



## REPORT

### ENFORCEMENT OF THE LAW “ON MEASURES AGAINST DOMESTIC VIOLENCE” (LAW No. 9669, Dated 18.12.2006)

**Monitoring of the decisions of the Tirana District Court on the issuance of Protection Orders/Immediate Protection Orders and cases of domestic violence victims supported with free legal aid by the Centre for Legal Civic Initiatives (CLCI)<sup>1</sup>.**

*Monitoring Period 30.04.2008-01.06.2009*

*\* The preparation of the report was supported by The Civil Rights Defenders*

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<sup>1</sup> We thank the members of *probono* teams which contributed in monitoring the Tirana District Court decisions: Iris Aliaj, Borana Bocaj, Jonida Lamaj, Jonida Gezka, Armanda Xhaferri, Bora Tahiraj.

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## CHAPTER I

### INTRODUCTION

#### **The survey's purpose and methodology**

The survey was based on monitoring the Tirana District Court decisions on the issuance of protection orders and immediate protection orders for the period 31.04.2008-01.06.2009. Its purpose is to draw attention, by means of the CLCI lawyers' monitoring of the court decisions and procedures, to the access to justice and other authorities provided for on the Law "*On Measures against Domestic Violence*". Thus, it also aims at pointing out some crucial features related to the enforcement of this particular piece of legislation.

The monitoring focused on two critical areas:

1. The Tirana District Court decisions on the issuance of protection orders and immediate protection orders,
2. Cases followed by the lawyers of the Centre for Legal Civic Initiatives, while offering free legal aid for victims of domestic violence, especially to women and children.

Thus, 448 judiciary decisions were monitored with the help of a questionnaire put together by the experts of the Centre for Legal Civic Initiatives. The questionnaire was two-dimensional, containing both social and technical-juridical questions. Thanks to it, in the monitoring stage we were able to draw a number of facts and conclusions on the social problems and issues highlighted on court decisions, and make some findings on the court techniques and methods of enforcing the law from the court to protect domestic violence victims through protection orders.

The comparative method with the collected data during the monitoring of the same object for the period 01.06.2007-31.04.2008, helped us draw some important conclusions, for example we noted a noticeable increase in requests for protection orders during this period compared to the period monitored earlier by the CLCI<sup>2</sup>.

The survey material was divided into two chapters, a structure which enables us to present the key findings. Every chapter has its own conclusions, and the recommendations are presented at the end of the survey.

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<sup>2</sup>See (The report headline)

**Chapter I**  
**SOCIAL PROFILE OF VICTIMS AND PERPETRATORS**

**1. Who is the most violated family member?**

Women are counted as plaintiffs in 91.51% of the monitored decisions whereas the rest (8.49% of cases) are men (see table no. 1)

These data lead us to two key conclusions: first, the woman continues to be the foremost victim of the domestic violence, and, second, the awareness of women and girls to report domestic violence is higher.

A third conclusion is drawn also for the reason that we have two complaints<sup>3</sup> filed on behalf of the children.

**The gender of the plaintiffs**

**Table no.1**

Plaintiffs	Number	%
Women	410	91.51%
Men	38	8.49%
<b>Total</b>	<b>448</b>	

The data on the gender of the plaintiffs are presented below on chart no.1.

**Chart no.1**



**2. Is the victim an uneducated woman?**

**In a high percentage of cases (14.73% of them), it results that the female/male plaintiff has completed the high school education;** in 10.04% of the cases the female plaintiff has only basic education, and in 5.13% of the cases the plaintiff has completed the higher education. Only in 0.66% of the cases, the victim is uneducated. So, the monitored court decisions indicate that for a high share of cases (67.63% for female plaintiffs and 80.13% for defendants), the court decision doesn't provide any information on the education of the litigating parties. (See table no.2).

So, we may conclude that in general the violated woman/plaintiff is an educated woman. This bears evidence to the fact that the violence is a complex phenomenon. In order to get a clear picture of it, we should base our facts on several variables.

<sup>3</sup> See the court decision no.8495, date 08.10.2008 and the court decision no.374, date 24.01.2009.

The 5.13% share of female/male plaintiffs with higher education shows that on account of various social, family, and individual factors, the use of violence creeps in many families regardless of their level of education.

The domestic violence victims with less than basic education amount to a low percentage. So, only 0.66% of the female/male respondents are uneducated; 0.22% of them have completed only three classes of school; 1.33 % of them have completed four classes; and only 0.22% of them five classes. (Se table no.2)

Naturally, we might raise the question, how come we have such a high percentage of educated victims?

An educated female plaintiff means a female plaintiff that reports the violence, who is aware of the legal remedies available to protect her own self, who is also aware of the existing services, and who also knows that violence and a healthy family have nothing in common. Obviously, the survey reflects a women’s target group that has an increased awareness of domestic violence, and reports it whenever they face it. It doesn’t reflect the group of violated women and girls who for various reasons are unable to report the violence, thus remaining without a voice.

Hence, if we set out on outlining the social profile of a domestic violence victim, she is **typically a woman that has mainly high school education.**

However, in view of the fact that there is a high percentage of cases without data on the level of education, it is difficult to draw any conclusions on the link between the violence and the victim’s education.

This is a problem underscored by us even in the monitoring of the enforcement of Law “On Measures against Domestic Violence” for the period 01.06.2007-30.04.2008. Wherefore, we recommend that the judges should pay more attention to the insertion of the full generalities of the parties into the court decisions.

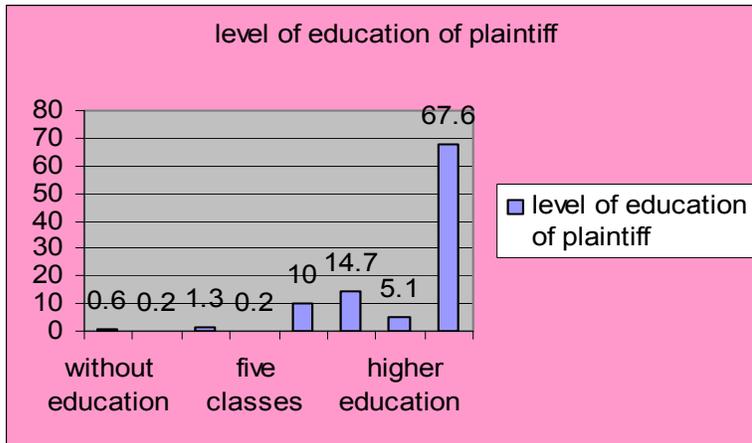
#### **Data on the education of the plaintiff and defendant**

*Table no.2*

<b>Education</b>	<b>Plaintiff</b>		<b>Defendant</b>	
	<b>No</b>	<b>%</b>	<b>No</b>	<b>%</b>
<b>Uneducated</b>	3	0.669%	2	0.446%
<b>Three classes</b>	1	0.223%		
<b>Four classes</b>	6	1.339%	2	0.446%
<b>Five classes</b>	1	0.223%	1	0.223%
<b>Basic education</b>	45	10.04%	24	5.357%
<b>High School</b>	66	14.73%	51	11.383%
<b>Higher Education</b>	23	5.133%	9	2.008%
<b>No data</b>	303	67.63%	359	80.133%
<b>Total</b>	448		448	

