

IMPROVED LEGISLATION FAILED PROTECTION

Independent report on the implementation of the
Council of Europe Convention on preventing and
combating violence against women and domestic
violence



Greetings from Serbia.

*A country where perpetrators of violence against women walk free.
A country where women victims of violence have to leave their homes.
A country where every ten days a woman is killed by her partner.
Words have an expiry date. Turning words into action!*

Contents

I.	Introduction	4
B.	Subject matter and key definitions – Article 3.....	4
C.	State obligations and due diligence – Article 5.....	6
II.	Integrated policies and data collection.....	9
A.	Comprehensive and coordinated policies – Article 7	9
B.	Financial resources – Article 8	11
C.	Nongovernmental organizations and civil society – Article 9.....	12
D.	Coordinating body – Article 10	14
E.	Data collection and research – Article 11	16
F.	Research.....	17
III.	Prevention.....	21
B.	Education – Article 14	21
C.	Training of professionals – Article 15.....	23
E.	Preventive intervention and treatment programs – Article 16	25
IV.	Protection and support.....	28
A.	Information – Article 19.....	28
B.	General support services – Article 20	29
C.	Assistance in individual/collective complaints – Article 21	32
D.	Specialist support services – Article 22, 23 and 25	32
E.	Telephone helplines – Article 24.....	37
F.	Protection and support for child witnesses – Article 26.....	39
G.	Reporting – Article 27 and Reporting by professionals – Article 28	42
V.	Substantive law and Investigation, prosecution and procedural law and protective measures..	44
	(Chapters V and VI of the Convention, Articles 29 to 58)	44
	Official translation of the chapter V.....	44
	Legal framework, statistics, challenges	44
	Criminal law protection	45
	Protection measures.....	54
	Family law protection	54
	Protection in accordance with the Special law	59
	Obstacles in the implementation of the Law.....	62
	Protection of children	65
	Visitation right and safety of children.....	67

Sexual violence against children	69
Free Legal Aid	70
Femicide	70

Autonomous Women's Center
 Tiršova 5a
 Beograde
 Serbia
 tel. +381 11 2687 190
 e-mail. azc@azc.org.rs

Autonomous Women's Centre (AWC) is a women's nongovernmental organisation founded in 1993. The work of AWC is based on feminist principles and theory. AWC activities include: direct consulting activities for women victims of violence, legal support for the right to live without violence, emergency phone service for psychological support, legal information and consultation, cooperation with relevant institutions in the development of the concept of coordinated action in the community for the prevention and protection from domestic violence, education and prevention activities, public sensitisation campaigns, advocacy, analytical and research activities, policy analysis and participation in activities of international networks against violence against women.

In the period 2012-2016, AWC implemented a regional project called *Coordinated efforts – towards new European standards for the protection of women from gender based violence*, participated by 29 women's organisations from 6 countries of the Western Balkans. The framework for project activities was the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, in which women CSO's advocated for its ratification and full implementation. The general message of the campaign was "**I Sign**"- ratification and full implementation of the Convention. **Baseline studies** were conducted in six countries (most of which are available only in the local languages). **Indicators** had been created for the monitoring the implementation of the 51 articles of the Convention. As a result of these activities, all countries of the Western Balkans ratified the Convention.

I. Introduction

Although the state report suggests that “in the Republic of Serbia, countering violence against women ... is one of the goals of gender equality policy”, it should be noted that the definition of the term “violence against women” was **deleted** from the current *Draft Law on Gender Equality* and gender-neutral definition of “violence based on sex” was included (proposed by extreme right and religiously oriented organizations, groups and individuals, which was later adopted).

Although “in line with the Constitution of Serbia”, direct implementation of ratified international treaties is possible, there is **no example** that this is really happening in the judiciary or institutional practice in Serbia.

In addition, although “the national strategic framework for combating violence was set up on 2011”, the *National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationship* **expired back** in 2015, and a new strategic document has not yet been established, which does not confirm the commitment of the Government and the competent ministry of social policy.

B. Subject matter and key definitions – Article 3

Although violence against women is defined in the new National Strategy for Gender Equality 2016-2020 and the Action Plan for its implementation 2016-2018, there are **no reports** on implementation of the planned activities, some of which (e.g. establishing a data collection system, or financing the single telephone helplines), although planned for realization in 2016 have **not yet been realized**.

In the third Draft Law on Gender Equality (2018), the definition of “violence against women” was deleted, which existed in the 2017 version and was in line with the definition from the Convention (as confirmed in the state report).

In the Law on Amendments to the Criminal Code from 2016, the definition of rape **was not amended** in accordance with the Convention (in more detail when relevant articles are discussed).

Definitions

Laws in the Republic of Serbia are still not familiar with the definition of “violence against women” and “gender-based violence against women”. All legal determinations of violence are gender neutral. Due to the strong pressure of conservative individuals, groups and associations, including extreme right political parties and the private sector, the definition of “violence against women” was omitted in the Draft Law on Gender Equality. Definitions of domestic violence, and especially the circle of protected persons, are mutually inconsistent in different laws and therefore also inconsistent with the definition of the Convention. The

term “victim” is not used in most of the laws in the Republic of Serbia.

From the moment the Council of Europe Convention against Violence against Women and Domestic Violence was ratified (October 13, 2013) until the end of 2015, there **were no** changes in the regulations and strategies relevant to defining the concept of violence against women in the Republic of Serbia.

The terms “gender-based violence against women” and “violence against women” **are not used** in any applicable law in the Republic of Serbia (all provisions are gender neutral). The existing *Law on Gender Equality* (2009)¹ has the definition of “violence based on sex” and is gender neutral.

The *Draft Law on Gender Equality* (2018) contains the definition of “gender-based violence” but without “against women”, whose content is **partly harmonized** with the Convention. Under the strong **pressure of conservative** individuals, groups and associations, including extremely right-oriented political parties, as well as the private sector (with foreign capital), who during the public debate on the Draft Law required that it contained exclusively “gender-neutral terms” and without the use of the term “gender”, the definition of “violence against women” was **omitted**, and the term “violence based on sex” was introduced, which is similar in content to the definition of “gender-based violence” but is gender neutral.

The *National Strategy for Gender Equality* (for the period 2016-2020) uses the term “gender-based violence”, but its definition **is not provided**. The strategy does not include all forms of violence against women under the Convention.

The new *Law on the Prevention of Domestic Violence*² (2016) has a **harmonized** definition of domestic violence with the definition in the Convention, as well as the circle of protected persons, but does not contain the definitions of “violence against women” and “gender-based violence against women”. In the *Family Law*³ (2005), domestic violence is defined through endangering behavior, not through types of specific forms of violence (physical, sexual, psychological and economic), while the circle of protected persons (family members) is described in a special paragraph and corresponds to the definition in the Convention. The *Criminal Code*⁴ (amended in 2016) contains a specific definition of domestic violence, but the circle of protected persons is smaller compared to the standard set out in the Convention. With the amendments to the Criminal Code, new criminal acts of violence against women are foreseen, all of which are gender neutrally defined (in more detail when relevant articles are discussed).

Numerous regulations and documents use terms such as “victim”, “victim of domestic violence” or “women victims of violence”, but do not contain the definition of the **victim**. The

¹ *Law on Gender Equality, Official Gazette of RS*, No. 104/2009; available in Serbian: https://www.paragraf.rs/propisi/zakon_o_ravnopravnosti_polova.html

² *Law on the Prevention of Domestic Violence, Official Gazette of RS*, No. 94/2016; available in Serbian: http://www.paragraf.rs/propisi/zakon_o_sprecavanju_nasilja_u_porodici.html

³ *Law on the Prevention of Domestic Violence, Official Gazette of RS*, No. 18/2005, 72/2011, available in Serbian:

⁴ *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; available in Serbian: https://www.paragraf.rs/propisi/krivicni_zakonik.html

term victim **is not used** in the *Criminal Code*, the *Criminal Procedure Code*, the *Family Law*. Although the *Law on the Prevention of Domestic Violence* uses the term victim, the *Draft Law on Gender Equality* proposes the use of the term “the person who suffers violence”.

C. State obligations and due diligence – Article 5

The standard of “due diligence” was translated as “full commitment”. Key laws in the field of protection against violence imply a series of positive and negative obligations and contain a series of measures that are binding on state authorities. The internal control mechanisms are ineffective and there are no publicly available data as to how many professionals are responsible for failing to act. In implementing strategic documents, the responsible authorities generally do not recognize their mandate and responsibility, and any systemic monitoring of implementation of plans is lacking. The Protector of Citizens noted the existence of systemic omissions in the actions of competent bodies in cases of femicide and violence against women and children. There is a problem in efficient investigation of cases of violence against women and in sanctioning the perpetrators of these acts proportionally to the gravity of the crimes. Serbia has a large number of murders of women in the context of violence in intimate partner and family relationships.

In the *Law on Ratification of the CoE Convention*⁵, the standard of “due diligence” was **incorrectly translated** as “full commitment”, which implies greater engagement of state and state authorities than a minimum standard required by due diligence.

Key laws in the field of protection against violence imply a series of positive and negative obligations. The *Law on the Prevention of Domestic Violence* (2016) also **contains a series of measures** that are binding on the state bodies, and it particularly elaborates on the responsibility of three state bodies: police, prosecutors and centers for social work, includes disciplinary responsibility (for failure to meet deadlines) and misdemeanor liability for non-reporting, non-reacting or obstructing actions in the situations of domestic violence, as well as the obligation to establish a Council for the Suppression of Domestic Violence that monitors and improves implementation of the Law. However, all the **complaints** of Autonomous Women's Center related to the failure of professionals to act in line with the provisions of the Law were confirmed **unfounded**⁶, although it was not always possible to conclude that from the explanatory statements. There are no publicly available data on whether and how many professionals were held responsible for the failure to act⁷.

⁵ *Law on Ratification of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, Official Gazette of RS – International agreements*, No. 12/2013; available at: http://ravnopravnost.gov.rs/wp-content/uploads/2012/11/images_files_zakon%20o%20potvrdivanju%20konvencije%20saveta%20evrope%20o%20sprecavanju%20i%20borbi%20protiv%20nasilja%20nad%20zenama%20i%20nasilju%20u%20porodici.pdf

⁶ Report available in English: https://www.womenngo.org.rs/images/vesti-18/PDF/Sixth_independent_report_on_implementation_of_the_Law_on_Prevention_of_Domestic-Violence.pdf

⁷ In some cases, the media present information on sanctions against professionals who have failed to act, such as information about the police officer who had been criminally charged after the murder of a woman due to his negligence.

To date, **no new National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationship**⁸ has been **adopted**, although it **expired** in 2015. The evaluation of this Strategy has never been done. No monitoring process has been set up for the *National Strategy for Improving the Position of Women and Promoting Gender Equality in the Republic of Serbia 2010-2015*, there have not been comprehensive reports on its implementation, which makes it difficult or impossible to reconstruct whether and what activities have been carried out. External evaluation reports that the responsible bodies failed to recognize their own mandate and responsibility, and that there was no clear and systematic trace of the financial resources invested in the implementation of the Strategy⁹. The *Program for the Protection of Women against Violence in the Family and in Intimate Relationship in the Autonomous Province of Vojvodina 2014 - 2020* contains a series of measures within the competence of bodies and organizations in the territory of the province, which are in line with the content of the Convention, but there is **no** publicly available report on their implementation.

The *Regular Annual Report of the Protector of Citizens for 2016*¹⁰ states that: “The protection of women from violence in the family and intimate partner relationship is still not efficient enough”. “There is no equal access to justice for all persons, because citizens’ right to free legal aid has not yet been regulated”. The Protector of Citizens submitted **104 systemic recommendations** to the Ministry of the Interior, the Ministry of Labor, Employment, Veteran and Social Affairs, the Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender Equality regarding the negligence of competent officials in concrete cases of femicide and violence against women and children¹¹. The *Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence*¹² confirms that these by-laws are rarely used in practice, and that intersectoral cooperation is inadequate, and provides a number of recommendations for improving the situation.

According to the report by the Women against Violence Network¹³, in 2014 **27 women were killed** by men in partner relationship and family context, **35 women were killed** in 2015, **33 women were killed** in 2016, and at least **20 attempted murders and attacks on women** were recorded. In 16 murder cases, the victim had **previously addressed** at least one competent institution. In 2017, based on media reports, the Network registered that **at least 26 women were killed** in the context of family / intimate partner violence, and at least 8

⁸ *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:

<https://www.minrzs.gov.rs/files/doc/porodica/strategije/Nacionalna%20strategija%20-%20nasilje%20nad%20zenama.pdf>

⁹ *Evaluation of the National Action Plan for the Implementation of the National Strategy for Improving the Position of Women and Promoting Gender Equality in the Republic of Serbia 2010-2015*, available in Serbian:

<https://www.rodnaravnopravnost.gov.rs/sr/dokumenti/strategije/evaluacija-nacionalnog-akcionog-plana-za-primenu-nacionalne-strategije-za>

¹⁰ Available at: http://www.ombudsman.rs/index.php/lang-sr_YU/2011-12-25-10-17-15/3733--2014-

¹¹ The Ombudsman’s findings and recommendations after conducting the proceedings in a large number of cases of violence against women in the family and in intimate partner relationships and abuse and neglect of children:

<http://www.rodnaravnopravnost.rs/attachments/article/229/preporuka%20nasilje%20zbirna.doc>.

¹² Report available in English: http://www.ombudsman.rs/index.php/lang-sr_YU/izvestaji/posebni-izvestaji/3710-2015-02-24-13-35-38

¹³ Report available in English:

https://www.zeneprotivnasilja.net/images/pdf/FEMICIDE_Narrative_and_Quantity_Annual_Report_for_2016.pdf

attempted murders of women were recorded. More than 40% of women appealed for protection and support to a competent institution prior to the murder¹⁴. In the first half of 2018, at least 20 women were killed by a partner or a family member, and two cases of suspected femicide were reported¹⁵.

Services for providing support and assistance to witnesses and injured parties (victims) of criminal acts with elements of violence are established **only in higher** courts and prosecutor offices, which **is not appropriate** given the large number of victims of violence against women, that is, gender-based violence, whose proceedings take place before the basic prosecutor's offices and courts. Comments of Autonomous Women's Center regarding this issue have not been accepted.

ASTRA - Anti-Trafficking Action developed a feasibility study and the draft law for the **Compensation Fund** for Victims of Violent Crimes¹⁶, but it **has not been adopted**. Whether it is a violation of rights by state authorities or "private persons", reparations are **reduced** to the compensation for damage from concrete perpetrators, while the issue of rehabilitation of victims is completely ignored.

All data (records and research) on the actions of bodies in conducting effective investigations, prosecution and punishment of perpetrators with sanctions proportionate to the gravity of crimes confirm the existence of the problem. Serbia submitted written information to the CEDAW Committee on the steps taken to implement the recommendations contained in paragraph 23 concerning the efficiency of the actions of the competent authorities in investigation and punishment, and the **Committee's conclusion** was that the measures were **partially implemented**¹⁷.

There are cases before the Constitutional Court of Serbia. Experience of AWC clients is that Constitutional court rejects their claims of the breach of their right to protection and efficient investigation and prosecution. CSO's in Serbia are helping victims address relevant international bodies, such as the European Court of Human Rights or the UN committees¹⁸.

¹⁴ Report available in English:

<https://www.zeneprotivnasilja.net/images/pdf/FEMICIDE%20Narrative%20and%20Quantity%20Annual%20Report%20for%202017.pdf>

¹⁵ Report available in Serbian: https://www.zeneprotivnasilja.net/images/pdf/FEMICID_Kvantitativno-narativni_izvestaj_01.januar-30.jun_2018.pdf

¹⁶ About the initiative on the website: <http://www.nadoknadimo.org/documents>

¹⁷ https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/SRB/INT_CEDAW_FUL_SRB_25962_E.pdf

¹⁸ AWC help mother of two girls filed petition before ECtHR in 2017, after 7 years of court processes and 3 years of waiting for the decision of the Constitutional court

II. Integrated policies and data collection

A. Comprehensive and coordinated policies – Article 7

Although key strategic documents in this area contain measures to prevent and combat violence against women, they are not effective, comprehensive and coordinated. Not all forms of violence from the Convention are covered, and the majority of documents relates to domestic violence and intimate partner violence, or mention gender-based violence without specifying types of violence. Most often there is no systematic monitoring and reporting on implementation of measures. Although the Law on the Prevention of Domestic Violence foresees a series of measures, in practice, its effective implementation has not yet been achieved regarding the long-term protection and support of victims and their participation in the processes.

*The National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationship **expired** at the end of 2015. It **did not include** all forms of violence provided for by the Convention. There are no publicly available state reports on implementation of measures and activities at the regional / local level. There are no publicly available data on the progress achieved by this Strategy. The results of the external evaluation of this strategy **are not** publicly available.*

The National Strategy for Improving the Position of Women and Promoting Gender Equality in the Republic of Serbia (2010-2015) included a specific objective “Preventing and combating all forms of violence against women and providing a comprehensive system for the protection of women victims of violence”. The external evaluation of this strategy¹⁹ states that the **main shortcoming** in the implementation of the Action Plan was the lack of coordinated management of implementation of measures and activities and the lack of a system to regularly and precisely monitor the effects. Implementation was “scattered and fragmented”, of limited “horizontal effectiveness” (small scope of implementation, for example in 5 municipalities, 10 civil society organizations...). The allocated funds were largely insufficient and implementation strongly depended on donor funds. Because of all the shortcomings, the achieved effect was **very modest**.

*The National Strategy on Gender Equality (2016-2020), in the part relating to violence against women, **contains no measures** to promote a comprehensive and coordinated policy in this area. There are no publicly available reports on implementation of the Action Plan for the Strategy, for the period 2016-2018.*

*There **are no** publicly available data on implementation of the activities from the *Program for the Protection of Women against Violence in the Family and in Intimate Relationship in the Autonomous Province of Vojvodina (2014-2020)*.*

¹⁹ Available (only in Serbian): <https://www.rodnaravnopravnost.gov.rs/sr/dokumenti/strategije/evaluacija-nacionalnog-akcionog-plana-za-primenu-nacionalne-strategije-za>

Reports on implementation of the *Action Plan for the Implementation of the Strategy for Prevention and Protection against Discrimination*²⁰ show that bearers of activities manage to carry out **only half** of the planned measures and activities. When it comes to measures and activities related to women, our analysis has confirmed that most of the measures **lack data** on realization.

The *National Action Plan for the Implementation of the UN Security Council Resolution 1325 - Women, Peace and Security in the Republic of Serbia, 2017-2020*, was drafted **without representatives** of women's peace and other women's organizations (although the working group consisted of as many as 31 members including three female representatives of civil society organizations). Women's organizations dealing with anti-war politics and the issue of responsibility for the wars of the 1990s, as well as journalists and other civil organizations focused on the same issues, are frequent attack targets of extreme individuals and organizations. For this reason, the Human Rights Council²¹ asked Serbia to review and timely report on **8 recommendations** concerning the protection, ending the practice of impunity for those who violate their rights, implementation of measures for the protection and promotion of freedom of expression, ensuring that human rights defenders / journalists work freely and safely, conducting impartial, thorough and effective investigation of all cases of attacks, harassment and intimidation, refraining from criminal prosecuting of human rights defenders / journalists so that they could be deterred or discouraged from expressing their opinions freely, recognizing the importance of their role and providing practical support in carrying out their work, including the prevention of any acts of retaliation or their intimidation.

The *Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence* prepared by the Protector of Citizens (December 2014)²² states that at the local (practical) level an adequate, comprehensive and coordinated policy for prevention and protection against violence against women **has not been established**.

The best interest of the victim is an issue that is not specifically regulated in the *Law on the Prevention of Domestic Violence*, but Article 12 stipulates: "State authorities and institutions in charge of implementation of this Law are obliged to prevent domestic violence quickly, effectively and in an coordinated manner, as well as to prevent the commission of criminal acts determined by this Law, and to provide victims with protection, legal assistance and psychosocial and other support for their recovery, empowerment and independence". The chapter "Protection and Support to Victims of Domestic Violence and Victims of Crimes Determined by this Law" regulates the Right to Information (Article 29), the Right to Free Legal Aid (Article 30), the Individual Plan of Protection and Support to the Victim (Article 31). The section "Cooperation in combating domestic violence" regulates the cooperation obligation of state bodies: Persons Appointed as Liaisons (Article 24), Group for

²⁰ First Report (November 2015) and Second Report (December 2016) – available at: <http://www.ljudskaprava.gov.rs/sr/node/19991>

²¹ Available at: <https://www.upr-info.org/en/review/Serbia/Session-29---January-2018/Review-in-the-Working-Group#top>

²² Available in English at: http://www.ombudsman.rs/index.php/lang-sr_YU/izvestaji/posebnii-izvestaji/3710-2015-02-24-13-35-38

Coordination and Cooperation (Article 25), Composition of the Group for Coordination and Cooperation (Article 26), Rules on Cooperation (Article 27).

However, in practice, the **problem** involves drafting comprehensive individual plans of protection and support to the victim (drafted in only half of the examined cases, although the legal obligation is that the plan should be developed for all cases), and there are no data on the content and quality of the plans and the effects of their implementation. The participation of victims in drafting their own individual plans is **missing** (in only 1-1.5% of the cases, the victim is invited to a meeting of the group for coordination and cooperation where the plan is drafted), which could not be considered as a standard in terms that the rights and needs of victims are placed at the center of all measures. Long-term preventive protection of victims through implementation of measures of protection against domestic violence from the Family Law ex officio is extremely **scarce** (only in 1-1.5% of the examined cases). There are no official data on the number, but there is a practice of imposing emergency measures to both parties (both the perpetrator and the victim), which is practiced by a large number of judges (51% of 220 surveyed judges in the survey conducted by the Forum of Judges of Serbia)²³.

B. Financial resources – Article 8

Laws and strategic documents that support an integrated approach do not contain cost estimate of their implementation. The adopted documents generally contain general guidelines on the necessary funds for implementing a measure and the source of funding. It is not possible to obtain comprehensive data on allocated and spent funds for the prevention and protection of women against violence. There are no publicly available data on human resources engaged in implementation of integrated policies and measures, but their number is insufficient.

As discussed earlier with articles 5 and 7 of this Report, there is **no systemically established** plan for monitoring implementation of state policies in this area, which would include reports on invested funds and resources. The majority of strategic documents and action plans for their implementation **do not contain data** on how much funds are needed for implementation of the plan and from what source it will be obtained. Most activities in this area are predominantly **dependent** on funds originating from foreign donors. This situation could be changed for future strategic documents because in April 2018 the *Law on the Planning System of the Republic of Serbia*²⁴ was adopted, according to which it would not be possible to adopt a state document without financial calculation and estimate.

Of the current strategic documents, the *Action Plan for the National Strategy for Gender Equality (2016-2018)* mainly **does not specify** specific resources for the planned activities, the envisaged funds are either **small** or **donor funding** is foreseen (even for the activities continuous in their nature, for which it is necessary to provide sustainability, such as the

²³ AWC Independent Report on Implementation of the Law, available in English: <https://www.womenngo.org.rs/en/independent-reports-on-law-on-prevention-of-dv>

²⁴ Available in Serbian: <http://www.parlament.gov.rs/upload/archive/files/lat/pdf/zakoni/2018/2386-17%20lat.pdf>

work of the national telephone helpline), or the **wording** “does not require additional funds” is used.

Quarterly reports on the implementation of the *Strategy for Prevention and Protection against Discrimination*²⁵ show that only 50% of the planned measures are being implemented (between 20 and 25% of the measures have been unrealized, and for 13 to 18% of the measures there are no data from the competent state bodies). This percentage is even more unfavorable when it comes to the measures for the target group of women. Although these reports **contain data** on the total amount spent on implementation of the Action Plan, they are **not classified** by target groups and measures (it does not indicate how much money is spent on activities for the target group of women), and the review of spent funds by the actors in charge of their implementation shows that 9 out of 17 either failed to **report** or failed to **spend** the planned funds.

