violence (GBDV) is not just an extension of digital harassment but also poses a significant challenge to gender equality and women's safety. Yet, GBDV is often perceived as secondary to in-person abuse, despite the proven psychological, reputational and sometimes financial harm it can cause. Many countries have yet to properly tackle GBDV, with Montenegro being one of them. A 2019 survey by the NGO Sigurna Ženska Kuća (Women's Safe House) revealed that 80 per cent of female respondents in Podgorica considered GBDV a common occurrence in the country. Another study, conducted by the same organisation in collaboration with DeFacto Consultancy - a Montenegrin agency for public opinion research - found that one in six women and girls in the country experienced digital violence.<sup>93</sup>

Furthermore, in 2023, the NGO Women's Safe House conducted a study with 30 women and girls who had been victims of digital violence and had sought help from the aforementioned organisation.<sup>94</sup> The interviewees reported the following forms of online violence: revenge pornography (37%), threats and blackmail to publish intimate photos on social networks (40%), sending messages/photos/audio/video of threatening, offensive and/or obscene content (20%) and creating a fake profile on social networks and publishing untrue and offensive content (3%). Most victims experienced several of these forms of violence simultaneously.<sup>95</sup> All known perpetrators were male, with nearly all being either current or former intimate partners or spouses of the victims. Only one perpetrator was unknown to the victim, but is thought to be a family member of the victim's husband. In almost every case, the perpetrator used the mobile phone to harass the victim, primarily through social media applications like Facebook, Instagram and Viber. The most common way of harassment involved threatening messages, which were deleted within seconds, making it nearly impossible for victims to collect any proof of the harassment.<sup>96</sup> However, out of 30 women who participated in this research, only nine reported their cases to the authorities, and only five of them resulted in prosecution. In one particular case, a victim reported harassment through the police to the Prosecutor's Office on three separate occasions. Yet, each time the competent prosecutor stated that there were no grounds for criminal offense. Yet, after the victim submitted the criminal report directly to the State Prosecution, the case was duly processed.<sup>97</sup>

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93 Cafe del Montenegro. "Nasilje na internetu učestalo i u Crnoj Gori, ženama prijete, uhode ih i proganjanju" [Internet violence also common in Montenegro, women are threatened, stalked and followed]. Quoted in: Kovačević, Milica, Murić, Darvin. "Implikacije onlajn pritisa: Onlajn ućutkivanje žena u Crnoj Gori [Implications of online pressure: Online silencing of women in Montenegro]". (2023), 10.

94 Vuksanović, Tijana, and Jovana Mirković. *Online Nasilje nad djevojkama i ženama* [Online Violence against Girls and Women]. (Sigurna ženska kuća, 2023). Available at: <http://szk.co.me/wpcontent/uploads/2023/12/publikacija-online-nasilje-176x250.pdf>

95 Ibid., 34.

96 Ibid., 35.

97 Ibid., 40.

The women who did report the abuse to the authorities reported feeling uncomfortable during the process, citing a lack of adequate privacy in their treatment. The persistent gender insensitivity within the Montenegrin judicial system and among state officials is evident in the way digital violence is often trivialised. Notably, half of the women reported that the police failed to inform them about the next steps in the legal process. In each of these cases, the right to a trial within a reasonable time was violated, as the proceedings were unreasonably delayed. Women whose cases proceeded to trial described the experience as exhausting and distressing, citing intrusive questioning by their abuser's legal team and fear stemming from physical proximity to their abuser during proceedings. In one case, a victim even fainted due to stress. At the time of the research, only two cases were concluded, with two perpetrators being sentenced to 30 days and 8 months of prison respectively. In both cases, restraining orders were issued.<sup>98</sup>

This research illustrates the Montenegrin judicial system's lack of a gender-sensitive approach, evidenced by insufficient privacy protection, inadequate communication with the victims and procedural delays. There is a manifest need for institutional reforms and reeducation of law enforcement for the judicial system to be able to uphold the dignity and safety of the victims of GBDV, instead of contributing to their secondary victimisation. This paper aims to address the issue of GBDV in Montenegro by analyzing its legal framework and drawing on interviews conducted with various key stakeholders - representatives of state institutions, experts and NGO activists.

## 4.1. Domestic Legal Framework

### 4.1.1. GBDV in the National Legal Framework

In Montenegro, GBV is addressed in the Criminal Code and in the Law on Protection from Domestic Violence. It is important to note that, while both the Criminal Code and the Law on Protection from Domestic Violence are gender-neutral in their formulation, they can be understood in a manner that encompasses GBV. The Criminal Code also incriminates certain criminal offences committed through information and communication technologies (ICTs): child pornography in Article 211, and the criminal offence of luring a child to commit crimes against its sexual freedom in Article 211b.<sup>99</sup> On the other hand, Article 8 of the Law on Protection from Domestic Violence recognises various verbal, non-verbal and physical forms of violence that threaten the psychological, physical, economic or sexual integrity or mental health of another person in the family.<sup>100</sup> Even though this provision does not regulate GBV committed through digital technologies, this article can be interpreted extensively in order to answer the challenges that online violence poses for the traditional legal framework.

<sup>98</sup> Ibid., 42.

<sup>99</sup> Criminal Code of Montenegro. ("Official Journal of the Republic of Montenegro", No. 70/2003, 13/2004 - corr. and 47/2006 and "Official Journal of the Republic of Montenegro", no. 40/2008, 25/2010, 32/2011, 64/2011 - other law, 40/2013, 56/2013 - corr., 14/2015, 42/2015, 58/2015 - other law, 44/2017, 49/2018 and 3/2020, 26/2021 - corr., 144/2021 and 145/2021 and 110/2023) Article 211 i 211b.

<sup>100</sup> Law on Protection from Domestic Violence. Article 8. Paragraph 1. Items 1-8. 2020

As for victims' rights, it is important to note the essential role of women's NGOs in Montenegro in providing support and specialised services to women victims of all forms of GBV, including digital violence. In relation to free legal aid, according to the Law on free legal aid, only victims of domestic violence and victims of sexual exploitation, as well as individuals with low incomes, can be beneficiaries of such legal support.<sup>101</sup> Yet, victims of GBDV are not legally recognised as a category entitled to state-provided support, and as a result, they often turn to women's NGOs offering free psychological and legal help. For example, the Women's Rights Centre and Women's Safe House provide psychological support, psychotherapy and free legal aid.<sup>102</sup> In addition to this, multiple cities throughout Montenegro (Plav, Nikšić, Bijelo Polje, and Podgorica) have special S.O.S. lines offering advisory services and a 24/7 S.O.S. helpline to victims of all types of GBV.<sup>103</sup> Furthermore, the public is generally excluded from trials of GBDV cases involving women and minors. According to the Montenegrin law, the public can be excluded from accessing the trial if it is needed for "keeping information secret, protecting public order, preserving morality, protecting the interests of a minor or protecting the personal or family life of the accused person or the injured party."<sup>104</sup>

#### 4.1.2. Amendment to the Criminal Code of Montenegro (2023)

At the end of 2023, the Criminal Code was amended to include two new criminal offences<sup>105</sup>: sexual harassment and "abuse of someone else's video, photograph, portrait, audio recording or writing with sexually explicit content"<sup>106</sup> - better known as revenge pornography.<sup>107</sup> According to the Ministry of Justice of Montenegro, the aforementioned amendments to the Criminal Code were proposed to strengthen efforts to combat violence against women.<sup>108</sup> Namely, with this amendment, any form of sexual harassment of another person, whether verbal, non-verbal or physical, when committed with the intention to violate the dignity of another person, became a criminal offence, punishable by imprisonment from six months to two years.<sup>109</sup> These amendments also prescribed an aggravated form of

101 Law on Free Legal Aid. Article 12 in relation to Article 13.

102 Women's Rights Center. "Servisi za rehabilitaciju i reintegraciju žena sa iskustvom nasilja u Crnoj Gori [The existing services for rehabilitation and reintegration of women experiencing violence in Montenegro]". (2020), 10-11. Available at: <https://womensrightscenter.org/servisi-za-rehabilitaciju-i-reintegraciju-zena-sa-iskustvomnasilja-u-cg/>

103 Ibid.

104 Law on the Criminal Procedure. (Official Gazette of Montenegro, No. 57/2009, 49/2010, 47/2014 – CS's decision no., 2/2015 – CS's decision, 35/2015, 58/2015, 28/2018 – CS's decision, 116/2020 – CS's decision). Article 314.

105 Damira Kalač. "Kazne zatvora za seksualno uznemiravanje i ucjene [Prison sentences for sexual harassment and blackmail]". *Vijesti.me*, 15 December, 2023. <https://www.vijesti.me/vijesti/drustvo/686041/kazne-zatvoraza-seksualno-uznemiravanje-i-ucjene>

106 Law on Amendments to the Criminal Code of Montenegro. Article 175a. 2023.

107 Even though the term revenge porn is often used, it should be avoided, since it puts blame on the victim (implying that the victim had done something that required revenge). A more appropriate term is the nonconsensual distribution of intimate content.