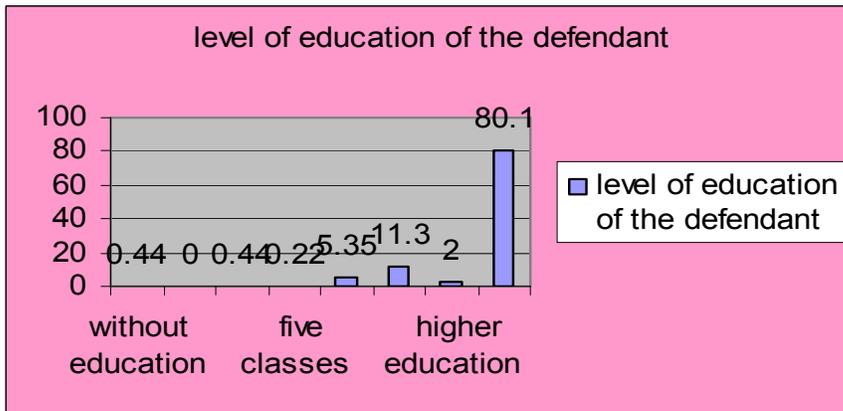
The data on the level of education of the plaintiffs are presented below on chart no.2.

Chart nr.2



Level of Education of the Defendant

Chart no.3



3. What is the civil state of the female/male plaintiff?

In 41.74% of the monitored court decisions, we do not find any information on the civil state of the female plaintiff/violence victim. In 42.85% of cases the female plaintiffs, domestic violence victims, are **married**, and in 9.82% of cases the female plaintiff is divorced. (See table no.3)

So, as indicated by the data, violence is present in the course of the marriage.

The 9.82% share of divorced plaintiffs indicates that the dissolution of marriage is accompanied by deep social problems, which are put on view in the violence between former consorts. This, among other things, happens because in most cases the former spouses continue to live under the same roof even after the divorce, thus coming across difficulties and problems in raising, educating and providing for the children. Very often they fail to come to agreement and are affected by other problems due to the patriarchal mindset of one of the consorts and other various disputes.

In 3.33% of the cases, the female/male plaintiffs are single. This is related to the relation between the perpetrator and the victim, which might be a parent-child, sister-brother, brother-brother relation, or one between cohabitants, etc.

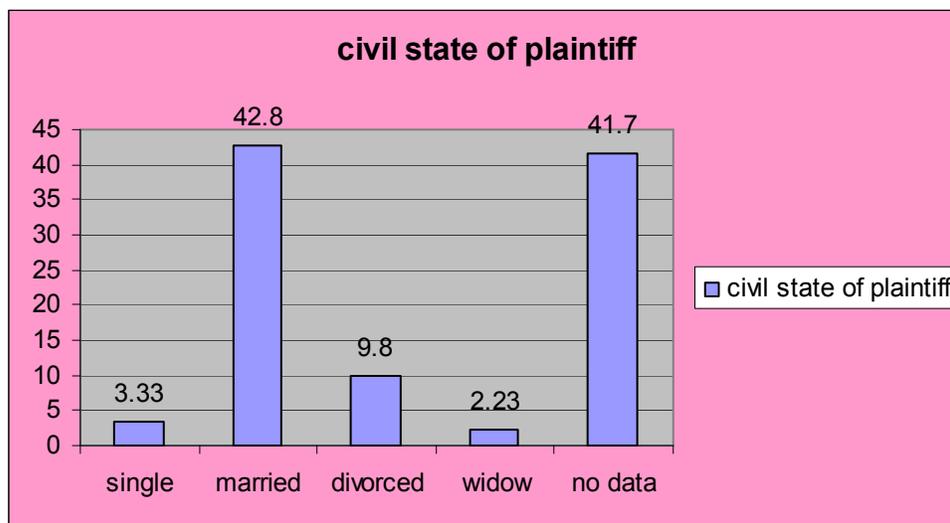
**Civil state of the female/male plaintiff**

**Table no.3**

Civil State	No.	%
Single	15	3.3348%
Married	192	42.85%
Divorced	44	9.82%
Widow	10	2.232%
No data	187	41.74%
<b>Total</b>	<b>448</b>	

Data on the civil state of the female/male plaintiff are presented below on chart number 4.

**Chart no.4**



**4. Data concerning the employment of domestic violence victims**

From the monitoring, it resulted that in 76.56 % of cases there are no data on the employment of the female/male plaintiffs. In 13.16% of cases, the female/male plaintiff is employed and in 10.26% of cases the female/male plaintiff is unemployed. (See table no.4)

In our present analysis, it is worth considering the fact that in a high number of monitored cases there are no data on the employment of the female/male plaintiff. Wherefore, we recommend that the courts should ask on the employment of the parties and insert these data into the court decisions. These data are not expressed even in the reasoning part of the verdict.

In view of this we believe that we cannot draw any clear-cut conclusions on in which way and how much the employment affects the domestic violence. However, the fact that the employed plaintiffs file a higher number of requests for the issuance of the protection orders can be seen as related to their higher awareness to reporting the violence because of their collective life, but also may be related to the high level of stress which increases the level of violence and the aggressive behavior with the family members in family relations.

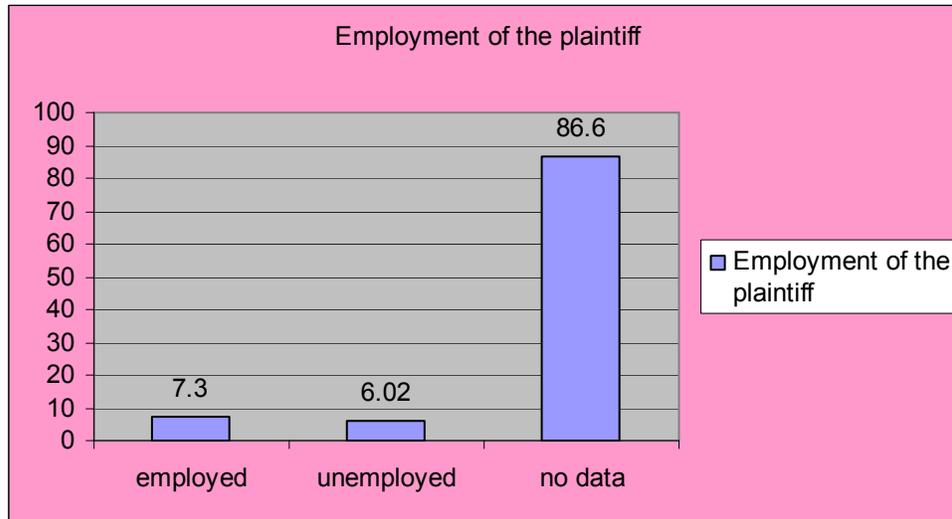
**Data on the employment of plaintiff and defendant**

**Table no.4**

Employment	Plaintiff -no	%	Defendant-no	%
Employed	59	13.16%	33	7.366%
Unemployed	46	10.26%	27	6.026%
No data	343	76.56%	388	86,607 %
<b>Total</b>	<b>448</b>		<b>448</b>	

Data on the employment of plaintiff and defendant are presented below on chart number 5.

