Centar za podršku ženama
Center for Support of Women

# CWS Contribution for the Group of Experts on Action against Violence against Women and Domestic Violence- GREVIO regarding the *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence by the Parties*

## *1st thematic evaluation round: Building trust by delivering support, protection and justice*

August 2024.

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## Part I: Changes in comprehensive and co-ordinated policies, funding and data collection in the area of violence against women and domestic violence

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

1. *Please provide information on any new policy development since the adoption of GREVIO's baseline evaluation report on your country to ensure comprehensive policies covering the areas of prevention, protection, and prosecution in relation to stalking, sexual harassment and domestic violence, including their digital dimension, rape and sexual violence, female genital mutilation, forced marriage, forced abortion and forced sterilisation, thereby demonstrating further implementation of the convention. Please specify the measures taken particularly in relation to those forms of violence against women that have not been addressed in past policies, programmes and services encompassing the four pillars of the Istanbul Convention.*

Since 2021, shortly after the adoption of the Law on Gender Equality[1] (LGE), and the issuance of a Constitutional Court decision initiating a procedure to assess the constitutionality of the entire law, eight initiatives were submitted to challenge the law's constitutionality. Additionally, a motion to initiate a constitutionality review was filed by the Ombudsperson, who has the authority to bring such a case before the Constitutional Court. Most of the contested provisions pertain to the use of gender-sensitive language.

In 2024, the Constitutional Court initiated a procedure to assess the constitutionality of the law and expanded its decision to include all other provisions of the Law on Gender Equality that were challenged. Furthermore, the Constitutional Court issued a temporary measure that suspends the enforcement of any individual acts or actions taken based on the contested law until a final decision is made by the Court. The practical effect of this temporary measure is the de facto suspension of the entire Law on Gender Equality until the Constitutional Court reaches its final ruling.[2]

The Law on Gender Equality, in a dedicated chapter, regulates several key issues related to the prevention and suppression of gender-based violence, as well as the protection against such violence.

Through its actions, the Constitutional Court has:

- Halted the enforcement of all individual acts adopted based on the LGE and any actions taken pursuant to the law.
- Prevented the issuance of individual acts or the undertaking of actions based on the LGE, thereby effectively hindering victims from exercising their rights related to protection against gender-based violence.

[1] „Official Gazette of the RS" no 52/2021
[2] Annex 1 on this report.

***In this case, the consequences manifest in the inability to:***

1. ***Implement special measures or execute specific programs and activities aimed at*****:** 1) Victims of violence, providing them with social, healthcare, legal, and other assistance and compensation, with the goal of protection, mitigation, and alleviation of the effects of violence, without discrimination based on the victim's willingness to file a report, testify against any perpetrator, or participate in any proceedings; 2) Preventing the perpetrator of violence from continuing or repeating the act of violence; 3) Sheltering victims of violence to prevent further violence and ensuring their right to live free from violence, including services like safe houses, social housing programs, personal assistance, and similar measures; 4) Protecting other individuals who are directly or indirectly endangered by the act of violence or its consequences, as well as those who have reported the act of violence; 5) Preventive actions and programs designed to work with perpetrators of violence to eliminate circumstances that favor or encourage violent behavior; 6) Victims and perpetrators of violence from vulnerable social groups.

2. ***Issue individual acts or take actions related to the obligation to report violence.*** Every person, public authority, employer, association, and institution is obligated to report any form of gender-based violence, whether in the private or public sphere. Public authorities are required to promptly report any violence they become aware of in the course of their duties to the competent police department or public prosecutor's office. The police department and public prosecutor's office are, in turn, obligated to inform the social welfare center about the reported violence**.**

3. ***Provide general support services and uphold the rights of victims of gender-based violence that are not regulated by the Law on the Prevention of Domestic Violence (LPDV)[3] but are covered by the Law on Gender Equality, which addresses and fills this legal gap.*** These services include: the right of victims to psychosocial assistance in accordance with the law, free social and healthcare protection, and the right to free legal aid as stipulated by the law governing free legal aid; ensuring that these services, assistance, and protection are accessible to everyone and tailored to the individual needs of the victims, including those from vulnerable social groups. Additionally, public authorities are prevented from fulfilling their legal obligation to take measures ensuring that all victims of violence have easy access to general support services, which should be provided in adequately equipped facilities by staff trained to assist and support victims of violence.

[3] „Official Gazette of the RS" no. 94/2016 i 10/2023 - other law

4. ***The provision of specialized support services not regulated by the Law on the Prevention of Domestic Violence, but regulated by the Law on Gender Equality, which addresses and fills this legal gap*.** These services include Confidential SOS Phone Services: Offering an SOS telephone service for girls and women with experiences of gender-based violence. Calls are not recorded or otherwise made available to third parties. This service is provided free of charge as a national SOS hotline by the Ministry of Social Protection throughout the territory of the Republic of Serbia, and by relevant authorities or bodies of the autonomous province and local self-government in local administrative areas; Safe Accommodation: Providing safe accommodation for women victims of violence and their children in safe houses or shelters. These accommodations are available free of charge to all women and their children, regardless of their place of residence, and are accessible 24 hours a day, seven days a week, tailored to the needs of women victims of violence; Specialized Medical and Psychological Support: Conducting specialist and forensic medical examinations, laboratory tests, and providing psychological support according to the needs of victims of violence; Support for Victims of Sexual Violence: Offering free support services to victims of sexual violence, available 24 hours a day, seven days a week. This includes providing contraceptive protection, protection against sexually transmitted infections, and forensic medical examinations; Specialized Counseling Programs: Implementing programs at specialized counseling centers for victims of violence, tailored to individual needs, including those of victims from vulnerable social groups; Accessibility and Adaptation: Ensuring that these services are accessible and adapted to the individual needs of victims of violence, including those from vulnerable social groups.

5. ***Programs for Individuals Who Have Committed Violence,*** which include: The obligation of the Ministry, in cooperation with other authorities, organizations, and institutions dealing with violence protection, to ensure the implementation of programs for working with individuals who have committed violence; The inclusion of individuals who have committed violence in these programs based on the decision of the competent authority or their own request; The obligation of the authorities, organizations, and institutions implementing programs for individuals who have committed violence to ensure that the safety, rights, and support for victims of violence are of primary importance, and that these programs are carried out in close cooperation with specialized services for supporting individuals experiencing violence; The prohibition that professional staff and individuals who have reported violence, participating in the protection of victims of violence and their children, cannot simultaneously participate in the implementation of programs for individuals who have committed violence, nor can these services be organized in the same space, or within the same authority, organization, or institution.

6. ***Preventive measures and activities*,** which include: The obligation of the Ministry, in

cooperation with authorities, organizations, and bodies for gender equality, to organize, implement, and finance measures intended to raise public awareness about the need to prevent violence, including encouraging everyone to report any case of violence to the competent authorities and institutions dealing with protection against violence; The obligations of all other public authorities to implement measures to prevent and combat violence (e.g., planning, organizing, implementing, and financing measures aimed at ensuring protection from violence, programs for preventing all forms of violence, and support programs for victims of violence and individuals who report violence; raising public awareness about the need to prevent violence; specializing professionals who handle cases of violence victim protection and providing them with regular education; training professionals on gender equality and the phenomenon of gender-based violence; providing social, legal, and other assistance and compensation to ensure protection from violence and to eliminate and mitigate the consequences of violence; providing services for the care of violence victims; providing services to individuals who have committed violence, aimed at preventing further violence, and other measures).

7. ***Ensure financial resources*** for the organization and implementation of specialized services in the budget of the Republic of Serbia, as well as in the budgets of the autonomous province and local self-government units, in accordance with the law regulating the budgetary system.

For many years, practice has shown that the work of the Constitutional Court is inefficient. This case confirms it as well. Initiatives for the review of constitutionality (including the annulment) of the LGE were submitted to the Constitutional Court in 2021, immediately after the adoption of the LGE. Since then, more than three years have passed, and only now has the Court taken its first step in this case. There are legitimate concerns that a long period will pass from the initiation of the procedure to the final decision of the Constitutional Court, during which the suspension of the mentioned provisions of the LGE will seriously endanger the status and rights of victims of gender-based violence, even though Serbia has ratified the Istanbul Convention. We specifically highlight this issue in this report.

2. *Where relevant, please provide information on any measures taken to ensure the alignment of any definitions of domestic violence and of violence against women in national legislation or policy documents with those set out under Article 3 of the Istanbul Convention and provide the relevant applicable provisions in English or French.*

***In Serbia, the system of protection against domestic violence is not uniformly regulated, as identical and comprehensive legal protection from all forms of violence is not provided to all family members***.

Different forms of legal protection against domestic violence are regulated by the Family Law of 2005 (FL)[4] – family law protection measures, the Law on the Prevention of Domestic Violence of 2016 (LPDV) – urgent protection measures, and the amended Criminal Code of 2005 (CC)[5] – criminal law protection against domestic violence. However, these laws define the terms "domestic violence" and "family member" differently.

While the definitions of "domestic violence" in the Family Law (FL) and the Law on the Prevention of Domestic Violence (LPDV) are generally aligned with the Istanbul Convention, the definition in the Criminal Code (CC) is narrower and does not encompass all forms of domestic violence, such as economic violence, for example. Therefore, ***it is necessary for the legal definition of domestic violence contained in the CC to include all forms of domestic violence as provided by the FL and LPDV.***

On the other hand, the laws define the term "family member" differently. The Family Law (FL) prescribes the broadest range of individuals entitled to protection from domestic violence, while the LPDV and the CC do not recognize certain individuals as family members. As a result, some family members are denied the protection provided under the CC and LPDV. For example, the CC does not allow for criminal law protection against domestic violence in cases of violence committed against a former common-law partner, individuals who, regardless of kinship, live or have lived in the same household, or individuals who are or have been in an emotional or sexual relationship.

The LPDV does not allow for urgent protective measures to be applied in cases of violence committed against individuals who are or have been in a sexual relationship with the perpetrator unless they live or have lived with them in a common-law partnership, nor against individuals who have a child with the perpetrator or are expecting a child, unless they live or have lived with them in a common-law partnership.

To ensure that all victims of domestic violence have access to all protection mechanisms, ***it is necessary for the definitions of the term "family member" in the LPDV and the CC to be harmonized with the definition in the FL, which is aligned with the Istanbul Convention.*** The authors of this report have submitted such a reasoned proposal to the Working Group for Amendments to the CC. However, there has been no feedback on whether the Working Group has considered or accepted this proposal.

***All forms of violence against women and domestic violence, including sexual violence, are not criminalized in accordance with the Istanbul Convention, despite being foreseen in the Strategy for the Prevention and Combating of Gender-Based Violence against Women and Domestic Violence for the period 2021-2025 (hereinafter referred***

[4] „Official Gazette of the RS" no. 18/2005, 72/2011 – other law i 6/2015
[5] „Official Gazette of the RS" no. 85/2005, 88/2005 – cor., 107/2005 - cor., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019

***to as the Strategy), under Specific Objective 3.***

***The criminalization of rape under Article 178 of the Criminal Code is not aligned with the Istanbul Convention***. Specifically, the element of the crime of rape involves the use of force or threat to overcome the resistance of the person being subjected to sexual intercourse or other sexual acts. The emphasis is therefore on coercion and threats, not on the absence of the victim's free consent to sexual relations, which is inconsistent with the definition contained in Article 36 of the Istanbul Convention.

***Neither the definitions of the criminal offenses of sexual intercourse with a helpless person (Article 179 of the Criminal Code), sexual intercourse with a child (Article 180 of the Criminal Code), nor sexual intercourse through abuse of position (Article 181 of the Criminal Code) are aligned with the Istanbul Convention.***

***Regarding the criminal offense of mutilation of female genitalia (Article 121a of the Criminal Code), the Criminal Code provides for the possibility of a lighter penalty due to "particularly mitigating circumstances" under which the act was committed, without specifying what these circumstances are. However, it does not foresee a more severe form of this offense if the victim is a minor.***

The criminal offense of forced marriage (Article 187a) only has a basic form and does not include more severe forms of the offense based on the manner of its commission, for which stricter penalties should be prescribed.

***The criminal offenses of cohabitation with a minor (Article 190 of the Criminal Code) and incest (Article 197 of the Criminal Code), although inherently involving sexual activities with a child, are not classified as offenses against sexual freedom.***

***It is necessary for the criminalization of various forms of gender-based violence against women to be aligned with the Istanbul Convention as soon as possible, with the stipulation of penalties that are effective, proportionate to the severity and social danger of the offense, and fulfill the functions of general and special prevention.***

3. *Please provide information on how your authorities ensure that policies on violence against women and domestic violence put women's rights and their empowerment at the centre and on any measure taken to enhance the intersectionality of such policies, in line with Articles 4 paragraph 3 of the convention.* [1]

With the adoption of the LPDV, a new model of coordination for multisectoral cooperation in preventing domestic violence has been established, rendering the previous General Protocol from 2011 and the sectoral (special) protocols regarding the work and cooperation of health and social institutions, police, and judicial authorities in cases of violence against women in family and partner relationships obsolete.

Therefore, on March 29, 2024, the Government adopted a new *General Protocol on Procedures and Multisectoral Cooperation in Cases of Gender-Based Violence against*

*Women and Domestic Violence*[6]. This protocol outlines the responsibilities of state authorities and institutions in detecting and combating violence against women and domestic violence, and in providing protection and support to victims, including procedures and multisectoral cooperation aimed at preventing femicide.

***Although more than five months have passed since the adoption of the General Protocol, work has not yet begun on preparing the sectoral (special) protocols, which would, in accordance with the new General Protocol, more specifically regulate the procedures and cooperation among health and social institutions, the police, and judicial authorities in cases of violence against women and domestic violence. As a result, the General Protocol is practically not being implemented because it has not been operationalized through sectoral protocols, which has a distinctly negative impact on the effectiveness of providing protection and support to victims of violence.***

***To overcome this situation, it is essential to adopt sectoral (special) protocols as soon as possible, which will detail the procedures for detecting, assessing risk, preventing, and prosecuting cases of violence against women and domestic violence, and for providing adequate protection and support to victims of violence***. According to the General Protocol, sectoral protocols should regulate the specific procedures for all cases of gender-based violence against women in both private and public spaces, not just in cases of violence within family and intimate partner relationships, with full understanding of its gender and intersectional perspective by all professionals in the relevant authorities and institutions.

### Article 11: Data collection and research

*6. Please provide information on any new development since the adoption of GREVIO's baseline evaluation report on your country on the introduction of data collection categories such as type of violence, sex and age of the victim and the perpetrator, the relationship between the two and where it took place, for administrative data of relevance to the field of violence against women and domestic violence emanating from law enforcement agencies, the justice sector, social services and the public health care sector.*

***The LPDV mandated the establishment of a unified and centralized registry of domestic violence cases, but it has not yet been set up. An additional difficulty is the lack of systematic and structured data collection and recording in the relevant services, leading to incomparable data across individual institutions, as there is no unified methodology for data recording.***

The additional failure to establish a centralized system not only leads to data

[6] Available on: https://www.mpravde.gov.rs/files/Закључак%20Владе%20%20о%20усвајању%20Општег%20протокола%2029.3.2024.pdf; приступљено: 29.05.2024.

duplication but also to the inability to track a case through the entire system—from the moment of reporting to its resolution. Although the central registry has not yet been established, one of the shortcomings regarding the data that should be collected, as specified by this law, is that it only covers the collection of data for criminal offenses related to domestic violence, and not for other forms of gender-based violence to which the LPDV applies.

