

NGO report on the implementation of the Council of Europe  
Convention on preventing and combating violence against women  
and domestic violence in Serbia

2018.

SOS Vojvodina Network in cooperation with NGO's from Serbia

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## FOREWORD

This independent report is produced with the intent to offer the GREVIO committee an insight into the state of implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (in further text: The Convention) in Serbia for the period between 2016 and June 2018. We especially want to present whether in this period there were significant improvements or degrading compared to 2014, when the Convention started its implementation.

The Convention came into power on the 1<sup>st</sup> of August 2014. By adopting the Law on ratification of this Convention, the Republic of Serbia has, on 30<sup>th</sup> of October 2013, taken on the obligation to uskladiti its legislature and postupanje of relevant institutions with international standards in this field. This international document obliges states that ratified it to take all necessary legal and other measures in order to improve the rights of women, especially measures to protect victims, without discrimination on any basis.

The independent report on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence in Serbia was prepared by a group of NGO's whose work was coordinated by the SOS Vojvodina Network in cooperation with SeConS – Group for Development Initiative along with associates Marija Babović, Biljana Stepanov, Sofija Mandić and Maja Bjeloš. The SOS Vojvodina Network consists of Center for Support of Women from Kikinda, ...From the Circle – Vojvodina and SOS Women's Center from Novi Sad, Novi Becej Roma Association – SOS telephone in national minority languages from Novi Becej and Zrenjanin Educational Center from Zrenjanin. Apart from organization members of SOS Vojvodina Network, the following organizations participated in drafting this report: Belgrade Center for Political Excellence, Center for Public Policy Research, NGO Atina and Women's Leadership Academy from Belgrade, NGO Women's Alternative from Sombor, Association OSVIT from Nis, Human Rights Council from Vranje. We want to give special acknowledgements to prof. dr Zorica Mrsevic, researcher from the Institute of Social Sciences, as well as mr Svetlana Jankovic, from the Resource Center for Support of Research from Belgrade. The NGO's participating in drafting of this report, especially women's organizations, have great experience in direct support to women victims of violence, in advocacy and lobbying for the advancement of protection against violence and prevention of violence against women and domestic violence, as well as carrying out research and monitoring violence against women as one of the key aspects of a wider picture of gender equality.

Therefore, this report gives insight from the perspective of women victims of violence and protection system users, as well as the organizations that provide specialized services and analyze public policy in this field. In the process of drafting this report, the organizations drew from their own knowledge and experience, as well as the data they collect by providing services to women victims of partner and domestic violence. Special attention was given to documenting cases of violence as examples from organizational practice, proving the lack of action and flaws in the work of institutions concerning gender based violence.

With this in mind, the assumption is that this report is complementary to the government report which is intended to provide insight into the normative regulations and practice of authorities on national, provincial and local levels in providing protection to women victims of violence.

The shadow report preparation process went parallel to the drafting of the official report by the Government of the Republic of Serbia. Given that the Government report is still not available to the public, this report doesn't draw on findings and conclusions presented in the final report.

Apart from the data collected by the NGO's, other relevant sources of information were used for drafting this report and these are: different administrative data, official statistical data, publicly available research findings and analyses carried out mainly by NGO's and international organizations, legal and strategic documents in this field, annual reports from the national and provincial Ombudsperson, state reports on strategic document realization, media reports, as well as other information made available by the Law on Free Access to Information in Public Interest.

A special contribution to the process of drafting this report was made by data and information gathered during in-depth interviews with representatives of institutions, carried out by SeConS during 2018.

A special challenge to the process of drafting this report was the coordination of work among a large number of associate organizations involved, lack of experience of organizations in independent report preparation, lack of available public information, limited financial resources as well as the fact that NGO's in Serbia today lack the capacity and disposable resources to undertake this task along with other regular activities.

We hope that this report will aid the GREVIO Committee in defining the recommendations which will advance the protection and support to women victims of violence through a comprehensive institutional response to violence in Serbia.

Kikinda, December 2018.

## Chapter I: Purposes, definitions, equality and non-discrimination, general obligations

### Article 5 – State obligations and due diligence

#### **Convention requirements:**

- 1) Parties shall refrain from engaging in any act of violence against women and ensure that State authorities, officials, agents, institutions and other actors acting on behalf of the State act in conformity with this obligation.
- 2) Parties shall take the necessary legislative and other measures to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered by the scope of this Convention that are perpetrated by non-State actors.

#### **Situation regarding implementation<sup>1</sup>**

There are different obligations that can be drawn from the Constitution, laws, ratified international agreements and/or conventions, government policies and plans koje obavezuju Serbia to take action to prevent violence against women. The state obligations regarding violence against women and domestic violence have their foundation first of all in constitutional guarantees of basic human rights, the benefit of which must be ensured in view of non-state subject actions, as well as state subjects, for whose wrongful doing or breach in women's human rights the state is responsible. The legal protection against domestic violence is founded on Articles 21, 23, 25 and 64 of the *Constitutions of the Republic of Serbia*<sup>2</sup>, guaranteeing protection against all forms of discrimination based on sex, protection of human dignity, psychological and physical integrity, as well as special protection of mothers and their children from psychological, physical, economic and all other forms of abuse.

Apart from the abovementioned, the protection is ensured on three more levels, and these are: civil law level, criminal law level and through the implementation of the *Law on the Prevention of Domestic Violence*.<sup>3</sup> It is very important to point out that these forms of legal protection are mutually non-exclusive, can be parallel, which is understandable given their different aims.<sup>4</sup>

The due diligence principle is a legal standard which after the ratification of the Istanbul Convention represents an important step forward in recent viewing of the obligation and responsibility of the state in cases of violence against women. The state is responsible not only for refraining from any kind of violence against women and acts of human rights violations perpetrated by state and non-state actors, but is also obliged to act proactively and take all necessary measures to prevent the violation of human rights, investigate cases of violence

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<sup>1</sup> Co-author of part of the text related to the relationship between the protocol, due diligence principle and the Istanbul Convention, prof. dr Zorica Mršević from the Institute of Social Sciences from Belgrade.

<sup>2</sup> *Constitution of the Republic of Serbia*, Official Gazette of RS no. 98/2006.

<sup>3</sup> *Law on the Prevention of the Domestic Violence*; Official Gazette of RS, no. 94/2016;

<sup>4</sup> Dijana Janković, Ivana Milovanović 2018, Implementation of the Law on the prevention of domestic violence in Serbia, pgs. 101 – 111. In: No to Violence, Center of Modern Knowledge, Banja Luka, pg. 103.

against women, punish perpetrators and remunerate material and non-material damages done to the victims.

An important step toward implementing the due diligence principle represents the adoption of the *General Protocol on Action and Cooperation of Institutions, Bodies and Organizations in Situations of Violence Against Women in the Family and Partner Relationships (2010)*, and four separate protocols for acting on cases of violence in the family<sup>5</sup>. Although the protocols don't contain the term of due diligence specifically, they represent a well thought-out way of acting of state authorities in the violence protection system. As an example, the General Protocol foresees the cooperation of all state authorities in the violence protection system on development of an individual service plan all with the aim to provide a comprehensive, integrated and effective protection of women victims of violence and non-violent members of their families.

Their adoption was intended to link and aid the work of relevant institutions in acting in cases of violence against women in Serbia, in order to achieve greater results in violence protection, contributing to a more efficient, timely and just sanctioning of perpetrators, which would all represent the implementation of the due diligence principle in practice. However, the implementation of these protocols in practice wasn't diligent, leading to the principle never being fully implemented in practice. Lack of diligence, or the inconsistent actions of relevant authorities is a consequence of, primarily, lack of knowledge of adopted regulations and understanding of the obligation to implement the protocols.

Some state actors, such as the Ministry of Labor, Employment, Veterans and Social Affairs and the Ministry of Justice, consider that the protocols have not been used enough, because of them being non-obligatory. "By passing the *Law on the Prevention of Domestic Violence*, many solutions provided by the protocols have been introduced and therefore gained an obligatory character." The Ministry of Justice states that the law doesn't derogate any protocol, but leans on them and they are essential in its enforcement. Still, having these new legal solutions in mind, first of all the *Law on Amendments to the Criminal Code* from 2016<sup>6</sup>, this ministry believes that the protocols should perhaps be revised in order to better fit the new legal solutions, without any changes to the core principles. As opposed to the Ministries of Labor and Law, the Ministry of the Interior believes that their employees and law enforcement officers were obliged to act according to the special Protocol on proceedings of law enforcement officers in cases of violence against women in the family and partner relationships. The Ministry states that the special protocol was applied during the period between 2013 and 2017 through raising awareness among employees, training of law

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<sup>5</sup> Special protocol of the Ministry of Health of the Republic of Serbia for the protection and dealings with women victims of violence (2010), Special protocol for the proceedings of centers for social work in cases of domestic violence and in partner relationships (2013), Special protocol for the proceedings of police personnel in cases of domestic violence and in partner relationships (2013) and the Special protocol for legislation in cases of domestic violence and in partner relationships (2014).;

<sup>6</sup> *Criminal Code*, Official Gazette of RS, No. 85/2005, 88/2005 – corr., 107/2005 - corr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014 and 94/2016;

enforcement officers for acting in cases of violence in the family and partner relationships and forming of a working group for coordination within the Ministry.

An important effort towards raising awareness and training of law enforcement officers represents the development of a short manual on acting in cases of violence in the family and partner relationships, especially its “pocket edition” of the Special Protocol in 2014, the Ministry has trained 2000 of its members for its application. After the *Law on Prevention of the Domestic Violence* came into power, law enforcement officers act solely in accordance with the law and not the special protocol. **This in fact means that all other institutions have de facto given up the obligation to enforce special protocols after the law came into power.**

Report from independent institutions, such as the ombudsperson<sup>7</sup>, warn that acting officials<sup>8</sup> weren't fully informed about the existence and content of the General and Special Protocols, as well as that there are actors and institutions whose employees aren't aware that the protocols have been brought about, nor their purpose (page 1). Given that the majority of public servants isn't aware of the content of the protocols, their implementation isn't enforced. A consequence of this is that a multi-sectoral coordinated cooperation never became a practice. Where it is, the cooperation mainly depends on attitudes, initiative and personal relationships between institutional heads and their subordinates (page 4). The cooperation agreements between actors in charge of violence protection haven't been signed in all local municipalities, and even in places where they were they are often not enforced, nor are all employees informed about their obligation to enforce them (page 2). Specialized trainings of employees for the implementation of the General and Special Protocols and trainings on violence against women are conducted rarely and without a concrete expected outcome or plan, and in places where they happen frequently, for instance in Vojvodina, there is no data showing concrete results in regards to improved practice and harmonization with the protocols. The number of trained personnel is small comparing to the territory they cover and the frequency of violence they come across in their work. There is a discrepancy in the level of training between personnel – in some instances none of the employees participated in any training on protection of women against violence, while in other instance the number of participants was significant. As a result, we see an imbalance in proceedings by different authorities and, consequently, an inefficient and non-functional protection system overall (page 1). In the fight against violence towards women, civils society potentials are not used utilized enough (page 1). Prevention measures on national, regional and local levels are organized sporadically, unplanned and are mostly directed towards raising awareness of personnel, facilitating the networking among authorities and development of an interdisciplinary approach as a reaction to violence. The measures directed towards changing the attitudes of the society as a whole when dealing with violence against women are sporadic and invisible to a wider auditorium of citizens (page 5).

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<sup>7</sup> *Special report by the Ombudsperson on the implementation of general and special protocols for the protection of women against violence*, November 2014.; available in Serbian at: [https://www.ombudsman.rs/index.php/lang-sr\\_YU/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38](https://www.ombudsman.rs/index.php/lang-sr_YU/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38)

<sup>8</sup> The term is used to describe police personnel, centers for social work, courts, public prosecutors, health institutions, local municipalities and other relevant bodies in cases of domestic violence and partner relationships.

***The fact that the protocols remain unrecognized, un-implemented and substituted by the Law on the Prevention of Domestic Violence presents a problem, continuing with the perennial practice to replace one un-implemented regulation with another, also having a great chance to remain un-implemented in the already created circumstances of non-compliance.***

The *Law on the Prevention of Domestic Violence* is enforced in Serbia since the 1<sup>st</sup> of June 2017 and foresees the introduction of novel approaches in the work of state authorities. The main specificity of the Law is reflected in the fact that state authorities are obliged to provide protection to domestic violence victims even when the violence hasn't yet occurred though based on actions of the potential perpetrator and other circumstances it can be concluded that violence may happen in the immediate future. Apart from this, it is important to point out that the Law defines domestic violence as a much wider term, comparing to the *Family Law*<sup>9</sup> and *Criminal Code*, and also provides protection to a wider range of persons receiving the support. The abovementioned means that Law articles will be enforced also in situations where there are no elements of a crime act of domestic violence and when there are no conditions for izricanje mera zastite prema porodicnom zakonu. Article 3 of the Law states that domestic violence represents any act of physical, sexual, psychological or economic violence done by the perpetrator to a person with whom they have current or former marital, extra-marital or partner relationship or to a person with whom they are related by blood until the second degree, by marriage or by having been adopted or otherwise residing in the same household.<sup>10</sup>

One of the innovations foreseen by this law is that it is intended to be enforced through the cooperation on prevention of domestic violence in criminal proceedings, among which the criminal act of stalking (article 138a of the *Criminal Code*) and sexual harassment (article 182a of the *Criminal Code*).<sup>11</sup>

The law also demands various state authorities to act swiftly, effectively, urgently, coordinated and in good will. The innovations brought about by the Law: "duty to immediately forward information", "duty to inform", "assess the risks in shortest possible time", "deliver immediately and without delay", "deliver an order", "immediately after the delivery", "study the information and assess the risk", "assess an immediate threat of violence", "prolong an urgent measure if after the assessment concludes and immediate threat of violence", "daily exchange of information", "create an individual plan for support and protection of the victim", "holds meetings at least once in 15 days", "due to give complete information to the victim of domestic violence upon first contact", "keeps records", "monitors the enforcement of this law and aids coordination". Secondly, the law foresees preventive measures by the authorities, specifically, the authorities must recognize domestic violence and threats of it. Additionally, the law obliges all state and other authorities, organizations and institutions to immediately

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<sup>9</sup> *Family Law of RS*; Official Gazette of RS, no. 18/2005, 72/2011 – and other laws no 6/2015

<sup>10</sup> Dijana Janković, Ivana Milovanović 2018, Application of the Law on the prevention of domestic violence in Serbia, pgs. 101 – 111, In: No to violence. Center of Modern Knowledge, Banja Luka, pg. 104.;

<sup>11</sup> Milica Stanković, 2018, Stalking – from the perspective of social institutions, In: No to violence. Center of Modern Knowledge, Banja Luka, pg. 460.;

report to the police or the public prosecutor any notion of domestic violence or immediate threat of it. The law foresees disciplinary and offense liability for perpetrators and authorized personnel of institutions in cases of non-compliance with set deadlines, non-application or obstruction of law enforcement. Furthermore, the law introduces the obligation to run a centralized and individual database in cases of domestic violence.

Keeping in mind all of the above mentioned, complete dedication cannot be an obligation of any actor covered by this law. This in turn leads to a discrepancy between (too high and unrealistic) expectations and a realistic understanding of the legal text as well as the proceeding of authorities based on it.

The practice implications of the due diligence principle are usually perceived through the malpractice of authorities and the number of criminal and offense proceedings against involved personnel. The ombudsperson has, in 2016, discovered malpractices in the work of the Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affair, Ministry of Health and the Provincial Secretariat for Social Policy, Demographics and Gender Equality, leading to 104 systemic recommendations being sent to these institutions for consideration.<sup>12</sup>

The main malpractice discovered by the ombudsperson based on monitoring of legality and compliance of the work of state authorities, stated in the report were the following: violence is still inadequately recognized and is qualified as a family problem or marital feud, minimized and relativized, as well as the responsibility for the done deed; the children present in domestic and partner violence against their parent and/or other family members aren't treated as victims of violence and neglect; there is no assessment of violence threats, pointing to a lack of recognition of this phenomenon; the measures in cases of reporting of violence are not undertaken or they are done in an inadequate way and untimely; the victims are advised to lead proceedings themselves and not offered expert and other help and support. The police, the centers for social work, health institutions and legal authorities (public prosecutors and courts) do not exchange information on violence reports, nor other relevant information, some of which vital for victim protection. Repetition of these key and systemic inadequacies in the work of authorities and institutions reveals a lack of efficient and adequate work of inspection and monitoring bodies, non-implementation of analyses of causes for these malpractices in the work of authorities and bodies, non-establishment of personal accountability of personnel, inadequate education and training of personnel, insufficient human resources and an erroneous organization of work.

### ***Inadequacy in the work of state authorities<sup>13</sup>***

***In July 2017, during only one week, two murders of women occurred on the premises of centers for social work in Belgrade, in which one perpetrator killed his wife in front of their three children, while the other strangled his four-year-old child before stabbing his ex-wife***

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<sup>12</sup> Ombudsperson. Special report „Protection of women against domestic violence and in partner relationships, Belgrade, December 2016.;

<sup>13</sup> Milan Aleksić (ur.) PrEUgovor Alarm – Report on the advancement of Serbia in Chapters 23 and 24, Belgrade, October 2017, pg. 30.;

***with a knife. The murders occurred when these highly dangerous perpetrators demanded to see their children, enabled by the workers of the centers for social work even after an assessment of high risk, thus dramatically confirming the systemically flawed actions of institutions in charge of providing protection to women and children victims of violence.<sup>14</sup>***

***A remark by numerous women's organizations with perennial experience of work with women victims of violence is that an inconsistent use of protocols and the non-existence of mechanisms for their use before the passing of the Law on the Prevention of Domestic Violence, specifically the by-laws for proceedings of state authorities in order to more clearly define, or separate jurisdictions, after the law has been passed, created a void in the discretionary interpretation of regulations and the actions of state officials.***

The Ministry of Justice reported that there are no specific mechanisms ensuring the use of the due diligence principle, but that the ministry strives to motivate and instigate the ones who implement the *Law on the Prevention of Domestic Violence* and give them professional aid in its enforcement. On that occasion the Ministry of Justice created a website "Turn Off the Violence"<sup>15</sup> directed to the professional and general public and promoting the law and its implementation with the aim of better victim protection. Apart from this, the Ministry participated in the development of a training programme for judges and prosecutors, as well as in pilot programmes in order to better implement the law by appointed experts (judges, prosecutors, other system actors). As an example, the Ministry of Justice has, between February and May 2017, together with Autonomous Women's Center and with the support of United Nations Development Programme (UNDP) developed and carried out a pilot programme in the Basic Prosecutors Offices of Krusevac, Cacak and Uzice, where they used data from actual cases to simulate the beginning of the implementation of the new law.<sup>16</sup> In order to get to know the new law, members of the Ministry of Interior, 900 of them, went through two cycles of five-day training based on the plan and programme of the Police Academy. The Ministry states that there is a need to carry out a new cycle of trainings in order to include a greater number of persons, given that the current number of trained personnel is not enough to cover 27 police precincts throughout Serbia and respond to the frequency of violence against women. In order to better inform employees and citizens about domestic violence and current regulations, the Ministry has created a separate page on the official website of the institution. According to the claims of ministry representatives, the only institutions that haven't gone through the training for law implementation are centers for social work.<sup>17</sup> In the Autonomous Province of Vojvodina, the Provincial Secretariat for Health has, in cooperation with Center for Support of Women (CSW) over the period between December 2016 and June 2017, carried out a three day training for the implementation of the

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<sup>14</sup> Available in Serbian at:

[https://www.zeneprotivnasilja.net/images/pdf/FEMICID\\_Kvantitativnonarativni\\_izvestaj\\_za\\_2017\\_godinu.pdf](https://www.zeneprotivnasilja.net/images/pdf/FEMICID_Kvantitativnonarativni_izvestaj_za_2017_godinu.pdf) ;

<sup>15</sup> Available in Serbian at Justice Ministry's webpage „Turn off the violence“ available at: <https://iskljucinasilje.rs/>;

<sup>16</sup> Response to the SeConS questionnaire from the Ministry of Justice, 22<sup>nd</sup> of May 2018.

<sup>17</sup> Interview with Stana Pantelić, Section for the prevention and combating domestic violence of MUP, 4<sup>th</sup> of June 2018;

new law on prevention of domestic violence for 948 professionals from all institutions in the system of protection of women against violence.<sup>18</sup>

Other authorities, apart from independent state bodies and the Ministry of Interior, have not monitored the implementation of special protocols, however, according to the claims of the Ministry of Justice, through the monitoring of the implementation of the *Law on the Prevention of Domestic Violence*, implementation of special protocols will also be covered. Independent monitoring of the implementation of the *Law on the Prevention of Domestic Violence* conducted by Autonomous Women's Center (AWC) revealed oversights in the actions of public prosecutors and the police which lead to three claims of malpractice against police officers on patrol and their supervising officers during reports of domestic violence in the period between November 2017 and January 2018.<sup>19</sup> The claims were delivered to the Internal Control Sector, the Department for the Prevention and Combatting of Domestic Violence and the Claims Office of the Ministry of Interior. What can be considered very problematic from the aspect of internal control of the Ministry of Interior is a proposition in the *Law on Police*<sup>20</sup> from 2016 (article 225), making the Internal Control Sector now a body in which the Minister has the greatest influence. Given that, by law, the minister proposes a plan for conducting internal control, this means that he/she can influence police dealings, especially the work of bodies controlling the legality of work of police personnel and all Ministry employees.<sup>21</sup>

## ***A political discourse reproducing violence – discrepancy between real and proclaimed<sup>22</sup>***

**Serbia has a solid legal and institutional framework for ensuring the prevention and sanctioning of all forms of discrimination and violence against women. Despite the legal framework and current sanctions, discrimination and violence against women are widespread in our society, especially in public speech and media. Women and men, bearers of public office, have a political and social responsibility not only to advocate “zero tolerance towards violence”, but to also spread misogyny, deep-seeded patriarchal and gender based stereotypes, use of discriminatory speech directed especially towards women engaged in public and political life. The purpose of the analysis of political discourse is to show the atmosphere in which the Istanbul Convention is being implemented in Serbia and point to the discrepancy between a proclaimed zero tolerance towards violence against women, and the real discrimination of women in public speech.**

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<sup>18</sup> Trainings were realized in the frame of the project „Stop – Protect – Help, a stronger institutional response to gender based violence in the AP Vojvodina“, supported by the UN Trust Fund. Available in Serbian at: <http://projekti.zdravstvo.vojvodina.gov.rs/2017/03/01/obuke-za-multisektorske-timove-u-2017-godini/>;

<sup>19</sup> Tanja Ignjatović. Fifth independent report on the implementation of the Law on prevention of domestic violence for the period between January and March 2018, Autonomous Women's Center, 2018, pg. 3.;

<sup>20</sup> *Law on Police*, Official Gazette of RS, no.6/2016, 24/2018, 87/2018.

<sup>21</sup> Available in Serbian at: <http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2016/3712-15.pdf>;

<sup>22</sup> Analysis of political discourse prepared by Marija Srdić, Academy of Women's Leadership.

## *CASE 1 – Culprit with political power*

Marija Mali initiated criminal charges on grounds of domestic violence against her husband, the former Mayor of Belgrade and current Minister of Finance, Sinisa Mali, who is also a member of the ruling Serbian Progressive Party. After initiating charges, she states that Sinisa Mali threatened her: “I don’t want to suffer violence and I’ve come forward to the Center for Social Work, where they advised me to press charges against the culprit. Even then he continued to threaten me, to say “Don’t do it. If you do, I will destroy you, I’ll take your children away.” After I went on to initiate charges, he did everything he could, in every way possible, and gained custody of the children... Just to have revenge.”<sup>23</sup>

As she stated in an interview with KRIK, her former husband sent her threatening texts. The Mayor of Belgrade abused his public, political and economic power so that after the divorce Marija Mali would lose custody of her children. Therefore, the children were assigned to the culprit by court ruling and the criminal charges she initiated were dismissed. In addition to all this, Sinisa Mali initiated charges against her for false pretence and the court proceedings are still underway. In the meantime, Mrs Mali was fired from her job. The majority of Serbian pro-regime (pro-government) media have falsely accused her, and her main motive for accepting to talk to KRIK publicly about her former husband was the loss of her children.<sup>24</sup>

“I lost custody of three children in the most brutal way. I approached a lot of people. Nowhere have I found any help, protection or advice. Wherever I went, either they won’t see me or simply don’t even want to listen to me. I went forward to the Prime Minister, Center for Social Work and several other addresses.”<sup>25</sup>

In an interview with KRIK, Marija Mali made serious allegations on account of her former husband, including that he organized the demolition of buildings in Savamala during election night 2016. Regarding the statement she made, a reaction from the Director of the Office for Human and Minority Rights followed<sup>26</sup>, taking the side of the husband, and then-Prime Minister Aleksandar Vucic never publicly condemned Sinisa Mali for domestic violence, nor has he demanded investigation into his role in the Savamala demolition and corruption affairs of which he is also accused.

## *CASE 2 – The continued and orchestrated attacks on member of parliament Marinika Tepic*

A series of media attacks on dignity and honour of Member of Parliament Marinika Tepic started with a text “War because of a woman – Zivkovic and Jankovic at war over Tepic”, published on the 5<sup>th</sup> of June 2017 in the daily “Serbian Telegraph” and continued with content aired on RTV Pancevo called “Marinika’s love triangle”. The open letter from the Women’s Platform for the Development of Serbia (as well as other organizations) issued on the 14<sup>th</sup> of

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<sup>23</sup> Ana Jovanović, Always on the side of women, Peščanik, 17<sup>th</sup> of February 2017. available in Serbian at:

<https://pecsanik.net/uvek-na-zenskoj-strani/>;

<sup>24</sup> Krik. Marija Mali on her ex-husband’s businesses: offshore, hidden assets, Savamala, 13<sup>th</sup> of February 2017.

available in Serbian at: <https://www.krik.rs/marija-mali-o-poslovima-bivseg-supruga-ofsor-skrivena-imovina-savamala/>;

<sup>25</sup> Available in Serbian at: <http://javno.rs/istrazivanja/preview/mai-ke-bez-prava-na-starateljstvo-nad-decom-i-pomoci-drzave#.W2rClalOGcQ.facebook>;

<sup>26</sup> Authonomous women’s center: ‘If he doesn’t understand what abuse of power is – he should find another job’, 18<sup>th</sup> of February 2017. available in Serbian at: <https://pecsanik.net/ako-ne-razume-sta-je-zloupotreba-moci-neka-se-bavi-drugim-poslom/>;

June 2017, didn't stop the public persecution. Already on the 15<sup>th</sup> of June 2017, through another insert airing on RTV Pancevo called "Did Keljevic also run away from Tepic?", she was again subjected to misogynous qualifications and insults. The reactions, public appeals and warnings of potential grave consequences of spreading gender stereotypes and discriminatory reporting<sup>27</sup> didn't produce expected results, in the public sphere there is a continued discrimination and animosity towards women.

Marinika Tepic herself submitter claims to the Commissioner for Protection of Equality and the Council for printed media, and a group of activists sent a special appeal to the Commission for Protection of Equality to react, because this is a case of "...events we haven't witnessed so far, violations of the laws and thorough principles of the journalist profession, but also greatly hinders the efforts we make together so that women in Serbia can be equal participants in political life". Due to the gravity of the situation and high risk of repetition of rights violations, the activists called the Commissioner to use the authorization provided by article 33 of the *Law on Prevention of Discrimination*<sup>28</sup> and warn the public about the most frequent, typical and serious case of discrimination, such as this one. The Commissioner, however, didn't find it necessary to react, deeming these texts and events a "...lack of culture of communication in political life and information sector. However, not all inappropriate statements represent a violation of anti-discriminatory regulations."

As the wave of media attacks on member of parliament Marinika Tepic wasn't timely stopped by the institution's recognition that the orchestrated misogynous and discriminatory speech will, over the following period, evolve into something much greater and more serious, Marinika Tepic found herself in the crosshairs of extreme right-wing organizations. The attacks escalated in January 2018 with public death threats. Only then the police and public prosecutor reacted.

Because of everything that happened to her during the previous months, the member of parliament wrote an open letter to the domestic and international public in which, among other things, she wrote: "I remind you that I was exposed to daily false, insulting, discriminatory, misogynous posts on right-wing portals during November and December because of publicly posed questions in the Parliament, but on the 4<sup>th</sup> of December I reported to the police public calls for my murder published on the portal "Nationalist" and signed by Tomislav Lovrekovic. He was arrested, but the public persecution continued, so that on the 13<sup>th</sup> of December 2017, on multiple locations in the center of Belgrade, graffiti said "Marinika understand, we will not stop" (construction site of the former Embassy of the USA) and "Korneliju Kodreanu, not Marinika Cobanu" (in the Terazije tunnel, the busiest traffic hub in the city) ..."

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<sup>27</sup> A public warning from the Council for printed media, 29<sup>th</sup> of June 2017. available in Serbian at: <http://www.savetzastampu.rs/latinica/odluke/84/2017/07/12/1496/marinika-tepic-protiv-dnevnog-lista-srpskitelegraf.html>;

<sup>28</sup> *Law on Prevention of Discrimination*, Official Gazette of RS, no.22/2009

This case was especially alarming for the public because an inadequate reaction by state authorities, sending a message that every non-reaction, absence of sanctions represents a direct encouragement for culprits.

### *CASE 3 – A special 8<sup>th</sup> of March Greeting by Minister Zoran Djordjevic to the women of Serbia*

The Minister of Labor, Employment, Veteran and Social Affairs, Zoran Djordjevic publicly greeted the women of Serbia on the 8<sup>th</sup> of March by citing the poet Jovan Ducic and said: “A woman doesn’t know how to respect but to love, a woman doesn’t need your respect but your love, respect for them represents absence of all love and something cold, from the head, not something sensitive from the soul... All women like rich men, because the woman is always poor. They are afraid of smart men... She always succumbs to the stronger, and not the prettier and smarter, nor better”.<sup>29</sup> The statement is in conflict with current constitutional and legal regulations forbidding discrimination on any account. Minister Djordjevic showed a complete lack of understanding of affairs in the field of anti-discriminatory policy and gender equality which are in his direct jurisdiction, even more than that – he isn’t capable of refraining from publicly expressing misogynistic and sexist remarks. The later apology of the Minister wasn’t enough to repair the damage done. Part of civil society demanded his dismissal from Ana Brnabic, the Prime Minister, but she didn’t respond to these demands and Zoran Djordjevic is still a member of her cabinet.

## **Challenges**

The biggest challenge in the implementation of the Istanbul Convention in Serbia and the principle of due diligence essentially lies in the years of negligence and non-implementation of protocols on proceedings in cases of domestic violence, as well as in the already created atmosphere of non-compliance. Given that the implementation of the initial protocols and principle of due diligence hasn’t given results, updating existing or adopting new protocols and regulations doesn’t ensure their application. Furthermore, non-implemented protocols greatly compromise the implementation of new by-laws, bringing into question the implementation of the Istanbul Convention in practice. Have the existing protocols adequately and consistently been implemented from the moment of adoption, this would open the door to the new legal regulations from 2016 and 2017 so that the due diligence principle would be a real and practical instance in proceedings of state authorities in cases of violence against women. The *Law on the Prevention of Domestic Violence* caused great media and political attention, as well as the changes in the *Criminal Code*, but the effects of law implementation are still hardly visible.

The protection and support necessary to a stalking victim is insufficiently regulated by current legal regulations. The criminal act of stalking has shortcomings to which concrete legal practice needs to find an answer. The first question that comes to mind when analyzing the section is what exactly constitutes “a certain period of time” in which it is necessary to commit the

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<sup>29</sup> Insajder. Coordinating body for gender equality: 8<sup>th</sup> of March greeting from Minister Djordjević insults all women, 8<sup>th</sup> of March 2018. available in Serbian at: <https://insajder.net/sr/sajt/vazno/10479/>;

incriminating act in order for it to be deemed a criminal act of stalking, as well as which actions undertaken by the culprit can be considered as “other similar actions” which are done in a way that can significantly endanger the life of a person towards which they are directed.<sup>30</sup>

The main aims of implementation of the *Law on the Prevention of Domestic Violence*, are subsequently the main challenges for the implementation of the Istanbul Convention:

- 1) Ensuring complete and coordinated cooperation of all state authorities and other actors who participate in its implementation;
- 2) Ensuring a swift response of state authorities in cases of domestic violence;
- 3) Ensuring complete protection of violence victims through the creation of an individual protection plan.<sup>31</sup> Long-term victim protection is in the core of the law and the individual protection plan is its most important part.

A particular challenge for the creation of an atmosphere in which the principle of due diligence can be implemented, represents the public discourse of bearers of public office who should endorse the implementation of the Istanbul Convention in Serbia, but who are in their public actions far away from the proclaimed zero tolerance principle.

## Recommendations

- 1) ***It is necessary to improve the understanding and knowledge of public servants about the principle of due diligence and to improve their knowledge about current regulations in the field of violence against women through regular sharing of information and continual specialized trainings.***
- 2) ***The Council for the Suppression of the Domestic Violence must continually monitor the implementation of the Law on the Prevention of Domestic Violence and regularly report to the Government and the public about proceedings of state authorities in cases of violence against women.***
- 3) ***It is necessary to create mechanisms for independent monitoring of regulations and policies in this field, done by civil society organizations.***
- 4) ***Public officials must refrain from speech that offends the dignity of women, spreads hatred towards women, reproduce gender stereotypes and any other form of violence against women in public and private spheres and assume responsibility for their actions and legal violations.***
- 5) ***The state must ensure a thorough implementation of the Law on the Prevention of Domestic Violence in line with the set aims, having in mind that this is a new law regulating matters not previously regulated, therefore it is necessary to create a good and common practice from the start.***

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<sup>30</sup> Milica Stanković, op.cit. pg. 461.