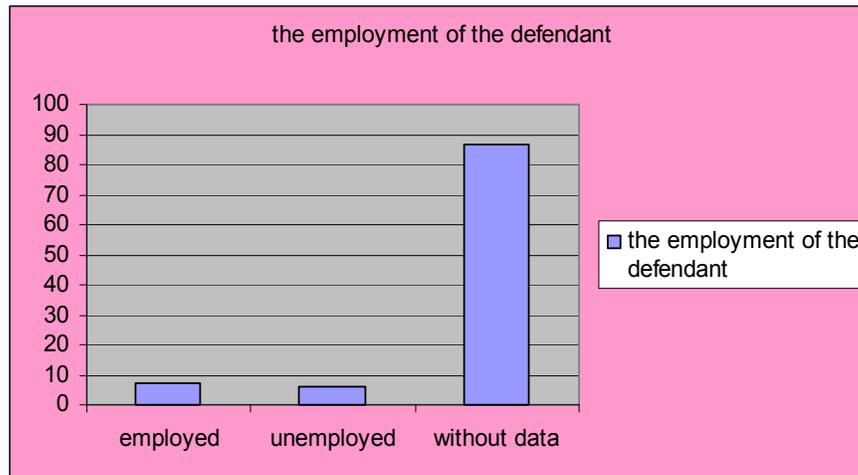
**Chart no.5**



As it results from the table no.4, in 7.366% of the cases the defendant are employed. In 6.026% of the cases the defendant are unemployed. The data on the employment of the defendant are presented in the chart no.6.

## The employment of the defendant

Chart no.6



### 5. Third parties harmed because of domestic violence

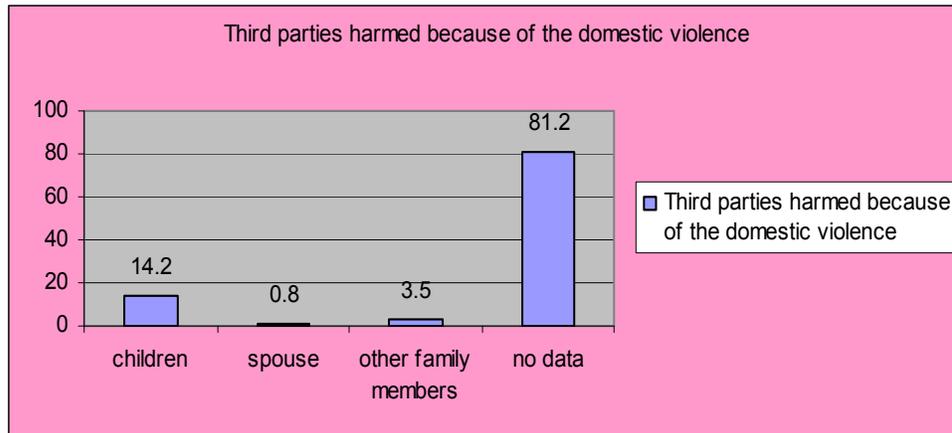
It results that, in 14.28 % of cases, the children are the third parties harmed because of domestic violence. The forms of violence suffered by the children are physical, psychological violence, as well as combined and witnessed violence. The latter is related to the fact that the children are present in the scenes of violence between their family members. Being the first direct victim of violence, the spouse is a third party only in 0.89 % of cases. In 3.57 % of cases, the third parties harmed because of violence are other family members. In 81.25 % of cases, there is no data on the third parties harmed on account of domestic violence.

Table no.5

Third parties harmed because of the domestic violence	No.	%
Children	64	14.28%
Spouse	4	0.89%
Other family members	16	3.57%
No data	364	81.25%
<b>Total</b>	448	

The data on the third parties harmed because of the domestic violence are presented below in the chart no.7.

**Chart no.7**



**Number of children**

As far as the number of children mothered by the domestic violence victim, it results that in 50.66 % of cases, there is no data on the number of children of the litigant parties. The highest share belongs to domestic violence victims with two children (22.32 %). (See table no. 6)

It results that in 10.49 % of cases the victims had one child; in 8.92 % of cases three children; in 2.45 % of cases four children; in 1.11 % of cases five children; in 0.89 % of cases six children; in 0.44 % of cases seven children; and in 0.44 % of cases eight children. (See table no.6)

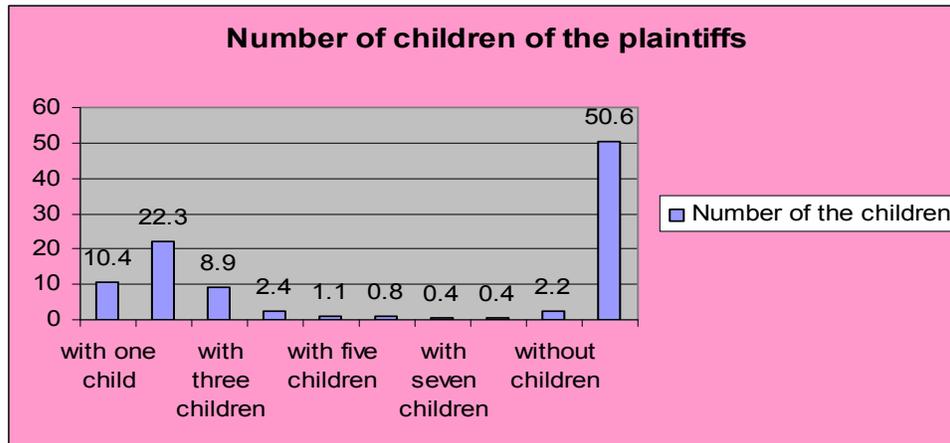
The number of cases with one child amounts to 10.49 %, so it comprises a high percentage. If we could refer to this percentage, the number of children corresponds mainly to the first years of marriage, which are characterized by discrepancies between ideal expectations shared by the spouses and their real potential they can offer. These discrepancies bring forth disputes between the spouses, which might be accompanied by various forms of violence.

**Table no.6**

No. of children	No.	%
One child	47	10.49%
Two children	100	22.32%
Three children	40	8.92%
Four children	11	2.45%
Five children	5	1.116%
Six children	4	0.89%
Seven children	2	0.446%
Eight children	2	0.446%
Without children	10	2.232%
No data	227	50.66%
<b>Total</b>	<b>448</b>	

Data on the number of children of the plaintiffs are presented in the chart no.8.