***Data on certain types of violence are not available because the laws defining the content of the records are not aligned with the provisions of the Istanbul Convention. In institutions where some form of records exists, the data from these records are often not available to the public or are available only upon request. There is also a noticeable lack of adequate cooperation among relevant authorities and a deficiency in data exchange between systems.***

***Another problem is that the categorization of existing data is neither adequate nor uniformly defined, concerning the type of violence, the nature of the relationship between the victim and the perpetrator, as well as other significant personal attributes of the victim and perpetrator—such as gender, age, disability, etc.***

Data from judicial statistics do not provide any means to determine the extent and characteristics of reported and judicially prosecuted cases of gender-based violence against women, as the data collection method is centered around the perpetrator. Consequently, ***there is no consolidated data on victims of criminal offenses, including gender, the nature of the relationship between the victim and the perpetrator, and other relevant factors.***

It is essential to immediately establish an adequate central data collection system to address the deficiencies related to the lack of certain data, as well as the lack of comparability between the data currently being collected.

To assess the extent and prevalence of violence against women, ***it is necessary to collect and statistically record data on the scope, structure, prevalence, and other characteristics of domestic violence, as well as data that will allow for evaluating the effectiveness of institutional interventions. It is also very important to include violence against women outside the domestic context.***

The collection and recording of data on violence in intimate partner relationships and femicide are of particular importance.

Along with all the above, data is also necessary for assessing and evaluating the state's response, as it provides a solid foundation for monitoring trends and developing effective state policies and mechanisms for the prevention and protection against violence against women.

## Article 15: Training of professionals

4. *Please complete tables I and II included in the Appendix in order to provide a comprehensive overview of the professional groups that receive initial and in-service training on the different forms of violence against women and domestic violence. Please specify the frequency and scope of the training and whether it is compulsory.*

Article 28 of the LPDV stipulates that the competent police officers, as well as public prosecutors and judges who apply this law (judges of general jurisdiction courts and misdemeanor judges) are required to complete specialized training according to a program established by the Judicial Academy, which conducts the training for public prosecutors and judges in collaboration with other professional institutions and organizations.

The training program conducted by the Judicial Academy was designed before the implementation of the LPDV began, in collaboration with the British Council.

The training program includes the following presentations: 1. New European Standards for Combating Domestic and Gender-Based Violence – The Istanbul Convention of the Council of Europe; 2. International Principles for Combating Domestic and Gender-Based Violence – CEDAW UN Convention; 3. Relevant Cases from the European Court of Human Rights – Domestic and Gender-Based Violence; 4. The Law on Prevention of Domestic Violence with a Special Focus on the Application Procedure of the Law, Cooperation among Competent State Authorities and Institutions in Preventing Domestic Violence, Risk Assessment, and Development of an Individual Protection and Support Plan for Victims; 5. Preventing Domestic Violence.

For the participants of the training, printed materials have been provided that cover the presentations, literature, legal sources, and working materials. Additionally, the material is available in electronic form. The training is conducted in a single day by judges and public prosecutors who have previously completed training to become trainers. A primary critique is that after the training, there is no appropriate assessment of the acquired knowledge from the training, which would determine whether each participant has genuinely acquired and assimilated all the knowledge intended by the training. If not, this should result in mandatory re-attendance of the training.

Specifically, merely attending the training physically does not guarantee that each participant will attentively follow the course and assimilate the knowledge necessary for applying the LPDV. An assessment of knowledge should be mandatory and verified, especially considering that this is a licensed or certified training, which is a prerequisite for judges and public prosecutors to handle cases involving elements of domestic violence and other criminal offenses specified in Article 4 of the LPDV. Furthermore, the training content does not cover the phenomenology of domestic violence or gender-based violence, which would be of particular importance for participants to understand the gender

dimension of domestic violence and to overcome their biases and stereotypes in this area.

Additionally, a one-day training program cannot sufficiently and fully impact the participants, their attitudes, biases, or professional knowledge. Training needs to be conducted continuously, incorporating both basic and advanced levels of knowledge on gender-based violence and the protection and support mechanisms outlined in legal regulations. This is especially important considering that protection mechanisms and procedures for their implementation are included in multiple regulations, not only in the LPDV but also in the Criminal Procedure Code (CPL), the Family Law (FL), and the Misdemeanor Procedure Law (MPL). Therefore, the necessary knowledge to understand and apply these regulations cannot be adequately and comprehensively acquired through a single day of training.

Additionally, the training should include knowledge in the field of psychology related to understanding the sensitivity of victims of domestic violence and gender-based violence, with a special focus on children as victims. It should also cover techniques for interviewing victims of gender-based violence, particularly children. Without adequate handling of victims and understanding their psychology, problems, and needs, as well as without knowledge of interview techniques, the application of legal procedures aimed at protecting victims will not achieve the desired effect or provide effective protection and support. Furthermore, the training should include practical sessions on handling cases of gender-based violence, planning protection and support, and coordinated action by relevant state authorities and institutions. Licensed training should also involve representatives from non-governmental organizations that provide support to victims of gender-based violence, as well as experts in psychology, forensic medicine, and other relevant fields.

Training of police officers was conducted in the first half of 2024 as part of the VI cycle of specialized training for police officers on the application of the LPDV, based on Article 28 of the mentioned Law and the program of the Judicial Academy.

It should be emphasized that the content, program, and implementation methods have not changed or been improved compared to previous cycles. It is also very important to note that the previous V cycle of these trainings (which lasted several months) was conducted at the end of 2021 and the beginning of 2022. In addition to the lack of alignment with practical challenges, there was also a lack of continuity in the trainings, especially considering the very frequent staff changes.

Additionally, police officers from various lines of work are still being sent to training sessions, often without the basic knowledge necessary for working in this area, and these personnel typically exhibit very low motivation. Throughout the six cycles of specialized training (the first cycle was in 2017), over 2,500 police officers have completed the training, but currently, fewer than 500 apply the LPDV. This indicates a continual expenditure of training resources on new officers and a very high and constant

turnover of personnel involved in implementation and handling. ***Besides receiving certificates, trainees have not been provided with materials or publications of significance for the application of the acquired knowledge, giving the impression that the training is conducted solely for the purpose of certification and fulfilling the legal requirements for the application of the LPDV.***

As in previous years, the Ministry of Internal Affairs has not established systematic and regularly organized additional training for all police officers on handling cases of domestic or sexual violence. Most often, the only further professional development in these areas that police officers receive is through specific programs offered by NGOs and their activities in various districts and cities.

Women's organizations in Serbia, according to their fields of work and specialization, conduct periodical education. These activities are most often project-financed and are organized for professionals from institutions that are responsible for dealing with cases of violence.

"Practical application of the procedure for working with child victims of sexual abuse" is an accredited advanced training by the Ministry of Labour, Employment, Veterans and Social Affairs (002087997/12 2024 dated 11.07.2024) by Vladislava Krsmanović, Svetlana Radaković, Jelena Avramov and Maja Petrović, while the copyright holder is the Women's Support Center.[7] The training lasts 2 working days, 12 hours in total. It carries 15 points.

Objectives of the program:

- General objective of the training program: Practical application of knowledge and skills in work related to procedures, techniques and methods in protecting children from sexual abuse.
- Specific training objectives: Training of professional workers in the social protection system for independent, professional and competent implementation of work procedures with child victims of sexual abuse, especially those from sensitive social groups.

"The role and actions of the Center for Social Work when reporting suspected sexual abuse of children and during crisis interventions" is an accredited training course at the Ministry of Labour, Employment, Veterans and Social Affairs (000299833/1 2023 from 10/19/2023) authored by Vladislava Krsmanović, Radaković Svetlana, Avramov Jelene and Petrović Maje, while the copyright holder is the Women's Support Center[8]. The training lasts 2 working days, 12 hours in total. It carries 15 points.

Objectives of the program:

[7] Available on: http://www.cpz.rs/prakticna-primena-procedure-rada-sa-decom-zrtvama-seksualnog-zlostavljanja/
[8] Available on: http://www.cpz.rs/obuka-uloga-i-postupanje-csr-prilikom-prijave-sumnje-na-seksualno-zlostavljanje-dece-i-prilikom-kriznih-intervencija/

General objective of the training program: Transferring knowledge and skills in work related to procedures, techniques and methods in protecting children from sexual abuse, abuse and neglect.

Specific training objectives:

1. Acquaintance of professional workers with legal regulations at the national and global level and the prescribed procedures that are applied in the protection of children from neglect and abuse.
2. Training of professional workers in the social protection system for independent, professional and competent implementation of the complete procedure for the protection of children who are victims of sexual abuse, abuse and neglect.
3. Mastering the skills needed for crisis intervention.

The program "The role of Helathcare workers in Supporting victims of Sexual Violence" was accredited by Centre for Support of Women in cooperation with the Association of Health Workers of Vojvodina, at the Health Council of Serbia, under Decision number 153-02-00118/2023-01 dated 05/22/2023 and carries 6 points for the tested and 12 points for the authors.[9] The target group is doctors, especially specialists in gynecology and obstetrics, as well as nurses who met women who are potential victims of violence. The maximum number of program listeners is 30 people for a duration of 9 hours.

The objectives of the course are:

Improving the knowledge and skills of health workers to effectively provide support to women victims of domestic and gender-based violence; Improving the knowledge and skills of health workers for documenting and recording cases of violence against women, especially sexual violence; Improving the cooperation and communication of health workers with other institutions in multisectoral work on cases of violence against women and domestic violence; Improvement of mutual cooperation of health institutions; and Improvement of knowledge about the functioning of the service center for victims of sexual violence.

Since 2016, CSV has been continuously implementing the training program for the improvement of multi-sector cooperation in cases of violence against women, for representatives of all relevant institutions for handling cases of violence (police, prosecutor's office, centers for social work, health institutions and non-governmental organizations). These trainings are primarily intended for professionals from the territory of the Autonomous Province of Vojvodina.[10]

[9] Available on: http://www.cpz.rs/edukacija-za-zdravstvene-radnike-nacionalni-kurs-i-kategorije/
[10] Available on: http://www.cpz.rs/program-obuke-za-unapredjenje-multisektorske-saradnje-u-slucajevima-nasilja-nad-zenama/

## Article 16: Preventive intervention and treatment programmes

*5. Please provide information on measures taken to increase the number of available preventive intervention and treatment programmes for perpetrators of domestic and sexual violence both for voluntary and mandatory attendance.*

The implementation of programs for perpetrators of violence is legally defined but remains underdeveloped in practice, with no specific, sustainable, state funding for these programs.[11] The Law on Gender Equality[12] stipulates that the competent ministry, in cooperation with other authorities, organizations, and institutions dealing with violence protection, should ensure the implementation of programs for working with individuals who have committed violence.[13] The aim is to adopt non-violent behavior models in interpersonal relationships and prevent the recurrence of criminal acts of violence.

Programs for working with perpetrators are implemented sporadically[14] and are not yet part of an intersectoral protection system, nor are they linked to support programs for women and the coordinated response system to violence. They are inconsistent with the Istanbul Convention due to the absence of adopted standards.[15] Data on their distribution, quality, and effects are not monitored or collected, and they are not part of the systemic response to violence against women and children.[16] Consequently, there are no publicly available data on the number of men and boys participating in programs for perpetrators of domestic and sexual violence.

One of the challenges is the lack of funding for perpetrator programs, so they are implemented as part of the regular work of institutions, most often social work centers,

[11] Perpetrator Programs in the Western Balkans, Mapping Existing Practices and Ways Forward, Executive Summary Serbia (2022)
Jovanović, S. & Vall, B. (2022). Perpetrator Programs in the Western Balkans; Mapping Existing Practices and Ways Forward. Executive Summary. Serbia. Berlin: The European Network for the Work With Perpetrators of Domestic Violence (WWP EN). Available at: https://www.work-with-perpetrators.eu/fileadmin/wwp/What_we_do/Research/STOPP_-_Perpetrator_programmes_in_the_Western_Balkans/WWPEN_STOPP_ExecSum_SRB_220614_web.pdf
Accessed: 13.8.2024.
[12] „Official Gazette of the RS“ no. 52/2021
[13] Article 56 of the Law on Gender Equality provides that perpetrators of violence can be included in programs based on a decision of the competent authority or upon their own request. “Authorities, organizations, and institutions that implement programs for individuals who have committed violence must ensure that the safety, rights, and support for victims of violence are of primary importance, and that the implementation of these programs is carried out in close cooperation with specialized services for supporting individuals experiencing violence. Professional personnel and individuals who have reported violence, and who are involved in the protection of victims of violence and their children, cannot simultaneously participate in the implementation of programs for working with perpetrators of violence, nor can these services be organized in the same space, organization, or institution.”
[14] Dark Clouds Over Serbia: Shadow Report for the Fourth Periodic Report of the Republic of Serbia, during the 72nd session of the CEDAW Committee, 2019, p. 27, available at: https://www.cpz.rs/wp-content/uploads/2023/10/Tamni-oblaci-nad-Srbijom.pdf, Accessed: August 13, 2024.
[15] Strategy for the Prevention and Combat of Gender-Based Violence Against Women and Domestic Violence for the Period 2021-2025, p. 37
[16] Ibid

and occasionally in marriage and family counseling centers.[17] This practice raises questions about potential conflicts of interest, the number of perpetrators, and the impact on other service users. Additionally, there is a shortage of human resources for the comprehensive implementation of programs, making it impossible to achieve broad coverage of perpetrators and ensure continuous program implementation. Although many professionals are trained (116), less than 10% of them have had the opportunity to implement the programs.[18]

Mechanisms for referring perpetrators to programs for working with offenders are not sufficiently developed or utilized.[19]

A special program in the prison context exists as a pilot initiative, but there is no publicly available data, and there is no systematic evaluation of the program, except for project initiatives by a few non-governmental organizations.[20]

In the NGO sector in this area, two organizations are active. National Network for Perpetrator Programs – OPNA, established in 2015 as an informal network of nine institutions and organizations, became a civil society organization in 2020. It is a member of the European Network for Work with Perpetrators of Domestic Violence. Crisis Center for Men, founded in 2012, provided treatment for male perpetrators of violence, which is a modified version of the Norwegian program "Alternatives to Violence" (with the latest data on program implementation from 2019). Source: Strategy for Prevention and Combatting Gender-Based Violence against Women and Domestic Violence for the Period 2021-2025.

* In 2021, the Republic Institute for Social Protection conducted an educational workshop on the topic of "Work with Perpetrators of Violence" for supervisors from 49 social welfare centers[21] through the Zoom application.

* In 2021, the SOS Women's Center (Novi Sad) held an introductory online panel as part of the project "Integrated Program for Working with Perpetrators of Violence and Victims in Partner Relationships" with the support of UNDP. The program presented to representatives of local institutions and organizations included the work with perpetrators, the effectiveness of the program as a specialized and structured social protection service, and the standards for working with perpetrators and victims of violence within an integrated model.[22]

[17] Strategy for the Prevention and Combat of Gender-Based Violence Against Women and Domestic Violence for the Period 2021-2025, p. 37
[18] Ibid
[19] Ibid
[20] Programs for Offenders in the Western Balkans: Mapping Existing Practices and Further Development
[21] The topics covered were: types of partner violence and characteristics of perpetrators of violence; interviewing and interventions in working with perpetrators of violence and the ABC method; anger management; indicators of acceptance and denial of responsibility for violence.
[22] Source: https://sosns.rs/integrisani-program-rada-sa-pociniocima-i-zrtvama-nasilja-u-partnerksom-odnosu/

## Article 22: Specialist support services

6. *Please describe the type of specialist support services dedicated to women victims of the forms of gender-based violence covered by the Istanbul Convention (e.g., stalking, sexual harassment and domestic violence, including their digital dimension, female genital mutilation, forced marriage, forced sterilisation, forced abortion), including those specialist support services providing:*

The Law on Gender Equality and the Strategy for Preventing and Combating Gender-Based Violence Against Women and Domestic Violence for the Period 2021–2025 make a distinction between general and specialized support services. However, the Law on Social Protection[23] does not recognize such a division, which hinders the establishment of specialized support services for women and children's victims of violence in accordance with the Istanbul Convention. The Social Welfare Center decides on the realization of users' rights and the use of social protection services, which are mainly funded from local budgets. Most services are underdeveloped, not available throughout the country, and there are no updated, consolidated data on the available services for victims of violence or on their usage.