108 Government of Montenegro. "With new amendments to the Criminal Code the Ministry of Justice has proposed the introduction of two new criminal offenses in order to combat violence against women." (2022). Available at: <https://www.gov.me/clanak/novim-izmjenama-krivichnog-zakonika-ministarstvo-pravdepredlozilo-uvodenje-dva-nova-krivicna-djela-u-cilju-borbe-protiv-nasilja-nad-zenama>

109 Ibid.



sexual harassment which occurs when harassment is committed against another person who is in a subordinate position or in another type of dependent relationship, or who is particularly vulnerable due to their age, illness, addiction, disability, pregnancy or severe physical or mental disability.<sup>110</sup> The basic form of the offence is left to private prosecution, concerning the aggravated form. criminal prosecution is undertaken *ex officio*.<sup>111</sup> However, although the prescription of this criminal offence does not explicitly include digital means of commission, it is generally interpreted as also encompassing online conduct, which is in line with the Grevio General Recommendation No. 1.<sup>112</sup>

The second new criminal offense of non-consensual sharing of intimate content criminalizes “making available to a third party a video or another recording, photograph, portrait, audio recording or document with sexually explicit content, without the consent of the person to whom the document relates, or without the consent of the person depicted in the recording, photograph or portrait or whose voice is recorded on the audio recording”.<sup>113</sup> The basic form of the prescribed offence carries a penalty of up to two years’ imprisonment. However, if the offence is committed through ICTs – thereby enabling the dissemination of a photograph, portrait, recording, or other intimate content to a broader audience – it is treated as an aggravating circumstance and is punishable by up to three years’ imprisonment.<sup>114</sup> In contrast to sexual harassment, this provision clearly criminalises the commission of the offence through ICTs.

It is important to highlight that the Criminal Code also criminalizes actions committed by perpetrator who: “using a computer system or in another way, creates a new or modifies an existing video or other recording, photograph, portrait, audio recording or document with sexually explicit content and uses or makes such recording, photograph, portrait, audio recording or document available to a third party as true.”<sup>115</sup> In this way, Montenegrin legislation addresses a specific form of GBDV that is more widely known globally as deepfakes.<sup>116</sup> Finally, the most severe penalties are prescribed in cases where this criminal offence is committed against a child (from one to 8 years old), as well as in cases where this offence is committed by a person who acted in performance of their duties, where the prison sentence extends up to 10 years.<sup>117</sup> In contrast to sexual harassment, all the forms of this offence are prosecuted *ex officio*.

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110 Law on Amendments to the Criminal Code of Montenegro. Article 211c. 2023

111 Ibid. Article 211c. Paragraph 1. Item 4

112 GREVIO. General Recommendation No. 1 on the digital dimension of violence against women. (2021), 19-22.

113 Law on Amendments to the Criminal Code of Montenegro. Article 175a. Paragraph 1. Item1.

114 Ibid. Article 175. Paragraph 1. Item 4.

115 Ibid. Article 175a. Paragraph 1. Item 2.

116 Various types of media in which physical characteristics of a person have been digitally altered so that they would appear as someone else, and are generally used to spread malicious or false information.

117 Law on Amendments to the Criminal Code of Montenegro Article 175a. Paragraph 1. Item 6.

## 4.2. Country Monitoring Reports and National Policy Framework

### 4.2.1. Country Reports of the Relevant Monitoring Bodies

When discussing the harmonisation of the Montenegrin legal framework and preventive practices aimed at combating GBDV, it is of utmost importance to refer to the recommendations of the monitoring bodies of relevant conventions. While the report's recommendations are non-binding and represent a form of soft law, they are a crucial element in a country's path to comply with international standards. Firstly, in its 2024 session, the CEDAW Committee<sup>118</sup> did address only one specific form of GBV, namely, misogynistic hate speech.<sup>119</sup> While the report noted that cases of online and offline gender-based hate speech are rarely prosecuted, it strongly called for strengthening the capacities of law enforcement, as well as “adoption of policy framework on GBDV”, something Montenegro currently lacks.<sup>120</sup>

At the EU level, the European Commission's report on Montenegro for 2024 highlighted the country's implementation of preventive and protective measures in addressing GBV, as well as increased attention to different forms of digital violence against women and girls.<sup>121</sup> Yet, the EU Commission also noted that despite the adoption of important amendments to the Criminal Code in 2024, these changes still fail to address digital violence against women and girls specifically.<sup>122</sup> The recommendations directed towards the Montenegrin government called for further alignment of the legal definitions of gender-based violence with the Istanbul Convention and recommendations by the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO)<sup>123</sup>. Finally, as for preventive action, the report has also criticised the effectiveness of implementing the Montenegrin legislative framework, while stating that preventive action needs further improvement.

Finally, in 2023, the Lanzarote Committee issued a set of recommendations and observations regarding Montenegrin implementation of the Lanzarote Convention.<sup>124</sup> The Committee has urged Montenegro to consider the following measures: using term *child sexual abuse material* (CSAM) instead of child pornography in legal framework; securing that persecution of children responsible for production, possession or distribution of sexually explicit content will be a last resort measure; addressing self-generated sexual material by children and promoting educational measures to help children safely explore their sexual development

118 The Committee that monitors implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

119 Centar za ženska prava. NGO Shadow Report on the implementation of the Convention on the elimination of all forms of discrimination against women (CEDAW) in Montenegro. Submitted for the 88th CEDAW session. (2024). Available at <https://womensrightscenter.org/wp-content/uploads/2024/11/2024-NGO-CEDAWREPORT-MONTENEGRO.pdf>

120 Ibid., 8.

121 European Commission. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of Regions: 2024 communication on EU enlargement policy. (2024).

122 Ibid., 40.

123 Ibid., 40.

124 Council of Europe. *Factsheet Montenegro - Lanzarote Committee Implementation Report on: The protection of children against sexual exploitation and sexual abuse facilitated by information and communication technologies (ICTs): addressing the challenges raised by child self-generated sexual images and/or images (CSGSIV)*. (2023). Available at: <https://rm.coe.int/factsheet-montenegro-the-protection-of-children-againstsexual-exploit/1680acde92>

and avoid risks; criminalizing solicitation of children for sexual purposes (“grooming”), even when it does not lead to either a face-to-face meeting or production of CSAM.<sup>125</sup>

#### 4.2.2. National Policy Framework

Montenegro has adopted the National Strategy on Gender Equality 2021-2025. This strategy has one overall strategic aim – to improve the concerning low level of gender equality in Montenegro.<sup>126</sup> Furthermore, the Measure 3.3. of the National Strategy is related to raising the level of prevention and protection against sexual harassment, GBV, and gender-based discrimination (but only in relation to women in a work environment).<sup>127</sup> In July 2023, Montenegro adopted the National Plan for the Implementation of the Istanbul Convention (for the period 2023-2027), with an overall strategic goal of combating domestic and other forms of GBV, and facilitate further compliance of the Montenegrin legal framework with the Istanbul Convention’s international standards. Moreover, the Measure 2.1. urges for the implementation of a holistic approach when combating GBV, and calls for securing the necessary legal measures for the adoption and implementation of comprehensive state policies that would encompass all the relevant measures for protection and combating all types of gender-based violence.<sup>128</sup> This strategy also requires an allocation of sufficient human and financial resources for all relevant policies to combat GBV effectively.<sup>129</sup>

Although the National plan proposes measures for the “creation of the necessary legislative framework to prevent violence against women, to protect victims from further victimisation and to ensure strong intervention and prosecution by law enforcement authorities”<sup>130</sup> None of these two strategies explicitly addresses the digital aspect of violence against women. This omission reflects a significant shortcoming in Montenegro’s strategic framework, as it fails to adequately recognise the urgency and relevance of combating digital forms of GBV – a gap also highlighted in the 2024 GREVIO report.<sup>131</sup>

### 4.3. Expert Perspectives on Online Gender-Based Violence: Interview Findings

The data for this research were collected through a qualitative approach. Interviews were conducted with four participants: two NGO representatives from the organisations “Sigurna ženska kuća” and “Centar za ženska prava”, a senior expert from the Montenegrin police

125 Ibid., 6.

126 Ministry of Justice, Human and Minority Rights. *National Strategy for Gender Equality for the period 2021-2025, with an accompanying Action Plan 2021-2022*. (2021), 4.

127 Ibid., 75.

128 *National Plan for the Implementation of the Istanbul Convention for the period of 2023-2027*. (2023), 24.

129 Ibid.

130 Ibid., 20.

131 GREVIO. “Building trust, by delivering support, protection and justice: Montenegro first thematic evaluation report”. (2024), 41.

department's crime sector, and a child rights expert. When approached, the participants were given various options for conducting the interviews, with the police representative opting for filling out a pre-written questionnaire, while the other participants chose Zoom interviews. Other stakeholders, including the Basic State Prosecutor's Office in Podgorica and the Montenegrin Ombudsman, were contacted as well, but ultimately delivered no response.

