

“LEGISLATIVE TREATMENT AND LEGAL-POLITICAL ASPECTS OF THE CRIMINAL OFFENCE OF DOMESTIC VIOLENCE IN MONTENEGRO”

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Abstract

This paper presents and analyzes the concept and constitutive elements of the criminal offence of domestic violence or violence within a family community in Montenegro, as a manifestation of the violation of fundamental rights and freedoms guaranteed by international law. Special attention is given to the theoretical-legal and positive-legal definitions of domestic violence. Within this framework, the paper provides an overview of the national legislation covering the period from 2002 to 2025, illustrated through a chronological review of the amendments to the Criminal Code of Montenegro. Furthermore, the paper addresses the legal and policy aspects of domestic violence, as well as specific issues identified in the practice of the Montenegrin judiciary.

Keywords: violence, domestic violence, family member safety.

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1. Introduction

Domestic violence represents a specific and complex phenomenon, as it is both a global issue and a manifestation of the violation of fundamental human rights and freedoms in modern society. It is characterized by its universality, transcending geographical boundaries. Despite the fact that protection against domestic violence is a well-regulated area of law, it remains one of the most pressing social problems, assuming ever-greater proportions and increasingly becoming the predominant form of violence. It is important to emphasize that this phenomenon is as old as human society itself and constitutes one of the key factors contributing to the weakening of both the family and society at large. Rooted in a value system based on traditionalism and patriarchal principles, domestic violence deserves particular attention due to its specific nature and far-reaching consequences.

The perception of the family as a monolithic entity whose members possess distinct rights and obligations began to gain prominence in the mid-twentieth century with the development of human rights doctrine. Prior to that, domestic violence had long remained one of the most concealed forms of criminal behavior, resulting in a significant “dark figure” of unreported cases. Violence against family members was traditionally shrouded in silence, regarded as a private matter, and as such persisted as one of the most hidden manifestations of human rights violations. In this context, both the prevalence and concealment of domestic violence can be viewed as consequences of the patriarchal structure of society, which fostered a patriarchal model of the family. As Jaffe et al. (2004:188) note, “Problems within the family were considered to be private matters that took place behind closed doors, and any public response was deemed intrusive and inappropriate.” Similarly, Hester (2009:2) observes that “since the 1990s, a series of initiatives have emerged aimed at developing a criminal law approach to domestic violence.”

Recognizing this pathological social phenomenon and following the example of other states, Montenegro criminalized domestic or family violence in 2002. Subsequently, in 2010, it adopted a specific Law on Protection against Domestic Violence, thereby harmonizing national legislation and practice with international standards. The aim of these reforms was to ensure that institutions within the Montenegrin judicial system contribute effectively to reducing the number of perpetrators of this crime and to establishing consistent case law in

this field. Prior to its criminalization, domestic violence was a taboo subject within Montenegrin society, and therefore, statistical data and judicial decisions in this area cover only the past two decades.

The methodological framework of this paper is based on analytical-descriptive and comparative approaches, complemented by normative and historical-legal methods. Through the analysis of positive legal norms, the paper will examine the legal treatment of the criminal offense of domestic violence in Montenegro, as well as the principal legal and political challenges arising in its implementation.

The Montenegrin model of legal protection against domestic violence operates on a three-tiered system. In constructing this model, various modern European legal systems served as paradigms. Primary protection of the moral and physical integrity of family members is provided by the Criminal Code; secondary protection is afforded under the Law on Protection against Domestic Violence; and tertiary protection is established through the Law on Misdemeanors. In this manner, comprehensive legal protection has been ensured, consistent with international standards. This relatively recent incrimination plays a crucial role in both the social recognition of this deviant behavior and the appropriate response of the criminal justice system. As Judith (1997:20) notes, “This is a phenomenon that until recently was considered acceptable, desirable, and even normal behavior in the process of disciplining disobedient family members, primarily women and children.” Moreover, this criminalization facilitates the systematic collection of data and statistical monitoring of the prevalence of domestic violence. The pre-criminalization period carried significant risks of secondary and even tertiary victimization. However, with the adoption of numerous *de lege ferenda* proposals, the necessary prerequisites have been created for the criminal justice system—as the sole mechanism responsible for implementing the provisions of the Criminal Code—to establish coherent judicial practice in this area, with the ultimate goal of reducing this form of crime to a marginal level.