Chart no.8



The domestic violence victim that has used the legal remedies offered by the Law no.9669, dated 18.12.2006, “On Measures against Domestic Violence” is **mainly a woman with high school education, married, employed, and with two children.**

#### 6. Age-group of domestic violence victims

The age-group to which the women mostly affected by domestic violence belong is that 31-40 years old. This age-group amounts to 29.9% of cases. On the other hand, 22.09% of cases belong to the 41-50-year-old age-group, and 16.51% of cases belong to the 18-30 year-old age-group. (See table no.7)

The table indicates that with increasing age-groups the level of violence decreases.

So, 8.92 % of plaintiffs belong to 51-60-year-old age-group; 2.23% of them belong to 61-70-year-old age-group; 3.34% of plaintiffs belong to 71-80-year-old age-group, and 0.4% of them to the 81-90-year-old age-group.

Despite the low percentages in these age-groups, the data show how spread is the violence on aged people in our own society, both direct violence and witnessed one.

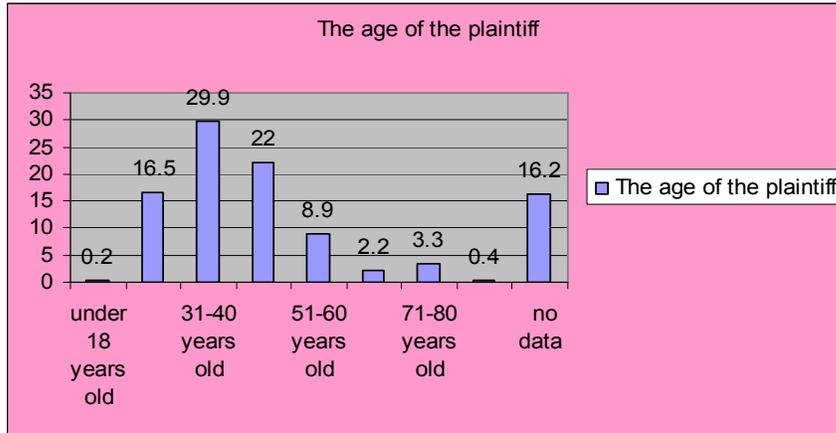
Perhaps the monitored decisions do not capture a full picture of the witnessed violence, which is the most common violence suffered by aged people by being present in acts of violence perpetrated and suffered by other family members.

Table no. 7

Age	No. of Plaintiffs	%	No. of defendants	%
under 18 years old	1	0.22%	-	-
18 – 30 years old	74	16.51%	37	8.25%
31 – 40 years old	134	29.91%	127	28.34%
41 – 50 years old	99	22.09%	131	29.24%
51 – 60 years old	40	8.92%	62	13.83%
61 – 70 years old	10	2.232%	11	2.45%
71 – 80 years old	15	3.348%	1	0.22%
81 – 90 years old	2	0.44 %	-	0.44%
No data	73	16.29%	79	17.63%
<b>Total</b>	<b>448</b>		<b>448</b>	

Data on the age of the plaintiffs are presented below in the chart no.9.

**chart no.9**



Data on the age of the defendant are presented below in the chart no.10.

**Chart no.10**



Regarding the age of the defendant it results from the monitoring that in 29.24% of the cases, the defendant belong to 41-50 years old-age group and in 28,345 of the cases the defendant belong to 31-40 years old age group.

**Conclusion:** The domestic violence victim has availed herself of the legal remedies offered by the Law no. 9669, dated 18.12.2006, “On Measures against Domestic Violence”, and **is mainly a woman that has high school education, married, employed, with two children and belonging to the 31-40-years-old age-group.**

**7. Place of residence of the plaintiff**

The monitoring indicated that in 70.75 % of cases the plaintiffs resides in a urban area and in 14.06% of cases the plaintiff resides in a rural area. In 5.133 % of the cases there are no data regarding the place of residence of the plaintiffs. (See table 8)

**Table no.8**

Place of residence of the plaintiff	no	%
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<b>Urban area</b>	323	72.098 %
<b>Rural area</b>	102	22.767%
<b>No data</b>	23	5.133 %
<b>Total</b>	<b>448</b>	

The domestic violence victim has availed herself of the legal remedies offered by the Law no. 9669, dated 18.12.2006, “On Measures against Domestic Violence”, and **is mainly a woman that has high school education, married, employed, with two children, belonging to the 31-40-years-old age-group, and with place of residence in a urban area.**

#### **8. What is the relation between the plaintiff and defendant?**

The category of family members protected by the Law “On Measures against Domestic Violence” has been extended, including the subjects of marital, gender, adoption, custody, and cohabitation relations, as well as those of former marital relations and intimate relations, including extinguished relations.

*We observe the same trends in this second monitoring of the Tirana District Court decisions for the period 31.04.2008-01.06.2009, as in the first monitoring conducted by the lawyers of the Centre for Civic Legal Initiatives in the period 01.06.2007-31.04.2008, namely that violence is present mainly in the relations between spouses and former spouses, but there is also present a variety of other relations linking victims to perpetrators.*

In regard to cases monitored in the period 01.06.2007-31.04.2008, it results that in 65 % of cases the perpetrator and the victim were in marital relation; in 20% of cases the subject were former spouses; in 10% of cases the subjects were cohabitation partners, and only in 5% of cases the subjects were in a parent-child relationship.

From the monitoring of the Tirana District Court decisions on the issuance of protection orders/immediate protection orders for the period 31.04.2008-01.06.2009, it resulted that in 26.78% of cases we are dealing with a marital relation and only in 2 % of cases the subjects are spouses on the brink of a divorce. In 6.91 % of cases the relation between victim and perpetrator is a relation between former spouses, and it appears that post-marital relations are accompanied by acts of violence. Not even the cohabitation relations are free of acts of violence; in fact, acts of violence between cohabitation partners comprise 1.56% of cases.

But from the monitoring of the Tirana District Court decisions on the issuance of protection orders/immediate protection orders for the period 31.04.2008-01.06.2009, it resulted that violence is present even among other family members. Thus, in 2.67 % of cases the relation between the victim and perpetrator is a mother-son relation. In 0.89 % of cases it is a father-son relation; in 0.66 % of cases it is a daughter/father relation, and in 0.66 % of cases it is a relation between in-laws. In 0.44 % of cases it is a brother/sister relation, and in 0.44% of cases it is a father-in-law-daughter-in-law relation. (See table no.9)

Lack of data about a high percentage of cases is explained by the high percentage of suspended cases, where decisions give no information about relations between defendant and plaintiffs.