#### 4.3.1. Interview Findings

On the topic of the trend of online violence, all interviewees agree that there is no doubt that online violence against women and girls has been on the rise in the past few years. The most common types of GBDV reported by the interviewees are online stalking and unauthorised publication and display of other people's writings, portraits and recordings, including sexually explicit content (Art. 175 and 175a of the Criminal Code). The expert of the Montenegrin police department also states that online violence is highly prevalent during divorce and child custody processes. However, the activist from NGO Centar za ženska prava highlighted that even though online violence has been steadily rising over the years, this has not resulted in a significant change in the number of reported cases. As these findings align with the regional trends, we can see that Montenegro has not managed to escape the growing "pandemic" of digital violence that has been on the rise in recent years.

The Law on Amendments to the Criminal Code of Montenegro, which entered into force in 2023, significantly improved the combating and criminalisation of GBDV. NGO activists agree that the existing legal framework is adequate and provides sufficient protection to victims of GBDV, but also believe that its application is often unsatisfactory. The activist from NGO Sigurna Ženska Kuća believes that is the case due to the lack of training of experts working in institutions.<sup>132</sup> Furthermore, she suggested introducing a "Protocol on the Procedure in Cases of Online Violence" to address the lack of education among institutions on the topic. Furthermore, the expert of the Montenegrin police department listed "mandatory, continuous, effective cooperation and data exchange between internet service providers - the "owners" of social networks and law enforcement authorities"<sup>133</sup> as essential for ensuring more thorough investigations and successful prosecutions.

All interviewees, except the senior expert of the police department, who provided no answer to the question regarding prescribed criminal sanctions, believe that both prescribed and imposed sanctions need to be higher and more severe. The activist from NGO Sigurna Ženska Kuća asserts that, in practice, even when a case reaches the level of a verdict, which is very rare, minimal sentences are imposed and mitigating circumstances are taken into account in several cases for the benefit of the perpetrator, especially if they have not been prosecuted before, i.e. it is their first criminal offence. According to the same activist: "Even with appeals

<sup>132</sup> From the personal interview with the respondent A. 16<sup>th</sup> of May, 2025. Podgorica, Montenegro.

<sup>133</sup> From the personal interview with the respondent C. 30<sup>th</sup> of May, 2025. Podgorica, Montenegro.

and second-instance proceedings, the sanctions were not increased”.<sup>134</sup> The activist from NGO Centar za ženska prava believes that minimal sentences should be introduced to the Criminal Code regarding GBDV. Many acts in the Code, such as Misuse of another person’s recording, photographs, portrait, audio recording or document with sexually explicit content (Art. 175a), only prescribe upper limits of imprisonment s (e.g. Art.175a par. one states that the offense is punishable “up to 2 years of jail”<sup>135</sup>), which has allowed the judiciary to impose very light sentences in cases of GBDV regularly. As she explained in the interview, “if a minimum sentence is not prescribed, our judges impose the lightest sentences possible”<sup>136</sup>. Therefore, she believes that introducing minimal sentences would prevent perpetrators from eluding more severe punishments. This common practice of imposing light sentences can serve to undermine the preventive role of the law, as it effectively signals to the perpetrators that digital violence is a “low-risk” crime.

NGO activists agree that criminalisation is an effective legal tool for combating GBDV, but in their view, it can only be effective if it is accompanied by strong criminal policies, adequate sanctions and efficient implementation. The activist from NGO Centar za ženska prava noted that “the amount of GBDV criminal cases doubled last year, not because they had been happening more often, but because the 2023 Law on Amendment to the Criminal Code came to recognise certain GBDV acts as criminal acts instead of misdemeanours”.<sup>137</sup> On the other hand, the expert of the Montenegrin police department stated that “the normative framework in Montenegro is adequate, and therefore it is not necessary to introduce new criminal offences”<sup>138</sup>, as well as that “existing statutory offenses cover a wide range of punishable behaviors in the online space.”<sup>139</sup>

When it comes to sanctions and legal consequences, the NGO interviewees reiterated that defining minimum sentences, as well as establishing uniform judicial practice, are crucial in combating GBDV in Montenegro, as it ensures that GBDV cases are treated equally throughout the country. The activist from Centar za ženska prava highlights the importance of making sure “a judge from a small town will treat the case the same as a judge from Podgorica”.<sup>140</sup> This concern reflects a deeper, systematic issue, as the victim’s access to justice depends not only on the legal framework but also on her location. Furthermore, it can lead to victims experiencing a lack of trust in the institutions.

Regarding the response of state authorities, the two NGO activists feel that the authorities do not react adequately to cases of online violence. They believe that the main problems lie in the lack of sensitivity, insufficient recognition of the seriousness of the issue of GBDV,

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134 From the personal interview with the respondent A. 16<sup>th</sup> of May, 2025. Podgorica, Montenegro.

135 Law on Amendments to the Criminal Code of Montenegro. Article 175a. (2023).

136 From the personal interview with the respondent B. 26<sup>th</sup> of May, 2025. Podgorica, Montenegro.

137 Ibid.

138 From the personal interview with the respondent C. 30<sup>th</sup> of May, 2025. Podgorica, Montenegro.

139 Ibid.

140 From the personal interview with the respondent B. 26<sup>th</sup> of May, 2025. Podgorica, Montenegro.

as well as the presence of “gender stereotypes and personal opinions, which are imbued in all procedures of the institutions,”<sup>141</sup> and often lead to victim blaming, such as “why did you take pictures in the first place?”. In practice, activists consider that threats of physical violence are treated more seriously than threats of distributing intimate content. The activist from NGO “Sigurna ženska kuća” stated that “The institutions do not take online abuse seriously enough. They take threats like ‘I’ll kill you’ more seriously than ‘I’ll release the photos’<sup>142</sup>. Moreover, even in cases where courts have taken the victims seriously, the sentences imposed on the perpetrators have been minimal.<sup>143</sup> On the other hand, the expert of the Montenegrin police department stated that the problems in the response of authorities can be caused by the lack of personnel resources, difficulties in obtaining electronic traces and evidence from internet service providers (as their headquarters are usually situated abroad), as well as limited cooperation of certain internet service providers with law enforcement authorities. Additionally, the police department asserts that the offenders “often exploit available online anonymity tools,”<sup>144</sup> making it difficult to identify them due to the lack of sufficient technical mechanisms. A child rights expert interviewed believes Montenegro “would benefit from implementing the Barnahus model”<sup>145</sup> for responding to violence against young girls and child violence in general. This practice ensures avoiding secondary victimisation of a child by placing them in a „safe house“, and having all relevant authorities and professionals, such as the police and medical personnel, come to the child instead of them having to go to the relevant authorities and recounting the traumatic experience multiple times. This would signify a significant shift away from the current standard of police-centred reporting and would push Montenegro towards establishing a system that prioritises the needs and comfort of the victims.

The NGO interviewees believe the most essential measures for combating GBDV would be easier access to the high-tech crime department, and the activist from Centar za ženska prava stated a need for “introducing and implementing guidelines and protocols specifically for handling online violence to all authorities and institutions”<sup>146</sup>. Furthermore, the activist from the NGO Sigurna Ženska Kuća believes that “stronger education of victims about their rights and protection mechanisms is needed,” as well as free legal aid for victims. The activist from Centar za ženska prava also highlights that “The victims themselves are often not aware of what online violence is.”<sup>147</sup>. In addition to a stricter penal policy, the expert of the police department also highlighted that an essential step for combating GBDV would be “the ratification of the Second Additional Protocol to the Budapest Convention on Cybercrime, which would provide additional legal and operational mechanisms for responding to GBDV”<sup>148</sup> and would enable

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141 From the personal interview with the respondent A. 16<sup>th</sup> of May, 2025. Podgorica, Montenegro.

142 Ibid.

143 Ibid.

144 From the personal interview with respondent C., 30<sup>th</sup> of May, 2025. Podgorica, Montenegro.

145 From the personal interview with respondent D., 1<sup>st</sup> of June, 2025. Podgorica, Montenegro.

146 From the personal interview with respondent B., 26<sup>th</sup> of May, 2025. Podgorica, Montenegro.

147 From the personal interview with respondent B., 26<sup>th</sup> of May, 2025. Podgorica, Montenegro.

148 From the personal interview with respondent C., 30<sup>th</sup> of May, 2025. Podgorica, Montenegro.

faster identification of perpetrators and more efficient collection of user data from internet service providers with headquarters located abroad, including social media platforms.

On the subject of training and education of authorities, the expert of the police department stated that “Trainings are carried out continuously and in collaboration with international organisations, the UN and the Council of Europe. Police officers who do not work primarily in this area are often selected to participate in these trainings, with the aim of increasing their understanding and knowledge of online violence”<sup>149</sup>. However, every other interviewee stated that they were not familiar, or could not guarantee familiarity, with the existence of these trainings and educations. This raises the question of whether the training is as consistent and thorough as the police department considers it to be.

Moreover, none of the interviewees stated that they are familiar with the existence of any kind of national strategy or action plan related to the prevention of or combating GBDV. The activist from NVO Sigurna Ženska Kuća recognised that the National Strategy for the Implementation of the Istanbul Convention, as well as the National Gender Equality Strategy 2021-2025, do exist, but neither of them is recognised. Still, neither of them is specific to GBDV.