2. Chronological Overview of the Legal Treatment of Domestic Violence

The criminal offense of violence within the family or family community was first incriminated in Montenegro in 2002, marking the beginning of the development of judicial practice in this area. The original legal definition, contained in the Criminal Code of

Montenegro (*Official Gazette of the Republic of Montenegro*, No. 70/2003 of 25 December 2003 and No. 13/2004), defined the basic form of this criminal offence as follows: “Whoever, by using gross violence or reckless behavior, endangers the peace, physical integrity, or mental state of a member of his family or family community shall be punished by a fine or imprisonment for up to one year.” The Law on Amendments to the Criminal Code (*Official Gazette of the Republic of Montenegro*, No. 47/2006 of 25 July 2006) modified the elements of this criminal offence by narrowing its scope—specifically, by omitting *reckless behavior* from the original legal definition. These amendments also introduced a special form of the offence, criminalizing the violation of protection measures against domestic violence imposed by the court pursuant to law.

Further amendments were adopted through the Law on Amendments to the Criminal Code (*Official Gazette of Montenegro*, No. 25/2010 of 5 May 2010), which refined the definition of the criminal act. The element of *endangerment* of physical or mental integrity was replaced with the term *violation*, and the perpetrator’s conduct was required to constitute *gross violence*. Moreover, the special form of the offence concerning the violation of protection measures was expanded to encompass not only court-imposed measures but also those issued by any other competent state authority.

The Law on Amendments to the Criminal Code of 2013 (*Official Gazette of Montenegro*, Nos. 40/2013 of 13 August 2013 and 56/2013 of 21 August 2013) introduced only legal-technical refinements, including the substitution of the plural term *family members* with the singular *family member* in the basic form of the offence, thereby ensuring greater linguistic precision and consistency within the Code.

A significant substantive change occurred in 2017 with the Law on Amendments to the Criminal Code (*Official Gazette of Montenegro*, No. 44/2017 of 6 July 2017). These amendments strengthened the penal framework by increasing the prescribed maximum penalty for the basic form of the offence from one year to two years of imprisonment, and for the special form—violation of protection measures—from six months to one year, which also represents the special legal maximum for this specific offence.

The most comprehensive reform of this criminal offence was introduced with the Law on Amendments to the Criminal Code of Montenegro (*Official Gazette of Montenegro*, No. 110/2023 of 12 December 2023). These amendments completely redefined the *actus reus* of

the offence and, for the first time, provided a statutory definition of the concept of “family member.” This new definition is considerably broader than that previously contained in the section on “meaning of terms” in the Criminal Code of Montenegro. Furthermore, the 2023 amendments significantly tightened the penal policy relating to this offence, reflecting the state’s enhanced commitment to combating domestic violence through stricter criminal sanctions and a more comprehensive legal framework.

3. Elements of the Criminal Offence

The legislator stipulates that this criminal offence encompasses a basic form, three aggravated forms, and a special form. The basic form is prescribed under Article 220, paragraph 1 of the *Criminal Code of Montenegro*, which states: “Whoever lightly injures a member of the family or family community, or endangers his or her safety by threatening to attack the life or body of that person or a person close to him or her, shall be punished by imprisonment for a term of six months to five years.” A comparative analysis of this provision with the previous version reveals that the statutory penalty for this offence has been made considerably more severe. Moreover, the essential characteristics of the offence have been substantially modified (*Law on Amendments to the Criminal Code of Montenegro, Official Gazette of Montenegro*, No. 110/2023 of 12 December 2023, Article 49).