*Table nr.9*

<b>Relation between defendants and plaintiffs</b>	<b>No</b>	<b>%</b>
<b>Spouses</b>	120	26.78%
<b>Extra-marital affairs</b>	1	0.22%
<b>Ex-husband</b>	31	6.919%
<b>Cohabitants</b>	8	1.56 %
<b>Ex cohabitants</b>	1	0.22%
<b>Sister – brother</b>	2	0.446%
<b>Mother – son</b>	12	2.67%
<b>Father – son</b>	4	0.89%

<b>Daughter - father</b>	3	0.66%
<b>Son in law – father in law</b>	1	0.22%
<b>Son in law – ex mother in law</b>	1	0.22%
<b>Father in law – ex daughter in law</b>	1	0.22%
<b>Father in law – daughter in law</b>	1	0.22%
<b>Daughter in law - father in law</b>	2	0.446%
<b>Sisters in law</b>	3	0.66%
<b>Sister in law – husband’s brother</b>	1	0.22%
<b>Daughter – Father’s cohabitant</b>	1	0.22%
<b>Father in law – son in law</b>	1	0.22%
<b>Daughter - father /mother in law</b>	1	0.22%
<b>Spouse (about to divorce)</b>	9	2%
<b>No family relations</b>	2	0.446%
<b>Brothers</b>	1	0.22%
<b>Daughter - mother</b>	1	0.22%
<b>Father daughter</b>	1	0.22%
<b>No information</b>	240	53.57%
<b>Total</b>	448	

## Chapter II EFFECTIVENESS OF JUDICIAL PROTECTION

1. Types of abuse. Based on court decisions subject to this monitoring and on interviews with abused women, available at the Center for Legal and Civic Initiatives, it is possible to draw only partial conclusions on the types of domestic violence. It was found out that in 21.8 % of the cases both physical and psychological violence was exercised. In 1.56 % of the cases, it appears that physical violence was inflicted and in 5.35 % of the cases, only psychological violence was exercised on the victim. (See table no.10). Therefore, types of violence are mainly alternated. Even in those cases when the data collected from the decisions provide information on the exercise of physical violence, its effect on the victims is also psychological.

However, we consider that our conclusions would be more comprehensive if such data were included in all monitored decisions. In 318 cases or in 70.98 % of the monitored decisions, there is no information on the type of violence exercised on the victim. It is recommended that court decisions reflect the types of exercised violence, mainly in the justification part of the decision. In our opinion, this would make the justification of the decision more evidence-based.

*Table No. 10*

Types of abuse	No.	%
<b>Physical</b>	7	1.56 %
<b>Psychological</b>	24	5.35%
<b>Physical and psychological</b>	98	21.87%
<b>No violence</b>	1	0.22%
<b>No data</b>	318	70.98

## 2. Settlement of the Requests for Court Protection Orders

What has the court decided in relation to the requests for protection orders, based on Law No. 9669, dated 18.12.2006, “on Measures against Violence in Family Relations”?

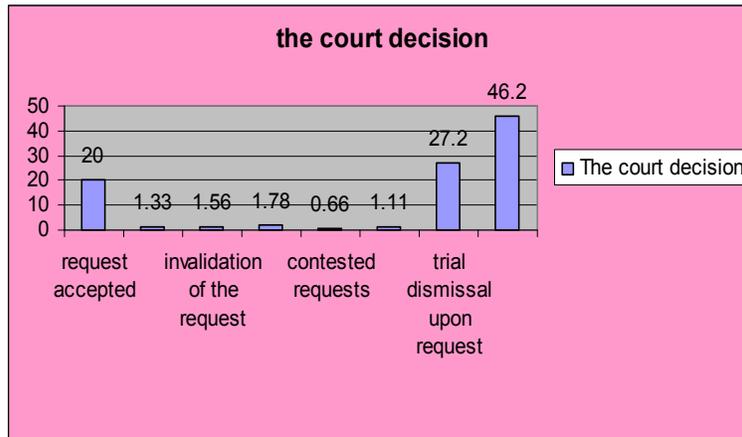
The monitoring shows that 448 requests for protection orders or emergency protection orders were submitted to court. Based on decisions of the Tirana district court, during the monitored period, it has been found that the Court has accepted the request for the issuance of protection order only in 90 cases or 20% of requests. The court has decided to partially accept the request only in 1.33% of the cases. In 1.56 % of the cases, the Court has decided to invalidate the Emergency Order; while in 1.78% of the cases it decided to turn down the request; in 0.66% of the cases the Court contested the request and in 1.11% of the cases it refused the request.

(See table no.11 and chart no.12)

**Table No.11**

<b>Request accepted, Protection Order issued</b>	90	20%
<b>Partial acceptance of the request</b>	6	1.339%
<b>Invalidation of the Emergency Request</b>	7	1.56 %
<b>Turned down requests</b>	8	1.78 %
<b>Contested Requests</b>	3	0.66%
<b>Refusals</b>	5	1.11%
<b>Trial dismissal upon request of the plaintiff</b>	122	27.23%
<b>Trial dismissal for non-appearance of the plaintiff</b>	207	46.20 %
<b>Total</b>	448	

*Chart no.12*



As it can be seen by the data, there is a high percentage of 46.20 %, in which the trial was dismissed due to non appearance of the plaintiff. In 27.33 % of the cases, the trial was dismissed upon a request of the plaintiff. In total, this number reaches 73.43, which is a significant percentage. See table no.12.

### Trial dismissal

**Table No.12**

**Trial Dismissal**

329

<b>Trial dismissal for non-appearance of the plaintiff</b>	207
<b>Trial dismissal upon request of the plaintiff</b>	122

Trial dismissal has been decided by the court for 37 cases during the verification of the emergency protection order for non appearance of the plaintiff and in 22 cases during verification of the emergency protection order, in cases when the plaintiff requested trial dismissal. These trial dismissals for the cases which aimed at the verification of the emergency protection order are included in table 12.

Taking into consideration the abovementioned, several conclusions can be drawn: **Firstly**, this is connected to the effect that the use of this legal means has on the abuser. Filing of a request to get a protection order from the court might be a way to prevent domestic violence prompting the abuser to reflect, ‘intimidate’ him; oblige him not to inflict violence or reduce the violence inflicted on the victim. As a result, the victim might think that the situation is improving and thus he or she withdraws denunciation and does not appear during the court session.

Experience of the Center Civil Legal Initiative, in supporting the violence victims and following approval of the Law no. 9669 dated 18 December 2006, has shown that the violence has a series of stages which start one after the other. For example, Lawyers of the Center for Legal Civic Initiatives have given several times free legal support for the same case case, just because the victim decided not to pursue the court trial. Even in the monitored decisions, it appears that there is more than one protection request filed by the very same plaintiff, which clearly shows that the decision of the victims not to pursue trials cannot make us optimistic on the situation of domestic violence.

**Secondly**, such data make us think that the victim of domestic violence might have taken the decision not to pursue case trial also for fear of another even more extreme act of violence exercised by the perpetrator and because of her uncertainty that due protection will indeed be offered during this period.

**Thirdly**, we think that this figure shows that there is a need for a better legal and psycho-social support also for the violated family members, before they take the decision to file a Protection request with the court, as well as during the process of its examination. Only if a domestic violence victim will get professional advice prior to filing a request with the court, will he/she become aware of the situation he/she is in and familiar with the legal means offered by the Law ‘on Measures against Violence in Family Relations’, as well as with the impact that such means would have in the prevention of violence and protection.