The state data on the spent funds **are not consistent**, as somewhere the planned funds are listed, somewhere the spent funds are shown, but the presented amount is not spent only for activities to improve the position of women, or only for activities for the protection and prevention of violence against women.

When it comes to human resources for implementation of integrated policies, measures and programs for the prevention of all forms of violence covered by the Convention, it is **impossible to say their number** in the competent state bodies, and especially whether they have adequate knowledge (the state report does not contain data on human resources). Special bodies, such as the Coordination Body for Gender Equality, or the Council for the Suppression of Domestic Violence are usually composed of high level state officials, which gives them certain political power, but they lack large enough support service to perform operational tasks, including monitoring implementation of the strategies and laws for which these bodies were founded. Therefore, **external experts** are **engaged** for all key activities, which is the situation that does not contribute to the strengthening of internal capacities.

The new *Law on the Prevention of Domestic Violence* (2016) envisaged **specially trained** professionals in the police, prosecutors’ offices and courts for implementation, but their number is insufficient (about 900 police officers and about 400 prosecutors and judges) compared to the monthly number of examined and reported cases (about 4,000 a month).

C. Nongovernmental organizations and civil society – Article 9

Independent women’s organizations have complex relations with state representatives, especially at the local level, where their contribution is often not recognized and their work is not supported. Some organizations are labeled as “state enemies” and “foreign mercenaries” without a serious state reaction to it. It is impossible to determine how much of the budgetary funds (national/regional/local) are allocated to support organizations in combating violence against women.

²⁵ Fourth Report (May-July 2017), <<http://www.ljudskaprava.gov.rs/sr/node/22039>>; Fifth Report (September 2017), <<http://www.ljudskaprava.gov.rs/sr/node/22041>>

In the draft *National Strategy for Gender Equality (2016-2020)*, the issue of cooperation with associations is defined in a special objective 3.6. “Established mechanisms of cooperation with associations”. However, the foreseen measures are **reduced** to “formal and informal dialogue and periodic consultations”, and there **are no** measures to support women’s organizations for capacity and sustainability development.

The *Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence* reads: “In the fight against violence against women, not all civil society potentials are sufficiently used”. In the abovementioned survey of the Forum of Judges of Serbia on the experiences of judges and prosecutors in implementation of the Law on the Prevention of Domestic Violence, as many as 76% of prosecutors respond that they **never include** specialized women’s organizations in the meetings of the group for coordination and cooperation that develops an individual plan of protection and support to the victim of domestic violence.

The “Women against Violence” Network²⁶ is currently gathering 25 women’s associations throughout the Republic of Serbia that provide services for women and children with experience of violence. During 2015, the Network prepared the *Draft Rulebook on Minimum Standards for the Telephone Helpline for Women and Girls with the Experience of Gender Based Violence*, which was adopted but with amendments, due to which the Network had to respond additionally. The Network was also active in negotiations for designing the national telephone helpline, but the ministry responsible for social policy **ignored** its proposals (in more detail when Article 24 is discussed).

From the state budget (national/regional/local), **minimum funds** are allocated for the work of women’s organizations that are members of the “Women against Violence” Network, so that they depend on insecure and insufficient foreign donor funds. As a result, some of them have closed their offices and the survival of the majority is **on the verge of sustainability**, with a large number of services and activities being conducted **voluntarily**. In open calls for projects funds, the budget are often awarded to organizations without experience, often registered immediately before the open call (which raises doubts about the connection with political actors who make decisions on the allocation of funds). One of the most famous examples was the open call for the allocation of two million euro to organizations that provided social services in 2014²⁷.

Tabular overview of the budget funds received by organizations from the “Women against Violence” Network

Funds / years	2015	2016	2017
Total funds that organizations from the Network received from the budget	11,140	31,340	33,840

²⁶ <https://www.zeneproktivnasilja.net/en/about-us/list-of-ngos>

²⁷ Information on the open call at N1: <http://rs.n1info.com/a15689/Vesti/Konkurs-pod-lupom-Novac-iz-budzeta-sumnjivim-NVO.html>

Number (%) of organizations that did not receive any funds from the budget	20 out of 29 (69%)	12 out of 26 (46%)	14 out of 23 (61%)
--	--------------------	--------------------	--------------------

Funds were allocated from local budgets, from budget lines 481 – NGO donations and 472 – social protection services, expressed in euro.

On the example of the Town of Novi Sad (in the state report presented under B.) in relation to funds allocated for specific measures and activities in the area of prevention of violence and providing support to victims, in addition to the specialized services (“Safe House” and the therapy program for men perpetrators of domestic violence) and the general service that is not provided only to victims of domestic violence (the counseling centers for marriage and family), entrusted to the public sector, for the two mentioned years 952.314 EUR were allocated from the budget funds for these services, while to support the work of telephone helplines for women with disabilities, victims of domestic violence, and for the work of specialized women’s NGOs in the same period **only** 8,443 EUR were allocated, which accounts for **only** 0.9% of budgeted funds.

Women’s organizations specialized in this field have a **decades-long experience** in supporting women and their children, but also in conducting awareness-raising campaigns, conducting analyzes, research and advocacy for policy changes, in independent monitoring and reporting, education of professionals, proposing amendments to the legal solutions.

AWC made a significant **impact** on stopping the poor *Draft Law on Equality between Women and Men* (2016) and on constructive **cooperation** with the Coordination Body for Gender Equality in conceiving a new draft. However, once these activities had become the responsibility of the ministry in charge of social protection issues, the proposals were **changed** and all the AWC comments (including the comments on definitions of terms, related to Article 3) were **ignored**. AWC played a **significant role** in the process of drafting the *Law on the Prevention of Domestic Violence* (2016) and had constructive cooperation with the Ministry of Justice.

A significant contribution of women’s civil society organizations in this area was confirmed by the Commissioner for Human Rights of the Council of Europe, Nils Muižnieks, after his official visit to Serbia in March 2015, recommending analyzes and indicators developed by Autonomous Women’s Center related to the Council of Europe Convention against Violence against Women and Domestic Violence. He stressed the need for close cooperation of the authorities with women’s organizations “whose significant work in this field is highly commended by the Commissioner”.²⁸

D. Coordinating body – Article 10

None of the formed bodies monitors all forms of violence against women encompassed by the Convention. High level state officials are appointed in the majority of the bodies, but they

²⁸ <http://www.potpisujem.org/srb/1906/komesar-se-za-ljudska-prava-pohvalio-rad-ocd-u-oblasti-zastite-zena-od-nasilja-i-pozvao-drzavu-da-saraduje-sa-njima>

do not, however, have a significant impact on implementation of laws and policies. There are insufficient human resources in the services that support the work of these bodies. Although there is a requirement for regular reporting by the Government, reports on the activities of the bodies and effects in the areas of monitoring are not publicly available. Women's and other civil society organizations have been invited and included in these bodies.

In 2014, the *Coordination Body for Gender Equality*²⁹ was formed, whose task was coordination of state administration affairs in the area of gender equality, which also included nongovernmental organizations (Autonomous Women's Center refused to participate). This body was entrusted with the activities of coordination, implementation, monitoring and evaluation of policies and measures to prevent and combat all forms of violence covered by the Council of Europe Convention at the national level. The expert group for supporting the work of this body is **small** in number of members. Although a website of this body was established, a large number of documents are **missing**, including reports on the work of the body itself (which should be submitted to the Government every three months)³⁰. There **are no** annual reports on implementation of the AP National Strategy on Gender Equality for the period 2016-2018.

A new *Sector for Anti-discrimination policy and the Promotion of Gender Equality* was established at the Ministry of Labor, Employment, Veteran and Social Affairs³¹ (June 2017). The **relation** between the Sector and the Gender Equality Coordination Body is not clear, because responsibilities are mutually overlapping.

The *Council for the Suppression of Domestic Violence*³² was established in 2017 on the basis of Article 36 of the *Law on the Prevention of Domestic Violence*. This body monitors implementation of the Law and proposes measures to improve coordination and effective prevention and protection from domestic violence. The Council submits an annual report to the Government (at the second session held in July 2018, implementation of the Law was reviewed, and the first report to the Government has not yet been submitted). Autonomous Women's Center has refused an invitation to participate in the Council in order to preserve its independent position.

The Ministry of Interior formed a working group to monitor and coordinate police work in cases of domestic violence. There are no publicly available reports on the activities of this working group in 2016 and 2017, which involved women's organizations.

At the provincial level, the *Intersectoral Committee for Monitoring the Program for the Protection of Women against Violence*³³ was established in 2015, but there **are no** publicly available reports on the activities of this body.

²⁹ Decision on the Establishment of the Coordination Body for Gender Equality, *Official Gazette of RS*, No. 121/2014, 147/2014, 32/2015 and 37/2015

³⁰ Internet presentation of the Coordination Body for Gender Equality available at: <https://rodnaravnopravnost.gov.rs/>

³¹ <https://www.minrzs.gov.rs/lat/rodna-ravnopravnost.html>

³² Decision on the Establishment of the Council for the Suppression of Domestic Violence, "Official Gazette of RS", No. 69/2017.

³³ <http://www.spriv.vojvodina.gov.rs/index.php/lat/pocetna1/83-vesti-latinica1/363-formiran-intersektorski-odbor-pokrajinske-vlade-nadlezan-za-koordinaciju-pracenje-i-procenu-efekata-mera-programa-za-zastitu-zena-od-nasilja-u-porodici-i-u->

E. Data collection and research – Article 11

In Serbia, there is no systematic data collection on all forms of violence provided for by the Convention. Data are not classified according to the necessary parameters. Data from different sources are totally mutually incomparable. The most important research in this field is still conducted by women’s organizations through funds from foreign donations.

The *National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationship* (2010-2015) foresees an activity entitled “Consider and propose the introduction of a uniform software system for recording cases of violence against women”, which has **not been realized**.

The *National Strategy for Gender Equality* (2016-2020) stipulates “Establishing a uniform and standardized system for collecting, recording and exchanging information on all forms of violence against women, taking into account that the data is classified according to the type of violence and the relationship between the perpetrator and the victim, as well as based on social vulnerability”, but this has **not been realized**. The Republic of Serbia created the Gender Equality Index for 2014 (according to EIGE methodology).

The *Law on the Prevention of Domestic Violence* (2016) foresees the establishment of a single (police, prosecution, courts, centers for social work) and central registry on interventions related to cases of domestic violence, but this has **not yet been implemented**. The classification parameters (types of violence, gender, age, type of relationship between the victim and the perpetrator, geographical determinants or other relevant characteristics, e.g. victim’s disability) have **not been defined**.

Data on domestic violence from the reports on the work of centers for social work are prepared and published annually by the *Republic Institute for Social Protection*³⁴. Since 2015, the content of the publicly available reporting has been significantly **reduced** (upon request data tables can be obtained, for now without any financial compensation). The data are **not classified** according to all variables (the type of relationship between the perpetrator and the victim is shown unclassified related to the gender of the perpetrator and the victim, which prevents the conclusion on the gender nature of domestic violence).

The *Statistical Office of the Republic of Serbia* publishes the statistics of the judiciary³⁵, which in the publicly available data is **not classified** according to all parameters, **nor contains** the category of the “type of relationship” between the victim and the perpetrator (additionally classified data can be obtained on request, for a **processing fee**). In addition, the Statistical Office is preparing the publication “Women and Men in the Republic of Serbia” with the data classified by sex about different areas of life and based on data collected from various sources³⁶.

partnerskim-odnosima

³⁴ Available at: http://www.zavodsz.gov.rs/index.php?option=com_content&task=view&id=160&lang=1250

³⁵ Available at: <http://www.stat.gov.rs/sr-latn/oblasti/pravosudje/>

³⁶ Available in English as well at: <http://www.stat.gov.rs/sr-Latn/oblasti/stanovnistvo/statistika-polova>

The *Republic Public Prosecutor's Office* collects, on a monthly basis, data from the basic public prosecutor's offices on implementation of the *Law on the Prevention of Domestic Violence*, which are **not classified** according to the required parameters, are not publicly available, but can be obtained on request under the Law on Free Access to Information of Public Importance.

The *Ministry of Interior* has introduced electronic records of reports of domestic violence, but there is **no** information on whether the data are classified according to the requested parameters, and the reports are not publicly available (summary data can be obtained on request under the Law on Free Access to Information of Public Importance).

Data on implementation of the *Law on the Prevention of Domestic Violence* from the basic public prosecutor's offices and the police administrations are mutually **incomparable** (because the geographical areas of organizational units of these two bodies do not match).

The *Ministry in charge of social protection* does **not keep** records prescribed by the Law on the Prevention of Domestic Violence. There are no regular annual unified data on the provision of general and specialist services for victims of all forms of violence. The database of service providers, run by the Republic Institute for Social Protection, is not functional³⁷.

The *Ministry of Health* has adopted a new law which stipulates keeping records related to the abuse of women (children and elderly people), for which the *Institute of Public Health of Serbia*³⁸ is responsible. There is **no** data on violence in the Health Statistical Yearbook of the Republic of Serbia.

The *Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence (2014)* reads: "In registering, documenting and reporting cases of violence in the family and intimate partner relationship, the following are the shortcomings: lack of a single registry, incompatibility and mismatch of records kept by different systems, as well as different criteria used to collect data. Therefore, checking and comparing data is almost impossible. The problem is of a systemic nature and its solution does not depend on an individual body or officer".

From all of the above, it is clear that data collected from different sources **cannot be summed up and uniform data are not published at the national level.**

F. Research

Research on domestic violence on a representative sample has not been conducted since 2010. The state has not financed research of all forms of violence covered by the

³⁷ Web page with the Database is not operational:

http://www.zavodsz.gov.rs/index.php?option=com_content&task=view&id=240&Itemid=240

³⁸ Available at: http://www.batut.org.rs/index.php?category_id=9

Convention. Research is mainly conducted by international / intergovernmental and local nongovernmental organizations financed from donations.

The state report also lists research and studies that do not address violence against women, but the broader field of women's position in society and gender equality issues, and in one case, the same research is mentioned as two separate ones³⁹.

"Mapping Domestic Violence against Women in Central Serbia", research on a representative sample was implemented in 2010 by SeConS within the project "Combating Sexual and Gender-Based Violence" financed by the Government of the Kingdom of Norway and implemented by the Gender Equality Directorate of the Ministry of Labor, Employment and Social Policy of the Republic of Serbia, with the support of the United Nations Development Program (UNDP). Ever since there **has not been research** on violence against women in the family context on a representative sample.

"Researching Domestic Violence in Vojvodina" was implemented in 2009 (Victimology Society of Serbia), within the project "Towards Comprehensive System to End Violence against Women in Vojvodina", managed by the Provincial Secretariat for Labor, Employment and Gender Equality, financed by the UN Trust Fund in Support of Actions to Eliminate Violence against Women (UNTF). Ever since, there has **not been research** on a representative sample for the province.

None of the mentioned research **covers** all forms of gender-based violence against women. These two studies are mutually **incomparable** because of differences in methodology.

Since 2010, the Women against Violence Network has been continuously dealing with monitoring the phenomenon of **killing of women (femicide)** in the family-partner context, with the **analysis of media reports**, and the Network issues annual reports⁴⁰. There are **no official** state analyzes of this phenomenon, as well as official publicly available data on all cases of femicide.

"Gender Based Violence in Schools in Serbia"⁴¹ is a research on a representative sample of children from elementary and high schools, realized in 2014 (Center for Gender and Policy Studies, Faculty of Political Sciences and the Institute of Psychology), with the support of the Violence Prevention Unit of the Ministry of Education, Science and Technological Development of the Republic of Serbia and the Office of the United Nations Children's Fund (UNICEF).

"National Study on the Social Problem of Sexual Child Abuse in the Republic of Serbia"⁴² was realized in 2015 (Incest Trauma Center), supported by the Ministry of Education, the funding of the European Union and a large number of donors.

³⁹ It is the same research: Ćeriman, J. Duhaček, N. Perišić, K. Bogdanović, M. Duhaček, D. Research on Gender-Based Violence in Schools (2014), Belgrade, UNICEF, 2014. and Gender-based Violence in Schools (2015), Belgrade: Center for Gender and Policy Studies of the Faculty of Political Science in Belgrade, Violence Prevention Unit of the Ministry of Education, Science and Technological Development of the Republic of Serbia, UNICEF Serbia and Institute for Psychology of the Faculty of Philosophy in Belgrade.

⁴⁰ Available in English: <https://www.zeneprotivnasilja.net/en/femicide-in-serbia>

⁴¹ <http://www.fpn.bg.ac.rs/node/647>

⁴² http://incestraucentar.org.rs/files/2015/ITC_2015_Srbija_-_Nacionalna_studija_o_seksualnom_nasilju_nad_decom.pdf

“Violence against Women and Girls among Refugee and Migrant Population in Serbia”, was implemented by Atina UNFPA in 2017⁴³.

“Child Marriages in Serbia - Situation Analysis and Recommendations” from 2015, was realized by the organization Atina, with the financial support of the Ana and Vlade Divac Foundation⁴⁴.

The survey, “Men in Serbia: Changes, Resistance and Challenges”, which includes data on attitudes towards violence against women, was carried out in 2018 by the E8 organization within the IMAGES global project⁴⁵.

Media reporting analysis on violence against women:

“Media Coverage on Violence against Women in Serbia – Qualitative Analysis” of 2013, within the UNDP project⁴⁶, as well as “How to Fight Violence - the role of the media - media in Serbia on gender-based violence in 2015 and 2016”⁴⁷ funded by UN Agency in Serbia and the Swedish police, both conducted by Z. Mršević.

“How Women Read You - Media Coverage of Printed Media on Male Violence against Women in the Family and Intimate Partner Relationship from the Perspective of Women Surviving Violence implemented by the Women against Violence Network⁴⁸ in 2017, supported by Kvinna till Kvinna and the OAK Foundation.

The analysis of the **judicial practice and the actions of competent state bodies** in relation to domestic violence was mainly the activity of women's organizations:

“Family-Legal Protection against Domestic Violence in Serbia” (2010)⁴⁹, Autonomous Women's Center and Women's Center for Research and Education (financially supported by the Irish Aid).

“Criminal-Legal Response to Domestic Violence in Vojvodina” (2012)⁵⁰, Autonomous Women's Center with the support of the Provincial Secretariat for Labor, Employment and Gender Equality (financially supported by the United Nations Trust Fund).

“Effectiveness of Systemic Mechanisms for the Prevention of Violence against Women and Domestic Violence” (2015)⁵¹ was conducted by Autonomous Women's Center with the support of the Social Inclusion and Poverty Reduction Team of the RS Government (financially supported by the Swiss Agency for Development and Cooperation).

“Implementation of Serbia's Domestic Violence Legislation. A Human Rights Report”

⁴³

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

⁴⁴ <http://www.atina.org.rs/sites/default/files/1Deciji%20brakovi%20u%20Srbiji.pdf>

⁴⁵ <http://images.edu.rs/rezultati-istrazivanja-2/>

⁴⁶

https://www.sigurnakuca.net/upload/documents/Multisektorska_saradnja/Kvantitativna%20analiza%20medijskih%20sad%20C5%BEaja%20o%20nasilju%20nad%20C5%BEenama.pdf

⁴⁷ <https://www.rodnaravnopravnost.gov.rs/sites/default/files/2018-06/Kako%20protiv%20nasilja%20-%20uloga%20medija.pdf>

⁴⁸ https://www.zeneprotivnasilja.net/images/pdf/literatura/Kako_vas_zene_citaju.pdf

⁴⁹ <https://www.womenngo.org.rs/publikacije/razvoj-dobrih-praksi/201-porodicnopravna-zastita-od-nasilja-u-porodici-u-pravosudnoj-praksi-srbije-2010>

⁵⁰ <https://www.womenngo.org.rs/publikacije/razvoj-dobrih-praksi/887-krivicnopravni-odgovor-na-nasilje-u-porodici-u-vojvodini-2012>

⁵¹ <https://www.womenngo.org.rs/publikacije/razvoj-dobrih-praksi/433-delotvornost-sistemskih-mehanizama-za-sprecavanje-nasilja-prema-zenama-i-nasilja-u-porodici>

(2017)⁵², carried out by the Advocates for Human Rights Minneapolis (Minnesota USA) and Autonomous Women's Center (financially supported by the Oak Foundation and the Sigrid Rausing Trust).

A study of attitudes, understanding and practices of employees in relevant institutions providing services to women victims of violence, especially vulnerable groups, was conducted by SeCons in 2017, in cooperation with the Provincial Secretariat for Social Policy, Demography and Gender Equality, within the project "Integrated Response to Violence against Women in Vojvodina - Phase II" (UN Agency in Serbia). The report **is not** publicly available.

A series of analyzes in the field of implementation of laws and regulations in the area of violence against women has also been conducted by the Ombudsman and the Provincial Ombudsman.

From the above data, it can be seen that research, although **formally supported by state authorities**, is mainly implemented from foreign donor funds, and often as project activities of international / intergovernmental and local civil society organizations.

⁵² Available in English: <https://www.womenngo.org.rs/publikacije/razvoj-dobrih-praksi/1138-primena-zakona-o-nasilju-u-porodici-u-srbiji>

III. Prevention

(III chapter of the Convention, articles 12 to 17)

B. Education – Article 14

The state policy that prohibits gender discrimination and gender-based violence has not been sufficiently promoted and applied in the process of education of the youth at all levels, although gender-based violence among the youth is extremely widespread. All the existing efforts to systemically introduce these topics into school curricula have been unsuccessful, including the latest curricular reform of the high school curricula⁵³.

The data from the state report on the **amount of penalty** for the competent authority that does not meet the gender equality provisions is not accurate - fines, ranging from 500,000 to 1,500,000 RSD (app 4,166 - 12,500 EUR) are changed in the new version of the Draft Law (2018), where the lower amount is **ten times smaller** 50,000 to 2,000,000 RSD (app 416 - 16,667 EUR). The penalty for the responsible person in the body is also reduced by 10 times for the lower amount, i.e. only 5,000 RSD (app. 41.7 EUR).

The *Research on Gender-based Violence in Schools in Serbia*⁵⁴ has unambiguously confirmed that gender-based violence **exists** in elementary and high schools in Serbia and that it is **widespread** (69% of interviewed elementary school students and 74% of high school students experienced at least one of 14 forms of violence defined in the research, during the first three months of the 2013/2014 school year). The authors also express **concern** over the prevalence of physical and sexual violence against schoolchildren by **school staff**, reported in 27 of the 50 schools in which this research was conducted. **High tolerance** to violence was expressed, as well as the consent of students and teachers **to speak and learn about these issues** at school (77% of elementary school students and 69% of high school students agreed with the proposal to talk more about this issue topic, and 75% of teachers in elementary and 68% in high schools expressed readiness to participate in professional development on gender-based violence and gender equality). The general **recommendation** of this research was the need for a long-term reform of the educational process and the introduction of emergency intervention measures.

The state policy that prohibits gender discrimination and gender-based violence has not been sufficiently promoted and applied in the process of youth education at all levels. The *National Youth Strategy for the period from 2015 to 2025*⁵⁵ contains gender-sensitive

⁵³ In 2018 curricular reform program for the first grade of high school was adopted and in the upcoming period programs for other grades will be prepared.