Specialized support services for women victims of gender-based violence covered by the Istanbul Convention, such as stalking, sexual harassment, and domestic violence (including their digital dimensions), female genital mutilation, forced marriage, forced sterilization, and forced abortion, are not developed. Instead, these are provided within the scope of services for victims of domestic violence, whose protection and support are primarily regulated by the LPDV and the FL.

Although the LGE mandates the provision of financial resources for the organization and implementation of specialized services in the budgets of the Republic of Serbia, autonomous provinces, and local self-government units, there are no publicly available aggregate data on budget allocations for financing general and specialized services.

The law explicitly states that local self-government units are responsible for providing safe accommodation for women victims of violence and their children, as well as free support for victims of sexual violence, either independently or in collaboration with one or more neighboring local self-governments. However, support for victims of sexual violence is not funded, and in some local self-governments, safe accommodation is also not provided, except in those where shelters for women victims of violence and their children (safe houses) are operational.

Specialized support services are also provided by women's specialized

[23] „Official Gazette of the RS" no. 24/2011 i 117/2022 – CC decision

organizations, but they are not recognized as relevant partners by the competent institutions in the process of protecting and supporting women victims of all forms of gender-based violence and domestic violence.

*a. shelters and/or other forms of safe accommodation*

In Serbia, there are 13 shelters for victims of domestic violence and one shelter for victims of human trafficking. Of these, five safe houses are licensed to operate, two are in the process of renewing their licenses, and seven applied for a license back in 2016. Out of the 13 operational shelters, two have weakened capacities and are at the edge of functionality.[24]

The total capacity of safe houses in Serbia is 190 beds, which is 74% below the standard set by the Council of Europe. According to this standard, Serbia needs to provide 719 places for women who are victims of violence.[25]

The shortage of specialized professionals in safe houses, which mostly operate as organizational units within social work centers, also impacts their ability to obtain operating licenses.[26]

Safe houses apply specific minimal standards for accommodation services, including shelters, which are not gender-sensitive and do not allow for individualization or respect for each woman's needs without discrimination. Due to the lack of specific standards for safe house services, these services are provided in varying ways concerning target groups of users, length of stay, services offered, costs, safety, and overall quality of the service.[27]

Local self-governments do not allocate sufficient funds for financing rights and services intended for women victims of violence, which affects the sustainability and availability of services, as well as achieving appropriate quality standards.[28]

The service of safe houses is not equally accessible to women from various sensitive categories, particularly women with disabilities, as 64.3% of safe houses lack adapted facilities for women with disabilities.[29]

In practice, it is essential to ensure equal access to safe houses for women from refugee and migrant populations, LGBTP+ women, and Roma women, as this is currently

[24] Functioning and Operations of Shelters for Women Victims of Domestic Violence (2023), Atina, p. 82, available at: http://atina.org.rs/sites/default/files/Funkcionisanje%20i%20rad%20prihvatili%C5%A1ta%20za%20%C5%BEene%20%C5%BErtve%20nasilja%20u%20Srbiji%20-%20Analiza%20zate%C4%8Denog%20stanja.pdf
[25] Ibid, p. 37
[26] Ibid
[27] Specialized Safe House Service in Serbia: Needs, Capacities, and Resources for Stable, Long-Term, and Uninterrupted Operation (2022), UN Women, p. 81, available at: https://eca.unwomen.org/sites/default/files/2023-02/un-women-sigurne_kuce-pbp-Specialised-service-of-safe-houses-in-Serbia.pdf
[28] Ibid
[29] Functioning and Operations of Shelters for Women Victims of Domestic Violence, p. 84

only formalized at the policy level and is unevenly applied in practice.[30]

Access to safe houses is limited for women who do not have documents, who are foreign nationals or asylum seekers/refugees/migrants, as well as for transgender women.[31]

Most safe houses (85.7%) have designated rooms for mothers with children. However, there is no prescribed age limit for accepting children who are victims of violence, and there is a need for an adequate response to their needs. This requires specialized staff, which is lacking, and employees are overburdened, impacting the quality of the provided services.[32]

All safe houses, in addition to providing accommodation, offer various support services for women and children, most commonly including psychological assistance, counseling, and economic empowerment.[33]

Half of the safe houses provide support services for children staying with their mothers, including educational workshops, continuous and planned assistance with school obligations and learning, participation in recreational activities, and access to comprehensive treatment services such as psychotherapy and psychosocial support.[34]

*b. medical support*

Existing laws and strategies in the field of healthcare recognize violence and define the role and responsibilities of the healthcare sector in identifying, reporting, supporting, and treating victims of gender-based violence.

The Health Care Act[35] specifies that health care encompasses victims of domestic violence and human trafficking.[36] Since 2010, the Ministry of Health has had a Special Protocol for the Protection and Treatment of Women Exposed to Violence, which sets standards and procedures for providing protection to women victims of violence, including detection, documentation, and treatment.[37] An integral part of the Protocol is the Violence Documentation Form, which can be used in court proceedings and during forensic medical examinations.[38] However, the Special Protocol has not yet been harmonized with the Law on the Prevention of Domestic Violence and its provisions regarding the obligation to report domestic violence, confidentiality, and privacy of all patient data, as well as patient

[30] Ibid, p. 85
[31] Ibid
[32] Ibid
[33] Ibid, p.48
[34] Ibid, p. 49
[35] „Official Gazzette of the RS“ no. 25/2019
[36] Health Care Law, Article 11, Paragraph 2, Items 12 and 13
[37] Available at: file:///C:/Documents%20and%20Settings/Developer/My%20Documents/Downloads/UNDP_SRB_TirkizniTekst.pdf (приступљено 28.01.2021.)
[38] Strategy for Preventing and Combating Gender-Based Violence Against Women and Domestic Violence for the Period 2021-2025, p. 46

consent.[39] According to research on the experiences, attitudes, and practices of healthcare professionals, only a quarter recognize and address violence within their professional duties.[40] Psychosocial support is the weakest link in the support and protection provided within the healthcare sector. Social workers and psychologists in healthcare institutions are often not trained to assist women in overcoming trauma caused by violence.[41]

c. *short- and long-term psychological counselling*
d. *trauma care*
e. *legal counselling*

Resources for providing services and activities related to mental health in Serbia are defined within various systems, including social protection, health care, and the education system. These services are also available through the non-governmental sector, private sector, and informal associations.[42]

Short-term and long-term counseling, as well as legal counseling services, are primarily provided by specialized women's organizations.

Social welfare centers primarily provide short-term psychological counseling and legal counseling for victims of violence, typically as part of various social support services.[43] Case managers offer counseling services as an integral part of their activities, including assessing and implementing protective and support measures for clients. They may also perform specialized tasks related to individual and group counseling, depending on their specific knowledge and skills.[44] Practices vary: in social welfare centers where case managers or social workers are complemented by employed psychologists, psychosocial support services are integrated into regular activities. Conversely, in centers with a shortage of specialized staff, activities are primarily focused on pragmatically addressing urgent situations and highly demanding cases.[45]

Individual and group counseling, psychological support, and psychotherapy are formally provided within Family Counseling Centers in locations where this service is available. Although Family Counseling Centers are not legally recognized as distinct social welfare services or institutions, they function as services provided within social welfare centers or service centers[46] established in some local self-governments. The counseling center is a special organizational unit offering counseling and family

[39] Ibid
[40] Ibid, p. 47
[41] Ibid
[42] Mental Health in Serbia, Availability of Psychosocial Support Services (2022), GIZ, available at: https://psychosocialinnovation.net/wp-content/uploads/2022/05/DOSTUPNOST-USLUGA-PSIHOSOCIJALNE-PODRSKE.pdf, accessed: 14.8.2024.
[43] Ibid
[44] Ibid
[45] Ibid
[46] Ibid

psychotherapy services both to clients from the social welfare system and to the general population. Since standards for providing counseling and therapeutic services or for the operation of Counseling Centers are not defined, this type of service cannot be licensed, and practices and methods of operation are not standardized among service providers.

An additional challenge in the field of providing psychosocial support is the fact that there are no defined standards for the group of counseling, therapeutic, and socio-educational services. As a result, providers of these services are unable to obtain licenses, which in turn prevents them from receiving funding from local government budgets for providing these services.[47]

Data on the treatment of trauma caused by gender-based violence is not publicly available. It is a fact that there is a shortage of specialists trained to provide support and treatment for trauma experienced by survivors of violence. A particularly significant issue is the fact that there are only 21 licensed child psychiatrists in Serbia.[48]

Women and girls over the age of 15 who have survived sexual violence receive short-term and long-term psychological support in four centers for victims of sexual violence, all of which operate exclusively in the Autonomous Province of Vojvodina. These services are also available in three general hospitals—Zrenjanin, Kikinda, and Sremska Mitrovica—as well as at the Clinic for Gynecology and Obstetrics at KCV in Novi Sad, as a project activity funded by donors.[49] The Center for Victims of Sexual Violence provides 24/7, free specialized medical and laboratory examinations, as well as support to victims and their families in the case of trauma, including psychological, legal, and community services. Psychosocial support services—crisis intervention and extended psychosocial and psychological support—are provided within the health institution by trained counselors from the specialized women's organization, the Center for Support of Women Kikinda.

*f. telephone helpline*

According to data from UNDP Serbia, there are 26 local SOS hotlines across 18 cities throughout the country. In 2019, there were 10 licensed SOS hotline service providers. The SOS hotline services provided by organizations grouped around the Network of Women Against Violence are regional and local in nature. The only example of a regionally organized, licensed national SOS hotline service is provided by the "SOS Vojvodina Network" Federation, which operates a free hotline at 0800 101010. In 2020, 489 women reached out through this service, which provided a total of 3,457 services.[50]

[47] Ibid
[48] Available at: https://www.danas.rs/vesti/drustvo/u-vojvodini-samo-cetiri-decja-psihijatra-jedan-specijalista-na-50-000-mladih/
[49] Available at: https://www.cpz.rs/service/centar-za-zrtve-seksualnog-nasilja/
[50] Strategy for the Prevention and Combat of Gender-Based Violence Against Women and Domestic Violence for the Period 2021-2025

Within this licensed service, three associations offer the SOS hotline service in both Roma and Serbian languages.[51]

The National SOS Hotline, provided by the Center for the Care of Infants, Children, and Youth, operates 24/7 at the number 0800 222 003. In 2019, the hotline recorded 3,478 calls. During service provision, conversations with users/women are recorded, and all recordings are kept in case they are required by a court order. Women's organizations are concerned that this practice may jeopardize the anonymity of callers and thus discourage women from seeking help.[52]

*g. other forms of support (e.g. socio-economic empowerment programmes, online assistance platforms etc.)*

Services for the assistance and support of witnesses and victims

At the higher courts in the Republic of Serbia, there are established services for the assistance and support of witnesses and victims. Similarly, at the higher public prosecutors' offices, there are services for informing and supporting victims and witnesses. However, these services are not specialized for providing support to victims of domestic and gender-based violence; rather, they offer general assistance for all categories of victims and witnesses. Therefore, there is no requirement for specific knowledge and experience in working with victims, especially children who are victims of violence. Additionally, most of these services do not have specifically systematized positions for their work; instead, judicial and prosecutorial assistants, among other tasks they perform, are engaged in carrying out the duties of these services.

## Article 51: Risk assessment and risk management

*48. Please describe any standardised and mandatory risk assessment tools in use by all relevant authorities in all regions for forms of violence against women such as stalking, violence committed in the name of so-called honour and domestic violence and to what extent these tools are being used in practice to assess the lethality risk, the seriousness of the situation and the risk of repeated violence with a view to preventing further violence. Please specify whether the following elements are considered as red flags when carrying out the risk assessment:*
*a. the possession of or access to firearms by the perpetrator.*
*b. the filing for separation/divorce by the victim or the break-up of the relationship.*
*c. pregnancy.*
*d. previous acts of violence.*
*e. the prior issue of a restrictive measure.*
*f. threats made by the perpetrator to take away common children.*
*g. acts of sexual violence.*
*h. threats to kill the victim and her children.*

[51] Ibid
[52] Ibid

*i. threat of suicide.*
*j. coercive and controlling behaviour*

In accordance with the LPDV, the responsible police officer assesses the risk and determines whether there is an immediate danger of domestic violence. The police officer evaluates the risk of domestic violence based on the Instructions on Standard Operating Procedures for the Prevention and Suppression of Domestic Violence, which defines 27 risk factors that are assessed, among other things.

***Pregnancy of the victim is not recognized as a risk, even though the 27th risk is defined as "Other possible risks." Other risks from the questionnaire are recognized and defined.***

If the competent police officer determines an immediate danger of domestic violence after the risk assessment, they impose urgent measures. However, neither the Law nor other instructions and directives have precisely defined what the minimum risks or "red flags" are that represent a particularly high danger.

Namely, based on the risk assessment, where 27 defined risks are considered, the police officer, through their own assessment, determines if there is an immediate danger of domestic violence. On the other hand, due to fear of liability, it is very rare for urgent measures not to be imposed, and there is always at least one established risk considered to indicate an immediate danger. This has led to the practice where risks are not thoroughly and correctly assessed, often with only obvious risks being considered, while other risks remain undetected and unchecked. This results in improper safety measures by the police and inadequate coordination with the public prosecutor. In these cases, the urgent measures are not adequate and sufficient to prevent violence, and the unaddressed or undetected risks indicate the need for a different safety plan and approach.

Defined risks of domestic violence are uniform across all victim categories and for all forms of domestic violence. Consequently, risk assessment is conducted in the same manner whether the violence is directed at a spouse or a child.

Police officers have not yet made significant progress in collaborating and exchanging information about risks with other specialized victim support services and other state agencies. It seems that with the attitude of "I have already defined risks," the police officer lacks motivation to gather further information, as the Law on Preventing Domestic Violence does not define risk gradation but only whether a risk exists or not.

The Ministry of Internal Affairs has not undertaken activities to establish a systematic retrospective analysis of cases of gender-based killings of women.

In all individual cases of gender-based killings of women, checks and analyses are conducted solely to assess the legality of the procedures and the adherence to legal steps and formalities, rather than to evaluate the quality of security measures, the appropriateness of risk assessments, the correct application of knowledge and skills, or to

identify critical points with the aim of preventing these killings through changes in specific "steps."

### Article 52: Emergency barring orders

*7. Have any legislative or other measures been taken to introduce and/or amend the legal framework governing emergency barring orders in order to align it with the requirements of Article 52?[53] If yes, please specify whether:*

*a. emergency barring orders may remain in place until a victim can obtain a court-ordered protection order in order to ensure that gaps in the protection do not arise.*
*b. support and advice are made available to women victims of domestic violence in a pro-active manner by the authority competent to issue an emergency barring order.*
*c. children are specifically included in contact bans issued under the emergency barring order.*
*d. any exceptions to contact bans are made and in which circumstances.*

U LPDV, a police officer is required, after conducting a risk assessment, to issue one or both emergency measures provided by the law if they determine that there is an immediate danger of domestic violence. These measures include the temporary removal of the perpetrator from the residence and a temporary restraining order prohibiting the perpetrator from contacting or approaching the victim.

The emergency measure imposed by the competent police officer lasts for 48 hours and can be extended for 30 days based on a proposal from the competent public prosecutor. This extension can be granted before the initial 48 hours expire, ensuring continuity in the protection of domestic violence victims while the emergency measure remains in effect.

In practice, it is observed that competent police officers conduct risk assessments regarding children who are victims of domestic violence only in cases where the children are direct victims of violence. However, when the children are indirect victims of domestic violence, risk assessments are generally not carried out, nor are emergency measures imposed. Even more rarely is it determined whether the children were present during the violence and thus became indirect victims of domestic violence.