In essence, this is a commission offence, meaning that it presupposes an active conduct on the part of the perpetrator. As Stojanović (2015:106) observes, “The rule is that the act of committing a criminal offence, when prescribing its essence, is envisaged as an act of commission.” From a theoretical standpoint, however, there is no uniform position concerning the nature of the actus reus of this offence. One school of thought maintains that the defining element is *endangerment*, conceived in a consequential sense—implying the possibility that the offender’s conduct may harm legally protected personal interests. Nevertheless, the prevailing opinion in both theory and practice is that endangerment does not constitute an act per se, but rather the consequence of the criminal act. In this particular case, the legislator has formulated the act of commission in the alternative, which means that the existence of the offence is established if the perpetrator engages in *either* of the proscribed forms of conduct. Accordingly, the first form of action involves physical engagement by the perpetrator towards a family member, resulting in minor bodily injury.

The second form encompasses threatening behavior, whereby the perpetrator creates a sense of insecurity or fear in the victim through verbal or non-verbal communication that implies a threat to life or bodily integrity. In other words, the act of committing this criminal offence may consist either of a physical act, producing slight bodily harm, or a verbal act, generating a subjective feeling of endangerment in the victim. Both forms share a common denominator: an unlawful interference with the physical or psychological integrity of a family member, thereby breaching the fundamental principle of inviolability of family relations protected under criminal law.

With the most recent amendments to the *Criminal Code of Montenegro*, the legislator has expanded the scope of the actus reus to encompass cases involving the abuse of a family member or a member of the family community, as well as situations in which the perpetrator treats such a person in a manner that offends human dignity. The prescribed penalty for these acts remains identical to that provided for the basic form of the offence. As Stojanović (2008:424) explains: “Abuse implies the undertaking of certain actions that cause physical or mental suffering of a lesser intensity to the passive subject, which, however, do not constitute minor bodily harm. The concept of acting in a manner that offends human dignity can be understood very broadly and may encompass various types of conduct. As a rule, such conduct entails the undertaking of several successive actions, although this need not always be the case.” For this type of criminal offence to exist, it is necessary to establish that human dignity has been objectively violated. It is insufficient that the victim merely perceives the conduct as degrading or humiliating; rather, the assessment must be grounded in objective criteria, taking into account prevailing social norms within the relevant community. Thus, conduct constitutes a violation of human dignity when, viewed through the lens of contemporary societal standards, it is inherently capable of infringing upon that dignity.

A further significant modification of the criminal offence was introduced through the addition of a new paragraph to the relevant legal provision, which stipulates that the same punishment shall also apply to any person who repeatedly employs violence, makes threats, or—through insolent or reckless behavior—endangers or violates the physical or mental integrity of a member of his or her family or family community. This formulation not only consolidates the range of behaviors encompassed by the previously existing paragraphs but also broadens the act of commission. Specifically, it extends criminal liability to situations

involving recurrent acts of violence, as well as insolent or reckless conduct capable of endangering, or even violating, the mental integrity of a family member. By doing so, the legislator has demonstrated an intent to criminalize a wider spectrum of abusive behaviors that, although they may not result in visible physical harm, nevertheless undermine the fundamental values of safety, respect, and human dignity within the family unit.

The criminal interpretation of consequences has generated numerous theoretical and practical debates closely linked to the actus reus of this criminal offence. Given that this is a result-based offence, for its completion—and for an attempted act to be punishable—it is necessary that the required consequence actually occurs. In the basic form of commission, the consequence may consist of minor bodily injury (in cases involving physical violence) or the creation of a feeling of threat in the passive subject (in cases involving verbal or psychological violence). In some instances, the violation of human dignity may also constitute a consequence. A central challenge in determining the consequence arises when it manifests as a threat to, or violation of, the victim's physical or, in particular, mental integrity. In judicial practice, it is often difficult to establish precisely when the threat or violation of mental integrity has occurred. In such situations, the court of first instance is obliged to ascertain the mental condition of the passive subject—specifically, whether the individual's mental integrity has been objectively endangered or violated—by ordering a psychiatric evaluation. In legal theory, there is no universally accepted definition of when a person's physical or mental integrity is deemed to have been "violated." However, it may be inferred that such a state represents a degree greater than endangerment but less than serious bodily injury. As Ertan et al. (2020) emphasize, "It is also very important that the health consequences can last long after the abuse has ceased." This observation underscores the enduring nature of harm resulting from domestic violence, which may extend beyond the cessation of physical acts to include long-term psychological trauma.