⁵⁴ Authors: J Čeriman, N. Duhaček, K. Perišić, M. Bogdanović D. Duhaček. 2015. Center for Gender and Policy Studies of the Faculty of Political Sciences of the Belgrade University and the UNICEF Belgrade, available in Serbian: http://www.mpn.gov.rs/wp-content/uploads/2015/08/Istrazivanje_rodno_zasnovanog_nasilja_u_skolama_u_Srbiji.pdf

⁵⁵ *National Youth Strategy for the period 2015 – 2025, available in English:* <http://www.mos.gov.rs/public/ck/uploads/files/Dokumenta/Omladina/zakoni-i-strateska-dokumenta/Nacionalna%20strategija%20za%20mlade%20-%20ENG.pdf>

situation analyzes, goals and proposals of measures, in almost every strategic area. Although the competent ministry carries out numerous activities, there is no publicly available report on their number, type and effects⁵⁶. The *Draft National Strategy for the Prevention and Protection of Children against Violence* also includes the definition of gender-based violence among children, but activities are mainly related to implementers from the nongovernmental sector. However, the *Strategy for Education Development in Serbia until 2020*⁵⁷ is completely “**gender blind**”, i.e. it does not recognize gender discrimination / equality issues. The new *Law on Fundamentals of Education System*⁵⁸ (2017) lists the provisions relating to respect for human rights and the rights of the child in a number of articles, as well as the prohibition of discrimination on grounds of all personal qualities, including the sex of students. It prohibits violence, abuse and neglect (physical, psychological, social, sexual, digital and any other), but does **not mention** “gender-based violence”. The *Rulebook on the Protocol for Action in the Institution in Response to Violence, Abuse and Neglect*⁵⁹ defines more closely the measures and activities for the prevention of violence in the educational institution, but also **does not mention** “gender-based violence”. The *Law on Textbooks*⁶⁰ states that textbooks and all other teaching and didactic tools should ensure the implementation of the principle of equal opportunities and respect for diversity by their content and form, that with their content or form they should not discriminate or lead to an unequal position groups and individuals, or should not encourage such behavior. When it comes to the *Rulebook on Continuing Professional Development and Advancement of Teachers, Educators and Professional Associates*⁶¹, it is generally lacking contents on discrimination and violence, and gender discrimination / equality and gender-based violence are **not mentioned**, neither in the chapter on mandatory professional development of teachers, educators and professional associates, nor in the chapter on the conditions and processes of advancement and vocation acquisition.

In Serbia, on several occasions, there have been **attempts** to include training on gender equality and gender-based violence in the education system, by developing and “piloting” various educational programs for teachers and students. Although most of them have had **formal support**, partnership or even emerged within the competent ministry, all efforts have remained only the **project activity** of small scope and short duration. This topic is given little attention in the context of school activities, most often only during homeroom classes or civic education classes⁶², and the situation in schools is uneven, since it depends on the sensibility, information, knowledge and motivation of individuals, i.e. it is **not of a systemic nature**. The mentioned research shows that a certain number of teachers, in both elementary and high schools, more often men than women, have **stereotypical opinions** on gender issues and show agreement with the attitudes that express them, so the question arises as to how this determines their teaching work and whether and how it affects the

⁵⁶ <http://www.mos.gov.rs/dokumenta/omladina/izvestaji?lang=lat>

⁵⁷ *Strategy for Education Development in Serbia 2020*, Official Gazette of RS, No. 107/2012.

⁵⁸ *Law on Fundamentals of Education System*, Official Gazette of RS, No. 88/2017.

⁵⁹ *Rulebook on the Protocol for Action in the Institution in Response to Violence, Abuse and Neglect*, Official Gazette of RS, No. 30/2010. Available at: https://www.paragraf.rs/propisi/pravilnik_o_protokolu_postupanja_u_ustanovi.html

⁶⁰ *Law on Textbooks*, Official Gazette of RS, No. 7/2018.

⁶¹ *Rulebook on Continuing Professional Development and Advancement of Teachers, Educators and Professional Associates*, Official Gazette of RS, No. 81/2017.

⁶² *Research on Gender-Based Violence in Schools in Serbia*, 2015, page 84.

reproduction of gender stereotypes⁶³.

The content of textbooks (both visual and textual), as well as curricula, are **biased** regarding gender perspectives, particularly favoring the “male” perspective, while the perspective of women is excluded, marginalized and trivialized (as shown by earlier analyses of high school textbooks in sociology, constitution and citizens' rights and the elective course of civic education⁶⁴, but also by the latest analysis of high school curricula conducted by Autonomous Women’s Center). The Ministry of Education, Science and Technological Development and the Institute for Textbooks have **withdrawn** six high school textbooks⁶⁵ because of their discriminatory content, based on complaints by LGBT organizations⁶⁶.

The **withdrawal** of *Learning Packages on the Topic of Sexual Violence against Children* (for preschools, elementary and high schools), developed by the Incest Trauma Center (2016) with a team of eminent experts, and with the initial support of the ministry in charge of education, **under the pressure** of reputable conservative intellectuals, essentially reflects the attitude of the competent state authorities⁶⁷.

All previous efforts to systematically introduce these topics into school curricula were **unsuccessful**, as confirmed by the **latest curricular reform** of the high school curriculum (for the first grade)⁶⁸, which remained without content on gender equality / discrimination and gender-based violence, although there was room for introduction of this topic both in regular and elective courses. On that occasion, Autonomous Women’s Center addressed the Minister of Justice and the Institute for the Improvement of Education, reminding them of the international and domestic obligations taken by Serbia over this issue⁶⁹.

C. Training of professionals – Article 15

Although training of professionals is continually being realized, it is difficult to collect relevant data on their number, content and quality of training, target groups coverage, application of acquired knowledge, and training effects on activities in practice. Much of the training of professionals is carried out within the project activities and depends on foreign donor funds, and is implemented by international / intergovernmental or local civil society organizations.

⁶³ Ibid, 2015, pages 50-52.

⁶⁴ Authors: D. Stjepanović-Zaharijevski, D. Gavrilović and N. Petrušić, 2010; G. Đorić, N. Žunić and T. Obradović-Tošić, 2010.

⁶⁵ The textbooks are as follows: **Health Care 3**, for the third grade of medical high school; **Internal Illnesses and Care 2**, for the fourth grade of medical high school; **Neuropsychiatry**, for the third grade of medical high school; **Children’s Neuropsychiatry and Care**, for the fourth grade of medical high school; **Psychology**, for the second grade of high school; **Psychology**, for the third and fourth grade of trade, hospitality-tourism high school and high school for personal services.

⁶⁶ Information from Labris organization (in Serbian): <http://labris.org.rs/sr/ministarstvo-prosvete-nauke-i-tehnolo%C5%A1kog-razvoja-povuklo-diskriminatorne-ud%C5%BEbenike-sa-tr%C5%BEi%C5%A1ta>

⁶⁷ See more in the announcement of Incest Trauma Center (available in English):

<http://www.incesttraumacentar.org.rs/index.php/en/latest-news/3126-against-the-child-s-best-interest-the-ministry-of-education-of-serbia-alters-policy-on-child-sexual-assault-prevention-and-protection-and-other-news>

⁶⁸ Rulebook on Teaching and Learning Program for the First Grade of High School, No: 110-00-521/2018-04, June 19, 2018 (available: www.mpn.gov.rs).

⁶⁹ Available in Serbian: <https://www.womenngo.org.rs/prakticne-politike/zagovaranje/1222-2018-pismo-ministarstvu-povodom-novog-programa-nastave-i-ucenja-za-prvi-razred-gimnazije>

In Serbia, a system of accreditation of professional training has been established in three areas - social protection, health care and education system, implying the prescribed procedure of quality, realization and reporting verification. Training for the judicial system (judges and prosecutors) is carried out by the *Judicial Academy*, and in the case that training is organized by other actors, the consent for the curriculum is necessary. Training for police officers is conducted by the *Academy of Criminalistic and Police Studies* and a special organizational unit of the Ministry of Interior in charge of training, and other actors only if they receive the approval of the competent ministry. The **main problem** is the understanding of the scope and effects of training delivery for professionals in all systems, because data are not unified and easily accessible, they are rarely analyzed, and there are no publicly available reports on the number of training courses and participants, as well as on the effects of training in practice.

The *National Strategy for Gender Equality (2016-2020)* and *AP for 2016-2018* do **not stipulate** measures regarding training of experts. The *Action Plan of the Coordination Body for Gender Equality (2015)* plans training of professionals, but there is **no** publicly available implementation report. Since 2009, the *Provincial Secretariat for Economy, Employment and Gender Equality (since 2016, the Provincial Secretariat for Social Policy, Demography and Gender Equality)* has been **continuously** implementing training of professionals for all the systems and in all municipalities on the territory of the province, mainly within project activities (funds from donation). Within the three-year project (2016-2018), the *Provincial Secretariat for Health Care* has also been realizing a number of training courses for professionals from health care and other systems.

The *Law on the Prevention of Domestic Violence (2016)* has introduced the **mandatory** specialized training of competent police officers, public prosecutors and judges who apply this law, but **not** of other professionals (social and health care system, as well as education system). During 2017, approximately 900 police officers (at three-day seminars) and about 400 prosecutors and judges (at two-day seminars) were trained for implementation of this law.

The *Special Report of the Protector of Citizens on Training for Acquisition and Improvement of Knowledge and Competencies in the Prevention and Suppression of Domestic and Intimate Partner Violence and Protection of Women from such Violence (2016)*⁷⁰ states:

“Employees at public authorities are not provided with sufficient training on the protection of women from domestic violence and intimate partner violence or on the content and application of the General Protocol and the Special Protocols on the Protection of Women from Violence. A mere 14% of health care professionals attended such training, the exact number of judicial office holders who attended such training is unknown.”

“There is an apparent lack of multidisciplinary training on the protection of women from violence that would be simultaneously provided to employees at different public authorities.”

“Authorities and training providers have not established (appropriate) records of training on the

⁷⁰ Available in English:

<http://ombudsman.rs/attachments/article/4613/Special%20Report%20of%20Protector%20of%20Citizens%20on%20Trainings%20ENG.pdf>

protection of women from violence, the subject matter and objectives of training and the number of employees who underwent training, which would allow them to keep track of the number of employees who underwent training, the level of their knowledge obtained through training, the efficiency of training, the application of acquired knowledge and other parameters relevant for organizing the efforts to protect women from violence and plan further training.”

“Authorities do not evaluate the level of knowledge and skills of their employees whose duties include direct involvement in the protection of women from violence or the way in which the trained employees apply the acquired knowledge in their work.”

“Authorities do not have readily available information relevant for evaluating the efficiency and effectiveness of training events and the applicability of acquired knowledge and skills.”

“Authorities do not plan training and professional development courses dealing with the protection of women from violence. They have no influence or have only limited influence in the assessment of training needs of employees whose duties include direct involvement in the protection of women from violence, the assessment of the subject matter of such training, the planning and evaluation of training events, knowledge reviews and follow-up on the effects of training.”

“Oversight and performance evaluation of employees does not include checks to determine which training and professional development programs the employees attended or assessments to determine whether any identified omissions in their work can (among other things) be attributed to their insufficient knowledge, competences and skills and whether they could be addressed by additional training and professional development.”

E. Preventive intervention and treatment programs – Article 16

Although the program of work with family of domestic violence perpetrators has been implemented since 2011, and since 2015 the “Network for Treatment of Perpetrators of Domestic Violence” has operated, the main problem is that the largest number of professionals who implement it work at the same time in centers for social work, and have an exclusive public authority to conduct needs assessments, develop service plans, refer to other providers, and evaluate the effects of services provided by other providers, leading them to a potential conflict of interest. This is confirmed by the opinion of the Commissioner for the Protection of Equality, following the complaint by Autonomous Women’s Center on behalf of a woman victim of violence. Institutes of delayed prosecution are also used for referring to treatment, although in these cases the process of compulsory alternative dispute resolution is prohibited. No organization or professional working with perpetrators of violence has ever contacted Autonomous Women’s Center for cooperation, either in connection with the concrete case or with any other question.

The “pilot program” of the work with perpetrators of violence started in 2011 in centers for social work in Belgrade, Nis and Kragujevac (educating 16 professionals), taking over the program from the Norwegian organization Alternative to Violence (which conducted initial training). Training for professionals implementing the program was accredited by the *Republic Institute for Social Protection* in 2012. During 2015, by signing an agreement among eight centers for social work (Kragujevac, Nis, Kruševac, Čačak, Novi Sad, Subotica,

Leskovac and Belgrade) and one citizen association (“Crisis Center for Men”, Belgrade, whose members are all employed at the City Center for Social Work, Belgrade) the “Network for Treatment of Perpetrators of Domestic Violence” was **established**⁷¹. Most of the activities were the result of a five-year project to prevent domestic violence supported by the United Nations Development Program (UNDP) in Serbia. The Network states that “at present, in Serbia there are **115 educated professionals** working with perpetrators of intimate partner violence”⁷². From the point of view of Autonomous Women’s Center, the **problem** with this group of professionals is that most of them are employed in centers for social work working among other things on the assessments for the needs of the court and other state bodies, which put these professionals in a **potential conflict of interest**.

The service is still **not** licensed, so there are no data on which **criteria** and what types of perpetrators are referred to the service. From the point of view of Autonomous Women’s Center, **disputable** is the fact that the centers for social work (CSW) are the body that sends and approves services to social protection beneficiaries, while the providers of this service are from the same system. Although the current *Law on Social Protection* (2011) allows additional work of CSW employees (after working hours and within other organizational units), the fact that CSW professionals exclusively carry out evaluation and planning services, referrals to other providers and assessment of the effects of services provided by others providers, leads them to a potential conflict of interest.

Upon a complaint of Autonomous Women’s Center, the *Commissioner for the Protection of Equality* found **multiple discrimination** against a woman with an experience of intimate partner violence, based on her personal characteristics of gender and nationality, and as a result of negligence in **providing services to the woman victim of violence**⁷³.

The Commissioner found that employees of the City Center for Social Work, Belgrade - Zvezdara Department, the woman had addressed to, **favoured the perpetrator of violence** (the woman’s former partner), who was provided the psychosocial treatment, while **consistently refusing to examine** the woman’s security, her reports of violence and her vulnerability, threatening her that she would be criminally responsible (for false reporting), that her child would be taken from her (and placed in a foster family) and that she should no longer address them. In the same case, the ministry in charge of supervising the work of CSW **identified negligence** in the actions of professionals, which they **ignored**, since they continued with treatment of the perpetrator although the reports said that he was being violent while treatment was ongoing. The CSW supervisor in this case was the legal representative of the nongovernmental organization “Crisis Center for Men”.

The problem is also that the **referral** to treatment was also carried out **on the basis of the**

⁷¹ Source: <http://www.rs.undp.org/content/serbia/sr/home/presscenter/articles/2015/03/25/nasilje-u-porodici-re-ava-norve-ki-model.html>; In the meantime, another two civil society organizations have become members of the Network: Citizens Association International Aid Network (IAN) and Citizens Association IDEAS.

⁷² “Psychosocial Treatment of Perpetrators of Domestic Violence as a Ticket for Lasting Change”, IAN (Kingdom of the Netherlands), 2017, available at: http://www.ian.org.rs/nasiljeuporodici/projekat/IAN_Informator.pdf

⁷³ Opinion No. 07-00-00581/2016-02, April 12, 2017, available in Serbian: <http://ravnopravnost.gov.rs/misljenja-i-preporuke/misljenja-i-preporuke-u-postupku-po-prituzbama/visestruga-diskriminacija/>

institute of delayed prosecution from the *Criminal Procedure Code*⁷⁴ (which should not have happened from August 2014 onwards, due to the prohibition of mandatory alternative dispute resolution processes (Article 48 of the Convention) and upon the instructions of the Republic Public Prosecutor's Office, and yet it happened, for example, in BPPO Kragirovac).

Representatives of the “Network for Treatment of Perpetrator of Domestic Violence” promote the treatment “as a ticket for lasting change”, saying that it is successful in stopping violence and preventing its recurrence in 60-80% of cases⁷⁵. A careful statistical data analysis shows that this is **not true**⁷⁶.

Although the Convention states that the establishment and implementation of these programs should be in close cooperation with specialist victim support services, we do not have the information as to whether such cooperation is taking place. From the beginning of their work, as well as during the project that was implemented in 2016/2017 members of the “Network” **never addressed** Autonomous Women’s Center, either in connection with the concrete case or with any other question. In the mentioned case, the professionals in charge and treatment leaders completely **ignored the opinion** of AWC (also submitted in writing at a case conference realized on the initiative of AWC).

⁷⁴ Criminal Procedure Code, *Official Gazette of RS*, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014.

⁷⁵ “Psychosocial Treatment of Perpetrators of Domestic Violence as a Ticket for Lasting Change”, text by authors M. Mitić Lazarević and S. Škugor; text by author S. Igić; text by authors G. Petronijević and V. Perović.

⁷⁶ When the participation of the sentenced perpetrators in treatment is on **a voluntary basis** (expected higher internal motivation), **only 21.7%** completes treatment completely (three months, 12 sessions). Of those who have completed treatment completely, 22.6% repeat physical violence during treatment, which would mean that the actual positive treatment effect is only **16.8%** in the three-month follow-up period, while treatment lasts (there is no evidence that the effect of treatment is monitored after its completion). When the perpetrators of violence are referred to treatment based on the **institute of delayed prosecution**, under the pretense of criminal prosecution, 36.4% of the perpetrators **withdraw** from treatment. Among those who have undergone complete treatment, the authors state that a positive change has been achieved for 29.5% of the perpetrators estimated to have “partially successfully undergone treatment”.

IV. Protection and support (IV chapter of the Convention, articles 18 to 28)

A. Information – Article 19

Although in the majority of relevant laws there is an obligation to fully inform the victim, there is no data as to whether this obligation is being carried out in an appropriate manner, in a timely manner and in a language the victim can understand. The experiences of victims speak about the inadequate quality of information they receive from public service representatives.

In the field of civil legal protection, the *Civil Procedure Law*⁷⁷ **does not provide for** a special obligation of the court to inform participants in the proceedings about their rights and position. According to the provisions of the *Criminal Procedure Code*⁷⁸, the **court is obliged** to inform the defendant and other participants in the proceedings about the rights they are entitled to. Research has shown that most respondents **are not satisfied** with the quality of information received from the police and public prosecutors⁷⁹. The Victims Support Service has been established in higher courts and prosecutors' offices in four appellate areas, but this does **not meet the needs** of the largest number of gender-based violence victims, whose proceedings are conducted in basic prosecutors' offices and courts. To our knowledge, information provided to victims on the proceedings and rights is **insufficient**.

According to the *General Protocol for Action and Cooperation of Institutions, Bodies and Organizations in the Situations of Violence against Women in the Family and in Intimate Partner Relationship*, in all cases it is essential that the victim obtains detailed information on all the participants and services in the community involved in providing assistance and ensuring security. However, women's organizations which provide specialist support services for women (and children) victims of violence report that this is **not a regular practice**.

There are **no data available** on whether the information (in printed form) is available in the languages of the ethnic groups to which the victims of violence belong. The Law on the Prevention of Domestic Violence (2016) in Article 29 - The right to information reads: "State bodies and institutions in charge of implementation of this law are obliged, in the first contact with the victim of domestic violence or the victim of the criminal offense under this law, to provide the victim with full information about the bodies, legal entities and associations that provide protection and support, in a manner and in a language that the victim of violence understands". We do not have data on implementation of this provision.

⁷⁷ *Civil Procedure Law, Official Gazette of RS*, No. 72/2011, 49/2013 – decision CC, 74/2013 – decision CC and 55/2014.

⁷⁸ *Criminal Procedure Code, Official Gazette of RS*, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014.

⁷⁹ Editor-in-Chief V.Nikolić-Ristanović (2010), available in Serbian: http://www.vds.rs/File/nasilje_u_porodici_u_vojvodini.pdf;

In order to increase the availability of information on protection from violence against women and domestic violence, the *Provincial Secretariat for Economy, Employment and Gender Equality* has launched an internet presentation www.hocudaznas.org. The *Ministry of Justice* is implementing the campaign “Turn off the Violence” and has an internet presentation with information for citizens and professional public <https://iskljucinasilje.rs/>. UN agencies in Serbia have supported the website www.sigurnakuca.net (moderated by B92 media, now O2) within the project “Integrated Response to Violence against Women in Serbia” (UN Trust Fund). The Women against Violence Network provides information about the services of all organizations from the network www.zeneprotivnasilja.net. In addition, SOS Vojvodina provides information for women on the website www.sosvojvodina.org. All specialized women’s organizations have information for women with experience of violence on their online presentations.

While they are undoubtedly examples of good practice, **it is not possible to claim** that adequate information provision to victims is a practice established throughout the entire country and in all languages used by victims, which would be the standard of adequate, accessible and timely information.

B. General support services – Article 20

Laws and strategic documents in Serbia do not distinguish between general and specialist support services. The center for social work decides on exercising the rights of beneficiaries and on the use of social protection services financed from the budget (financial assistance, accommodation in a shelter). Most services are financed from local budgets, and are not developed or available in the territory of the entire country. There are no updated unified data on available services for victims of violence, as well as data on their use.

The *Law on Social Protection*⁸⁰ emphasizes that service beneficiaries are the persons in danger of becoming or are already **victims** of neglect, abuse, exploitation, violence, or domestic violence. In terms of **financial assistance**, the law provides for financial assistance and one-time assistance. **Accommodation** services are provided for a maximum of six months to children, youth and adults victims of domestic violence, abuse and neglect⁸¹. The law also provides for counseling, therapeutic and socio-educational services financed by the local government, but does not prescribe that they should be adapted to the needs of women and children victims of violence. In line with the law, the center for social work **decides** on the realization of rights of beneficiaries and the use of social protection services financed from the budget (services are not directly available).

Neither the laws nor the strategic documents **distinguish** between general and specialist support services.

⁸⁰ Law on Social Protection, *Official Gazette of RS*, No. 24/2011.

⁸¹ *Rulebook on Detailed Conditions and Standards for Providing Social Protection Services*, *Official Gazette of RS*, No. 42/2013.

A number of national strategies envision the development of various services for victims of violence. The *Social Protection Development Strategy*⁸² (expired in 2010, and currently a new strategic document is being drafted) foresees the development of “immediate intervention services” and the establishment and support of SOS services. The *National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationship* (2010-2015), which also expired, lists various measures to improve the services of victims of violence, but lacks **reports on implementation** of these measures. The *Action Plan for the National Strategy for Gender Equality* (2016-2020) mentions only the specialist services of “free national telephone helpline”. The *National Social Housing Strategy* (2012-2022)⁸³ lists people who suffer from domestic violence as beneficiaries of flats in social protection programs, but there are no data on implementation of these measures. There are **no updated unified data** on these services in all municipalities / towns in Serbia, as well as data on the number of beneficiaries in the category of “women victims of violence”.

The *Strategy for Free Legal Aid System Development in the Republic of Serbia*⁸⁴ sets the special goal of determining the circle of beneficiaries of free legal aid services, so that primary legal assistance is available to everyone, and secondary legal assistance to persons with low income status and persons from vulnerable and marginalized social groups, including the provision of legal assistance for reasons of equity and on the basis of obligations arising from international treaties. However, the *Law on Free Legal Aid* has not yet been adopted, and the current draft restricts the right of the nongovernmental sector to provide the majority of legal services (except legal information), although all specialized women’s organizations have provided this service for decades.

After more than 20 years, lawyers of Autonomous Women’s Centre will be forbidden to provide free legal aid.

The Government has adopted the Law on Free Legal Aid (the website of the Ministry of Justice, which is the proponent of this Law, contains neither the text of the draft law nor the report with the explanation of the accepted and unacceptable proposals and comments). The draft law contains discriminatory provisions that differentiate lawyers according to the place of their employment. Lawyers in nongovernmental organisations are allowed to provide only general legal information, while lawyers of the same degree of education in local government units have the authority to provide and to grant free legal aid. Exceptions are only the procedures for granting asylum and for the purpose of protection against discrimination. The draft law also contains provisions on the penalty for lawyers who provide free legal aid even if it is provided voluntarily and free of charge.

