

**29th Council of Europe Conference of Ministers of justice**  
**“Breaking the silence – united against domestic violence”**  
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**SPEECH**

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Excellencies,  
Ladies and Gentlemen,

It is a real pleasure for me to participate on behalf of the Ministry of Justice of the Republic of Serbia in this important meeting here in Tromsø. The Ministry of Justice congratulates you for placing domestic violence at the agenda of this year's Conference of European Ministers of Justice. I also want to thank you for the excellent organization of the 29<sup>th</sup> Conference, and more broadly for your support to our work in the process of ongoing judicial reform.

Family should be a place where individuals seek love, safety and security. But the evidence shows that it can also be a place that breeds some of the most drastic forms of violence perpetrated against women and children. For many of them, family home is a place where they face terror and violence at the hands of somebody close to them, somebody they should be able to trust. They suffer physically and psychologically. They are unable to make their own decisions, express their own opinions or protect themselves and their children for fear of further consequences.

The problem of domestic violence is a complex and delicate one. The issue has to be addressed directly by families, governments, institutions and civil society organizations. Women and children have a right to state protection even within the confines of the family home. When the violation takes place within the home, the abuse is effectively condoned by silence and passivity displayed by the state and the law enforcement machinery. One of the major challenges is to end impunity for perpetrators.

The Republic of Serbia has ratified a number of international conventions and human rights instruments that call for the right to protection from violence, abuse and neglect. These legally binding treaties oblige its state parties to protect women and children from crimes of violence, but also to investigate violations when they occur and to bring the perpetrators to justice. Therefore, it is our responsibility to harmonise our national laws with these instruments.

Serbia has made a lot of efforts to develop an effective system of protection against domestic violence. Criminal Code, adopted in 2002, has criminalized, for the first time in our history, domestic violence as a specific criminal offence. This provision allows for criminalization of physical and psychological violence, and ex officio prosecution. It does not include sexual violence against a family member. However, criminal offence of rape has been amended to include spousal rape.

Apart from the Criminal Code, the Constitution of the Republic of Serbia guarantees equality among women and men, prohibits direct or indirect discrimination based on any grounds, guarantees right to equal legal protection to everyone, without discrimination, right to legal assistance, right to rehabilitation and compensation of material or non-material damage inflicted by unlawful or irregular work of a state body, right to judicial protection when human or minority rights have been violated or

denied, and right to address international institutions in order to protect freedoms and rights guaranteed by the Constitution.

Very important provisions are set out in the Criminal Procedure Code, promoting protection of victims of violence, especially with regards to the protection of victims and witnesses during criminal proceedings, because of risks of secondary victimization. The authority in charge of the proceedings has the obligation to protect the witness and the injured party from insults, threats and any other attacks. In case of violence or serious threat, the court shall notify the public prosecutor for the purpose of prosecution and in the case the violence or serious threat occurred in the preliminary investigation or investigation before the public prosecutor, he shall initiate prosecution or inform the public prosecutor. Also, police may be requested to take special measures for the protection of the witness and injured party.

Family Law, adopted in 2005, has established civil law protection system against domestic violence. The Family Law explicitly prohibits domestic violence, regulates protection measures within the family, with preventive function, and introduces specific domestic violence civil proceedings.

Recently adopted Law on the Prohibition of Discrimination forbids direct or indirect discrimination based on any grounds. It explicitly prohibits discrimination on the grounds of gender, observing equal rights and freedoms in political, economic, cultural or any other aspect of public, professional, private or family life. It is strictly forbidden to deny rights or to grant privileges, publicly or covertly, and to practice physical or any other violence, exploitation, etc. which is gender based, as well as to publicly advocate, support and practice conduct in keeping with prejudices, customs and other social models of behaviour based on the idea of gender inferiority and superiority, that is, the stereotyped roles of the genders. In addition, this Law explicitly prohibits public advocating which gives priority to children of one gender over the other.

The Law on Ombudsperson provides for the special protection with regards to gender equality.

Judicial Training Centre, institution providing training to the members of judiciary, has strengthened its curricula and programmes and systematic training targeting professionals dealing with domestic violence cases. Mandatory specialization of family law judges has been introduced after the adoption of the Family Law in 2005. This programme, implemented by the Judicial Training Centre, is consisted of specialized training on children rights, legal consequences of divorce, right of the child to be heard, and domestic violence. From July 2006 to April 2009, 525 judges have got this certificate. Besides, 735 judges attended 45 seminars on principles of the Family Law in the same period. From June 2006 to April 2009, 987 judges and public prosecutors attended 74 seminars on domestic violence, its civil and criminal aspects.

A number of strategies relevant for domestic violence have also been adopted, such as those dealing with poverty reduction, social protection development, fight against violence, and National Millennium Development Goals in Serbia. However, there is a need for a specific strategy for prevention and protection against domestic violence, which would set out specific short and long term measures and goals, and more coordinated approach among different state authorities that are dealing with this issue. This strategy should be in compliance with the Beijing Platform of Action and the Council of Europe Recommendation Rec(2002)5 of the Committee of Ministers to member States on the protection of women against violence. The whole process should be undertaken in full cooperation of state authorities with civil society.

It is clear that important legislative developments have been made with regards to protection against domestic violence, however, there is still a lot to be done when it comes to effective implementation. Certain provisions are inconsistent, imprecise and unclear, allowing for different interpretation and practical application. Some basic protection is provided to victims, but urgent intervention is still

missing. A number of cases of violence never reach the court system, trials are lengthy, lasting for at least one year, and penal policy is extremely lenient. Activities of community services are not designed to address specific needs of the victims, are not standardized and in mutual compliance.

There is still a lack of understanding of the phenomenon of domestic violence, its causes and consequences, lack of good quality education and training for those dealing with victims. Most police, prosecutors, magistrates, judges and doctors adhere to traditional values that support the dominance of the male party within the family. It is therefore necessary to train law officers and medical and legal professionals who come in contact with those experiencing violence to understand gender violence, to appreciate the trauma of those suffering and to take proper evidence for criminal proceedings.

The nature of the crime of domestic violence requires the intervention of the community to assist and support victim-survivors. Community workers should be trained to give them information on the law and law enforcement, available financial and other support offered by the state, procedures for obtaining such assistance, etc.

Unique data system should be developed and the public should be regularly informed of these data and of results of the work of judicial system. Victims should be allowed safe access to justice, professional legal, medical, social and psychological assistance and support, rehabilitation. Specialized teams in police and prosecution should be established, specifically designed programmes for preventive and reactive measures should be developed, permanent gender-sensitive training of the judiciary, social workers and support personnel should be provided.

We are committed to make a difference in the protection of women and children from domestic violence. Together with all of you, we have a strategic opportunity to share experiences and practices in this area and to develop an effective system of protection. We are willing to adopt an integrated, multidisciplinary approach that would include lawyers, psychologists, social workers, doctors and to promote a high quality cross-sectoral cooperation among the involved governmental bodies. We will include the highest officials within the judiciary in order to promote and implement laws and actions addressing domestic violence.

Domestic violence is a legal, health, economic, educational, developmental and, above all, a human rights issue. Now that strategies for dealing with it are becoming clearer, there is no excuse for passivity.

Thank you.