As other suggestions, the child’s rights expert interviewed believes that “The mechanisms for reporting violence should be improved”<sup>150</sup>. She recommended that Montenegro introduce the INHOPE hotline, which is available in all EU countries and many others worldwide. The hotline allows individuals to report inappropriate content without having to contact the police, which would be highly beneficial for children and minors, especially girls, who are disproportionately affected by GBDV. The hotline’s staff of trained professionals quickly assess and remove harmful material, and if criminal elements are identified, they promptly refer the case to the police enforcement.

Lastly, the police department also provided their responses to the questions intended explicitly for their institution. The answers were also supplemented with the help of the High-Tech Crime Department of Montenegro. The police department noted that, while they do own certain software tools that help them facilitate the investigation and identification of the perpetrators of GBDV, they also face numerous challenges that prevent or hinder them from quickly and effectively stopping the violence, such as the inability to stop the distribution and spreading of materials once it has entered the online space, and the requirement to contact the internet providers to obtain the information about the user associated with a particular IP address. The police department also stated that “within the Police Administration, there is a specialised organisational unit, which includes the High-Tech Crime Suppression Group, which deals with investigations and elucidation of crimes from all forms of cybercrime and therefore also all forms of online/cyber violence”<sup>151</sup>.

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149 Ibid.

150 From the personal interview with the respondent D. 1<sup>st</sup> of June, 2025. Podgorica, Montenegro.

151 From the personal interview with the respondent C. 30<sup>th</sup> of May, 2025. Podgorica, Montenegro.



## Conclusion

Despite GBDV being recognised as a growing issue by both institutional and civil society stakeholders, a significant gap exists between the Montenegrin legal framework and its implementation. While the 2023 Law on Amendments to the Criminal Code introduced significant improvements and valuable tools for addressing GBDV, the inadequacy of enforcement, the leniency of sanctions, and the absence of minimal sentencing standards were consistently emphasised by the interviewees. Representatives of the non-governmental sector repeatedly emphasised the need for a stronger criminal policy, as well as consistent judicial practice, improved institutional training, and greater sensitivity among professionals. On the other hand, the expert of the Montenegrin police department cited technical and jurisdictional barriers, including limited cooperation between network providers, as major obstacles that continue to impede their work. Ultimately, the findings highlight the need for a comprehensive, coordinated response to GBDV in Montenegro, which would include legal reform, strict and consistent penal policy, the introduction of specialised reporting mechanisms, greater institutional education on different forms of GBDV and gender sensitivity, as well as victimcentred protocols such as the Barnahus model.



## 5. Country Case Study: Serbia

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Anja Vučinić

### Introduction

GBDV is on the rise in Serbia, and women and girls are its primary targets. The online abuse starts early, as, according to available research, one in ten girls in Serbian high schools has had her private photos or videos shared without her consent. Nevertheless, women are not excluded, given the significant rise in the number of adult women being affected by digital violence in recent years. The 2024 report of NGO OsnaZene exposed an increasing trend of GBDV in RS, in the form of so-called *revenge pornography* and sharing intimate images of the mothers, sisters, and daughters of the group's participants.<sup>152</sup> One of the largest reported groups had over 36,000 members spread across RS. The research findings also reveal the alarming level of GBDV against minors in RS, where from 2011 to 2024, 891 criminal charges were filed against 788 perpetrators for the following criminal offenses: display, acquisition or possession of pornographic material and exploitation of minors for pornographic purposes, as well as criminal offense of exploitation of a computer network or communication via other technical means for the execution of criminal offenses against sexual freedom of a minor. Concerningly, however, 370 individuals went unpunished, while the convicted offenders received disproportionately lenient sanctions.<sup>153</sup>

Even though the GBDV seems to be on the rise in RS, many of its forms are currently not legally recognised as distinct criminal offences. Non-recognition of GBDV in the form of specific offences is, at least in part, a result of the legislative approach favoured in the RS, which tends to avoid criminalisation and the enactment of specialised laws, opting instead to amend existing legislation where necessary.<sup>154</sup> Consequently, new forms of GBDV are prosecuted through an extensive legal interpretation of the preexisting offences. Yet, the publicly available data from the Republic Institute for Statistics of the RS shows a significant increase in the number of submitted criminal complaints from 2019 to 2022, regarding criminal offences that often constitute acts of GBDV.<sup>155</sup>

Between 2019 and 2022, complaints of sexual harassment increased from 174 to 199, pornography-related offences from 29 to 44, stalking from 375 to 422, unauthorised publication from 18 to 44, and blackmail from 54 to 114, indicating a general rise in such criminal offences.<sup>156</sup> Additionally, publicly available statistics from the Serbian Specialised

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152 Zdravković, Ana, Tomašević, Nikolina and Ivković, Staša. "Telegram from behind the shadows: incest, child and revenge pornography". (OsnaZene, 2024).

153 Ibid.

154 Pavlović, Sanja. "Awareness, Experiences, and Strategies of High School Girls and Boys in Naming the Problem of Digital Sexual and Gender-Based Violence – Report for Serbia". (Autonomous Women's Center. 2020).

155 Milivojević, Andela. *Gender-based digital violence in the Republic of Serbia: the trend overview*. (SHARE Foundation, 2024).

156 Ibid.

Prosecutor's Office for High-Tech Crime confirm this trend, as more criminal complaints are being filed than cases are officially recognised. The Specialised Prosecutor's Office for High-Tech Crime confirms this trend, as more criminal complaints are being filed than cases are officially recognised as acts of GBDV. The concerning growth in criminal reports from 2019 to 2021 was noted regarding criminal offences of stalking (from 43 to 90)<sup>157</sup> and the display, acquisition, and possession of pornographic material and the exploitation of a minor for pornography (from 24 to 107).<sup>158</sup>

## 5.1. Domestic Legal Framework

### 5.1.1. GBDV in the National Legal Framework

The national legal framework of the RS does not recognise specific criminal offences of GBDV, such as deepfakes, revenge pornography, grooming, doxxing and so forth.<sup>159</sup> However, even though *revenge pornography* is not recognized as a specific criminal offense, the actions that constitute the criminal body of this offense may be, depending on the circumstances, qualified or subsumed under some of the existing criminal offenses: endangering security, stalking, sexual harassment, unauthorized photography, unauthorized publication and display of another person's document, portrait, or recording, domestic violence, and blackmail.<sup>160</sup> Yet, existing legal provisions, even when interpreted extensively, cannot cover all forms of the so-called revenge pornography, such as those relying on deepfake technologies. Hence, amendments should urgently include the criminalisation of the misuse of sexually explicit recordings which are generated through artificial intelligence, recognising it as a special criminal offence.<sup>161</sup>

The 2024 analysis led by Osnazene advocated for legal action of criminalising revenge pornography, clarifying that it is a form of high-tech crime which should be prosecuted *ex officio*.<sup>162</sup> In addition to the already mentioned traditional approach of the Serb legislator towards the introduction of new offences, they emphasised that selecting the most adequate terminology is crucial to effectively address GBDV.<sup>163</sup> By criminalising revenge pornography only, other possible forms of making intimate content available without the consent of the recorded person, regardless of the motive, could be unintentionally excluded.<sup>164</sup> In early

157 Ibid.

158 Ibid.

159 Criminal Code of the Republic of Serbia. ("Official Gazette RS", No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, and 35/2019).

160 SHARE Foundation. "Pozicija o kriminalizaciji zloupotrebe snimaka polne sadržine [Position on the criminalization of the misuse of sexually explicit recordings]". Available at: <https://sharefoundation.info/wpcontent/uploads/Pozicija-o-kriminalizaciji-zloupotrebe-intimnih-sadrzaja.pdf>

161 Radio Slobodna Evropa. "According to the SHARE Foundation, gender-based digital violence in RS is insufficiently recognized by law". 28<sup>th</sup> of October, 2024. Accessed: 10<sup>th</sup> of April 2025. Available at: <https://www.slobodnaevropa.org/a/rodno-zasnovano-digitalno-nasilje-share-fondacija/33176479.html>

162 Milivojević, Anđela. "Gender-based digital violence in the Republic of Serbia: the trend overview". (SHARE Foundation, 2024).