By prohibiting citizen’s associations from providing free legal aid to women and children victims of domestic violence, partner and sexual violence, Serbia further aggravates their position and access to justice.

⁸² *Social Protection Development Strategy, Official Gazette of RS, No. 108/2005.*

⁸³ *National Social Housing Strategy, Official Gazette of RS, No. 13/2012.*

⁸⁴ *Strategy for Free Legal Aid System Development in the Republic of Serbia, Official Gazette of RS, No. 74/2010.*

In the annual reports on the work of centers for social work in Serbia, prepared by the *Republic Institute for Social Protection*, data on these services, as well as on referrals, are insufficient, and relate only to domestic violence. The data are presented from the “perspective of the child” and “parents” or “family”, but are not classified by sex, age of the beneficiary, so they do **not provide information** on how many women victims of violence have received services and what kind of services is provided. In 2016, in all centers for social work in Serbia, 23,218 reports of domestic violence were registered: “In the protection of adult victims of violence, the actions of CSW in 2016 were in 72% of the cases focused on providing material, legal or advisory support the victim of violence within CSW, and in 14% of the cases the victim of violence was referred to the services of other institutions. In 6% of the cases, the adult victim of violence was removed from the family”.

The report concludes: “In any case, the fact that centers for social work rarely refer victims to other institutions suggests that local governments lack the resources to rely on in the treatment and support needed in cases of domestic violence, so that CSW with weakened resources remains ‘lonely’ and almost exclusively competent because most of the work on supporting the victim and family remains in the domain of CSW”.⁸⁵ While it is true that a relatively small number of local communities have developed services, it is certain that the existing ones **are not being used**, judging by the experience of the women’s organizations that provide them, emphasizing that the victims are rarely referred, and that the data on the services they have provided are rarely found in the reports of local CSWs. This is also confirmed by the Republic Institute for Social Protection (in more detail when Article 22 is discussed).

Although the *Law on Health Care*⁸⁶ provides for health care of victims of domestic violence, there are **no reports** of services provided and referrals to other services. Although the Report on the Operation of the National Employment Service⁸⁷ recognizes victims of domestic violence and gender-based violence as a target group, there is an extremely small number of measures directed at them: **only seven** participants from the group “Human trafficking and gender based violence in the refugee and migrant crisis” (2017) took part in external training, while the Report of 2016 has no data related to activities with victims of gender-based violence⁸⁸.

The *Law on the Prevention of Domestic Violence* (2016) foresees the obligation of drafting an individual plan for the protection and support of victims of domestic violence and other criminal offenses covered by the law, but since **no** single electronic registry have been established, there are **no unified data** on the type of measures and services planned, whether and how much has been realized and with what effects in relation to the security, recovery, empowerment and independence of the victim of violence.

⁸⁵ Report on the Work of Centers for Social Work for 2016, Republic Institute for Social Protection, pgs. 46-47. Available in Serbian: http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf

⁸⁶ *Law on Health Care, Official Gazette of RS*, No. 107/2005, 72/2009 – dr. zakon, 88/2010, 99/2010, 57/2011, 119/2012 and 45/2013 – dr. zakon.

⁸⁷ Report for 2017 available in Serbian: http://www.nsz.gov.rs/live/digitalAssets/9/9467__izvestaj_o_radu_i_-_xii_2017.pdf

⁸⁸ Available in Serbian: http://www.nsz.gov.rs/live/digitalAssets/7/7780_izve__taj_o_radu_za_2016_godinu_2.pdf

C. Assistance in individual/collective complaints – Article 21

The Constitution of the Republic of Serbia guarantees immediate implementation of human rights, as well as the right of citizens to contact international institutions for the protection of their freedoms and rights. Providing free legal aid in these procedures is unregulated, since the relevant law has not yet been adopted. There is a small number of specialized civil society organizations that provide this form of legal protection, so it cannot be concluded whether this right is available to all citizens.

The Republic of Serbia has signed and ratified *intergovernmental instruments regarding human rights and women's rights*. The *European Convention on the Compensation of Victims of Violent Crimes* (2010) was also signed, but has **not yet been ratified**. The immediate implementation of human and minority rights guaranteed by generally accepted rules of international law, ratified by international treaties and laws, is guaranteed by the *Constitution of the Republic of Serbia*⁸⁹, as well as the right of citizens to contact international institutions for the protection of their freedoms and rights guaranteed by the Constitution. The law determines when the legal aid is free. Until the adoption of a law regulating the provision of free legal aid, the provision of this type of assistance remains **unregulated** in this area as well. Basic information on the conditions for filing an appeal with the European Court of Human Rights is available to citizens on the website of the Ministry of Justice - the Sector for the Representation of the Republic of Serbia before the European Court of Human Rights.

Not a large number of associations are dealing with the provision of free legal aid to citizens in certain legal sectors and to a certain category of beneficiaries, so that this form of organized free legal aid is not available to all citizens. Not all municipalities in the territory of Serbia have established free legal aid services.

D. Specialist support services – Article 22, 23 and 25

In Serbia services are not divided into general and specialist ones, which prevents the specialist services for women and children victims of violence to be established in line with the standards of the Convention. Sustainability of services is a constant problem, since they are financed in whole or in substantial part as project activities. Nongovernmental organizations that provide specialist services are mainly not funded from the budget, or the funds they receive are extremely low. Specialized women's organizations providing services in this area are in a more unfavorable position compared to public sector providers, although they have been service initiators, have decades of experience and specially trained staff.

The *Law on Social Protection* **does not recognize** the division of services into general and specialist, and there is not such a division in the new Draft Law (2018) as well. There are **no** policies / standards for the provision of specialist services in accordance with the Convention

⁸⁹ Constitution of the Republic of Serbia, Official Gazette of RS, No. 98/2006.

(for example, shelter standards refer to general-purpose shelters, not to safe houses for women and children victims of violence). Services are financed from local budgets, which does **not allow** the state to achieve the standard of geographically correct distribution and availability (they are free only for beneficiaries from the municipalities that provide them, and from other municipalities if that municipality can / will pay for the service). Beneficiaries participate in the price of the service if they have any source of income (including financial assistance). All services are provided after assessing the needs of beneficiaries by the center for social work, that is, with a **referral**, which also restricts accessibility. The capacity of the services is limited and insufficient. The staff **has not** gone through specialist training. Services are often **inaccessible** to women from marginalized groups (e.g. Roma women, women with disabilities, or women with children with disabilities, or of certain ages, or women with psychiatric disabilities).

The database of services and providers kept by the *Republic Institute for Social Protection* **has not been functional** for a long time, but the text that comes with the database⁹⁰ reads that in Serbia there are a total of 31 different local social services, of which 14 are intended for children and youth, 9 are intended for adults and 8 services “**equally used** by all groups of beneficiaries, that is, the services that are classified as family support services for the purposes of this database, or services for victims of trafficking in human beings or **victims of domestic violence**” (our bolding). It can be concluded from the text that the services are not specialized for victims of violence, especially for women and children. The text that comes with the database also says that the **telephone helplines** for victims of domestic violence are provided in 15 towns / municipalities, and that in 37 local communities in Serbia there are **no** local social services financed from the local government budgets (Serbia has 162 municipalities). Moreover, when it comes to **service providers**, the text reads that local governments more often trust health care institutions in the public sector rather than organizations in the civil sector. Although nongovernmental organizations are usually the pioneers in establishing social services at the local level, the institutionalization of these services by local governments is still difficult for the majority of towns / municipalities. Services are most often of **limited duration**, since most local social services start to be implemented as part of project activities, and with the termination of project funding, the given service ceases to exist.

Shelters

There are no publicly available data on the accommodation capacities of safe houses / shelters for victims of violence against women and domestic violence. According to the standards, Serbia should have 719 places in shelters in relation to the number of citizens. Only 60% (9 out of 15) of safe houses / shelters are specialized for accommodation of women and their children, and most have reception restrictions, related to the specific conditions of women or children. No special rules have been established to ensure safety of women and children victims of violence. Accommodation is done exclusively through referrals, and can be complicated if the victim is not from the territory of the municipality that

⁹⁰ Available in Serbian: ww.zavodsz.gov.rs/index.php?option=com_content&task=view&id=245&lang=1250

finances the service. The staff is generally not engaged full time, one-third being “shelter attendants” and most of the safe houses have only one professional engaged full time. Some safe houses are temporarily shut down due to lack of funding.

Data from the Social Protection Services Database at the local level of the *Republic Institute for Social Protection*, as already mentioned, are **not available**⁹¹. The internal data of the Women against Violence Network show the existence of **11 safe houses** run by centers for social work and **2** run by nongovernmental organizations⁹². The portal [www.sigurna kuća](http://www.sigurna_kuca.net)⁹³ also does not have data on the number and geographical distribution of this service. The licensed service “shelter for victims of domestic violence” is held by 5 providers (4 from the public and one from the nongovernmental sector)⁹⁴. There are **no** publicly available data on the accommodation capacities of safe houses / shelters for victims of violence against women and domestic violence, and it is impossible to compare the number of available beds in relation to the number of inhabitants, but it is certainly neither sufficient nor geographically well distributed, but also not easily available for certain groups of women (women with disabilities and those with children with disabilities, or children of a certain age, rural women, women with mental and health difficulties, etc.). In addition, many local decisions on social protection rights and services stipulate that accommodation in a safe house / shelter is done **exclusively through referrals** of the center for social work (somewhere there is a possibility for the police to bring the victim directly), which leads to the conclusion that the service is **not directly accessible** to women, in relation to assessment of the situation of immediate vulnerability. Joint annual reports on the work of centers for social work, that is, social protection institutions, prepared by the *Republic Institute for Social Protection*, **do not contain** data on accommodation capacities of safe houses / shelters. According to the standards, Serbia should have 719 beds in safe houses in relation to the number of inhabitants. According to the data of centers for social work, in 2016, 5% of adult victims of domestic violence are removed from home (approximately 522 people), but this does not mean they are placed in safe houses / shelters⁹⁵.

Based on the data reached by Autonomous Women’s Center in 2015⁹⁶, **only 60% of safe houses / shelters are specialized** for women and children victims of violence. Most are open for reception 24/7, but only 45.5% are available to women or children with motor disabilities. Most do not respond about the type of restriction they have for admission to a safe house / shelter, and when they do, in addition to physical availability, the admission restrictions apply to mental illnesses, addiction illnesses, a higher degree of reduced intellectual capacity, suicidality, and every condition that requires hospital treatment.

⁹¹ http://www.zavodsz.gov.rs/index.php?option=com_content&task=view&id=240&Itemid=240

⁹² Places with safe houses run by CSW: Novi Sad, Kragujevac, Zrenjanin, Niš, Leskovac, Vranje, Jagodina, Sombor, Smederevo, Pančevo, Šabac; places with safe houses run by NGO: Belgrade (three shelters) and Vlasotince.

⁹³ http://www.sigurnakuca.net/fond_b92_protiv_nasilja/izgradnja_sigurnih_kuca/beograd.9.html

⁹⁴ Shelters in Pančevo (limited license), Kragujevac, Leskovac and 2 shelters in Belgrade; available at: <https://www.minrzs.gov.rs/lat/usluge-socijalne-zastite.html>

⁹⁵ Report of the Republic Institute for Social Protection for 2016, available at:

http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf.

⁹⁶ Answers to the questions posed under the *Law on Free Access to Information of Public Importance* were submitted by shelters / safe houses from Sabac, Valjevo, Jagodina, Kragujevac, Leskovac, Vranje, Nis, Novi Sad, Kikinda, Pancevo, Sombor, Zrenjanin and Smederevo. Not all safe houses / shelters answered all the questions, nor were the answers sorted in the required way, which prevented a complete review of the situation.

Only a third of safe houses / shelters respond that the accommodation service can be obtained without referrals of the center for social work, and some have these restrictions only for victims who are not from the territory of the municipality / town. Only 50% of the surveyed safe houses / shelters answer that they have a technical security plan. Just over half (58%) report that these services are free for all women, while some say that the service has to be paid by beneficiaries from other territories, or women who have their own income. The prices of services are different, and there are exceptions for mothers with children under one, women receiving social assistance or child allowances (and the criteria for benefits also varied). It is not possible to say how many beds there are in 15 safe houses / shelters (the registered number is 151, without the number of beds in Belgrade), which is certainly far below the standard. In 12 safe houses / shelters (which provided data), 59 persons are engaged, **mostly part-time**⁹⁷, and 73% of the staff are female. A third of the staff consists of “attendants / assistants on duty / janitors”, while the number of full time professionals is only 11.

The lack of specific standards for the service of accommodation in the shelter / safe house has caused this service to be different in various local communities (in relation to target beneficiary groups, length of stay, services provided, cost, security of beneficiaries and quality of service as a whole). Since they are financed from local budgets, the services are tailored to the needs of projects and do not respond to the real needs of beneficiaries. Based on information reached by women’s nongovernmental organizations, various **shortcomings and problems** have been identified: women victims of violence are placed within the same building with other, different (according to age and needs) categories of beneficiaries; in some municipalities, the same “Rulebook on the Reception in and Release from the Shelter” apply to all categories of beneficiaries; no special rules have been established to ensure the safety of women and children of victims of violence; victims of violence are locked in the safe house after the staff’s working hours, because 24/7 service is not provided; beneficiaries pay for the accommodation service; a small number of initiated procedures for protection measures, especially for the eviction of the perpetrator from the flat / house while the women and children are staying in the safe house.

Typically, the estimated period of stay in safe houses is **three to six months**⁹⁸, **but women stay longer**. The most frequent length of stay is between 1-2 days and 3-6 months. Some safe houses are **temporarily shut down** due to lack of funding. What worries is the normalized approach of the Belgrade Safe House to allow visits by politicians (of different levels of power), which includes the presence of media crews for the promotion of politicians, the availability of address, premises and beneficiaries to a large number of people⁹⁹, as well as the public appearance of beneficiaries in entertainment or political programs¹⁰⁰.

⁹⁷ On average, 3-4 persons per facility are engaged; most people are employed in Novi Sad - 8 and Niš 9.

⁹⁸ *Rulebook on Detailed Conditions and Standards for Providing Social Protection Services*, Official Gazette of RS, No. 42/2013.

⁹⁹ <http://sigurnakuca-beograd.com/component/content/featured?id=featured>

¹⁰⁰ For example, the show “Ćirilica” (TV Happy), when a beneficiary of the Safe House from Belgrade participated in a promotional and political show also participated by then Prime Minister of the RS. The Safe House coordinator explained that the woman “had no problem with revealing her identity, she expressed her desire to appear on the show, to personally thank the Prime Minister for visiting the Safe House on Christmas Eve, January 6”. <http://www.alo.rs/cetiri-zene-resetaju->

Support for victims of sexual violence

In the Autonomous Province of Vojvodina, seven centers for victims of sexual violence started their pilot phases, which would ensure evenly geographically distributed, easy and 24/7 available necessary services for victims of sexual violence in one place. Specialized women's organizations from Vojvodina are also involved in implementation of activities. It remains to be seen whether the centers will have sustainability after the project phase, but also whether the positive experiences will be transferred to other parts of the Republic of Serbia.

A large number of attempts by Autonomous Women's Center since 2014 to motivate the Ministry of Health authorities to establish a center for victims of sexual violence, including rape, and to develop an intersectoral protocol on the actions in the cases of sexual offenses, have not had any results.

The Provincial Secretariat for Health, Social Policy and Demography (now the Provincial Secretariat for Health Care) have been realizing, in the period 2016-2019, a project entitled "Stop-Protect-Help-A Stronger Institutional Response to Gender-Based Violence in the Autonomous Province of Vojvodina" funded by the United Nations Trust Fund to End Violence Against Women-UN Trust Fund in the amount of € 459,100 (total budget of the project is € 526,130). The project partner is a women's nongovernmental organization Center for Support of Women Kikinda. One of the objectives of the project is to empower institutions to support victims of gender-based and sexual violence, which includes the "piloting" of **seven centers for victims of sexual violence** in all seven provincial districts¹⁰¹, which are evenly geographically deployed, easily and round-the-clock accessible to victims of sexual violence, so that the necessary medical, forensic and laboratory examination services, as well as information, psychological and legal counseling services are provided in the **same space**. The Center provides documenting, as well as material traces of sexual violence, and it also works to reduce the trauma, through the empowerment of women victims and the provision of immediate support in overcoming the consequences of traumatization. The telephone number a woman in the situation of violence can call is the free number of "SOS Vojvodina"¹⁰². No information on the total number of beneficiaries of the centers for victims of sexual violence can be found on the project's website.

In addition, the project includes the education of 1,500 health workers in Vojvodina for more efficient implementation of protocols and keeping records of gender-based violence, as well as numerous meetings for improving multisectoral cooperation and information-promotion activities¹⁰³.

The greatest **challenge** for this specialized service will be **sustainability** after the completion of the project activities, in particular the sustainability of the advisory services

vucica/32337.

¹⁰¹ Centers have been formed in Novi Sad and Zrenjanin, Subotica, Sombor, Kikinda, Vršac and Sremska Mitrovica.

¹⁰² <http://projekti.zdravstvo.vojvodina.gov.rs/pilot-centri/>

¹⁰³ <http://projekti.zdravstvo.vojvodina.gov.rs/o-projektu/>

provided by women's organizations, as well as whether positive experiences will be transferred to other parts of the Republic of Serbia.

E. Telephone helplines – Article 24

In Serbia there is not a single telephone helpline for victims of violence against women and domestic violence that would cover the territory of the entire country and meet the standards regarding accessibility, anonymity and other criteria in line with the Convention. At the regional level, there is a single and free telephone helpline for women victims of violence in the family and intimate partner relationship in the province of Vojvodina, but not available 24/7. When this service is provided by the public sector at the local level, most often there is no special telephone line and trained personnel. Telephone helplines run by women's nongovernmental organizations with decades of experience in their work have no (or sporadic and insufficient) financial support from local governments. The intention of the ministry in charge of social protection to establish the National Telephone Helpline is neither in line with the standards of the Convention nor with the legal regulations of the Republic of Serbia, and consequently two open calls were withdrawn in 2017.

The *National Strategy for Gender Equality for the period 2016-2020* and the Action Plan for 2016 foresee the establishment of a national free telephone helpline, but this has **not been achieved**. At the regional level, a single telephone helpline for the territory of the province of Vojvodina¹⁰⁴ is available every working day from 10 am to 22 pm, and the women who call can remain anonymous. The call to this number is free of charge from both landline and mobile phones. The services are provided by representatives of 6 local women's organizations affiliated in the "SOS Vojvodina Network".

The free telephone line established by the Ministry of Interior (0800100600) does not meet the criteria of the Convention (on confidentiality and advice provision).

Given that there is no common database on telephone helplines services provided by state institutions and nongovernmental organizations, it is impossible to comprehensively and precisely understand this service at the local level. In 2013, 14 telephone helplines were registered for victims of domestic violence, out of which 13 were established at centers for social work and one at the Institute for Gender Equality. Telephone helplines run by women's organizations **are not registered** in the database because they are not financed from local budgets (which is a condition for registering). The Women against Violence Network has verified that as many as 9 (out of 14) centers for social work **do not provide** this kind of service, nor have a special phone line for helplines, and the engaged staff lack the specialist knowledge.

According to the Women against Violence Network, women's nongovernmental organizations run **22 telephone helplines** for women victims of violence, with great and

¹⁰⁴ Telephone Helpline started working on November 16, 2012.

long-standing experience. They are specialist telephone helplines for emotional and legal support to women victims of violence based on accessibility, confidentiality and anonymity as the basic principles of work¹⁰⁵. Among them there are two telephone helplines specialized for trafficking victims, four specialized for women with disabilities, and three are available in the languages of national minorities¹⁰⁶. The only telephone helpline available 24/7 is the telephone helpline in the Roma and Serbian languages in Niš (“Osvit” Roma Women's Association).

The capabilities and capacities of organizations, primarily in terms of human and financial resources, affect the availability of this service, which reflects on the inconsistency of working hours, poor coverage during non-working days and almost complete lack of coverage during night hours and weekends. Telephone helplines run by women’s nongovernmental organizations have no (or have sporadic and insufficient) financial support from local governments. No or small and unstable funds make the sustainability more difficult and hinder higher standards of services, regardless of the documented needs of women and the positive effects of these organizations.

Centers for social work in Serbia are **not inclined to refer** beneficiaries to other service providers, which also applies to women with experience of violence¹⁰⁷. In addition to the fact that it points to the poor use of the existing resources, it also points to the lack of cooperation and integrated response in preventing and protecting women from violence.

In 2015, the *Rulebook on Closer Conditions and Standards for Providing Telephone Helpline Services for Women with Experience of Violence* was adopted¹⁰⁸. The Ministry in charge of social issues presented to representatives of the Women against Violence Network (at the meeting in July 2017) a plan for the establishment of the National Telephone Helpline, which implied that operators should be asking personal data from women, forwarding information on the call to the competent institutions. Representatives of the Network pointed out that such a model would bring into question the basic principle - anonymity, and that the establishment of such an info center (there used to be such centers within the same ministry or the Ministry of Interior) would discourage women from calling or continuing with phone conversation. The Network then calculated the annual operation cost of the National Telephone Helpline (which would have 15 parallel lines, evenly distributed across the regions of Serbia, available 24/7), so that the service would be provided by women’s nongovernmental organizations with decades of experience. However, the Ministry announced two open calls (October and November 2017) for the selection of service providers that did not comply with legal standards, and so the both open calls were withdrawn (following the complaint of Autonomous Women’s Center).

Nevertheless, in cooperation with the Mayor of Belgrade, and with the support of the company “Telekom Srbija”, the Minister signed a memorandum of cooperation and

¹⁰⁵ Values and Principles of the WAV Network, <http://www.zeneproktivnasilja.net/o-mrezi-zene-protiv-nasilja/vrednosti-i-principi>, August 2013.

¹⁰⁶ <http://www.zeneproktivnasilja.net/o-mrezi-zene-protiv-nasilja/spisak-organizacija>, August 2013.

¹⁰⁷ In 2016, only 14% victims of violence were referred to services of other relevant providers. Report available at http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf

¹⁰⁸ *Official Gazette of RS*, No. 93/2015

announced the number of the National Telephone Helpline on the International Day for the Elimination of Violence against Women (2017), although the phone service was not established. Women calling the announced number receive an automatic message “All our operators are currently busy. Please try again later”. This service has not yet been established¹⁰⁹.

Ministry in charge of social policy announces piloting the service that has already been provided by members of the Women against Network for 25 years.

The Minister in charge of social policy has announced that the legal obligation of establishing services through public procurement from licensed providers will be bypassed by the Government’s conclusion, although such a decision constitutes a violation of the law.

In the meantime, the same Minister changes the Law on Social Protection by placing the service of the national SOS Helpline in the **sole responsibility** of the Ministry in charge of social protection: “The content and more detailed conditions for the operation of the national SOS Helpline ... are prescribed by the Minister responsible for social protection” (draft Law on Social Protection, new Article 60). Bearing in mind that by-laws depend exclusively on the Minister and do not involve a public hearing, such a solution allows the Minister to have an unrestricted discretion right to define the service, but also to adapt it to a pre-selected provider.

The question remains why Serbia ignores the decades-long experience of specialist women’s organizations. For the time being, 5 service providers have passed the process of licensing (all five are women’s organizations) and they all have received the license of the “national telephone helpline” although there is no standard for this service and at this moment the majority do not meet the 24/7 requirement¹¹⁰.