<sup>31</sup> The law doesn't foresee all measures that can be found in individual protection plans, leaving the liberty to the group for coordination and cooperation to choose measures adequate to the needs of a concrete victim. Possible measures could be, but not limited to: ensuring shelter for the victim, initiating divorce proceedings, regulating parental rights, preparation of victims for testimony, aid in finding employment, education, psycho-social counseling, ensuring health services etc.

## Chapter II: Integrating policies and data collection

### Article 7 – Comprehensive and co-ordinated policies

#### **Convention requirements:**

- 1) Parties shall take the necessary legislative and other measures to adopt and implement State-wide effective, comprehensive and co-ordinated policies encompassing all relevant measures to prevent and combat all forms of violence covered by the scope of this Convention and offer a holistic response to violence against women.
- 2) Parties shall ensure that policies referred to in paragraph 1 place the rights of the victim at the centre of all measures and are implemented by way of effective co-operation among all relevant agencies, institutions and organisations.
- 3) Measures taken pursuant to this article shall involve, where appropriate, all relevant actors, such as government agencies, the national, regional and local parliaments and authorities, national human rights institutions and civil society organisations.

#### **Situation regarding implementation**

The violence protection system, specifically the practice of reporting and recording violence against women, was until 2017 such that the victims “entered the system” through various uninstitutional channels, as well as through civil society organizations, primarily specialized women’s organizations providing services to women in cases of violence. This meant that, if a victim wanted to report violence, she could do it by calling the telephone number of a relevant state authority (for instance Ministry of Interior on 192 or 0800-100-600) or by going directly to any state authority, as well as by calling special SOS telephones functioning as part of women’s organizations in the Women Against Violence Network (in AWC, 0800-100007) and SOS Vojvodina Telephone (0800-101010)<sup>32</sup>. Reporting violence to one authority didn’t necessarily mean records of violence were kept in all other relevant authorities in charge of proceedings in cases of violence against women, the victim having to give statements and initiate procedures with every authority individually. This legal solution in practice meant further victimization, slowed the reaction times of relevant authorities and influenced victims to withdraw from reporting violence and taking further actions. After the adoption of the *Law on the Prevention of Domestic Violence*, the victim is put in the center of all measures, meaning that violence is recorded in all institutions irrelevant of which one the victim went to first. The *Law on the Prevention of Domestic Violence* obliges all state authorities and institutions to act preventively and report any and all knowledge about violence to the police and the public prosecutor. This is an innovation, considering that the practice so far was for authorities to assess the risk and report when violence has already happened. It is important to state that the report must be made to the police, regardless of where the victim previously reported the case, as currently there is no mechanism to determine whether all violence reports from other authorities are in fact forwarded to the police, victims are “advised” to report their case to the police in order to “be sure that it is formally reported”. Also, according to the law, the police

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<sup>32</sup> Available in Serbian at: <http://sosvojvodina.org/>;

have an obligation to forward all reports to the relevant prosecution body, so the reports that are not made to the police have no chance of being processed.

A comprehensive cooperation of all relevant authorities, institutions and organizations is currently implemented through the establishment and work of Groups for Coordination and Cooperation, operating within the Basic Prosecutor Office (BPO).

There is a plan to also establish Councils for the Suppression of the Domestic Violence whose role would be to monitor the implementation of the law and improve the coordination and effectiveness of state authorities.<sup>33</sup> Having in mind that the law is being implemented for only a year, there is significant room for improvement of existing cooperation in order to become more effective. Recent experience in law implementation confirms that state authorities are still focused only on their own proceedings and not how to include the victim in the work of the Group for Coordination and Cooperation and look at the problem from the victim's perspective. In the Fourth and Fifth independent report of the Autonomous Women's Center<sup>34</sup>, it is noted that the absence of victims in the meetings of the group for coordination and cooperation, as well as in the creation of individual protection plans, seriously points to a lack of understanding of the victim's position and to a disregard of her rights and needs. Additionally, women's organizations state that they are still not invited to group meetings, as well as that some state authorities, like the public prosecutors offices, haven't held a legal minimum of meetings.<sup>35</sup> From the aspect of state authorities, in order to improve cooperation it is necessary for all relevant bodies to equally participate in the work of the group for cooperation and coordination, as well as to further legally specify the roles and responsibilities of all actors in the violence protection system.

Civil society organizations believe that independent monitoring of the work of the group for coordination and cooperation, law implementation and the holistic approach of the state towards violence against women, would improve the work of these bodies. Although many state and non-state actors advocate for a stricter penal policy, part of civil society believes that a timely detection and processing of the culprits, instead of stricter penalties, can induce a decline in violence against women.

One of the examples of the implementation of international and regional standards for the protection of victims and witnesses is the establishment of the Service for providing support and aid to witnesses and damaged sides, operating under Higher Courts in Serbia, foreseen by the *Courts regulation Law*.<sup>36</sup> Today, this service operates in all higher courts in Serbia. In order

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<sup>33</sup> Decision on the establishment of the Council for combating domestic violence, Official Gazette of the Republic of Serbia No. 69/2017-3. Available in Serbian at: <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/reg/viewAct/0b2b5fff-97dd-4117-b4aaf39f35265b71>;

<sup>34</sup> Tanja Ignjatović. Fourth independent report on the implementation of the Law on the prevention of domestic violence for the period between September and November 2017, Autonomous Women's Center, Belgrade, 2017, pg.3.;

<sup>35</sup> Tanja Ignjatović. Fifth independent report on the implementation of the Law on the prevention of domestic violence for the period between January and March 2018, Autonomous Women's Center, Belgrade, 2017, pg.3.;

<sup>36</sup> *Courts regulation Law*; Official Gazette of RS, no. br. 116/2008, 104/2009, 101/2010, 31/2011 – other laws, 78/2011 – other laws, 101/2011, 101/2013, 106/2015, 40/2015 – other laws, 13/2016, 108/2016, 113/2017, 65/2018 – Hc decession, 87/2018 i 88/2018 – HC decession); The first service of this kind was established in 2010 through a

to organize their work, the High Court Council issued an instruction foreseeing as the main task of the Service to ensure emotional and logistic support to witnesses (also including damaged sides as witnesses) before, during and after the hearing, and to ensure that these persons approach the court or any other authority and make their claims (Article 5).

The basic principles in the Service's proceedings are principle of integrity, objectivity and confidentiality (article 5). In relation to this, all information collected by personnel during their work represents a professional secret (article 8).<sup>37</sup> Although the ratio legis for the establishment of these procedures is to function in another procedural context, there is an impression that it is an insufficiently utilized institutional resource in view of domestic violence victim protection and other forms of gender based violence.

In order for the response to violence against women to be more effective, apart from consistent implementation of current laws and policies, it is necessary to align regulations, fill legal voids and adopt new laws and policies.

During the September 2018. Government of Serbia finally adopted one of the key systemic laws, *Law on Free Legal Aid*<sup>38</sup>. In previous ten years, in the absence of this law, free legal aid to socially vulnerable citizens are usually provided by civil society organizations, legal clinics and expert organizations. The issue is that the law is perceived by lawyers and civil society representatives in a completely different manner. Lawyers insist that they are the only ones capable of providing aid in a satisfactory way. This adopted version of the law is unacceptable for the civil sector, since that would entirely put them out of the free legal aid system.<sup>39</sup> Apart from this, existing laws are not entirely implemented and their violations aren't sanctioned. This is the case with the *Law on Gender Equality*<sup>40</sup> from 2009 which is almost completely non-implemented, in the meantime a new draft was created and is awaiting adoption. The existing situation is additionally complicated by the fact that specific regulations are not aligned with the *Law on the Prevention of Domestic Violence*, therefore it is necessary to initiate their simultaneous harmonization. According to expert assessment, a detailed analysis of the alignment of domestic *Criminal Code* with the *Council of Europe Convention on Prevention and Combatting Violence Against Women in the Family* hasn't yet been carried out.

The amendments and appendices of the *Criminal Code* from 2016 brought about only partial progress, therefore the alignment with Convention provisions cannot be considered complete and these obligations must be approached comprehensively and systematically.<sup>41</sup>

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special section for war crimes under the Higher Court of Belgrade, in order to tackle the administrative-technical matters of communication with witnesses, organizing transport and shelter for witnesses and other duties.

<sup>37</sup> Milica Stanković, 2018, Stalking – from the perspective of social institutions, In: No to violence, Center of Modern Knowledge, Banja Luka, pgs. 456 – 462.

<sup>38</sup> Available in Serbian at <https://www.danas.rs/drustvo/usvojen-predlog-zakona-o-besplatnoj-pravnoj-pomoci/>

<sup>39</sup> YUCOM. The unsolvable enigma of free legal aid, Belgrade, 2017. available in Serbian at: <http://www.yucom.org.rs/neresiva-enigmabesplatne-pravne-pomoci;>

<sup>40</sup> *Law on Gender Equality*, Official Gazette of RS, No. 104/2009

<sup>41</sup> Tanja Drobňak, Vanja Macanović i Tanja Ignjatović, Improvements and shortcomings of the criminal justice protection system, Belgrade, 2017. available in Serbian at: <http://preugovor.org/Prakticne-politike/1409/Ostvareni-n> <https://www.womenngo.org.rs/prakticnepolitike/zagovaranje/1132-studija-ostvareni-napredak-i-nedostaci-krivicno-pravnog-sistema-zastitepredak-inedostaci-krivicnopravnog.shtml>;

Apart from the alignment of the legal framework, it is noticeable that strategic documents as well are not enough aligned. This can be a consequence of hyperproduction of these documents in the absence of a general plan with clear priorities to reform and develop society; the differences in accessibility to resources for the creation of these documents (usually coming from foreign donations); the differences in interest for the topics and fields of societal reform (created partly due to donor preferences); uneven capacities of the ministries and the sector participating in the creation of these documents and difficulties in coordination between diverse departments.<sup>42</sup> A particular objection from the civil society is that usually by adopting new policies, the authorities disregard the activities, results and knowledge possessed by experts and organizations of civil society, putting actors in the position to always go back to the start.

In order to produce a holistic response to violence against women, the Government of Serbia adopted in 2011 the *National Strategy for the Prevention and Combatting Violence Against Women in the Family and Partner Relationships for the period between 2011 and 2015*.<sup>43</sup> It is important to note that the Convention doesn't explicitly oblige the existence of a strategy such as this one, but obliges a comprehensive and coordinated policy. The national strategy expired in 2015 and a new strategic document hasn't thus far been adopted. The Autonomous Province of Vojvodina (in further text: AP Vojvodina) represents a best practice examples, having adopted the *Programme for the Protection of Women from Violence in the Family and Partner Relationships for the period between 2015 and 2020, which is completely aligned with Convention standards*<sup>44</sup>. The Republic of Serbia has a valid *National Strategy for Gender Equality for the period between 2016 and 2020*<sup>45</sup> as well as its accompanying Action plan (2016 – 2018) including activities related to regular informing of the public about the phenomenon of violence against women, then providing support for the improvement of the system of record keeping and collecting data in this field, as well as the improvement of the normative, strategic and institutional frameworks.

## Challenges

In the Republic of Serbia there is an undeveloped awareness about the need for reporting a threat of violence occurring and the reason for this is lack of recognition of the indicators for assessing whether violence will happen. Research conducted by "Serbian Forum of Judges"<sup>46</sup>

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<sup>42</sup> Nataša Jovanović et al., Mapping the void: independent monitoring of the implementation of final remarks and recommendations of the UN Committee for the elimination of discrimination of women in Serbia, Autonomous Women's Center, Belgrade, 2009, pg. 9.;

<sup>43</sup> *National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationship*, Official Gazette of RS, No. 27/2011; available in Serbian at: <https://www.minrzs.gov.rs/files/doc/porodica/strategije/Nacionalna%20strategija%20%20nasilje%20nad%20zena%20ma.pdf>;

<sup>44</sup> Available in Serbian at: <http://hocudaznas.org/hocudaznas/wp-content/uploads/2014/08/informacija-o-projektu.pdf>

<sup>45</sup> *National Strategy for Gender Equality 2016-2020*; available in Serbian at: [http://aler.rs/files/NACIONALNA\\_STRATEGIJA\\_za\\_rodnu\\_ravnopravnost\\_za\\_period\\_od\\_2016\\_do\\_2020\\_godine\\_sa\\_akcionim\\_planom\\_za\\_period\\_od\\_2016\\_do\\_2018\\_godine\\_SI\\_gl\\_RS\\_br\\_4\\_2016.pdf](http://aler.rs/files/NACIONALNA_STRATEGIJA_za_rodnu_ravnopravnost_za_period_od_2016_do_2020_godine_sa_akcionim_planom_za_period_od_2016_do_2018_godine_SI_gl_RS_br_4_2016.pdf);

<sup>46</sup> Research included gathering of information from prosecutors and judges and lead to further insight into the application of the Law on the prevention of domestic violence, harmonization of their actions and legal interpretation. Janković i Milovanović, pg. 107.

indicates that, in most cases, proceedings on prevention of domestic violence are initiated after the violence already occurred, while an insignificant number of proceedings are initiated in order to prevent future violence. In addition to this, practice usually implies the same person as a victim and a perpetrator leading to “parallel urgent measures” being carried out. The state authorities are not collecting enough evidence and information necessary for concluding an immediate threat of violence and deciding who is a victim in a specific family and who is the perpetrator. The judges interpret legal terminology inequally, specifically: what constitutes a partner relationship<sup>47</sup>, whether verbal conflict between family members represents violence, whether domestic violence can be done passively. Keeping in mind that proceedings are initiated in order to prevent domestic violence between persons who are in any sort of partner relationship, it is necessary to take a unified legal stance regarding partner relationships in order to avoid situations in which persons in the same situations don't have the same legal protection. The organization of work and structure of groups for coordination and cooperation isn't harmonized on the whole territory of the Republic of Serbia. Civil society representatives and other relevant experts are as a rule not included in the work of the groups. The models of restorative justice are rarely or never included in personal protection plans. Individual protection plans do not foresee all disposable measures that would ensure full victim protection. There is no unified system of monitoring the realization of individual protection plans.

External pressure by the international community and the international obligations in the process of European integration was significant in order to induce the creation and adoption of policies in the field of violence against women in Serbia. However, the majority of policies thus far were created with support from donor funds and foreign and domestic consultants, often in line with the agenda and priorities of the donor community. This means that without clearly appropriated resources from the budget the Republic of Serbia and a general plan with clear priorities for reform and development of society, it will be hard to adjust and adopt new policies. Besides the lack of by-laws, mutual incompatibility of legal frameworks, strategies and action plans horizontally and vertically represents a great challenge in the implementation of public policies. Additionally, the localization of all regulations in the institutional framework and its transfer to the level of local self-governments presents a constant challenge.

## **Recommendations**

- 1) ***Without delay, it is necessary to adopt missing laws and by-laws, then align the legal framework, as well as strategic documents on all levels. The process of alignment of regulations and policies should be simultaneous and not ad hoc.***
- 2) ***It is necessary to define clear and measurable indicators for the monitoring and assessment of the effects of national strategy and action plan implementation, including regular and publicly available reports.***

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<sup>47</sup> Persons of the same sex who are in partner relationships enjoy the same legal protection as heterosexual relationships and in this regard a difference shouldn't be made. By non-implementing the Law on same sex partner relationships, 'legalization' of violence would occur, thus violating many human rights. Additionally, partner relationships should be widely and thoroughly interpreted regardless of its length and the existence of other relationships in which the perpetrators find themselves in.

- 3) *It is necessary for the Government and relevant authorities to regularly call on and include representatives of civil society, especially women's organizations, in defining priorities, consultations and public debates, working groups in the process of creation and adoption of strategies and action plans.*
- 4) *It is necessary to establish functioning mechanisms for the implementation and monitoring of policies in the field of gender equality, especially emphasizing public monitoring of the work of the groups for coordination and cooperation, as well as independent monitoring of law and policy implementation conducted by civil society.*
- 5) *It is necessary to take measures towards informing the public about the possibility of legal protection of victims even before violence occurs as well as raising awareness about what the indicators of domestic violence are.*
- 6) *Partner relationships should be widely and ultimately interpreted in a way that can include same sex partnerships, as well as other partner relationships regardless of their length and other relationships the perpetrator might find themselves in.*
- 7) *Keeping in mind that the court rules without holding hearings, making evidence collection impossible, it is necessary for relevant police authorities to conduct a thorough and comprehensive investigation immediately after receiving a report, in order to collect evidence and information. This should be done as soon as possible, given that specific evidence cannot be collected at a later stage (medical exam, information on existing situation on the scene etc.).*
- 8) *It is necessary to establish a standardized individual protection plan, with groups for coordination and cooperation being obliged to create measures related to: 1. Initiating court proceedings for long-term protection; 2. Measures related to the empowerment of victims through various psycho-social programmes; and 3. Measures related to practical matters of a victim's life (employment, education, housing etc.).*
- 9) *It is necessary to establish a harmonious legal practice in the implementation of the Law of the Prevention of Domestic Violence, influence relevant authorities to systemically approach cases of domestic violence and put special emphasis on creation and improvement of mechanisms for long-term victim protection and their independence.*
- 10) *The implementation of the restorative justice model<sup>48</sup> would significantly contribute to complete protection of victims of domestic violence especially in situations where the victim decides to continue their relationship with the perpetrator.<sup>49</sup>*

## Article 8 – Financial resources

### **Convention Requirements:**

Parties shall allocate appropriate financial and human resources for the adequate implementation of integrated policies, measures and programmes to prevent and combat all

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<sup>48</sup> Restorative justice represents a process through which sides, all participating in the event in question, come together to collectively overcome the effects of the crime and its implications in the future.

Konstantinović Vilić, S., Penologija, SVEN, Niš, 2006, pg.101.;

<sup>49</sup> Janković, Milovanović, pg. 111.

forms of violence covered by the scope of this Convention, including those carried out by non-governmental organisations and civil society.

## ***Situation regarding implementation***

***The Budgets of the Republic of Serbia, AP Vojvodina and local self-governments*** are the main instruments for the implementation of adopted policies in the fields of gender equality and violence against women. Therefore, it is of essential importance that the budgets on all levels of government reflect the priorities defined by the Government or ratified by the National Assembly.

In practice, the laws and policies supporting the holistic response to violence against women do not include the costs of their implementation. The main reason for this lies in the generally accepted and widespread attitude of Government representatives that the implementation of laws and other regulations in this and other fields doesn't require additional budget funds. Looking into the republic budget and the budgets of specific authorities leads to the conclusion that very scarce funds are being allocated to the field of gender equality. Although there is an obligation to allocate sufficient financial and human resources for the implementation of all policies and measures in the field of gender equality, the sentiment of state authorities regarding the prevention and combatting all forms of violence against women essentially depends on international donor support.<sup>50</sup>

At the time of the adoption of the Convention, the state didn't finance programmes for support of women victims of violence, although budget funds were allocated for this purpose. Based on their insight into the reports of the Office for Human and Minority Rights of the Government of Serbia (4<sup>th</sup> quarter of 2014, 5<sup>th</sup> quarter of 2015), Autonomous Women's Center reported that the Ministry of Labor, Employment, Veteran and Social Affairs allocated 1.000.000.000 RSD (8.695.652 EUR) along with a UNDP donation (amount not specified) for victim protection programmes.<sup>51</sup> Since the Ministry hasn't reported on the use of funds, it remains unclear who received the funds and for what purpose. The Office for Human and Minority Rights stated in their report that "no civil society organization applied for funding during the reporting period". Civil society organizations challenged this claim in their reports stating that they applied for state funds, but their projects weren't supported. As opposed to this, the Government of AP Vojvodina has over the period between 2013 and 2015 distributed public funds for combatting

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<sup>50</sup> Law on the Budget of the Republic of Serbia for 2018 available in Serbian at:  
<http://www.parlament.gov.rs/upload/archive/files/cir/pdf/zakoni/2017/3761-17.pdf>

Law on the Budget of the Republic of Serbia for 2017 available at:  
<http://www.parlament.gov.rs/upload/documents/3081-16.pdf>

Law on the Budget of the Republic of Serbia for 2016 available at:  
<http://www.parlament.gov.rs/upload/documents/3204-15.pdf>

Law on the Budget of the Republic of Serbia for 2015 available at:  
<http://www.parlament.gov.rs/upload/documents/4598-14.pdf>

Law on the Budget of the Republic of Serbia for 2014 available at:  
<http://www.parlament.gov.rs/upload/documents/4598-14.pdf>

<sup>51</sup> Milan Aleksić (ur.) PrEUgovor Alarm – Report on the advancement of Serbia in Chapters 23 and 24, Belgrade Center for Security Policy, Belgrade, May 2016, pg. 28. available in Serbian at:  
[http://preugovor.myhaloteam.com/upload/document/preugovor\\_izvestaj\\_-\\_maj\\_2016.pdf](http://preugovor.myhaloteam.com/upload/document/preugovor_izvestaj_-_maj_2016.pdf) ;

discrimination against women and advancement of gender equality amounting to a total of 71.683.111,00 RSD (623.331 EUR) and another 259.728 EUR from donation funds.<sup>52</sup>

***Minister of Labour, Employment, Veteran and Social Issues denied social service to citizens of Serbia***

The Ministry of Labor, Employment, Veteran and Social Affairs (in further text: Ministry of Labor) has in October of 2014 published a call for proposals for financing or co-financing of programmes/projects by civil society organizations in the field of improvement of the social protection system in Serbia. The call for proposals with a total of 226 million dinars in funds allocated from budget line 481 (donations to non-governmental organizations) was coloured by numerous irregularities, including the decision to grant funds to a large number of newly registered organizations (many of them only a month or less before the call was published), organizations led by related persons (family members), organizations run by local officials (especially Youth Offices), organizations having identical statutes, including typing errors, and other. The Ministry of Labor donated funds to 122 organizations<sup>53</sup> out of which 61 were registered during 2014 and 31 registered only a month prior to the call being published. Apart from this, only 70% of them are working on social protection, making the others non-compliant with the basic criteria of the call.<sup>54</sup>

After the public justifiably pointed out to the irregularity of the call and an evident attempt to embezzle public funds, the Labor minister Aleksandar Vulin attacked the whole civil sector and made threats about inspections and business dealing checks for the previous 10 years<sup>55</sup>, ultimately making a decision, a completely illegal and unauthorized one, to revoke the call and redirect the funds allocated for social protection services to the Fund for the Treatment of Children Suffering From Rare Diseases.<sup>56</sup> An official announcement published on the ministry website stated that instead to non-governmental organizations “the funds went to a better place, providing more chances for a better life to the little ones. I am sure that the parents of these children will be thankful to the Government of Serbia.”, Vulin said. On the same occasion he declared that in this case he acted from the perspective of a man, and not of a minister. Asked about a possible EU reaction, Vulin responded that he is still a minister in Serbia and that the funds in question are Serbian, not the EU's.

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<sup>52</sup> Same as above

<sup>53</sup> List of CSO's that secured funding from the Ministry of Labor available in Serbian at: <https://docs.google.com/spreadsheets/d/1WVWA11WKkwTVpUK6vKzi57BtIt3AHxOW78JTe0wps4/edit#gid=470839593>

<sup>54</sup> Stefan Aleksić. MaNGO-GoNGO or just NGO, Peščanik, 12.12.2014. Available in Serbian at: <https://pescanik.net/mango-gongo-ili-samo-ngo/>;

<sup>55</sup> N1. Vulin accuses NGO for criminalizing the call, 4<sup>th</sup> of December 2014. Available in Serbian at: <http://rs.n1info.com/a17136/Vesti/Vulin-optuzio-NVO-da-kriminalizuju-konkurs.html>;

<sup>56</sup> Ministry of Labor, Employment, Veteran and Social Matters: “Money for child treatments, not NGO's”, 30<sup>th</sup> on November 2014. Available in Serbian at: <http://www.minrzs.gov.rs/cir/aktuelno/item/1577-novac-za-lecenje-dece-umesto-za-nvo>

Civil society organizations<sup>57</sup> initiated criminal charges against NN persons with the Attorney General's Office on grounds of great misconduct that happened in relation to the call in question. A public statement published by Civic Initiatives states that Minister Vulin has no power to make decisions about where the funds of the revoked call will be redirected and that the state budget stipulates where these funds should go. The Government of Serbia received a demand to investigate the political responsibility of the Minister of Labor, Employment, Veteran and Social Affairs<sup>58</sup>, endorsed by 150 civil society organizations. The Government of Serbia has, on the 7<sup>th</sup> of December 2014, made a decision to support minister Vulin and deny the civil sector funding of social services and distribute the funds to the Fond for the Treatment of Children Suffering from Rare Diseases.<sup>59</sup> Minister Vulin never took responsibility for the attempted embezzlement of state funds, instead, three years later, in June 2017, he was appointed Minister of Defence.

The Republic of Serbia has, in 2015, moved from linear to programmatic budgeting<sup>60</sup> in order to improve the purposefulness of public spending. Programmatic budgeting implies that financial resources are allocated to specific sectors – programmes, which are established in line with the defined policy aims and jurisdiction of institutions. Programmatic budgeting has therefore conditioned the definition of programmes in relation to violence against women in view of current policies and regulations. Parallel to this process went the process of introducing gender responsive budgeting into the process of budget preparation and adoption.<sup>61</sup> In December 2015, amendments and appendices of the *Law on the budgetary system*<sup>62</sup> were adopted, introducing the obligation of gender responsive budgeting (article 2), a year later the obligation to publish annual reports on budget spending (article 79) which should include the effect of spending on the advancement of gender equality. Based on the suggestions made by the Ministry of Finance and the Coordinating Body for Gender Equality, 28 direct budget users were included in a pilot project during 2016, introducing gender responsive budgeting.<sup>63</sup> This number was increased in two years for seven new budget users, a total of 35 users who are obliged to define at least one aim and gender responsive indicators in their financial plans and to measure the contribution of the aims to the advancement of

<sup>57</sup> Telegraf. Non-governmental organizations sue Vulin, 19<sup>th</sup> of December 2014. Available in Serbian at: <http://www.telegraf.rs/vesti/1359738-nevladine-organizacije-tuze-vulina>

<sup>58</sup> Request for determination of responsibility and remedy for failure submitted against the Ministry of Labor. available in Serbian at:

[https://docs.google.com/document/d/1adkzaHweA\\_tCrR47\\_Fmp7IDVX9HbInqRf6tH7cwOrBA/edit](https://docs.google.com/document/d/1adkzaHweA_tCrR47_Fmp7IDVX9HbInqRf6tH7cwOrBA/edit)

<sup>59</sup> Telegraf. The Government decided: NGO sector in Serbia without money – it's being directed towards treatment of ill children, 1<sup>st</sup> December 2014. available in Serbian at: <http://www.telegraf.rs/vesti/politika/1332363-vlada-preomila-nvo-sektor-u-srbiji-ostaje-bez-novca-on-ide-za-lecenje-bolesne-dece>

<sup>60</sup> Linear budget shows the division of funds according to necessary resources (salaries, social givings, maintenance etc.). The point of programmatic budgeting is the establishment of a clear connection between predicted resources, activities implemented with them, the results achieved and the overall goals of institutions or specific public policies

<sup>61</sup> Sanja Nikolin and Aleksandra Vladisavljević. Practical manual for budget beneficiaries on national, provincial and local level in Serbia, UN WOMEN, Belgrade, September 2017;

<sup>62</sup> *Law on the budgetary system of RS*; Official Gazette of RS; no. 54/2009, 73/2010, 101/2010, 101/2011, 93/2012, 62/2013, 63/2013 - corr., 108/2013, 142/2014, 68/2015 – other law, 103/2015, 99/2016, 113/2017 i 95/2018)

<sup>63</sup> Plan for implementing gender responsive budgeting in the process of preparation and adoption of the Budget of the Republic of Serbia, Ministry of Finance, Belgrade, 31<sup>st</sup> of March 2016. available in Serbian at: <http://www.mfin.gov.rs/UserFiles/File/budzetski%20korisnici/2016/Plan%20uvodjenja%20rodno%20odgovornog%20budzetiranja.pdf>

equality between women and men. By 2020, it is expected that the process of gradual introduction of gender responsive budgeting for all budget users on all levels will be complete.

An important leap in the shift to programmatic budgeting and the start of the process of gender responsive budgeting did not lead to an increase of budget funds for programmes or projects of civil society organizations in the field of violence against women during 2016 and 2017. Furthermore, the state funds programmes and projects of women's organizations with less than 1% of the overall budget. Considering that there is a direct link between what is defined as a priority and what is financed, one of the explanations could be that gender equality and violence against women are not on the top priority for the Government of Serbia, despite declared political will.

According to data provided by the Ministry of Justice, Autonomous Women's Center has, in May 2017, based on a call for proposals published by the Ministry, received funding for the project "Free Legal Aid for Women Victims of Domestic Violence and Partner Relationships" in the amount of 1.094.400,00 RSD (8.823,07 EUR), gathered through the implementation of the opportunity principle according to the *Criminal Procedure Code*<sup>64</sup>, the control of which is in jurisdiction of the Government.<sup>65</sup> Considering that the total amount of collected funds is 351.509.000,00 RSD, this means that the funds allocated to prevention and protection of women against violence represent less than 1% of all opportunity funds. On the same grounds, the Ministry of Justice provided financial aid to victims of human trafficking by supporting the project of the Center for the Protection of Victims of Human Trafficking from Belgrade called "Direct Aid to Victims of Human Trafficking" in the amount of 1.955.000,00 RSD (16.083,72 EUR). The same organization received funding in June 2016 in the amount of 1.442.000,00 RSD (11.603,97 EUR) for the support of women and children who have suffered any form of violence, be it sexual, psychological or physical while being victims of human trafficking.<sup>66</sup>

The Ministry of Labor supported several projects of civil society organizations in 2016 and 2017, though there is no publicly available information on the amount of total funds donated to civil society organizations.<sup>67</sup> The projects supported in 2016 were: 1) "Improvement of services of the SOS hotline and counseling for women and children victims of domestic violence", Zrenjanin Educational Center; 2) "Development and improvement of the quality of the SOS hotline social service in Roma and Serbian language", Association of Roma Women Osvit (received 1.194.000 RSD) and 3) "Violence – the way to single parenthood", lead by Single Mother Association from Zemun. In 2017 the projects supported were: 1) "Stop

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<sup>64</sup> *Criminal Procedure Code*, Official Gazette of RS, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014.

<sup>65</sup> Government of Serbia. Grant decision on funds raised through postponement of criminal proceedings, Belgrade, 29<sup>th</sup> of May 2017. available in Serbian at: <https://www.mpravde.gov.rs/files/Resenje%20Vlade.pdf>

<sup>66</sup> Government of Serbia. Grant decision on funds raised through postponement of criminal proceedings, Belgrade, 29<sup>th</sup> of May 2016. available in Serbian at: <https://www.mpravde.gov.rs/tekst/15922/resenje-o-dodeli-sredstava-prikupljenih-po-osnovuodlaganja-krivicnog-gonjenja-iz-2016-godine.php>

<sup>67</sup> Calls published by the Ministry of Labor, Employment, Veteran and Social Matters. available in Serbian at: <http://www.minrzs.gov.rs/konkursi.html>

domestic violence”, Association for Local Initiative and Volunteerism; 2) “You’re not alone”, SOS Women’s Center and 3) “Reproductive health of Roma women”, Association of Citizens SPA.

In 2017, the budget of the Ministry of Construction, Transport and Infrastructure allocated 10.000.000,00 RSD for the support to social housing projects, and a decision was made to support organizations who are working on safe houses (improvement of living conditions in safe houses). The funds were used for the reconstruction of 10 safe houses (Leskovac, Kragujevac, Pancevo, Novi Sad, Nis, Vranje, Beograd, Sremska Mitrovica, Smederevo and Sombor), all amounting to 8.256.574,14 RSD. During the same year, the Coordinating Body for Gender Equality has, with financial support from UN Women in Serbia (in the amount of 10.000,00 USD), procured 60 panic buttons installed in centers for social work in order to more efficiently combat violence against women. In 2016, one project was supported in this field – “Investigation into alternative models of social housing available to the most vulnerable families and discriminated women”, lead by the Center for Public and Local Policy PALGO from Belgrade in the amount of 1.188.600 RSD. Based on the insight into the Ministries financed projects, a conclusion can be drawn that all funds distributed for the implementation of policies and laws in the field of gender equality in the framework of this ministry are donation funds and not state budget funds.<sup>68</sup>

Compared to the previous period, the funds allocated by the provincial budget for the support of programmes for the protection of women against violence and projects of civil society organizations has greatly decreased. In 2016, AP Vojvodina allocated 5.500.000,00 RSD in their financial plan for donations to non-governmental organizations. That same year, the provincial budget for the Programme for the protection against domestic violence and in partner relationships in AP Vojvodina (1011) allocated 13.000.000,00 RSD out of which 3.000.000,00 for contracted expert services and the 10.000.000,00 for subsidies to private companies for the employment of women victims of violence.<sup>69</sup> Additionally, for the financing of gender responsive budgeting and implementation of the *Programme for the Protection of Women Against Violence in the Family and Partner Relationships for the period between 2015 and 2020*, 426.231,73 RSD was allocated. In the 2017 financial plan, the Provincial Government allocated 15.000.000,00 RSD for donations to non-governmental organizations, without the programme for the protection against violence in the family and partner relationships in AP Vojvodina being stated in the plan.<sup>70</sup>

## Challenges

The existing funds in the budget of Serbia for the financing of the programme for the protection of women against violence are scarce, with an even greater challenge presented by the tendency of decrease of the overall state budget. The share of contributions for the

<sup>68</sup> Ministry of Construction, Transport and Infrastructure. Projects, December 2017. available in Serbian at: <http://www.mgsi.gov.rs/sites/default/files/The%20book%20of%20projects%20MGSi%202017.pdf>

<sup>69</sup> Call for employment of women victims of domestic and partner violence in the AP Vojvodina. available in Serbian at: <http://www.upv.org.rs/925subvencije-zene-zrtve-nasilja.html>

<sup>70</sup> Available in Serbian at: <http://www.socijalnapolitika.vojvodina.gov.rs/конкурси/социјална-заштита/>

programmes for the prevention of violence and aid to victims of violence will depend on whether gender equality and violence against women are of high priority to the Government of Serbia. Additionally, due to the non-existence of gender analysis of the budget, ie the analysis of benefits of programmes for women and men, it's not possible to monitor the progress in the field of improving the position of women and it's especially impossible to bring that in any connection with funds spent.