### Article 53: Restraining or protection orders

*8. Have any legislative or other measures been taken to introduce and/or amend the legal framework governing restraining and protection orders in order to align it with the requirements of Article 53? If yes, please specify whether:*

*a. restraining or protection orders are available – in the context of criminal proceedings and/or upon application from civil courts - to women victims of all forms of violence covered by the Istanbul Convention, including domestic violence, stalking, sexual*

[53] This question refers to the obligation contained in Article 59, paragraph 3. State parties that have entered a reservation in respect of Article 59 may reply to this question but are not required to do so.

*harassment, forced marriage, female genital mutilation, violence related to so-called honour as well as digital manifestations of violence against women and girls;*

*b. children are specifically included in protection orders;*

*c. any exceptions to contact bans are made and, if so, in which circumstances these may be made.*

When it comes to measures of prohibition and protection, the Family Law provides that the court can impose one or more protective measures against the perpetrator of domestic violence. These measures include prohibition of further harassment, prohibition of approaching and communicating with the victim, prohibition of approaching the victim within a specified distance, prohibition of accessing the victim's workplace or residence within a specified distance, order for eviction from the family home, order for re-entry into the family home, regardless of property ownership or lease rights. A lawsuit for determining family legal protection measures can be filed by the victim of domestic violence, their legal representative or attorney, or by the competent Social Welfare Center or public prosecutor ex officio. These measures are set for a duration of up to one year but can be extended as long as the reasons for their imposition persist, and they may be extended indefinitely.

Family law protective measures can coexist with protection measures prescribed by other laws, meaning that one set of measures does not exclude the other. Additionally, the Criminal Code provides that a perpetrator of a criminal offense, including domestic violence, may be subject to a measure of prohibition of approaching and communicating with the victim, as stipulated by Article 89a of the Criminal Code. This measure involves prohibition of approaching the victim within a specified distance, prohibition of accessing the area around the victim's residence or workplace and prohibition of further harassment or communication with the victim. The duration of this measure can range from six months to three years, starting from the day the decision declaring the perpetrator guilty becomes final, with the time served in prison not counting towards the duration of this measure.

This security measure is imposed after the criminal proceedings have concluded. However, during the criminal proceedings, protective measures stipulated by the Criminal Procedure Code can also be imposed on the accused. Specifically, Article 197 of the Criminal Procedure Code provides that the accused may be subject to a measure prohibiting them from approaching, meeting, or communicating with certain individuals and from visiting certain places if there are circumstances suggesting that the accused might interfere with the proceedings. This includes influencing the victim, witnesses, accomplices, or concealors, or if there is a risk that the accused might repeat the offense, complete an attempted offense, or commit a new offense threatening to do so. Additionally, the accused may be required to report periodically to the police, a designated official from the state administration responsible for criminal sanctions, or another state body specified by law.

This measure is determined by the court at the request of the public prosecutor and can last up to the finality of the judgment, or until the accused is sentenced to a custodial criminal sanction.

In practice, it is noticeable that these protective measures from the CC and the CPC are not proposed or issued in every case where there are reasons for doing so. Additionally, public prosecutors and social welfare centers rarely file lawsuits for the determination of family violence protection measures in accordance with the FL.

**Article 56: Measures of protection**

*9. Please provide information on the measures taken to ensure the following:*

*a. that the relevant agency informs the victim when the perpetrator escapes or is released temporarily, at least when they or their family might be in danger (paragraph 1 b);*
*b. the protection of the privacy and the image of the victim (paragraph 1 f);*
*c. the possibility for victims to testify in the courtroom without being present or at least without the presence of the alleged perpetrator, notably through the use of appropriate communication technologies, where available (paragraph 1 i);*
*d. the provision of appropriate support services for victims so that their rights and interests are duly presented and taken into account (paragraph 1 e).*

When it comes to protective measures, particularly regarding informing victims about the escape of the perpetrator or temporary release from custody, the Criminal Procedure Code (CPC) does not require the public prosecutor or the court to notify the victim of these circumstances. There is also no obligation for any other state authority or institution to provide such information ex officio. Therefore, the duty to inform exists only if the victim specifically requests such information.

However, despite this gap in the positive legislation, it is believed that there is no barrier preventing the public prosecutor or the court from informing the victim during the criminal proceedings. When considering the role of the Coordination and Cooperation Group as stipulated by Article 25 of the LPDV, which involves reviewing each domestic violence case and developing an individual protection and support plan, it can be concluded that the Coordination and Cooperation Group, consisting of representatives from the public prosecutor's office, the social welfare center, and the police department, is indeed obligated to include in their planning for protection and support the duty to promptly inform the victim about the perpetrator's escape, temporary release, or the lifting of detention or other protective measures.

When it comes to convicted individuals serving prison sentences, Article 181 of the Law on Execution of Criminal Sanctions[54] provides for the possibility that, in cases

[54] „Official Gazzette of the RS" no. 55/2014 i 35/2019

where a convicted person for crimes against life and body, sexual freedom, or marriage and family is released from prison, granted conditional release, or escapes from prison, the institution will notify the victim if the victim has requested it and if the risk assessment by the institution indicates the need for preventive protection of the victim. It is argued that such notification to the victim should be mandatory rather than optional for penal institutions, ensuring that every victim is informed about these facts as they have a significant impact on the safety risks to the victim. Additionally, there should be an obligation to inform the relevant Coordination and Cooperation Group to enable the development or revision of the protection and support plan.

In relation to procedural mechanisms for victim protection aimed at allowing victims to testify in court without their physical presence, or using appropriate communication technologies, Articles 103 and 104 of the CPC provide that the procedural authority, namely the public prosecutor or the court, may designate a witness as a particularly sensitive witness based on factors such as age, life experience, lifestyle, gender, health condition, nature, manner, or consequences of the crime, or other case-specific circumstances, either ex officio or upon request. According to Article 104, the witness can then be examined with the assistance of a psychologist, social worker, or other expert, using technical means for transmitting image and sound without the presence of other participants in the proceedings in the room where the witness is located.

However, in practice, the application of this witness protection institution is very rare. This is because not all courts and public prosecutor's offices have the necessary technical equipment to examine particularly sensitive witnesses. Only higher courts in Novi Sad, Belgrade, Šabac, Kragujevac, Novi Pazar, Vranje, and Niš have such equipment. Even within these jurisdictions, not all victims and witnesses who would benefit from being granted the status of a particularly sensitive witness are examined in this manner. As a result, in most cases, victims are questioned in the same room as the accused and other participants in the proceedings.

## Part III: Emerging trends on violence against women and domestic violence

10. *Please provide information on new developments since the adoption of GREVIO's baseline evaluation report on your country concerning:*

    a. *emerging trends in violence against women and domestic violence, including its digital manifestations (types of perpetrations, groups of victims, forms of violence);*
    b. *emerging trends in domestic case law related to violence against women;*
    c. *emerging trends in the allocation of funding and budgeting by your state authorities;*
    d. *innovative approaches to primary prevention, for example new target audiences and means of communication, public/private partnerships etc.*
    e. *emerging trends related to access to asylum and international protection for women victims of violence against women.*

**Frequency of femicide cases, 2023 and the first half of 2024**

In Serbia, a significant number of femicides continue to occur. Although there is no official statistics on femicides, data collected from the media shows that 28 women were killed in 2023, which is the highest number in the past five years, and 11 women were killed in the first half of 2024. On average, every two weeks one woman is killed, mostly in the context of domestic and partner violence.

Research shows that most femicides could have been prevented, but in many cases, timely and effective institutional responses to violence reports were lacking, as well as proper risk assessment and mitigation of danger regarding femicides. However, a body to monitor femicides, which would collect data on femicides, victims, and perpetrators, and be responsible for analyzing the actions of competent authorities in preventing and prosecuting femicides, has still not been established. Its formation was announced as early as 2018 and planned in the Strategy for Preventing and Combating Gender-Based Violence Against Women and Domestic Violence, as part of the strategic goal related to ensuring effective and efficient protection of victims of violence.

It is necessary to urgently establish a national body to monitor femicides, in accordance with the recommendations of the UN Special Rapporteur on Violence Against Women. This body should be responsible for collecting and publishing data on femicides, following the common statistical framework for measuring gender-based killings of women and girls by UNODC and UN Women, to ensure their comparability at regional and global levels. It should analyze individual cases of femicides to identify gaps in protection, services, and legislation, formulate evidence-based recommendations for improving societal and legal responses to femicides, and initiate and conduct independent research, among other tasks.

**Initiative for the Criminalization of Femicide**

In Serbia, femicide is not criminalized as a separate offense. Cases of femicide are qualified and prosecuted under existing gender-neutral criminal offenses: as so-called ordinary murder (Article 113 of the Criminal Code) or some forms of aggravated murder (Article 114 of the Criminal Code), such as murder committed in a brutal or insidious manner, murder out of ruthless revenge or other base motives, murder of a family member previously abused by the perpetrator, and so on, or as some forms of privileged murder, such as murder in the heat of passion (Article 115 of the Criminal Code), domestic violence resulting in the death of a family member (Article 194, paragraph 4 of the Criminal Code), or serious bodily harm resulting in the death of the victim (Article 121, paragraph 3 of the Criminal Code), among others.

Research shows that while the provisions mentioned allow for the prosecution of

femicides under current conditions, they do not enable precise tracking of femicides, nor do they allow for the assessment of the effectiveness and efficiency of the state response to femicide. Studies of judicial practice in cases of femicide and attempted femicide have revealed significant inconsistency in the qualification of the offenses, and consequently, in the sentences imposed. Between 2015 and 2019, 99 judicial proceedings related to the murders of women, or other criminal offenses against women resulting in death, were concluded in Serbia. These cases were classified as: ordinary murder (45); aggravated murder (47); murder in the heat of passion (2); domestic violence resulting in death (2); and serious bodily harm resulting in death (3). In many cases, mild sentences were imposed, often due to the classification of the murders as ordinary murders, even though they exhibited characteristics of aggravated murder. Courts generally do not consider the gender-based nature of the murder, the relationship between the perpetrator and the victim, prior violence by the perpetrator against the victim, and other factors, placing excessive importance on mitigating circumstances such as the perpetrator's family status, parenthood, confession, good conduct in court, etc. Some judgments reflect gender-stereotypical views of female victims of femicide, suggesting that they violated acceptable behavior norms expected of women, which influenced the offense to be classified as a lesser form of murder—murder in the heat of passion.

Considering the specifics of femicide as a gender-based murder of women, in May 2024, 13 organizations and collectives gathered in the ad hoc coalition "Together Against Femicide" submitted an initiative to the Ministry of Justice for the special criminalization of femicide. The initiative highlighted the need for special criminalization to ensure that all cases of femicide are adequately prosecuted and sanctioned, narrow the scope for possible errors in the qualification of the criminal offense and sentencing, standardize judicial practice, reduce legal uncertainty, and allow for statistical tracking of the number of individuals reported, charged, and convicted of femicide. However, there is no information available on whether the initiative was accepted, but responses from some officials indicate a misunderstanding of the gender dimensions of murders of women. In the current social context, the special criminalization of femicide would create conditions for easier recognition of gender-based reasons for the murder of women and understanding its deep-rooted nature in gender inequalities, provide greater justice for victims and their families, and contribute to the prevention of this most severe form of gender-based violence against women.

**Increased number of cases of digital violence**

There are no official data on the prevalence of digital gender-based violence, but there is a noticeable trend of its increase alongside the expansion of internet and digital technology use. Research by NGOs focusing on this issue shows that digital gender-based violence is

becoming more common among children and adolescents. More than 70 percent of girls report feeling less safe in the digital space compared to boys and are exposed to various forms of violence due to the normalization of violence against women in public discourse and digital spaces, such as “silencing,” offensive comments, and belittlement. Eight percent of high school girls have been subjected to blackmail through the release of revenge pornography, with nearly one in ten girls experiencing these threats being realized. The publication of revenge pornography is often associated with other forms of gender-based violence perpetrated through ICT.

The legal framework for protecting women from various forms of gender-based digital violence has not been improved. The level of awareness among women about the procedures for reporting digital violence is low, and institutional responses are often delayed and/or ineffective, due to insufficient sensitivity among professionals in understanding and appropriately responding to cases of digital gender-based violence. Therefore, it is essential to urgently undertake comprehensive and coordinated legislative and other measures to effectively detect and prosecute all forms of gender-based digital violence against women.

*Report prepared by CSW members and external associates: Professor Dr. Marijana Pajvančić, Professor Dr. Nevena Petrušić, Slobodan Josimović, Danica Todorov Jašarević, Biljana Stepanov and Olivera Vuković from SeConS.*

*In the preparation of the report, data and information from CSW and other womens NGO in RS, as well as publicly available data from institutions and NGOs were used.*

Centar za podršku ženama
Center for Support of Women

**ANNEX 1.**

Republic of Serbia

CONSTITUTIONAL COURT Number: IUz-85/2021

28 June 2024

Belgrade

The Constitutional Court comprising: President of the Court Snežana Marković and judges Gordana Ajnšpiler Popović, Tatjana Ćurkić, Vesna Ilić Prelić, Dr Tamaš Korhec (Korhecz Tamas), Miroslav Nikolić, Dr Vladan Petrov, Dr Nataša Plavšić, Dr Milan Škulić and Dr Tijana Šurlan, based on Article 167, paragraph 1, item 1 of the of Republic of Serbia Constitution, at the session held on 27 June 2024, reached the following

D E C I S I O N

1. The procedure to determine the unconstitutionality of the Law on Gender is Equality ("RS Official Gazette", number 52/21) is hereby initiated.

2. This decision is to be submitted to the National Assembly for answer.

3. The deadline for giving the answer from item 2 above is 30 days of the day of delivery of the Decision to the National Assembly.

4. The execution of an individual act or action undertaken based on the provisions of the Law from item 1 is hereby suspended.

STATEMENT OF REASONS

I

Eight initiatives have been submitted to the Constitutional Court for the initiation of proceedings for the assessment of constitutionality and compliance with ratified international treaties of the Law on Gender Equality provisions.

The proponent of the first initiative notes that the above mentioned Law introduced concepts contrary to the Constitution and almost all existing laws with the general, vague and undefined term "gender" from the provisions of Article 6, paragraph 1 item 1) of the Law and the term "gender-sensitive language" from the provisions of Article 6, paragraph 1, item 17) of the Law introduced notions contrary to the Constitution and almost all the

existing laws, and that, by applying the provisions of this law, for example art. 3, 6, 10, 16, 25, 30, 37, and so forth, they violate the principles of the rule of law, legal certainty and predictability of regulations. In the amendments to this initiative, the Constitutional Court is requested to postpone the application of Article 37 of the Law, which stipulates the obligation to introduce gender ideology in all textbooks and other teaching and educational materials, as well as Article 44 of the Law which obligates the media to use "gender-sensitive language". It is also asserted that the provisions of Art. 76 and 77 of the Law are contrary to the provisions on the equality of sexes, men and women, from the Constitution of the Republic of Serbia, the European Convention for the Protection of Human and Minority Rights and Fundamental Freedoms, since the provision of Article 76 stipulates that the Law on the Equality of Sexes ("RS Official Gazette", number 104/09) which regulated the equality of binary people - natural men and women ceases to be valid, while the provisions of Article 77 of the Law, among other things, stipulated that this law enters into force on the eighth day of the day of publication in the "Republic of Serbia Official Gazette", and according to the initiator's opinion, it regulates the equality of non-binary persons, as social terms.