The first aggravated form of the offence arises in situations where, in the commission of the acts described in paragraphs 1, 2, or 3 of Article 220, the perpetrator uses a weapon, a dangerous tool, or another means capable of causing serious bodily injury or significant harm to health, or commits the act in the presence of a child (*Criminal Code of Montenegro, Official Gazette of Montenegro*, No. 110/2023 of 12 December 2023, Article 220, paragraph 2). The determination of this qualified form is based on a modal criterion—namely, the

means of execution. Whether a particular means is capable of causing serious bodily harm or significant damage to health depends not only on its inherent nature but also on the manner in which it is used. As Lazarević (2006:111) explains: “For the purposes of this criminal offence, weapons are considered to include both firearms (e.g., rifles, pistols) and cold weapons (e.g., knives, bayonets, sabres). Tools are instruments that people use in professional or other activities and which are capable of causing injury, such as an axe, spade, hammer, shovel, scythe, or sickle. Other objects that may cause serious bodily harm or significant damage to health include stones, stakes, heavy vessels, and similar items.” A notable innovation in this provision is the explicit inclusion of cases where the offence is committed in the presence of a child, thereby recognizing the indirect victimization and psychological trauma that such exposure entails. The prescribed penalty for this aggravated form ranges from one to five years of imprisonment, reflecting the legislator’s intention to ensure stricter punishment for acts that display a heightened degree of danger or moral reprehensibility.

The second aggravated form of this criminal offence is prescribed alternatively in paragraph 5 of the same article. It exists: “if, as a result of the acts referred to in paragraphs 1 to 4 of this Article, serious bodily injury or serious damage to health has occurred, or if such acts have been committed against a minor.” In principle, for this aggravated form to exist, there must be negligence on the part of the perpetrator with respect to the serious bodily injury or serious impairment of health, while the basic form of the offence remains covered by intent. As Stojanović (2010:352) defines, “The most general term of physical injury can be understood as a violation of the physical integrity or health of a person, with the proviso that in the case of serious bodily injury, the violation must be of greater intensity—that is, it must constitute a serious violation.” Similarly, Lazarević (1995:230) explains: “Violation of bodily integrity represents damage to the human body, understood in its biopsychic unity, while impairment of health denotes the causing of a physical or mental illness, or the aggravation of an already existing condition.” Given that the age of the passive subject may represent a qualifying circumstance, for this aggravated form to be established it is necessary that the perpetrator’s intent encompass this characteristic—that is, that the perpetrator was aware that the victim was a minor. The legislator has prescribed a penalty of imprisonment from one to eight years for this form of the criminal offence.

The third aggravated form, which represents the most serious manifestation of this offence, exists: “if the act referred to in paragraphs 1 to 5 of this Article results in the death of a family member or a member of the family community” (*Criminal Code of Montenegro, Official Gazette of Montenegro*, No. 110/2023 of 12 December 2023, Article 220, paragraph 6). For this form to be established, it is necessary that negligence exist in relation to the consequence—death—since this constitutes an offence qualified by a particularly grave consequence. In contrast, if the death of a family member is intended by the perpetrator, the act would constitute aggravated murder under Article 144, paragraph 7 of the *Criminal Code of Montenegro*. The prescribed penalty for this most severe form of the offence is imprisonment from five to fifteen years.