## **Recommendations**

- 1) ***The Government of Serbia is obliged to, in accordance with strategic aims and legal obligations for gender budgeting, carry out a redistribution of the current budget and allocate a higher percentage of financial resources to programmes for the prevention and protection of women against violence.***
- 2) ***It is necessary for the Government of Serbia to allocate more resources for financing projects and services of civil society organizations, especially women's organizations, who have over the previous 20 years achieved recognized results in providing services to victims, prevention, training of professionals, developing multi-sectoral cooperation and raising awareness of the public and decision makers about the topic of violence against women.***
- 3) ***It is necessary for public policies and laws to include a cost assessment for their implementation.***
- 4) ***It is necessary to make the distribution of funds from national, provincial and local budgets transparent, based on public calls with clear criteria for grant awarding, as well as to make the budget funds from line 481 dedicated to non-governmental organizations spent in a financially responsible way.***
- 5) ***It is necessary for the reports of state authorities on implemented programmes and funds spent on prevention and protection of women against violence to be made publicly available.***
- 6) ***It is necessary to use resources already developed through the obligation to implement gender responsive budgeting.***

## Article 9 – Non-governmental organizations and civil society

### **Convention requirements:**

Parties shall recognise, encourage and support, at all levels, the work of relevant non-governmental organisations and of civil society active in combating violence against women and establish effective co-operation with these organisations.

### **Situation regarding implementation**

In Serbia, local civil society organizations become part of numerous networks and coalitions<sup>71</sup> in order to achieve a greater influence on policies covering gender equality and violence

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<sup>71</sup> Roma Women Network of Serbia, Women Against Violence Network, SOS Vojvodina Network, Strength of Cooperation Network, „Women, peace and security in Serbia“ Network, Women's Platform for the Development

against women on national and local levels. Thanks to perennial efforts and diligent work of women's organizations, primarily Autonomous Women's Center, as well as the continued networking of women in Serbia around the issues of combatting violence against women and public advocacy, new policies and laws were adopted in this field, the topic of violence against women became visible in the public and part of the political agenda. Further, by the adoption of the *Law on the Prevention of Domestic Violence* and the annexes to the *Criminal Code*, different forms of violence against women became criminal acts. 'Women Against Violence' Network<sup>72</sup>, founded in 2005, greatly influenced perception of the phenomenon of violence against women as a safety issue rather than solely a social one.

Over the previous twenty years, women's organizations have developed many types of services for women and children who suffered violence<sup>73</sup>, conducted trainings of professionals based on accredited programmes, influenced the development of multi-sectoral cooperation. Their contribution to independent monitoring, analysis and shadow reporting on the situation in the field of violence against women is also of exceptional value. Within "Women Against Violence" Network and the European Women's Lobby Network in Serbia, operates an Observatory for monitoring violence against women whose members continually monitor the effects of policy and implementation and measures in the field of violence against women since 2011.<sup>74</sup> Autonomous Women's Center monitors the implementation of the *Law on the Prevention of Domestic Violence* since 2017 and issues public reports quarterly, while a coalition of non-governmental organizations (PrEUgovor)<sup>75</sup> monitors this field through Chapter 23 – "Justice and fundamental rights" and Chapter 24 – "Justice, liberty and security" in the process of Serbia's accession to the European Union.

In Serbia there is a strategic and legal basis in the field of social protection, enabling citizen's associations to provide social services and monitor the achievement of gender equality.<sup>76</sup> There is also several institutional mechanisms for gender equality, specifically reducing violence against women, in whose work citizen's associations can participate. The *National Strategy for the Improvement of the Position of Women and Advancement of Gender Equality* foresees an equal participation of the civil sector in the system of protection of women against violence, as well as the establishment and strengthening of cooperation between relevant state authorities and organizations. The *Law on the Prevention of Domestic Violence* introduces the obligation of all state authorities to cooperate with civil society in order to prevent violence against women through Groups for Coordination and Cooperation (GCC). Institutional cooperation of state authorities with specialized women's organizations is mainly done through the participation of individual civil society organizations in various bodies for

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of Serbia 2014 – 2020, Network for the promotion of rights of children with disabilities in Serbia, Network of children's organizations of Serbia etc.

<sup>72</sup> Women Against Violence Network was founded with the basic aim of empowering and connecting specialist women's organizations providing services for women victims of violence (SOS helplines, counselling, centers, shelters, safe houses, crisis centers etc.). available in Serbian at: <https://www.zeneprotivnasilja.net/>

<sup>73</sup> Map of services for women victims of violence in Serbia. available in Serbian at: <https://www.zeneprotivnasilja.net/usluge-uzajednici/srbija/mapa-usluga>

<sup>74</sup> Available in Serbian at: <https://www.zeneprotivnasilja.net/opservatorija>

<sup>75</sup> Available in Serbian at: <http://www.preugovor.org/prEUgovor/121/O-nama.shtml>

<sup>76</sup> Law on associations, Law on Social Protection, Law on Gender Equality among others before mention

gender equality, for example in the Government Council for Gender Equality the Council for Gender Equality of the Ombudsperson, as well as in local bodies for gender equality. The signing of protocols on cooperation with institutions in charge of domestic violence also represents one of the forms of institutional cooperation with civil society organizations. The cooperation between non-governmental sector and relevant national and local bodies and institutions is taking place in the field of education and training of personnel based on accredited programmes developed by women's organizations. The cooperation of state authorities with specialized women's organizations providing support to women who suffered violence isn't continuous and organized, therefore the effects and scope of cooperation are small.

Individual civil society organizations on national level, such as "Women Against Violence" Network are recognized as state partners in creating policies and specific measures, carrying out trainings of personnel in the violence protection system and participating in specific bodies and protocols on procedures. In practice it happens that the contribution of "Women Against Violence" Network is recognized on a national level, and that in local communities the authorities do not recognize their expertise and services provided, consequently excluding them from the creation of local policies and financial support.

According to the claims of "Women Against Violence – South-western Serbia"<sup>77</sup> Network since 2016, there is a noticeable trend of exclusion of local women's organizations in the Zlatibor and Raska regions, except in Novi Pazar, from the work of authorities, primarily from bodies to whose establishment and development they actively contributed, such as the Council for Gender Equality, the Security Council and multi-sectoral teams for violence suppression. As a result, women's organizations cannot monitor the work of these bodies, nor utilize their competences to contribute to combatting domestic violence.<sup>78</sup> In AP Vojvodina better cooperation was established between institutions and women's organizations from SOS Vojvodina Network than on national and local levels. This can be proven by an example of the Provincial Secretariat for Health and Center for Support of Women jointly implementing the project "Stop – Protect – Support, a Stronger Institutional Response to Gender Based Violence in the Autonomous Province of Vojvodina 2016 - 2019"<sup>79</sup>, which was supported by the UN Trust Fund to End Violence against Women. This is a unique example of cooperation in Serbia.

State and local authorities of the Republic of Serbia don't recognize the expertise and resources of civil society organizations in providing protection and services o women and children who suffered violence, not even with the aim of fulfillment of international obligations, consequently decreasing organized support to the work of specialized women's organizations. Numerous women's organizations, especially on local level, operate thanks to donor funds and without adequate financial support from the state budget and local budgets for the services they provide to victims. Data presented in the previous chapter leads to a conclusion that a very small number of civil society organizations receive support for projects in the field of violence

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<sup>77</sup> Women Against Violence - South-west Serbia Network consists of 5 cso's: Fenomena from Kraljevo, Impuls for Tutin, Damad from Novi Pazar, Women's Center Užice and Women's Forum Prijepolje

<sup>78</sup> Available in Serbian at: <http://foruminfo.rs/mreza-jugozapadne-srbije-zene-protiv-nasilja-trazimo-ukljucivanje-zenskih-nvo-u-savete-tela-za-suzbijanje-nasilja/>

<sup>79</sup> Available in Serbian at: <http://projekti.zdravstvo.vojvodina.gov.rs>

against women and service providing, as well as the humble amount of awarded funds. According to the data collected by “Women Against Violence” Network during February 2018, the table below offers an overlook of the financing of women’s organizations providing services to women who suffered violence from 2015 to 2017.:

Year	Number of SOS hotlines	Number of SOS calls	Number of women	Financing from budget line 481 – Support to NGO’s	Amount in Dinars	Financing from budget line 472 – social protection services	Amount in Dinars
2017	23	15 443	4 753	8	2.474.000	3	1.535.100
2016	26	12 780	5 085	8	1.093.800	4	2.783.189
2015	28	10 950	4 053	7	855.000	2	500.000

An obstacle to financing women’s organizations is also the attitude of officials on national and local levels that the state didn’t establish citizen’s associations and therefore doesn’t have the obligation to finance them. Given that the state doesn’t provide adequate financial support to their work, makes the work in fact voluntary. The dependency on foreign donations and uncertainty in financing the work of women’s organizations and the services they provide to women who suffered violence, greatly impact the sustainability and long-term planning of activities.<sup>80</sup> Since best practice examples are rare, they are worth a mention. During 2016, the specialized SOS hotline for women who suffered violence, operating within Center for Support of Women, received funding from the local budget, as part of the funds the Municipality of Kikinda received as a dedicated transfer in the field of social protection, a result of previous advocacy activities of CSW.<sup>81</sup> Already in 2017, local authorities of Kikinda refused to dedicate funds in the field of social protection for the financing of the SOS hotline, explaining this by not being obliged to finance these services from dedicated transfers and that the funds from budget line 472, allocated for financing social protection, are in fact spent.

The support of the work of specialized women’s organizations and their cooperation with state authorities has become difficult during the previous years due to an overall attitude of the state towards civil society and the creation of unfavorable surroundings for operating a civil society organization. The European Commission, in their 2018 report, concludes that “no progress was made in the establishment of a favorable environment for the development and financing of civil society. The National Strategy for the Creation of a Favorable Environment for the Development of Civil Society and its accompanying action plan haven’t been adopted yet. It is necessary to make further efforts in order to ensure systemic cooperation between the government and the civil society”.<sup>82</sup> The report also states that “NGO’s and human rights

<sup>80</sup> National Coalition for Decentralization, Sustainability index of civil society organizations in Serbia for 2016, Belgrade. Available in Serbian at: <http://nkd.rs/wp-content/uploads/2017/06/CSOSI2016-publikacija-srpski.pdf>

<sup>81</sup> Danijela Pešić, Protection and support to women victims of violence – analysis of local policies in Serbia, Autonomous Women’s Center, Belgrade, pg. 55

<sup>82</sup> European Commission Progress Report for Serbia 2018, pg. 18. available in English at: <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-serbia-report.pdf>

protectors play a key role in raising awareness about civil and political rights in an environment not open for criticism, accompanied by negative statements of government officials repeated in the media about civil society as a whole and about the financing of individual organizations in particular. Human rights protectors were an object of harsh criticism for the tabloid media". The claims of numerous social scientists also confirm greater and more frequent attacks on civil society organizations in the media, threats and physical attacks on women human rights activists<sup>83</sup> and journalists, and that the public discourse is once again ruled by the principle that those who think differently than the current government are declared traitors and enemies of the state as well as critics of government policies. The greatest responsibility for creating this atmosphere lies in the hands of state authorities and members of the ruling political elite who use this public discourse or do not condemn the attacks on representatives of civil society. This attitude of the state towards civil society influenced the exclusion, as well as self-exclusion, of a part of civil society organizations from the process of creating and implementing public policies, as well as from receiving financial resources and support to the work and operations of organizations. Organizations frequently state that they want no part in fictitious participation in the decision making process without an actual opportunity to influence these processes.

## Challenges

The lack of understanding of the phenomenon of violence against women by public officials and decision makers, accompanied by a lack of knowledge about the work of women's organizations, all have crucial influence on the decisions of institutions and redirecting resources towards the development of social services in the field of violence against women. If the attitudes of the state towards civil society, especially towards women's organizations, don't change significantly in the following period, this will weaken the potential of civil society to continue contributing to the decline of violence against women, providing services etc. The challenges of providing services, according to women's organizations, are represented in the emergence of a great number of newly registered organizations, established by persons close to the government, without relevant expertise and experience in the field of violence against women and/or providing specialized services to women victims of violence, who often receive financial support from local or state budgets bypassing clear criteria.<sup>84</sup>

## Recommendations

- 1) ***It is necessary for the programmes and projects of women's organizations in the field of violence against women to be continually financed from local, provincial and state budget in order to ensure the sustainability of providing specialized services to women victims of violence.***

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<sup>83</sup> Chronology of attacks on the organization "Women in Black". Available in Serbian at: <http://www.helsinki.org.rs/otpor%20ekstremizmu/serbian/doc/Dosije%20%20%20napadi%20na%20ZuC%20septembar%202014.pdf>

<sup>84</sup> List of CSO's that secured funding from the Ministry of Labor available in Serbian at: <https://docs.google.com/spreadsheets/d/1WVWAI1WKkwTVpUK6vKzi57BtIt3AHxOW78JTe0wps4/edit#gid=470839593>

- 2) *It is necessary to develop and consistently implement criteria for the financing of non-governmental organizations, valuing experience, expertise, professional and other capacities of women's organizations for providing specialized services to women victims of violence.*

## Article 10 – Co-coordinating body

### **Convention requirements:**

- 1) Parties shall designate or establish one or more official bodies responsible for the coordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by this Convention. These bodies shall co-ordinate the collection of data as referred to in Article 11, analyse and disseminate its results.
- 2) Parties shall ensure that the bodies designated or established pursuant to this article receive information of a general nature on measures taken pursuant to Chapter VIII.
- 3) Parties shall ensure that the bodies designated or established pursuant to this article shall have the capacity to communicate directly and foster relations with their counterparts in other Parties.

### **Situation regarding implementation**

***Serbia still hasn't established institutional mechanisms on national and local level strong enough to coordinate, implement, monitor and assessment of policies and measures for the prevention and combatting against all types of violence covered by this Convention.***

In order to coordinate the work of state authorities in the field of gender equality, the Government of the Republic of Serbia appointed the Coordinating Body for Gender Equality (in further text: CBGE), presided by the Vice President of the Government and Minister of Construction, Transport and Infrastructure. The Coordinating Body for gender equality was established through regulation (05 number: 02-13613/14-1) on the 30<sup>th</sup> of October 2014 as a temporary and not permanent body of the Serbian government.<sup>85</sup> Aside from the coordination of work of state authorities in the field of gender equality, this body is tasked with carrying-out activities related to the prevention and combatting against all forms of violence covered by the Convention.<sup>86</sup>

CBGE isn't considered a strong coordinating body, therefore its influence on policies in the field of gender equality and violence against women is significantly weakened. There are several reasons for this situation. The establishment of a temporary government body for gender equality is considered an example of bad practice, indirectly sending a message that the field of gender equality is less important for the development of state and society compared to other fields. Additionally, after every parliamentary election or government

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<sup>85</sup> Decision on the establishment of the Coordinating Body for Gender Equality, Official Gazette of the Republic of Serbia No. 121/2014, 147/2014, 32/2015, 37/2015, 5/2016 and 91/2016. available in Serbian at: <https://www.rodnaravnopravnost.gov.rs/sr/o-nama/institucionalni-okvir>

<sup>86</sup> The decision on establishment, as well as the Rulebook define the mandate of the Coordinating Body for Gender Equality in the field of violence against women. Only the workplan mentions activity 1.7 „Strengthening the Coordinating Body for Gender Equality for undertaking actions based on Articles 10 and 11 of the Istanbul Convention (support to the work of GREVIO in line with the Istanbul Convention and coordination of state reporting on the Convention)“

reshuffle<sup>87</sup>, the existence and mandate of the gender equality body are being questioned. Frequent parliamentary elections, the changes in political obligations followed by conflicts within institutions have influenced the stalemate in this body's work, as well as other in other mechanisms for ensuring gender equality, ultimately postponing or even stopping processes already under way. Frequent arguments for the dismissal of this body were savings measures proposed by the government or the definition of new priorities after which the first body proposed to be dismissed is the coordinating body. Besides the lack of continuity in gender equality policies, frequent elections contributed to the creation of an atmosphere in which every new government 'starts from zero'. The CBGE was appointed after the dissolution of the Directorate for Gender Equality in 2014 and pressure from the civil society and international community to establish a similar body again. The mandate of CBGE ended in 2016 by the election of a new government, but the body continued to operate without formal decision. Still, part of the jurisdiction was transferred to the Ministry of Labor through a newly formed Sector for Anti-discriminatory Policy and Gender Equality (Group for the Advancement of Gender Equality) with the jurisdiction to deal with matters of anti-discriminatory policy and gender equality.<sup>88</sup>

Apart from being treated as less important, gender equality is understood stereotypically, as a women's question, given that the jurisdiction in the field of gender equality is delegated exclusively to women in the government. Involving men, members of government, in the structures of the Coordinating Body was intended to improve gender balance. Civil society is concerned by the fact that several male members of the body who, based on previous activities and public statements, were deemed discriminatory and prevented reform in this field, for example, advocating for the dissolution of the Directorate for Gender Equality. This is the reason why part of the civil society demanded recomposition of the body and dismissal of individual members from it.<sup>89</sup>

In public discourse, gender equality is often used by politicians and ruling officials and serves party conflicts, creating societal divide instead of striving for consensus and acting in public interest of the citizens of Serbia. Examples to illustrate this claim are the conflict between the Minister of Labor Zoran Djordjevic and Vice-president of the Government Zorana Mihajlovic over the drafting and adoption of the new *Law on Gender Equality*, followed by a row over jurisdiction to collect data and report on the implementation of the Istanbul Convention in Serbia.

The drafting of the *Law on gender equality* as a mandate of CBGE lasted three years (2015 – 2017). When the legal text was completed and harmonized with almost all ministries, local self-governments, independent institutions and civil sector, there was an objection from Zoran Djordjevic, the new minister of labor. By refusing to give approval of the law draft, the minister blocked and postponed the process of its adoption without a valid explanation of the shortcomings of the proposed solution. The minister of labor announced in September 2017

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<sup>87</sup> On average, elections are held in Serbia every two years (2012, 2014, 2016), while cabinet rearrangement happens yearly.

<sup>88</sup> Available in Serbian at: <https://www.minrzs.gov.rs/o-ministarstvu.html>

<sup>89</sup> Available in Serbian at: [http://preugovor.myhaloteam.com/upload/document/preugovor\\_izvestaj\\_-\\_maj\\_2016.pdf](http://preugovor.myhaloteam.com/upload/document/preugovor_izvestaj_-_maj_2016.pdf)

that his ministry will produce a new legal draft which is 'modern and achievable', deeming the current draft of the new law impossible to implement. At one moment, the minister even stated remarks that the mandate of CBGE is long over, implying that this body is no longer in the position to influence gender equality policies. In the meantime, the ministry created a new draft currently in the process of preparation for being adopted by the national assembly by incorporating remarks made in the public hearings that ended on the 5<sup>th</sup> of July 2018. The adoption of the law is expected by the end of 2018. It is necessary to emphasize that numerous laws concerning different fields were adopted through urgent procedure in the national assembly without public hearing and that the preparation and debate in connection to the law on gender equality is going on for years along with the uncertainty of its adoption.<sup>90</sup>

This conflict deepened in regards to the reporting on the implementation of the Istanbul Convention, so that the state report was parallelly made by the Coordinating Body and the Group for the Advancement of Gender Equality under the Sector for Anti-Discriminatory Policy and Advancement of Gender Equality of the Ministry of Labor. The fact remains that there is a duality in the task to collect data from state authorities on the implementation of the Istanbul Convention in Serbia and report the GREVIO group on behalf of the government. The public wasn't informed about the way in which this jurisdictional conundrum was solved, but it is obvious that the CBGE is the main reporting body on Convention implementation. Still, the issue must be solved by the Government, therefore demonstrating the readiness and political will to deal with matters of gender equality in a functional way.

Coordinating Body for Gender Equality, as well as the former Directorate for Gender Equality, apart from a limited mandate and jurisdictions, operates with limited capacities. This is reflected in the insufficient number of expert staff, general personnel, inadequate working conditions, lack of financial resources. The chronic shortage of human, material and financial resources necessary for the work of bodies for gender equality from 2007 onwards is also one of the many indicators of the lack of political will for a strong executive mechanism in this field, and in particular situations, its obstruction. With significant outside support from civil society, international and corporate communities with their knowledge, experience and finances, this body managed to overcome obstacles in its work and remain committed to the advancement of gender equality in Serbia. The book on planned and realized projects by the Ministry of Construction, Transport and Infrastructure for 2017 represents a testimony that the CBGE functions solely thanks to donation funds.<sup>91</sup>

Despite many obstacles, this body has managed to achieve recognized results in its work, such as improving the visibility of the topic of gender equality and violence against women, carrying out campaigns, initiating the drafting of the *Law on Gender Equality*, establishing better cooperation with civil society.

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<sup>90</sup> It took nine years to adopt the first Law on Gender Equality and Law on Prevention of Discrimination. The adoption of these laws was aided by the fact that it was one of the preconditions for Serbia's visa liberalization in 2009

<sup>91</sup> Available in English at:

<http://www.mgsi.gov.rs/sites/default/files/The%20book%20of%20projects%20MGSi%202017.pdf>

The *Law on the Prevention of Domestic Violence* foresees that the Government forms a Council for the Prevention of Domestic Violence (Article 34)<sup>92</sup>, with the task to monitor the implementation of the law, improve coordination and effectively prevent and protect against domestic violence. The Council members are representatives of state authorities and institutions in charge of implementing this law.<sup>93</sup> It can, if necessary, include representatives of the relevant scientific and other expert institutions and organizations into its work. Until now there is still no publicly available information on Council activities and their results.

In 2015, the Government of AP Vojvodina formed an Inter-sectoral board in charge of coordination, monitoring and evaluation of measures proposed by the *Programme for the protection of women against domestic violence and in partner relationships for the period between 2015 and 2020*. The first session of the Inter-sectoral Board was held on the 29<sup>th</sup> of May 2018.<sup>94</sup>

Local authorities also lack a comprehensive and coordinated policy on the prevention and protection of women against violence. The *Law on Gender Equality* from 2009 obliges local self-governments to establish and financially support councils/commissions for gender equality.<sup>95</sup> However, due to inconsistent implementation of this law, there are still cities and municipalities that have not established or have no functional mechanism for gender equality. Even where these mechanisms exist, there is no data on their actual influence on local policy, and in the majority of cities and municipalities these bodies operate without a budget. It is evident that gender equality on local level is treated as less important for the community. Municipal and City councils for security are in a much better position, though their establishment is not a legal obligation and they aren't established in all local self-governments. These bodies bring together all relevant authorities on local level (police, prosecution, courts, centers for social work, schools etc.) and representatives of civil society in order to improve the security of citizens. Often these bodies form working groups for domestic violence in accordance with the priorities defined in local action plans.

## Challenges

A lack of effective mechanisms for gender equality on national, provincial and local level will represent one of the main challenges to the fight against all forms of violence against women in the following period. The reason for this is that decision makers on all levels, except rhetorically, are not truly committed to empowering existing mechanisms. The mechanisms established based on the newly adopted law on prevention of domestic violence still haven't become efficient in the implementation, monitoring and assessment of policies and measures for the prevention and combatting against all forms of violence covered by the Convention. A challenge also rises from the frequent jurisdictional clashes between not only public officials,

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<sup>92</sup> Decision on the establishment of the Council for combating domestic violence, Official Gazette of the Republic of Serbia No. 69/20177

<sup>93</sup> The Council chairperson is the Minister of Justice, members of the Council are representatives of state bodies and relevant institutions.

<sup>94</sup> Brief.rs, First meeting held of the Parliamentary Board for Combating Violence Against Women, 29<sup>th</sup> of May 2018. available in Serbian at: <http://brif.rs/vesti/odrzana1-sednica-odbora-za-borbu-protiv-nasilja-nad-zenama>

<sup>95</sup> Available in Serbian at: [https://www.paragraf.rs/propisi/zakon\\_o\\_ravnopravnosti\\_polova.html](https://www.paragraf.rs/propisi/zakon_o_ravnopravnosti_polova.html)

but state authorities, making it harder to implement the Convention in practice. Given that Serbia finds itself in a permanent election campaign, there is a risk of a stalemate in the work of all bodies due to parliamentary elections.

## **Recommendations**

- 1) *It is necessary to improve the understanding of decision makers and the general public of the role that mechanisms for gender equality play in the promotion of women's rights, as well as in contributing to sustainable development of state and society and finally in improving the quality of life and security of all citizens.*
- 2) *It is necessary to form a permanent body on government level tasked with coordination, implementation, monitoring and assessment of policies and measures for the advancement of gender equality and prevention against all forms of violence covered by the Convention.*
- 3) *It is necessary to allocate human, material and financial resources necessary for the functioning of bodies for gender equality and the prevention of violence against women on all level of government.*
- 4) *It is necessary to include experts on gender equality and women's rights, experts of integrity, into the composition of the bodies.*
- 5) *It is necessary to include civil society representatives in the work of bodies for gender equality on all levels, the Council for the Prevention of Domestic Violence, as well as working groups for coordination and cooperation.*

## Article 11 – Data collection and research

### **Convention requirements:**

- 1) For the purpose of the implementation of this Convention, Parties shall undertake to:
  - a/ collect disaggregated relevant statistical data at regular intervals on cases of all forms of violence covered by the scope of this Convention;
  - b/ support research in the field of all forms of violence covered by the scope of this Convention in order to study its root causes and effects, incidences and conviction rates, as well as the efficacy of measures taken to implement this Convention.
- 2) Parties shall endeavor to conduct population-based surveys at regular intervals to assess the prevalence of and trends in all forms of violence covered by the scope of this Convention.
- 3) Parties shall provide the group of experts, as referred to in Article 66 of this Convention, with the information collected pursuant to this article in order to stimulate international co-operation and enable international benchmarking.
- 4) Parties shall ensure that the information collected pursuant to this article is available to the public.

### **Situation regarding implementation**

#### Official databases

Administrative data on violence against women and domestic violence is collected by various institutions involved in the system of prevention and protection against gender based violence

and domestic violence: Ministry of the Interior, Public Prosecutor's Office, Courts, Ministry of Labor, Employment, Veteran and Social Affairs, Ministry of Health, as well as the central statistics institution – Statistical Office of the Republic of Serbia. Every institution collects and stores data in line with their mandate, meaning all of them have partial databases at their disposal.

Ministry of the Interior collects data on all reported cases of violence against women in the family. The collected data is not freely available, but upon request. The data started being collected through a special form where any violence against women in the family is evidenced based on gender, age, form of violence (physical, sexual, psychological or economic violence and stalking), municipality, relation to the perpetrator (husband, child, former husband, parent, blood relative, marital relative, adoptive relative, extra-marital partner, former extra-marital partner), whether a child was present or not. The form also requests information on whether there were previous cases of violence, have any temporary measures been taken.<sup>96</sup> The Ministry of the Interior also has access to data on extended measures. The data can be navigated based on victims and on perpetrators. However, after initiating criminal charges, the Ministry doesn't keep record of the final outcome. Until 2018, every police outpost collected data on excel spreadsheets and sent them to the Ministry. The deficiency of this way of collecting data is reflected in the fact that the process was not harmonized or comprehensive. From February 2018 onwards, the Ministry conducts data entry through an internal application, meaning data can be easily extracted and processed. Since June 2018, data entry is conducted daily. During the following period, the Ministry aims to continue development of this application in order to, among other things, synchronize all violence cases that went through the system with a database of final outcomes.<sup>97</sup>

Data on violence from the perspective of social protection is collected by the National Institute for Social Protection (NISP) from the network of centers for social work and local authorities providing social protection services. NISP collects data in accordance with legal provisions and the duty of monitoring the social protection system entrusted by the Ministry of Labor, Employment, Veteran and Social Affairs. NISP collects data on minor and adult victims of violence and neglect, victims of human trafficking, as well as data on children in proceedings regarding approval of juvenile marriage. In the framework of this system, data is collected on violence reports (to centers for social work), type of family (biological, foster or adopted), age and gender of the victim, form of violence (physical, psychological, sexual, economic etc.), the nature of the relationship between the victim and the perpetrator (marital/extra-marital partner, parent, son/daughter, other family member or blood relative, caretaker, etc.). Apart from this, the database contains information on the type of support provided in cases of violence (material, counselling, forwarding to other authorities, initiating criminal proceedings against the perpetrators, removing the child from the family, legal aid, removing an adult victim from the family). The centers for social work also keep records of protection measures

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<sup>96</sup> The form is available in Serbian at:

[https://www.paragraf.rs/obraci/Obrazac\\_1\\_Evidencioni\\_karton\\_o\\_licu\\_prema\\_kome\\_je\\_izvrшено\\_nasilje\\_u\\_p\\_rodici.pdf](https://www.paragraf.rs/obraci/Obrazac_1_Evidencioni_karton_o_licu_prema_kome_je_izvrшено_nasilje_u_p_rodici.pdf)

<sup>97</sup> Interview was conducted on the 5<sup>th</sup> of June 2018 in MUP offices with the head of domestic violence protection sector, Stana Pantelić

provided to the victims. The records contain data on the number of reports of domestic violence made to the prosecution and police by the centers for social work, as well as the number of findings and opinions delivered to the court or prosecution by the centers for social work. This data is published in regular annual reports on the social protection system, with the last year for which the report is available is 2016<sup>98</sup>. Currently, NISP is improving the record keeping system for cases of domestic violence and violence against children, which should be aligned with legal innovations and Convention requirements. The project of developing a new software for record keeping was supported by UNDP and should be completed by the end of 2018.

In the frame of the health protection system, data on gender based violence is collected and published by the Public Health Institute of Serbia “Dr Milan Jovanovic Batut” (PHI). The database contains information on cases of violence against women registered in the health protection system, separated by region, as well as data on the number of reports to the police and centers for social work. There is separately collected data on women victims of violence who belong to especially vulnerable groups. The data is published through a specialized report, the last having been published for 2016.<sup>99</sup>

The prosecution and courts collect but do not publish data. This data is forwarded to the Statistical Office of RS and published under judiciary statistics. The Statistical Office collects and publishes data by monitoring of perpetrators in two segments – persons against which criminal charges ended and persons against which criminal proceedings ended. Data is separately published for minor and adult criminal perpetrators. Data on the first segment is collected from the prosecution, and for the second from first degree courts. This database covers all perpetrators of criminal acts against which charges were made to the public prosecution and against which proceedings were held and legal procedure ended. Therefore, this information is part of the *Criminal Code* in which the forms of gender based violence and domestic violence defined by the Convention are recognized in several criminal acts – acts against sexual freedom (rape, abuse of incapable persons, child abuse, abuse of power, sexual misconduct etc.) and acts against marriage and family (domestic violence, neglect and abuse, incest, extra-marital relationship with a minor. The data on victims is divided only by gender and age so when the violence isn't domestic, data is missing about the relationship between the perpetrator and the victim.

Data on violence in offense proceedings is not forwarded to the Statistical Office of RS by the courts and is not published.

## Challenges

Administrative data is fragmented, collected through separate systems involved in the prevention and protection against violence and are in line with the jurisdictions and capacities of these systems. Although there is some exchange between systems, primarily concerning registering and forwarding reports, the database is incomplete and inconsistent. It is

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<sup>98</sup> Available in Serbian at: [http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016\\_final.pdf](http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf)

<sup>99</sup> Available in Serbian at:

<http://www.batut.org.rs/download/izvestaji/Rodno%20zasnovano%20nasilje%20u%20RS%202016.pdf>

impossible to gain a reliable image of the overall number of violence cases registered in any part of the system because the system is profiled so that it keeps only records of reports made (one case could have had more reports).

A fragmented system doesn't allow for consistent monitoring of the processing of violence cases, the movement of victims and perpetrators between different parts of the protection system, because of mutual incompatibility of databases, making it difficult to reliably assess the effectiveness and efficiency of the system.

Data on specific forms of violence covered by the convention is not available because the legal basis for defining databases isn't aligned with the Convention (i.e. forced marriage, forced termination of pregnancy and sterilization). The criteria for sorting data are not aligned as well, so the same characteristics of victims and perpetrators cannot be monitored in different parts of the system.