163 Ibid.

164 Ibid.

April 2023, another proposal for the introduction of a new criminal offence called abuse of sexually explicit images or videos<sup>165</sup> was rejected. The RS Government responded that introducing a new criminal offence was not necessary, as Article 145<sup>166</sup> already provided penalties for publishing images or photos without one's consent.<sup>167</sup>

Yet, in October 2024, the Ministry of Justice publicly announced the possible criminalisation of a new crime of unauthorised sharing and abuse of intimate content.<sup>168</sup> This initiative, along with other proposed amendments to the Criminal Code, was the subject of a public consultation process that lasted until October 31, 2024. Unfortunately, the abuse of intimate content has not yet been criminalised. Still, the protection of minors and children is criminalized under Article 185 (displaying, acquiring, and possessing pornographic material and exploiting a minor for pornography), and Article 185b that provides explicitly children's protection against violence exercised through acts that include "abuse of computer networks or other technical means of communication for committing criminal offenses against sexual freedom involving a minor"<sup>169</sup>. However, these provisions do not explicitly address the full spectrum of the GBDV's acts, nor do they incorporate a gender-sensitive perspective. In addition, relevant articles of the Family Law may be invoked in cases of violations of children's rights through the misuse of their photographs.<sup>170</sup>

Although GBDV is becoming increasingly frequent, it appears that the current sanctions do not adequately reflect its gravity and potential consequences.<sup>171</sup> Yet, the special prosecutor for high-tech crime Branko Stamenković argues that "the problem does not lie in the legal sanctions prescribed for this criminal offence, which are adequate, but rather in judicial practice—that is, in sentencing policy—which is inconsistent and varies not only from court to court but also within the same court."<sup>172</sup> However, the political will for adopting *lex specialis* or amending . At the same time, the protection of victims from GBDV mainly relies on the interpretation of existing legal instruments, which leaves space for the the Criminal Code is still lacking. In contrast, the protection of victims from GBDV mainly relies on the interpretation of existing legal instruments, which leaves space for misuse. Following the existing practices around the Western Balkans region, RS should focus more on the criminalisation of the new emerging forms of digital violence, while employing a gendersensitive approach to protect women and girls as its prominent targets.

165 The proposal was suggested by the Aleksandar Olenik and has stipulated that "anyone who abuses a position of trust by sharing sexually explicit material without the subject's consent should be sentenced up to two years of prison."

166 Article 145 of the Criminal Code – Unauthorized publication or display of another person's documents, portraits or recordings.

167 Milivojević, Andela. *Gender-based digital violence in Serbia: a review of trends*. (SHARE Foundation, 2024), 28.

168 SHARE Foundation. "Public hearing on the amendments to Criminal Code: the abuse of the intimate content must not remain unpunished." (2024). Accessed 9<sup>th</sup> of April 2025. Available at: <https://sharefoundation.info/javna-rasprava-o-izmenama-krivicnog-zakonika-zloupotreba-intimnih-sadržaja-ne-sme-ostati-nekaznjiva/>

169 Ibid.

170 Tomašević, Nikolina, Zdravković, Ana, and Ivković Staša. "Telegram iza senke: Balkan porn – slučaj S.O. [Telegram in the shadows: Balkan Porn – case of S.O.]" <https://osnazzene.org.rs/blog/telegram-iza-senke-balkanporn-slucaj-s-o/> Accessed 25<sup>th</sup> August 2024.

171 Derikonjić, Miroslava. "Simbolične kazne za sajber nasilnike [Symbolic punishments for cyberbullies]." *Politika*, 13<sup>th</sup> of November 2022. Available at: <https://www.politika.rs/sr/clanak/524850/sajber-kriminalsankcije-internet>

172 Ibid.

### 5.1.2. Guaranteed Procedural Rights and Offered Services to the Women and Girls Victims of GBDV

Since not all the acts of GBDV are adequately incriminated depending on the circumstances of the case, the elements of the offence required for *ex officio*<sup>173</sup> prosecution may not be present, which can result in the dismissal of the criminal complaint.<sup>174</sup> Unauthorised photographing or sharing photos and videos (as two main criminal offences most adequate to respond to practices of GBDV) are prosecuted by a private criminal lawsuit.<sup>175</sup> This approach can be a deterrent for victims of violence: the burden of proof lies with the victim as they are required to prove the existence of the crime and collect evidence on their own, without the assistance of the police or the competent prosecutor's office.<sup>176</sup> This procedure can be extremely difficult for the victim's emotional and physical condition, and can also lead to secondary victimisation, which could be avoided if the criminal prosecution were initiated by the public prosecutor, upon the victim's request.<sup>177</sup>

Victims are entitled to the civil procedural mechanisms of protection guaranteed under the Law on the Criminal Procedure, Law on Social and Child Protection, Law on Gender Equality and the Law on Prohibition of Discrimination, such as the right to psychosocial support, free social and healthcare services, and the right to free legal aid.<sup>178</sup> Regarding the procedural rights of victims, the RS national law is only partially aligned with the EU *acquis*, while efforts have been undertaken to create a national network and strengthen specialised service providers to victims of GBV in RS.<sup>179</sup> Besides, many NGOs are offering different forms of legal assistance, S.O.S. lines for help and emotional and psychological support to women and girls victims of GBV, including its digital forms.<sup>180</sup> For example, the Autonomous Women's Centre runs the oldest S.O.S. helpline and platform,<sup>181</sup> alongside the guidelines and advice for young people exposed to various forms of digital violence. In addition, the network of *Women Journalists against Violence* has developed guidelines regarding media reporting procedures in cases of intimate videos and images abuse, and other forms of online violence.<sup>182</sup>

173 Criminal prosecution initiated by the state. For example, these elements for initiating *ex officio* persecution are fulfilled if the GBDV actions are qualified under the criminal offense 'stalking' from the Article 138a of the RS Criminal Code.

174 SHARE Foundation. "Pozicija o kriminalizaciji zloupotrebe snimaka polne sadržine [Position on the criminalization of the abuse of sexually explicit recordings]," 9. Available at: <https://sharefoundation.info/wp-content/uploads/Pozicija-o-kriminalizaciji-zloupotrebe-intimnih-sadrzaja.pdf>

175 Criminal Code of the Republic of Serbia. ("Official Gazette RS", No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016, 35/2019, and 94/2024). Article 153. Paragraph 2.

176 SHARE Foundation. "Position on the criminalization of the abuse of sexually explicit material," 9.

177 Ibid., 9.

178 In accordance with the Law on the regulation of free legal aid.

179 European Commission. Country report for the Republic of Serbia. (2024), 42.

180 Miliivojević, Anđela. "Gender-based digital violence in the Republic of Serbia: the trend overview". (SHARE Foundation, 2024).

181 The platform is called "I Can Say No, Love is Not Violence". Accessed: 7<sup>th</sup> of April 2025. Available at: <https://mogudanecu.rs/>

182 Women Journalists against Violence. *Guidelines for media reporting*. [https://novinarkeprotivnasilja.org/wp-content/uploads/2021/12/Smernice\\_WEB-VERSION-final.pdf](https://novinarkeprotivnasilja.org/wp-content/uploads/2021/12/Smernice_WEB-VERSION-final.pdf)

## 5.2. Country Monitoring Reports and National Policy Framework

### 5.2.1. International Commitments and Obligations of the RS Regarding GBDV

The RS Constitution's article 16 enshrines the monistic principle, which proclaims that generally accepted rules of international law and ratified international treaties are considered as an integral part of the legal system of the RS, and should be applied directly in the relevant domestic matters.<sup>183</sup> Regarding the protection of women and children, the RS has ratified and committed to implementing the CRC,<sup>184</sup> CEDAW,<sup>185</sup> Istanbul,<sup>186</sup> and Lanzarote<sup>187</sup> Convention. The status of ratification ensures that the RS meets its international obligations under these Conventions and considers implementing the recommendations of the soft law instruments issued by their monitoring bodies. These recommendations support RS's path in its efforts to successfully comply with international standards regarding the protection of children and women in the digital sphere.

### 5.2.2. Country Reports of the Relevant Monitoring Bodies

In the 2019 fourth periodic report for RS,<sup>188</sup> the CEDAW Committee has determined progress in the preservation and protection of women's rights compared to the third and second cycles. However, it did not address digital forms of GBV as sufficiently alarming to warrant special attention and specifically direct recommendations.<sup>189</sup> It is still unknown whether the CEDAW Committee will address GBDV explicitly in the fifth periodic report for the RS, which was announced to be in March 2023.<sup>190</sup> Moreover, the European Commission's progress report on RS calls on RS to adopt various recommendations proposed by the Lanzarote Committee regarding compliance with the Convention on the Protection of Children Against Sexual Exploitation and Sexual Abuse.<sup>191</sup>

Regarding the protection of children, the Lanzarote Committee (LC) has issued an implementation report on the protection of children against sexual exploitation and sexual abuse facilitated by ICTs, where this report has addressed the challenges raised by child selfgenerated sexual images and videos (CSGSIV). The report primarily focuses on the question

183 Constitution of the Republic of Serbia ("Official Gazette RS", No. 98/2006, and 115/2021). Article 16.

184 CRC Serbia ratification status. Accessed on 8<sup>th</sup> of April 2025.

Available at: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC&Lang=en)

185 CEDAW Serbia ratification status. Accessed on 8<sup>th</sup> of April 2025.

Available at: [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CEDAW&Lang=en)

186 CoE. "Key facts about Istanbul Convention". Accessed on 8<sup>th</sup> of April 2025.

Available at: <https://www.coe.int/en/web/istanbul-convention/key-facts>

187 CoE. Serbia ratification status. Accessed on 8<sup>th</sup> of April 2025.

Available at: <https://www.coe.int/en/web/children/lanzarote-convention>

188 CEDAW/C/SRB/CO/4: Concluding observations on the fourth periodic report of Serbia. (2019).

189 Ibid.

190 Ibid., p. 18 and p. 53. Note: The fifth periodic report has still not been issued in the time of the research data collection.