The special form of the offence, contained in paragraph 7 of the same article, provides that: “Whoever violates the measures of protection against domestic violence ordered by a court or another state authority pursuant to law shall be punished accordingly.” (*Criminal Code of Montenegro, Official Gazette of Montenegro*, No. 110/2023 of 12 December 2023, Article 220, paragraph 7). The Law on Protection from Domestic Violence prescribes a range of protective measures, including: removal from an apartment or other residential premises; prohibition of approaching the victim; prohibition of harassment or stalking; mandatory addiction treatment; and mandatory psychosocial treatment (Article 20). By criminalizing the violation of these protective measures, the legislator sought to reinforce the authority of judicial and administrative decisions, particularly those issued by misdemeanor courts. This provision, however, extends its application to measures imposed by other competent state bodies as well. Since this represents a special (subsidiary) form of the offence, the legislator considered its lesser degree of social danger when prescribing the corresponding criminal sanction. Consequently, this form is punishable by a fine or imprisonment of up to one year, reflecting its comparatively milder gravity within the overall structure of the criminal offence of domestic violence.

This criminal offence represents a typical example of *delicta propria*—offences that may be committed only by persons possessing a specific personal capacity. Its distinctiveness lies precisely in the special status of both the active and passive subjects: the perpetrator must be a member of the family, and the offence must be directed against another member of the same family or family community. It is important to emphasize that the latest amendments to

the *Criminal Code of Montenegro*—specifically paragraph 8 of Article 220—provide an enumerative and substantially expanded definition of family members compared to the previous legal formulation found in the section on the *meaning of terms*. For the purposes of this Article, members of the family or family community are considered to include: a married or common-law spouse; their common children and the children of each of them; a same-sex partner in a life partnership and the children of each of the partners; blood relatives and relatives by adoption in the direct line without limitation, and in the collateral line up to the fourth degree; in-laws up to the second degree; a partner in an intimate relationship; persons living in the same family household; and persons who have a child together or are expecting a child, even if they have never lived in the same family household. Furthermore, the law explicitly provides that former family members—namely, a former married or common-law spouse, a former same-sex partner in a life partnership, former in-laws up to the second degree, and a former partner in an intimate relationship—shall also be deemed members of the family or family community (*Criminal Code of Montenegro, Official Gazette of Montenegro*, No. 110/2023 of 12 December 2023, Article 220, paragraph 8). This legislative innovation significantly broadens the personal scope of protection, aligning domestic criminal law with contemporary international and comparative standards that recognize diverse forms of family and intimate relationships. By extending the concept of “family member” to include former partners, same-sex unions, and individuals in non-marital intimate relationships, the Montenegrin legislator has ensured a more comprehensive framework for the criminal-legal protection of human dignity and security within private and family life.

4. Legal and Political Aspects of Domestic Violence in Montenegro

The criminal offence of domestic violence constitutes a substantial portion of the total number of criminal cases before Montenegrin courts, with a discernible upward trend over recent years. It can be argued that the judicial treatment of domestic violence largely determines its prevalence, as judicial practice both reflects and influences the extent of this phenomenon in society. An analysis of case law, particularly concerning the type and severity of sentences imposed, suggests that courts tend to apply lenient sanctions, which do not provide a sufficiently strong deterrent effect against this form of criminal conduct. Despite

the growing number of prosecuted cases across Montenegro, a persistent pattern of mild punishment remains evident. The increase in the number of adjudicated cases is, nonetheless, a clear indicator that domestic violence has been recognized as a serious social and legal problem within Montenegrin society. While the caseload of individual courts naturally varies in proportion to the population and number of families within their territorial jurisdiction, the general trend shows that domestic violence in Montenegro is on the rise, notwithstanding the formal judicial response to it. This observation supports the conclusion that the current penal policy, aimed at preventing and suppressing domestic violence, has not yielded satisfactory results. This shortcoming is not limited solely to the judicial penal policy (i.e., sentencing practices), but also extends to the legislative penal policy, which often serves as a limiting factor in ensuring an adequate and effective response by the Montenegrin judiciary to this form of deviant behavior. These developments clearly indicate the necessity of tightening penal policy, both legally—through legislative reform—and judicially, through more consistent and proportionate sentencing. Only through such a dual approach can domestic violence be reduced to a socially acceptable minimum within Montenegrin society. *Summa summarum*, certain nomotechnical amendments to the legal definition and structure of the offence, combined with their consistent application in judicial practice, represent the most efficient means of combating this deeply rooted social problem, thereby ensuring the protection of all individuals falling under the jurisdiction of the Montenegrin state.