A constant challenge for the government represents the lack of financial resources for the implementation of research on the prevalence of violence against women, so the research is not carried out regularly. Therefore, the policies adopted by the Government of Serbia aren't based on the real situation in the field, resulting in inadequacy of proposed measures and activities related to solving the issue of violence against women. Furthermore, the *Law on the Prevention of Domestic Violence* is impossible to fully implement without by-laws, way past their legal adoption deadlines. The Ministry of Justice, specifically the Public Prosecutor's Office, hasn't adopted a by-law defining the criteria and roles and responsibilities for the establishment and record keeping of the central database. The issue is that individual and central databases foreseen by the law (Article 32) are limited only to reports of violence to the police and information on urgent measures, measures for the protection against domestic violence and individual protection plans.

It will be a challenge to establish unified databases also in relation to other forms of violence against women, not only in relation to domestic violence. Another challenge is represented in the fact that databases of state authorities aren't always made publicly available.

## **Recommendations**

- 1) The administrative data on gender based violence and domestic violence that would be in align with the propositions and principles of the Convention should be maintained through a unified and comprehensive system which would enable a precise and consistent way of monitoring proceedings in all parts of the system. This means that it is necessary to define one institutional mechanism which would be responsible for the synchronization of data from different parts of the system (police, health and social protection, prosecution and courts) and also enable monitoring of the situation in the field from aspects visible through the protection system, as well as to assess the effectiveness of the system and plan its improvement accordingly.***
- 2) It is necessary to organize the way in which data is stored, where it is stored, who and under which circumstances can have access to it and issues of data protection. In the current system it is hard to imagine who could be leading this mechanism, apart from***

*the Statistical Office of RS, which is already overburdened according to a representative. Centralizing the database could contribute to better monitoring over the use of data in line with standards of protection, and the flow of data between parts of the system would enable a better response by individual parts of the protection system. Reporting would become greatly simplified, because the mechanism for the implementation of the Convention could extract data necessary for reporting from one place.*

- 3) It is necessary to urgently and without further delay adopt the necessary by-laws from the Ministry of Justice, defining criteria for the establishment and record keeping of the central database in accordance with the Law on the Prevention of Domestic Violence and by-laws in the scopes of other relevant authorities.*
- 4) Following the example of Ministry of the Interior it is necessary to develop electronic databases by other relevant institutions.*
- 5) It is necessary for the Government of Serbia and state authorities to conduct research and collect relevant statistical data on cases of violence against women regularly and to allocate adequate budget funds for their realization.*
- 6) It is desirable for the research on violence against women to be conducted by specialized institutions and/or organizations, in line with set standards and adequate human and material resources and in cooperation with civil society experts with substantial experience in conduction sociological research.*
- 7) It is necessary to establish a database which would also include data on:*
  - Criminal charges pressed by the police for the act of domestic violence and acts from Article 4 of Low on the Prevention of Domestic Violence*
  - Police reports filed to the public prosecutor on reported domestic violence and acts from Article 4 of Low on the Prevention of Domestic Violence*
  - Decisions of public prosecutors in cases of criminal charges for acts of domestic violence and acts from Article 4 of Low on the Prevention of Domestic Violence*
  - Decisions of public prosecutors related to received reports of domestic violence and acts from Article 4 of Low on the Prevention of Domestic Violence*
  - Court rulings on criminal acts of domestic violence and acts from Article 4 of Low on the Prevention of Domestic Violence*
  - Court rulings on protection measures (detention, restraining order, house arrest, prohibition of leaving the country etc.) for criminal acts of domestic violence and acts from Article 4 of Low on the Prevention of Domestic Violence*
  - Court ruling on requests for initiating offense proceedings due to the violation of urgent measures*
  - Data collected by the Administration for the Enforcement of Criminal Sanctions on the dates of entry into execution of the criminal/offense sanction and the dates of their expiration and release.*

## Research

### **Situation regarding implementation**

Monitoring of the situation regarding the prevalence and characteristics of gender based violence and domestic violence is adequate only when the collection of data through national

research is conducted on a representative sample. Information from official databases of authorities involved in the protection system can provide only a partial image of the act visible to the system. Research conducted in 2010, on a representative example for Central Serbia, showed that less than 10% of the total number of domestic violence victims came forward to an institution in the protection system seeking support. This speaks of only one aspect of the importance of conducting regular research. The research conducted on nationally representative samples is important for a whole range of other aspects on which responses to violence are based: characteristics regarding frequency, the intensity, the form of violence, relationship between victim and perpetrator, factors contributing to violence, effects, obstacles in approaching the support system, experiences of support etc.<sup>100</sup>

Serbia hasn't yet conducted any research based on a representative national sample. Several research activities were done in smaller territories – i.e. Belgrade (World health organization<sup>101</sup>), AP Vojvodina (Victimology's society of Serbia for the Provincial Secretariat for Gender Equality supported by UN Women<sup>102</sup>) and Central Serbia, carried out by SeConS<sup>103</sup> for the purposes of a project for the integrated response to violence lead by the Bureau for Gender Equality with support from UNDP.

This year the first national research will be conducted on the prevalence and characteristics of gender based violence and domestic violence with the support from OSCE based on the model of FRA research conducted throughout the EU. This will be the first research to enable insights into the situation on national level.<sup>104</sup>

Apart from the research on the prevalence and characteristics of gender based violence and domestic violence, specific research was conducted with the focus on different aspects of violence (i.e. research on femicide<sup>105</sup>, media reports on violence<sup>106</sup>, use of firearms in gender

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<sup>100</sup> Babović, M, Ginić, K, Vuković, O. (2010) Mapping of domestic violence in Central Serbia, UNDP, Belgrade. available in English at:

[http://www.rs.undp.org/content/dam/serbia/Publications%20and%20reports/Serbian/UNDP\\_SRB\\_Mapiranje\\_porodичnog\\_nasilja\\_prema\\_zenama\\_u\\_Centralnoj\\_Srbiji.pdf](http://www.rs.undp.org/content/dam/serbia/Publications%20and%20reports/Serbian/UNDP_SRB_Mapiranje_porodичnog_nasilja_prema_zenama_u_Centralnoj_Srbiji.pdf)

<sup>101</sup> WHO (2005) *Multicountry Study on Women's Health and Domestic Violence against Women*. available in English at:

[http://apps.who.int/iris/bitstream/handle/10665/43310/9241593512\\_eng.pdf;jsessionid=566409583656DFDD7EE918E00E8A3464?sequence=1](http://apps.who.int/iris/bitstream/handle/10665/43310/9241593512_eng.pdf;jsessionid=566409583656DFDD7EE918E00E8A3464?sequence=1)

<sup>102</sup> Available in Serbian at: <http://www.vds.rs/Knjige.htm>

<sup>103</sup> Available in English at:

[http://www.rs.undp.org/content/serbia/sr/home/library/womens\\_empowerment/mapiranje-porodичnoghttp://www.rs.undp.org/content/serbia/sr/home/library/womens\\_empowerment/mapiranje-porodичnog-nasilja-nad-zenama.html](http://www.rs.undp.org/content/serbia/sr/home/library/womens_empowerment/mapiranje-porodичnoghttp://www.rs.undp.org/content/serbia/sr/home/library/womens_empowerment/mapiranje-porodичnog-nasilja-nad-zenama.html)

<sup>104</sup> Available in English at: <https://www.osce.org/projects/survey-on-the-well-being-and-safety-of-women>

<sup>105</sup> Mršević Z. (2014) Violence and us, towards a society without violence, Institute for Social Sciences, Belgrade.

available in English at: [http://www.zoricamrsevic.in.rs/knjige/Nasilje\\_i\\_mi\\_final.pdf](http://www.zoricamrsevic.in.rs/knjige/Nasilje_i_mi_final.pdf)

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<sup>106</sup> Mršević Z., (2017) Media in Serbia on gender based violence in 2015 and 2016 – Combating violence – the role of media, UNDP, Belgrade. available in Serbian at:

<http://www.rs.undp.org/content/serbia/sr/home/library/poverty/kako-protiv-nasilja---uloga-medija.html>

- Mršević Z., (2013) Qualitative analysis of media reporting on violence against women in Serbia, pg. 165, UNDP, Belgrade. available in English at: [http://zoricamrsevic.in.rs/knjige/UNDP\\_SRB\\_AnalizaMedija.pdf](http://zoricamrsevic.in.rs/knjige/UNDP_SRB_AnalizaMedija.pdf)

- Mršević Z., (2015) Media in Serbia on gender based violence: between stereotypes and entertainment, pg. 121, (2014), Institute for Social Sciences and UNDP, Belgrade. available in Serbian at:

<http://zoricamrsevic.in.rs/knjige/lzmedju->

[stereotipa-ihttp://zoricamrsevic.in.rs/knjige/lzmedju-stereotipa-i-zabave-s-recenentima.pdf](http://zoricamrsevic.in.rs/knjige/lzmedju-stereotipa-i-zabave-s-recenentima.pdf)

based violence<sup>107</sup> etc.), supported by different international donors and having significant impact.<sup>108</sup>

## Challenges

Research on the prevalence and characteristics of gender based violence and domestic violence cannot be part of other statistical research (i.e. general research on criminality or citizenship, health etc.) but must be separate due to a range of specifics, including the fact that it represents research on a sensitive topic. The challenge is to ensure the conditions for this research to become regular practice in the future, and for which funds should be allocated and legal basis provided (if, for instance, it becomes part of regular research conducted by the Statistical Office of RS). It is not advisable for this research to be done by commercial agencies, the most optimal solution being the Statistical Office conducting it in cooperation with non-governmental organizations dealing with violence protection and gender equality who can offer well-trained researchers. This way the quality and standards of methodological

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recenzentima.pdf

<sup>107</sup> Spasić, D., Tadić, M. (2017) Abuse of firearms and gender based violence, Center for the Research of Public Policies, Belgrade. Available in Serbian at:

<http://www.publicpolicy.rs/publikacije/dfc34db7ac4716d34a86798a0c8096e4e235ec75.pdf>

<sup>108</sup> Nikolić – Ristanović V. (2013) Monitoring of application of legal solutions in cases of domestic violence in Serbia: finding of the pilot research, UN Women, Belgrade. Available in Serbian at:

<http://www.vds.rs/File/PracenjePrimeneZakResONasiljuUPorodiciUSrbiji.pdf>

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[http://www.mpn.gov.rs/wpcontent/uploads/2015/08/Istrazivanje\\_rodno\\_zasnovanog\\_nasilja\\_u\\_skolama\\_u\\_Srbiji.pdf](http://www.mpn.gov.rs/wpcontent/uploads/2015/08/Istrazivanje_rodno_zasnovanog_nasilja_u_skolama_u_Srbiji.pdf)

- Surviving violence – effects on psychological and physical health of victims of domestic violence and human trafficking (2015), Astra, Belgrade. Available in English at:

<https://drive.google.com/file/d/1CpCcF9iqJhlsizhVLXCLqbnbRHRcVIN-/view>

- First national study on the social issue of child molestation in Serbia (2015), Incest Trauma Center in partnership with the Ministry of Education and Center for the Promotion of Women's Health), Belgrade. Available in Serbian at: <http://www.hrcvr.org/attachment/32/Preliminarni%20izvestaj%20http://www.hrcvr.org/attachment/32/Preliminarni%20izvestaj%20ITC%20Nacionalna%20studija%202015.pdf>

The research included 2053 pupils and 532 parents.

- Institutional response in cases of domestic violence (2016), Provincial Ombudsperson, Novi Sad. Available in English at:

<http://www.ombudsmanapv.org/riv/attachments/article/1850/Istrazivanje-2016-Nasilje%20u%20porodici%20i%20institucije.pdf>

- Gender analysis of the Law on Asylum – implementation of the gender equality principle in the asylum system in Serbia (2016), Belgrade Center for Human Rights, Belgrade. Available in English at:

<http://www.bgcentar.org.rs/bgcentar/wpcontent/uploads/2017/08/Rodna-analiza-Zakona-o-azilu.pdf>

- Violence against children in Serbia – determinants, factors and interventions, national report (2017), UNICEF, Belgrade. Available in Serbian at: [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/09/Nasilje\\_prema\\_deci\\_u\\_Srbiji\\_Nacionalni\\_izvestaj.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2017/09/Nasilje_prema_deci_u_Srbiji_Nacionalni_izvestaj.pdf)

- Despotović, V. (2017) Analysis of the efficiency of the psycho-social programme for perpetrators of domestic violence, Faculty of Political Sciences, Belgrade. Available in Serbian at:

[http://www.fpn.bg.ac.rs/wpcontent/uploads/2017/11/Vera\\_Despotovic\\_Disertacija\\_FPN.pdf](http://www.fpn.bg.ac.rs/wpcontent/uploads/2017/11/Vera_Despotovic_Disertacija_FPN.pdf)

- Marković, J. Cvejić, M. (2017) Violence against women and girls in refugee and migrant population in Serbia, Atina, Belgrade. Available in Serbian at:

<http://www.atina.org.rs/sites/default/files/Nasilje%20nad%20C5%BEenama%20i%20devoj%20i%20migrantskoj%20populaciji%20u%20Srbiji.pdf>

- Underage marriage in Serbia – analytical report (2017), UNICEF, Belgrade. Available in Serbian at:

[https://www.unicef.org/serbia/Decji\\_brakovi\\_u\\_Srbiji\(1\).pdf](https://www.unicef.org/serbia/Decji_brakovi_u_Srbiji(1).pdf)

procedure will be aligned with competent human resources that would easily be trained for a concrete research.

## **Recommendations**

*It is necessary to include research on gender based violence and domestic violence in regular statistical research conducted periodically in the Republic of Serbia based on a nationally representative sample. It is advisable for this research to be comparable to other countries in the region and in Europe, which will ensure better data comparison. For this purpose, it is necessary to equip the Statistical Office of RS with adequate legal and political support, as well as material and human resources. The latter can be ensured by civil society organizations active in the field, along with universities having senior year students in relevant fields (psychology, sociology, social work, pedagogy, andragogy, anthropology etc.)*

## Chapter III: Prevention

### Article 13 – Awareness-raising

#### **Convention requirements**

- 1) Parties shall promote or conduct, on a regular basis and at all levels, awareness-raising campaigns or programmes, including in co-operation with national human rights institutions and equality bodies, civil society and non-governmental organisations, especially women's organizations, where appropriate, to increase awareness and understanding among the general public of the different manifestations of all forms of violence covered by the scope of this Convention, their consequences on children and the need to prevent such violence.
- 2) Parties shall ensure the wide dissemination among the general public of information on measures available to prevent acts of violence covered by the scope of this Convention.

#### **Situation regarding implementation**

Raising awareness about gender based violence and domestic violence is of great importance in Serbia, having in mind that gender stereotypes supporting patriarchal structures and power relations are still present and the level of tolerance towards violence is high. In the scope of research on gender stereotypes in the Western Balkans and Turkey, conducted in 2017 by the regional office of UN Women, a mapping of successful campaigns for gender stereotype elimination, especially the ones justifying or encouraging violence against women in a way that is defined by the Council of Europe *Convention on the Prevention and Combating Violence Against Women and Domestic Violence*. The mapping identified a number of successful campaigns conducted over the previous years in Serbia, and directed at different target groups.

Campaigns done among youth, empowering girls and women to recognize violence in the relationship and oppose violent partner relationships usually manifested in different forms of control, conditioning and denial of freedom were evaluated as very successful („I can refuse“,

Autonomous Women's Center<sup>109</sup>). There were very successful campaigns directed at young men („Be a man“, Center E8<sup>110</sup>). They influenced the transformation of their male identities and understanding what it means to be a man, which in our culture means the use of violence as a means of communication (bullying, gender based violence, violence as 'protection of honor' etc.). These campaigns are of great importance because, as visible in the results of regional research, men support attitudes justifying violence and even advocate for violence against women much more frequently than women.

Campaigns related to programmes for economic empowerment of women victims of violence were also evaluated as successful („Empowerment“, B92 Foundation<sup>111</sup>), simultaneously contributing to their perception of opportunities to oppose violence and making them economically independent and leave the situation they suffer for years.

Apart from the mentioned campaigns, it is important to point out the documentary series „Before it's too late: firearms and gender based violence – towards a culture of responsible gun ownership“, aired during 2017 on the Radio Television of Vojvodina (RTV) and produced by Playground with the support from the EU Delegation in Serbia. The success and dissemination of project results were strengthened by a webpage and Facebook page, as well as a mobile platform with the same name, along with a series of public debates and other programmes raising the visibility of the topic among the public.<sup>112</sup>

On the territory of AP Vojvodina it is important to mention the project „Efficient informing of women about the phenomenon of violence“ which was realized during 2015 and 2016 by the Provincial Office for Gender Equality in cooperation with Center for Support of Women. This project included the education of journalists and editors and support to production of media content that later became recognized as best practice examples in reporting on violence against women. Unfortunately, this content is no longer available on the webpages of the Office.

Through participative consultations carried out in the process of creating this report, civil society organizations pointed out a number of other campaigns and best practice examples of raising awareness about violence, like the March for women's rights held on the 8th of March in Belgrade and supported by a large number of organizations and activists, then campaigns aiming to raise awareness about the issue of early and forced marriage, like „Stop arranged marriage and violence against girls“, the campaign „In the name of the victims of sexual violence, in the name of girls and women who were raped“, as well as a number of campaigns carried out by Association Altina aimed at raising awareness about human trafficking.

Intense awareness raising activities and carried out by civil society organizations during 16 days of activism, a global campaign. Under this campaign, numerous local advocacy and awareness raising activities take place.

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<sup>109</sup> Available in English at: <http://mogudanecu.rs>

<sup>110</sup> Available in Serbian at: <http://e8.org.rs/startovao-projekat-budi-musko-plus/>

<sup>111</sup> Available in Serbian at: <http://fondb92.org/sr/onasnazivanje.1.65.html>

<sup>112</sup> Available in Serbian at: <http://doknijekasno.net/>

## Challenges

There is a very small number of campaigns organized in partnership between state institutions and non-governmental organizations, mostly being small local campaigns. Additionally, financial support to campaigns is weak and the donors and the state do not foresee sufficient opportunities to finance these campaigns within their programmes. The campaigns are usually of limited reach and rarely carried out on national level. Often they are thematically narrow and focused on small target groups, with messages reaching only a small number of citizens. The organizations that implemented campaigns in the reference period point out that it is not an easy task to mobilize celebrities to be campaign ambassadors, nor is it an easy one to choose channels of communication, the ones known to be massive, sending messages to a large number of citizens is expensive (TV and radio). One of the challenges is related to the assessment of the effects of campaigns aimed at changing attitudes and behaviors. Not only is it difficult to assess campaigns effects based on the complexity of evaluation methodology used, but also based on limited resources and projects directed towards this assessment.

Campaign resources are not distributed adequately. Specifically, campaign funds were allocated to media outlets previously under investigation for violating the Ethical Code.<sup>113</sup> Also, the campaigns cannot produce adequate effects if there is simultaneous media promotion of politicians and public personalities affirming and tolerating specific forms of violence.

## Recommendations

- 1) It is necessary to carry out a number of wide (in a sense of policy scope) awareness raising campaigns, which the state should systemically plan and carry out on central level, using channels of mass communication (national media services).**
- 2) It is necessary to include the business sector in awareness raising campaigns.**
- 3) It is necessary to de-politicize the campaigns and not use them for the purposes of promotion of party activities and officials in the election process.**
- 4) It is necessary to ensure greater financial support for the campaigns, especially raising state funding.**
- 5) It is necessary to offer innovative ideas, different approaches to campaign planning that are more in line with particular target groups and more encouraging for the target groups to take active participation.**
- 6) It is necessary to ensure the widest possible support from all relevant actors during planning and carrying out of campaigns**

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<sup>113</sup> Decisions by the Council for Printed Media can be found at: <http://www.savetzastampu.rs/odluke.html>

## Article 14 - Education

### **Convention Requirements:**

- 1) Parties shall take, where appropriate, the necessary steps to include teaching material on issues such as equality between women and men, non-stereotyped gender roles, mutual respect, non-violent conflict resolution in interpersonal relationships, gender-based violence against women and the right to personal integrity, adapted to the evolving capacity of learners, in formal curricula and at all levels of education.
- 2) Parties shall take the necessary steps to promote the principles referred to in paragraph 1 in informal educational facilities, as well as in sports, cultural and leisure facilities and the media.

### **Situation regarding implementation**

Since the middle of 2000s, when the mechanisms and policies for gender equality started being developed in Serbia, attention was given to the role of formal education in the change of attitudes about gender relations. Research was conducted and multiple studies were made with the aim of gaining insight into how gender relations are presented in programmes and materials of elementary and high schools<sup>114</sup>, as well as whether and how curriculums on gender studies are part of university education<sup>115</sup>. These analyses contributed to creating an image of how formal education influences the reproduction of gender inequality and pointed to necessary reforms in order to initiate fundamental changes from the early ages and on all levels of education.

There are very little analyses that give a central role to a specific problem of gender based violence and domestic violence. Research on gender based violence in schools<sup>116</sup> shows that even among students and teachers there are attitudes tolerating violence. Thorough analyses of school programmes and materials from the position of influence on attitudes about gender based violence and domestic violence haven't been conducted thus far. Analysis of elementary school textbooks between the 1<sup>st</sup> and the 8<sup>th</sup> grade indicates to an abundance of content depicting violence, even gender based violence, including its most extreme form – femicide<sup>117</sup>. However, there are no findings on the way in which educational staff interprets and analyzes these texts with pupils, nor how the pupils understand and whether they cultivate a critical attitude towards these texts. Also, analysis of syllabus content of gender studies existing in

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<sup>114</sup> Čeriman, Jelena, Milutinović Bojanić, Sanja, Pudar, Gazela (2011), „Serbia at the Crossroads. Gender Inclusiveness in Higher Education: Real or just Wishful Thinking?“, u L. Grunberg (prir.), From Gender Studies to Gender IN Studies Case Studies on Gender-Inclusive Curriculum in Higher Education, Bucharest: UNESCO – Cepes, pgs. 185–210;

- Jarić, Vesna (ur.) (2013), Gender equality in vocational education: attitudes and role of high-school professors and associates in advancing gender equality, GIZ, Belgrade;

- Stjepanović-Zaharijević, Dragana, Gavrilović, Danijela, Petrušić, Nevena (2010) Education for Gender Equality: Analysis of educational materials in elementary and high schools, UNDP, Belgrade;

- Stefanović, J. i Glamočak, S. (2008) “Do school books have gender? Gender in school books in elementary school”, Methodics and Didactics, pgs. 27 - 50

<sup>115</sup> Baćević, J, Blagojević, J, Duhaček, D, Džamonja-Ignjatović, T, Vukasović, M, Popović, D, Zaharijević, A. (2010) Analysis of the gender dimension in high-school education materials, UNDP, Belgrade

<sup>116</sup> Čeriman, Jelena et al. (2015), Research on gender based violence in schools in Serbia. Center for the Study of Gender and Policy, Faculty of Political Sciences of the University of Belgrade and UNICEF Serbia

<sup>117</sup> Stefanović, Glamočak (2008)

several faculties in Serbia hasn't been conducted and it is not known whether and in which way educational content related to gender based violence and domestic violence is being presented.

## **Challenges**

Although there is different research on the content of textbooks and educational programmes, there is a lack of systemic, regular and consistent assessment of these materials from the perspective of influence on attitudes and behaviors regarding gender based violence and domestic violence. Additionally, there is a lack of analyses of programme content of institutions educating professionals working in the system of violence protection: legal and medical studies, social work, police academy, pedagogy faculties and vocational schools for educators.

During the reference period, there was also no systemic training of educational staff and their sensitization which would create zero tolerance to violence and enable a systemic approach to the way they promote it among pupils, ensuring their recognition of gender based violence and domestic violence and critical attitude towards it;

The lacking offer of systemic programmes on gender based violence and domestic violence on higher education institutions within gender studies, as well as within other study programmes educating professionals in different fields within the violence response system.

## **Recommendations**

- 1) To conduct systemic analysis of study programmes and make recommendations for their improvement, based on the propositions and principles of the Convention**
- 2) Include the principle of adequacy in procedures of approval of textbooks for elementary and high schools in view of content related to gender based violence and domestic violence**
- 3) Systemic sensitization of elementary and high school teachers, as well as preschool educators, towards gender responsive work including zero tolerance for violence and the ability to adopt this attitude through educational practice among children**

## Article 15 – Training of professionals

### **Convention requirements:**

1. Parties shall provide or strengthen appropriate training for the relevant professionals dealing with victims or perpetrators of all acts of violence covered by the scope of this Convention, on the prevention and detection of such violence, equality between women and men, the needs and rights of victims, as well as on how to prevent secondary victimisation.
2. Parties shall encourage that the training referred to in paragraph 1 includes training on co-ordinated multi-agency co-operation to allow for a comprehensive and appropriate handling of referrals in cases of violence covered by the scope of this Convention.

## **Situation regarding implementation**

The organizations gathered around the initiative for drafting this shadow report haven't participated in many trainings during the reference period (2016 – 2017). An exception is NGO Atina carrying out 14 different trainings over these two years, mainly in the field of migration, position of migrant woman and their exposure to violence, human trafficking and protection of these vulnerable categories against violence.

An important contribution to the development of capacities in the system of support to victims of violence were the trainings carried out through the project „Stop – Protect – Help – Strengthening Institutional Response to Gender Based Violence in AP Vojvodina“ realized by the Provincial Secretariat for Health in partnership with Center for Support of Women from Kikinda, supported by The UN Trust Fund to End Violence against Women. These trainings are specific by the fact that along workshops on gender based violence, they provide specialized training related to proceedings in cases of sexual violence. Trainings are organized for professionals in the health protection system, through an accredited programme of the Medical Faculty, aiming to build the capacities of around 1500 employees in medical institutions in AP Vojvodina. Apart from this, an important segment represent the trainings for representatives of all sectors within the protection system, aiming to introduce new legal procedures to professionals, raise their level of knowledge, competencies and sensitize them to the issue of gender based and sexual violence, as well as improve multi-sectoral cooperation. It is important to add that these trainings were attended by three times more professionals than it was initially planned in the project.<sup>118</sup>

Besides this, organizations conducted personnel training through organizing case conferences, as well as trainings on the implementation of the *Law on the Prevention of Domestic Violence* (AZC, Astra), etc.

## **Challenges**

Accreditation of educational programmes is timely and complex, creating immense pressure on the scarce human resources and other capacities of civil society organizations, especially the small ones, who find it difficult to allocate adequate human resources for this task. The motivation of a large number of professionals to participate in the trainings, according to organizations conducting them, is very low. Most often the trainings are approached as a formality in order to collect points for professional advancement, the trainings are attended without dedication and adequate attention

Projects containing trainings usually don't leave enough funds or time to evaluate their effects after a certain period of time and gain insight into how new knowledge and skills are applied in practice and what are the obstacles for applying them.

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<sup>118</sup> Available in Serbian at: <http://projekti.zdravstvo.vojvodina.gov.rs>

Non-systemic insight from the experience of organizations point to new knowledge and skills not applied sufficiently in everyday professional practice. There is a noticeably low exchange of new experiences between professionals working in different parts of the protection system regarding the application of new knowledge and skills ensuring synergy in future common actions.

## **Recommendations**

- 1) It is necessary to include policy makers into the professional category, given that their competence is of great importance to the adequacy of policies and measures defined on different levels**
- 2) Adequate resources and better working conditions ensuring the application of new knowledge and skills**
- 3) Systemic training of professionals from parts of the system previously not included on the implementation of the new Law on the Prevention of Domestic Violence (centers for social work, health workers)**
- 4) Continuity of trainings for professionals from different institutions of the protection system, not ad hoc trainings**
- 5) Organizing meetings periodically after trainings in order to exchange experiences of applying new knowledge by professionals from different institutions in the protection system and provide insight into the obstacles preventing the application of new knowledge and skills**
- 6) Give advantage to trainings developed and conducted by non-governmental organizations since they are based on the victims' needs and years of experience in working with victims**
- 7) Specific trainings on gender based violence and domestic violence should be prepared through basic gender sensitizing and trainings on the basic terms of gender, seks, gender inequality, stereotypes and prejudice, in order to understand why violence occurs and prevent shallow understanding of this occurrence**
- 8) It is important to strengthen the component of mid-term mentoring after the trainings, in order for the professionals to become confident in their new working methods and receive support in overcoming specific obstacles in the application of new knowledge and skills**
- 9) It is necessary to conduct special trainings on specific needs and approaches to providing protection to women from vulnerable groups, Roma women, women with disability, women from rural areas, elderly women, single mothers etc.**

## Article 16 – Preventive intervention and treatment programmes

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to set up or support programmes aimed at teaching perpetrators of domestic violence to adopt non-violent behaviour in interpersonal relationships with a view to preventing further violence and changing violent behavioural patterns.
- 2) Parties shall take the necessary legislative or other measures to set up or support treatment programmes aimed at preventing perpetrators, in particular sex offenders, from re-offending.
- 3) In taking the measures referred to in paragraphs 1 and 2, Parties shall ensure that the safety of, support for and the human rights of victims are of primary concern and that, where appropriate, these programmes are set up and implemented in close coordination with specialist support services for victims.

### **Situation regarding implementation**

The programmes for work with perpetrators are not sufficiently developed in Serbia. Through a project supported by UNDP, 120 experts from the network of centers for social work were trained through an accredited programme for work with perpetrators. These programmes aren't implemented in all centers for social work. However, representatives of centers often state they conduct work with perpetrators through other counseling services for families, which is not in line with the standards of work with perpetrators and cannot be taken as an adequate programme for this type of work.

Among non-governmental organizations there was very little initiative so far. Men 's Crisis Center, an NGO formed in 2012, conducted activities directed towards perpetrators of violence which represents an adapted version of the Norwegian programme Alternative to Violence. In 2015, the national network for treatment of perpetrators of domestic violence (OPNA) was established with the aim to ensure further development of programmes for work with perpetrators of violence and continually promote the work and networking of service providers.

The network consists of consists of 11 organizations from 8 cities in Serbia, mainly Centers for Social Work (Nis, Krusevac, Novi Sad, Subotica, Leskovac, Kragujevac, Beograd and several citizen's associations (Men 's Crisis Center, IAN, Ideas). However, these are all seed initiatives not yet grown into a systemic development of this type of social protection service.

### **Challenges**

Treatments established so far are mainly realized by state institutions, while non-governmental organizations haven't secured financial support from the state to systemically develop these types of programmes. The majority of existing treatments are based on conducting ten meetings with the perpetrators, which doesn't allow for an adequate treatment process. There is also the question of motivation of perpetrators for enrolling in the programmes, which can be a manipulation in order to gain new control over the situation. Allocation of adequate financial support for the protection of women and children who

suffered violence is still not implemented, so there is a risk that developing parallel programmes for perpetrators will subsequently decrease the funding for victim support therefore making these programmes competitive instead of complementary.

## **Recommendations**

- 1) It is necessary to establish programmes for work with perpetrators which would be more comprehensive and foresee continued observation of the family and the effectiveness of the treatment**
- 2) It is necessary to guarantee the safety of the victim and ensure support during these treatments.**
- 3) Programmes for work with perpetrators should cover all forms of violence, including all forms of sexual violence, not only rape**

## Article 17 – Participation of the private sector and the media

### **Convention requirements**

- 1) Parties shall encourage the private sector, the information and communication technology sector and the media, with due respect for freedom of expression and their independence, to participate in the elaboration and implementation of policies and to set guidelines and self-regulatory standards to prevent violence against women and to enhance respect for their dignity.
- 2) Parties shall develop and promote, in co-operation with private sector actors, skills among children, parents and educators on how to deal with the information and communications environment that provides access to degrading content of a sexual or violent nature which might be harmful.

### **Media**

#### **Situation regarding implementation**

The field of media reporting on violence against women isn't explicitly regulated by any provision, but a range of by-laws can be indirectly applied to it<sup>119</sup>, *Ethical Codes*<sup>120</sup> (several Serbian Journalist Codes adopted by the Media Council and Journalist Associations), as well as provisions of public policies<sup>121</sup> related to the obligation of honest and timely reporting, protection of human dignity, anti-discrimination etc. In cases of violations of ethic standards, citizens can approach the Regulatory Body for Electronic Media, as well as the Commissioner for the Protection of Equality, Ombudsperson, Commissioner for the Protection of Information of Public Interest and the Protection of Personal Information and finally, to courts.

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<sup>119</sup> *Law on Public Information and the Media*, Official Gazette of the Republic of Serbia No. 83/2014, 58/2015, 12/2016; *Law on Electronic Media*, Official Gazette of the Republic of Serbia No. 83/2014 and 06/2016; *Law on Broadcasting*, Official Gazette of the Republic of Serbia No. 42/2002, 97/2004, 76/2005, 79/2005, 62/2006, 85/2006, 86/2006

<sup>120</sup> Available in Serbian at <http://nuns.rs/codex/ethicalcode.html>

<sup>121</sup> *National Strategy for Gender Equality 2016 – 2020*, Official Gazette of RS, no.4/2016. *Strategy for the Development of the Public Information System in Serbia 2016*; Official Gazette of RS, no.51/2010.