F. Protection and support for child witnesses – Article 26

Although children have been given the status of witnesses of domestic violence, protection is provided mainly to the children directly exposed to violence, and even then relatively rarely in criminal proceedings. There are no data on how many children are affected by witnessing domestic violence. Specialist psychological assistance services have not been developed and made available to suit the age and other characteristics of the child. Although the intervention of an urgent removal of a child from home due to violence is justified, it is not followed by an appropriate measure towards the perpetrator, so that the child could be returned to his/her home as soon as possible.

Most legal provisions providing for special rules for hearing the witness, including minors, relate to situations where a minor has the status of an injured party (victim) in the trial, **rather** than the position of an ordinary witness of violence¹¹¹. Based on the criminal act of domestic

¹⁰⁹ In more detail at: <http://preugovor.org/Poglavlje-23/160/Rodna-ravnopravnost.shtml>

¹¹⁰ Available at: <https://www.minrzs.gov.rs/lat/usluge-socijalne-zastite.html>

¹¹¹ General measures of protection of injured parties in criminal proceedings are regulated by the *Criminal Procedure Code, Official Gazette of RS*, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013 and 55/2014. Special provisions on the protection of minors (children and minors) in criminal proceedings where a minor is injured by prescribed criminal acts are encompassed

violence – Article 194 of the *Criminal Code*, it is unquestionable that minors who witness violence, particularly over a long period, can be treated as victims of violence. However, this issue largely **depends** on the public prosecutor's office, bearing in mind that this criminal offense is prosecuted ex officio.

During 2015, a working group formed by the Ministry of Justice developed a draft of the new *Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles*. In the comments submitted to the minister and members of the working group, Autonomous Women's Center pointed to the fact that this draft law **reduced** the achieved level of protection of children's rights in criminal proceedings, stating that the provisions on the protection of minors as victims were not applied even in relation to appointing a proxy ex officio, nor in terms of specific provisions about the hearing.

The practice of courts in Serbia shows that the fact that a child has been involved in the commission of a criminal offense, including domestic violence, **has in no way been taken into account**, even as an aggravating circumstance¹¹². A study published in 2015 by the Child Rights Center, entitled "Towards the Child-Friendly Justice – Protection of Child Victims in Criminal Proceedings and Practice in the Republic of Serbia"¹¹³, although dealing with children (direct) victims of criminal offenses, confirms the numerous shortcomings in implementation of the existing Law.

In 2017, in front of centers for social work in Belgrade (in the municipalities of Novi Beograd and Rakovica), a woman was killed in the presence of her three children and another woman and her four-year-old child were killed, all during visitation hours with the father. In both cases, violence had been **previously reported** to institutions, and perpetrators convicted of violence against woman and child and violent behavior. It is evident from these cases that representatives of relevant institutions **do not recognize the link** between violence against women and abuse and violence against children. As reported in the media, in the first case, the competent Ministry of Labor, Employment and Social Affairs found there had been negligence in the work of the center for social work, the director of the City Center for Social Work was dismissed and disciplinary proceedings were initiated against seven employees. The investigation in the second case is still ongoing. Proceedings have not been conducted against representatives of other competent institutions (police, prosecutor's office) for negligence in their work.¹¹⁴

According to the *General Protocol for Action and Cooperation of Institutions, Bodies and Organizations in the Situations of Violence against Women in the Family and in Intimate*

by the *Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles*, Official Gazette of RS, No. 85/2005.

¹¹² Research authors: N. Petrušić and S. Konstatinović-Vilić (2007): available only in Serbian:

<https://www.womenngo.org.rs/publikacije/razvoj-dobrih-praksi/251-krivicno-delo-nasilje-u-porodici-aktuelna-pravosudna-praksa-u-beogradu-i-nisu-2007>; research author: V. Macanović (2012): available only in Serbian:

<https://www.womenngo.org.rs/publikacije/razvoj-dobrih-praksi/887-krivicnopravni-odgovor-na-nasilje-u-porodici-u-vojvodini-2012>

¹¹³ Authors M. Banić and I. Stevanović (2015): available in Serbian: http://cpd.org.rs/wp-content/uploads/2017/10/ka_pravosudju_po_meri_deteta_krivicno.pdf

¹¹⁴ Information available in the Report (in English):

<https://www.zeneprotivnasilja.net/images/pdf/FEMICIDE%20Narrative%20and%20Quantity%20Annual%20Report%20for%202017.pdf>

Partner Relationship, it is necessary to ensure that, when providing services and assistance to victims of domestic violence with children who have witnessed violence, their rights and needs are taken into account. All the services provided to children witnesses of domestic violence must be carried out in accordance with their best interests.

According to the *Synthesis Report on the Work of the Centers for Social Work in Serbia in 2016*¹¹⁵, 30% of reported domestic violence relates to child victims (6,965 children), however, the method of recording data does not allow for the link between violence against women and the child witnessing domestic violence to be established. The report also states: “When it comes to the actions of centers for social work (CSW) in cases of reporting violence against children, the centers report that in 57% of cases, the child and the family are provided material, legal or professional advisory support within CSW, and in 19% of cases children and parents are referred to services provided by other institutions. In 5% of cases, CSW initiates proceedings before a court against the perpetrators. In 3% of cases, CSW protects the child by removing him/her from the family ... the lack of community services is generally evident for children victims of domestic violence and their families, and even in the communities where such services exist, they are not continuous”¹¹⁶.

In this report, there are **no data** on the number of children who have been **removed** from the family for security purposes, and the reason is that “the parent is not able to protect the child from abuse of another parent”. In the previous period (2012), half of the total number of the removed children (310 children) was removed for this reason, and even 22% stayed outside their home for more than one year, 31% without the mother, while the relevant center for social work did not (or quite rarely) initiate appropriate legal proceedings against the perpetrator, which would allow the return of children to their home¹¹⁷.

A survey conducted by Autonomous Women’s Center in cooperation with the Women against Violence Network (2013) shows that in more than two-thirds of cases the children witnessed the violence committed by their father against his wife - their mother. In almost half of the cases in which mothers were exposed to partner violence, their children experienced violence as well. Most often, one third of the women addressed the center for social work (CSW), expecting to receive protection measures against violence¹¹⁸.

In addition, a number of procedures of the Protector of Citizens regarding domestic violence include recommendations on the protection of children witnessing domestic violence¹¹⁹. They state that, by not recognizing the status of a victim of violence to children, bodies and institutions fail to provide them with emergency protection and to apply all available measures for their recovery from violence and for integration¹²⁰.

¹¹⁵ http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf

¹¹⁶ http://www.zavodsz.gov.rs/PDF/izvestaj2017/CSR%202016_final.pdf, pgs. 46-47.

¹¹⁷ Research author: T. Ignjatović, available only in Serbian:

https://www.zeneprotivnasilja.net/images/stories/opservatorija/pdf/Godisnji_izvestaj_Opservatorije_2013.pdf

¹¹⁸ Author Tanja Ignjatović. Available (summary in English): https://www.womenngo.org.rs/images/publikacije-dp/2013/Posledice_koje_ima_nasilje_prema_zenama_u_partnerskom_odnosu_na_decu_i_odgovor_javnih_sluzbi_na_ovaj_problem.

¹¹⁹ Recommendations: No. 17120 (31. 8. 2011); No. 1289 (21. 1. 2013); No. 6520 (7. 3. 2013); No. 7751 (19. 3. 2013); No. 9237 (1. 4. 2013); No. 11284 (16. 4. 2013); No. 29383 (10. 10. 2013); No. 30805 (24. 10. 2013); and others.

¹²⁰ <http://www.ombudsman.rs/index.php/lang-sr/misljenja-preporuke-i-stavovi/1473-2011-09-05-07-31-04>

G. Reporting – Article 27 and Reporting by professionals – Article 28

Laws and protocols regulate the obligation to report the existence and suspicion of domestic violence, as well as sanctions for those who do not report knowledge of criminal offenses for which a sentence of five years in prison and more is imposed. Researching and verifying the actions of professionals confirm that the reporting and exchange of data between the competent services is missing.

According to the *Criminal Procedure Code*, by filing criminal charges, state and other bodies, legal and natural persons report criminal offences which are prosecutable ex officio about which they were informed or they learn in other manner, under the conditions stipulated by law or other regulation.

The *Criminal Code* foresees as a criminal offense the failure to report preparation of the commission of a criminal offense for which a term of five years in prison or a more severe sentence can be imposed by law (Article 331), failure to report the offense and offender (Article 332) if it is committed by an official or responsible person who **consciously fails to report** the criminal offense he/she has learned about while being on duty, if for this offense, according to the law, five years in prison or more severe punishment can be imposed. Responsibility also exists based on the criminal offense of malpractice in the service (Article 361).

According to the *General Protocol for Action and Cooperation of Institutions, Bodies and Organizations in the Situations of Violence against Women in the Family and in Intimate Partner Relationship*, recognizing violence can be the result of a victim's reporting to any institution in the system of protection, or of perceiving physical, psychological or other traces and manifestations of violence by any official or professional person or by a third party reporting violence to the institution. It is also the right and duty of everyone to report domestic violence. The special obligation to report domestic violence to the police and the public prosecutor's office is that of **health workers and professionals in social protection and education**. The obligation to report is also regulated by special protocols on the actions of the competent services.

Only in the field of health care the possibility of releasing from professional secrecy is foreseen by the *Code of Professional Ethics of the Medical Chamber of Serbia* (Article 20): "The medical doctor is free from keeping professional secrecy, i.e. dismissed the obligation of professional silence if the patient agrees or when necessary for the benefit of the patient, his family or society, or if decided so in accordance with the law."

The research "Effectiveness of Systemic Mechanisms for the Prevention of Violence against Women and Domestic Violence",¹²¹ reads: "When it comes to reporting violence, it is noticed that reports are rarely filed by officials, especially by health care services and centers for social work. There seems to be some ambiguity in the interpretation of the 'official duty' in the actions (often related to a woman's withdrawal from the proceedings)".

¹²¹ <http://www.potpisujem.org/srb/1905/delotvornost-sistemskih-mehanizama-za-sprecavanje-nasilja-prema-zenama-i-nasilja-u-porodici>

Based on the proceedings in 14 cases of murders of women by their (former) partners or family members, upon his own initiative derived from information from the media and civil society organizations¹²², the Protector of Citizens concluded that: the representatives of the police did not act on reports of violence in all the cases, and if they did act, they acted untimely; not in all cases they notified centers for social work or health care institutions (in which the perpetrators of violence were hospitalized) about reports of violence and measures taken; they did not acquire and exchange information from all available sources, and in certain cases victims were advised to pursue alone the proceedings before other bodies. Not in all cases, centers for social work took efficient and timely measures for assessing violence and informed the police of their knowledge. Health care institutions made mistakes in their work because they did not in all cases inform centers for social work, police and prosecutors about the perceived or reported violence against women in their families and in intimate partner relationship¹²³.

The new *Law on the Prevention of Domestic Violence* (2016) regulates the **obligation** of reporting in Article 13 - Reporting and recognizing domestic violence, as follows:

“Everyone must, without delay, report to the police or the public prosecutor domestic violence or an immediate danger of it.

State and other bodies, organizations and institutions are obliged to immediately report to the police or the public prosecutor any knowledge of domestic violence or an immediate danger of it.

The competent state authorities and centers for social work (Articles 8-11) are obliged to recognize domestic violence or an immediate danger of it within their regular duties.

Violence can be recognized by examining the report submitted by the victim of violence to anyone, by spotting the traces of physical or other violence on the victim, and by other circumstances that indicate the existence or an immediate danger of domestic violence.

The public prosecutor, who has been reported of violence or of an immediate danger of it, is obliged to immediately forward the report to the police officers, so that they inform the competent police officer (Article 14, paragraph 1)”.

In **practice**, between 70-75% of reports of domestic violence events are exchanged among the police, the competent prosecutor’s office and CSW, while other reports are not being estimated as violence¹²⁴. There is no single registry of reported cases of violence from which it would be possible to see where the events are reported to and whether the information is exchanged in accordance with the law. It still seems that a small number of reports come from the health care and education system, and that the social protection system most often registers only the direct reports of violence, and that violence is not investigated and identified in a systematic way.

¹²² Autonomous Women’s Center and association “Peščanik” from Kruševac.

¹²³ Report available in Serbian: <http://www.ombudsman.rs/index.php/2012-02-07-14-03-33/4833-2016-07-28-08-59-32>

¹²⁴ <https://www.womenngo.org.rs/images/vesti->

18/PDF/Sixth_independent_report_on_implementation_of_the_Law_on_Prevention_of_Domestic-Violence.pdf

V. Substantive law and Investigation, prosecution and procedural law and protective measures (Chapters V and VI of the Convention, Articles 29 to 58)

Official translation of the chapter V

Translation of the ratified Convention published in Official Gazette of the Republic of Serbia - International treaties n. 12/2013 contains a mistake regarding the title of the Chapter V. The words *substantive law* have been translated as *substantive criminal law*¹²⁵. The State report contain the same flaw.

Legal framework, statistics, challenges

The main laws implemented in cases of domestic violence and other forms of gender based violence, especially between partners and ex-partners, are Criminal code, Family law and Law on Prevention of Domestic Violence. **The main difference in protection by these laws**, besides the procedure, **lays in the definition of protected persons – family members.**

Despite the fact that in 2013 the CEDAW Committee issued recommendation in par. 23a to *review and revise the Criminal Code, the Family Code and other relevant laws with a view of effectively preventing all forms of violence against women and protecting victims*¹²⁶, partial amendments have been made only regarding Criminal Law.

In 2014, Autonomous Women's Center, in cooperation with a group of experts, carried out a comprehensive analysis on compliance of legislative and strategic framework of the Republic of Serbia with the CoE Convention¹²⁷, which was presented to all relevant Ministries. The Ministry of Justice, in 2015, through the Office for the European Integration¹²⁸, created its own analyses on the compliance of the Criminal Code, which was predominately based on the amendments suggested by AWC during 2011 and 2012¹²⁹.

With the adopted amendments of the Criminal Code in November 2016, the Republic of Serbia only partially complied with the Convention. The new Compliance Study of the Criminal Code of the Republic of Serbia¹³⁰, conducted by the Autonomous Women's Center, showed that these amendments only brought partial progress and that the process of harmonization with the provisions of the Convention cannot be considered completed, due to

¹²⁵ Pg. 34 of the Law on ratification available at <http://www.parlament.gov.rs/upload/archive/files/lat/pdf/zakoni/2013/2246-13Lat.pdf>

¹²⁶ https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2fC%2fSRB%2fCO%2f2-3&Lang=en

¹²⁷ <http://www.potpisujem.org/eng/892/analysis-of-harmonization-of-the-legislative-and-strategic-framework-of-the-republic-of-serbia-with-the-standards-of-the-coe-convention>, available only in Serbian at <http://www.potpisujem.org/doc/cc668e6e518103eed0373dd2e5c5226a.pdf>

¹²⁸ PLAC project, EU funds, <http://www.info-evropa.rs/wp-content/uploads/2016/06/Compliance-analysis.pdf>

¹²⁹ <http://www.potpisujem.org/eng/1943/member-of-grevio-group-confirmed-awc-s-amendments-to-the-criminal-code>

¹³⁰ <http://www.potpisujem.org/eng/2562/implementation-of-the-council-of-europe-convention>

a fact that the fulfillment of these obligations must be addressed systematically and thoroughly.

As stated in the State report, majority amendments had been related to the prescribed penalties (especially for the criminal offenses against sexual freedoms), while the criminal offense of rape under Article 178 remained totally incompatible with the Convention.

The Working groups of the Ministry of Justice for the amendments of the Criminal code, for more than a decade, had been consisted of the same male law professor from the Faculty of Law in Belgrade, now judge of the Constitutional court, also trainer at the Judicial Academy, member of the State Prosecutorial Council, Council for judicial reforms etc., who in most of his published articles and speeches claims that *“if this would to be changed, anyone who has been a bit more promiscuous, has broadened his/her ‘family’ forever”*¹³¹. The same professor also advocates for the criminal act of domestic violence to be prosecuted on the motion from the victim.

Criminal law protection

The **definition of members of the family** who are entitled to protection from domestic violence is still restrictive in Criminal Code than in the Family Law, reducing the possibility of criminal law protection of all victims of intimate partner violence and domestic violence. Ex-marital or ex-extra marital partners cannot be protected in criminal cases if they don't live together and don't have mutual child, or if it is a case of siblings not living together, or grandparent and grandchild even if they live together. Even though the Supreme court of Cassation in Serbia declared the **breach of law** in cases where perpetrators of violence had been acquitted for the “reason of not being family member”¹³², this definition still represent an obstacle for all victims of GBV to obtain criminal law protection.

Other victims of GBV can obtain criminal law protection within other acts of Criminal code (CC), but not all of these acts are prosecuted ex officio. For example victim has to file private criminal suit for the act of inflicting light bodily injuries (art. 122), illegal photographing (art. 144) and illegal publishing of photos and recordings/videos (art. 145). Due to complicated proceedings, success in these cases depends on victim's ability to pay an attorney (since Serbia doesn't have a Law on free legal aid).

Once it became a criminal act in 2002, the **criminal act of domestic violence** (art. 194) faced problems in its implementation. There were oppressed opinions of the higher courts regarding the fact whether one act of violence represents a criminal act, or whether prosecutors has to prove the continuity of violence. Even though the Law was amended in 2009 and clarified that one act represents criminal act, there are still judges that insist on more than one proved act. The second problem occurred in cases of multiple victims – some

¹³¹ Škulić, M. (2009) „Basic Elements of the Normative Construction of Crime of Domestic Violence – Some Arguable Questions and Dilemmas “, in: *Violence in Family*, Belgrade: Association of Public Prosecutors and Deputy Public Prosecutors of Serbia, pg. 21

¹³² Decisions of the Supreme Court in Serbia number Kzz. 52/2012 from 27.6.2012. and Kzz. 65/2013 from 26.6.2013.

professionals are still of the opinion that it constitutes one act because *the state is protecting the members of the family regardless of the number of injured family members* while others argue that there are as much as acts as there are family members. In judicial practice cases with multiple victims are rarely prosecuted¹³³, and usually the victim that had documented injuries (child or a mother) becomes the protected one. The fact that other members of the family suffered consequences is usually not taken as an aggravating circumstance, and now, less and less that fact that someone is a parent or “breeder of the family” is considered as mitigating circumstance.

Though the definition of criminal act of domestic violence encompasses act of physical, psychological and economic violence, in judicial practice cases of only psychological and economic violence are rarely prosecuted and convicted¹³⁴. In the research conducted in courts in Autonomous Province in Vojvodina, out of 279 cases in which the perpetrators had been convicted for the act of domestic violence, only two had been convicted for perpetrating the acts of psychological violence (one mother for stalking her teenage son whom she was unable to see in accordance with the judgement and one husband and father who trashed the entire house, called his wife and daughters “whores” and kicked them out of the house). Reason behind this bad practice lies in the opinions of the most criminal law judges who require proof of severe consequences on the mental health of victim to be proven by the court experts. Unfortunately, there is no specialisation of court experts (psychologists, psychiatrists) in the field of GBV and VAW (only social work and family relationships)¹³⁵ and therefore, once receiving opinions of “general” court experts¹³⁶, prosecutors decide not to prosecute.

Statistical Office of the Republic of Serbia collects data on reported, prosecuted and sanctioned criminal acts. Data for the criminal act of domestic violence show that in the total of the reported crimes annually, domestic violence ranged from 1.1% in 2004 to 7.5% in 2016 (see table 1 in the Annex). Unfortunately, it is still being treated as a crime of “low” importance/value.

Effective investigation of all reported cases of GBV remains the problem, even though the CEDAW Committee recommended in par. 23c that Serbia should *ensure the effective investigation into cases of violence against women and prosecute and punish perpetrators of such crimes with sanctions commensurate with the gravity of the crime* still remains.

In Table 20 of the state report, the percentage of **rejected/dismissed criminal charges** should be worrying for the State, having in mind that in 2012 there were 37,9% rejected charges and in 2016 that number raised to 64,4%. In four years, what was once the

¹³³ Available only in Serbian https://www.womenngo.org.rs/images/publikacije-dp/2012/Krivicnopravni_odgovor_na_nasilje_u_porodici_u_Vojvodini.pdf ; http://www.womenngo.org.rs/images/publikacije-dp/istrazivanje_istrazivanje.pdf

¹³⁴ *ibid*

¹³⁵ only in Serbian at <https://www.mpravde.gov.rs/court-experts.php>

¹³⁶ Conclusion from the research conducted in 2018 is that there are *no training of expert witnesses, no exams for entry into the profession, and no obligation to regularly update knowledge, all of which causes lack of quality, efficiency and transparency of expert witness work*, http://www.mdtfjss.org.rs/en/mdtf_activities/2018/impacts-of-expert-witness-engagement-on-court-proceedings-issues-and-recommendations-for-improvement#.W6t8gvkza70, pg. 21

percentage of cases in which criminal proceedings had been initiated, became the percentage of rejected cases.

Reasons behind huge number of rejected criminal charges are following:

1. The State doesn't have available data on the **length of the criminal investigations** conducted by the prosecutors in Serbia. This high number of rejected charges might be in cases initiated one, two, three or more years ago. Experiences of women who received free legal aid from the lawyers of the Autonomous Woman's center show that investigations in three Belgrade prosecution offices usually last from one to three years.

In 2017 perpetrator strangled his four year old son, and then killed his ex-wife in the premises of the center for social work¹³⁷. The murder happened a day before criminal trial for domestic violence, after three years of investigation by the Second prosecution office in Belgrade¹³⁸.

Recently woman victim of domestic was informed by the Basic prosecution office in Belgrade that the investigation of her case had been dismissed four years after she reported violence¹³⁹, and three years after perpetrator died.

2. After 2013, once the prosecutorial investigation had been introduced in Serbia, basic prosecution offices **lack sufficient number of prosecutors**. One of the reason for such inefficiency of investigation lies also in a fact that according to the annual 2017 report of the State Prosecutors Council, in 2017, there were 628 deputy prosecutors effectively working at all levels in 2017 which is 9 per 100 000 inhabitants, while the European average is at 11 prosecutors per 100 000 inhabitants¹⁴⁰.
3. Prosecution offices in Serbia (basic and higher) **treat individual incidents of violence** from the same perpetrator toward the same victim(s) **as separate criminal cases** in which investigations are conducted by usually different prosecutors (for instance report of rape or murder is investigated by higher prosecutor, while DV or breach of protection measure in the same incident is investigated by basic prosecutor). In this way prosecutors fail to prove continuity and usually loose victim as a witness.

¹³⁷ https://www.b92.net/eng/news/crimes.php?yyyy=2017&mm=07&dd=13&nav_id=101798

¹³⁸ Case no. Kt-1608/2013, information received from the Second basic prosecution office in Belgrade on the request for the information of public importance on 4.8.2017.

¹³⁹ Case no. Kt-2241/2014

¹⁴⁰ <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-serbia-report.pdf>

4. Prosecutors usually rely solely on the statement of the victims. Due to length of the investigation and secondary victimization, and without any provided protection, **victims withdraw their statements**, causing prosecutors to reject charges because of lack of evidence¹⁴¹. Victims are often threatened with criminal **charges for false accusation**¹⁴² in cases of withdrawal or change of testimony¹⁴³
5. Such large number of rejected reports of domestic violence is also related to the fact that under the Criminal Procedural Code (CPC), prosecutors have the possibility to **defer criminal prosecution**, without asking the victim for her consent/opinion, if the perpetrators accept to go to perpetrators programs, do community work or pay money to humanitarian purposes¹⁴⁴. *Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women Against Violence*¹⁴⁵, showed that Prosecutor's offices dismiss a quarter of criminal charges filed for domestic violence, while in 15.2% of the cases they have applied the institute of deferred criminal prosecution (the opportunity principle), mostly by imposing an obligation to pay a certain amount of money for humanitarian purposes. In this manner the Prosecution's offices in Serbia were **imposing monetary sanction for domestic violence**¹⁴⁶, which was removed as a sanction for this criminal act in 2009. Even though this practice is now abandoned by the majority of basic prosecution offices in Serbia for the criminal act of domestic violence, there are prosecution offices that still implement it¹⁴⁷. The analyses of the Association of Public Prosecutors in Serbia in 2017 showed that deferral had been implemented in 4,7% cases of reports of domestic violence (8% in 2012) , in 4% for the reported acts of endangerment of safety (3% in 2012) and in 3,6% for the acts of light bodily injury (4% in 2012)¹⁴⁸.