The proponent of the second initiative asserts that he opposes the unconstitutional and scientifically unjustified introduction of the "gender" institute, which is completely different from the concept of biological gender, and the fact that citizens can be classified into groups according to sexual orientation, that is, according to how they perceive themselves – according to gender identity. The proponent believes that, when "regulating the language rules", that is, the concepts stipulated by the provisions of Article 4 and Article 6, paragraph 1, items 1, 2, 4 and 24 of the Law – the introduction of the term "gender", "gender identity", "gender characteristics", "gender restrictions", "gender discrimination" and "gender stereotypes" the legislator exceeded the powers from Article 97 of the Constitution, as well as that the contested provisions of article 6 of the Law are contrary to the provisions of Article 10 of the Constitution, which establishes that in the Republic of Serbia, the Serbian language and the Cyrillic script are in official use. Moreover, the constructing of the concept of "vulnerable groups" for the purpose of applying affirmative measures in accordance with the Law according to the sexual orientation of the person or their "gender identity" is contrary to the principle of prohibition of discrimination from Article 21 of the Constitution, since these "groups" acquire the right to use budget funds. The initiative points out that the provisions of Article 37, paragraph 1, item 1) of the Law, which contain a legal order that teaching programmes and materials be developed with the aim of overcoming gender stereotypes and prejudices, and the visibility of vulnerable social groups, represents a violation of university autonomy from Article 72 of the Constitution, as well as that the provision of Article 37, paragraph 1, item 4) sub-item (3) of the Law, that is, legal prescribing of the obligation to use gender-

sensitive language in textbooks and teaching material, according to the opinion of the initiator, obviously different from the standard Serbian language, does not comply with Art. 10 and 72 of the Constitution.

It was also asserted that the provisions of Article 43, paragraph 2, item 1), Article 44, paragraph 2 and 3 and Article 45, paragraph 2, item 1) of the Law, that is, the stipulated special measure of support to cultural and sports programmes that are financed from public funds, which contribute to the prevention and suppression of gender stereotypes, that is, deconstruction of gender stereotypes, as well as the stipulated ban in the domain of public informing, public advocacy, support and acting based on gender stereotypes, and the stipulated duty of the media to use gender-sensitive language when reporting, do not comply with the provisions of Article 43 of the Constitution, which guarantees freedom of thought, conscience and religion, Article 46 of the Constitution, which guarantees freedom of opinion and expression, and Article 18 of the Universal Declaration on Human Rights. In addition, stipulating the obligation for the public information media (Article 44, paragraph 3) also represents a violation of one of the principles of a free society, because by prescribing the manner of reporting it practically introduces censorship prohibited by Article 50 of the Constitution.

The proponent of the third initiative contests Article 10 of the Law which regulates special measures for achieving and improving gender equality (special measures must, among other things, ensure the use of gender responsive language in order to influence the removal of gender stereotypes when exercising the rights and obligations by women and men), in relation to the provisions of Art. 15 and 23 of the Constitution that guarantee gender equality and dignity and free personality development, bearing in mind that the Constitution precisely recognises sexes and not genders, as well as that, according to the opinion of the initiator, the contested article alters the Serbian language, and that the text and the spirit of this Law as a whole grossly violates the dignity of every human being in Serbia.

The fourth initiative contests the provision of Article 6, paragraph 1, item of the Law, in relation to the provisions of Art. 10, 15, 62 and 194 of the Constitution, stating that the Law imposes a new reform of the Serbian language, the standards and goals of that reform in order for us to get "gender-sensitive language", while the norming of "gender-sensitive language" as a "means to influence awareness" in order to achieve "changes in opinions, attitudes" and behaviour" goes beyond the competences of the legislative authority in terms of representation of citizens (and their values, culture, achievements...) and regulation of social and political developments, as well as that the law ignores and misinterprets the constitutional category of "sex" by introducing the term "gender" and

that the term gender causes confusion and uncertainty, relativises and deforms the constitutional notion of marriage.

The proponent of the fifth initiative challenges the provisions of Article 6, paragraph 1, item 17, Article 10, paragraph 3, item 6, Article 25, paragraph 1, in the part that refers to the duty of public authorities to continuously monitor the use of gender sensitive language in the names of jobs, positions, titles and professions, Article 37, paragraph 1 item 4) subitem (3), Article 44, paragraph 3, in the part that refers to the duty of public information media to use gender-sensitive language when reporting, Article 68, paragraph 1, item 9 in the part related to non-compliance with obligations stipulated by Article 37, and Article 37, Paragraph 2 of the Law on Gender Equality in in relation to provisions 1, 21 and 46 of the Constitution. The reasons for the initiative are based on the following: firstly, the aforementioned provisions, as imperative legal norms impose, that is, determine the way of applying language, that is, language standards, which is contrary to the guaranteed freedom of opinion and expression from Article 46 of the Constitution and the principles of civil democracy established in Article 1 of the Constitution; secondly, the aforementioned provisions introduce legal uncertainty, because it is imposed on personal holders of public authority and certain employers to apply the language the standards of which are changeable, complex and diverse, placing them in potential danger of sanctioning, regardless of the attention they would pay to the application of the thus determined gender responsive language; thirdly, the discriminatory character of the aforementioned provisions is reflected in the fact that they refer to users of the Serbian language and the Law has obviously omitted all minority languages in the Republic of Serbia, so they are not in accordance with the principle of prohibition of discrimination from Article 21 of the Constitution; the term gender used by the disputed Law does not exist in that sense in the Constitution, but only sex, making the whole law unconstitutional, that is, contentious in everything.

The sixth initiative asserts that the provisions of Art. 1, 3, 4 and Article 6, Paragraph 1, item 1) of the Law regulating the subject of the Law, stipulated and defined gender equality (gender equality principle), discrimination based on sexual characteristics, that is gender, and the meaning of the term "gender" used in this Law are in contravention of the provisions Article 15 of the Constitution. According to the initiative proponent, the contested provisions institutionalised the gender equality principle that the Constitution does not recognise and introduced the legal institute of discrimination on the basis of gender characteristics, that is, gender and the term "gender", which the Constitution also does not recognise, therefore, these disputed provisions are contrary to the legally institutionalised principle of equality of sexes from Article 15 of the Constitution. Furthermore, the initiative proponent points out that the principle of equality between men and women is the foundation of other rights as well freedoms guaranteed by the

Constitution, such as the right to marry and equality of spouses (Article 62 of the Constitution), freedom to decide on childbirth (Article 63 of the Constitution), rights and duties of parents (Article 65 of the Constitution) and the principle of special protection of the family, mother, single parent and child (Article 66 of the Constitution), as well as that international legal documents that are part of the legal order of the Republic of Serbia, legally institutionalised the principle of equality of men and women, and the contested provisions violated the principle of singularity of the legal order from Article 194 of the Constitution.

The proponents of the seventh initiative contest several provisions of the Law, and, first of all, they assert that the provision of Article 37, paragraph 1, item 1) of the Law is not in accordance with the provision of Article 72 of the Constitution, which guarantees the autonomy of the university, and the provision of Article 73 of the Constitution, which guarantees the freedom of scientific and artistic creativity. The reasons for these claims are reflected in the fact that, according to the initiator, the contested article provided restrictions on the free choice of the teaching curricula and materials at all educational levels, and the legislator has a different range of freedom of regulation and restrictions when it comes to primary and secondary education on the one hand and higher education, that is, university education on the other side that enjoys the autonomy guaranteed by Article 72 of the Constitution, in terms of organising of planning and work. Therefore, they assert that the provision of Article 37, paragraph 1, item 1) of the Law, in the part which foresees the obligation to include mandatory elements and the obligation to exclude certain content elements in the part that refers to the content of curricula and teaching materials in the higher education system, that is, the university, is unconstitutional. Also, restricting university autonomy must be in accordance with the provisions of Article 20 of the Constitution, and in that sense, even though legitimate goal stipulated by the contested provision "in order to overcome gender stereotypes and prejudices and in order to foster a culture of mutual respect", the domain of autonomy of the university's will can be narrowed only in accordance with the principle proportionality and inviolability of the essence of fundamental rights, which the contested provision, according to the initiator's opinion, does not fulfil, above all, the method of removing a particular content is not eligible, there are less restrictive ways to meet the goal stipulated by the provision, such as sensitisation programmes, and restrictions from the contested article encroach on the very essence of the university's autonomy. Finally, in the domain of science where the method requires non-excludability in knowledge, conscious exclusion of content, as stipulated by the challenged provision, invalidates the very scientific nature of methods and processes, that is, it limits the scientific procedure of professors and others teachers, and it is inconsistent with the provisions of Article 73 of the Constitution.

Secondly, they point out the non-compliance with the provisions of Article 10, paragraph 3, item 6), Article 37, paragraph 1, item 4) sub-item (3), Article 44, paragraph 3 of the contested law with Art. 23, 43 and 46 of the Constitution. According to the opinion of the initiator, the aforementioned contested provisions provide the obligation to use gender-sensitive language, and considering the manner in which this obligation is stipulated in the Law, it represents a form of violation of freedom of thought and belief from Article 43 of the Constitution and freedom of opinion and expression from Article 46 of the Constitution. It is asserted that the obligation of gender marking of words in the law itself, according to different linguistic situations that occur in our language, is formulated excessively abstractly, and the unfounded abstract nature of the obligation to use gender-sensitive language is problematic. Namely, as the initiators assert, the essence of the problem is that the use of gender-sensitive language refers to all words regardless of whether they are generative or non-generative. The problem with non-generatives is that they lexically exclude one sex and thus completely prevent the inclusion on the linguistic social level of the excluded sex in a specific occupation or role, the replacement of those words with new alternative ones is preferable and represents a firm obligation of the state from the perspective of Art. 15, 19 and 21 of the Constitution. On the other hand, the generative words, according to their objective linguistic characteristics denote both men and women regardless of whether the generatives are masculine or feminine, and their change, towards gender-sensitive expression, would not represent a measure of achieving equality but only a word ritual that would conform to a certain belief or opinion. The said conviction that in communication it is always necessary to add whether a person is male or female, represents a conviction that each individual can have and spread at their discretion, and this is protected by the Constitution in the provision of Article 43. Proponents of the initiative consider that the legislator, when prescribing mandatory and common use of gender-sensitive language overlooked that freedom of thought and belief from Article 43 of the Constitution on the one hand guarantees to the holders of similar beliefs that they can - in the aforementioned general sense - express themselves in a gender sensitive way, but, at the same time, it also guarantees a negative right to all others, that the state or the legislator will not impose such views and convictions by means of imperatives and punishments. The initiative further asserts that in Article 6, Paragraph 1, item 17) of the Law, the legislator explicitly defined gender-sensitive language as a means to "influence the awareness of those who use this language, towards achieving equality, including changes of opinions, attitudes and behaviour within the language used in personal and professional life". The proponents assert that, according to Article 46 of the Constitution, which guarantees freedom of thought and expression, the legislator can, in order to achieve one of the goals stated in Article 46, paragraph 2 of the Constitution, reduce or restrict the freedom of expression, while on the other hand freedom of thought as a free inner phenomenon is guaranteed without reservation. Based on the

aforementioned, the initiative proponents conclude that the obligation to use gender sensitive language, as a restriction of the right of others not to use gender sensitive language, lacks a legitimate goal (in the sense of the provisions of Article 20, paragraph 3 of the Constitution), because changing other people's awareness and opinions is not a legitimate goal of the final and direct legal imperatives in the state that guarantees fundamental rights and the rule of law. The obligation to use language in a certain sense certainly represents a restriction and reduction of the general freedom of action as it is determined by the right to free personality development from Article 23, paragraph 2 of the Constitution. Moreover, the initiative proponents, regarding the aforementioned disputed provisions also indicate that the legislator is not invited to alter the cultural heritage-characteristics of the Serbian language at its own discretion, but to act in accordance with Article 89, paragraph 2 of the Constitution, as well as that they potentially represent a violation of rights of members of national minorities from Article 75, paragraph 3, Article 79 and Article 80, paragraph 3 of the Constitution.

Thirdly, the initiative proponents consider that the misdemeanour provisions of the Law, the provisions of Art. 60-70 of the Law, are not in accordance with the lex certa element of the legality principle from Article 34 of the Constitution, for the reason that the combination of open programme guidelines formulated in the form of duty "to provide support to educational curricula" or the duty to "undertake special incentivising measures" in combination with the misdemeanour provision that the behaviour to the contrary is punishable, does not define the offence in a way that corresponds to the lex certa principle as an element of the legality principle, that is, according to the opinion of the initiator, it creates legal uncertainty in practice, that is, the incrimination of a blanket legal obligation creates space for arbitrary reference to misdemeanour liability.

In the last initiative, it was asserted that the provisions of Art. 58 and 77 of the Law are contrary to the provisions of Art. 3, 18, 20, 21, Article 36, Paragraph 1, Art. 68 and 69 of the Constitution. Namely, it is asserted in the initiative that the contested provisions established different sources of funding and different deadlines for coming into effect of legal provisions for programmes and services provided to the perpetrators of violence, on the one hand, that is, the victims of violence, on the other hand, which establish benefits in favour of one group of persons - perpetrators of violence, and that the contested provisions do not meet the condition of constitutionality from the perspective of the constitutional guarantee of the rule of law, legal equality and prohibition of discrimination. Also, the contested provisions, according to the initiator, are not in accordance with provisions of Article 14 of the European Convention for the Protection of Human and Minority Rights and Fundamental Freedoms that establish the prohibition of discrimination and Article 1 of Protocol 12 to the aforementioned European Convention, as well as that they are contrary to the obligations that the Republic of Serbia as a signatory

state took over by ratifying the Convention of the Council of Europe on Preventing and Combating Violence Against Women and Domestic Violence.

In the previous procedure, the Constitutional Court, in accordance with the provisions of Article 33, paragraph 2 of the Law on the Constitutional Court ("RS Official Gazette", no. 109/07, 99/11, 1 8/1 3 - CC Decision, 40/15 - other law, 103/15, 10/23 and 92/23), requested an opinion of the National Assembly, regarding the assertions from the submitted initiatives. The National Assembly did not submit its opinion within the stipulated period, nor after the expiry of that period, therefore, the Constitutional Court, in accordance with the provisions of Article 34, Paragraph 3 of the Law on the Constitutional Court, continued the proceedings in this constitutional court case.

On 18 April 2024, the Ombudsman submitted to the Constitutional Court his proposal for the evaluation of the constitutionality of the provisions of Article 6, Paragraph 1, Item 17), of the Article 10, paragraph 3 item 6), part of Article 25. paragraph 1, Article 37, paragraph 1, item 3) and part of Article 44, paragraph 3 of the Law on Gender Equality. The proposal asserts that the contested provisions of the Law are not in accordance with the provisions of Article 4, paragraph 1, Article 10, Article 13, paragraph 2, Article 14, paragraph 2, Article 75, paragraph 2, and Article 79, paragraph 1 of the Constitution. The proponent asserts that the Constitution provides that the Serbian language and the Cyrillic script are in official use in the Republic of Serbia (Article 10, Paragraph 1 of the Constitution), from which it follows that only "Serbian standard language" can be implied under "Serbian language" that is, the Serbian language as defined by Article 2, paragraph 1 of the Law on the Use of the Serbian Language in Public Life and the Protection and Preservation of the Cyrillic script as the "standardised type of the Serbian language, a means and a common good of the national culture", and not the gender-sensitive Serbian language. However, the Law on Gender of Equality practically speaks of the universal use of gender-sensitive Serbian language, which would mean that the gender sensitive Serbian language is in official use in Serbia, that it is precisely the "Serbian language". Since it is not case, any use of gender-sensitive Serbian language in the official use would be directly contrary to the provisions of Article 10, Paragraph 1 of the Constitution, which established official language use in the Republic of Serbia. It is further asserted that logically, one language, namely the one in official use, must be used in public life. The use of language in public life is broader than official language use, i.e. the language that is in official use in a country should also be used as a language that is in public use, because otherwise it would give rise to linguistic dualism, which would threaten linguistic coherence and integrativeness. Therefore, the standard the Serbian language should be applied in public life as well, not the Serbian gender-sensitive language, so the norms of the Law on Gender Equality, which provide for the mandatory use of gender sensitive Serbian language as a special measure (Article 10, paragraph 2, item b) of the Law) are, therefore, contrary to the Constitution,

as well as the norm that mandates the use of gender-sensitive language in job titles, positions and occupations (Article 25, Paragraph 1 of the Law), the mandatory use of gender sensitive language in textbooks and teaching materials and in certificates, diplomas, classifications, titles, professions and licences and in other forms of educational work (Article 37, paragraph 1, item 3) of the Law), as well as the mandatory use of gender-sensitive language in the media (Article 44, Paragraph 3 of the Law). Rules of the Law on Gender Equality that regulate the use of gender-sensitive language are completely contrary to the Law on the Use of Serbian Language in Public Life and the Protection and Preservation of the Cyrillic script in the part that refers to the mandatory use of the Serbian standard language (Article 3, paragraph 1 and 2, paragraph 3, item 1) to 4) and paragraph 4 of the Law), to the system of protection and preservation of this language (Article 7, items 1) to 6) of the Law) and social concerns about it (Article 8, item 1), 2) and 4) of the Law). It follows from the aforementioned that in the legal system of the Republic of Serbia there are two opposed and contrary laws, because according to them the use of both languages (standard and gender-sensitive) is mandatory, so legal subjects (citizens and legal entities) are unable to discern which of the two laws they must apply, which creates great legal uncertainty. As these issues are not commonly regulated in the legal order of the Republic of Serbia, these contested provisions of the Law are contrary to the provisions of Article 4, paragraph 1 of the Constitution.