Monitoring of media reporting on violence against women in Serbia shows that media content is still characterized by sexism and misogyny.<sup>122</sup> Media express and encourage patriarchal cultural norms and stereotypical gender roles of women and men. They implicitly affirm the belief that perpetrators 'have the right', as men, to react violent in some situations (ie suspecting infidelity, disobedience etc.). Media analysis shows that this behavior could act as a form of male solidarity with the perpetrator and also as a way of indulgence to the governing public stereotypes. Analysis concludes that cases of violence are presented as individual, isolated, private problems of a concrete victim and a concrete perpetrator, and this relativizes responsibility which is then shown as 'mutual guilt' of victim and perpetrator. The victims are often presented in a negative context, with suggestive titles of articles having misogynous content. The results show that special damage is done by articles containing quazi-scientific analysis of violence, based on gender stereotypes and half-truths. There is a noticeable disregard of principles of journalist ethic when revealing identities of persons involved in violence against women – photographs of victims are published, identification of minor and adult victims or relatives, addresses, employers, schools etc. In cases of Roma actors in violent events, „all this degrades to a complete disregard of professional ethic“ (Mrsevic, 2017: 7). Reports on violence are colored by sensationalism, altogether painting a very unfavorable image of media reporting on violence against women.

In cases of femicide, on one hand it is important that the media reports on this heaviest of all forms of violence and enable public information as well as to contribute to reporting on the number of cases on which no official information is published. Media reports suggest femicide is one of the most predictable forms of murder, preceded by long-term violence against a woman that is not sanctioned, nor prevented. On the other hand, reporting on femicide is flawed, the term itself is rarely used and it's roots are often sought in alcoholism, jealousy, immediate verbal conflict and other circumstances hiding the essential cause – aggressive hegemonistic masculinity.<sup>123</sup>

When reporting on sexual violence, the main flaw is visible in the fact that reports are published usually on cases with identified and arrested persons against whom the police concluded there is reasonable suspicion they have committed the criminal act of rape or against whom criminal proceedings are under way. There is a complete absence of reports on cases that happened, but potential perpetrators haven't yet been identified and arrested.

The main media novelty is broadcasting statements made by highest state officials in which they condemn violence against women and vow to take systemic measures towards improving the response to violence. These statements were made after especially difficult cases of violence alarmed the public.<sup>124</sup> At the same time, there is a presence of contradictory

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<sup>122</sup> Mršević Z., (2017) *Media in Serbia on gender based violence in 2015 and 2016 – Combating violence – the role of media*, UNDP, Belgrade

<sup>123</sup> Available in Serbian at: <http://www.zoricamrsevic.in.rs/biblio-teorija.php> ;  
<http://www.zoricamrsevic.in.rs/knjige.php>

<sup>124</sup> Novosti online, (21.7.2017). *Siniša Mali fired the director of the Center for Social Work Belgrade*. Available in Serbian at: <http://bit.ly/2H0XsH> (accessed 01.02.2018) M. Jovičević, (28.08.2017). *The murder of Olga Lovrić: Start of disciplinary proceedings against seven social workers for malpractice*, Blic online. Available in Serbian at:

statements made by other public officials or politicians that support gender stereotypes and thus create a fertile ground for the tolerance of violence (more in the section covering due diligence).

There were good and bad examples of media reports on violence, ie analysis of the phenomenon. The weekly Vreme published an insert on violence against women. This proved to be a good combination of campaign and involvement of professional public because the panel contents were later published. Daily Danas published an insert on gender equality which was also project funded.

## **Challenges**

The deterioration of media liberty and private ownership over them which is becoming increasingly linked with representatives of the political elite creates an unfavorable environment for responsible reporting on any problem, including gender based violence. Editorial policies that link the commercialization of media to sensationalism create conditions for tabloid reporting on gender based violence. There is insufficient influence of online media on the widest public where space could be used for honest reporting on gender based violence. There is increasingly less space in the media, even national services, for investigative and educational programmes through which the public would be presented with gender based violence in a more adequate way. Journalist trainings aren't effective in the context of unfavorable editorial policy.

## **Recommendations**

- 1) Systemic and organized monitoring of media reporting by the civil sector, with a swift reaction to inadequate reporting and call to action of independent protection institutions.**
- 2) Gender sensitizing of editorial staff and journalists to gender based violence.**
- 3) Improved cooperation between civil society organizations active in the field of violence protection and feminist organizations and media, which would improve the completeness of the report on violence and open topics to which CSO's have expertise.**
- 4) Incorporation of content related to gender based violence into study programmes of journalists, in order to educate the students as early as possible.**

## Private sector

### **Situation regarding implementation**

Private sector is usually involved sporadically in initiatives linked to the prevention and combatting against gender based violence and domestic violence. Systemic efforts to involve the private sector were made only in AP Vojvodina through the *Programme for the Protection*

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<http://bit.ly/2pxnWh7> (accessed 01.02.2018) M. Jovićević (10.8.2017). *Murders at Centers for Social Work – Control finds malpractice, investigation ongoing*, Blic online. Available in Serbian at: <http://bit.ly/2u7xDIu> (accessed 01.02.2018) Conclusions and recommendations from the Ombudsperson available in Serbian at: <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4833-2016-07-28-08-59-32> (accessed 01.2.2018)

of Women against domestic and partner violence 2014 – 2020 and in components related to economic empowerment of women who suffered domestic violence or partner violence. Within the frame of this programme, supported by UN Women in partnership with the Serbian Employers Union, employment initiatives were implemented. Examples of corporate social responsibility were improved and promoted, covering programmes for the employment of women who suffered violence.

In the frame of the project „Role of corporate social responsibility in the support to women who suffered domestic and partner violence“ realized during 2015 and 2016, a memorandum of cooperation was signed between the Union of Employers of Vojvodina and SOS Vojvodina Network. A manual was created on models of cooperation between civil society, institutions and employers in the fight against gender based violence<sup>125</sup> in which the principles of corporate social responsibility and definitions of violence against women were presented and different models of cooperation proposed.

## **Challenges**

In circumstances of weakly developed corporate social responsibility in the private sector, initiatives directed towards protection of women and children against violence are very rare. On the other hand, initiatives directed towards the private sector by state authorities providing support services are also underdeveloped. There is no cooperation between centers for social work, employment bodies and employer associations that could ensure employment services are included in the support package to the victims.

Also, there are not enough developed initiatives of citizens' associations directed towards the private sector in view of information about the problem, the importance of support, possibilities of the private sector to contribute to the prevention and combatting against domestic violence and support to victims through different initiatives, from sponsorship, philanthropy to employment. Mechanisms for the protection of women against gender based violence in the workplace aren't developed and there is no systemic awareness raising among employers about the need to establish such mechanisms and ensure the prevention and adequate response to gender based violence in the workplace.

## **Recommendations**

- 1) Informing of the private sector about gender based violence in the workplace.**
- 2) Informing of the private sector about possible forms of support to the protection system through philanthropy, donations.**
- 3) Establishment of cooperation between the protection system and private sector through special programmes for the employment of women who suffered violence.**

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<sup>125</sup> Available in Serbian at: [http://sosvojvodina.org/wp-content/uploads/2015/10/SOS-Vojvodina-Unija-Poslodavaca-MODEL-saradnje-Publikacija\\_A5.pdf](http://sosvojvodina.org/wp-content/uploads/2015/10/SOS-Vojvodina-Unija-Poslodavaca-MODEL-saradnje-Publikacija_A5.pdf)

## Chapter IV: Protection and support

### Article 19 – Information

#### **Convention requirements**

Parties shall take the necessary legislative or other measures to ensure that victims receive adequate and timely information on available support services and legal measures in a language they understand.

#### **Situation regarding implementation**

Civil society organizations engaged in the prevention of gender based violence and domestic violence have developed activities for the support of victims through providing information to the target group about their rights and disposable protection services. Information is carried out in different ways – through direct contact when the victims come to organizations for help (counselling, SOS hotlines etc.), indirectly, by distributing information materials, brochures, leaflets about forms of support. Women also have at their disposal the information provided by numerous Women's organizations working with victims of violence. This way, „Women Against Violence“ Network provides information on its portal [www.zeneprotivnasilja.net](http://www.zeneprotivnasilja.net) about services of all Network members; SOS Vojvodina Network provides information to women on the Internet page [www.sosvojvodina.org](http://www.sosvojvodina.org); Autonomous Women's Center along with six other local partner organizations (Pescanik from Krusevac, Women's Center from Uzice, Osvit from Nis, ...From the Circle Vojvodina from Novi Sad, Center for Support of Women from Kikinda and SOS hotline from Vranje) conducts systemic information of women about the jurisdiction of CSWs, police and justice by printing and distribution of information materials, all in the frame of the project „Joint Effort – towards new european standards in the protection of women against gender based violence“. Women's Center Uzice, with the support of Autonomous Women's Center, prepared posters with information dedicated to women victims of violence, distributed in 10 municipalities of the Zlatibor region. Osvit provides information to Roma women on Romani language. In order to inform the general public media appearances are used, especially in local media. Promotional materials contain basic information necessary for the recognition of violence, explain forms of violence and give emergency numbers through which women can contact support services.

Organizations that publish promotional materials in minority languages are rare. As an example we can state the Roma Association of Novi Becej and Roma Association Osvit who print brochures about available services in Serbian and Romani languages. These brochures are handed out directly to citizens and institutions who can further distribute them to the users of their services. SOS Women's Center Novi Sad published information in Hungarian and Slovak languages. NGO Atina, who works with refugee and migrant population uses the services of cultural mediation developed during the refugee crisis, and specific information materials are created in dominant languages of this population.

Drawing from NGO experience of work with violence victims, there are identified cases where state authorities haven't adequately informed women about their rights, available forms of support or even realized forms of support provided by another authority (ie imposed

protection measures). There is a common practice for institutions to not inform women victims of violence about the measures imposed on the perpetrators. Even when they inform them, it is sporadic, usually by the police and dependant on the person, usually the police officer in charge. NGO Osvit has recorded a case where the police imposed restraining orders on the perpetrator, but the woman wasn't informed. According to information gathered by SOS Vojvodina Network, more than 60% of women who request support through the SOS Vojvodina hotline state that institutional representatives didn't sufficiently inform them about who to go to for help, what support services are at their disposal, what is the role of specific institutions, where they can submit claims against the conduct of authorities in charge etc.

## **Challenges**

Information is often done through old-fashioned and uncreative ways. Information materials are often not available in minority languages. This is especially the issue in cases of Roma women who, under pressure from early marriage, leave education and deal with difficulties to understand written information on Serbian language. Information is usually not in line with the women's needs, not adapted adequately, ie for women with disabilities, women from multiply marginalized groups, illiterate women, women from the migrant population etc. Apart from all this, the information is not sufficient if there is no trust in authorities because women won't act on them.

## **Recommendations**

- 1) It is necessary to get to know the target group and its needs well, as well as information modalities appropriately accessible to this group.**
- 2) It is necessary to allocate more funds for diverse and creative forms of information.**
- 3) It is necessary to continually inform on support services throughout the year.**
- 4) It is necessary to ensure information in minority languages.**
- 5) It is necessary to publish information on available services in visible spaces, in health centers, centers for social work, police stations, schools, kindergartens, asylum centers, rural areas etc.**
- 6) It is necessary to increase the use of printed and electronic media in information with as much concrete data and contacts as possible.**
- 7) Information should contain as much as possible the detailed procedures, obligations of institutions and who they can come to for protection against rights violations.**

## Article 20 – General support services

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that victims have access to services facilitating their recovery from violence. These measures should include, when necessary, services such as legal and psychological counselling, financial assistance, housing, education, training and assistance in finding employment.
- 2) Parties shall take the necessary legislative or other measures to ensure that victims have access to health care and social services and that services are adequately resourced and professionals are trained to assist victims and refer them to the appropriate services.

### **Situation regarding implementation**

Through the *Law on Social Protection of RS*<sup>126</sup>, the *National Strategy for Gender Equality 2016 – 2020*, *Rulebook on conditions and standards for the provision of social protection services (2013)*<sup>127</sup> it is foreseen to establish a number of general support services for women from vulnerable groups, including women victims of violence. The strategy proposes support measures for accommodation, through support in the form of social housing and temporary stay in institutions, through measures of stimulating employment, introduction of special subsidies for employment as well as access to services for the care and custody of children. General services for victims of gender based violence and domestic violence aren't sufficiently developed in Serbia. The majority of state institutions providing some of the key services don't recognize women victims of violence as a specific category, in relation to which they should have special measures.

Employment is achieved in most part through the network of local branch offices of the National Employment Service. This institution incentivizes employment through different measures in the job market, ie professional practice, attainment of practical knowledge, clubs for active job-seeking, additional professional training, training for starting a business, active job-seeking training, job market training, employer required training, functional elementary education for adults etc. Apart from this, employment services provide professional counselling, organize job fairs, provide support for the employment of persons with disabilities, organize the youth employment fund and mediate employment of foreign workforce, issuing work permits to foreigners and having a migrant service center. Women victims of violence aren't recognized as a particularly vulnerable category entitled to the ease of access to specially planned programmes of economic empowerment and employment. An exception being the aforementioned programme for economic empowerment being implemented in Vojvodina.

Housing is another important need of women victims of violence and, according to the *Law on Social Housing*<sup>128</sup> (Article 2), social housing is offered to household that based on social, economic and other circumstances can't secure housing in current market conditions. This implies that the local self-governments should offer housing to families on the condition they

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<sup>126</sup> *Law on Social Protection of RS*; Official Gazette of RS, No. 42/2013

<sup>127</sup> Article 58 of the *Rulebook on conditions and standards for the provision of social protection services*

<sup>128</sup> *Law on Social Housing*; Official Gazette of RS, No. 72/2009

assume specific responsibility (paying rent, paying utility bills). The law doesn't specifically recognize victims of domestic violence as users of social housing programmes. This means that victims of domestic violence can access social housing if they fulfill the general criteria pertaining to housing status, income, health status, disability, members of the household and property status (Article 10). The *National Social Housing Strategy*<sup>129</sup>, recognizes victims of domestic violence explicitly as potential users of the programme. In establishing priority based on general criteria, it is given to persons belonging to vulnerable social groups, and the law explicitly recognizes youth, children without parental care, single parents, many child families, single households, persons over the age of 65, persons with disability, war veterans, civil victims of war, refugees and internally displaced persons and Roma, in the end allowing for other vulnerable groups (Article 10). Therefore victims of violence can qualify for this support if they belong to one of these categories.

Analysis conducted by Palgo Center shows that most vulnerable groups, including women suffering domestic violence, usually don't have enough funds to cover the costs of housing, even in social housing. These costs sometimes add up to more than half of overall income generated during the month.<sup>130</sup> It is stated that one of the main issues of women victims of violence is the economic dependency on the perpetrator, them not being employed and without alternative housing outside of the family of the perpetrator. Safe house accommodation represents an efficient solution for distancing from the perpetrator, but only as a short-term solution. The inability to secure housing is often the factor forcing women to go back to the perpetrator after coming out of the safe house. Social housing in a protected environment is a form of housing support especially dedicated to socially vulnerable persons and members of their household and victims of domestic violence are recognized as being socially vulnerable. Temporary housing is dedicated to vulnerable persons in need of housing, including violence victims. However, housing of women victims of violence isn't systemically covered and there is no insight available into the number of women who have been supported by any form of social housing. Social housing itself is insufficiently developed and the needs of different vulnerable groups are great.

Social protection services are of special importance to victims of violence because they are usually the first instance they encounter, the actions of health services and the referral of women to other forms of support being crucial for the adequacy of their further protection. According to a special *Protocol of the Ministry of Health of the Republic of Serbia for the Protection and Dealings with Women Exposed to Violence*, the activities health services should carry out in cases of violence include the identification and confirmation of violence, response to health effects of violence, documenting violence (by filling the form for evidencing and documenting violence), assess security risks, develop protection plans, referral to community resources and basic psychological support.<sup>131</sup>

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<sup>129</sup> *National Social Housing Strategy*; Official Gazette of RS No. 13/2012

<sup>130</sup> Vuksanović-Macura, Z., Čolić Damjanović V. M. (2016) *Social housing in Serbia. Alternative models accessible to the most vulnerable families and discriminated women*. Palgo Center, Belgrade.

<sup>131</sup> Available in Serbian at: <http://www.sigurnakuca.net/upload/documents/TirkizniTekst.pdf>

General social protection services for victims of domestic violence ensure first of all financial social support, as an important economic pillar for unemployed women in order to leave a violent situation. This support is vital in the context where there is no alimony fund, divorce procedures and court proceedings are slow. Also, a difficult circumstance represents the inefficiency in securing alimony when men are informally employed (according to workforce research, a third of the workforce is employed informally) and when there is no way to apply procedures of determining and automatic withdrawal of alimony from the income. A good thing is that the income and property of the perpetrator doesn't impact the victim's right to secure financial social aid if they fulfill other necessary criteria foreseen by the Law on Social Protection (Article 81).

Free legal aid is provided through local authorities, but this type of legal support is not specialized and is related to different legal issues. This specialized service, based on the needs of victims of gender based violence and domestic violence is provided by civil society organizations, about which more will be said as part of Article 22.

The NGO sector providing specialized services also provides general support services, such as legal counselling, economic empowerment and employment etc., but these services are small in volume and insufficient to meet the needs of the target group.

## **Challenges**

There is a question of how to enable the application of special measures for women victims of violence within general support services in the sense of housing priority and employment, avoiding their labeling and secondary victimization.

## **Recommendations**

- 1) It is necessary to ensure an efficient approach to basic services for protection and social housing of women victims of violence because it is of fundamental for their empowerment and persistence in leaving a violent situation.**
- 2) It is necessary to ensure support in securing financial social aid for women in social need through accelerated procedures in order to ensure economic support until other conditions are met (alimony, employment etc.).**
- 3) It is necessary to establish an alimony fund which would prevent financial extortion and manipulation, economic violence after divorce, as well as ensure child care.**

## Article 22 – Specialist support services

### **Convention requirements:**

- 1) Parties shall take the necessary legislative or other measures to provide or arrange for, in an adequate geographical distribution, immediate, short and long-term specialist support services to any victim subjected to any of the acts of violence covered by the scope of this Convention.
- 2) Parties shall provide or arrange for specialist women's support services to all women victims of violence and their children.

### **Situation regarding implementation**

The best example of specialized services for women victims of violence and human trafficking represent the services that integrally meet several basic and specific needs of user therefore enabling their adequate accommodation, therapy/rehabilitation, empowerment and social inclusion. A good example of this integrated service is NGO Atina which carries out programmes for long-term social inclusion of human trafficking victims with the aim to provide support in a comprehensive and systemic way through active participation of state authorities and full participation of users, in order to ensure sustainable solutions. These services simultaneously influence the causes for entering a trafficking situation and other forms of exploitation (relations in primary and secondary families, poverty, previous marginalization and discrimination, inability to achieve basic rights, unemployment and inaccessibility to education etc.). According to the organization's long-term experience, this support system is the only guarantee for the success of the programme and sustainable social inclusion of women victims of violence.

This integrated service covers the following components:

- Accommodation in temporary housing for victims of exploitation and human trafficking (a unique service that provided sanctuary to hundreds of trafficking victims during the previous 14 years);
- Reintegration center providing services for victims and for children, partners and family members such as mediation in achieving their rights (personal documents, cooperation with relevant institutions, school enrollment, help with employment); psychosocial, legal, medical aid; family mediation services and counselling; engagement in all other filed relevant for the complete recovery and integration of victims.;
- Mobile support team thanks to whom Atina's support is available 24/7 on the whole territory of Serbia;
- Opportunity for employment in a social enterprise Bagel Bejgl, a pastry shop making bagels. This service was developed based on experience showing that employment of programme users is hardest to achieve, so a social enterprise was established in order to ensure employment in protected conditions. Success of the enterprise shows that this is a model to follow and further develop.

All the described support forms are based on the needs of beneficiaries and with their consent. Through all four support programmes, Atina currently supports more than 276 primary and secondary victims of human trafficking. Atina has successfully ended the process of housing service licencing with support dedicated to girls and women victims of trafficking and other forms of exploitations. This is the first and only licensed service for (potential) victims of human trafficking in Serbia.

With support by Atina, 7 Serbian cities formed local networks for the prevention and support to victims of human trafficking. These networks include different relevant actors, like prosecutors, police inspectors, personnel of centers for social work, Red Cross, citizen's associations, local officials etc. They are active and incite prevention activities on local level and their importance was recognized by the Ministry of Interior, initiating the establishment of 10 more local networks with the tendency to establish them in all local self-governments in Serbia.

Since 2015, Atina is engaged in tackling the consequences of the refugee crisis through providing assistance in the field and ensuring safe housing for all women and children exposed to human trafficking and gender based violence. In the frame of this programme, three new temporary safe houses were opened and through the work of mobile teams they are present in camps in Belgrade, Bogovadja, Presevo and Bujanovac, where cooperation is established with local actors.

In the majority of other cases, civil society organizations provide specific specialized support services. Specialized women's organizations provide services to women victims of gender based violence specified in Group 4 of social services according to the Law on Social Protection of RS: counselling and therapy services and social-educational services covering among other things counselling and support in cases of violence, SOS hotline services, activation and other counselling and educational services and activities. Women's organizations provide these services to women in violent situations according to the obligations foreseen by the *Law on Social Protection* and the *Law on the Prevention of Domestic Violence*. Specialized women's organizations provide services in line with feminist principles of work.<sup>132</sup>

One of the most common forms of support provided by women's organizations is legal information, counselling and representation. It is available through a number of instances: local self-governments, centers for social work or non-governmental organizations providing support to victims of violence. The regulations don't define who qualifies and who doesn't for free legal aid<sup>133</sup>, this is part of the problem (Constitution<sup>133</sup> points to the law, *Law on Free Legal Aid*). On the website of Women Against Violence Network there is a list of cities and municipalities offering free legal aid to women victims of violence.<sup>134</sup> This is not a complete list because it includes only those local self-governments the Network mapped through a project supported by UNICEF. This list contains 30 municipalities offering this type of support in Serbia

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<sup>132</sup> Available in Serbian at: <https://www.zeneprotivnasilja.net/o-nama/spisak-organizacija>

<sup>133</sup> Available in Serbian at: [https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation\\_of\\_Serbia\\_Domestic\\_Violence\\_Legislation.pdf](https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf)

<sup>134</sup> Available in Serbian at: <https://www.zeneprotivnasilja.net/usluge-u-zajednici/srbija/pravna-pomoc>

(Backa Topola, Kikinda, Kragujevac, Krusevac, Kraljevo, Leskovac, Novi Pazar, Novi Sad, Novi Becej, Nis, Smederevska Palanka, Vranje, Vlasotince, Vrsac, as well as 16 Belgrade municipalities). According to assessment of service providers, this type of service is of essential importance because many women, especially those belonging to vulnerable groups and women in stressful situations, don't navigate legal procedures and regulations, therefore not using their rights. This support encourages them to enter the process of reporting violence and to endure.

An important form of support is psychological support. This support is provided in different ways within the civil sector. It is usually organized as individual psychological support, but is provided also through self-help support groups. However, these are often project based and temporary, without updated information on women who received this type of support after support has ended.

Psychological support is offered also in the frame of general protection through SOS hotlines. Based on analysis, out of all women who called the free SOS hotline 0800 101010, around 60% of calls during 2017 were concerning emotional support, and out of all women who called the free SOS hotline, around 40% were referred to services for individual psychological counselling. Individual psychological support is provided by trained therapists in direct contact with beneficiaries, these services are free when provided by civil society organizations behind this report.

Experience of these organizations shows that in the majority of cases emotional support is provided in the sense of psychological support and emotional normalization, encouragement of women to leave the violent situation. These services are project-funded, rarely by combining local and provincial funds, or by donor funding. They require a great deal of voluntary work, given that in periods of non-funding, engaged experts in women's organizations provide this service voluntarily. Among organizations offering services there is an awareness that this is one of the most important forms of support, therefore it is not terminated during periods of non-funding.

Specific organizations provide educational support to beneficiaries as part of services for empowerment and social inclusion. When education is connected to employment and economic empowerment these are mainly informal workshops and specific job trainings, as in the case of Atina and the social enterprise.

Specific specialized services are provided by organizations focused on Roma population. Association of Roma of Novi Becej, Association DAJE from Belgrade and Association of Roma Women Osvit, Nis offer support to juvenile victims of early, arranged, forced and child marriages. Support services include counselling and legal aid.

## Challenges

In this aspect the main issue is the lack of legal framework, the *Law on Free Legal Aid* regulating this field is adopted in September 2018. but the implementation is postponed in the next ten months.

Human resources for legal support to women victims of violence are insufficient. Great pressure is put on a small number of staff, so specific organizations opt to offer only counselling service and not representation, which is not sufficiently effective. Financial support to organizations is not adequate for a comprehensive and continuous offer of legal services. Due to funding insecurity, availability of human resources varies, there is a great flow of engaged persons making it difficult to maintain a satisfactory level of the service. In periods of scarcity and high work load, the motivation of professional staff and therapists plummets periodically and is difficult to maintain even with full awareness of the importance of this type of support. In cases where psychological support is an integral part of the SOS hotline service, it is not recognized as such by donors, therefore making it difficult to sustain. The challenge is to make psychological counselling visible for women in local communities and make it accessible to women with disabilities. There are sometimes hardships in ensuring adequate workspace, especially if approaching the topic wholly, by organizing trauma centers providing support through therapy, counselling, self-help groups, workshops for empowerment etc.

## Recommendations

- 1) It is necessary to ensure regular financing of legal support from local, provincial and national level, having in mind this is one of the most sought after forms of support by beneficiaries.**
- 2) It is necessary to conduct systemic training of lawyers for providing support to women victims of gender based violence and motivate them to work with organizations who specialize in protection of victims of gender based violence and domestic violence.**
- 3) It is necessary to spread information on legal remedies in cases of gender based violence and domestic violence throughout the community.**
- 4) It is necessary to ensure free legal aid in the local community, especially for victims of gender based and domestic violence.**
- 5) It is necessary to ensure support to juvenile mothers who don't have primary family support in cases of early forced marriages.**

## Article 23 – Shelters

### **Convention requirements:**

Parties shall take the necessary legislative or other measures to provide for the setting-up of appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out pro-actively to victims, especially women and their children.

### **Situation regarding implementation**

A shelter or safe house is an accommodation service for victims of domestic violence and their underaged children according to the *Law on Social Protection* (Article 40). The rulebook on

licensing of organizations for social protection prescribes standards for licensing of all social service providers, including safe houses/shelters. According to *Republic Institute for Social Protection*<sup>135</sup> data, until the end of 2016 licences were obtained by four safe houses/shelters for victims of domestic violence, among which three are operated by state authorities, one by a non-governmental organization, while other safe houses still aren't licenced for work. There is no exact information on how the issue of licensing of the other safe houses will be solved until the end of the licensing programme (October 2018). This situation makes the work of these institutions increasingly difficult and at the same time makes it difficult for women belonging to multiply marginalized groups to access this service.

On the territory of the Republic of Serbia, services are provided by 15 safe houses/shelters, out of which 5 are in AP Vojvodina.

- Safe house in Novi Sad, Center for social work, Novi Sad
- Shelter for domestic violence victims in Kragujevac, Center for the development of social services „Kneginja Ljubica“, Kragujevac
- Women's safe house in Zrenjanin, Center for social work, Zrenjanin
- Counselling against domestic violence in Belgrade – 3 safe houses, Counselling against domestic violence, Belgrade
- Shelter for urgent cases in Vlasotince, SOS hotline for women and children victims of violence, Vlasotince
- Safe house in Jagodina, Center for social work, Jagodina
- Safe house in Sombor, Center for social work, Sombor
- Safe house for women and children victims of domestic violence in Nis, Center for social work, Nis
- Safe house in Pancevo, Center for social work, Pancevo
- Shelter for women and children victims of violence in Leskovac, Center for social work, Leskovac
- Safe house in Sabac, Center for social work, Sabac
- Safe house in Priboj, Center for social work, Priboj
- Safe house in Smederevo, Center for social work, Smederevo
- Safe house in Vranje, Center for social work, Vranje
- Safe house in Sremska Mitrovica, Center for social work, Sremska Mitrovica

According to predictions of AWC, existing capacities of safe houses are 65% lower than the standards recommended by Council of Europe (719 places for the population of Serbia), however, according to research also conducted by AWC, despite lower capacities there were no reported problems of Centers for social work to accommodate victims of violence in safe houses.<sup>136</sup> According to the *Law on Social Protection*, victims should be allowed to remain in a safe house for up to 6 months, but research shows that this is usually not the case, the average

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<sup>135</sup> Report of the Republic Institute for Social Protection for 2016, available at: [http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016\\_final.pdf](http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf).

<sup>136</sup> Autonomous Women's Center (2017) *Implementation of Serbia's Domestic Violence Legislation*, available in English at: [https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation\\_of\\_Serbia\\_Domestic\\_Violence\\_Legislation.pdf](https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf)

length of stay being around 3 months which is too short a period for receiving proper protection or realized divorce.

Research suggests that the biggest obstacles in the work of safe houses are insufficient funds, inconsistent support services, difficulty in protecting the anonymity and privacy of women using safe house services operated by CSOs, difficulty in guaranteeing safety, as well as the fact that not all services are free and many women aren't economically independent making it difficult to seek this type of protection. Results show that there are discriminatory practices, that Roma women, women with disabilities and mental illnesses are primarily faced with difficulty obtaining shelter. Issues exist in the field of service licensing as well because local regulations often aren't in line with national.

Parallel with others, specific women's organizations in Serbia established safe houses which were, mainly through the programme of the former Fund for social innovation, taken over by Centers for social work one by one. Currently, no woman in Serbia can be accommodated in a safe house without referral from the Center for social work, specifically without Center for social work accepting to pay the service to the local self-government, in which the safe house is based.

Among organizations submitting this report, only Atina provides shelter services for victims of human trafficking, since 2004 and in four locations. Services are available non-stop and in the case of Atina offered to 112 women in 2016 and 2017. Atina employs 30 persons, as well as 15 volunteers. Atina services are project-funded and free for beneficiaries. The organization provides the service independently but cooperates with relevant institutions – police, prosecution, centers for social work as well as other non-governmental organizations.

## **Challenges**

Financial sustainability is not ensured if state authorities (on all levels) don't decide to support this service. Furthermore, this service is less accessible to women from multiply marginalized groups (Roma, women with disabilities, women with multiple children etc.). Centers for social work don't give referrals for accommodation to safe houses because they have insufficient funds to pay for the victim's stay in these institutions.

## **Recommendations**

- 1) The state should allocate specific funds and support civil society organizations in providing specialized safe housing for women victims of violence.***
- 2) The state must ensure support to specialized safe houses in order to achieve the proposed standards for service licensing.***
- 3) To simplify legal regulation and mechanisms for the referral of women to safe houses.***
- 4) Create mechanisms that would protect the rights of women from multiply marginalized groups during referral, acceptance and stay in safe houses.***

## Article 24 – Telephone helplines

### **Convention requirements:**

Parties shall take the necessary legislative or other measures to set up state-wide round-the-clock (24/7) telephone helplines free of charge to provide advice to callers, confidentially or with due regard for their anonymity, in relation to all forms of violence covered by the scope of this Convention.

### **Situation regarding implementation**

SOS helplines for women and children victims of violence are one of the most efficient mechanisms for the protection of women against violence because it ensures that victims swiftly receive appropriate advice and find support. This service is foreseen by the *Law on Social Protection* (Article 40), enabling a woman who suffered violence or is in risk of violence to leave the situation in which she is and seek appropriate support. SOS helplines are essential for first contact with beneficiaries and meeting their needs, as well as further referral to relevant services in the society. According to UNDP data, throughout the territory of Serbia there are 26 local SOS hotlines in 18 cities<sup>137</sup>.

However, there is one missing for which the fight goes on for years – a national SOS helpline. The establishment of the first national SOS helpline was filled with controversy, with evident preference for one organization politically linked with the ruling party<sup>138</sup>, and the line still plays an automated response saying the call cannot be placed. The publicly issued number of the national SOS helpline 0800/222 003, which, when called says that „all operators are currently busy“.<sup>139</sup>

The Ministry of Labor, Employment, Veteran and Social Affairs has, during the Campaign 16 days of activism against violence towards women in 2017, announced the establishment of national SOS hotline for women victims of violence. The Ministry has, during October and November 2017, published two public calls for national SOS helpline and both calls were withdrawn on account of procedural violations and errors done by the Ministry with the intent of favouring one service provider.<sup>140</sup>

Since the beginning of 2018, three women's organizations obtained licences for operating SOS helplines for women victims of violence, one of which is Women's Center Uzice, the other two being part of the group submitting this report: SOS Vojvodina Network and Association of Roma Women Osvit.<sup>141</sup>

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<sup>137</sup> Available in Serbian at:

[http://www.sigurnakuca.net/un\\_protiv\\_nasilja/podraska\\_pruzanju\\_sos\\_usluge\\_zenama/sos\\_telefoni\\_-\\_juce,\\_danas\\_i\\_sutra.561.html](http://www.sigurnakuca.net/un_protiv_nasilja/podraska_pruzanju_sos_usluge_zenama/sos_telefoni_-_juce,_danas_i_sutra.561.html)

<sup>138</sup> The controversial proceedings were described in an article published by an organization that submitted a process violation claim against the Ministry of Labor, Employment, Veteran and Social Matters, available in Serbian at:

<https://pescanik.net/zarobljeni-sos-telefon/>

<sup>139</sup> Available in Serbian at: <http://www.preugovor.org/Tekstovi/1428/Nacionalni-SOS-telefon.shtml>

<sup>140</sup> Available in Serbian at: [http://www.womenngo.org.rs/images/vesti-17/PDF/Odluka\\_Ministarstva.pdf](http://www.womenngo.org.rs/images/vesti-17/PDF/Odluka_Ministarstva.pdf),

[https://www.minrzs.gov.rs/files/odluka\\_o\\_stavljanju\\_van\\_snage\\_odluke.pdf](https://www.minrzs.gov.rs/files/odluka_o_stavljanju_van_snage_odluke.pdf)

<sup>141</sup> Available in Serbian at: <https://www.minrzs.gov.rs/usluge-socijalne-zastite.html>

SOS helpline services provided by organizations gathered around this report are of regional and local character. The only example of a regionally organized SOS helpline service is the service provided to women victims of violence by the Alliance „SOS Vojvodina Network“ through a free number 0800 101010.<sup>142</sup> The service was established in 2012 in association of five women’s organizations from the territory of APV, and the Network was officially registered as a legal entity in January 2016. It should be noted that through the licence for providing this service as a regional organization, five member organizations are automatically granted the licence, making AP Vojvodina completely covered by licensed services.