In accordance with art. 50 CPC victims have the right to file complaint to Higher prosecution office within eight days. This complaint mechanism was, for the women that addressed AWC, at the beginning of the implementation of the CPC, very inefficient, while in the recent year Higher prosecution offices started returning cases ordering BPO's to continue investigation.

¹⁴¹ Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 50

¹⁴² *ibid*

¹⁴³ First basic prosecution office in Belgrade published that treat on their website <http://prvo.os.jt.rs/?lang=lat>

¹⁴⁴ Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 52

¹⁴⁵ pg. 3. par. 15, available in English at <http://www.ombudsman.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3711-special-report-of-the-protector-of-citizens-on-the-implementation-of-the-general-and-special-protocols-on-protection-of-women-against-violence>

¹⁴⁶ Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 53

¹⁴⁷ Analyses conducted by the Association of Public Prosecutors in Serbia in 2017, available only in Serbian at http://www.uts.org.rs/images/2018/primena_nacela_oporuniteta_analiza.pdf, pg. 9; available data for the Basic Prosecution office in Kragujevac that still implements deferred prosecution in cases of DV http://kpolisa.com/KP29/KP29-III-2_BanovicRandjelovic.pdf, pg. 208

¹⁴⁸ <https://www.uts.org.rs/images/primena.nacela.oporuniteta.pdf>

After receiving information that basic prosecution office decided not to prosecute the violent father¹⁴⁹, mother of a child victim¹⁵⁰ filed complaint to that decision to Higher prosecution office. After few months of waiting for the decision, the mother of a child went to the premises of the Higher prosecution office where she was told that Higher prosecution office dismissed her complaint. She then filed a motion for the Higher prosecution office to notify her in written about that decision so that she could file Constitutional claim¹⁵¹. Two months after that mother of a child victim receives an answer from Higher prosecution office in which she was instructed that she has the right to view the decision in the file of the Higher prosecution office¹⁵². She was not sent the decision. Then mother of the abused child filed complaint on the work of the Higher prosecution office to the Ministry of Justice, Republic prosecution office and State Prosecutorial Council. The member of the State Prosecutorial Council replied that there have been no breaches in actions of the deputy prosecutor of the Higher prosecution office because mother of the child victim was instructed that she can take a look at the decision in the prosecution file¹⁵³. On the complaint addressed to the Republic prosecution office answered the same Higher prosecution office in Belgrade confirming that there has been no breaches of the procedure by the deputy prosecutor in charge of the case¹⁵⁴. Only Ministry of Justice replied that they will investigate the case¹⁵⁵. After year and a half, on the instruction from Appellate prosecution office¹⁵⁶, the mother of a child victim received the official response/decision from the Higher prosecution office in Belgrade.

AWC provided free legal aid to women that wanted to file Constitutional claims on the bases that this complaint to the Higher prosecution office on the decision of rejected criminal cases is inefficient as a legal remedy. So far, in none of those cases, Constitutional court hasn't reached the decisions.

Fact-finding research on the Implementation of Serbia's Domestic Violence Legislation conducted by interviewing 92 professionals in October 2014 and February 2015 in four different locations in Serbia, confirmed that *various systems actors, including criminal judges and prosecutors, acknowledged that sentences are lenient and generally lower than the maximum prescribed by law*¹⁵⁷. **Suspended sentences** for the criminal act of domestic violence remain as predominately punishment in these cases (table 22 of the state report). The problem with suspended sentences in Serbia is that they **are not being supervised** in any manner. In the recent years courts in Serbia started sentencing perpetrators of domestic violence to a **prison sentence** which will be **executed in the household of the perpetrator** (based on the data from the Statistical office 102 perpetrators of DV had been sentenced to

¹⁴⁹ decision from First basic prosecution office in Belgrade dated 24.9.2014. in case number Ktr. 8059/13

¹⁵⁰ in the meantime the First basic court in Belgrade issued protection measure against violent father in case P2 – 3232/13

¹⁵¹ letter dated April 21st, 2015

¹⁵² answer dated July 8th, 2015 in case number Ktpo – 862/15

¹⁵³ answer of the State Prosecutorial Council number 215/15 from September 25th, 2015

¹⁵⁴ answer of the Higher prosecution office from September 4th, 2015

¹⁵⁵ answer from the Ministry of Justice from September 8th, 2015

¹⁵⁶ Letter of the Higher prosecution office in Belgrade dated 2.6.2016., in which copy of Decision from 2.12.2014. was sent

¹⁵⁷ Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg.

house arrest in 2016¹⁵⁸). Because of the inefficiency of the monitoring mechanism, AWC had been addressed by the women victims whose perpetrators continued to conduct violence during the two hours per day that they are entitled to go out of the house. Even when sentenced to a prison sentence, **perpetrators of DV are entitled to go out on weekends**, and similar, nothing is being done if they treat or commit new acts of violence. Institutions in charge for the protection of victims do not make safety plan once the perpetrators of GBV are to be released from the prison.

The case of femicide committed in 2017 in the premises of the Center for social work in Belgrade¹⁵⁹, showed that the victim reported a treat while the perpetrator was granted weekend out of the prison¹⁶⁰. The police didn't inform the prison of that report, only the prosecutor on duty who considered that there are no elements of any criminal act¹⁶¹. Day after the report, the perpetrator was granted early release from the prison after 2/3 of the sentence¹⁶², based on his good behavior. Prosecutor agreed to his premature release. New treat to woman's life was reported a week before the murder to the police, prosecutor, family law judges and social service, and he was still granted permission to see the children in the premises of the social service, where the perpetrator used a rock and killed his ex-wife in front of their three children.

There is at least one case of femicide each year in Serbia in which the women had been killed after the perpetrator was released from the prison. The latest happened in May 2018¹⁶³, after the perpetrator had been sentenced to prison twice because of committing acts of domestic violence toward his ex-wife, whom he cut her throat in front of her three children.

The State statistical office nor the Republic Prosecutor's Office¹⁶⁴ doesn't collect data on number of criminal cases instigated because of the breach of issued protection measures (art. 194 par. 5). Fact-finding research conducted in 2014-2015, showed that *both criminal judges and prosecutors acknowledged some prosecutors do not pursue violations*¹⁶⁵. It is difficult for victims to prove the breach of restraining order if a perpetrator hasn't also committed an act of physical violence, but the experience of AWC clients showed that prosecutors require huge number of evidences before indict for the breach of eviction order. Criminal law judges fail to understand that the responsibility for the breach of protection measure lies only on perpetrator, which needed to be proven by the decision of the Supreme court in Serbia¹⁶⁶ who determined that Basic and the Higher court breached the law by acquitting the perpetrator for breaching restraining order issued for the protection of his wife

¹⁵⁸ <http://publikacije.stat.gov.rs/G2017/PdfE/G20175629.pdf>

¹⁵⁹ https://www.b92.net/eng/news/crimes.php?yyyy=2017&mm=07&dd=06&nav_id=101734

¹⁶⁰ According to the information from the Police office of Novi Beograd based on data on public importance, dated 17.10.2107., woman reported on 3.4.2017.g. to the police that her husband, who was in prison at that time, came to her house on Saturday 1.4.2017. The police informed Third public prosecution office who said that there are no elements for criminal charges.

¹⁶¹ Case no. K – 478/2015, information received from the Third basic prosecution office in Belgrade on the request for the information of public importance on 11.8.2017.

¹⁶² Case no. Kuo – 14/2017, data available at the Portal of the court proceedings, <https://portal.sud.rs/code/navigate.aspx?Id=1>

¹⁶³ https://www.b92.net/eng/news/crimes.php?yyyy=2018&mm=05&dd=07&nav_id=104097

¹⁶⁴ https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 61

¹⁶⁵ Ibid, pg. 61-62

¹⁶⁶ Case no. Kzz - 98/2013

and two sons, because “the mother agreed that he brings the snickers to his eldest son”. In this case the younger son didn’t want to let the perpetrator (father) into the apartment, which made the perpetrator angry, and then he shouted and banged the door.

Even after the perpetrator was evicted from the house after filling request for the court eviction, one AWC client was required to deliver evidence that perpetrator stayed in the house prior to eviction¹⁶⁷.

In 2017, AWC helped a woman file a complaint to Higher prosecutor on the decision of the prosecutor to not prosecute her husband for the act of domestic violence¹⁶⁸, even though the perpetrator breached protection measure issued by the court on the request of the same prosecution office.

Protection of victims of GBV in accordance with other criminal acts faces the same problems. Prior to introducing the new criminal act of stalking, victims had to prove that their life had been in danger in order for the prosecution to start investigation for the criminal act of endangerment of safety. New criminal acts of **stalking** and **sexual harassment** were more than needed, and the statistics presented in the State report proved their necessity and the existence. As presented in the Table 14 of the State report, in the period from June 1st, 2017 once it became the criminal act till December 31st, 2017, police filled 275 criminal charges for the criminal act of stalking and 67 for the criminal act of sexual harassment. Data of the Statistical office for 2017¹⁶⁹ show that 5 person (out of 56 charged) were sentences for the criminal act of stalking and 2 (out of 25 charged) for the criminal act of sexual harassment.

The act of “sexual intercourse or an equal act” of the criminal offense of **rape** (art. 178) and the criminal offenses of sexual intercourse (articles 179 to 181 of the Criminal Code) do not cover all the activities envisaged by the Convention. As stated in EWL’s Barometer on Rape¹⁷⁰ Serbia’s Criminal code categorized criminal offence as rape *only if it included a use of force or a threat of use of force, which implicates that victim should physically resist, but that judicial practice is moving from this firm attitude into more flexible definition of rape. Also, for the crime of rape or other forms of forced sexual acts, the theory and judicial practice require penetration by male sexual organ, even in cases against children. All other cases of penetration by hand or foreign objects, or forcing someone to oral sexual act, are not considered rape or forced sexual acts, but prohibited sexual acts (art. 182), for which is still proscribed monetary fine.* The adopted amendments to the Criminal Code, in relation to crimes against sexual freedom, were only related to the maximum prescribed penalties, and not to the lowest¹⁷¹, so the monetary fine remained (Table 27 of the State report). The positive change is that marital rape, previously prosecuted on the motion of the victim, is now prosecuted *ex officio*.

¹⁶⁷ Case no. Ktr - 9110/2011, First basic prosecution office in Belgrade

¹⁶⁸ Case no. Kt - 474/2017, Basic prosecution office in Cacak

¹⁶⁹ <http://publikacije.stat.gov.rs/G2018/PdfE/G20181193.pdf>

¹⁷⁰ <https://www.womenlobby.org/2013-EWL-Barometer-on-Rape-Report>, pg. 64

¹⁷¹ The Compliance Study of the Criminal Code after the partially accepted amendments from November 2016, <http://www.potpisujem.org/eng/2562/implementation-of-the-council-of-europe-convention>

At the end of 2017, AWC organized an **online campaign** related to amendments to the Criminal Code focusing on the criminal offense of rape, interactively designed, as a **“big test for the public”**¹⁷². The “test” was filled out by 7,006 citizens, who expressed disagreement with the current definition of rape and with the 2016 MoJ’s proposal¹⁷³ for the rape without consent to become “privileged” act of rape, with proscribed penalty up to 5 years, for which suspended sentence could be issued.

Statistical data provided in the State report (Tables 14, 24, 25, 26) show that rape is still rarely reported and that statistics hasn’t changed in the last decade. There are no General or Specialized Protocols for actions of the institutions in rape cases. Rape victims give statements to the police and are then sent to the gynecologist for examinations, where vaginal swabs are taken. During the gynecological examination the victims are not tested for sexually transmitted diseases or HIV, are not given pills for immediate contraceptive protection nor are they offered to speak with a psychologist. Additionally, if the victims have other injuries on their body, those injuries will not be properly examined by the doctor of forensic medicine, other biological traces will not be collected from the victim’s body or clothes, and the victim will not be tested for rape drugs. If victims choose to be examined by the doctor of forensic medicine they will be obligated to pay for that examination – minimum 42 euro¹⁷⁴.

Professors at the Faculties of law in Serbia still teach and publish books/manuals which are sexist and based on gender prejudices and stereotypes when it comes to women rape victims (that they are to blame because of their reckless behavior – wearing short skirt or walking alone at night, and what motivates them to false report – jealousy, adultery, monetary benefits). Even after the Commissioner for the protection of Equality issued an Opinion¹⁷⁵ that this represent a violation of the Law on Prevention of Discrimination, and recommended eliminating these parts from the book he teaches student, the professor of criminalistics at Faculty of law in Kragujevac, refused to act in accordance with the recommendation¹⁷⁶.

In 2014, Autonomous Women’s Centre helped woman filed a Constitutional Claim in the case of a criminal offence of marital rape¹⁷⁷ because the suspect was acquitted by the final decision of the Appeal Court. The discriminatory attitude of a first instance judge¹⁷⁸ toward the victim of domestic violence was pointed out (claiming that she hadn’t been afraid

¹⁷² <http://www.potpisujem.org/eng/2538/again-we-are-demanding-that-the-state-of-serbia-change-the-definition-of-the-criminal-offense-of-rape>; <http://www.potpisujem.org/eng/2587/recognition-for-the-campaign-are-you-allergic-to-injustice>

¹⁷³ <http://www.potpisujem.org/eng/2354/at-the-proposal-of-awc-the-ministry-of-justice-renounced-to-introducing-a-new-criminal-act-in-the-national-legislation>

¹⁷⁴ Institutes for forensic medicine are part of Medical Faculties, regulated by the Ministry of Education and not by the Ministry of Health, so the cost is not covered by the state medical insurance

¹⁷⁵ Available only in Serbian at <http://ravnopravnost.gov.rs/rs/prituzba-a-z-i-m-a-protiv-prof-b-s-zbog-diskriminacije-po-osnovu-pola-u-oblasti-obrazovanja/>

¹⁷⁶ Available only in Serbian at <http://ravnopravnost.gov.rs/rs/obavestenje-javnosti-autor-udzenika-kriminalistike-iz-sadrzaja-nije-uklonio-omalovazavajuce-sadrzaje-koji-vredaju-dostojanstvo-zena/>

¹⁷⁷ Case no. UŽ. 5510/2014.

¹⁷⁸ Case no. K- 229/2013, Higher court in Belgrade; year after the presiding judge in this case was accused and sentenced for corruption <https://www.blic.rs/vesti/hronika/sudija-blazic-osuden-na-dve-i-po-godine-zatvora/xme8185>

because she could have moved with their daughter to her parents), as well as the discriminatory practice of the Appeal Court which did not notify the victim of the day when the public hearing before the Appeals chamber is to be held in the situation when the victim requested it. After four years, the case is still pending before Constitutional court. Soon after pronounced innocent because of lack of sufficient evidence, perpetrator filed criminal charged against the victims for false reporting. Even though the perpetrator had been dead for three years¹⁷⁹, the Basic prosecution office is still investigating¹⁸⁰. The Higher prosecution office in this case decided to charge only for the act of rape, referring the act of breach of protection measure to the Basic prosecution office. This case demonstrates how far criminal legislation is from the standards envisaged by all international documents on the minimum rights of the victims.

Judicial statics show that there were **no reported cases of FGM in 2017**¹⁸¹, even though there was huge influx of refugees from the countries that still perform FGM.

Some basic prosecution offices in Serbia, offer perpetrators of GBV **plea bargain**. Similar to deferred prosecution, the law enables these agreements to be accepted by the judges **without asking or informing the victim** of what will be offered and agreed. This is usually done in cases in which the perpetrators had been detained for 30 days and in which prosecutors conducted investigation and gathered all necessary evidence in this period of time. In cases of good plea agreements, victims are being protected efficiently, preventing secondary victimization.

Security measure (no contact and restraining order prescribed in art. 89a of the CC) can be issued together with all other sanctions except prison, for the period of maximum three years. Breach of that measure became a criminal act in 2017 (art. 340a). Based on the data from the Statistical office in 2016, only in 2,6% convictions (98 out of 3766) or in 3,7% suspended sentences (98 out of 2622) for the criminal acts against Marriage and Family and in 4,4% convictions (9 out of 204) or in 17,3% suspended sentences (9 out of 52) for the criminal act against Sexual freedom these measures had been issued¹⁸². After almost a decade of the existence this security measure, majority of the criminal judges and prosecutors still refuse to use it for the protection of GBV victims¹⁸³.

Position of victims in Serbia is very bad. The Criminal Procedure Code (CPC) still **lacks the term and the definition of victim**, because it only knows the term injured/damaged party. The rights of the injured party are defined in art. 50 of the CPC, and they are far from the standards on the protection of victims¹⁸⁴. But even those little rights that victims have are not

¹⁷⁹ relates to the same woman whose case was mentioned as non-efficient investigation

¹⁸⁰ Case no. Kt-2749/2014, Third prosecution office in Belgrade

¹⁸¹ <http://publikacije.stat.gov.rs/G2018/PdfE/G20181193.pdf>

¹⁸² <http://publikacije.stat.gov.rs/G2017/PdfE/G20175629.pdf>

¹⁸³ Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 72, 82

¹⁸⁴ Autonomous Women's Center has proposed amendments to at least 15 articles of the Criminal Procedure Code (available only in Serbian). <<http://www.potpisujem.org/srb/882/analiza-uskladenosti-zakonodavnog-i-strateskog-okvira-sa-standardima-konvencije>>

respected. State doesn't collect data in how many cases victims of GBV were granted the status of *especially vulnerable witnesses* (art. 103)¹⁸⁵, and in how many cases, if given, they had been granted state funded attorney. For the last two years, AWC, in case of every woman victim of sexual and partner violence that asked for free legal aid, had requested this status from the prosecution. So far, only in 2 cases of AWC clients this status had been granted, but without the right to the state funded attorney.

Protection measures

Family law and the Law on Prevention of Domestic Violence contain the broad definition of the protected person in line with the Convention, by putting and emphasizes on the relationship that led to endangerment of bodily integrity, mental health or tranquillity of another person, and not on the place of residence. The provisions of the Family law and the Law on Prevention of Domestic Violence are of a preventive nature, proscribing protection measures and emergency protection measures aimed at preventing (further) acts of violence.

Family law protection

The moment protection measures from domestic violence became a part of Serbia's legal system, huge resistances, primarily regarding eviction order, was immediately faced in their implementation. These articles were even challenged before the Constitutional Court of Serbia, which ruled their constitutionality¹⁸⁶.

State did not conduct mandatory education of specialised Family law judges for one year after the Family Law entered into force. Autonomous Women's Centre was the only organization that, at that time, understood the importance of education, and in cooperation with professors from the Law Faculty in Niš, prof. Nevena Petrušić, member of the working group for drafting Family Law, and prof. Slobodanka Konstantinović-Vilić, published the *Guide for Implementing Protection Measures from Domestic Violence*¹⁸⁷ and organized first educations for family law judges in Serbia.

There were also attitudes that had nothing to do with the law and the above mentioned fact-finding research¹⁸⁸ showed that some Family law judges persuade victims to withdraw lawsuits or to give marriage another try, and that, especially when eviction order is requested, that the judges immediately think that the claimed victim is misusing the law. That

¹⁸⁵ Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 57

¹⁸⁶ Decision of the Constitutional Court of Serbia (2009) IV-296/2005, from July, 9th 2009, *Official Gazette of the RS*, No. 101/2009

¹⁸⁷ The third, updated edition, at <https://www.womenngo.org.rs/en/publications/good-practice-development-program/678-guidelines-to-the-system-of-family-act-protection-from-domestic-violence-2012>

¹⁸⁸ Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 29-30

is one of the reason why there is such a small number of eviction orders issued annually (Table 14 of the State report). Other reasons lie in a fact that eviction orders are issued only when two factors are met: evidence of extreme physical violence and the perpetrator's financial capacity¹⁸⁹. The same research showed that family law judges still use confrontation of parties¹⁹⁰.

Family Law does not empower judges to issue protection measures *ex parte*, except when protection measure is requested also as temporary measure and when a judge doesn't have the possibility to schedule or hold a hearing¹⁹¹. Under the Law on execution, protection measures can be issued as a temporary measure, to last till the end of the proceedings but without exceeding one year, which is the maximum duration of protection measure. In order to be issued *ex parte*, judges require evidence such as medical documentation and a police report¹⁹², and the opinion from the CSW on the necessity of the measure¹⁹³.

Under the Family Law, divorce proceedings include a mediation procedure (art. 239-240). There is no requirement for pre-screening for domestic violence, nor the Family law prohibits mediation in cases involving domestic violence (art. 230). If one party disagrees with reconciliation, mediation will cease, but it is not prescribed to stop a reconciliation procedure when domestic violence is discovered and psychosocial counseling can be recommended¹⁹⁴. State Counseling centers for Marriage and Family, usually located in the same premises as CSW and as a separate department of CSW, are the ones who are providing this service free of charge, together with perpetrators programs.

Family law was disputed also on the fact that it gives the right to the perpetrator to file a lawsuit for the premature ending of the protection measure, and not the victim. This legislative solution turned out to be very effective, because it took out the burden and the pressure from the victims, and perpetrators are the ones that have to prove that circumstances have changed.

Since 2005, once the law came into force, AWC had only one case in 2014¹⁹⁵ in which the perpetrator filled that lawsuit. Before the judge decided, protection measures expired and the lawsuit was rejected.

The Law gives the possibility to request issuance of protection measures from domestic violence not only to victim, but also to Center for social work (CSW) and Public prosecutor (art. 284). Special, urgent court procedures are prescribed in these cases, as well as the possibility of issuance of protection measures within other court procedures under the Family Law. The Law on the other hand doesn't prescribe for the obligation of the court to submit a copy of the protection measure issued for the victim's protection on the request of CSW or BPO.

¹⁸⁹ Ibid, pg. 34-35

¹⁹⁰ Ibid, pg. 31

¹⁹¹ Ibid, pg. 34

¹⁹² Ibid, pg. 33

¹⁹³ Ibid, pg. 34

¹⁹⁴ Ibid, pg. 42-43

¹⁹⁵ Case no. 934/2014, before Third basic court in Belgrade

BPO and the Court refused to send a copy of protection measure issued for the protection of victim¹⁹⁶, AWC client. She was only granted a copy of the judgement on the bases of the Law on free access of public important data, but with all the names anonymized. During that time, perpetrator breach protection measures multiple times and the police failed to believe her that protection measures had been issued.

Even though it is prescribed that the records on issued protection measures from domestic violence are to be kept by both Center for social work (CSW) under which jurisdiction is the territory of victim's residence and CSW under which jurisdiction is the territory of perpetrator's residence, it often happens that courts do not send judgements for protection measures to CSW¹⁹⁷, or wait for the judgement to become final, despite the fact that the Law prescribes that *the judgement in the court case for the protection from domestic violence is to be immediately submitted by the court to the custodial body* (art. 289, par. 1). The Law does not regulate the situation when protection measures are issued in the form of temporary measure and there is no obligation for the court to send these decisions to CSW. Court are also not obliged to send the decisions with issued protection measures to the police¹⁹⁸, leaving the victims unprotected.

The state doesn't have precise data on number of issued protection measures presented in Table 9 of the State report. This table provides the number of registered issued protection measures segregated based on five types of measures, but not the number of case proceedings in which these measured had been issued. Judges can issue more than one protection measures in the same judgement and for the protection of different victims.