The proposal further asserts that the creation of a gender sensitive Serbian language in the Republic of Serbia, which would be spoken in it is contrary to the obligation of the Republic of Serbia to "develop and improve the relations of Serbs living abroad with their home state" (Article 13, paragraph 2 of the Constitution). Regarding the use of language of national minorities in the Republic of Serbia, the proponent asserts that similar to the Serbian language, the use of the language of national minorities (also as an official language), implies the use of the language that is standardised in the country of origin of the minority. However, the disputed Law, contrary to the above, orders the use of gender sensitive language of national minorities, which would mean that the language of the national minorities in the Republic of Serbia would be changed and become different from their languages in their countries of origin, whenever it is not gender-sensitive in the way that it is understood by Law on Gender Equality. The proponent, therefore, considers that the use of gender-sensitive languages of national minorities in the context of the Law on Gender Equality is contrary to the provisions of the Constitution that guarantee the right of the national minorities to use their own language, even as a language in official use (Article 75, paragraph 3 and Article 79, paragraph 1 of the Constitution), as well as with the provisions of Article 14, paragraph 2 of the Constitution, by which the Republic of Serbia guarantees special protection to national minorities, because the contested

solutions from the Law are not preserving the national identity of the national minorities in the Republic of Serbia, but rather dissolving it.

II

In the conducted procedure, the Constitutional Court established as follows:

The Law on Gender Equality ("RS Official Gazette", number 52/21) was adopted by the National Assembly at the session held on 20 May 2021. The law entered into force on 1 June 2021, that is, on the eighth day of the day of its publication in the "Official Gazette", and it applies from the date of entry into force, except the provisions for which a later start of application is stipulated. Also, the application of gender sensitive language from Article 37, paragraph 1, item 4) subitem (3), as well as from Article 44, paragraph 3 of this law shall enter into force three years after the adoption of this law. On the day of the entry into force of this law, the Law on Gender Equality ceased to be valid ("RS Official Gazette", number 104/09).

The law regulates the concept, meaning and policy measures for the achievement and promotion of gender equality, types of planning acts in the field of gender equality and the way of reporting on their implementation, the institutional framework for achieving gender equality, supervision of the implementation of laws and others issues of importance for achieving and improving gender equality. Also, the law regulates measures for achieving and improving gender equality and measures for suppression and prevention of all forms of gender-based violence, violence against women and domestic violence, as well as the obligations of public authorities, employers and other social partners to integrate the gender perspective in the area in which they operate (Article 1).

The contested law defines gender equality in its introductory section, so that it implies equal rights, responsibilities and opportunities, equal participation and balanced representation of women and men in all areas of social life, equal opportunities for the exercise of rights and freedoms, use of personal knowledge and abilities for personal development and development of the society, equal opportunities and rights in access to goods and services, as well as achieving equal benefits from work performance, with respect of biological, social and culturally formed differences between men and women and different interests, needs and priorities of women and men when making public and other policies and deciding on rights, obligations and provisions based on law, as well as constitutional provisions (Article 3) and what constitutes discrimination based on sex, sex characteristics, that is gender (Article 4). Certain terms used in this law have the following meaning (Article 6. paragraph 1): gender denotes socially determined roles, opportunities, behaviours, activities and attributes, which a certain society considers appropriate for women and men including mutual relationships between men and women and the roles in

these relationships that are socially determined relative to their sex (Article 6, paragraph 1, item 1)), while the gender-sensitive language is a language which promotes the equality of women and men and a means of influencing to the awareness of those who use that language towards achieving equality, including changes in thinking, attitudes and behaviour within the language used in personal and professional life (Article 6, paragraph 1, item 17)). In Chapter II , the law stipulates what constitutes an equal opportunities policy (Article 7), such as types of measures for achieving and improving gender equality, that is, what the general and special measures for achieving and improving gender equality, are as well as types of special measures (Art. 8, 9, 10 and 11). Special measures to achieve and promote gender equality (hereinafter: special measures) are activities, measures, criteria and practices in accordance with the principle of equal opportunities which ensure equal participation and representation of women and men, especially members of vulnerable social groups, in all spheres of society life and equal opportunities for exercising rights and freedoms (Article 10, paragraph 1). In the framework of the above, it is stipulated that when determining special measures the different interests, needs and priorities of women and men, must be respected, as well as that special measures are to be used to ensure the use of the gender responsive language in order affect the removal of gender stereotypes when exercising rights and obligations of women and men (Article 10, paragraph 3, item 6)). The planning acts in the field of gender equality and reporting on the implementation of planning acts are regulated in Chapter III of the Law. Chapter IV of the Law refers to the actions of public authorities and provided special measures. Public authorities are obliged to continuously monitor achieving gender equality in the area of social life under their competence, the application of international standards and the constitutionally guaranteed rights in that area, the use of gender-sensitive language in the names of jobs, positions, titles and occupations, as well as to conduct, within their competences, the policy of equal opportunities for women and men and that to plan, adopt, implement and publicly disclose the results of the special measures (Article 25, paragraph 1). Chapter V of the Law applies to the areas in which the general and special measures of this law are determined and implemented: areas of labour, employment and self-employment, social protection and health care, education, upbringing, science and technological development, information and communication technology and information society, defence and security, transport, energy, environmental protection, culture, public information, sports, political activity and public affairs. The provision of Article 37 of the Law which refers to the field of education, upbringing, science and technological development stipulates as follows: that the public authorities and employers who, in accordance with the laws and other regulations, perform tasks in the field of education and upbringing, science and technological development are obliged to: include the gender equality content when adopting teaching and learning plans and curricula, that is, study programmes, when determining textbook standards, teaching methods and norms for

school space and equipment and that in teaching curricula and materials, at all levels of education and upbringing they exclude gender stereotypes, sexist content, that they include content related to gender equality with the aim of overcoming gender stereotypes and prejudices, fostering mutual respect, non-violent resolution of conflicts in interpersonal relations, prevention and suppression of gender-based violence and respecting the right to personal integrity, in a way adapted to the age of the pupil, i.e. student (paragraph 1 item 1)); to undertake, in accordance with the law, measures that include: use of gender-sensitive language, that is, language that is in accordance with grammatical gender, in textbooks and teaching material, as well as in certificates, diplomas, classifications, titles, occupations and licences, as well as in other forms of educational work (paragraph 1, item 4) sub-item (3)). Gender equality in the public information sphere is regulated by the provisions of Article 44, which stipulated in paragraph 3, that the public information media are obliged to use gender-sensitive language when reporting and through developing awareness of the importance of gender equality contribute to the suppression of gender stereotypes, social and cultural patterns, customs and practices based on gender stereotypes, discrimination based on sex, that is, gender and other personal characteristics, as well as gender-based violence, domestic violence and violence against women. Chapter VI of the Law is entitled "prevention and suppression of gender-based violence" and regulates, primarily, the prohibition of violence based on sex, sexual characteristics, that is, gender and violence against women, stipulating special measures and programmes that are not considered discrimination, the obligation to report violence, general support services, specialised services, programmes for persons who committed violence, prevention of violence and financial resources for organising and implementing specialised services (Art. 51-58). The institutional framework for achieving gender equality is regulated in Chapter VII (Art. 59-64) of the Law, and record keeping and reporting on achieving gender equality in Art. 65 and 66 in Chapter VIII of the Law. Penal provisions in chapter IX refer to offences by employers, insurance companies and media (Article 67), offences by public authorities (Article 68), offences of political parties (69) and offences of trade union organisations (70). A fine of 5,000 to 150,000 dinars shall be imposed on the responsible person in the Republic of Serbia authority, the territorial autonomy authority and the local self-government unit authority if: it does not monitor, it does not plan, it does not adopt, does not implement and does not publicly announce the results of equal opportunities policies and does not implement measures to prevent and suppress discrimination on the basis of sex, that is, gender, from Article 25, paras 1 and 2 of this law; does not act on obligations stipulated in art. 37, 38, 39, 40, 41, 42, 43, 45, 46 and 49 of this law (Article 68, paragraph 1, items 2) and 9)). The law also regulates the monitoring of the implementation of the law in provisions of art. 71 and 72 in chapter X, and transitional and final provisions in provisions of Art. 73-77. in chapter XI. Article 73, paragraph 2 stipulates that the application of

gender sensitive language from Article 37, paragraph 1, item 4) subitem (3), as well as from Article 44, paragraph 3. of this law shall enter into force three years after the adoption of this law.

Of importance for the evaluation of the constitutionality of the disputed Law, according to the opinion of the Constitutional Court, are the provisions of the Constitution of the Republic of Serbia which establish: that the Republic of Serbia is the state of the Serbian people and all citizens who live in it, based on the rule of law and social justice, civil democracy principles, human and minority rights and freedoms and belonging to the European principles and values (Article 1); that the rule of law is the fundamental prerequisite of the Constitution and that it is based on inalienable human rights, that the rule of law shall be exercised through free and direct elections, constitutional guarantees of human and minority rights, separation of power, independent judiciary authority and the observance of the Constitution and the law by the authorities (Article 3); that the Serbian language and the Cyrillic script are in official use in the Republic In Serbia, that the official use of other languages and scripts shall be regulated by law, based on the Constitution (Article 10); that the state shall guarantee the equality of women and men and develop the equal opportunities policy (Article 15); that the generally accepted rules of international law and ratified international treaties shall be an integral part of the legal order of the Republic of Serbia and directly applied, that the ratified international treaties must comply with the Constitution (Article 16, paragraph 2); that human and minority rights guaranteed by the Constitution shall be directly applied, that they shall be guaranteed by the Constitution, and as such, human and minority rights guaranteed by the universally accepted rules of international law, ratified international treaties and laws are applied directly, and that the way of exercising these rights can be stipulated by law only if expressly stipulated by the Constitution, or if it is necessary to exercise a particular right due to its nature, whereby the law must by no means affect the substance of the guaranteed right, and that the provisions on human and minority rights are interpreted to the benefit of improving the values of a democratic society, in accordance with the applicable international standards of human and minority rights, as well as practices of international institutions that supervise their implementation (Article 18); that guarantees of inalienable human and minority rights in the Constitution serve to preserve human dignity and the achievement of full freedom and equality of every individual in a fair, open and democratic society, based on the principle of the rule of law (Article 19); that human and minority rights guaranteed by the Constitution can be restricted if the restriction is permitted by the Constitution, for the purposes for which the Constitution allows them, to the extent necessary to satisfy the constitutional purpose of the restriction in democratic society and without encroaching on the essence of the guaranteed right, that the achieved level of human and minority rights cannot be reduced, that when restricting human and minority

rights, all state authorities, especially courts, are obliged to take into account the substance of the right that is being restricted, the pertinence of the purpose of restriction, the nature and extent of the restriction, the relation of restriction with its purpose and whether there is a way to achieve the purpose of the restriction through less restrictive means (Article 20); that everyone is equal before the constitution and the law, that everyone has the right to equal legal protection, without discrimination, as well as that any discrimination is forbidden, direct or indirect, on any basis, and especially on the basis of race, sex, national origin, social origin, birth, religion, political or other belief, property status, culture, language, age and mental or physical disability, and that special measures that the Republic of Serbia can introduce for achieving full equality of persons or groups of persons who are in a substantially unequal position compared to other citizens (Article 21) are not considered discrimination; that human dignity is inviolable and everyone is obliged to respect and protect it, and that everyone has the right to free development of personality, if it does not violate the rights of others guaranteed by the Constitution (Article 23); that the freedom of thought, conscience, belief and religion, the right to remain with one's belief or religion or to change them by one's own choice is guaranteed (Article 43, paragraph 1 of the Constitution); that freedom of thought and expression is guaranteed, as well as the freedom to use speech, writing, images or another way to seek, receive and impart information and ideas, and that freedom of expression can be restricted by law, if it is necessary to protect the rights and reputation of others, uphold the authority and integrity of the court and protecting public health and democratic society morals and national security of the Republic of Serbia (Article 46); that the autonomy of universities, higher education and scientific institutions is guaranteed, as well as that universities, higher education and scientific institutions independently decide on their own organisation and operation, in accordance with the law (Article 72); that the members of the national minorities are guaranteed equality before the law and equal legal protection, that any discrimination on the grounds of affiliation to a national minority shall be prohibited, that specific regulations and provisional measures which the Republic pf Serbia may introduce in economic, social, cultural and political life, in order to achieve full equality between members of national minorities and citizens belonging to the majority, shall not be considered to be discrimination if they are aimed at eliminating extremely unfavourable living conditions that particularly affect them (Article 76.); that members of national minorities have the right: of expression, preservation, fostering, developing and public expression of national, ethnic, cultural and religious particularities; to the use of its symbols in public places; to the use of their own language and script; that in areas where they make up a significant population, state authorities, organisations to which public authorities are entrusted, authorities of autonomous regions and the local self-government units conduct the procedure also in their language; to education in their own language in state and autonomous province institutions; to the establishment of private educational

institutions; that they use their name and last name in their own language; that in areas where they make up a significant population, traditional local names, names of streets, settlements and topographic signs will be written in their language; to be fully, timely and impartially informed in their own language, including the right to express, receive, send and exchange information and ideas; to the establishment of own public information media, in accordance with the law (Article 79, paragraph 1); that everyone is obliged to protect the natural rarities and scientific, cultural and historical heritage, as goods of general public interest, in accordance with the law (Article 89, paragraph 1); that the Republic of Serbia regulates and ensures, among other things, the exercise and protection of citizens' freedoms and rights (Article 97, item 2.); that all laws and other general acts passed in the Republic of Serbia must comply with the Constitution (Article 194, paragraph 3); that the laws and other general acts adopted in the Republic of Serbia must not be in noncompliance with the ratified international treaties and universally accepted rules of international law (Article 194, para 5.).