In the majority of cases, courts impose suspended sentences upon conviction, raising critical questions regarding the effectiveness of this warning measure for both general and special prevention, particularly in terms of recidivism. Several factors may contribute to this phenomenon, one of the most significant being the prolonged duration of criminal proceedings—the often considerable lapse of time between the act of violence and the final adjudication. During this period, the relationship between the perpetrator and the victim frequently normalizes, leading the victim to alter his or her perception of the incident. In most cases, this change is manifested in the victim’s withdrawal from participation in the criminal proceedings, either by failing to join the prosecution or by not filing a property claim. This circumstance commonly serves as the primary mitigating factor considered by courts when determining the appropriate sentence. Consequently, such practices contribute to the overall

leniency of penal responses and, indirectly, to the ineffectiveness of general and special deterrence in the field of domestic violence.

In Montenegro, the problem of the so-called “*dark figure*” of domestic violence remains evident. The persistence of the patriarchal family system, deeply rooted in Montenegrin social traditions, continues to reinforce gender inequality, most notably reflected in the subordinate position of women relative to men. Empirical observations indicate that domestic violence is more frequently reported in urban areas than in rural communities. This discrepancy may be attributed to the enduring influence of tradition and patriarchal norms in rural settings, where domestic violence is often concealed and regarded as a matter of *personal or family shame*. In many cases, underreporting is also the result of distrust in state institutions, particularly law enforcement and judicial authorities. Moreover, victims frequently refrain from reporting domestic violence out of fear of retaliation from the perpetrator or concern that disclosure might jeopardize their economic survival or the welfare of minor children. To overcome these entrenched prejudices, it is essential to strengthen public awareness through sustained educational and preventive initiatives. Such programs must emphasize both preventive and repressive legal measures, ensuring that society recognizes domestic violence as a violation of fundamental human rights rather than a private family matter. From a normative standpoint, ratified international instruments, particularly the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (*Istanbul Convention*), play a decisive role in harmonizing judicial practice at both national and international levels. When assessing whether Montenegrin courts rely on the standards established by the Istanbul Convention in adjudicating domestic violence cases, the answer is affirmative. The Convention, as the most comprehensive international legal framework addressing violence against women and domestic violence, has prompted Montenegro to amend and modernize its national legislation in order to align domestic criminal law with the principles it proclaims, thereby satisfying the principle of legal equilibrium. By incorporating the Convention’s principles, Montenegro has effectively standardized its legislative framework, ensuring that domestic courts apply uniform legal norms, which in turn fosters greater consistency in judicial practice. Although Montenegro was among the first states to ratify the Istanbul Convention, it has not yet implemented the Law on Compensation of Damage to Victims of Violent Crimes, adopted following

ratification. The application of this law has been postponed until Montenegro attains full membership in the European Union, which raises legitimate concerns regarding its practical purpose and effectiveness, as it currently remains a dormant legal instrument within the national legislative corpus.

Regarding the *lex specialis* governing this field, namely the Law on Protection from Domestic Violence, it must be acknowledged that this law represents a significant step forward in the implementation of international standards within the national legal system. Nevertheless, analysis of this law, alongside the Law on Misdemeanors, which applies subsidiarily, reveals conceptual and procedural ambiguities in distinguishing between a criminal offence and a misdemeanor. The absence of clearly defined statutory criteria for differentiation has, in practice, compelled courts to rely heavily on judicial precedent, rather than on explicit legal provisions, when making such determinations. These difficulties were largely resolved through the latest amendments to the Criminal Code of Montenegro, which more precisely defined the act of commission for domestic violence and provided an enumerative definition of family members. As a result, ambiguity concerning whether a given act constitutes a criminal offence or a misdemeanor has been substantially reduced, ensuring greater legal certainty and consistency in judicial decision-making.