Ministry of Justice still hasn't developed data base in order to record judgements in which protection measures from domestic violence were issued (art. 32 of Law on prevention of DV), nor it is prescribed for the courts to submit those data to Statistical Office of the Republic of Serbia, like in criminal cases.

In order to obtain statistics on the court proceedings for the issuance of protection measures, Autonomous Women's Center requested data from all basic courts in Serbia, presented in Table 2 of this report.

As previously concluded in the Annual Report of the Independent Observatory on VAW¹⁹⁹, courts could more accurately provide data on number of initiated court cases filled only with request for the issuance of protection measures, than the numbers of ancillary proceedings for the protection measures, because they are not separately recorded within the main proceedings.²⁰⁰ The courts cannot even segregate data based on sex of the victim(s) who were seeking Family law protection. So the Table 2 can present the minimum number of

¹⁹⁶ Case no. P2 – 286/2015, Basic court in Negotin

¹⁹⁷ https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 41

¹⁹⁸ *ibid*

¹⁹⁹ https://www.zeneprotivnasilja.net/images/stories/opservatorija/Annual_Report_of_the_Observatory_2012.pdf, pgs. 81-83

²⁰⁰ Statement from the official reponse from the First Basic Court in Belgrade from 12.12.2012, No. VIII 42-249/2012, the same response received five years later from the same court on 14.7.2017. II Su. No. 17A-148/2017

lawsuits for the protection measures received by the courts in Serbia, but not the exact number. In this manner, the State doesn't record the work of the Family law judges who are also protecting victims of GBV.

There is still large number of withdrawn lawsuits for the issuance of protection measures. The reasons behind this phenomenon lies in a fact that lawsuit for the issuance of protection measures is filed in accordance with the provisions of the Civil Procedure Law (CPL), that strictly prescribes that a lawsuit will be considered withdrawn if both parties fail to attend a hearing (art. 311, par. 2). Unfortunately, Family Law, in its special provisions did not allow exceptions from this rule for this type of proceedings, especially in cases where perpetrator and victim of violence live in the same household (perpetrator often forbids/prevents victim to attend the hearing or simply receives summon to hearing on her behalf and doesn't give it to her at all). In practice it still happens that presiding judges order victims to redact the lawsuit for the issuance of protection measures²⁰¹, and if the victim does not fulfill this order, the lawsuit, according to the CPL (art.101, para. 1 and 4), will be rejected.

While waiting for the Law on free legal aid, victims of violence are forced to find solutions in situations in which they have no money to pay for legal services and in situation when less than 30% of municipalities in Serbia have offices for providing free legal aid. Judges in these situations do not use *ex officio* authority to decide both beyond and bellow the requested claims (art. 204, para. 3 of the Family Law), and expect from legally illiterate victims to redact the lawsuit in situation that is life threatening to them.

Family Law prescribes that proceedings for issuance of protection measures have to end in no more than two hearings (art. 287), but that rarely happens in practice, because the court proceedings in average last a year and more²⁰². At the beginning of the implementation of the Family law, protection measures could be issued in a period from 1 to 6 months²⁰³, but from the first judicial reform in 2010, and then the second in 2014, these proceedings now last more than a year. Research²⁰⁴ revealed that *court delays can be traced to three primary factors: heavy caseloads, judicial requirements of a CSW report, and perpetrators evading service of the summons. As a result, victims experience significant delays requesting even interim protective measures. And delays in the court proceedings provide perpetrators with time to manipulate the victim from seeking protection.*

²⁰¹ Data from the research of family-law judicial practice in the field of protection from domestic violence in Serbia published in 2010, have shown that in 33,1% of cases included in the sample lawsuits were withdrawn or considered withdrawn. Experience of Autonomous Women's Centre (AWC) shows that women who were ordered to redact the claim often address AWC for free legal aid, even in cases when the lawsuits had been written within AWC's free legal aid.

²⁰² Results of the fact-finding research on the Implementation of Serbia's Domestic Violence Legislation, available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 36

²⁰³ Research of family-law judicial practice in the field of protection from domestic violence in Serbia published in 2010 also dealt with the issue of courts' efficiency, and data from the number on cases were presided (N=162) confirmed that the first instance judgements were reached within a month in 20,4% of cases, within one to three months in 28,4% of cases, within three to six month in 30,2% of cases, and after more than six months in the rest of the cases. Research available only in Serbian at: http://www.womenngo.org.rs/images/publikacije-dp/Porodnicnopravna_zastita_od_nasilja_u_porodici_u_pravosudnoj_praksi_Srbije.pdf

²⁰⁴ https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 36-39

Civil protection measures, if not issued immediately or within a month, lose their purpose and it is absolutely clear why victims in such cases withdraw their request. Often the very fact that the lawsuit for the issuance of protection measures is filed, present enough warning for the perpetrators to change their behavior. When court proceedings last too long, not even judges themselves have the ground to issue protection measures, because the violence ceased during that time.

Civil suits for the issuance of protection measures are not free of charge, the court fee for the suit and for the judgement usually cost app. 45 euro. The problem for the victims might occur in cases in which perpetrators had been represented by attorneys (very often) and if they request is rejected. Then the victims are obliged to pay the cost of perpetrator's attorney. Based on official fee for the attorneys, accepted by the state, representation at the hearing in these cases cost app. 165 euro, and writing lawsuit costs app. 150 euro.

AWC, within it's free legal aid write lawsuit for the issuance of protection measures, both as main and ancillary proceedings. In 2014, AWC helped 48 women, in 2015 – 49 and in 2016 – 52 women to file lawsuits, predominately before three Belgrade courts. In these three years, AWC enabled free legal representation in 26 cases for the issuance of protection measures (10 outside Belgrade) and in 1 for the ending of protection measures.

Based on the data received from the courts (Table 2) it can be concluded that the number of lawsuits for the protection measures filled by the Centers for social work (CSW) are increasing every year, but again, we cannot be sure that these data are accurate. Looking into a number of reports of DV that CSW received annually (Table 6 of the State report) CSW initiated lawsuits for protection orders in less then 1% (in 2014 – 0,46%, in 2015 – 0,55% and in 2016 – 0,58%).

One of the discouraging factor for small number of lawsuits lies in different judicial opinions of the Appeal courts in Serbia when it comes to civil suits for protection measures filled by CSW, which opinions are against the law (art. 286). Two Appeal courts, especially in Nis and Kragujevac, request that the first instance judges in these cases seek opinion from CSW in a different town or this judgement will be annulled. This practice is causing additional secondary victimisation of the victims that have to undergo the same procedure before another CSW once again, to have additional travel expenses and prolonging the issuance of protection measures. Cases like this do not come before Supreme Court because of fund restrictions for social services and lack of knowledge to appeal²⁰⁵.

Data collected from 58 basic prosecution offices in Serbia show that from 2014 to 2016, 21 prosecution office in Serbia initiated lawsuits for the issuance of protection measures from domestic violence (Table 3) Compared to the period from 2010 to 2012, when only 10 (out of than 33²⁰⁶) basic prosecution offices had that practice²⁰⁷, the numbers of filled lawsuits is larger. The Republic Prosecution Office didn't collect data on the number of filled lawsuits for

²⁰⁵ This practice of the Appeal courts was confirmed by participants of educational seminars held by AWC during recent years

²⁰⁶ Before the judicial reform in January 2014, there were 33 basic prosecution offices

²⁰⁷ https://www.zeneprotivnasilja.net/images/stories/opservatorija/Annual_Report_of_the_Observatory_2012.pdf, pgs. 83-85

protection measures by the BPOs²⁰⁸ till June 2017.

While in 2014, after the second judicial reform and the introduction of prosecutorial investigation²⁰⁹, the number of filled lawsuit for the issuance of protection measures was 22, predominately filled by the Basic prosecution offices that had that practice in the previous period (BPO in Zrenjanin, BPO in Smederevo, First Belgrade BPO). In 2015, the number of filled lawsuits increased more than four times – 90, and in 2016 more than 6 times – 119 filled lawsuits for the issuance of protection measures.

While BPO in Zrenjanin drastically reduced the number of filled lawsuits from the period 2010-2012 (from 47, 40 and 37 to 6 to 7 annually), and BPO in Smederevo ceased to initiate these proceedings²¹⁰, BPOs in Čačak²¹¹, Bečej, Jagodina and Vrbas decided to engage more in the protection of victims from domestic violence, and obviously, established better cooperation with Family law judges, but also other institutions in charge for the protection.

Two BPOs responded that by the Protocols for cooperation agreed at their local level, CSW's remained as the institution in charge of filling lawsuit for the protection measures, and six BPOs responded that they only filled lawsuits for the deprivation of parental rights.

The manner in which Family law judges presided in cases for protection measures initiated by the BPOs, also affected the actions of some BPOs. From the data received from the BPOs²¹², it can be concluded that where lawsuit from the BPOs had been rejected more than once or where cases lasted too long that they lost their purpose, the BPOs gave up on this mean of protection.

Protection in accordance with the Special law

The Law on the Prevention of Domestic Violence (LPDV)²¹³ was adopted in November 2016 and came into force on June 1, 2017. The Law is an addition to the existing laws and its purpose is to prevent intimate partner violence (IPV) and domestic violence (DV) by issuing emergency protection orders, enhancing coordination and cooperation of key state actors and introducing centralized, electronic data base of all reported cases.

The Law makes a shift in paradigm enabling prosecutors and police to have not only repressive, but also very important preventive roles in cases of domestic violence²¹⁴.

²⁰⁸ https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 62

²⁰⁹ https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 44

²¹⁰ In both BPO the changes of practice occurred once the deputy prosecutors who filled majority or all these lawsuits, were elected to be deputy prosecutors in Higher prosecution offices

²¹¹ Almost half of all lawsuits for protection measures filled by BPO's in Serbia for 2016, were filled by BPO in Čačak

²¹² On the AWC's requests on data of public importance, in the period July-August 2017

²¹³ Full text of the Law available at https://www.womenngo.org.rs/images/publikacije-dp/2017/Implementation_of_Serbia_Domestic_Violence_Legislation.pdf, pg. 185-199

²¹⁴ More about the Law can be found in the article *Challenges in the implementation of the law on the prevention of domestic violence in Serbia*, published in Temida 2018, volume 21, Issue 1, publication of the Victimology Society of Serbia, available at

Emergency protection orders are to be issued based solely on the risk assessment that there is possibility of violence and without the victim's consent. The authority for the issuance of emergency measures has been given only to specialized DV police officers, who have eight hours to conduct all the interviews, gather evidence and assess the risk before issuing emergency order(s) – vacation of residence and restraining/no-contact order. This emergency police orders last 48 hours, without the right to appeal. Within that 48 hours, prosecutors have 24 hours to request prolongation of the order from the court, and the court have 24 hours to decide on the prolongation, in ex-parte proceeding, with the right to appeal. Once prolonged, the emergency protection order lasts additional 30 days. The breach of the emergency protection orders is misdemeanor offence punishable up to 60 days in prison. The Law prescribes the possibility for initiating disciplinary proceeding for judges and prosecutors if they don't respect these short deadlines.

Obligatory coordinated community response was introduced, named "Group for Coordination and Cooperation" (Group), presided by the public prosecutor in the place of the victim's residence. Obligatory members of the Group are representatives from the police and social service, while other representatives of relevant services/NGOs and victims/survivors can be invited to participate in meetings. The Group is obliged to meet at least once in every 15 days to discuss all newly-reported cases (not just incidents of DV and not just the high risk ones), together with current and long-lasting cases. The Group meetings are supposed to result in the creation of an **individual protection and support plan** for each victim/survivor in every discussed case of violence, or in the revision of that plan for every current or long-lasting case discussed in the Group.

Implementation of the LPDV is not complete without **adoption of the bylaws**, for which the deadline expired in 2017. Unique and centralized electronic data base still hasn't been created, which is obligatory by the Law, making it difficult to regularly monitor effects of the implementation of the Law. Ministry of Interior and Republic Prosecution Office sent the professionals the precise instructions and relevant forms that are to be fulfilled while applying the law in each concrete case at the end of May 2017. Only the Ministry for Social Policy didn't provide instructions or forms for the professionals working in the Centers for Social Work (CSW) before the Law came into force, but with delay of one month. On the request for publicly available data on actions of CSW in accordance with the LPDV, response was that neither Ministry for Social Policy nor Republic Office for Social Protection are gathering data prescribed in the LPDV (art. 32).

Before law came into force, Judicial Academy²¹⁵ conducted 59 training for judges and deputy public prosecutors attended by 2,242 participants²¹⁶. At the same time the Police Academy held three-day trainings for the 450 future specialized police officers. In April 2017, after hearing complaints from the police officers, AWC sent a letter of protest to the Ministry of

<http://www.doiserbia.nb.rs/Article.aspx?ID=1450-663718010411>

²¹⁵ These trainings have been created and funded within British council project "EU Support to the Judicial Academy"

<https://www.mpravde.gov.rs/en/vest/17741/ilic-a-successful-application-of-the-statute-over-20000-domestic-violence-cases-reviewd.php>

²¹⁶ [https://www.mpravde.gov.rs/files/Report%20no.%202-](https://www.mpravde.gov.rs/files/Report%20no.%202-201%207%20on%20implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf)

[201%207%20on%20implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf](https://www.mpravde.gov.rs/files/Report%20no.%202-201%207%20on%20implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf), pg. 473

Interior with the requests to improve the curriculum of the training and triple the number of the trained police officers²¹⁷. Only the Ministry of Social Policy didn't provide trainings on the LPDV for the professionals in Centers for Social Work.

Women CSOs together with Provincial Secretariat for Health helped professionals in almost all relevant institutions in Vojvodina and six municipalities in central Serbia to have additional or only training on LPDV²¹⁸, and AWC together with UNDP and Ministry of Justice provided expert support in pilot municipalities to organize meetings of the Groups for coordination and cooperation and piloted proposed draft forms for the better implementation of the Law²¹⁹. If there hasn't been for few enthusiastic experts²²⁰ that had a vision on how the implementation should look like and turned that ideas into concrete actions and proposals, the implementation of the LPDV wouldn't be achieved.

Although with the establishment of **Council for the Suppression of Domestic Violence**²²¹ a formal requirement was created for the coordinated action of relevant ministries and other competent entities in this field, the Council met twice – once at the beginning of the implementation of the law²²² and second time to revise its implementation after one year²²³. This mechanism, if meeting only annually, cannot regularly monitor implementation of the Law and influence the improvement of coordinated and effective prevention and protection against domestic violence, which is its task in line with Article 35 of the Law.

Independent reports on implementation of the Law are prepared by AWC, regularly submitted to the Council and made publicly available²²⁴. The small number of trained police and prosecutors' professionals, the lack of training on the implementation of the Law for professionals in CSW, as well as the inadequate organization of work in these state bodies, are the biggest obstacle to the further implementation of the Law.

During the first year of the implementation, the total number of reviewed cases of domestic violence at the meetings of the Groups **stabilized** between 3,500 and 4,000 per month. The number of newly-reported cases of domestic violence is about 2,000 per month, with a slight tendency to decline in the last three months. However, over the entire period a very small number of cases were examined with the aim of proposing measures to speed up the proceedings, never more than 100, which is certainly inadequate given the length of criminal and civil proceedings for protection against domestic violence. Certainly, a large number of domestic violence cases that need to be monitored (over a longer period) may be a challenge for the competent state authorities, given the limited resources, primarily in specialized trained specialists in the three key state bodies.

²¹⁷ <https://www.womenngo.org.rs/en/news/1056-ministry-of-interior-has-accepted-awc-s-suggestions-regarding-the-law-on-the-prevention-of-domestic-violence>

²¹⁸ Available only in Serbian at <http://projekti.zdravstvo.vojvodina.gov.rs/2017/03/01/obuke-za-multisektorske-timove-u-2017-godini/>

²¹⁹ Sixth Independent Report, pg. 9, available at https://www.womenngo.org.rs/images/vesti-18/PDF/Sixth_independent_report_on_implementation_of_the_Law_on_Prevention_of_Domestic-Violence.pdf

²²⁰ State secretary in the MoJ, two deputy prosecutors and members of AWC, with support of UNDP

²²¹ Decision on education of the Council for the Suppression of Domestic Violence, "Official Gazette of RS", No. 69/2017.

²²² On July 20th, 2017 [https://www.mpravde.gov.rs/files/Report%20no.%202-](https://www.mpravde.gov.rs/files/Report%20no.%202-201%207%20on%20implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf)

[201%207%20on%20implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf](https://www.mpravde.gov.rs/files/Report%20no.%202-201%207%20on%20implementation%20of%20Action%20plan%20for%20Chapter%2023.pdf), pg. 472

²²³ <https://www.mpravde.gov.rs/en/vest/20583/44728-domestic-violence-cases-reported-in-a-year.php>

²²⁴ <https://www.womenngo.org.rs/en/independent-reports-on-law-on-prevention-of-dv>

The number of police emergency measures, which were initially issued in about 70 percent of the newly-reported cases of violence reviewed at meetings of Groups for coordination and cooperation, are in the last three months 85, up to even over 90 percent²²⁵. The number of vacation orders in the police jurisdiction was about 30 percent, and by the end of the year about 37 percent. The prolongation of emergency orders was proposed by prosecutors in 90 and more percent of cases, and the proposals were accepted by the court in over 95 percent of cases. During the initial months, as well in the entire observed period, there was a **very small number** of prosecution's ex officio initiated civil suits for the issuance of the protection measures from domestic violence in line with the Family Law. The number of criminal charges varied between 800 and 500 on a monthly basis, recording a **steady low drop** in the last few months, below 30 percent compared to the number of newly-reported cases. Having in mind that the records did not provide data on the imposed measures within criminal law protection, it was not possible to draw reliable conclusions on the victim's safety. If the number of violations of emergency orders could point to the effects of the victim protection, it was expected and ranged from 100 to 160 violations per month, which was 10-12 percent of the number of imposed measures. The total number of Individual plans for the protection of victims was small at the beginning of implementation of the Law and then increased slightly from 600 to even 1,000 cases per month. However, the number of created plans **remained below** the legal norm, accounting for 50 percent of the number of reviewed newly-reported events of domestic violence. The content of the created plans is yet to be analyzed.

In some jurisdictions it is still worrying that the meetings of the Group do not review all reported cases of domestic violence or other criminal offenses in line with Article 4 of the Law. **Participation of victims** at meetings of the Groups was **consistently low**, less than 20 persons, which amounted to only 1-1.5% of the total number of the reviewed cases. Representatives of women's organizations that provide victim support services are rarely (or not at all) invited to meetings of the Group, even when the victims ask.

Obstacles in the implementation of the Law

In 2017, AWC submitted initiatives for the instigation of the disciplinary proceedings against prosecutors and deputy prosecutors in the Prosecution offices that are not acting in accordance with the Law on the Prevention of Domestic Violence, because they did not have the envisaged number of held meetings for coordination and cooperation²²⁶. In the responses received, the complaints were considered **unfounded** or partially unfounded, often due to errors in the records or "objective reasons" (the prosecutors were on vacation), including the answer that the specialized deputy public prosecutor held meetings only when needed.

²²⁵ Sixth Independent Report, Table 2, available at https://www.womenngo.org.rs/images/vesti-18/PDF/Sixth_independent_report_on_implementation_of_the_Law_on_Prevention_of_Domestic-Violence.pdf

²²⁶ <https://www.womenngo.org.rs/en/independent-reports-on-law-on-prevention-of-dv/1233-sixth-independent-report-on-implementation-of-the-law-on-the-prevention-of-domestic-violence>

In 2018, AWC again addressed the disciplinary prosecutor of the State Prosecutorial Council, with the complaint on 18 Basic Prosecution Offices (BPO) which had not created a single individual victim protection and support plan for at least four months, and another eight BPPO which had created one plan each for the same period (which does not match number of reviewed cases of violence). The answer of the disciplinary prosecutor was that there were **no grounds** for initiating disciplinary proceedings. Since our initiative was treated as a complaint on the work of the BPOs, the disciplinary prosecutor submitted it to Republic Public Prosecution Office.

At the beginning of implementation of the Law, AWC experienced the **unacceptable attitude** of certain BPOs, i.e. deputy public prosecutors who chaired the work of Groups for coordination and cooperation, who refused to invite victim to the Group meeting. In responding to the complaints of AWC, two Basic Public Prosecutors replied that they were unfounded, although the victims had not been invited, and some of them had not even been informed about the decisions. The response of one of the deputy public prosecutors is illustrated as a misinterpretation of the provisions of the Law and the rights of the victim: "I believe that your attendance and the presence of (*name of the victim*) at the meeting of the Group for Coordination and Cooperation is not in the interest of the further course of this proceeding". Although the AWC experience **changed for the better**, out of the data received from other specialized women's organizations from Serbia, neither the victims nor women NGO's were invited to meetings in which individual victim protection and support plans were created.

Since the Ministry responsible for social affairs has not established the records envisaged by the Law, the numerical data collected by AWC cannot illustrate neither the content of individual protection and support plans and the effects of measures taken nor whether they are available to victims in specific situations (such as rural population, members of the Roma community, persons with disabilities, psychological disorders or diseases, especially women and children from these groups) who are significantly more vulnerable.

In the period between mid-November 2017 and mid-January 2018, AWC helped three women file complaints on the work of police officers, which were submitted to the Internal Control Sector, the Department for the Prevention and Combating Domestic Violence and the MoI Department for Complaints. All of them received answers that the police officer "acted in accordance with the positive legal regulations and took the necessary measures and actions in accordance with the Law on the Police and the Law on the Prevention of Domestic Violence". In one case older woman complained on the non-action from the police patrol, and in two other cases specialized police officers issued **dual emergency protection orders**, to perpetrators and to victims.

On the request of data on public importance, AWC doesn't receive gender segregated data on the issued and prolonged emergency protection orders from the MoI and Republic Prosecution Office, so currently, there are no publicly available data on the number of emergency protection orders issued to women, individually or dual. It cannot be determined whether in cases of dual emergency orders, specialized police officers conduct only one risk

assessment for all parties involved or they do as much as risk assessment lists as there are potential perpetrators.

AWC finds **disturbing data** presented in the State report²²⁷ that 1063 men and 703 women were sentenced for the breach of emergency protection orders in the period June, 2017 – March, 2018. Bearing in mind that women in all family relations (partner, parental or adult children towards their parents) are less identifiable perpetrators of violence (when it comes to the number of crimes, they are ten times less reported than men for the acts of domestic violence²²⁸ and four times more often than men, victims of crimes, including domestic violence²²⁹, and that there is a greater gender difference of convicted perpetrators of violence)²³⁰, these data suggest that the number of issued emergency protection orders to women as possible perpetrators might be much larger than the average.

In the period April-May 2018, representatives of AWC, together with deputy prosecutors and police officers, with the support of the Ministry of Justice and the Ministry of Interior created and held **training of police officers in patrols and emergency units** in three Police Directorates²³¹. After the experiences of AWC clients and based on conclusions from the consultation meetings with three Groups for coordination and cooperation, it turned out that education on implementation of the Law was necessary for all police officers who are acting upon reports on domestic violence (and not only for the specialized police officers) because there was a misunderstanding of police officers in patrols and emergency units about what is happening with the report on violence after their actions. Bearing in mind that police officers on the field are “eyes and ears” of the specialized police officers and deputy prosecutors, it is necessary for the relevant ministry to supervise their work because the quality of information gathering about the event and the participants reduces the possibility of errors in assessing risks by the specialized police officer.