For the sake of a more comprehensive overview of disputed constitutional and legal issues in this case, the Constitutional Court had in mind certain provisions of the following laws:

**The Law on Ratification of the Convention of the European Union on Preventing and Combatting Violence Against Women and Domestic Violence ("RS Official Gazette - International treaties", No. 12/13 and 4/14) – the Istanbul Convention. Through this law, the National Assembly ratified the Convention of the Council of Europe on Preventing and Combating Violence Against Women and Domestic Violence, and the Convention entered into force on 1 August 2014. In Article 3. paragraph 1. c) "gender" denotes socially constructed roles, behaviours, activities and attributes that a given society considers appropriate for women and men.**

The Law on Official Use of Language and Script ("RS Official Gazette", no. 45/91, 53/93, 67/93, 48/94, 101/05, 30/10, 47/18, 48/18 (correction)) stipulates as follows: that the Serbian language is in official use in the Republic of Serbia (Article 1 paragraph 1); that the official use of language and script, in the sense of this law, implies the use of language and scripts in the operation of: state, autonomous provinces', cities' and municipalities' authorities (hereinafter: authorities), institutions, companies and other organisations when exercising public powers (hereinafter: organisations which exercise public authorities), and that the official use of language and scripts, within the meaning of this law, implies the use of language and scripts in the operation of public enterprises and public services, as well as in the operation of other organisations when they perform the tasks established by this law (Article 2, paragraphs 1 and 2); that the official use of language and scripts implies especially the use of language and scripts in: issuing public documents, as well as others documents that are of interest for the exercise of legally established rights of

citizens, and exercise of rights, duties and responsibilities of workers from work or on the basis of work (Article 3, paragraph 1, item 4) and 5)); that the official use of language and scripts, in the sense of this law, also implies the use of language and scripts in the work of public companies and public services, as well as in the work of other organisations when they perform the tasks established by this by law (Article 3, paragraph 2); that on the territory of the local self-government unit in which members of national minorities traditionally live, their language and script can be in equal official use, and that the official use of the language of national minorities from paragraph 1 of this article includes in particular: the use of the languages of national minorities in administrative and judicial proceedings and conducting administrative proceedings and court proceedings in the language of the national minority; the use of language of national minorities in the communication of authorities with public authorities with citizens; issuance of public documents and keeping official records and collection of personal data in the languages of national minorities and the acceptance of those documents on those languages as valid; the use of languages of national minorities on ballots and voting materials; the use of national minority languages in the work of representative authorities (Article 11, paragraphs 1 and 3).

The Law on the Protection of Rights and Freedoms of National Minorities ("FRY Official Gazette", No. 11/02 (57/02), "RS Official Gazette", No. 72/09, 97/13 (decision of the Constitutional Court), 47/2018) stipulates as follows: that on the territory of the local self-government unit in which members of national minorities traditionally reside, their language and script can be in equal official use, and that the official use of the language of national minorities from paragraph 1 of this article includes in particular: the use of the language of national minorities in the administrative and court proceedings and conduct of administrative proceedings and court proceedings in the language of the national minority, the use of the language of the national minority in the communication of authorities with public authorities with citizens; issuance of public documents and keeping official records and collections of personal data and data in languages of national minorities and the acceptance of those documents on those languages as valid, the use of language on ballots and voting materials, the use of language in the operation of representative authorities (Article 11, paragraphs 1 and 4).

The Law on the Use of the Serbian Language in Public Life and Protection and the Preservation of the Cyrillic script ("RS Official Gazette", No. 89/21) stipulates as follows: that this law regulates the use of the Serbian language in public life and measures for protection and preservation of the Cyrillic script, as the native script (Article 1, paragraph 1); that the standardised form of Serbian language in the sense of this law, is considered to be the Serbian language, as a means and common good of national culture (Article 2, Paragraph 1); that the Serbian language and the Cyrillic script, as the native script, in

accordance with the law by which the official use of languages and script is regulated, must be used in the operation of state authorities, authorities of autonomous provinces, cities and municipalities, institutions, companies and other organisations when exercising public authorities, in operation of public companies and public services, as well as in the operation of other organisations when they perform tasks determined by the law regulating the official use of language and scripts, as well as in institutions and other forms of organisation in the field of education (preschool, primary, secondary and higher education), that educational work shall be carried out in the Serbian language and Cyrillic script, in accordance with the laws in the area of education (Article 3, paragraphs 1 and 2); that the Serbian language should be written in the Cyrillic script, as the native script, shall mandatorily be used in work and business, that is, performance of activities: business companies and other forms of organisation in the area of scientific research activities that are not established according to regulations on public services that operate, that is, perform activities with a majority share of the public capital; the "Radio-Television of Serbia" public media institution and the "Radio-Television of Vojvodina" public media institution, in accordance with the law by which public media services are also regulated and by this law (Article 3, paragraph 3, items 2) and 4)); that the government shall stablish the Serbian Language Council, which monitors and analyses the situation in the area of the Serbian language use in public life and the implementation of measures for protection and preservation of the Cyrillic script, as the native script, and gives recommendations, suggestions and expert opinions in order to improve that situation, that the Council shall be established at the proposal of the ministry responsible for cultural affairs, by a special act of the government, which determines its tasks and composition, so that representatives of the language profession who are appointed at the proposal of the Serbian Language Standardisation Committee make up the majority in the Council (Article 4); that the system of protection and preservation of the Serbian language and Cyrillic script represents: a unique approach of all competent authorities and organisations to the preservation of the Serbian language and the Cyrillic script as the native script, the protection of the Serbian language and the Cyrillic script and their transmission to the future generations in its original form, creating the necessary conditions for the preservation the Serbian language and the Cyrillic script and taking the necessary measures to strengthen the awareness of the importance of its use, spreading knowledge about the values of the Serbian language and Cyrillic script, encouraging correct expression, knowledge and correct use of the Serbian language and Cyrillic script and protection of the Serbian language from the influence of ideological and political movements on its standardisation (Article 7); that the social concern for the protection and preservation of the Serbian language and Cyrillic script is reflected especially in promoting, preserving, fostering and mandatory application of the standard Serbian language and the Cyrillic script norm (Article 8, item 1)); that a fine from 50,000 to

500,000 dinars for its violation shall be imposed on a legal entity, if it acts contrary to the provisions of Article 3, para. 3 and 4 of this law, and that a fine from 15,000 to 100,000 dinars shall be imposed for the violation from the paragraph 1 of this article shall be imposed on the responsible person in a legal entity (Article 10).

The Law on the Dictionary of the Serbian Academy of Sciences and Arts ("RS Official Gazette", number 110/05) stipulates as follows: that in order to ensure the permanent care of the Serbian language, as a permanent and national good, this law shall regulate the development and publication of the Dictionary of the Serbian Academy of Sciences and Art (hereinafter: the Dictionary), as an undertaking of exceptional importance for the national culture and global and local science (Article 1); that the implementer of the development of the Dictionary shall be the Institute For Serbian Language of the Serbian Academy of Sciences and Arts (hereinafter: the Institute), and that the publisher of the Dictionary shall be the Serbian Academy of Sciences and Arts (hereinafter: the Academy) (Article 2); that the work on the Dictionary and its publication of its outcomes, that is, volumes of the Dictionary, in planned time intervals, shall be performed under the expert supervision of the Academy's Department of Language and Literature (Article 3).

III

When considering the submitted initiatives, the Constitutional Court first started from the constitutional basis for the adoption of this law, as well as reasons for its enactment, which are listed in the Statement of Reasons for this Bill which the government submitted to the National Assembly for consideration in May 2021. According to this act, the constitutional basis for the adoption of the contested Law is contained in Article 97 item 2 of the Constitution, which established that the Republic Serbia shall regulate and ensure the exercise and protection of freedoms and rights of citizens, and, that, with regard to that, responsibilities and sanctions for violation of freedoms and rights of citizens determined und the Constitution are provided, in addition, the provisions of Article 15 and Article 21, para. 3 and 4 of the Constitution are listed, and as the main reason for the adoption of this law, it was pointed out that the existing solutions do not fully achieve the equality between women and men and that it is not in fully consistent with the European Union acquis, and that there is a lack of a suitable complete and coherent institutional framework for the achievement and promotion of gender equality in order to ensure its effective application in practice.

The legislator, at that, in line with the aforementioned statement of reasons and goals aimed at, opted for the introduction and definition of the term of gender according to the Istanbul Convention, and this resulted in the above determination of the subject of the law, most of its provisions, as well as the very name of the law.

Starting from the provisions of Article 15 of the Constitution which established that the state shall guarantee the equality of women and men and develop equal opportunity policy, and the contested Law stipulates gender equality and defines the concept of gender which the Constitution does not recognise, the Constitutional Court notes that in this constitutional court case one cannot start from the assessment of the contested provisions of the Law in relation to specific provisions of the Constitution but in relation to the constitutional principles. It is primarily about the rule of law, which includes also legal certainty and equality of all before the Constitution and the law, and the basic principles of human and minority rights and freedoms.

Starting from the fact that gender equality is a constitutional principle, which determines its status and quality in the constitutional system of Serbia, as well as its own status in the human rights protection system, the Court indicates that according to the provision of Article 18, paragraphs 1 and 2 of the Constitution, human and minority rights guaranteed by the Constitution shall be directly applied, but also guaranteed by the Constitution, and, as such, the human and minority rights guaranteed by the universally accepted rules of international law, ratified international treaties and laws shall be directly applied, and that the law can stipulate the manner of exercising these rights only if it is expressly provided by the Constitution or if it is necessary for the exercise of a particular right due to of its nature, whereby the law must not affect the essence of the guaranteed right.

It should be noted that Article 15 of the Constitution determines that the state shall develop a policy of equal opportunities for men and women. The policy of equal opportunities is the general institutional framework available to the state, which respects the principle of social justice to undertake various measures (laws, policies, strategies, etc.) towards effective exercise of equality of women and men.

The consideration of equality issues is directly related to the basic principle of human and minority rights - the principle of prohibition of discrimination. The Constitutional Court notes that the principle of prohibition of discrimination in Article 21 of the Constitution refers to any discrimination, direct or indirect, according to any basis. In that article, the Constitution further determines those special grounds for the prohibition of discrimination - on the basis of race, sex, nationality, social origin, birth, religion, political or other belief, property status, culture, language, age and psychological or physical disability. At the same time, according to the principle of direct application of guaranteed rights from Article 18 of the Constitution, it is a constitutional obligation to interpret the provisions on human and minority rights in favour of the advancement of the values of a democratic society, in line with applicable international standards of human and minority rights, as well as practices of international institutions that supervise their implementation. Accordingly, The Constitutional Court indicates that the grounds of discrimination from

Article 21 of the Constitution can be expanded in accordance with the provisions of Article 18 of the Constitution, that is, by direct application of human and intellectual rights guaranteed by the universally accepted rules of international law, ratified international treaties and laws.

It should also be noted that the Constitution, under the principle of prohibition of discrimination, determines that special measures which the Republic of Serbia can introduce in order to achieve full equality of persons or groups of persons who are substantially in an unequal position with other citizens (Article 21, paragraph 4 of the Constitution) are not considered to be discrimination.

Starting from the above, the issue of whether gender equality is protected by Article 15 of the Constitution or provisions of Article 21 of the Constitution, that is, whether in the constitutional system of the Republic of Serbia the equality of the sexes and gender equality exist in parallel is a contested matter for the Constitutional Court.

IV

In considering the controversial constitutional and legal issues presented in the submitted initiatives and the proposal of the authorised proponent that refer to gender sensitive language, that is, gender responsive language and its application, that is, to the provisions of Article 6, paragraph 1, item 17), Article 10, paragraph 3, item 6), Article 25, paragraph 1, article 37, paragraph 1, item 4) sub-item (3), article 44, paragraph 3, article 68, paragraph 1, item 9) in the part that refers to Article 37, and consequently the provisions of Article 73, paragraph 2 of the Law, the Constitutional Court indicates the following.

Among the terms defined in the provisions of Article 6, Paragraph 1 of the Law, the term "gender-sensitive language" is also defined in item 17) as language that promotes equality between women and men and is a means of influencing the awareness of those who use that language, towards achieving equality, including changes in thinking, attitudes and behaviour within the language they use in personal and professional life. Based on the goal of the thus stipulated definitions of gender-sensitive language, the disputed Law provides:

- firstly, that special measures for the implementation and improvement of gender equality represented by activities, measures, criteria and practice in accordance with the principle of equal opportunities, which ensures equal participation and representation of women and men, especially members of the vulnerable social groups, in all spheres of social life and equal opportunities for the exercise of rights and freedoms, must especially ensure the use of gender responsive language in order to influence the removal of gender stereotypes in exercising the rights and obligations of women and men (Article 10, paragraph 1 and paragraph 3, item 6) of the Law);

- secondly, that public authorities are obliged to continuously monitor, among other things, the use of the gender-sensitive language in the names of jobs, positions, titles and occupations (Article 25, paragraph 1 of the Law), and failure to apply these provisions is sanctioned as a violation of the public authorities and a fine is stipulated (Article 68, paragraph 1, item 2));

- thirdly, that the public authorities and employers, which, in accordance with laws and other regulations, perform tasks in the field of education and upbringing, science and technological development are obliged to undertake, in accordance with the law, measures that include the use of gender-sensitive language, that is, language which is in accordance with the grammatical genders in textbooks and teaching materials, as well as in certificates, diplomas, classifications, titles, professions and licences, as well as in other forms of educational work (Article 37, paragraph 1, item 4) sub-item (3) of the Law), and failure to apply this provision is sanctioned as a misdemeanour by a public authority and a fine is stipulated for it (Article 68, paragraph 1, item 9));

- fourthly, that the public information media, among other things, are obliged, to use gender sensitive language when reporting (Article 44, paragraph 3 of the Law) — failure to fulfil the stated duty is not sanctioned by this law.

The terminological inconsistency between the terms gender-sensitive language and gender responsive language in the disputed Law does not lead to a substantial distinction, and the Constitutional Court notes that it will continue to use the term gender-sensitive language as more appropriate to the Serbian language.

The official use of the Serbian language is established in Article 10 of the Constitution. The Law on the Use of the Serbian Language in Public Life and Protection and Preservation of the Cyrillic Script, stipulates that, in the sense of this law, the standardised type of the Serbian language is considered to be the Serbian language as a means and a common good of national culture (Article 2, paragraph 1); that the Serbian language and the Cyrillic script, as native script, in accordance with the law regulating the official use of language and script, must be used in the work of public authorities, authorities of autonomous provinces, cities and municipalities, institutions, companies and others organisation when exercising public authority, in the operation of public companies and public services, as well as in the operation of other organisations when they perform tasks established by law which regulates the use of language and script, as well as that in institutions and other forms of organisation in the field of education (preschool, primary, secondary and higher education), educational work is carried out in Serbian language and the Cyrillic script, in accordance with the laws in the field of education (Article 3, para. 1 and 2); that the Serbian language and the Cyrillic script, as the native script, are

mandatorily used in work and business, that is, in performing activities: of companies and other forms of organisation in the field of scientific research activities which are not established according to the regulations on public services and which operate, that is, perform activities with the majority share of public capital; of the "Radio-Television of Serbia" public media institution and the "Radio- Television of Vojvodina" public media institution, in accordance with the law regulating public media services and this law (Article 3, paragraph 3, item 2) and 4).

The Law on the Official Use of Language and Script stipulates that, in the Republic of Serbia, the Serbian language is in official use (Article 1, paragraph 1). The official use of language and script, in the sense of this law, is considered to be use of languages and script in the operation of: state authorities, authorities of autonomous provinces, cities and municipalities, institutions, companies and other organisations when exercising public authorities, and that the use of language and scripts in the operation of public companies and public services, as well as in operation of other organisations when they perform tasks established by this law is considered to be the official use of language and script, in the sense of this law. Also, the same law stipulates the use of languages and scripts of national minorities, that is, that on the territory of the local self-government unit in which members of national minorities traditionally live, their language and script can be in equal official use (Article 11, paragraph 1). Official use of the languages of national minorities includes in particular: the use of the language of national minorities in the administrative and court proceedings and conduct of administrative proceedings and court proceedings in the language of national minorities, the use of the language of the national minority in the communication of authorities with public authorities with citizens, issuance of public documents and keeping official records and collections of personal data in national minority languages and acceptance of those documents in those languages as valid, the use of languages of national minorities on ballots and voting materials, as well as the use of the languages of national minorities in the operation of representative authorities (Article 11, para 3).