None of the current SOS helplines in Serbia are available 24/7, but usually 12 hours a day, only on workdays, some of them working only in the afternoon hours due to lack of human and material resources of organizations providing the service.

By adopting the current *Law on Social Protection* in 2011, social protection system employees were given the opportunity to provide social protection services, violating all regulations on the prevention of conflict of interest, Centers for social work started taking over and providing services, among which SOS helplines and psychosocial treatment of perpetrators. After calling SOS helplines established by Centers for social work, it was concluded that in numerous cases the SOS helpline numbers published were actually central operator numbers, or numbers of the Centers’ mobile teams, which was reported to the Bureau for social protection by Woman Against Violence Network in March 2012.<sup>143</sup>

During 2013, the former Ministry of Labor, Employment and Social Affair and Woman Against Violence Network, who brings together organizations providing aid and support to women victims of violence, initiated the development of *Minimal standards for providing specialized SOS helpline services for women victims of violence* in view of establishing a national SOS helpline by the same principles under which the unique SOS helpline is operated in Vojvodina. The network made a calculation of the annual operating costs of the National SOS helpline, having 15 parallel telephone lines, equally distributed among regions of Serbia, available 24 hours, 7 days a week. The agreed minimal standards were, with adjustments not approved by network representatives, adopted in 2015 as the *Rulebook on the Conditions and Standards for Providing the Service of SOS Helplines for Women Victims of Violence*.<sup>144</sup> Network members have sent an official letter to the Ministry in 2016, demanding that the Rulebook be changed to which the Ministry replied by promising they will consider the claims.<sup>145</sup>

The Ministry has, during May 2018, ammended the Public Procurement Plan for 2018, under number 1.2.36, by adding the procurement of services of national SOS helpline,<sup>146</sup> however,

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<sup>142</sup> Available in Serbian at: <http://sosvojvodina.org/>

<sup>143</sup> Available in Serbian at: <https://www.zeneprotivnasilja.net/vesti/170-mreza-zene-protiv-nasilja-zavodu-za-socijalnu-zastitu-povodom-rada-sos-telefona-pri-centrima-za-socijalni-rad>

<sup>144</sup> *Rulebook on Closer Conditions and Standards for Providing Telephone Helpline Services for Women with Experience of Violence*, Official Gazette of RS, No. 93/2015

<sup>145</sup> Available in Serbian at: [http://www.zeneprotivnasilja.net/images/vesti/2016/Odgovor\\_ministarstva-standardi\\_za\\_licenciranje\\_SOS\\_telefona.pdf](http://www.zeneprotivnasilja.net/images/vesti/2016/Odgovor_ministarstva-standardi_za_licenciranje_SOS_telefona.pdf)

<sup>146</sup> Available in Serbian at: [https://www.minrzs.gov.rs/files/plan\\_6.6.2018..pdf](https://www.minrzs.gov.rs/files/plan_6.6.2018..pdf)

to this day no public procurement regarding this issue was realized even though the deadline for the conclusion of agreement with a selected service provider expired in June 2018.

Currently, there is no accredited training for work on SOS helplines. AWC submitted an application for accreditation during 2018 and is still awaiting Ministry decision. Because of this situation, the consultants working on SOS helplines only went through internal training for work with women victims of violence, also organized by AWC during previous years.

Apart from AWC, an application for accreditation of trainings for working on SOS helplines was submitted by Fenomena from Kraljevo, also during 2018.

## **Challenges**

Work on SOS helplines is mostly voluntary, diminishing the capacities and accessibility of the service. Without financial support the hotline cannot be made free for beneficiaries and ensure the continuity in service providing, nor the 24/7 availability of the service. SOS helpline services are usually not available in minority languages, limiting their availability to women members of other national groups.

## **Recommendations**

- 1) To urgently establish a National SOS helpline in line with Council of Europe Convention recommendations on the prevention and combatting against violence towards women and domestic**
- 2) To improve the Rulebook on further conditions and standards for providing SOS helpline services for women who suffer violence**
- 3) To ensure financing of all licensed providers of SOS helpline services from the national, provincial and local level**
- 4) To accredit trainings for work with women victims of violence**

## Article 25 – Support to victims of sexual violence

### **Convention requirements**

Parties shall take the necessary legislative or other measures to provide for the setting up of appropriate, easily accessible rape crisis or sexual violence referral centres for victims in sufficient numbers to provide for medical and forensic examination, trauma support and counselling for victims.

### **Situation regarding implementation**

Through the project „Stop – Protect – Help“<sup>147</sup>, implemented by the Provincial Secretariat for Health and financed by the UN Trust Fund, pilot centers for victims of sexual violence were established in seven health institutions in AP Vojvodina (Clinical Center of Vojvodina and six general hospitals). These centers offer services 24 hours, 7 days a week, 365 days a year. The project is realized in partnership with Center for Support of Women from Kikinda.<sup>148</sup>

<sup>147</sup> Available in Serbian at: <http://projekti.zdravstvo.vojvodina.gov.rs/o-projektu/>

<sup>148</sup> Available in Serbian at: <http://projekti.zdravstvo.vojvodina.gov.rs/pilot-centri/>

The centers act according to instructions proposed by the *Special Protocol of the Ministry of Health for dealing with women victims of violence*, as well as a separate *Manual for Proceedings in cases of sexual violence in Centers for victims of sexual violence in AP Vojvodina*, which was created through this project.

Apart from particular medical-forensic health services provided by health institution through Centers for victims of sexual violence, the legal and psychosocial support to victims of sexual violence and coordination with other sectors is done by professional associates of Center for Support of Women, representing a unique example of systemic services being provided by women's organizations. The services are offered to girls and women over the age of 15 and are completely free. Between July 2016 and November 2018, the services of 7 Centers for victims of sexual violence were offered to over 300 girls and women who reported sexual violence, while criminal proceedings were initiated in 95 cases.

This type of service is just being established in Serbia and through projects carried out by non-governmental organizations.

Through the project „Stop – Protect – Help“, public information was conducted about the services provided by Centers for victims of sexual violence, resulting in a 37% rise in the number of reported cases of sexual violence in the first half of 2018 comparing to the same period of 2017.<sup>149</sup>

## Challenges

Among women in Serbia there is not enough developed awareness about what constitutes sexual violence, therefore support is rarely sought in cases of exposure to this form of violence.

Apart from this, the stigma associated with sexual violence and the fear of community condemnation makes it difficult for victims to seek support, especially in small communities. The wider public is not sufficiently informed about the existence and availability of this service, as well as about service providers.

Since the establishment of this service in 2016 to this day, the state or the provincial authorities haven't shown any interest or recognition of this service as important, in order to establish it as a permanent service in the frame of social and health protection systems.

A great challenge will be to sustain this service after the project ends in January 2019. There is a real concern that the state will not express the will to continue funding Centers for victims of sexual violence because, until now, there is no initiative or response to calls for meetings on this topic and time is running out. If by any chance this service is established in the health protection system, there is a possibility for part of the legal and psychosocial services for victims to be entrusted with Centers for social work instead of women's organizations as is now the case.

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<sup>149</sup> Available in Serbian at: <http://projekti.zdravstvo.vojvodina.gov.rs/category/promocije/>

Besides all this, there is still a high level of prejudice and stereotypes of institutional professionals towards sexual violence victims, as well as towards specialized women's organizations providing services to victims of sexual violence.

## **Recommendations**

- 1) It is necessary for the state to ensure continuity of this service**
- 2) It is important for psychosocial support to victims of sexual violence to be provided by women's NGOs**
- 3) It is necessary to create mechanisms for the establishment of this service in other parts of Serbia**
- 4) Having in mind that these are new services, it is necessary to put more attention into the information of women and the general public about the availability and characteristics of the service**
- 5) It is necessary to raise awareness about what constitutes sexual violence and encourage women to report violence and seek support**
- 6) It is necessary to protect victim's identities, enabling women from small communities to receive support and not experience secondary victimizations and stigmatization of the community**
- 7) It is necessary to permanently educate all professional who have an obligation to act in cases of sexual violence in order to lower the level of prejudice and stereotypes towards victims of sexual violence**

## Article 26 – Protection and support for child witnesses

### **Convention requirements:**

- 1) Parties shall take the necessary legislative or other measures to ensure that in the provision of protection and support services to victims, due account is taken of the rights and needs of child witnesses of all forms of violence covered by the scope of this Convention.
- 2) Measures taken pursuant to this article shall include age-appropriate psychosocial counselling for child witnesses of all forms of violence covered by the scope of this Convention and shall give due regard to the best interests of the child.

### **Situation regarding implementation**

According to reasearch findings on a sample of women who suffered violence and have at least one child that were beneficiaries of services provided by Women Against Violence Network, in more than two thirds of cases children were present during violence committed against their mothers by their fathers.<sup>150</sup> According to mothers' statements, the children knew, felt or saw the consequences of violence their partners committed against them even when they weren't directly present during the act, which equally left consequences. In almost a half of cases in which mothers were exposed to violence, the children also became targets of the

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<sup>150</sup> Ignjatović, Tanja (2013) *The effects of domestic violence on children and the response of public services to this problem*, Authonomous Women's Center, Belgrade

perpetrators. Along with the act of violence itself, children suffered a range of other unfavorable experiences, including arrival of the police, leaving the household with their mother or staying with the perpetrator after the mother left the household, going to institutions, courts or giving statements. Some children were exposed to threats by their fathers. The consequences for children were, according to mothers' testimonies, different, from withdrawal, fear to irritability and unrest. The stress was reflected in lowering success in school among many children, as well as in lowering their peer social activity.

For a number of years the NGOs emphasize the need for better protection of children victims of domestic violence in the context of exposure to violence of the father against the mother. The same research shows that the Centers for Social work are entitled to use different measures for the protection of child's rights and protection against domestic violence. However, a relatively small number of women sought any form of child protection from the Center for Social Works (i.e. maintaining contact between father and child in controlled surroundings, establishment of supervision over parental rights of the father etc.) as a means to lessen the risks of exposure of children to their fathers' violence. Apart from fear, shame, guilt, low awareness is recognized as a cause for not seeking this type of support by women victims of violence. Research points to a range of other issues in actions of centers for social work that were covered by the sample – ignoring of the father's violent behavior as an incapacity for parental role, negation and minimization of violence, insistence on reconciliation, all leading to ignoring of security risks for women and children and a neglect for standards of 'child's best interest'.

### ***Murder of O.L. by her husband M.L. in front of a Belgrade Center for Social Work***

Based on the information gathered from the media, there is a series of questions that need answering:

Whose decision was it to allow the father to see his children, even in controlled surroundings, having in mind that he was serving a prison sentence for violence against children? Does the right of the father to see his children take precedence to the rights of the children to live safely and without violence?

After being sentenced a conditional verdict for violence against his spouse, did the authorities receive new reports of abuse of O.L. by M.L. and if yes, what was done in response to this issue? Have the authorities conducted risk assessment, according to their obligations? In case reports were made, did the Group for Coordination and Cooperation consider the case of O.L. and her children during its regular bi-weekly meetings?

Did the prison where M.L. was serving his sentence inform the relevant Center for social work about the dates of his release? Were any active protection measures active from the moment of the release of M.L.? If not, why? Did the Center for Social Work create an individual protection plan?

Finally, through media analysis we also learn that, during February 2016, the Minister of the Interior Nebojsa Stefanovic and the Director of Police Vladimir Rebic promoted the driving school „Pravo L“ whose owner M.L. was, at the time, serving a prison sentence for domestic

violence. We are questioning whether the public promotion of this particular driving school potentially influenced the work of police officials in this case?<sup>151</sup>

The *Family Law* from 2005 entitles the child to a great number of rights, including the right to initiate court proceedings, have independent council, as well as freely express its opinion in any proceedings where decisions about its rights and interests are made. The way the court acts, its conduct towards the child and its rulings must be in the child's best interest.<sup>152</sup> UNICEF published guidelines for the participation of children in civil proceedings and the assessment of child's best interest, including proceedings in cases of hearings of children in the capacity of witness.

Particular organizations providing support to women victims of violence also provide support to child witnesses. Association Osvit has signed a Protocol on cooperation and provision of support and aid to victims and witnesses of criminal with the Higher Court in Nis. The protocol signatories are especially dedicated to providing support to victims and witnesses of domestic violence, sexual offences and human trafficking, especially when the victims are women, children, minors and children with disabilities. Atina also monitors children and provides support during court proceedings. Organizational experience shows that children are exposed to multiple victimization during proceedings, ie inadequate questioning by authorized personnel, multiple repetition of statements, questioning of the child's statements etc. In cases of children whose mothers are not economically independent, emotional needs are disregarded and CSRs rule on the mother's inadequacy for gaining custody due to unfavorable financial circumstances, additionally victimizing the child and violating its rights.

## Challenges

Public servants and professionals from different parts of the system for the protection of women against violence aren't sufficiently sensitized to the topic of child's rights and its best interest.

Officials and personnel from different parts of the system for the protection against violence aren't sufficiently informed or aware of the duties and obligations of other systems, frequently transferring responsibility for non-action to other authorities.

## Recommendations

- 1) It is necessary to ensure constant training of staff and professionals in the police, health system, centers for social work and prosecution in order to increase the level of respect for the child's rights and act in its best interest.**
- 2) It is necessary to link authorities in proceedings in cases where victims are minors/children and cases where minors/children are indirect victims of violence.**
- 3) In cases where minors/children are victims, acting professionals must conduct an assessment of risks, resources, capacities and the presence of an adult providing support**

<sup>151</sup> Press release, Women Against Violence Network, 06.07.2017.

<sup>152</sup> Petrušić, N. et al (2015) *Guidelines for the participation of children in court proceedings and the assessment of child's best interest*, UNICEF, Belgrade.

*and protection to the child, making it necessary to monitor the form and level of interaction with the perpetrator.*

- 4) *It is necessary to implement stronger oversight and severe punishment for non-action of relevant authorities in cases of violence towards minors/children (currently the non-action of professionals is a disciplinary offense sanctioned by Articles 6 and 36 of the Law on the Prevention of Domestic Violence).*

## Article 27 – Reporting and Article 28 – Reporting by professionals

### **Convention requirements:**

Article 27. – Parties shall take the necessary measures to encourage any person witness to the commission of acts of violence covered by the scope of this Convention or who has reasonable grounds to believe that such an act may be committed, or that further acts of violence are to be expected, to report this to the competent organisations or authorities.

Article 28 – Parties shall take the necessary measures to ensure that the confidentiality rules imposed by internal law on certain professionals do not constitute an obstacle to the possibility, under appropriate conditions, of their reporting to the competent organisations or authorities if they have reasonable grounds to believe that a serious act of violence covered by the scope of this Convention, has been committed and further serious acts of violence are to be expected.

### **Situation regarding implementation**

The *Criminal Procedure Code* – articles 280 and 281, foresees that private persons can initiate criminal charges in writing, orally or by other means, and in cases of reports to the police, public prosecution or court, authorities have a duty to forward in immediately to the relevant public prosecutor.

The *Law on Police* – Article 58, foresees the duty of police officers to forward the report of a committed criminal act to the relevant public prosecutor.

The *Law on the Prevention of Domestic Violence* – Article 13, foresees the duty of any person to, immediately upon realization, report domestic violence or its imminence to the police or public prosecution.

This article of the law and its corresponding obligations created a lot of confusion and controversial interpretation in the public. What is considered acceptable and unacceptable behavior of men towards women and what is constituted criminal offense is differently interpreted among professionals and third persons.<sup>153</sup> In relation to these arbitrary interpretations, there are different public attitudes about what should and shouldn't be reported as violence.

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<sup>153</sup> Available in Serbian at: <http://www.alo.rs/vesti/drustvo/zbog-udvaranja-idete-u-zatvor/109343/vest>

An issue is also the fact that authorities, apart from their legal obligation, don't have clear instructions on acting in cases of anonymous reports of violence. In case of reporting to the police via telephone, the person reporting has the right to not reveal their identity.

In cases where reports are made in writing and the persons reporting want to remain anonymous, it is possible to submit it to the public prosecution without a signature, personal information etc. Practice shows that women and the general public aren't sufficiently informed about the possibilities of anonymous reporting of violence, regardless of conducted media campaigns.<sup>154</sup>

Relevant professionals, particularly in the police, often don't record or act in cases of anonymous reports and in most cases insist on giving personal information when reporting violence. If the person reporting violence refuses this or insists on anonymity, police personnel aren't interested in further details of the event and don't inform the prosecutor. Life examples show that action of relevant authorities on anonymous reports is equal to due diligence.

According to women's organizations, a large number of women who come to them and testify about violence suffered, fear retaliation by the perpetrator upon finding out he's been reported, often deciding to make anonymous claims of violence through SOS hotlines. The professionals in women's organizations encourage women to report perpetrators and leave the violent situation.

Roma women are usually in a worse position than women from majority population given that they live in extended families, with housing usually owned by in-laws, and based on mentioned measures, when a Roma woman who reports violence stays in the household, she is exposed to further, even greater harassment and violence by the extended family for reporting it.

Because of all this, Roma women often don't report violence and, even when they do, forfeit further proceedings because of great pressure. Further, it is noticeable that there are rarely reports of violence in Roma communities from third persons.

Police personnel usually don't act in reported cases of violence against Roma women. There is a great level of prejudice and stereotypes towards Roma woman, manifesting in public mistrust for what the Roma woman claims, the behavior being rationalized by claims that violence is a normal social pattern in Roma communities, that it's their lifestyle, that they will all go back to the perpetrator and that there is no use in taking any action.<sup>155</sup>

## Challenges

The *Law on the Prevention of Domestic Violence* foresees disciplinary and offense responsibility of authorized personnel of state authorities in cases of non-compliance with

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<sup>154</sup> Available in Serbian at: [https://www.kurir.rs/data/images/2016/11/25/14/1043367\\_stop-nasilju-pr\\_ls.jpg](https://www.kurir.rs/data/images/2016/11/25/14/1043367_stop-nasilju-pr_ls.jpg)

<sup>155</sup> Case records maintained by Association of Roma Women OSVIT, Niš

deadlines and regulations or obstruction of the law. It is unsure who should initiate these proceedings.<sup>156</sup>

The crime reports don't have a specified form, nor obligatory elements, therefore they aren't required to contain information on the person making the report, which means that the authorities have a duty to act even though the report was anonymous.

However, anonymity is not ensured if the claims are stated orally or on record to the public prosecution or the police, because it is necessary to identify the person giving the statement.

Also, anonymity is not absolute even if the claims are made over the telephone, fax, e-mail or designated mail, given the possibility to identify the person at a later stage.

For citizens not directly damaged by the criminal act, but have information on violence happening regularly or frequently in their surroundings, in their neighborhood or to a close person or acquaintance who confides in them, as these reasons can present a deterring factor for reporting, their anonymity not being ensured.

A particular challenge with reporting violence presents the possibility to report "suspicion of violence". Relevant authorities and professionals often don't recognize these claims as acts of violence, instead ignoring them, explaining it by lack of evidence to support the claim and take further action based on it.

Psychological violence is also an obstacle to overcome. In cases where women report violence for the first time, especially psychological violence, police officers often tell them „it's only a quarrel, to calm down, to not aggravate him further, to not provoke him, to try and understand him, to try and talk nicely to the perpetrator, to go somewhere until the perpetrator calms down“ etc.<sup>157</sup>

### **AN EXAMPLE OF POLICE CONDUCT DURING A REPORT OF PSYCHOLOGICAL VIOLENCE**

A client S.F. (68) came to the offices of Center for Support of Women on the 12<sup>th</sup> of April 2018 stating that she went to Kikinda Police Department with the intention of reporting her son for psychological violence and said that she can't stand any more the situation she is in and that, as she said, 'she will hang herself'. The police officers on duty, according to her, responded saying: „Go ahead then!“. This shocked the woman greatly, making her rush out of the offices without catching the officers' names and badge numbers.

Following up on these claims, CSW associates contacted Kikinda PD with a request to further look into these charges. The police officer who spoke with the woman confirmed his statement, explaining it by the woman being „so annoying, repeating that she can't take it any

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<sup>156</sup> Available in Serbian at:

[https://www.womenngo.org.rs/images/vesti18/PDF/Sesti\\_izvestaj\\_o\\_primjeni\\_Zakona\\_o\\_sprecavanju\\_nasilja\\_u\\_porodici.pdf](https://www.womenngo.org.rs/images/vesti18/PDF/Sesti_izvestaj_o_primjeni_Zakona_o_sprecavanju_nasilja_u_porodici.pdf)

<sup>157</sup> Case records maintained by SOS Network Vojvodina

more and that she will hang herself a thousand times, and that he, in his opinion, only wanted to make a joke and didn't have the intention to insult or belittle her."<sup>158</sup>

An additional challenge is the disappointment of police personnel, when they want to work on more violence cases. According to personnel accounts<sup>159</sup>: „...everything is under way, but in the end they forfeit charges and further testimony against the culprit, making all our work in vain“. This situation is especially problematic considering that the prosecution and proceedings against perpetrators of violence are still based on the will and readiness of the victims to come forward and testify, instead of the duty of the police and prosecution to collect additional evidence and prosecute the perpetrator. If the woman doesn't want to testify, the police usually withdraw from further action.

In cases when children are reporting violence, they are often both direct and indirect victims of reported violence, putting them in an especially sensitive position, which is why the *Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles*<sup>160</sup> regulates their status and proposes a way for their questioning in criminal proceedings.

First of all, the law states that the questioning of children must be done with the aid of psychologists and pedagogues, in separate spaces equipped with AV equipment, so that the testimony can be recorded and used as evidence in criminal proceedings, in order to prevent further trauma for the child. Questioning can also be done in any other space in which the child can feel more secure, so that it is easier for it to talk about details of the event in question. Also, the law foresees that the child or minor must have appointed legal counsel which will, along with public prosecution, ensure the protection of their rights and interests in criminal proceedings.

In practice, the public prosecutor's offices and courts don't have separate spaces equipped with AV equipment, making it impossible to ensure process protection of the child in a way foreseen by the law.

Further, the support services for damaged parties and witnesses formed in courts and public prosecutor's offices factually have no active or initiative role, nor the designated personnel, making it an added workload to their regular work.

Gathering information on domestic violence in divorce proceedings presents a particular challenge for the judges because in most cases, if no violence charges were made in the meantime and the marital or extra-marital partners have no children, there is no way to know of violence happening during the relationship.

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<sup>158</sup> Case records maintained by Center for Support of Women, Kikinda

<sup>159</sup> Statements from training-workshops dedicated to analyzing the application of the Law on the prevention of domestic violence realized from February to June 2018 in APV

<sup>160</sup> *Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles*, Official gazette of RS, no.85/2005.

Available in Serbian at:

[https://www.paragraf.rs/propisi/zakon\\_o\\_maloletnim\\_ucinicima\\_kvivicnih\\_dela\\_i\\_kvivicnopravnoj\\_zastiti\\_maloletnih\\_lica.html](https://www.paragraf.rs/propisi/zakon_o_maloletnim_ucinicima_kvivicnih_dela_i_kvivicnopravnoj_zastiti_maloletnih_lica.html)

**Recommendations**

- 1) *It is necessary to ensure equal actions of all relevant institutions in cases of anonymous reports of violence*
- 2) *It is necessary to ensure identity protection for persons reporting violence or appearing as witnesses in proceedings*
- 3) *The Criminal Procedure Code should explicitly regulate anonymous reporting and foresee the duty of public prosecution and police to protect the identity of the person reporting, encouraging citizens to report knowledge of violence occurring in their surroundings.*
- 4) *The services in public prosecutor's offices and courts should not be separate, instead establishing one unified service consisting of personnel specifically tasked with this type of work, their mandate being regulated by a separate rulebook which would ensure the initiative and obligation in providing support and aid to victims and witnesses, except in cases when these services are explicitly refused*
- 5) *It is necessary for these services to have designated spaces and equipment for questioning children and especially vulnerable witnesses at their disposal.*
- 6) *It is necessary to encourage judges to a widest possible application of Article 205 of the Family Law which foresees independent investigation of claims not made by any party, making a preventive assessment of whether violence was or still is occurring among family members, a fact that can be of great importance for the outcome of court proceedings.*

## Chapter V: Substantive Law

### Article 29 – Civil lawsuits and remedies

**Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to provide victims with adequate civil remedies against the perpetrator.
- 2) Parties shall take the necessary legislative or other measures to provide victims, in accordance with the general principles of international law, with adequate civil remedies against State authorities that have failed in their duty to take the necessary preventive or protective measures within the scope of their powers.

**Situation regarding implementation**

The *Criminal Procedure Code* foresaw protection against domestic violence in civil lawsuits even before the adoption of the Convention. Article 10 of this law forbids domestic violence and guarantees protection against it. Violence, according to Article 197, is considered as infliction or attempted infliction of bodily harm; intimidation by death threats or infliction of bodily harm to family members or close persons; forced sexual intercourse; inciting sexual intercourse or sexual intercourse with persons under the age of 14 or a helpless person; limiting freedom of movement or communication with third persons; indignity, as well as any other malicious behavior.

If the existence of violence is proven, the court in civil lawsuits can order one or more measures of protection against domestic violence, temporarily preventing or limiting personal relations with the other family member. The measures can last for up to one year and include orders for eviction from the household, regardless of property rights; orders for moving into the household, regardless of property rights; restraining orders from family members; restraining orders from places of life and work of the family member; ban on harassment of family members.

When considering civil legal remedies against state authorities not carrying out their duties and taking necessary prevention and protection measures in line with their mandate, this obligation was also fulfilled before the adoption of the Convention. If they are not satisfied with the actions of authorities, citizens have multiple legal remedies at their disposal. They can request from the court different types of protection regulated by the general guidelines on lawsuits (regular or irregular legal remedies, complaints about court actions, requests for the exemption of judges etc.), rely on inspectional oversight<sup>161</sup> of the work of the authority, contact the Ombudsperson (in cases of misconduct of authorities)<sup>162</sup>, Commissioner for the Protection of Equality (in cases of non-action which can be related to discrimination), Police Internal Control Sector (in cases where irregularities are related to police work), and also initiate disciplinary charges against the prosecution or judge if the charges are related to an oversight in actions of these authorities. Additionally, there is a possibility to submit a constitutional claim to the Constitutional Court if irregularities are related to violations of human rights and liberties guaranteed by the constitution and other legal remedies are not applicable. Generally speaking, the system of protection against illegal actions of state authorities is complex and normatively well covered, but inefficient and ineffective.

## Challenges

When determining domestic violence in civil lawsuits, the problem is that Serbia still hasn't established the system of free legal aid, while citizens' associations don't have sufficient resources to provide continued legal aid to victims in these lawsuits. The associations often provide support only in specific phases of the process, directing victims to protection in criminal lawsuits, which the prosecution leads in their line of duty. An additional issue is the fact that, in civil lawsuits for domestic violence, the courts greatly rely on assessments of Centers for Social Work. These assessments, although often superficial and partial, have a crucial impact on the court's ruling.

In case of civil legal remedies against state authorities failing to fulfill their duty, the problem is mutual protection of these authorities, especially in case of inspectional oversight. Also, proving these claims is not a guarantee that authorities will change their practice, on the contrary, it can lead to an especially negative attitude towards recommendations.<sup>163</sup> This

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<sup>161</sup> Law on Inspection Supervision, Official Gazette of RS, br. 36/2015, 44/2018 – other law i 95/2018.

<sup>162</sup> Law on the Protector of Citizens, official Gazette of RS, br. 79/2005 i 54/2007

<sup>163</sup> Ombudsperson – recommendations in practice, 2013. Available in Serbian at: <http://ombudsman.yucom.org.rs/wp-content/uploads/2013/02/Za%C5%A1titnik-gra%C4%91ana-preporuke-u-praksi.pdf>

situation discourages citizens from making claims about the work of state authorities, essentially hindering the improvement of their work.

## **Recommendations**

- 1) It is necessary for state authorities and courts to provide professional civil legal protection, in line with legal regulations, without prejudice towards any involved party.**
- 2) It is necessary to ensure that employees of courts and state authorities truly understand the reasons for the proposed civil legal protection against domestic violence, as well as to be aware of the consequences of unprofessional conduct.**
- 3) It is necessary to carry out training particularly about the position of multiply marginalized women – Roma women, poor women, persons with disabilities and other women from particularly vulnerable categories as same-sex orientation, trans-gender persons, intersexual persons.**

## Article 30 - Compensation

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that victims have the right to claim compensation from perpetrators for any of the offences established in accordance with this Convention.
- 2) Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions. This does not preclude Parties from claiming regress for compensation awarded from the perpetrator, as long as due regard is paid to the victim's safety.
- 3) Measures taken pursuant to paragraph 2 shall ensure the granting of compensation within a reasonable time.

### **Challenges**

Serbia expressed reserve towards the paragraph of this article related to the state fund and compensation for damages of serious bodily harm or serious health compromise that happened out of criminal acts covered by the Convention. This attitude is in conflict with other adopted international conventions, The *European Convention on the Compensation of Victims of Violent Crimes* (2010) was signed, but not ratified. The decision triggered negative reactions in parts of the public.

Despite the reserve, it should be noted that victims of gender based violence have a possibility of compensation in criminal proceedings, in line with the solutions foreseen by the *Criminal Code and the Criminal Procedure Code*. Both offer several mechanisms that enable victims' compensation, such as: exemption from punishment if the perpetrator removes the consequences of the act or compensates the damages caused by the act; taking into consideration the relation to the victim of the criminal act while deciding on a ruling; the possibility of concluding an agreement about the confession of the act, including the

fulfillment of property-law demands of the damaged side. There is also a possibility of making property-law demands during criminal proceedings, which can be related to compensation of damages, returning of belongings or the repeal of a particular legal activity.

However, the victims in criminal proceedings are most frequently referred to separate lawsuits, with the conclusion that the decision on a property-law demand would prolong the process. The achievement of the right to compensation through a separate lawsuit can be expensive, uncertain, can last for years and entail additional testimony about the violence. Also, entering a separate lawsuit leads to further meetings of victims and perpetrators, which can be a source of threats or new traumatic experiences. The practice of civil society organizations providing support to victims shows that they usually want the whole process to end as soon as possible and to distance themselves from the perpetrators as much as possible.

## **Recommendations**

- 1) Among the domestic professional public there is a discussion about the need to redefine the term victim and to establish a fund for the compensation of victims of criminal acts with elements of violence. However, this idea hasn't been adopted and its realization could contribute to the ratification of Article 30 of the Convention.**

## Article 31 – Custody, visitation rights and safety

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that, in the determination of custody and visitation rights of children, incidents of violence covered by the scope of this Convention are taken into account.
- 2) Parties shall take the necessary legislative or other measures to ensure that the exercise of any visitation or custody rights does not jeopardise the rights and safety of the victim or children.

### **Situation regarding implementation**

The *Family Law* has, before the adoption of the Convention, recognized the standard of child's best interest in determining all issues related to its growth and development. Article 60 establishes the right of the child to live with its parents and the right to be cared for by parents before all other. However, Paragraph 3 of the same law foresees that the court can make a decision to separate the child from its parents in cases where there are grounds for it and in cases of domestic violence. According to Article 61, the right of the parent not exercising parental rights – the right to maintain personal relations – can also be limited in cases where there is reason for this decision or in cases of domestic violence. Further, the measures for protection against domestic violence can be applied in order to protect the child from violence done by a parent. In this sense, the Convention requirements are normatively fulfilled.

### **Challenges**

Practice usually shows that courts usually perceive the right of the parent to maintain contact with their children as an absolute right of the parents, instead of the right of a child that can

be limited in its own interest. The legal regulation doesn't specify whether the case of domestic violence refers explicitly to violence towards the child or if it is enough for it to be done to the spouse. The existence of violence towards a spouse usually doesn't impact the decision on parental rights. This enables situations in which a parent is violent towards another parent, but the authorities deem it still in the child's best interest to see the violent parent – as long as he isn't violent towards the child itself. Violence in marital or partner relationships which the child witnesses can be undoubtedly characterized as physical violence towards children, although this understanding is rare in practice.<sup>164</sup>

As illustrative examples of institutional misconduct, we can state the murder cases of two women and one child during 2017 in Belgrade. The murders happened during personal contact between fathers and children, whereby the fathers were previously evidenced as violent on multiple occasions. The murders happened on the premises of Centers for Social Work Rakovica<sup>165</sup> and New Belgrade<sup>166</sup>.