191 Ibid., 41.

of criminalisation of offering or making available child sexual abuse material (CSAM) and sharing of children's own or other children's self-generated material. Furthermore, the Committee has made several recommendations to the RS government concerning countering CSGSIV, including “to consider criminalising the offence of ‘grooming’ (solicitation of children for sexual purposes), even when it does not lead to a face-to-face meeting or producing child sexual abuse material.”<sup>192</sup>

The LC has also addressed the successful implementation of its previous recommendations by Serbian authorities, stating that the RS has established specialised state units dealing with all crimes conducted via ICTs, including offences committed against children and adults.<sup>193</sup> Notably, the Lanzarote Report emphasised that RS has organised training programs and external training opportunities for prosecutors and judges, but at the same time, that advanced training or specialisation programs for judges on digital crime and ICT facilitated sexual offences against children remain insufficient.<sup>194</sup> The LC has invited the RS to ensure that law enforcement personnel are specialised in ICT-facilitated sexual offences against children, taking into consideration evolving technologies and online behaviours and reflecting current practices used by perpetrators.<sup>195</sup> Lastly, the Committee urged the Serbian authorities to recognise proceedings related to ICT-facilitated sexual offences against children as a priority and to ensure that such cases are handled promptly and without any unreasonable delay.<sup>196</sup>

### 5.2.3. Relevant National Strategies, Policies and Action Plans Regarding GBDV

In 2021, the RS adopted the National Strategy for Prevention and Combating Gender-Based Violence and Domestic Violence for the period 2021-2025.<sup>197</sup> The strategy indicates that the main challenges for the RS are “dark number” of unreported cases of GBV; non-compliance of the RS legal framework regarding preventing, protecting and compensating victims of GBV with international standards; gender neutral definitions of different forms of violence, which fail to address the fact that GBV forms are disproportionately targeting women; and noncoordinated and non-effective institutional answers.<sup>198</sup> Moreover, the strategy recognises that “adequate measures have not been undertaken to recognise or process special forms of GBV in the digital environment, such as revenge pornography, both in legislation and in practice.”<sup>199</sup>

192 Ibid.

193 Ibid., 7.

194 Ibid., 7-8.

195 Ibid., 8.

196 Ibid., 8-9.

197 Government of the Republic of Serbia. National Strategy for the Prevention and Combating of Gender-Based Violence against Women and Domestic Violence for the Period 2021-2025. (Belgrade: 2021). Accessed: 4<sup>th</sup> of April 2025. Available at: <https://www.minrzs.gov.rs/sr/dokumenti/ostalo/sektor-za-socijalnu-zastitu/strategijaza-sprecavanje-i-borbu-protiv-rodno-zasnovanog-nasilja-prema-zenama-i-nasilja-u-porodici-za-period-2021-2025-godine>

198 Government of the Republic of Serbia. National Strategy for Prevention and Combating Gender-Based Violence and Domestic Violence for the period 2021-2025. (Belgrade: 2021). 47/2021-16.

199 Ibid. 6.1.2.



Furthermore, this strategy contains a proposal for the introduction of the criminal offence of so-called revenge pornography, while it did not address or propose criminalisation of any other form of GBDV. As for the strategy's action plan, the final version of the action plan is still not available on the government's official website. Moreover, the RS National Strategy on Gender Equality (2021-2030) largely relies on the requirements from the Istanbul Convention, as well as standards for the accomplishment of sustainable development goals from the UN 2030 Agenda (including SDG 5 dealing with gender equality).<sup>200</sup> This strategy recognises that different forms of GBDV against women and girls exist, including offline and online violence, but does not go further in this direction. Regarding children's rights, RS has not yet evaluated the 2023 national strategy for child protection or its action plan. Moreover, the authorities have not yet drafted a new strategy on children's rights, leaving the country in a legal limbo.<sup>201</sup>

### 5.3. Expert Perspectives on Online Gender-Based Violence: Interview Findings

This article has employed a qualitative research method by conducting eight interviews with representatives of the four non-governmental organisations, one state prosecutor for high-tech crime, a representative from the office of the Commissioner for the protection of gender equality, an attorney at law dealing with gender-based digital violence, and a children's rights expert. The NGO representatives are affiliated with the following non-governmental organisations: SHARE Foundation, OsnaŽene, Child's Rights Centre, and NGO Atina. Even though the original scope of the qualitative research included interviews with police officers and judges, the study faced limitations due to the unavailability and unresponsiveness of these research participants.

#### 5.3.1. Interview Findings

##### 5.3.1.1. Legal Framework and Institutional Responses to GBDV

All interviewees agree that the trend of GBDV has increased significantly over the last few years, particularly in light of the "Telegram" case.<sup>202</sup> However, the Special Prosecutor for High-Tech Crime in RS has stated that it is not possible to specifically state whether this mainly concerns women or men in RS, due to the limitation of gender-segregated data.<sup>203</sup> Without clear gender-segregated data, it is hard to understand how digital violence affects women and girls, making it difficult to address this issue adequately. Nevertheless, the prosecutor claims that stalking and sexual harassment are offences that occur the most in practice. It is important to mention

200 Government of the Republic of Serbia. National Strategy for Gender Equality 2021-2030. (2021).

201 European Commission. The country progress report for the Republic of Serbia. (2024), 41.

202 Personal interview with respondent H. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

203 Personal interview with respondent F. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

the criminal offence *endangering safety*<sup>204</sup>, especially in situations where the threats are directed toward the life and body of the victim, or a person close to the victim. In this case, the prosecution considerably observes whether such a threat is directed at the victim because of her gender or concerning her gender (which would constitute a criminal offence known as *hate crime*<sup>205</sup>).<sup>206</sup>

The state prosecutor believes that the existing legal framework is aligned with the relevant international standards, offers adequate protection to victims, and can properly respond to GBDV, as RS has established a Special Prosecution and Ministry of Interior Service for HighTech crime, with specialised prosecutors and police inspectors who make a significant contribution to the effective handling of cases.<sup>207</sup> In contrast to the prosecutor's statement, the interviewed attorney dealing with GBV cases states the following: "The legal framework is functional yet not sustainable when it comes to the fast development of technology, and the possibilities for abuse in the digital space. Police, prosecution, court, and even the victim's lawyers must often make considerable efforts to prove the existence of the criminal offence. To address this challenge, it would be important first to strengthen the institutional capacities of the state organs, and then to improve the legal framework to more effectively address the actual state of violence against women and girls".<sup>208</sup>

The representative of the Office of the Commissioner for the protection of gender equality<sup>209</sup> also confirms that the already existing criminal offences within the Criminal Code cannot adequately respond to the nature and gender dimension of online violence. This was the primary reason why the Office issued an opinion advocating for reform of the Criminal Code in relation to GBDV.<sup>210</sup> The Commissioner's office affirmed that "abuse of real or fake intimate content should be criminalised, and that it is of great importance to criminalise making this content available to a third party or a larger number of persons, even when the content is published via computer, ICT systems or in any other way".<sup>211</sup>

Still, every legal system can interpret existing laws to respond to new challenges.<sup>212</sup> In relation to this, the RS Constitution envisages the direct application of international law and confirmed international agreements that can be used in the absence of domestic provisions.<sup>213</sup> Regarding procedural rights, the prosecutor states that, pursuant to Article 103 of the same Law, victims can enjoy special protection if they are particularly vulnerable due to their

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204 Criminal Code of the RS. Article 138.

205 Ibid. Article 54a.

206 Ibid.

207 Ibid.

208 Personal interview with respondent A. 31<sup>st</sup> of March 2025. Belgrade, Republic of Serbia.

209 Personal interview with respondent H. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

210 Commissioner's Office Opinion available at:

<https://ravnopravnost.gov.rs/696-24-misljenje-na-nacrt-zakona-o-izmenama-i-dopunama-krivicnog-zakonika/>

211 Personal interview with respondent H. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

212 Personal interview with respondent E. 25<sup>th</sup> of March 2025. Belgrade, Republic of Serbia.

213 Ibid.

membership in a specific gender group.<sup>214</sup> However, the attorney claims that the category of the “especially vulnerable witness is only applied when GBDV actions are in concurrence with other relevant criminal offences, where such a decision represents a standard: for example, human trafficking or other criminal offences against sexual freedom, such as rape, sexual intercourse with a child and so forth.”<sup>215</sup> This is why, according to her, it would be essential to introduce the legal possibility of *ex officio guaranteeing victims* legal representation from the existing list of lawyers of the RS bar association, even when these victims do not qualify as particularly vulnerable witnesses.<sup>216</sup> As for the procedural rights of minors, the Law on Juvenile Offenders and Criminal Protection of Minors contains special provisions that include the right of a minor victim to a lawyer educated in children’s rights, to be present at the first hearing of the defendant, at the expense of the state.<sup>217</sup>