The Constitutional Court notes that the obligation to use gender-sensitive language according to the disputed Law applies to public authorities and employers, which, in accordance with laws and other regulations, perform work in the area of education and upbringing, science and technological development, as well as to the public information media, that is, to the same entities that are obliged to use the official Serbian language, that is, the standardised type of Serbian language according to the Law on the Use of Serbian Language in Public Life and the Protection and Preservation of the Cyrillic script and the Law on the Official Use of the Language and Script.

In view of the above, the question arises as to whether the gender sensitive language, which according to the disputed Law is a language that promotes equality of women and men and a means of influencing the awareness of those who use that language towards achieving equality, including changes in opinions, attitudes and behaviours within the language used in personal and professional life, is a different category from the Serbian language, that is, the standardised type of Serbian language. Also, the question arises as to whether the aforementioned subjects should use both languages simultaneously, namely one language that is standardised and the other language that the mentioned subjects should create individually with the aim of promoting equality and influencing opinions, attitudes and behaviours within the language which they use.

Since it follows from the entirety of the legal text that the legislator does not consider the standardised type of the Serbian language to be a gender-sensitive language, the Constitutional Court considers as contentious the question of whether the stipulation of binding rules in the field of language science in general may be subject to legal regulation (materia legis) and whether language, which by its very nature is constantly developing and changing, may be limited and imposed by mandatory legal provisions.

When considering the above-mentioned issues, the Constitutional Court notes that the Law on the Use of the Serbian Language in Public Life and Protection and Preservation of the Cyrillic script, determines the standardised type of the Serbian language as a means and a common good of the national culture. Moreover, according to this law, the social concern for the protection and preservation of the Serbian language is particularly reflected in the promotion, preservation, fostering and mandatory application of the norms of the standard Serbian language. Based on the above, the question arises of whether the binding provisions on the gender sensitive language are in compliance with the principle of the rule of law from Article 3 of the Constitution, as well as the provisions of Article 89 of the Constitution which establish that everyone is obliged to preserve, among other things, the cultural and historical heritage as the common interest good and that the Republic of Serbia, autonomous province and local self-government units have special responsibility in heritage preservation.

With regard to competent institutions dealing with the Serbian language, the Constitutional Court notes that the Law on the Dictionary of the Serbian Academy of Sciences and Arts, which governs the creation and publication of the Dictionary of the Serbian Academy of Sciences and Arts in order to ensure the constant care of the Serbian language, as a permanent and common national good, stipulates that the implementer of the development of the Dictionary is the Institute for the Serbian Language of the Serbian Academy of Sciences and Arts.

The Institute for the Serbian Language of the SANU (Serbian acronym for Serbian Academy of Sciences and Arts) is the central scientific institution in Serbia for the systematic, comprehensive study of the Serbian language on the plan of synchrony and diachrony for the production of capital lexicographic and linguogeographical works — dictionary and atlas. Starting in 1997, the Institute for Serbian Language of the SANU became the seat of the Committee for the Standardisation of the Serbian Language – the all-academic (SANU, CANU, ANURS) and the all-university expert authority, the founders of which are, along with Institute for the Serbian language SANU, eight philological (philosophical) faculties in which the Serbian language is studied, the Matica Srpska and the Serbian Literary Cooperative. Its task is to plan, coordinate and propose language policy on the entire Serbian language area. The Committee for the Standardisation of Serbian Language is a scientific and professional authority that is formed from the entire Serbian language space and within whose remit is the care for the preservation and fostering the Serbian language.

Also, in accordance with the Law on the Use of the Serbian Language in Public Life and the Protection and preservation of the Cyrillic script, the Government establishes the Serbian Language Council, which monitors and analyses the situation in the area of the use of the Serbian language in public life and implementation of measures for the protection and preservation of the Cyrillic script, as the native script and gives recommendations, suggestions and expert opinions in order to improve that situation.

Starting from the aforementioned, and the competent authorities and institutions for study, care and preservation of the Serbian language, the question arises for the Constitutional Court of the responsible subject and the way of harmonising gender-sensitive terms and expressions. Considering that a large number of subjects are individually obliged to create and use the gender-sensitive language, and that there is an absence of institutionalised process of forming new gender-sensitive expressions, the question arises of legal certainty in terms of the meaning, regularity and use of the newly formed words. On the other hand, the question arises of whether the contested Law denies to the mentioned institutions and authorities or significantly limits their already established jurisdiction.

The Constitutional Court indicates that the use of gender-sensitive language is not limited by the provisions of the Law on Gender Equality to the use of Serbian language, since in the areas where the Law stipulated the use of gender sensitive language, on the basis of the Constitution and the law, languages of national minorities are used, especially those languages of national minorities in which classes in the educational system are delivered, where public information is provided and which are in official use in a certain area of the

Republic of Serbia. Therefore, this raises the question of whether this law can change the standardised language of a national minority and the remit of institutions dealing with the standardisation of the language of the national minority, especially in view of the fact that in most cases the language of the national minority is the official language in the countries in which the members are certain national minorities make up the majority of the population, as well as the fact that in some languages, the grammar does not recognise genders at all, so the application of the gender sensitive language is impossible or particularly limited.

In view of the provision of the contested Law, which defines gender sensitive language, especially in the part "including changes of opinion, attitudes and behaviour within the language used in personal and professional life", as well as the provisions regulating its application, the Constitutional Court notes that the constitution guarantees freedom of thought, conscience, belief and religion, the right to remain with one's belief or religion or to change them of one's own choice in Article 43, Paragraph 1 of the Constitution. Also, in view of the duty to use gender sensitive language, the contested provisions of Article 44, paragraph 3 of the Law refer to the public information media, and their importance as public media that influence public opinion, the Constitutional Court also notes the provision of Article 46 of the Constitution which guarantees freedom of thought and expression, as well as freedom to use speech, writing, and images or to otherwise seek, receive and impart information and ideas.

Namely, as the purpose of the contested provisions of the Law is achieving equality and non-discrimination as fundamental constitutional rights, and as the notion of gender-sensitive language is in addition to achieving equality is also determined as a means of influencing the awareness of those who use that language towards achieving equality, including changes in opinions, attitudes and behaviours within the language used in personal and professional life, the question arises of whether the aforementioned provisions restrict the rights and freedoms of others, above all freedom of thought, conscience, belief, as well as freedom of opinion and expression. Whether the legitimate aim of these provisions can be achieved by other measures, namely the measures stipulated by the contested Law, which are specific and refer to particularly important areas of politics, work, employment, social rights and so on. Whether the goal of achieving equality awareness is above the right and freedom of each individual to use language according to their own free belief and dignity of the person, that is, the right to free personality development from Article 23, Paragraph 2 of the Constitution, freedom of thought, conscience and belief from Article 43 of the Constitution and the right to freedom of opinion and expression.

The Constitutional Court notes that the human and minority rights of all individuals require the legislator to clearly and precisely regulate the way of exercising these rights, as well as their restrictions in compliance with the constitutional principle of the rule of law, that is, to ensure the fulfilment of certain standards that concern quality and certainty of norms, which must be such as to ensure legal security and the rule of law. According to the opinion of the Constitutional Court expressed in several of its decisions, among others, in decisions IUz-223/2018 and IUz-69/2020, both published in the "RS Official Gazette" No. 111/2 1, in order to make a general act considered a law, not only formally, but also in terms of content, that law may not suffer from unclear and imprecise norms, not only formally, but also in terms of content, it may not suffer from unclear an imprecise norms, underregulation and legal gaps, so that the entities to which the law refers would not be deprived of exercising their basic freedoms and rights.

The European Court of Human Rights in its numerous decisions notes certain properties, that is, quality of legal norms that must characterise laws and other general acts of the country that is a signatory to the Convention for the Protection of Human Rights and Fundamental Freedoms (see the judgment in the case "Hasan and Chaush versus Bulgaria", petition number 30985/96, of 26 October, 2000), in order to ensure the rule of law and guarantee legal security in form and content, (see the judgment in the case "Silver et al. versus the United Kingdom", petition no. 5947/72, 6205/73, 7052/75, 7061/75, 7107/75, 7113/75, 7136/75, of 25 March, 1983 and the case "Sunday Times versus the United Kingdom", petition number 6538/74, of 26 April 1979). A legal norm, in the opinion of this Court, which is also followed in their practice by the constitutional courts of European countries, as well as the Constitutional Court of the Republic of Serbia, must be "precise and clearly formulated, so that not only the individual, but also the state authorities who apply the law, can direct their behaviour according to it". Two basic requirements for certainty and precision of legal norms arise from the practice of the European Court. The positive meaning of this request is not fulfilled if citizens, like conscientious and reasonable persons, speculate about its meaning and content, and those who apply it often differ in their interpretation and application in specific cases. The negative meaning of the request for determination and precision of a legal norm directed at state authorities, according to the understanding of this court, means that the request (order) must "be binding for those authorities so that it does not allow them to act outside the purposes determined by its content". Otherwise, legal norms threaten the freedom of citizens from arbitrariness and abuse of state power. The request for the determination and precision of the legal norm is one of the constitutive (fundamental) elements of the principle of the rule of law" in contemporary European states (see Beian versus Romania, petition number 30658/05, judgment of 6 December 2007, paragraph 39) and is key to the emergence and maintaining the legitimacy of the legal order.

Starting from the stated attitudes and requirements in terms of the quality of the law, the question arises for the Constitutional Court of whether the contested provisions of Article 6, paragraph 1, item 17), Article 10, paragraph 3, item 6), Article 25, paragraph 1, Article 37, paragraph 1, item 4) subitem (3), Article 44, paragraph 3, Article 68, paragraph 1, item 9) in the part that refers to Article 37, and consequently the provisions of Article 73, paragraph 2 of the Law, in their content and quality are such that they meet the requirements of the rule of law, as it stems from the practice of the European Court of Human Rights and the Constitutional Court.

The Constitutional Court reiterates that it is the legitimate right of the legislator to introduce measures to ensure the guarantee of equality and non-discrimination, so that the guarantees of inalienable human and minority rights in the Constitution serve to preserve human dignity and achieve full freedom and equality for every individual in a fair, open and democratic society, based on the rule of law principle (Article 19 of the Constitution), and to develop the policy of equal opportunities, but also the obligation to do so while respecting the constitutional principles that are the basis for prescribing such measures.

V

Based on all of the above, the Constitutional Court assessed that in the specific case, the following constitutional and legal questions can be posed as contentious:

- considering that the contested Law stipulates gender equality and defines the concept of gender, which the Constitution does not recognise, the first question is whether the solutions of the disputed Law are in accordance with Art. 15 and 21 of the Constitution.

- secondly, the question arises of whether the disputed Law, contrary to Article 18 of the Constitution, affects the very essence of the guaranteed right to gender equality.

- thirdly, whether the (new) language standardisation, related to gender sensitive language (the Serbian language or the languages of national minorities), by prescribing binding rules can be materia legis and whether imperative legal provisions may introduce binding rules that fall within the domain of the language science.

- fourthly, whether starting from the provisions of the Law on the Use of Serbian Language in Public Life and the Protection and Preservation of the Cyrillic script and the Law on the Dictionary of the Serbian Academy of Sciences and Arts, the binding provisions on gender sensitive language are in line with the principle of the rule of law

from Article 3 of the Constitution, as well as the provisions of Article 89 of the Constitution;

- fifthly, since the provisions on gender-sensitive language also apply to the languages of national minorities, whether such provisions are in accordance with the constitutionally guaranteed rights to preserve the distinctiveness of members of national minorities from Article 79 of the Constitution, and regarding the obligations of the Republic of Serbia assumed by Article 27 of the International Covenant on Civil and Political Rights and the Framework Convention for the Protection of National Minorities as ratified international treaties, and whether it violates the constitutional principle of equality of all before the Constitution and the law;

- sixthly, whether the stipulated use of gender-sensitive language is in accordance with Article 10 of the Constitution, in particular, because it mostly refers to public authorities, that is, the official use of the Serbian language;

- seventhly, whether the stipulated use of gender-sensitive language limits, to the extent permitted by the Constitution, the right of all citizens to use the Serbian language according to their free belief and personal dignity, that is, the right to free personality development from Article 23, paragraph 2 of the Constitution;

- eighthly, whether, starting from the definition of gender-sensitive language determined by article 6 paragraph 1, item 17) of the contested law "as a means to influence the awareness of those who use that language towards achieving equality, including changes in opinion, attitudes and behaviour within the framework of the language they use in their personal and professional life", the freedom of thought and belief guaranteed by Article 43 of the Constitution, as well as the freedom of opinion and expression guaranteed by Article 46 of the Constitution are restricted;

- and finally, ninthly, the question arises of whether the contested provisions of Article 6, paragraph 1, item 17), Article 10, paragraph 3, item 6), Article 25, paragraph 1, Article 37, paragraph 1, item 4) subitem (3), Article 44, paragraph 3, Article 68, paragraph 1, item 9) in the part that refers to Article 37, and consequently the provisions of Article 73, paragraph 2 of the Law fulfil certain standards concerning universality, quality, duration and certainty of norms, which must be in the service of ensuring the constitutional principles of the rule of law, legal security and equality of all before the Constitution and the law, in the sense of the provisions of Article 3 of the Constitution.

VI

By the proposal of the authorised proponent (Ombudsman) submitted to the Constitutional Court on 18 April 2024, proceedings for the constitutionality assessment of the provisions of Article 6, paragraph 1, item 17), of Article 10, paragraph 3, item 6), part of Article 25, paragraph 1, Article 37, paragraph 1, item 3) and part of Article 44 paragraph 3, of the Law on Gender Equality were initiated before the Constitutional Court, in accordance with the provisions of Article 50 paragraph 1of the Law on the Constitutional Court.

The Constitutional Court has already formed the constitutional court case IUz-85/2021 based on eight submitted initiatives initiating the constitutionality assessment procedure of the Law on Gender Equality, submitted in the period from 1 June 2021 until 24 January 2023. Having considered the assertions and the reasons for contesting which are contained in the submitted proposal and assertions and reasons contained in initiatives, the Constitutional Court determined that in, view of the submitted initiatives, contentious constitutional questions are raised that go beyond the contentious questions indicated by the authorised proponent. Therefore, at this stage of the constitutional court proceedings, the Constitutional Court decided to initiate the procedure for determining unconstitutionality in relation to the Law on Gender Equality as a whole, so that in the final decision-making phase it would assess the merits of the assertions of the authorised proponent in connection with the provisions of the Law in relation to which the procedure has already been initiated by the submitted proposal.

Based on Article 107, Paragraph 1 of the Law on the Constitutional Court, the Court decided to deliver this decision to the National Assembly, as the authority adopting the contested act to answer, with a deadline for giving the answer of 30 days of the day of receipt of this decision.

Starting from the analysis of the contested provisions of the Law and the significance of the contested constitutional and legal issues that are raised in connection with them, especially since for significant number of legal provisions it is a controversial question for the constitutional court whether the provisions meet the standards by which they ensure the implementation of the principles of the rule of law, legal certainty, and equality of all before the Constitution and the law, and that the controversial constitutional and legal question also refers to the legal norms, in which the legislator provides that their violation constitutes a punishable offence - violation, the Constitutional Court assessed that, under the stated circumstances, the application of the contested provisions of the Law could produce irreparably harmful consequences for the subjects to which the provisions of the Law would be applied. Therefore, the Constitutional Court established that there are justified reasons and reasons based on the Law on the Constitutional Court, in accordance with the provisions of Article 56, paragraph 1 of that law, to suspend the execution of individual acts enacted and actions taken based on the provisions of this law until the final

decision of the Court on the compliance of the Law on Gender Equality with the Constitution is reached. According to the above, the court ruled as stated in item 4 of the wording.

In line with the above, the Constitutional Court, based on the provisions of Article 42a paragraph 1, item 5) and Article 46, items 1) and 3) of the Law on the Constitutional Court, issued a decision as stated in the wording.

COURT PRESIDENT

Snežana Marković

signature