Findings of the *Research of the attitudes of judges and prosecutors regarding the implementation of the Law*, conducted by the Forum of Judges of Serbia²³², was conducted with the aim to determine the manner in which the Law has been interpreted by the judiciary, and whether there is consistency and uniformity of its implementation. The main findings of this study essentially **confirm** the AWC data, expanding insight into the situation “on the field”. The survey confirmed that:

- procedures for the protection against domestic violence were being initiated, in most cases, when violence had already occurred;
- judges **unevenly interpret** important legal terms, that is, judges answered differently as to who is considered a family member under the Law, and differences in the attitudes also occurred in the interpretation of “verbal discussion” among family members, as well as whether family violence can be an act of omission;
- relevant authorities **do not collect** enough evidence and information necessary to

²²⁷ State report, pg. 59

²²⁸ Ibid, Annex, Tables 16 and 19;

²²⁹ Ibid, Annex, Tables 17 and 19;

²³⁰ Ibid, Annex, Table 24

²³¹ Sixth Independent Report, pg. 10, available at https://www.womenngo.org.rs/images/vesti-18/PDF/Sixth_independent_report_on_implementation_of_the_Law_on_Prevention_of_Domestic-Violence.pdf

²³² <http://forumsudija.org.rs/okrugli-sto-na-temu-primene-zakona-o-sprecananju-nasilja-u-porodici.a102.html>

- make a decision about the existence of immediate danger from violence, and to decide who the victim and who the perpetrator is;
- prosecutors' replies confirm **uneven** understanding and interpretation of the legal norms, and the answers also differ with regard to the composition of Groups for coordination and cooperation, even though the composition is prescribed by the Law;
 - Groups are organized in different ways - meetings (59 percent), telephone communications (24 percent), electronically (15 percent), and one percent of the respondents answered that the Groups were not yet established;
 - only 77 percent of the prosecutors, who organize the activities of the Groups answered that the Group meet twice a month;
 - 76 percent of the prosecutors answered that they **never include** representatives of relevant organizations and other professionals.

Protection of children

In 2017, the Committee for the Rights of the Child issued the Concluding observations on the combined second and third periodic reports of Serbia²³³, in which it stated that *inadequate harmonisation between the Criminal Procedure Code and the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, in relation to the criteria for questioning particularly vulnerable witnesses, often leads to re-victimisation of child witnesses*. It was also noted that *legislative reform to ensure child-sensitive procedures is slow, while lengthy court cases and a lack of support services for children and their parents often result in the re-victimisation of children during court proceedings*²³⁴.

Special part of the research on *Criminal law practice in cases of domestic violence in Vojvodina*²³⁵ represent the cases of domestic violence against children, as indirect or direct victims. Research showed that out of 606 prosecution and court cases that had been subjected to analyses in 2010, children (0-18 years) had been recognised as direct victims of DV in only 47 cases (7,8%) – in 15 (4,9%) prosecution and in 32 (10,6%) court cases. Out of total of 695 victims of these criminal acts of DV (338 in prosecution and 357 in court cases), there were 59 (8,5%) direct minor victims– 19 (5,6%) in prosecution and 40 (11,2%) in court cases. With regard to the total number of perpetrators in court cases that had children (N=252), minor children had been recognized as direct victims of DV in only 12,7% of cases.

Research showed that in lot of cases children had been subject to direct violence together with their mothers (stood in front of mother to defend her, being expelled from home together with mother, being called names, mothers holding babies in the moment of attack...) but prosecutors didn't give them status of direct victims. Also, the fact that violence had happened in front of the children/child had never been taken as aggravating circumstance when deciding on a sentence, but the fact that perpetrator is a family man or the only

²³³http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fSRB%2fCO%2f2-3&Lang=en

²³⁴ Ibid, par. 66

²³⁵ Research conducted within the project of the Autonomous Province of Vojvodina, funded by UN TRUST Fund to end violence against women, available only in Serbian at <http://hocudaznas.org/hocudaznas/wp-content/uploads/2014/08/krivicno-pravni-odgovor-na-nasilje-u-porodici-u-vojvodini.pdf>

breeder of the family was taken as mitigating circumstance in half of the cases.

Table 23 of the State report show that situation hasn't improved and that percentage of children recognized as victims of domestic violence is dropping from 9.9% in 2012 to 5.6% in 2016.

Official statistics still **lacks data on the sex of the children victims**. As shown in Table 23 of the State report, statistics can either show the gender of all (adult and minor) victims, or the number of victims age 0-14, 14-18 and older than 18. So, it cannot be determined how many adult male children are amongst those 22% of all male victims.

The practice of Centres for Social Work of **moving children into foster care** without previously providing them with judicial protection continues. In 2012, because of the **inability of a parent (mother) to protect the child/children** from the violence of the other parent (father), 350 children had been removed from their families and placed into foster care²³⁶. In all of these cases the social services didn't, previously to removal, file complaints for protection measures of these children²³⁷. 30% of children had been separated from non-abusive mothers, 22% of children stayed for more than a year in a foster care, and in only 7% of cases Centers for Social Work filed complaints for the protection measures from domestic violence in accordance with the Family law²³⁸.

After AWC's complaint to the Commissioner for the protection of Equality, this category was removed from the annual report of the Republic Institute for Social Protection. On the AWC request, Republic Institute for Social Protection replied²³⁹ that in 2015, 338 children had been moved into foster care and 372 had been moved from their homes with non-violent parent, while in 2016, 292 children had been moved into foster care and 477 with non-violent parent in order to be protected from violence. The same Institute responded²⁴⁰ that CSWs had been instructed to issue **correctional supervision** over the execution of **parental rights** (art. 80 of the Family law) to **mothers**, as a measure of providing help and support to woman and mother victim of violence.

During the one year of the implementation of the law on prevention of Domestic Violence, AWC **haven't had** a case in which **emergency protection order** had been **issued for the protection of a child(ren)**. Again, data collected by the Ministry of Interior and Republic Prosecution Office are not segregated by the age or sex of the victim, so the official data do not exist.

In one of the cases in which AWC helped the woman file complaint against the specialized police officer for the issuance of dual emergency orders, the child, together with mother,

²³⁶ data gathered from the Report from the Institute for social protection on the work of Centers for social welfare in Serbia for 2012, pg. 49 table 40, available only in Serbian at

<http://www.zavodsz.gov.rs/PDF/izvestajoradu2013/IZVESTAJ%20CSR%202012%20FIN1.pdf>

²³⁷ answers from Centers for social welfare on the request for public available data

²³⁸ Available only in Serbian at

http://www.zeneproktivnasilja.net/images/stories/opservatorija/pdf/Godisnji_izvestaj_Opservatorije_2013.pdf

²³⁹ Letter dated 13.7.2017. no 653/2017

²⁴⁰ Letter dated 4.5.2017. no 441-1/2017

suffered physical injuries. Specialized police officer didn't inform CSW nor issued emergency orders for the protection of the child. In consultation with prosecutor on duty, specialized police officer filled criminal charges against the perpetrator for the violence against the child²⁴¹, and two weeks later another police officer filled dual misdemeanor charges against the mother and the perpetrator²⁴². In the initiative for the instigation of misdemeanor proceedings, the police officer named the same child (12 years old) to be heard as a witness.

As noticed in a case of a woman that addressed AWC, who was reported by her ex-husband that she is planning to kill their two children and herself, specialized police officer conducted only one risk assessment list, and issued emergency protection order to her for the protection of ex-husband. This emergency order was prolonged²⁴³ and confirmed by the Higher court on her complaint²⁴⁴, with prosecutors and judges "copy-pasting" all the potential risks (her to him, her to children, him to her) forgetting that the case started as a reported treat to children's lives.

Visitation right and safety of children

Judges, prosecutors, expert court witnesses and social workers in Serbia are misinterpreting the right of a child to have contact with the parent with whom the child doesn't live with (art. 61 of the Family law) as a right of the other parent to have contact with the child, even in cases when child was direct or indirect victim of domestic and sexual violence.

Research on the Consequences of Intimate Partner Violence against Women on Children and the Response of Public institutions to this problem²⁴⁵, conducted in 12 cities in Serbia with 170 women, victims of violence, who had been asked to assess the behavior of their children and consequences of exposure to violence on their children, revealed that in more than two-thirds of the cases the children witnessed violence by their father to his wife – their mother. In every fourth case, mothers report the existence of physical injuries to children, as a result of violence to which they were exposed, and in the past year one in five cases of violence has also resulted in an injury to the child. The data confirm that with time the relationship of children with their father changes. Most common is the child's fear of the father, as well as the avoidance of any contacts or unconditional obedience to the father. The child's obedience decreases with time, which is related to age and increasing independence, resulting in more frequent resistance to the father's behavior. In some cases, the child increasingly insists on contacts with the father, which is linked to a variety of factors, ranging from authentic emotions for the father to the father's manipulation through deprivation and bribery.

²⁴¹ Case no. Kt-116-3/2018, Basic prosecution office in Obrenovac

²⁴² Case no. 1-116-00016/2018 dated 19.1.2018, Police station in Obrenovac

²⁴³ Case no. Kn-42/2017, dated 24.11.2017, Basic court in Trstenik

²⁴⁴ Case no. Kzn-4/2017, dated 29.11.2017, Higher court in Krusevac

²⁴⁵ Summary of the research in English at http://www.womenngo.org.rs/images/publikacije-dp/2013/Posledice_koje_ima_nasilje_prema_zenama_u_partnerskom_odnosu_na_decu_i_odgovor_javnih_sluzbi_na_ovaj_proble.pdf

Analyses of 62 court cases²⁴⁶ show that children in almost all cases (95%) had witnessed father's violence, that every third child was also direct victim of violence, that in every third case child have been used against mother and that in every fourth case woman had been threatened by the use of child. Two types of interrelation connections between violence against women and abuse of children had been documented: physical (regular and continuous) violence against woman is connected with direct violence toward children, while tactic of children manipulation is connected with control and isolation of partner. Continuous lack of systematic documenting on the consequences of violence and security risks for children was visible: only in 1/3 of analyzed cases negative consequences had been registered, and risks for children from previous and current father's violent behavior was mentioned in every fourth case. Mothers requested protection measures for children in 1/3 of cases, and neither CSW nor judges didn't initiate protection measures *ex officio*, but suggested "free" (32%) and "standard" (31%) visitation arrangements with fathers that have been violent.

It can be concluded that professionals don't understand connection between violence against women and abuse of children, prioritizing parenthood of the violent parent over security of children and their mothers.

Unfortunately, all this happened in a case of murder of a mother and a child in the premises of CSW in Belgrade in 2017 (previously mentioned). After the expert court witnesses²⁴⁷ gave the opinion that the father of a child (leader of the hooligans, previously convicted for illicit weapons, threatened and intimidated social workers and not just the ex-wife, stalked his ex-wife) should have contacts with then two year old child outside of the premises of the CSW, family law judge issued such a decision in 2015, which mother of the child didn't obey. Execution judge issued monetary fines²⁴⁸ in order to force mother to obey court decision. During that time, lasted three years long investigation. The day before the beginning of the criminal trial, the perpetrator strangled the child, returned the child dead to mother and then started stabbing her in the premises and in front of the CSW. He injured three social workers who tried to defend the woman. Not a single professional in all these institutions apologized, nor was accused or found guilty for the omission in protection. Responses received by the Network Women against violence from police, CSW and prosecution in this case, state that there were no flaws or omissions of professionals in charge of protection of this child and his mother.

After being addressed by the group of mothers, in whose Family law cases AWC determined that expert court witnesses (in almost all cases the same psychologist) used psychological instruments (tests) that hadn't been approved by the Commission for licensing psychological

²⁴⁶ Assessment and decision making on parental care in the context of Intimate Partner Violence: Gender perspective, Tanja Ignjatovic, Doctoral dissertation, summary in English at <http://uvidok.rcub.bg.ac.rs/bitstream/handle/123456789/902/Doktorat.pdf?sequence=1>

²⁴⁷ The president of the Commission of the expert court witnesses was then the Director of the Psychiatric clinic "Dr Laza Lazarevic", now a Minister without portfolio responsible for demography and population policy

²⁴⁸ According to the article published in newspaper "Vecernje novosti" dated 15.7.2017, five monetary fines had been issued by the execution judge of the Second basic court in Belgrade (20.000 rds, 60.000 rsd, two times 100.000 rsd and 150.000 rsd) in the total amount of 430.000 rsd (app. 3.640 euro)

measurement instrument of the Institute for Psychology²⁴⁹, AWC helped them file a complaint to competent bodies in October 2017. The complaint is pending.

The TV show "DNA"²⁵⁰, created to establish paternity for children who do not know who their father is, continues to violate children rights by exposing children's names and faces, creating even bigger stigma for them. Case in which the mother of the children had been beaten to death after the show was broadcasted, demonstrated that the children had been present while the abuse before the cameras was happening. Although *Network Women against violence*²⁵¹ filled initiatives to close this TV show to relevant authorities and to punish the responsible ones. Even though TV Pink received two warnings from the State media regulatory body²⁵² on the obligation to protect the minors²⁵³, the show is still broadcasting once a week and it is possible to view it on YouTube²⁵⁴.

Sexual violence against children

Even though the Republic of Serbia adopted the *Law on special measures to prevent committing criminal acts against sexual freedoms against minors*²⁵⁵, protection of children from sexual abuse doesn't have priority in prosecution and in court cases.

During court cases, medical experts conduct their expert reports few years after the reported abuse, and because lot of time had passed, they cannot confirm with certainty whether the abuse took place or not, leading to prosecutors dropping charges. The first statement of the child given to any institution is not recorded. There are no rules or protocols for the professionals on how to act in cases of reported sexual abuse of child. Right to medical help (psychologist, psychiatrists, therapists) is regulated by the Law on medical protection and there are no specialized experts for providing help either to adult nor minor victims of rape and other sexual acts and domestic violence. The only official state institution that provide aid for sexually abused children is the Institute for mental health located in Belgrade.

Non-compliance with the Lanzarote Convention is clearly visible in the Ombudsman's publication²⁵⁶ containing Recommendations in cases of sexual abuse of children issued predominately to Centres for Social Welfare and Police.

AWC helped the mother of two girls, victims of child sexual abuse, to file a petition before the ECtHR²⁵⁷. In this case the perpetrator was acquitted after seven years of court processes (twice before first instance and twice before second instance court) and three years of

²⁴⁹ Available only in Serbian at <http://www.womenngo.org.rs/vesti/977-upotreba-nelicenciranih-psiholoskih-testova-prilikom-vestacenja-u-sudskim-postupcima>

²⁵⁰ broadcasted on national TV station PINK

²⁵¹ <http://www.zeneproktivnasilja.net/vesti/477-prituzba-regulatornom-telu-za-elektronske-medije-zbog-sadrzaja-emisije-dnk-na-tv-pink>

²⁵² on 30.09.2014 and on 21.10.2015

²⁵³ http://www.rra.org.rs/uploads/useruploads/lzrecene_mere/Mera-upozorenja-TV-Pink.pdf

http://www.rra.org.rs/uploads/useruploads/lzrecene_mere/07-1873-15-5-TV-Pink.pdf

²⁵⁴ <https://www.youtube.com/watch?v=Jti68pBXcWU>

²⁵⁵ "Official gazette RS", no. 32/2013

²⁵⁶ http://zastitnik.rs/attachments/4419_publikacija%20Lanzarot%20pdf.pdf

²⁵⁷ Application no. 40763/17 A. and B. v. Serbia

waiting for the decision of the Constitutional Court, that rejected the claim of multiple breaches of children's rights.

Free Legal Aid

After more than a decade of various drafts on Law on Free legal aid, and after the latest public debate held till beginning of August²⁵⁸, Government adopted it²⁵⁹ and send it as a proposal to National Assembly.

Even though the Government stated that the Law envisaged that free legal aid will be provided by lawyers and legal aid services in local self-government units, the Proposal²⁶⁰ that was sent to the National Assembly gives the the right to attorneys/barristers and lawyers employed in the local self-governments units to provide free legal aid (art. 9 of the Proposal). This represents direct discrimination of lawyers based on their place of employment. If the Parliament would adopt this Proposal, lawyers who are working in the CSO's would be forbidden to provide free legal advices. They could only fill in the forms and give general legal advices.

The Law, if adopted, will mean that local self-governments and state will bear the cost of hiring attorneys/barristers for all types of free legal aid, which is very expensive. Even with the most expensive service, users of the free legal aid will lose the possibility of receiving specialized free legal aid provided by human rights CSO's.

Citizens' associations were, as stated by the Government, for the first time recognized as providers of free legal aid, but only in the area of migration and protection from discrimination.

Femicide

Even after the amendments of the legislation and introduction of obligatory risk assessment, femicide is still prevailing. In the period from 2010 to 2017, **251** women have been killed by their partners, or ex-partners or family members in Serbia²⁶¹. By the end of September, 2018, 24 women have been killed in Serbia.

On the occasion of the National day of Remembrance of Women who had been killed by their partners and ex-partners in May 2018, Network Women against violence in Serbia issued a publication *No Woman Less*²⁶², which included analyzes of police, prosecutors and social workers actions in cases of femicides in 2017, as well as reports on the effectiveness

²⁵⁸ <https://www.womenngo.org.rs/vesti/1228-azc-uputio-komentare-na-nacrt-zakona-o-besplatnoj-pravnoj-pomoci>

²⁵⁹ <http://www.srbija.gov.rs/vesti/vest.php?id=130051>

²⁶⁰ http://www.parlament.gov.rs/upload/archive/files/lat/pdf/predlozi_zakona/2018/2926-18%20LAT.pdf

²⁶¹ <https://www.zeneprotivnasilja.net/en/femicide-in-serbia>

²⁶² https://www.zeneprotivnasilja.net/images/pdf/literatura/Nijedna_zena_manje.pdf

of trials in two court proceedings for femicide²⁶³ that members of the Network had been given permission to monitor.

Conclusion is that in 10 out of 26 cases of femicide in 2017, police, prosecutors and centers for social work had information about the previous violence, but it was not enough for the killings to be prevented, because of lack of coordination and communication between state institutions. In monitored femicide court cases it was concluded that the rights of families of murdered women as damaged parties in the proceedings had not been respected (children weren't given the status of damaged parties, only parents of the victims; they weren't given state funded attorney forcing them to hire and pay for legal representation; they didn't receive any compensation in the criminal proceedings but had been directed to see damages in a very expensive and lengthy civil proceedings). Network Women against Violence, together with families of murdered women, succeeded in their advocacy efforts to establish the National Remembrance day of Murdered Women in Serbia.

For the first time in decade of monitoring femicides in Serbia, specialized police officer had been charged and dismissed because he did not assess the risk in accordance with the Law on Prevention on Domestic Violence²⁶⁴.

²⁶³ before Higher court in Jagodina and Higher Court in Pozarevac

²⁶⁴ Murder of a woman in Pozarevac on 15.12.2017. Week before the murder, woman reported violence to specialized police officer who didn't assess the risk but sent the woman to CSW. <https://www.blic.rs/vesti/hronika/ubica-se-namerno-zabio-u-kamion-jelena-dan-pre-tragedije-prijavila-nasilje-a-kad-je/d89k5j8>

Table 1 - Crime reports against adult perpetrators for the criminal act of DV from 2002 to 2017.
(data from the web site Statistical Office of the Republic of Serbia <http://webrzs.stat.gov.rs>)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
total	192	664	1009	1397	2191	2550	3276	3384	2837	3550	3624	3782	3642	5040	7244	7795
% of total crime reports ²⁶⁵			1.1	1.4	2.1	2.6	3.2	3.4	3.8	4.0	3.9	4.1	3.9	4.6	7.5	
women						173	260	291	218	282	314	361	347	361	820	644

Charged adult perpetrators for the criminal act of DV from 2002 to 2017.

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
total		175	431	675	1210	1495	1898	2115	1228	1918	1827	2024	2104		2386	
women						73	100	136	69	109	110	137	122		138	

Convicted adult perpetrators for the criminal act of DV from 2002 to 2017.

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
total		157	374	574	1059	1312	1681	1850	1059	1616	1472	1532	1712	1778	2065	
women		2	9	28	39	58	75	111	55	81	76	81	98	81	100	

²⁶⁵ <http://data.stat.gov.rs/Home/Result/140203?languageCode=sr-Latn>

Table 2 – Minimal number of court cases for the issuance of protection measures from domestic violence in 61 basic court in Serbia²⁶⁶

Court cases for the issuance of protection measures	2010	2011	2012	2013²⁶⁷	2014	2015	2016
Number of filled suits only for the issuance of protection measures	607	898	974	370	977	1078	1192
Number of ancillary proceedings for the issuance of protection measures				23	50	78	80
Number of proceedings initiated by CSW	80	55	14	66	62	96	131
Number of proceedings initiated by BPO ²⁶⁸	43	39	37	16	135	128	130
Number of withdraw suits	157	285	264	80	210	366	297
Number of rejected suits				2	5	6	2
Number of judgements in which protection measures are issued²⁶⁹	179	284	380	182	322	466	558
Number of issued protection measures as temporary measures				7	46	57	85
Number of rejected request for the issuance of protection measures				14	52	39	51

²⁶⁶ 5 basic courts didn't send data segregated by the years and Basic court in Sjenica hasn't responded

²⁶⁷ Data received for 2013 cannot be considered correct and the reason predominately lies in the judicial reform – in January 1st, 2014 previously larger and centralized courts have been divided into 28 new basic courts

²⁶⁸ Data received from the courts usually do not coincide with the data received from the BPO in Table 3, so these data cannot be considered accurate. For example, Third basic court in Serbia replied that Third basic prosecution office filled lawsuits for the protection measures in the period 2014-2016, while the Third public prosecution office responded that in the same period of time they didn't file any lawsuit.

²⁶⁹ Data are missing for 6 courts in Serbia, amongst whom one of the largest in Serbia - the First basic court in Belgrade that submitted only the number of filled suits for the issuance of protection orders.

Table 3 – Number of court cases for the issuance of protection measures from domestic violence instigated by the Basic prosecution offices (BPO) in Serbia²⁷⁰

	2014		2015		2016		in 3 years	
	lawsuits	Accepted by the court	lawsuits	Accepted by the court	lawsuits	Accepted by the court	lawsuits	Accepted by the court
First BPO in Belgrade	3	2	0	0	0	0	3	2
Second BPO in Belgrade	3	3	0	0	1	1	4	4
BPO in Novi Sad	0	0	5	1	2	1	7	2
BPO in Cacak ²⁷¹	0	0	20	18	53	53	73	71
BPO in Bečej	0	0	37	30	11	9	48	39
BPO in Zrenjanin	6	6	6	6	7	7	19	19
BPO in Pancevo	0	0	5	2	0	0	5	2
BPO in Jagodina	0	0	4	3	25	21	29	24
BPO in Vrbas	0	0	0	0	13	11	13	11
BPO in Velika Plana	0	0	2	1	0	0	2	1
BPO in Smederevo	7	3	1	0	0	0	8	3

²⁷⁰ All 58 Basic prosecution offices responded on the request for the information of public importance and submitted data

²⁷¹ For the same period, Basic court in Cacak responded that BPO in Cacak filled 59 lawsuits, out of which 56 resulted in the issuance of protection measures

IMPROVED LEGISLATION FAILED PROTECTION

BPO in Trstenik	0	0	6	6	0	0	6	6
BPO in Gornji Milanovac	0	0	0	0	1	1	1	1
BPO in Negotin	0	0	1	1	0	0	1	1
BPO in Backa Palanka	0	0	0	0	4	3	4	3
BPO in Zajecar	0	0	2	1	0	0	2	1
BPO in Kursumlija	0	0	0	0	1	1	1	1
BPO in Lebane	1	1	1	1	0	0	2	2
BPO in Vladicin Han	1	1	0	0	0	0	1	1
BPO in Sremska Mitrovica	0	0	0	0	1	1	1	1
BPO in Raska	1	1	0	0	0	0	1	1
Total	22	17	90	70	119	109	231	196