This showed to which extent the institutions don't use measures for the protection of family members against the perpetrator. The public insisted on the responsibility of Center for Social Work personnel, first of all because these centers oversee the exercise of parental rights and secondly, because they have a duty to propose the suspension of parental rights if the parent physically, sexually or emotionally abuses the child. However, despite determined misconduct of Center for Social Work New Belgrade<sup>167</sup>, the minister in charge of social issues and Syndicate representatives asserted that their colleagues surely didn't make an error in judgement<sup>168</sup> and that it is necessary to further ensure the circumstances in which parents and children see each other (police or private security). This example clearly shows that on top of the system, professional as well as political, there is not enough awareness of the rights of victims and duties of authorities, pointed to by Article 31 of the Convention.

## Recommendations

***It is necessary for the Center for Social Work, as custodial body, to consistently apply the Law on Family, conduct oversight over the exercise of parental rights and take measures for the protection of family members against violence.***

## Article 32 – Civil consequences of forced marriages

### Convention requirements

Parties shall take the necessary legislative or other measures to ensure that marriages concluded under force may be voidable, annulled or dissolved without undue financial or administrative burden placed on the victim.

<sup>164</sup> Harmonization analysis of the legislative and strategic frameworks of the Republic of Serbia with the Council of Europe Convention on preventing and combating violence against women and domestic violence, Autonomous Women's Center. Available in English at: <http://www.potpisujem.org/doc/33df186c9ded15296bc6f1d79f09ed22.pdf>

<sup>165</sup> Available in Serbian at: <http://rs.n1info.com/a282855/Vesti/Vesti/Ubio-zenu-u-Centru-za-socijalni-rad-u-Rakovici.html>

<sup>166</sup> Available in Serbian at: <http://rs.n1info.com/a281075/Vesti/Vesti/Muz-ubio-zenu-u-Centru-za-socijalni-rad-na-Novom-Beogradu.html>

<sup>167</sup> Available in Serbian at: <http://www.rts.rs/page/stories/sr/story/125/drustvo/2806914/utvrdjeni-propusti-u-radu-novobeogradskog-centra-za-socijalni-rad.html>

<sup>168</sup> Available in Serbian at: <http://www.novosti.rs/vesti/naslovna/hronika/aktuelno.291.html:675781-Radnica-ozuzasu-ispred-Centra-za-socijalni-rad-Sve-smo-uradili-kako-treba>

## **Situation regarding implementation**

The *Family Law* has, before the adoption of the Convention, enabled submission of claims for the annulment of marriage concluded under force. According to Article 216 of the law, the annulment claim can be submitted within one year after the cessation of force.

In cases of the requirement for the victim not to be exposed to unnecessary financial or administrative burden, this is not fully met. Specifically, the victim can be made free of procedure expenses according to Article 168 of the *Civil Procedure Law*<sup>169</sup>. This exemption is possible when the victim is not able to cover expenses due to poor financial status. The exemption from paying procedural costs is connected with the financial status of sides in the proceedings rather the fact that the victim is requesting an annulment of marriage concluded under force.

## **Recommendations**

***It is necessary to, according to Convention requirements, exempt the party requesting annulment of marriage concluded under force from paying expenses of civil lawsuits.***

## Article 33 – Psychological violence

### **Convention requirements**

The Convention requires all sides to take necessary legal or other measures in order to ensure that deliberate behavior which seriously compromises a person's psychological integrity through coercion or threats is criminalized.

### **Situation regarding implementation**

The *Criminal Code* has in 2006 (and before that in 2002) criminalized violence, threats, malicious behavior, behavior against bodily integrity or psychological status of a family member, in line with Convention recommendations.

### **Challenges**

Citizen's associations providing support to victims of violence notice that in criminal proceedings, consequences such as bodily harm occur much more often than psychological harm. In fact, psychological harm is considered a less dangerous consequence of domestic violence than it is the case with bodily harm. The cause for this attitude lies in the fact that, twenty years ago, even physical domestic violence was invisible largely socially acceptable. Psychological harm is less visible and harder to determine, also considered as a less important consequence of violent behavior. In case the victim tries to prove psychological harm, there is a chance of being psychiatrically diagnosed, which could negatively influence other related proceedings, such as child custody. This is why victims rarely decide on taking this route.

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<sup>169</sup> Civil Procedure Law, Official Gazette of RS, No. 72/2011, 49/2013 – decision CC, 74/2013 – decision CC and 55/2014

**Recommendations**

*It is necessary for relevant institutions and their professionals, especially prosecutors, judges, medical staff and other experts to recognize psychological harm inflicted on a family member as a consequence of domestic violence and as equal to physical harm.*

## Article 34 - Stalking

**Convention recommendations**

All sides are obliged to take necessary legal or other measures in order to ensure that the intentional conduct of repeated threats directed towards another person, causing them to fear for their safety, is criminalized.

**Situation regarding implementation**

Through the amendments of the 2016 *Criminal Code*, the criminal act of stalking was introduced into the criminal-legislative system of Serbia.

Article 138a forbids unauthorized monitoring or physical proximity to a person against their will; efforts to establish direct contact, through a third person or through other means of communication; misuse of personal information of a person or someone close to them with the aim of offering goods and services; threaten the life, body or freedom of another person or someone close to them; undertake other similar actions in a way that can significantly jeopardize the life of the person targeted by the acts.

It can be concluded that the definition of the basic form of the criminal act is inadequate when talking about consequences that occur to the damaged party (“in a way that can significantly jeopardize the life of the person”), given that the term “significantly” leaves room for different interpretations in judiciary practice. More fitting to Convention requirements would be to foresee a change in life habits, hardship or fear for personal safety or the safety of close persons as a consequence of these acts. Apart from this, there is a difficulty to distinguish this criminal act from the already existing compromising of safety covered by Article 138 of the Criminal Code, recommending a significantly lower penalty – a fine or jail up to one year. What is also missing is the qualification of this criminal act in cases where victims are minors.<sup>170</sup>

According to data published in the media, sourced from the Justice Ministry, during the first year of article implementation there were 22 cases of stalking, though their outcomes are still unknown.<sup>171</sup> Detailed statistical data on the number of persons prosecuted and convicted for this criminal act will be available at a later stage, within the data on adult perpetrators of

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<sup>170</sup> The achievements and shortcomings of the criminal justice protection system after harmonization with the Council of Europe Convention on the Prevention and Combating Violence Against Women and Domestic Violence. Available in Serbian at: <http://www.preugovor.org/Prakticne-politike/1409/Ostvareni-napredak-i-nedostaci-krivicnopravnog.shtml>

<sup>171</sup> Available in Serbian at: <http://www.politika.rs/scc/clanak/404815/Za-ljubav-je-potrebno-dvoje-za-proganjanje-jedna-uporna-osoba>

criminal acts. The report of the Statistical Office of RS for 2017, since stalking was criminalized, is still not made publicly available.

## **Challenges**

A new criminal act in the legislative system of Serbia has, in its beginning, caused turbulent reactions among the public. A good illustration of the way in which this issue was treated in public represents a newspaper headline: New law – You’ll go to jail for flirting.<sup>172</sup> In most media outlets, the criminalization of stalking was interpreted as a war of the sexes, interference with male-female relationships, adoption of “law against flirting and giving compliments”. Experts who emphasized that the key element of the criminal act is in fact contact against a person will, were left on the margins of most popular media outlets.

Within the work of institutions there is a general lack of understanding of the essence of stalking, lack of awareness about its unacceptability and the fact that it can lead to more serious consequences.

### ***Murder as a consequence of long-term stalking***

In May 2017 in Apatin, immediately before the start of the new article implementation, a man murdered his former partner who he stalked for over 10 years.<sup>173</sup> According to media reports, the victim was followed for years, threatened, the man left his bicycle in front of her house during the night so she would know he was there. This was known to the local community, while authorities claimed that no form of violence was reported, therefore they couldn’t react and protect the victim.

## **Recommendations**

***It is necessary for legislative institutions to establish practice in the implementation of Article 138a of the Criminal Code and to also work towards a better understanding of the concept and dangers of stalking among the professionals in the system.***

## Article 35 – Physical violence

### **Convention requirements**

Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of committing acts of physical violence against another person is criminalised.

### **Situation regarding implementation**

The *Criminal Code*, Article 194, criminalizes the act of domestic violence, forbidding acts of physical violence against another person. Apart from this criminal act, many other criminal acts, some of which adopted into the domestic legal system due to harmonization with the

<sup>172</sup> Available in Serbian at: <http://www.alo.rs/vesti/drustvo/zbog-udvaranja-idete-u-zatvor/109343/vest>

<sup>173</sup> Available in Serbian at: <https://www.blic.rs/vesti/hronika/dve-sahrane-za-dva-sata-cerka-sahranila-majku-pa-o-ubicu-nakon-stravicne-porodicne/sre4226>

Convention, also criminalize physical violence. This includes rape, genital mutilation, forced abortion and forced sterilization etc.

## Challenges

Citizen's associations pointed out that the scope of protected persons foreseen by the *Criminal Code* is narrower than the standards set by the Convention and that it doesn't follow the guidelines from Article 3 (b) of the Convention, according to which the common life space of the perpetrator and the victim is not a precondition for becoming a protected person. In order to harmonize regulations with this article of the Convention it is necessary to abolish the common life space precondition from the definition of the term „family member“ stated in the *Criminal Code*, include former extra-marital partners into the scope of protected persons (regardless of having a child or not) and specify this definition in order to prevent future practical misinterpretation related to family members (such as grandfathers, grandmothers and grandchildren). It is important to emphasize that the existing Criminal Code regulations are unharmonized not only with the Convention, but also with regulations of the *Family Law* and the *Law on the Prevention of Domestic Violence* in view of the meaning of the term „family member“, making the amendments important and justified from the perspective of equalising preventive, family-legislative and criminal-legislative protection against violence.<sup>174</sup>

In public, much more than before, there is word about gender based violence and protection measures. This is probably the reason why legal statistics show an increase in the number of reports of these acts. As an example, reports of domestic violence are on a significant rise – from 3642 in 2014<sup>175</sup>, to 7244 in 2016<sup>176</sup>. While the number of reports are increasing, the gender dimension of a reported act remains the same. In 2016, 89% of reported perpetrators of domestic violence were men.

Due to open public condemnation of gender based violence, citizens associations report that, during the previous two years, women increasingly perish without any indication. Acts of violence are also gaining intensity, making murders more brutal.

The associations note that the behavior of perpetrators is also changing. Prior declaration of intent to commit violence is rare, describing the situation as – „if he wants to kill her, he will kill her immediately“. This happens despite the establishment of better institutional protection mechanisms and requires a more adequate response. It is evident that the perpetrators are adapting to new circumstances and changing behavioral patterns in order to hide their intentions.

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<sup>174</sup> The achievements and shortcomings of the criminal justice protection system after harmonization with the Council of Europe Convention on the Prevention and Combating Violence Against Women and Domestic Violence. Available in Serbian at: <http://www.preugovor.org/Practicne-politike/1409/Ostvareni-napredak-i-nedostaci-krivcnopravnog.shtml>

<sup>175</sup> Adult perpetrators of criminal acts in Serbia, 2016. Bureau of Statistics. Available in Serbian at: <http://publikacije.stat.gov.rs/G2015/Pdf/G20155603.pdf>

<sup>176</sup> Adult perpetrators of criminal acts in Serbia, 2016. Bureau of Statistics. Available in Serbian at: <http://publikacije.stat.gov.rs/G2017/Pdf/G20175629.pdf>

## Recommendations

- 1) *It is necessary for institutions to adapt to the new, modified approaches from perpetrators.*
- 2) *It is necessary for institutions to advance their work on the prevention of criminal acts with elements of physical violence and lower their rate.*

## Article 36 – Sexual violence, including rape

### Convention requirements

- 1) Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalized:
  - a. Engaging in non-consensual vaginal, anal or oral penetration of a sexual nature of the body of another person with any bodily part or object;
  - b. Engaging in other non-consensual acts of a sexual nature with a person;
  - c. Causing another person to engage in non-consensual acts of a sexual nature with a third person.
- 2) Consent must be given voluntarily as the result of the person's free will assessed in the context of the surrounding circumstances.
- 3) Parties shall take the necessary legislative or other measures to ensure that the provisions of paragraph 1 also apply to acts committed against former or current spouses or partners as recognized by internal law.

### Situation regarding implementation

During preparations for the amendment of the *Criminal Code* adopted in 2016, there was strong resistance from the general and conservative part of the professional public against changing the definition of the criminal act of rape in order for lack of consent to become its primary characteristic. Juggling between efforts to harmonize regulations with the Convention and the tendency to keep the existing definition, one of the Justice Ministry's proposals was to introduce a lighter form of rape – ravishment or an equal act. This act would not include force or threat, would foresee lighter punishment, including the possibility of conditional sentencing.<sup>177</sup> After pressure from civil society, the proposal was dropped and the demands in relation to the definition of the criminal act of rape were expressed through clear initiatives from organizations towards decision makers.<sup>178</sup>

Although given up on introducing the criminal act of ravishment or an equal act, the elements of rape as a criminal act remain unchanged, still requiring the coercion, application of force or threats.

Other forms of penetration, part of Convention requirements, are punishable according to Article 182 of the *Criminal Code*, but aren't considered rape or forced sexual acts, rather as

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<sup>177</sup> Available in Serbian at: <http://www.potpisujem.org/srb/2324/ministarstvo-pravde-na-predlog-azc-odustalo-od-novog-krivcnog-dela>

<sup>178</sup> Available in Serbian at: <http://www.potpisujem.org/srb/857/analiza-uskladenosti-zakonodavnog-i-strateskog-okvira-sa-standardima-konvencije>

non-consensual sexual acts. For committing a basic form of this act, monetary punishment and prison sentencing for up to three years is foreseen, even in cases where children are victims. A positive shift was made by the amendments of the *Criminal Code* according to which acts against sexual freedom will be prosecuted in the line of duty regardless of whether they are done to a spouse. The previous solutions required prosecution after a report, if the act was done to a spouse.

Citizens associations also note that health workers don't recognize underage pregnancy as a consequence of sexual violence – sexual intercourse with a child, which is a criminal act. These cases, especially frequent among Roma population, rarely get reported to the police and processed by the authorities.

## Challenges

An intensive debate took place in the media about the amendments to the criminal act of rape. Dominating attitudes of legal experts and psychologists claimed that these changes would lead to breach of intimacy<sup>179</sup>, caused by excessive demands by feminists and the Convention itself. Similar to the case of sexual harassment and stalking, numerous views emerged in public according to which these amendments would essentially prevent sexual relations, even in marriage, and lead to great misuse during reporting of these criminal acts. The voices advocating for the change of the definition of rape remained a minority.<sup>180</sup>

An issue is also represented in the fact that the criminal act of rape, at least in its current form, is rarely processed and the punishment for perpetrators remains light. As an example, during 2017, only 91 cases of rape were reported, out of which 47 resulted in actual charges being initiated. In almost half of the cases the reports were dismissed, primarily due to lack of evidence, or the investigation was stopped due to the lack of reasonable suspicion that the criminal act occurred. Regarding sentencing, 49 persons were declared guilty, almost half of which received prison sentences of 3 – 5 years (24 persons), representing lighter punishment given that they are less than the minimum sentence foreseen by the law for the criminal act of rape.<sup>181</sup>

## Recommendations

***It is necessary for relevant authorities, above all the prosecution and health institutions, to process cases of sexual violence to a larger extent, as well as to tighten the penalties for these acts.***

## Article 37 – Forced marriage

### Convention requirements

- 1) Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of forcing an adult or a child to enter into a marriage is criminalised.

<sup>179</sup> Available in Serbian at: <http://www.politika.rs/sr/clanak/366262/Moze-li-zakon-da-zadire-u-intimu>

<sup>180</sup> Available in Serbian at: <https://pescanik.net/laksi-oblik-silovanja/>

<sup>181</sup> Adult perpetrators of criminal acts in Serbia, 2016. Bureau of Statistics. Available in Serbian at: <http://publikacije.stat.gov.rs/G2017/Pdf/G20175629.pdf>

- 2) Parties shall take the necessary legislative or other measures to ensure that the intentional conduct of luring an adult or a child to the territory of a Party or State other than the one she or he resides in with the purpose of forcing this adult or child to enter into a marriage is criminalised.

## **Situation regarding implementation**

By the amendments of the *Criminal Code* in 2016, a new criminal act was introduced into the criminal-legislative system – forced marriage. Article 187a criminalizes the entry into a marriage through application of force or threat. A harder form of this criminal act includes the taking or luring of a person abroad with the aim to force entry into marriage.

The amendments failed to introduce a qualified form of criminal act in cases where it is done to minors. The Convention entails the protection of an adult or child against forced marriage, but this additional protection was left out, despite the fact that the *Criminal Code* qualifies other acts of violence done to minors in other instances.

## **Challenges**

Forced marriage is the biggest problem among the Roma population, where it is more a rule than an exception. In Serbia, more than half of Roma women (54%), aged between 20 and 49, entered into marriage or another form of marital relationship before the age of 18, and almost 17% before the age of 15. Almost half (44%) of Roma girls between 15 and 19 years of age are in a form of marital relationship, roughly 14% of them entering the relationship before the age of 15 (some of them before the age of 12) and one third became mothers before turning 18.<sup>182</sup>

Marriages are concluded in such a way that parents of the girl agree on it with the parents of the future spouse, as well as the sum of money they will receive for their daughter. The negotiations imply that the girl is being sold, that she must leave her parents' home and soon produce children. Early marriages and lives in marriages concluded before adulthood are filled with sexual, physical, economic and emotional violence and, for the majority of Roma women, represent a series of traumatic events of male violence against women starting from the first marital night and carrying on throughout their lifetimes.<sup>183</sup>

Forced marriage is considered customary and cultural practice. This attitude is assumed even by state authorities, deeming it not a form of violence. The authorities also believe that this practice cannot be changed. In cases where girls come back to their primary family and doesn't want to remain in the marriage, she is usually ostracized.

## **An example of institutional attitude towards forced marriage<sup>184</sup>**

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<sup>182</sup> Early marriage of Roma girls: a ticket to sexual violence. Roma Association of Novi Bečej and Roma Women's Center. Available in Serbian at:

[https://udruzenjeromanb.org.rs/images/publikacije/Rani\\_brakovi\\_romskih\\_devojica.pdf](https://udruzenjeromanb.org.rs/images/publikacije/Rani_brakovi_romskih_devojica.pdf)

<sup>183</sup> Same as above

<sup>184</sup> Same as above

„If a girl doesn't want to enter into a marriage and someone calls on the police to prevent the marriage, police officers usually respond with: it's their way of life. The police usually doesn't act, except in cases of kidnapping where both parents want to prevent the marriage. The institutions don't care about our Roma girls!“

Within the Roma population there are also recorder cases of forced marriage abroad, sometimes including a complete loss of contact between the girl or woman with her family, leading organizations to believe that they potentially became victims of human trafficking and not forced marriage.

Citizens associations dealing with Roma women's rights haven't had experiences of institutional proceedings against forced marriages since the adoption of Criminal Code amendments.

## **Recommendations**

- 1) It is necessary for institutions to recognize forced marriage as a criminal act, not as cultural practice.**
- 1) It is necessary for institutions to start actively prosecuting perpetrators of this criminal act and establish relevant judiciary practice.**

## Article 38 – Female genital mutilation

### **Convention requirements**

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalized:

- Excising, infibulating or performing any other mutilation to the whole or any part of a woman's labia majora, labia minora or clitoris;
- Coercing or procuring a woman to undergo any of the acts listed in point a;
- Inciting, coercing or other procuring a girl to undergo any of the acts listed in point a.

### **Situation regarding implementation**

The amendments of the *Criminal Code* from 2016 introduced a new criminal act – female genital mutilation. Article 121a forbids the mutilation of outer parts of a woman's genitalia, the coercion or procuring a woman to undergo these acts.

### **Challenges**

The challenge is represented in the fact that the Convention requirements were not fully met during the process of amendment of the *Criminal Code*. The Convention foresees the criminalization of mutilation of any and all parts of a woman's genitalia, while the *Criminal Code* limits it only to the outer parts of a woman's genitalia.

Further, the criminal act entails a much lighter punishment (prison sentence between 3 months and 3 years), in cases where the criminal act was done in particularly mitigating circumstances. Which circumstances could those be and why the Code left so much room for interpretation, remains unclear.

Additionally, Paragraph 4 of Article 121a of the *Criminal Code* foresees responsibility for greater consequences – in cases where the death of a woman occurred due to these acts. However, serious bodily harm is not recognized as a greater consequence, although this is the case in many other instances in the *Criminal Code*. This is especially important having in mind that serious bodily harm is a certain consequence of genital mutilation.

The amendment of the *Criminal Code* doesn't even foresee special protection of girls against genital mutilation, in accordance with Convention requirements.

Although this new criminal act was publicly presented as 'exotic' and irrelevant for domestic circumstances, organizations believe that the room for interpretation was deliberately left by state authorities in order to not have an obligation to interfere in cases of genital mutilation among the migrant population.

Given that no legal statistics for criminal acts processed in 2017 are available, it is not known whether and in how many cases genital mutilation appeared before the prosecution and courts.

## **Recommendations**

***It is necessary to amend the Criminal Code in a way that the act of female genital mutilation fully meets the requirements of Article 38 of the Convention.***

## Article 39 – Forced abortion and forced sterilisation

### **Convention requirements**

Parties shall take the necessary legislative or other measures to ensure that the following intentional conducts are criminalized:

- a. Performing an abortion on a woman without her prior and informed consent;
- b. Performing surgery which has the purpose or effect of terminating a woman's capacity to naturally reproduce without her prior and informed consent or understanding of the procedure.

### **Situation regarding implementation**

The *Criminal Code* has, prior to the adoption of the Convention, recognized the criminal act of unauthorized termination of pregnancy. Article 120 of the Code forbids the termination of pregnancy not in accordance to the regulations on termination of pregnancy, regulated by another law – the *Law about the Pregnancy Termination in Healthcare Institutions*<sup>185</sup>. The

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<sup>185</sup> Law about the Pregnancy Termination in Healthcare Institutions; Official gazette of RS, br. 16/95 i 101/2005 – other law)

criminal act includes the execution of abortion, its aiding and abetting. Harder forms of the criminal act include committing it as a profession, non-consensual termination of pregnancy, if the woman is less than 16 years old, as well as in cases where death occurred, serious health or bodily harm was inflicted on a woman.

Women with disabilities in residential institutions are exposed to manifestations of violence that, as a rule, are not suffered by women living in their homes. They, like other beneficiaries, can be victims of violence and neglect, physical obstruction and isolation, as well as exposed to physical, sexual, psychological, economic and social violence. However, the women in residential institutions are exposed to gender specific forms of violence – forced contraception, forced sterilization, forced abortion and exploitation. A particular issue is that the society doesn't perceive many of these manifestations of violence as abuse, considering it an integral part of institutionalization and/or psychological treatment that 'protect' the beneficiary and are in their 'best interest', due to her 'not being able to take care of herself'. When a woman is exposed to violence that is tolerated and 'acceptable', she becomes almost completely helpless. In addition to this, it is necessary to add the fact that an institutionalized woman has incomparably less possibilities to protect herself from the perpetrator and break the cycle of violence.<sup>186</sup>

## Challenges

Although Convention requirements are met, what is alarming is that criminal prosecution rarely happens, despite the general tendency of performing surgical and other medical procedures without detailed informing of the patient, especially women, pregnant women and women in labor.<sup>187</sup>

During 2016, only 7 persons were reported for the act of unauthorized termination of pregnancy, 4 charges were initiated, only one person convicted, while three persons were declared innocent due to lack of evidence. In cases of sentencing, all were light punishments, 6 – 12 months of prison (the foreseen prison sentence for this act is between 3 months and 3 years of prison).<sup>188</sup>

## Recommendations

- 1) It is necessary to regard the performing of medical procedures without informed consent, including abortion and sterilization, as serious malpractice. Institutions have a low level of awareness about the repercussions of this practice, which is most part normalized.**
- 2) It is necessary to criminalize forced abortion and forced sterilization in accordance with Article 39 of the Convention.**

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<sup>186</sup> Available in Serbian at: <https://www.mdri-s.org/wp-content/uploads/2018/02/Smernice-knjizni-blok.pdf>

<sup>187</sup> Available in Serbian at: <http://centarzamame.rs/blog/2015/03/01/sloboda-radanju-rezultati-o-iskustvima-zena-na-porodaju-u-srbiji/>

<sup>188</sup> Adult perpetrators of criminal acts in Serbia, 2016. Bureau of Statistics. Available in Serbian at: <http://publikacije.stat.gov.rs/G2017/Pdf/G20175629.pdf>

## Article 40 – Sexual harassment

### **Convention requirements**

Parties shall take the necessary legislative or other measures to ensure that any form of unwanted verbal, non-verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment, is subject to criminal or other legal sanction.

### **Situation regarding implementation**

The amendments of the *Criminal Code* from 2016 introduced a new criminal act – sexual harassment. Article 182a forbids sexual harassment, including all verbal, non-verbal or physical conduct with the purpose or effect of violating the dignity of a person in the sphere of sexual life, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment. A harder form of criminal act exists in the case where it is done to a minor, with criminal charges being initiated upon report.

### **Challenges**

Organizations have criticized the partial harmonization with the Convention during the introduction of the new criminal act, considering that the violation of dignity of a person in the sphere of sexual life is inadequate for the Convention requirement stating the „violation of dignity of a person“. Given that the Convention foresees the conduct of a „sexual nature“, the logical solution would be for the legal regulation to contain the indication that it is related to unwanted behavior of a sexual nature, linking the consequences to the violation of a person’s dignity, rather than the dignity in the sphere of sexual life.

Further, the term sexual harassment itself is inadequate, keeping in mind it is illicit behavior of a sexual nature regardless of the perpetrator’s or the victim’s gender.<sup>189</sup>

The biggest obstacle for the introduction of this act into the criminal-legislative system were particularly turbulent reactions among the public.<sup>190</sup> It can be said that this criminal act was given the most attention comparing to all other amendments of the *Criminal Code*. Media reports were often filled with ambiguous messages – pompous headlines and opinions claiming that this will make courting, flirting and complimenting a criminal offense<sup>191</sup> followed by expert opinions about this interpretation being excessive. According to published information, until the end of 2017, 4 persons were convicted for the criminal act of sexual harassment<sup>192</sup>, while a detailed statistic for 2017 is still not made publicly available.

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<sup>189</sup> The achievements and shortcomings of the criminal justice protection system after harmonization with the Council of Europe Convention on the Prevention and Combating Violence Against Women and Domestic Violence. Available in Serbian at: <http://www.preugovor.org/Prakticne-politike/1409/Ostvareni-napredak-i-nedostaci-krivicnopravnog.shtml>

<sup>190</sup> Available in Serbian at: <http://informer.rs/vesti/drustvo/332992/svaleri-oprez-za-napadno-udvaranje-od-sad-se-ide-na-robuju-otkrivamo-sta-donose-nove-odredbe-krivicnog-zakona>

<sup>191</sup> Available in Serbian at: <http://www.novosti.rs/vesti/naslovna/drustvo/aktuelno.290.html:668081-Za-udvaranje-kazna-po-dzepu>

<sup>192</sup> Available in Serbian at: <http://www.021.rs/story/Info/Srbija/176180/Vise-od-200-ljudi-se-zalilo-na-polno-uznemiravanje-i-proganjanje.html>

## Recommendations

- 1) *It is necessary to fully harmonize Article 182a of the Criminal Code with Convention requirements.*
- 2) *It is necessary for the media and professional public to approach this issue responsibly, informing the public about sexual harassment, especially keeping in mind that criminal charges are initiated upon report and not in the line of duty.*

## Article 45 – Sanctions and measures

### Convention requirements

- 1) Parties shall take the necessary legislative or other measures to ensure that the offences established in accordance with this Convention are punishable by effective, proportionate and dissuasive sanctions, taking into account their seriousness. These sanctions shall include, where appropriate, sentences involving the deprivation of liberty which can give rise to extradition.
- 2) Parties may adopt other measures in relation to perpetrators, such as:
  - monitoring or supervision of convicted persons;
  - withdrawal of parental rights, if the best interests of the child, which may include the safety of the victim, cannot be guaranteed in any other way.

### Situation regarding implementation

The *Criminal Code* has, prior to the adoption of the Convention, for the most part foreseen adequate and dissuasive prison sentences for acts of gender based violence. The same can be said for the criminal acts introduced after the amendments of 2016.

The amendments eliminated the inconsistencies by tightening sanctions for a certain number of acts from the group of acts against sexual freedom. For the basic form of the crime act of rape (Article 178, Paragraph 1) the prison sentence is increased from 3 – 12 years to 5 – 12 years. For the basic form of the criminal act of sexual intercourse against a helpless person (Article 179, Paragraph 1) the prison sentence is increased from 2 – 10 years to 5 – 12 years, the basic form of sexual intercourse of a child (Article 180, Paragraph 1) the prison sentence is increased from 3 – 12 years to 5 – 12 years, also increasing the sentence for the act of sexual intercourse of a child by abuse of power (Article 180, Paragraph 3) from 3 – 12 years to 5 – 12 years. In this way, some of the inconsistencies discovered by studies and analyses were corrected, such as the unjustifiably low minimum sentence for the basic act of sexual intercourse against a helpless person compared to other acts in this group.<sup>193</sup>

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<sup>193</sup> The achievements and shortcomings of the criminal justice protection system after harmonization with the Council of Europe Convention on the Prevention and Combating Violence Against Women and Domestic Violence. Available in Serbian at: <http://www.preugovor.org/Prakticne-politike/1409/Ostvareni-napredak-i-nedostaci-krivicnopravnog.shtml>

However, some acts kept loose punishment (the basic form of the act of unauthorized sexual conduct), with the possibility of sentencing under the foreseen minimum still remaining for the criminal acts of obljudba of a child by abuse of power and unauthorized sexual conduct.<sup>194</sup> The *Family Law*, Article 81, recongizes the possibility of complete deprivation of parental rights due to physical, sexual or emotional abuse of the child, in line with Convention requirements, which was already mentioned in this report.

## Challenges

The challenges become visible in the application of sanctions and measures. If we take a look at the criminal act of domestic violence, it becomes visible that during 2017, out of a total of 2200 convictions for this act, 60% are conditional sentences. The domestic professional public, even the Justice Minister herself, believe that these penalties are inadequate and ineffective.<sup>195</sup> During 2016, for which detailed legislative statistics are available, there is a similar situation, out of 2065 convictions for this act, 1301 were conditional sentences. Unconditional prison sentences were ruled in a smaller number of cases, most of them being minimal – 3-6 months (223 verdicts) and 6-12 (169 verdicts).<sup>196</sup>

However, this is not an issue specific to acts of gender based violence, rather an issue of the judiciary and penalty policy as a whole. This policy usually gives advantage to conditional sentencing. As an example, during 2017, the courts ruled on 9419 unconditional prison sentences and 17541 conditional sentences. During 2016, this ratio was even more drastic and amounted to 8820 prison sentences and 19290 conditional sentences.

## Recommendations

***It is necessary to seriously reconsider the adequacy of current penalty policy, especially the adequacy of mass conditional sentencing for criminal acts containing elements of physical violence.***

## Chapter VI: Investigation, prosecution, procedural law and protective measures

### Article 49 – General obligations

#### Convention requirements

- 1) Parties shall take the necessary legislative or other measures to ensure that investigations and judicial proceedings in relation to all forms of violence covered by the scope of this

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<sup>194</sup> The achievements and shortcomings of the criminal justice protection system after harmonization with the Council of Europe Convention on the Prevention and Combating Violence Against Women and Domestic Violence. Available in Serbian at: <http://www.preugovor.org/Prakticne-politike/1409/Ostvareni-napredak-i-nedostaci-krivicnopravnog.shtml>

<sup>195</sup> Available in Serbian at: <http://www.rts.rs/page/stories/sr/story/125/drustvo/2804024/preispitace-se-kazne-za-nasilje-u-porodici.html>

<sup>196</sup> Adult perpetrators of criminal acts in Serbia, 2016. Bureau of Statistics. Available in Serbian at: <http://publikacije.stat.gov.rs/G2017/Pdf/G20175629.pdf>

Convention are carried out without undue delay while taking into consideration the rights of the victim during all stages of the criminal proceedings.

- 2) Parties shall take the necessary legislative or other measures, in conformity with the fundamental principles of human rights and having regard to the gendered understanding of violence, to ensure the effective investigation and prosecution of offences established in accordance with this Convention.

## ***Situation regarding implementation***

The *Criminal Code* has, prior to the adoption of the Convention, foreseen timely criminal proceedings as one of its fundamental principles. Article 14 of the Code stipulates that the court is obliged to carry out proceedings without delay and prevent any abuse of rights aimed at prolonging the proceedings.

Also, the right to a trial within reasonable time is recognized, in Article 68, as one of the rights of the defendant. During 2015, Serbia has adopted a special law guaranteeing trial within reasonable time – *Law on the Protection of Rights to a Trial Within Reasonable Time*<sup>197</sup>, based on which, parties can submit claims against the length of the proceedings, expect their acceleration and expect just reparations.