Even though the prosecutor claims that the prescribed sanctions are adequate to the consequences and severity of the social harm caused by this type of violence, the public prosecution holds the position that the sanctions imposed by courts should be stricter.<sup>218</sup> Sanctions do not reflect the gravity of the consequences, especially taking into consideration that a standard of neuropsychological victim assessment that the victim has survived stress, is still lacking.<sup>219</sup> This can greatly impact the victim’s right to non-material damages in the criminal procedure. Although courts in RS can award non-material damages in criminal proceedings, they still refer victims to civil court for compensation after a conviction.<sup>220</sup> This can be truly exhausting for victims, and it can lead to secondary victimisation.<sup>221</sup> Ultimately, as concluded by an attorney dealing with such cases: “Even when having the most advanced legal system, you can have basic problems: is there going to be a sufficient number of qualified and trained professionals to process criminal complaints of victims related to criminal offences taking place in the online sphere?”<sup>222</sup>

### 5.3.1.2. Views on the Need for Criminalisation/Lex Specialis

Criminalisation is a key legal tool for combating GBDV, and the first essential step toward the recognition of the gravity of this form of violence, particularly having in mind the unprecedented scale of digital violence that may result from the increased and unmonitored use of AI technologies.<sup>223</sup> Moreover, criminalisation sends a clear message to society that this form of violence is unacceptable and that institutions are ready to provide victims with

214 Personal interview with respondent F. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

215 Personal interview with respondent A. 31<sup>st</sup> of March 2025. Belgrade, Republic of Serbia.

216 Personal interview with respondent A. 31<sup>st</sup> of March 2025. Belgrade, Republic of Serbia.

217 Personal interview with respondent F. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

218 Ibid.

219 Personal interview with respondent A. 31<sup>st</sup> of March 2025. Belgrade, Republic of Serbia.

220 Ibid.

221 Ibid.

222 Ibid.

223 Ibid.

adequate protection.<sup>224</sup> However, most respondents believe that a new law is not necessary, as they prefer amending the existing Criminal Code. It can be a more viable option, since, as the attorney claims, these offences would always be present in the consciousness of professionals working in the judicial system, rather than a *lex specialis*.<sup>225</sup> Yet, in the prosecutor's opinion, amending would not contribute to reducing the GRBV rate, and more attention should be directed toward measures of prevention and awareness raising.<sup>226</sup> Yet, the activist affiliated with the NGO OsnaZene believes that *lex specialis* would be a better approach to the issue.<sup>227</sup> Their view is based on the foundational consideration that every offender who goes unpunished becomes an encouragement for the next abuser.<sup>228</sup>

Nevertheless, the necessary measures must include amending laws to recognise forms of GBDV, such as revenge porn, doxxing, or non-consensual distribution of intimate content, as well as to define that these offences must be prosecuted *ex officio*.<sup>229</sup> The NGO sector finds this crucial, as many victims lack both the capacity and the financial resources to initiate and independently lead the criminal procedure. The context of digital violence, where the offenders act anonymously, makes it almost impossible for victims to collect evidence and identify perpetrators on their own.<sup>230</sup> As for girls, a new Law on Children's Rights should be adopted to provide children with comprehensive protection in both the digital and real worlds. In the view of the expert on children's rights included in this research, not every violent behaviour should be qualified as a criminal offence; it is possible to treat it as a misdemeanour. The legislator should also exercise significant caution with offenders under the age of 14 (who are not criminally responsible) and those under 18, as they still fall under the category of children in the RS law.

### 5.3.1.3. Applicable Penalties and Other Institutional and Preventive Measures

Namely, the choice of punishment depends on the circumstances of each case, and a sanction should be proportionate to the severity of the committed criminal offence. However, offenders are often released without any punishment and are frequently acquitted in cases concerning digital violence against minors.<sup>231</sup> Still, the most adequate sanctions to address GBDV are imprisonment, compensation for non-material damage in the criminal procedure, restraining measures prohibiting communication and approach to the victim, and locating and removing harmful content from the Internet.<sup>232</sup> The latter can contribute to reducing the feelings of insecurity and distress of victims, as well as it can increase victims' trust in the state repressive apparatus.<sup>233</sup>

224 Personal interview with respondent C. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

225 Personal interview with respondent A. 31<sup>st</sup> of March 2025. Belgrade, Republic of Serbia.

226 Personal interview with respondent F. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

227 Personal interview with respondent B. 22<sup>nd</sup> of April 2025. Belgrade, Republic of Serbia.

228 Personal interview with respondent E. 25<sup>th</sup> of March 2025. Belgrade, Republic of Serbia.

229 Personal interview with respondent C. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

230 Ibid.

231 Personal interview with respondent B. 22<sup>nd</sup> of April 2025. Belgrade, Republic of Serbia.

232 Ibid.

233 Personal interview with respondent F. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

Additionally, secondary measures, including community service hours, can have a significant preventive impact on the perpetrator regarding the repetition of the criminal behaviour.<sup>234</sup>

Moreover, NGO sector also adds that in such cases state must have cooperation with platforms and operators; mandatory educations for perpetrators which could help them understand the consequences of their actions; measures of protection for victims such as prohibition of contact, digital surveillance, pseudonymization of data and support through specialized services; and determining responsibility of group administrators and platforms used for the distribution of such content.<sup>235</sup> Ultimately, an effective response to GBDV requires normative measures (e.g. legal amendments), institutional measures (stronger police and prosecution capacity), and preventive measures (public awareness and training for target groups).<sup>236</sup>

Yet, it is essential to establish better mechanisms for protection and comprehensive support to victims, including legal aid, psychological support, and security measures.<sup>237</sup> The Law on Social Protection should be amended to ensure that social services and support adequately address digital forms of violence against women and girls.<sup>238</sup> The victims of digital violence must have full access to mechanisms of specialised support and protection, such as free legal aid and psychosocial support.<sup>239</sup> Therefore, the SHARE Foundation has developed a support tool for victims of GBDV - *CyberIntima*, which allows documenting digital violence and provides legal advice.<sup>240</sup> It is crucial to continuously work on the GBDV awareness raising, having in mind that individuals often trivialise and normalise this form of violence, and qualify it as secondary or less important compared to violence taking place offline.<sup>241</sup> This is also common practice due to the high non-sensibility of relevant officials handling such cases.<sup>242</sup> Concerning this, the RS Office for Commissioner, in cooperation with the UNFPA, has developed a local campaign titled “Your body is yours – on the internet, as well as in the real world”, intending to raise awareness on GBV conducted through technology, and the importance of addressing this form of violence accordingly.<sup>243</sup>

Additionally, it is highly significant to educate and train lawyers and legal representatives who represent victims.<sup>244</sup> However, none of the research respondents had information on any specific education or training for the prosecution, judiciary, or police regarding GBDV.<sup>245</sup> Therefore, it is a priority for all state officials to undergo detailed education/training on

234 Ibid.

235 Personal interview with respondent D. 24<sup>th</sup> of March 2025. Belgrade, Republic of Serbia.

236 Personal interview with respondent G. 25<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

237 Personal interview with respondent D. 24<sup>th</sup> of March 2025. Belgrade, Republic of Serbia.

238 Personal interview with respondent G. 25<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

239 Personal interview with respondent C. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

240 Ibid.

241 Personal interview with respondent B. 22<sup>nd</sup> of April 2025. Belgrade, Republic of Serbia.

242 Personal interview with respondent H. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

243 Personal interview with respondent H. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

244 Personal interview with respondent A. 31<sup>st</sup> of March 2025. Belgrade, Republic of Serbia.

245 Personal interview with respondent H. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

GBDV to understand victims' trauma and to be able to provide support that can be truly empathetic, comprehensive, professional, and effective.<sup>246</sup>

For girls, the most effective measure would be introducing them to the risks associated with the digital sphere through education. The school programs should teach children about safe behaviour on the internet, recognising signs, and reporting of digital violence. In addition, education should also be secured for teachers and parents<sup>247</sup>, and should be implemented in all regions of RS, particularly in the rural areas in which women and girls do not have equal access to education on digital violence, which makes them more susceptible to becoming victims.<sup>248</sup> Education should not depend on international funds and should be carried out on a regular basis; moreover, the “state is not transparent regarding the budget allocations for this type of preventive work. In contrary, the last year media research has shown the great mismanagement of funds which were allegedly dedicated for the protection of children from violence, and these funds ended up to completely unidentified recipients (stated in the Report of the Belgrade Center for Human Rights regarding the state of human rights in RS for 2023)”.<sup>249</sup> Lastly, one of the important measures could be improving citizens' digital literacy, and sending a clear message that victim-blaming is unacceptable.<sup>250</sup>

Despite the prosecutor's claims that the organs are acting adequately on the criminal complaints<sup>251</sup> The research respondents affiliated with the NGOs SHARE Foundation and OsnaZene claim that the response is inadequate or lacking<sup>252</sup> in the majority of cases.