Appropriate measures to turn into a reality the free legal aid for the victims of domestic violence, would play a significant role. The monitoring found out that plaintiffs were represented by lawyers only in 37 cases.

### **3. Measures of protection against domestic violence**

We observe that courts do consider measures requested by plaintiffs in taking their decisions. Compared with the findings of the first monitoring process on the enforcement of the law no.9669,date 18.12.2006, “On measures against violence in family relations”, done from the Center for Legal Civic Initiatives, we see that there is a variety of measures requested by plaintiffs and taken by courts in respect of the law against domestic violence. Information regarding the urgent protection measures requested from the plaintiffs and the measures taken by the court in the urgent protection order/protection order you can find in the annex of this study.

Regarding the protection measures, we think that Tirana District Court in general has alternated well protective measures in accordance with the problems and the situation on violence as explained during trial. These measures have brought positive results towards guaranteeing protection to the victim and preventing violence in the family.

According to the monitoring, it has been found that the court, in its decisions on protective measures, has referred, in some cases, to Article 10/i of the law, which is related to protection of joint property of the spouses and refers to provisions of the Family Code, Articles 57, 58 and 60. In some cases<sup>4</sup>, Tirana District Court has decided to include in the protection/emergency order even the obligation for the spouse that lives in the shared residence not to destroy the joint wealth, referred to in Article 10/i of the Law and Articles 57, 58 and 60 of the Family Code.

The correct implementation of the law and establishment of judicial practices in these cases would make the court decision easily applicable with real effects on the parties.

The monitoring revealed special cases in which the court has decided to include in the protection/emergency order protective measures specified in Article 10 of the Law, which are not requested by the plaintiff (victim).

Therefore, the court has reasoned that the victim has requested as protective measures only paragraphs 'a' and 'b' in Article 10 of the Law and the court, in its decision, has added other protective measures envisaged in this Article<sup>5</sup>.

We think that the court has made a rightful decision. Requirements of Article 17 of the Law do not prohibit the court to make protective measures that it considers reasonable and necessary with the aim to prevent violence and protect the victim, despite the measures that the victim has requested to the court. Under these circumstances, we consider that the court has enforced the Law correctly making a decision with real effects, taking into consideration the situation proven to the court.

#### **4. Bodies where the violence was reported and their role in the process of protection through protection orders**

In order to monitor the effectiveness of the reference and coordination of work for relevant stakeholders, including the court, we have focused on the identification of the body where violence has been reported. According to monitored decisions, it has been found that in 81.69 % of the cases there are no data in relation to the body where the victim of violence in the family relation has lodged a complaint report. In 18.31 % of the cases, the victims of violence in family relations have reported the suffered violence to the police bodies. (See table nr.13)

**First**, this is related to the increased trust and confidence of the community, in particular of women victims of violence, in the police and judiciary bodies.

**Secondly**, this is also due to the fact that the victims of violence in family relations think that police is the only body that may protect them from an escalation of violence, may prevent violence and hold the perpetrator of violence accountable.

**Thirdly**, it is because the victims of violence in family relations, through reporting violent actions to police bodies, prove better their status as victims in the Tirana District Court.

The Centre for Legal and Civil Initiatives, during its work on free legal assistance for victims of violence in family relations has found an improvement of the work by police structures as regards their reaction towards victims of violence in family relations, based on legal responsibilities bestowed to them by the law "On measures against violence in family relations".

Nevertheless, we are of the opinion that an improved coordination of work between police bodies and non-for profit organizations and other stakeholders tasked by the law with responsibilities for the prevention of and protection from violence in family relations is necessary. All subjects should discharge properly their

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<sup>4</sup> Decision no. 5103 dated 03.06.2008  
Decision no.5835 dated 23.05.2008  
Decision no. 6719 dated 16.07.2008  
Decision no. 8532 dated 09.10.2008

<sup>5</sup> Decision no. 6719 dated 16.07.2008

duties stemming from this Law. For example, state police bodies may help by requesting a protection order from the court, but this cannot substitute a defense lawyer.

**Table nr.13**

<b>Bodies where violence has been reported</b>	<b>Nr</b>	<b>%</b>
<b>Police</b>	82	18.31%
<b>No data</b>	366	81.69%
<b>Total</b>	448	

### **5. Duration of the protection order**

Monitoring found that in 58.33 % of the cases, the duration of the protection order is 12 months, which proves that seriousness of the courts while cases to issue protection orders are in trial. (See table nr.14). When the court is convinced that the plaintiff is in extreme danger, it does not hesitate to issue a protection order for a duration of 12 months, which is the maximum time line of a protection order, according to the law Nr.9669, dated 18.12.2006, “On measures against violence in family relations”.

**Table nr.14**

<b>Duration of a protection order</b>	<b>Nr</b>	<b>%</b>
<b>15 days</b>	1	1.04%
<b>1 month</b>	2	2.08%
<b>1 month and 18 days</b>	1	1.04%
<b>2 month</b>	1	1.04%
<b>3 month</b>	7	7.29%
<b>4 month</b>	1	1.04%
<b>5 month</b>	5	5.2%
<b>6 month</b>	12	12.5%
<b>7 month</b>	2	2.08%
<b>8 month</b>	3	3.125%
<b>11 month</b>	1	1.04%
<b>12 month</b>	56	58.33%
<b>Date of decision when marriage is dissolved</b>	4	4.16%
<b>Total</b>	96	

In 1.04% of the cases Tirana District Court has issued a protection order with a 15 day time line; in 2.08% of the cases, the court has issued a protection order with a 1 month duration; in 1.04 % of the cases, the court has issued protection order with a time line of 1 month and 18 days; in 1.04 % of the cases, the court has issued a protection order with a 2 month time line; in 7.29 % of the cases, the court has issued a protection order with a 3 month time line; in 1.04% of the cases, the court has issued a protection order

with a 4 months time line; in 5.2 % of the cases, the court has issued a protection order with a 5 months time line; in 12.5% of the cases, the court has issued a protection order with a 6 months time line; in 2.08 % of the cases, the court has issued a protection order with a 7 months time line; in 3.12% of the cases, the court has issued a protection order with an 8 months time line; and in 1.04% of the cases, the court has issued a protection order with an 11 months time line.

It has been found that the District Court of Tirana, in some cases, has not implemented correctly Article 17, paragraph 3/b of the Law, in relation to the time limits of protection orders.

Article 17 paragraph 3/b of the Law No.9669, dated 18.12.2006, "*On measures against violence in family relations*" stipulates that a final Court decision on issuing a protection order shall be compliant with the requirements of Article 310 of the Civil Procedures Code and shall include the measure envisaged by the court, as well as the duration of the measure, which may not be longer than 12 months, with a possibility of extension. In the context of the implementation of this provision, the court, in its decisions on protection orders, should specify clearly the timeline for the effects of the measures. Thus, some decisions have been found in which the duration of protective measures is decided upon by the court in timelines that are not clearly defined for example, "*this measure shall be in effect until the completion of the court proceeding to judge ... or until a final decision on dissolving the marriage is taken*"<sup>6</sup>

In 4.16% of the cases, the court has decided that the protection order be in effect until a marriage is finally dissolved. This shows clearly that the court considers the time it takes a marriage to be finally dissolved as a period accompanied with conflicts and disagreements for the parties and for that reason, the court has decided for the protection order to be in effect during this period.