Considering comparative positive law, it may be concluded that Montenegro has made considerable progress in aligning its legal system with that of developed European jurisdictions, both in terms of the ratification of international standards and the adoption of corresponding national legislation. However, for these international norms to be implemented effectively in practice, it would be desirable to establish a specialized institutional body responsible for the monitoring, coordination, and supervision of their application. Such a body would ensure the consistent implementation of both international standards and national legal measures, thereby strengthening the overall efficacy and coherence of Montenegro's response to domestic violence.

5. Conclusion

The criminal offence of domestic violence, or violence within a family union, was first criminalized in Montenegro in 2002 under Article 220 of the Criminal Code of

Montenegro, within the chapter “*Criminal Offences against Marriage and Family*.” Prior to its introduction into the national legislative framework, perpetrators of such acts were prosecuted under general provisions relating to crimes against life and bodily integrity. Over more than two decades of application, this offence has undergone numerous legislative amendments, addressing both its substantive elements and the severity of prescribed sanctions. The most significant reform occurred with the adoption of the Law on Amendments to the Criminal Code of Montenegro (2023), which comprehensively redefined the actus reus of the offence and, for the first time, provided a precise and exhaustive definition of family members.

Through the application of analytical-descriptive and comparative methods, this research has demonstrated that the aforementioned changes were both necessary and justified—primarily to establish clear criteria for distinguishing between a misdemeanor and a criminal offence of domestic violence, and to respond to the evident need for a stricter penal policy, given that domestic violence remains one of the most frequently prosecuted crimes in Montenegrin courts. Recognizing this problem, Montenegro has ratified a number of international legal instruments, most notably the Istanbul Convention, with the aim of aligning its national legislation with European legal and human rights standards. In doing so, Montenegro has adopted several complementary laws and undertaken significant reforms that have substantially altered the legal nature and structure of the offence. Nevertheless, the persistent challenge of the so-called “dark figure” of domestic violence—rooted in enduring patriarchal social structures characteristic of Montenegrin society—continues to hinder the full realization of legal protections in practice.

In summary, it may be concluded that Montenegro has achieved formal compliance with European legislative standards and established a comprehensive normative framework for the protection against domestic violence. However, the effective implementation of these norms remains the principal challenge in ensuring the genuine protection of human rights and the safety and dignity of family members within Montenegrin society.

Recommendations

To strengthen the overall response of the Montenegrin system to domestic violence, the following measures are recommended:

1. Tightening judicial penal policy

Courts should more consistently impose effective and proportionate sanctions, particularly in cases of repeated violence, to ensure adequate special and general prevention.

2. Establishing a specialized state body

A national coordination mechanism should be formed to monitor, evaluate, and harmonize the implementation of laws related to domestic violence and obligations arising from international instruments.

3. Improving interinstitutional cooperation

Stronger communication between police, social services, health institutions, and the judiciary would ensure faster protection and reduce secondary victimization.

4. Implementing the Law on Compensation of Victims of Violent Crimes

Its activation should not be conditioned exclusively on EU accession, as victims currently lack an important protection mechanism.

5. Strengthening public awareness and prevention programs

Educational campaigns should target patriarchal norms, promote gender equality, and encourage reporting of violence, especially in rural areas.

6. Continuous professional training

Judges, prosecutors, police officers, and social workers should receive ongoing specialized training on risk assessment, trauma-informed practice, and international standards.

7. Improved statistical monitoring

A unified database would enhance transparency, identify patterns of recidivism, and support evidence-based policy making.

These recommendations aim to enhance the effectiveness of Montenegro's response to domestic violence and contribute to protecting the safety, dignity and fundamental human rights of all family members.

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