Moreover, they tend to trivialise this type of violence, especially when it comes to new and complex forms of GBDV such as *deepfakes*. Furthermore, institutions often lack the technical capacities or sensitivity to provide an adequate response. This was proved by the case of the “Nišlijke” group on Telegram: despite the visible elements of digital violence, this case was dismissed, which only indicates a serious systematic failure.<sup>253</sup> This often results in further retraumatisation and discouragement for potential victims to report digital violence, while reinforcing their distrust in the system.<sup>254</sup>

## Conclusion

This paper has demonstrated that institutional, legal, and policy responses to GBDV in RS lack effective and consistent implementation, with necessary mechanisms of protection often falling short in providing adequate protection to women and girls in the digital

246 Personal interview with respondent C. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

247 Personal interview with respondent D. 24<sup>th</sup> of March 2025. Belgrade, Republic of Serbia.

248 Personal interview with respondent B. 22<sup>nd</sup> of April 2025. Belgrade, Republic of Serbia.

249 Personal interview with respondent E. 25<sup>th</sup> of March 2025. Belgrade, Republic of Serbia.

250 Personal interview with respondent C. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

251 Personal interview with respondent F. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

252 Personal interview with respondent B. 22<sup>nd</sup> of April 2025. Belgrade, Republic of Serbia.

253 Personal interview with respondent C. 7<sup>th</sup> of April 2025. Belgrade, Republic of Serbia.

254 Ibid.

environment. All research participants agreed that GBDV remains an increasing challenge in RS, and that a significant imbalance exists between the protection provided within the legal and institutional framework and the victim's real needs. RS has made efforts to align its national legislation and policy framework with international standards; however, it still does not address the issue of GBDV in a specific and effective manner, which is essential for achieving comprehensive protection of women and girls in the digital environment.

The ratified international treaties can be implemented and legally interpreted in cases involving GBDV in RS. This approach is rarely implemented in practice. The national legal framework is not sustainable in the context of fast technological development and the growing possibilities for gendered abuse in the digital space. In addition, RS still lacks a comprehensive strategic framework specifically addressing gender-based violence against women and girls in the digital space, despite the increasing number and severity of such offences.. This absence of strategic planning reflects a broader lack of political will to engage in long-term, effective, and structural reforms in combating GBV in the digital environment. As both women and girls can be affected by GBVD, regulating the issue of digital violence within both fields of strategic planning, namely women's and children's rights, would be crucial for creating comprehensive protection.

Because of the legal and institutional shortcomings, police officers, prosecutors, judges, and even victims' lawyers must often make considerable efforts to prove the existence of a criminal offence. As there are no special criminal offences, the officials must classify the factual situation under existing criminal offences that do not have the characteristics of GBV as such. Clearly, criminalization remains a necessary step in combating GBDV in the RS. Previous proposals to amend the Criminal Code were rejected, showing the reluctance of RS decisionmakers to prioritise GBDV. Yet, it is particularly important to incriminate the distribution of intimate content, regardless of whether it's fabricated or real, in order to include the production and distribution of intimate content facilitated by ICTs or generated by artificial intelligence. It would also be essential to introduce ex officio prosecution for such criminal offences, and to introduce a legal possibility to establish ex officio guarantees for victims' legal representation from the existing list of lawyers of the RS Bar Association, even if these victims do not qualify as particularly vulnerable witnesses.

Despite the establishment of specialised state bodies such as the Special Prosecution for HighTech Crime and special police units for combating cybercrime, this paper concludes that the implementation of laws, punitive policy, and actual prosecution of perpetrators in the RS remains ineffective. Due to a lack of specialised training among these state officials, victims continue to face institutional non-responsiveness, stigmatisation and a significant lack of legal and institutional support. Inadequate reaction, sanctions, and procedure guarantees uphold a culture of impunity in RS, as perpetrators are encouraged to act with the belief that they will not face consequences.

Ultimately, every offender who goes unpunished becomes an encouragement for the next abuser. Without a robust, actionable, gender-sensitive and child-sensitive legal framework and national strategies that integrate the digital dimensions of GBV, the protection of women and girls in the digital space remains insufficient. Therefore, strengthening national legislation and institutional capacities, amending criminal laws and punishment procedures, ensuring ex officio prosecution and defence for relevant criminal offences, developing an adequate strategic framework, and significantly improving education and training for all state officials dealing with cases of GBVD are essential. Only through consistent political commitment and a comprehensive coordinated approach can RS address the structural culture of impunity that undermines its national response to GBVD.



## Conclusion

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Maja Munivrana

This comparative analysis of domestic responses to GBDV in Albania, Montenegro and Serbia reveals a concerning lack of coherent and comprehensive strategies across all three jurisdictions. Even though available research indicates that in all of the analysed countries, GBDV is on the rise, its diverse forms are mostly not recognised as distinct offences. When prosecuted at all, these acts are typically addressed through existing offences—primarily sexual harassment, stalking, and criminal offences designed to protect children from sexual abuse and exploitation. To an extent, Montenegro stands as an exception, having introduced a separate offence for the non-consensual sharing of intimate content in 2023. Similar legislative initiatives in Serbia and Albania, primarily led by civil society actors, have thus far been unsuccessful - partly due to a lack of political will and a legal environment that favours a broad interpretation of existing laws over the adoption of new legal provisions. However, even where general offences may be interpreted to cover certain forms of GBDV, some specific manifestations—such as image-based abuse generated through artificial intelligence—generally fall outside the reach of the current 'traditional' legal framework. Moreover, the penalties prescribed for existing offences often do not reflect the gravity of the harm experienced by victims of GBDV. Finally, some of these crimes are not prosecuted *ex officio* but instead require private prosecution, placing an undue burden on women victims and failing to account for the power imbalances that frequently characterise gender-based violence.

The country studies indicate that legal reforms are currently underway in both Serbia and Albania. However, the extent to which these reforms will effectively address GBDV remains uncertain. While legislative change - such as introducing specific offences for image-based abuse - is an important and necessary first step, it is by no means sufficient. A holistic approach is needed, yet remains largely absent from current national policies.

Legal professionals must be adequately trained and equipped to handle GBDV cases. Evidence from the case studies shows that, even when such cases are prosecuted, the lack of a gendersensitive approach among law enforcement and judiciary - combined with lenient sentencing - often discourages victims from coming forward. At least equally important are efforts aimed at challenging and changing deeply rooted societal attitudes that tacitly condone gender stereotypes. These entrenched norms hinder the development of policies and legislation capable of effectively recognising and addressing the gendered nature of digital violence.

It is our hope that this publication will serve as a foundation for future academic inquiry and contribute to the development of informed, coherent, and evidence-based legal and policy responses to gender-based digital violence in the Western Balkans and beyond.

## Annex A

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Interview questions:

1. How do you assess the trends of online violence against women in your country? Do you see a significant rise in these cases in the recent years?

Follow up: Which are the most frequent offenses in the online sphere against women and girls in this country?

2. How would you assess the current legal framework of your country with respect to new forms of online gender-based violence against women and girls (OGBV)? Do existing legal provisions provide effective protection to women and girls, victims of OGBV?

In your response, please address the following:

Substantive criminal law perspective (criminalization) – can existing criminal offences (and misdemeanours) adequately cover the online dimension and genderbased nature of the harm?

Procedural criminal law perspective – are victims of OGBV recognized as vulnerable victims requiring special protection, similar to protection and rights given to children and victims of rape and other serious forms of sexual violence (see art. 22. of the EU Victims Rights Directive introducing the so-called individual assessment)

3. Do the proscribed criminal sanctions adequately reflect the gravity of this type of harm?
4. Do you believe that the current legal framework needs to be improved?

Follow up question: In your view, what would be the preferred legislative technique:

- a) *lex specialis*, a new specific act adopted to cover (online) gender-based violence against women
- b) amendments of the existing Criminal Code/Criminal Procedure Act
- c) other suggestions?

5. Do you believe that criminalization is an effective tool for combatting OGBV? In other words, would new criminal offences reduce, or significantly contribute to reduction of, OGBV? Please explain why (not)?

6. How would you assess the response of relevant authorities to criminal complaints of OGBV thus far? Do possible problems arise out of inadequate legal framework or from insensitivity to gender dimension and unawareness of consequences of online violence? If possible, distinguish between different types of authorities:
  - a) Police
  - b) Prosecution
  - c) Courts
  - d) Other, if relevant?
7. Which (legal and other) measures do you find most effective in response to GBDV?
8. What type of sanctions and other legal consequences (e.g. removal of content from Internet) do you find generally appropriate to address this type of criminality?
9. How would you assess the response of relevant authorities to criminal complaints of OGBV thus far? Do possible problems arise out of inadequate legal framework or from insensitivity to gender dimension and unawareness of consequences of online violence? If possible, distinguish between different types of authorities:
  - a) Police
  - b) Prosecution
  - c) Courts
  - d) Other, if relevant?
10. Which (legal and other) measures do you find most effective in response to GBDV?
11. Are you familiar with any former or ongoing education of police officers, prosecutors and judges focusing on OGBV, protection of victims, prevention?
12. Are you familiar with any national strategy/action plan or other official/governmental policy aiming at prevention or suppression of OGBV?
13. Do you have any additional comments or suggestions?





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