In relation to the timeline of trial duration, it has been found that the court proceeding starts in line with timelines stipulated in the law, but in some cases, the court takes the case in court sessions through a long time period, thus losing the meaning of a fast implementation of the law with the aim to guarantee protection of the victim from violence in the family.

In some cases, the court has not applied correctly the requirements of Article 19, paragraph 3/d of the Law in relation to setting a date for the verification of the emergency protection order. Article 19, paragraph 3/d of the law stipulates the obligation of the court, to include, in its decision, a date for a hearing session for the verification of the emergency protection order, within 20 upon issuance of the emergency protection order.

Some court decisions have shown that the legal deadline has not been respected by the courts, with the justification that the month of August is a holiday month for judges.<sup>7</sup>

## CONCLUSIONS AND RECOMMANDATIONS

### I. Summary

1. The monitoring process showed that the Law on Measures against Domestic Violence is being effectively implemented by the Albanian courts very often. The Court has generally referred to the law by fulfilling its purpose of preventing domestic violence, and by eliminating cases of abusive implementation of the law the Court has also followed the legal procedures sanctioned by this law instead of those foreseen by the Code of Civil Procedures, which are slower.
2. The monitoring process also identified the increasingly important role of the Police with the procedures followed being improved and made more efficient.

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<sup>6</sup> Decision no. 6405, dated 08.07.2008

Decision no. 9102 dated 27.10.2008

<sup>7</sup> Decision no. 7457 dated 10.09.2008

Decision no. 7383 dated 08.09.2008

3. The monitoring process showed also a higher level of co-operation between the stakeholders, particularly NGOs, Police and courts, which were to some extent monitored. It was also seen that victims of domestic violence which request legal protection according to Law 9669, dated 18.12.2006 "On measures against domestic violence" are mainly 31-40 years old women, with secondary education married with two children, who live in the urban areas. We think that this is not the typical most violated women in Albania. They are rather the ones who have the courage to claim legal protection.
4. The monitoring process identified also a weak presence of free legal assistance. A considerable number of victims were seen to have no legal representative in court.
5. The monitoring process also identified not so strong a role played by prosecutors and social centres at the local level. No victims were seen to be represented by prosecutors or social centres in court.
6. The agencies responsible for protecting children from domestic violence do not protect children's rights properly (We saw only two cases, when children's relatives had requested the issuance of protection orders for the children).
7. The monitoring process identified a large range of family members who had referred to Law 9669, dated 18.12.2006 "On measures against domestic violence".
8. The number 448 of the court decisions on issuing urgent protection orders/protection orders is an indicator of an increase in the community awareness, especially among the violated women and girls, in preventing and reporting domestic violence and enhancing their knowledge of the legal remedies offered by the Law no. 9669, dated 18.12.2006, "On measures against domestic violence". It also shows an increase in trust in the police forces, courts and NPOs offering free legal aid to domestic violence victims.
9. The survey reflects the improved activity of the courts in judging cases related to the enforcement of the Law no. 9669, dated 18.12.2006, "*On Measures against Domestic Violence*" by issuing fair and quick sentences to address domestic violence.

In general, trials have been wrapped up within the deadlines envisaged by the law, and the deadlines for serving the parties with the relevant injunctions have been met as well.

In keeping with the requirements set by Law no. 9669, dated 18.12.2006, "On Measures against Domestic Violence", the parties are served with the court ruling on the issuance of a protection order/immediate protection order, and the court ruling is sent for execution the agencies envisaged by the law, the police commissariats, and the social services of the relevant local government units.

## **II. Recommendations**

Based on the report findings and the experience of the Centre for Legal and Civic Initiatives, we recommend:

Regarding co-operation among stakeholders against domestic violence:

1. There is still a need for strengthening co-operation among stakeholders in the network against domestic violence as defined by the law.

Police, the leading representative of victims of domestic violence should strengthen its co-operation with defense lawyers and social centres offering free legal and psycho-social assistance to the victims. The police have intensified their protection of the victim, but the latter also need legal and psycho-social assistance. The entire Police activity in this field may not turn into an activity isolated between the Police and courts.

Police should pay a special attention to training its staff on executing protection orders. Police seem to have focused on registering and drafting requests for immediate protection orders, paying little attention to checking the execution of such orders. More co-operation is therefore needed between the Police, the Bailiff Office, the Judicial Police, and prosecutors.

2. As for the courts, we think that there is still a need for further training judges for a better implementation of the law, especially in social terms. Cases are very various, and often lead to social implications, because of the circumstance in which they occur. It is necessary for the judges to meet the deadlines set by the law, and to interpret the legal provisions accordingly, so that the law is effectively implemented.
3. The role of defense lawyers is certainly indispensable. Neither the Police, nor social workers can play this role. The Ministry of Justice needs to urgently take all the necessary measures to provide lawyers ex officio in order to ensure free legal assistance to victims of domestic violence according to the Law on Measures against Domestic Violence, and the Law on Legal Assistance.
4. Increasing the role of the civil society remains also quite significant. This may not happen without strengthening the centres providing legal, psycho-social assistance, accommodation, rehabilitation, etc. their qualification and financial support remain very important.

This requires that the relevant state bodies implement the laws approved by the Assembly on supporting and funding NGOs and social centres. The latter have had no such support so far. With such support provided, we might have sustainable and specialized centres. We do not wish, however, that victims of domestic violence are confounded with victims of other criminal offences. We think that the victims of domestic violence should be treated in a differentiated manner.

5. In this context, the state should pay a special attention to the shelters receiving mothers and children, or just children. There is even a need for amending the legal framework particularly the law over the temporary custody of the children.
6. The local government bodies remain the most important stakeholders in preventing and fighting against domestic violence. Even though the civil society and the Ministry of Labor, Social Affairs and Equal Opportunities have already carried some pilot projects, specialized structures have been established only in a limited number of municipalities. There are no 24 hour call lines or co-operation to contract civil organizations for such services. Co-operation between local government and the civil society only may help the former fulfill its obligations emerging from the Law on Measures against Domestic Violence.

## Anex

Protection measures regarding 97 cases judged from Tirana District Court.