## ***Challenges***

Despite clear legal guarantees of a trial within reasonable time, court proceedings in Serbia last for at least two years.<sup>198</sup> According to a report published by the Supreme Court of Cassation, 2017 ended with 1 911 086 unsolved cases in all courts on all levels in Serbia. Although the acts of violence covered by the Convention are tackled by additional mechanisms and guarantees of trials within reasonable time, the fact that the courts have almost two million unsolved cases makes these guarantees harder to attain.

When considering the rights of victims in all phases of criminal proceedings, although there are positive shifts, it should be noted that the domestic criminal legislation doesn't distinguish the term 'damaged party' in criminal proceedings, from the term 'victim' of violent criminal acts.

## ***Recommendations***

- 1) ***It is necessary for the authorities to, along with existing guarantees, make additional efforts in order to solve old cases, ensuring a consistent application of guarantees in cases of violence.***
- 2) ***It is necessary for the criminal legislation to define the differences between the term 'damaged party' and 'victim' and introduce further procedural guarantees for victims of violent criminal acts, in line with Convention requirements.***

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<sup>197</sup> *Law on the Protection of Rights to a Trial Within Reasonable Time*, Official Gazette of RS, no.40/2015.

<sup>198</sup> Statistics on the work of general courts in the Republic of Serbia for the period 1.1. – 31.12.2017. Available in Serbian at:<http://www.vk.sud.rs/sites/default/files/attachments/KNJIGA%20-%20OPSTA%20NADLEZNOST.pdf>

## Article 50 – Immediate response, prevention and protection

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies respond to all forms of violence covered by the scope of this Convention promptly and appropriately by offering adequate and immediate protection to victims.
- 2) Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies engage promptly and appropriately in the prevention and protection against all forms of violence covered by the scope of this Convention, including the employment of preventive operational measures and the collection of evidence.

### **Situation regarding implementation**

During 2016, the *Law on the Prevention of Domestic Violence* was adopted („Official Gazette of RS“, no. 94/2016)<sup>199</sup>, its implementation started in June 2017. The law was adopted under the influence of the Convention, with the aim to ensure preventive action in cases of violence or immediate danger of violence. Actions for the prevention of violence can only be carried out by police officers who went through specialized training and who have initial contact with the victim. Further, the police officer on duty is authorized to collect information on violence, assess the risk of imminent domestic violence and apply one of the urgent measures for the prevention of domestic violence.

When the considering the duty of law enforcement agencies in regular criminal proceedings (exceeding preventive action), police officers already have the possibility to collect evidence and take action in criminal proceedings (depending on the phase of the proceedings).

### **Challenges**

Despite new and wider police mandate, there are challenges in their application. The police officers on duty do not have initial contact with the victim, but receive information about reported violence from officers on the scene and take action based on indirect reports. This practice makes it difficult to exercise new authority and questions the adequacy of decisions made by the police officer on duty.

In addition to this, the new mandate was given to the police without significant capacity building, making the lack of designated human resources a constant issue in acting on cases of violence. A challenge is also represented in the fact that a significant number of cases of violence or imminent danger from it remains unreported, making new preventive measures inapplicable.

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<sup>199</sup> Available in Serbian at: [https://www.paragraf.rs/propisi/zakon\\_o\\_sprecavanju\\_nasilja\\_u\\_porodici.html](https://www.paragraf.rs/propisi/zakon_o_sprecavanju_nasilja_u_porodici.html)

## **Recommendations**

- 1) *It is necessary to further train police personnel on the application of the Law of the Prevention of Domestic Violence.*
- 2) *It is necessary to raise the number of designated police officer acting in cases of violence and enable direct contact between the police officer on duty and the person reporting the violence.*

## Article 51 – Risk assessment and risk management

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide co-ordinated safety and support.
- 2) Parties shall take the necessary legislative or other measures to ensure that the assessment referred to in paragraph 1 duly takes into account, at all stages of the investigation and application of protective measures, the fact that perpetrators of acts of violence covered by the scope of this Convention possess or have access to firearms.

### **Situation regarding implementation**

The *Law on the Prevention of Domestic Violence* foresees an assessment of risk, performed by the police officer on duty with possible consultation with the Center for Social Work. The factors taken into consideration during risk assessment include whether the suspected perpetrator, previously or immediately before the risk assessment, committed domestic violence and whether they are willing to do it again, whether they made death threats or suicide threats, possesses a weapon, is mentally ill or abusing substances, whether there is conflict over child custody, whether urgent or protective measures were applied against them for domestic violence, whether the victim experiences fear and how they assess the risk of violence.

When taking into account Convention requirements related to coordinated safety and support, the law tends to ensure the coordination of the police, the prosecution, courts, Centers for Social Work acting together through the Group for Coordination and Cooperation within the Basic Prosecutors Offices (Articles 25 and 26 of the law) and through designated persons tasked with communication (Article 24).

### **Challenges**

The institutions, primarily Centers for Social Work and the prosecution, rely solely on the risk assessments made by the police and do not contribute to the assessment with their own information. The issue is also that the police doesn't carry out a risk assessment in every reported case. In cases of acting on a report, additional assessments due to changed circumstances are rarely carried out, making the authorities stand by their initial assessment.

## **Recommendations**

- 1) It is necessary for the risk assessment to be based on information gathered by the police, the prosecution and the Centers for Social work together.**
- 2) It is necessary for the police to carry out a risk assessment in every case of reported violence.**
- 3) It is necessary to carry out additional risk assessments due to changed circumstances.**

## Article 52 – Emergency barring orders

### **Convention requirements**

Parties shall take the necessary legislative or other measures to ensure that the competent authorities are granted the power to order, in situations of immediate danger, a perpetrator of domestic violence to vacate the residence of the victim or person at risk for a sufficient period of time and to prohibit the perpetrator from entering the residence of or contacting the victim or person at risk. Measures taken pursuant to this article shall give priority to the safety of victims or persons at risk.

### **Situation regarding implementation**

The *Law on the Prevention of Domestic Violence* (Article 17), foresees the power of police officers on duty to order an emergency measure, with the aim of protection against immediate danger of domestic violence. The emergency measures include orders to temporarily vacate the residence and the order to prohibit contact with the victim. The emergency measures last for 48 hours and can be prolonged to 30 days.

The Ministry of the Interior has, in 2017, issued 4469 orders to temporarily vacate the residence and 9339 restraining orders. In 2018 there were 3408 orders to vacate the residence and 7780 restraining orders. The number of extended measures ordered by the prosecution in 2018 is 6347, while information on extended measures ordered in 2017 is not available.<sup>200</sup>

In the 5<sup>th</sup> Independent Report on the application of the *Law on the Prevention of Domestic Violence*, prepared by the Autonomous Women's Center, it is stated that the number of emergency measures ordered by the police has increased. The number of emergency measures prohibiting contact ranges from 1350 and 1500, an average of 81,2% out of all the newly reported cases of violence. The number of emergency measures of vacating the residence is between 600 and 700, an average of 36,6% of all the newly reported cases of domestic violence (in January it was 41,8%), which also represents a slight increase compared to the previous period. Additionally, the number of orders for the extension of measures is increasing as an effect of the increase of newly reported cases of violence and ordered emergency measures, ranging between 1300 and 1450, in January around 1600. The court accepts the majority of proposals for the extension of emergency measures, 96,4%.

All stated indicators prove that the most important tasks in gathering information, risk assessment, as well as the decision on ordering emergency measures are done by the police

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<sup>200</sup> Data of the Ministry of the Interior given in an interview to SeConS on 05.06.2018.

officer on duty. Their position is therefore very sensitive and important, making it necessary to ensure suitable resources and adequate support.<sup>201</sup>

## **Challenges**

In the majority of reported cases of domestic violence emergency measures are issued, their extension depending on the court and the prosecution on the territory of the police department in question.<sup>202</sup> Practice shows that some prosecutor's offices propose the extension of emergency measures, while some rarely do it. This presents a problem, because the extension should be evaluated in every individual case, and not as an operating pattern of the institution.

When talking about violations of temporary measures prohibiting communication, the police claims that in case of violations through social media, perpetrators often remain unpunished, because judges deem this evidence as irrelevant for issuing penalties for violation of emergency measures.

Civil society organizations warn that institutions, especially prosecution and courts, often consider emergency measures sufficient for the protection against domestic violence. This makes other protective measures of a more permanent nature – ie protective measures in criminal proceedings – absent. The problem here is that the ordering of emergency measures, along with permanent measures can only lead to an adequate scope of protection

## **Delivery of orders – practice implications**

Based on the *Law on the Protection of Domestic Violence*, the police officer issues emergency measures starting from the moment of their delivery, according to Article 21. The court can extend the measures in question for up to 30 days. The law, however, doesn't regulate the obligation to deliver the order by any means necessary in order for the extension to have effect. This created different interpretations by many police departments, leading to the discovery of persons by any means necessary, as opposed to the previous belief that there is no offence if the person violates the extended measures due to the fact that they weren't delivered to them.

This faulty practice created many problems. Mainly, Article 17 Paragraph 4 foresees the contents of the emergency measure order, among others things, a subpoena with the obligation of the perpetrator to report to the police officer on duty after 48 hours (with the aim of being informed about the decision to extend the measures). Having this in mind, there is no dilemma about police officers' obligation to search for the person, especially regardless of whether the person received the extended measure order or not, the measure is active, meaning its violation has elements of illegal act.

In the beginning, the courts had a dilemma about the liability of persons in cases where they violated emergency measures which weren't delivered to them, but a correct attitude was

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<sup>201</sup> Available in Serbian at: [https://www.womenngo.org.rs/images/vesti-18/PDF/Peti\\_nezavisni\\_izvestaj\\_AZC\\_o\\_primeni\\_Zakona\\_o\\_sprecananju\\_nasilja\\_u\\_porodici.pdf](https://www.womenngo.org.rs/images/vesti-18/PDF/Peti_nezavisni_izvestaj_AZC_o_primeni_Zakona_o_sprecananju_nasilja_u_porodici.pdf)

<sup>202</sup> Same as above

assumed regardless of this. First, the law doesn't stipulate the obligation for the person to receive the order, second, emergency measures are extended, not newly ordered, and third, the person was informed about the possibility of extension of measures for up to 30 days and the obligation of reporting to the police officer on duty after 48 hours. In line with the *Law on Civil Lawsuits*, it can be regarded that by not approaching the police officer, the person in fact refuses the delivery.

Even though the judges were aware of this, issues arose related to faulty requests for initiating proceedings. The biggest issues were related to non-delivery of emergency measure orders where there is an obligation to report to the police officer in charge, the most significant and most common oversight being not informing the court (in the form of official note) that the person in question did not do as instructed. This means that the obligation of police officers is to conclude, in writing, that the order was personally delivered and that it contained further instructions and relevant information about further procedure. This note de facto concludes that the person refused delivery. There is no need or obligation to further search for the person.

The *Law on the Protection of Domestic Violence* however, in cases of extension of emergency measures by the court, doesn't regulate the obligation to inform the victim about the court's decision, although this obligation is foreseen by Article 17 Paragraph 6 for orders made by police officers. It is certainly necessary to define this obligation, especially considering previous practice (in some cases the victim is informed by telephone or in writing, in others the victim is not informed of the measure being extended considering there is no legal obligation for it).

## **Recommendations**

- 1) It is necessary for the police, the prosecution and the court to determine the need for issuing emergency measures in every individual case and not as an institutional operation pattern.**
- 2) It is necessary for the institutions to use all protection measures at their disposal and to not rely only on issuing emergency measures.**

## Article 53 – Restraining or protection orders

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that appropriate restraining or protection orders are available to victims of all forms of violence covered by the scope of this Convention.
- 2) Parties shall take the necessary legislative or other measures to ensure that the restraining or protection orders referred to in paragraph 1 are:
  - Available for immediate protection and without undue financial or administrative burdens placed on the victim;
  - Issued for a specified period or until modified or discharged;
  - Where necessary, issued on an *ex parte* basis which has immediate effect;
  - Available irrespective of, or in addition to, other legal proceedings;

- Allowed to be introduced in subsequent legal proceedings.

## **Situation regarding implementation**

Restraining order is one of the emergency measures foreseen by the *Law on the Prevention of Domestic Violence*, as previously mentioned. However, a restraining order in line with Article 53 of the Convention can also be issued by the court in civil lawsuits, according to Article 198 of the *Family Law*. Additionally, a restraining order, prohibition of meeting or communicating with another person or frequenting specific places, can be issued by the court in criminal proceedings, according to Article 197 of the *Criminal Procedure Code*.

It should be noted that the 2016 amendments of the *Criminal Code* introduced a new criminal act – violation of order foreseen by Article 340a of the *Criminal Code*. This act is committed by the person violating the order, the proposed penalty being monetary or prison sentence up to 6 months. In situations where monetary penalty is proposed, it can be concluded that the decision won't significantly impact future behavior, a more effective solution being to introduce a regulation by which the court can revoke the conditional sentence in case of violation of order.<sup>203</sup>

## **Challenges**

A lack of judiciary records of issued protection measures against domestic violence in civil and criminal proceedings presents a serious challenge. An obstacle to the enforcement of restraining orders is also that the judges, by applying the *Law on the Prevention of Domestic Violence*, issue monetary penalties for violations of restraining orders, although the law does not permit this, but foresees a prison sentence of up to 60 days.

## **Recommendations**

***It is necessary for institutions to ensure periodical and precise records of issued measures for the protection against domestic violence, both emergency measures and those issued in civil and criminal proceedings.***

## Article 57 – Legal aid

### **Convention requirements**

Parties shall provide for the right to legal assistance and to free legal aid for victims under the conditions provided by their internal law.

## **Situation regarding implementation**

The *Constitution of Republic of Serbia* guarantees the right to legal counsel, under the conditions stipulated by the law. According to the constitutional solution, legal counsel is

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<sup>203</sup> The achievements and shortcomings of the criminal justice protection system after harmonization with the Council of Europe Convention on the Prevention and Combating Violence Against Women and Domestic Violence. Available in Serbian at: <http://www.preugovor.org/Prakticne-politike/1409/Ostvareni-napredak-i-nedostaci-krivicnopravnog.shtml>

provided by lawyers, in individual and independent capacity, and legal aid services established in local self-governments in accordance with the law.

## **Challenges**

The Government of RS finally adopted the *Law on Free Legal Aid* and sent it to Assembly during september 2018.<sup>204</sup> The constant was that victims of gender based violence should have the right to free legal aid. However, the questions remained about whether this aid is guaranteed only in cases of protection against violence or also in cases of divorce or management of marital assets. Additionally, a problematic question was also whether the victims can choose who they approach for legal aid or it will be achieved by referral to a specified free legal aid service.

Victims of gender based violence, as well as other citizens, cannot achieve the vested constitutional right to free legal aid due to long-term disagreements between legal profession and citizens associations about who has the right and who has the obligation to provide free legal aid. Bar associations firmly assume the stand that they are the only ones who can provide free legal aid, despite the constitutional regulation not excluding other providers and despite the fact that civil society organizations provide these services over the previous 20 years for most vulnerable citizens, including victims of gender based violence and human trafficking.<sup>205</sup>

## **Recommendations**

- 1) *It is necessary to enable a implementation of the Law on Free Legal Aid, and ensure victims of gender based violence achieve the right to free legal aid, both in cases of violence and in cases related to abandoning situations of violence.*
- 1) *It is necessary to enable victims to seek free legal aid from institutions and services of their choice.*

## Chapter VII: Migration and asylum

### Article 59 – Residence status

#### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that victims whose residence status depends on that of the spouse or partner as recognised by internal law, in the event of the dissolution of the marriage or the relationship, are granted in the event of particularly difficult circumstances, upon application, an autonomous residence permit irrespective of the duration of the marriage or the relationship. The conditions relating to the granting and duration of the autonomous residence permit are established by internal law.
- 2) Parties shall take the necessary legislative or other measures to ensure that victims may obtain the suspension of expulsion proceedings initiated in relation to a residence status

<sup>204</sup> <https://www.blic.rs/vesti/politika/vlada-usvojila-predlog-zakona-o-besplatnoj-pravnoj-pomoci/bzsrlgz>

<sup>205</sup> Available at: <https://pescanik.net/banalno-tumacenje/>

dependent on that of the spouse or partner as recognised by internal law to enable them to apply for an autonomous residence permit.

- 3) Parties shall issue a renewable residence permit to victims in one of the two following situations, or in both:
  - a. Where the competent authority considers that their stay is necessary owing to their personal situation;
  - b. Where the competent authority considers that their stay is necessary for the purpose of their co-operation with the competent authorities in investigation of criminal proceedings.
- 4) Parties shall take the necessary legislative or other measures to ensure that victims of forced marriage brought into another country for the purpose of the marriage and who, as a result, have lost their residence status in the country where they habitually reside, may regain this status.

### ***Situation regarding implementation***

The granting of residence permits to foreigners is regulated by the *Law on Foreigners* („Official Gazette RS“, no. 24/2018)<sup>206</sup>, adopted on the 3<sup>rd</sup> of April 2018. However, its application was prolonged for six months, meaning October 2018. Until then the previous *Law on Foreigners (Strangers)* will be applied.<sup>207</sup>

The new law introduces innovations regarding residence status, the most significant differences to the previous one being visible in new and explicitly regulated conditions for granting temporary residence. Article 59 of the law states that a foreigner who is a victim of domestic violence or is in other particularly difficult circumstances can be granted independent residence, regardless of the duration of their previous stay in the country and fulfillment of general conditions for obtaining a residence permit. This meets the Convention requirement foreseen by Article 59, Paragraph 1.

The new *Law on Foreigners* does not explicitly state the possibility for suspension of expulsion proceedings initiated in relation to a residence status of the spouse or partner and the possibility to apply for autonomous residence permit (requirement of Article 59, Paragraph 2). However, referral of the spouse to Article 59 can be sufficient for taking into consideration the application for an autonomous residence permit.

The *Law on Foreigners* also introduces innovations contributing to the fulfillment of Article 59, Paragraph 3 requirements. Specifically, Article 61, Paragraph 1, Clause 3 of the law introduces the possibility of granting temporary residence for humanitarian reasons, including the granting of residence to a victim of a serious criminal act, who cooperates with the authorities and whose presence in criminal proceedings is necessary. Clause 5 of the same article foresees the granting of residence in case of serious personal circumstances of a humanitarian nature, the existence of interests of the Republic of Serbia or international obligations.

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<sup>206</sup> *Law on Foreigners*, Official Gazette RS, no. 24/2018

<sup>207</sup> *Law on Foreigners*, Official Gazette of the Republic of Serbia, No. 97/08 of 27 October 2008, and its application was commence on 1 April 2009.

When considering the requirement of Article 59, Clause 4, enabling the renewal of residence permit for victims of forced marriages, the law doesn't recognize this cause as relevant for obtaining residence. However, Article 62 of the law foresees the protection of persons suspected of being victims of human trafficking. Human trafficking and forced marriage are two separate criminal act according to Serbian legislation, but have common elements, especially in relation to harder forms of forced marriage, including the taking of a person abroad. In this regard, the measures for enabling residence permit to persons suspected of being victims of human trafficking can be used for the protection of persons who were victims of forced marriage, taking into consideration the case particularities and how this regulation will be interpreted in practice.

## **Challenges**

Considering that new regulation is still not adopted, we can anticipate potential challenges based on how they are formulated and previous experience in the work of state authorities. These experiences show that authorities are inclined to restrictively interpret the law. In this regard, there could be issues in the protection of persons who were victims of forced marriage, the renewal of their residence permit not being explicitly regulated. Also, there can be difficulties in the interpretation of granting residence permit out of humanitarian reasons. The law foresees the protection of victims of „serious criminal acts“, making it necessary to further define these actions covered by the Convention.

A possible challenge can represent the lack of free legal aid for victims. The *Law on Free Legal Aid* is in the process of adoption for over ten years, basing the system fully on the work of individual non-governmental institutions with limited capacities. The non-functioning of free legal aid services prevents the information of persons in a particularly vulnerable position, which the Convention seeks to protect.

## **Recommendations**

- 1) It is necessary to explicitly establish the suspension of expulsion proceedings initiated in relation to residence status of a spouse or partner and the application for autonomous residence permit.**
- 2) It is necessary to explicitly establish the possibility of renewal of residence status for persons who were taken to another country as victims of forced marriage, therefore losing residence in the country of their origin.**
- 3) It is necessary for relevant authorities recognize criminal acts of violence as serious criminal acts in practice.**

## **Adoption of the Law on Temporary Protection and Asylum**

The new *Law on Temporary Protection and Asylum*<sup>208</sup> was adopted on the 3<sup>rd</sup> of April 2018 and implemented since June 2018. The new law was subject to public debate in March 2016<sup>209</sup>, while the process of adoption lasted for two more years. This delay in adoption was explained by the refugee crisis in which the relevant authorities were in no position to strategically change, as well as frequent elections preventing the National Assembly to act according to previous plans.<sup>210</sup>

The civil society actively participated in the debate. In 2014, a group of organizations published an analysis „Challenges of the Asylum System“<sup>211</sup>, including recommendations for legislative amendments. Organizations active in the field of migration, asylum and protection of human rights have actively participated in the public debate about the law draft, part of them even published a *Commentary of the Draft of Law on Asylum*.<sup>212</sup> An important part of recommendations were directed to the harmonization of the draft with international obligations of Serbia, especially the ones related to the protection against gender based violence, foreseen by the convention. These recommendations were in most part accepted by the authorities in the process of law drafting.

## Article 60 – Gender-based asylum claims

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to ensure that gender-based violence against women may be recognised as a form of persecution within the meaning of Article 1, A (2), of the 1951 Convention relating to the Status of Refugees and as a form of serious harm giving rise to complementary/subsidiary protection.
- 2) Parties shall ensure that a gender-sensitive interpretation is given to each of the Convention grounds and that where it is established that the persecution feared is for one or more of these grounds, applicants shall be granted refugee status according to the applicable relevant instruments.
- 3) Parties shall take the necessary legislative or other measures to develop gender-sensitive reception procedures and support services for asylum-seekers as well as gender guidelines and gender-sensitive asylum procedures, including refugee status determination and application for international protection.

### **Situation regarding implementation**

The new *Law on Asylum and Temporary Protection*, Article 24, states that asylum can be granted to a seeker finding themselves outside of their country of origin or residence, and justifiably fear persecution based on race, gender, mother tongue, nationality, belonging to a specific social group or political views, therefore making them unable or unwilling to receive protection from that state. Article 26 further defines the motives for persecution, paragraph 2 stating that, depending on circumstances within the origin country, a specific social group can

<sup>208</sup> *Law on Temporary Protection and Asylum*; Office Gazette of RS, no. 24/2018.

<sup>209</sup> Schedule of public hearings available in Serbian at: <http://arhiva.mup.gov.rs/cms/resursi.nsf/1003-LAT.Termini%20javnih%20rasprava%20o%20nacrtu%20zakona.pdf>

<sup>210</sup> The reasons for the delay in ratification of the law were stated on many occasions during meetings of the Working Group for Chapter 24 of the National Convention on the EU

<sup>211</sup> Available in Serbian at: <https://grupa484.org.rs/wp-content/uploads/2014/10/Izazovi-sistema-azila-2014.pdf>

<sup>212</sup> Available in Serbian at: <http://grupa484.org.rs/wp-content/uploads/2016/07/web-nacrt-zakona-SR.pdf>

signify a group based on mutual characteristics of sex, gender, gender identity and and sexual orientation. Paragraph 3 of the same article states that while determining whether there is justified fear of persecution, it is irrelevant for the seeker to actually possess characteristics which can be reason for persecution, instead making it sufficient for these characteristics to be attributed by the persecutor.

Article 28 of the law states that acts of persecution are the ones grave enough in its nature or repetition to represent a serious violation of basic human rights. As acts to be particularly considered as persecution, paragraph 2 explicitly states physical or psychological violence, including sexual and gender based violence, as well as acts specifically linked to gender or children in its nature. In this regard, the Convention requirements for providing asylum in different cases of gender based violence have been met.

In the case of requirements related to gender sensitive procedures, they have in most part been met by Article 16 of the law, establishing the principle of gender equality and sensitivity. The article implies that all parts of the law must be interpreted in a gender sensitive manner, that the asylum seeker must be enabled to submit an asylum request and be interrogated by a person of the same sex, except in situations where this is not possible or is related to disproportionate difficulties for the body in charge of the asylum process. An important innovation represents also the rule that women accompanied by men seeking asylum submit their requests separately from their companions. This solution enables easier identification of gender based violence and victim protection.

Article 16 also states that during searches, physical examination and other measures taken during the procedure involving physical contact with the asylum seeker, the principle of same sex contact applies without explicit request from the seeker. Article 17 enables special process guarantees for persons in specific situations, including persons who have been tortured, raped or exposed to other severe forms of psychological, physical or gender based violence, the same applying to Article 54 which recognizes the need for primary health protection of victims of torture, rape and other severe forms of psychological, physical or sexual violence. These guarantees fulfill the Convention requirements for gender sensitive procedures.

## Challenges

Having in mind that the law implementation has only begun, potential challenges can only be assumed based on previous experiences in the work of bodies in charge of asylum procedures.

The analysis 'Violence against women and girls in the migrant population in Serbia'<sup>213</sup> indicates that violence suffered by refugee and migrant women isn't a sporadic but a permanent occurrence. According to available data on migrant and refugee women in Serbia, 65% of respondents have suffered some form of physical violence, either in their country of origin, during their journey or stay in Serbia.

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<sup>213</sup> Available in Serbian at:

<http://www.atina.org.rs/sites/default/files/Nasilje%20nad%20%C5%BEenama%20i%20devojk%C4%8Dicama%20u%20migrantskoj%20populaciji%20u%20Srbiji.pdf>

In the upcoming period, as well as in the previous, a great issue will represent the lack of knowledge on gender based violence among professionals in the protection system. The professionals aren't adequately skilled to recognize gender based violence or the needs of the victims in the process of protection. This applies to common forms of gender based violence in Europe, as well as completely new forms of violence more commonly associated with the communities from which refugees and migrants come from (revengeful marriage, mutilation, including genital mutilation, crime out of honor, reciprocal rape, early and child marriage, especially between young girls and older men). Although there is a possibility for women to report gender based violence and request protection from local authorities, it was observed from previous experience that women rarely decide to take this step, primarily because of being dependant on their husbands and other male family members. A violence report could also have the consequence of separation from children, further preventing the reporting.

Also, a challenge represents the fact that refugee and migrant women often don't recognize the violence being inflicted on them, having in mind that it is common and represented as part of cultural practice in their home countries. If the violence is recognized, it is usually violence with serious consequences such as great bodily harm, disability and death. An additional issue in reporting is the communication, given that Serbia still hasn't ensured a sufficient number of translators for Arabic, Afghanistan and other Asian and African languages the refugees speak.

Having in mind the obstacles existing within the protection system and the recognition of gender based violence among migrant and refugee women, it can be concluded that the new legal framework, recognizing gender based violence as grounds for protection and special attention during proceedings, can be a chance to solve current problems in the asylum system.

## **Recommendations**

- 1) It is necessary to intensify education of professionals in the protection system in order for them to learn to recognize different forms of gender based violence and recognize the victim's needs in the asylum process.**
- 2) It is necessary to ensure a safe space for migrant and refugee women to speak about their experiences of violence. It is evident that the workshop approach produces results, that women gladly participate and feel safe and free to share their experiences with others.**
- 3) In work with women it is necessary to implement the individual approach, in order for the support provided to have effect and to minimize the risk of reoccurring violence or exploitation.**

## Article 61 – Non-refoulement

### **Convention requirements**

- 1) Parties shall take the necessary legislative or other measures to respect the principle of non-refoulement in accordance with existing obligations under international law.
- 2) Parties shall take the necessary legislative or other measures to ensure that victims of violence against women who are in need of protection, regardless of their status or

residence, shall not be returned under any circumstances to any country where their life would be at risk or where they might be subjected to torture or inhuman or degrading treatment or punishment.

## **Situation regarding implementation**

The Convention requirements on non-refoulement were fulfilled by the previous *Law on Asylum*<sup>214</sup> from 2017, as well as the *Law on Asylum and Temporary Protection* ratified in 2018. Article 6 of the *Law on Asylum and Temporary Protection* states that no person can be expelled or deported to a territory where their life or liberties can be threatened based on race, gender, language, religion, nationality, belonging to a specific social group or political views. The law, despite the general ban on refoulement, enables the refoulement of persons considered a danger to the security of the Republic of Serbia or who have been convicted to sentences of 5 years and more, making them a danger to public order. However, even in this case, no person can be expelled or deported against their will in cases where there is risk of them being exposed to torture, inhumane or degrading conduct or punishment.

## **Challenges**

The issues in the implementation of the non-refoulement principle in cases of protection of victims of gender based violence can be perceived in light of the implementation of this principle in general (not only for victims of gender based violence). According to the annual report published by Belgrade Center for Human Rights for 2017 *'The Right to Asylum in the Republic of Serbia'*<sup>215</sup>, despite an adequate legal framework, Serbia still has difficulties in full implementation of the non-refoulement principle. Relevant authorities, despite bans, use collective expulsion and deportation of aliens and often don't go into individual assessments of risks for each person subject to it. Serious systemic issues have also been identified in cases of extradition of foreign citizens, even before a final ruling on their asylum request in Serbia. Looking at collective expulsion and deportation, BCHR states that cases were noted, especially in Belgrade, of police officers not willing to issue new certificates of intent to request asylum in cases where the old certificates become invalid. This way, foreigners become persons illegally residing in Serbia and therefore can be removed without further investigation into their position and needs for international protection. Against all regulation, a practice for collective expulsion of foreigners by joint illegal actions of the military and the police has been established by a government decision in July 2016. The practice continued during 2017, its efficiency being publicly applauded by state officials. The Minister of Defense Aleksandar Vulin<sup>216</sup> gave a statement saying that during this period 21.000 'migrants' have been prevented from entering Serbia from Bulgaria and Macedonia<sup>217</sup>. Belgrade Center for Human Rights has

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<sup>214</sup> *Law on Asylum of the Republic of Serbia*, Official Gazette of RS, no. 109/2007

<sup>215</sup> Available in Serbian at: [http://azil.rs/azil\\_novi/wp-content/uploads/2018/04/Pravo-na-azil-u-Republici-Srbiji-2017.pdf](http://azil.rs/azil_novi/wp-content/uploads/2018/04/Pravo-na-azil-u-Republici-Srbiji-2017.pdf)

<sup>216</sup> "If it weren't for the military and the police – Vulin: There would be 20.000 migrants in Serbia, imagine that!" Alo, 22. July 2017. Available in Serbia at: <http://www.alo.rs/vulin-sad-bi-bilo-u-srbiji-20-000-migranata-zamislite-to/116084>

<sup>217</sup> Minister Vulin previously publicly admitted that border police personnel have collectively refouled 400 migrants to Macedonia during 2015

documented a case in February 2017 where a group of 25 refugees from Afghanistan were deported with joint military and police forces after they have been issued certificates of intent to request asylum. This practice was condemned by the UN Human Rights Committee (HRC) in March 2017.<sup>218</sup>

The disregard for the principle of non-refoulement is also visible in the treatment of foreigners at Belgrade Nikola Tesla airport. Belgrade border control precinct established a practice directly conflicting the rights to freedom and security of persons and the rights of individuals to thoroughly investigate the risks of acting contrary to international standards and regulations. In cases where a person is in need of international protection, they are not advised of the possibility to request asylum. Persons who can be considered refugees are simply boarded on the first available flight and brought back to their country of origin or home country. This practice is risky from the aspect of regard to the principle of non-refoulement. All mentioned deficiencies were noted by the Special Rapporteur of the UN for torture, cruelty, inhumane or degrading conduct or punishment, who visited Serbia in November 2017.<sup>219</sup>

During 2017, the relevant authorities in Serbia have extradited at least two foreigners to countries demanding their extradition (Russia and Turkey) before the asylum procedures in Serbia have officially been ended. In both cases, the asylum requests were rejected because they were made by citizens of countries on the list of safe third countries. This means that the authorities in the asylum seeking process haven't taken into consideration the merit of the request for international protection. On the other hand, authorities in charge of ruling in cases of extradition solely determined whether conditions for extradition have been met in the frame of international legal aid. After making the final rulings on extradition, the Justice Minister allowed the extradition to happen without a final decision on their asylum requests. This issue occurs because both processes run parallel, but without any connection.<sup>220</sup>

Significant media coverage was given to the extradition of a Turkish citizen of Kurdish origin Cevdet Ayaz<sup>221</sup>, who was in an ongoing asylum seeking procedure in Serbia. Ayaz was extradited despite the ruling of the Torture Prevention Committee of the UN, ordering Serbian authorities to refrain from bringing Ayaz to Turkey given the risk of being tortured or exposed to torture or other cruel, inhumane and degrading conduct or punishment.

All the issues identified in the process of implementation of the non-refoulement principle also refer to victims of gender based violence, who the Convention seeks to protect.

## Recommendations

- 1) It is necessary to ensure that foreigners are informed of their rights in a language they can understand, especially their rights to seek asylum in Serbia.**
- 2) It is necessary for relevant authorities to consistently respect the principle of non-refoulement, stop the practice of collective expulsion and deportation and to handle each case individually and professionally.**

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<sup>218</sup> The right to asylum in the Republic of Serbia 2017, Belgrade Center for Human Rights

<sup>219</sup> Same as above

<sup>220</sup> Same as above

<sup>221</sup> Available in Serbian at: <http://rs.n1info.com/a352227/Vesti/Vesti/Da-li-je-Srbija-morala-da-spreci-izrucenje-Ajaza-Turskoj.html>