No/Measures requested by plaintiff	Measures given by Court
1. Article 10 a) b)	Article 10 a) b)
2. Article 10 a) b) c)	Article 10 a) b) c)
3. Article 10 a) b)	
4. Article 10 a) b) ç)	Article 10 a) b) ç)
5. Article 10 a) b) ç) d) i) ll)	Article 10 a) b) ç) d) i) ll)
6. Article 10 a) b) ç) d) f) i) l)	Article 10 a) b) ç) d) f) i) l)
7. Article 10 a) b) d/3) l)	Article.10 a) b)
8. Article 10 a) b) ç) d) h) l) i) 4 a)	Article 10 a) b) ç) d) i) 4 a)
9. Article 10 a) b) c) ç)	Article 10 a) b) c) ç)
10. Article 10 a) b)	Article 10 a) b)
11. Article 10 a) b) e) j) ll)	Article 10 a) b) e) j) ll)
12. Article 10 a) b) d)	Article 10 a) b) d)
13. Article 10 ç)	Article 10 ç)
14. Article 10 a) b) d)	Article 10 a) b) d)
15. Article 10 a) d) house	Article 10 a) d) house

16. Article 10	a) b) ë)	Article 10	a) b) ë)
17. Article 10	a) b) d)	Article 10	a) b) d)
18. Article 10	a) b) ë)	Article 10	a) b) ë)
19. Article 10	a) b)	Article 10	a) b) ç) ë) g) i)
20. Article 10	a) b)	Article 10	a) b)
21. Article 10	a) b) c) ç) j) l) m)	Article 10	a) b) c) ç) j) l) m)
22. Article 10	a) b) c) ç) d)	Article 10	a) b) c) ç) d)
23. Article 10	a) b)	Article 10	a) b)
24. Article 10	a) b) c) ç) d)	Article 10	a) b) c) ç) d)
25. Article 10	a) b) d) i)	Article 10	a) b) d)
26. Article 10	a) b) c) ç) e) ë) f)	Article 10	a) b) c) ç) e) ë) f)
27. Article 10	a) b) ç) d) ë) h)	Article 10	a) b) ç) d) ë) h)
28. Article 10	a) b) d)	Article 10	a) b) d)
29. Article 10	a) b)	Article 10	a) b)
30. Article 10	a) b) ç)	Article 10	a) b) ç)
31. Article 10	a) b) ç)	Article 10	a) b) ç)
32. Article 10	a) b)	Article 10	a) b)
33. Article 10	a) b)	Article 10	a) b)
34. Article 10	a) b) ç)	Article 10	a) b) ç)
35. Article 10	a) b) ç) d) e)	Article 10	a) b) ç) d) e)
36. Article 10	a) b) c) ç) d) e) ë) f) j)	Article 10	a) b) ç)
37. Article 10	a) b) d)	Article 10	a) b) d)
38. Article 10	a) b) c) ç) d) ë) i)	Article 10	a) b) c) ç) d) ë) i)
39. Article 10	a) b) c) ç)	Article 10	a) b) c) ç)
40. Article 10	a) b) c)	Article 10	a) b) c)
41. Article 10	a) b) ë)	Article 10	a) b) ë)
42. Article 10	a) b) ç) d) +1	Article 10	a) b) ç) d)
43. Article 10	a) b) c) ç) d) e) ë) f) h)	Article 10	a) b) c) ç) d) e) ë) f) h)
44. Article 10	a) b) c)	Article 10	a) b) c)
45. Article 10	a) b) c) ç) ë)	Article 10	a) b) ë)
46. Article 10	a) b) ë)	Article 10	a) b) ë)
47. Article 10	a) b) ë)	Article 10	a) b) ë)
48. Article 10	a) b) c) ç) d) e) ë)	Article 10	a) b) c) ç) d) e) ë)
49. Article 10	a) b) c) f)	Article 10	a) b) c) f)
50. Article 10	a) b) d)	Article 10	a) b) d)
51. Article 10	a) b) d)	Article 10	a) b) d)
52. Article 10	a) b)	Article 10	a) b)
53. Article 10	a) b) ë)	Article 10	a) b) ë)
54. Article 10	a) b) c) ç) d.)	Article 10	a) b) c) ç) d.)
55. Article 10	a) b) d)	Article 10	a) b) d)
56. Article 10	a) b) d)	Article 10	a) b) d)
57. Article 10	a) b)	Article 10	a) b)
58. Article 10	a) b) ë) +1	Article 10	a) b) ë)
59. Article 10	a) b) l)	Article 10	a) b) l)
60. Article 10	a) b) d) l)	Article 10	a) b) d) l)
61. Article 10	a) b) d)	Article 10	a) b) d)
62. Article 10	a) b) l)	Article 10	a) b) l)
63. Article 10	a) b) d) j)	Article 10	a) b) d) j)

64. Article 10	a) b) c) d)	Article 10	a) b) c) d)
65. Article 10	a) b) c) c) d) e) e) f)	Article 10	a) b) c) c) d) e) e) f)
66. Article 10	a) b) c) d) e) e) l )	Article 10	a) b) c) c) d) e) e) l) f)
67. Article 10	a) b) c) d) e) e) g )	Article 10	a) b) c) d ) e) e) 4 b)
68. Article 10	a) b) d)	Article 10	a) b) d)
69. Article 10	a) b) e) f) gj) i)	Article 10	a) b) e) f) gj)
70. Article 10	a) b) c) e)	Article 10	a) b) c) e)
71. Article 10	a) b) c) e)	Article 10	a) b) c) e)
72. Article 10	a) b) c) e)	Article 10	a) b) c) e)
73. Article 10	a) b) e)	Article 10	a) b) e)
74. Article 10	a) b) c) d)	Article 10	a) b) c) d)
75. Article 10	a) b) c) c) d) e) f)	Article 10	a) b) c) c) d) e) f)
76. Article 10	a) b) c) j) h) gj)	Article 10	a) b) h) gj)
77. Article 10	a) b) d)	Article 10	a) b) d)
78. Article 10	a) b) d) e)	Article 10	a) b) d) e)
79. Article 10	a) b) e)	Article 10	a) b) e)
80. Article 10	a) b) c) e)	Article 10	a) b) c) e)
81. Article 10	a) b) c) c)	Article 10	a) b) c) c)
82. Article 10	a) b) c) d) e)	Article 10	a) b) c) d) e)
83. Article 10	a) b) c) c) d) e)	Article 10	a) b) c) c) d) e)
84. Article 10	a) e)	Article 10	a) e)
85. Article 10	a) b) e)	Article 10	a) b) e)
86. Article 10	a) b)	Article 10	a) b)
87. Article 10	a) b) d)	Article 10	a) b) d)
88. Article 10	a) b) e)	Article 10	a) b) e)
89. Article 10	a) b) e)	Article 10	a) b) e)
90. Article 10	a) b) e)	Article 10	a) b) e)
91. Article 10	b) e)	Article 10	b) e)
92. Article 10	a) b) d)	Article 10	a) b) d)
93. Article 10	a) b) c) c) d) e)	Article 10	a) b) c) c) d) e)
94. Article 10	a) b) c) d)	Article 10	a) b) c) d)
95. Article 10	a) b) c) d)	Article 10	a) b) d) gj)
96. Article 10	a) b) e)	Article 10	a) b) e)
97. Article 10	a) b) c) h)	Article 10	c)