

# Submission to the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) in the process of first thematic evaluation round for Serbia

Submission by Women's rights organizations FemPlatz and Fenomena

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## Introduction

Women's rights organizations FemPlatz and Fenomena would like to thank to the Group of Experts on Action against Violence against Women and Domestic Violence for the opportunity to send a written submission. This submission is prepared based on 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 in the process of first thematic evaluation round: Building trust by delivering support, protection and justice. The information provided are result of projects and activities implemented by our organizations, therefore submission is prepared only for articles and questions for which relevant information are available.

**Women's rights organization FemPlatz** is a non-profit, non-partisan and non-governmental organization dedicated to protection from discrimination and full realization of human rights of women and girls, especially those exposed to inter-sectional and multiple forms of discrimination. FemPlatz contributes to creation of enabling environment for gender equality, inclusive growth, and social inclusion of women and girls by conducting independent research and policy impact analysis for improving legislation and practices and building capacities of stakeholders relevant for gender equality. Programs are planned and implemented by respecting principles of equality, independence and respect to personal autonomy, social inclusion and participation, and empowerment of women. FemPlatz is based in Pancevo, Serbia, email: femplatz@gmail.com.

**Association Fenomena** is formally established eighteen years ago (2006) with the aim to combat gender inequality and related problems in Serbian society. From initially a community-based organization, Fenomena soon conducted sub-national, national and cross-border projects focusing on empowerment of women/girls and using gender specific approach. Since the establishment, the organization works continuously towards reduction of gender-based discrimination and related consequences, primarily violence against women and girls. The association has expertise for advocacy and capacity building regarding international standards related to gender-based discrimination, including policy analysis and research and enabling GE policy improvements. Fenomena introduced innovative service providers' capacity building programs, and worked with / trained various target groups including public administration, legal professionals and judiciary, lawyers, medical staff, media, NGOs, and high-school and faculty students. Fenomena supports "Women Against Violence" Network in Serbia (VAWN) as a national coordinating organization, and is an active member in the European Network Against Violence (Women against violence Europe - WAVE) as one of the contact points of Serbia in WAVE. Fenomena's main office is base in Kraljevo, Serbia, email: fenomena06@gmail.com and info@fenomena.org.

## Submission on specific articles

### Contribution submitted by FemPlatz

#### 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

#### Question 1 and 2

Gender Equality Law<sup>1</sup> was adopted in 2021 and it defines 16 key areas for general and specific measures for the improvement of gender equality in Serbia. The Law prohibits discrimination based on any personal characteristic, guarantees the equality of women and men, and prescribes the state's obligation to develop an equal opportunities policy in order to achieve de facto, essential equality. Chapter VI of the Law regulates prevention and combating against gender-based violence and defines general and specialized support services in line with the Istanbul convention. This is the only law in Serbia recognizing classification of support services in those two types. Very important provisions are the one on financial resources for organizing and implementing specialized services that should be provided in the budget of the Republic of Serbia, the budget of the autonomous province and the budget of the local self-governments. Specialised support services to women victims of violence have not been recognised in the Law on Social Protection, and general and specialised services are not available and accessible to all women victims of all forms of gender-based violence.

During the process of preparation and adoption of this law, Council of Europe provided the Opinion on the draft Law on Gender Equality of Serbia in 2021 and submitted to the Government. In General observations it was stated that the draft legislation adopts a gender mainstreaming approach horizontally across all policy areas, while recognizing the importance of gender equality policies, including special measures in ensuring de facto equality between women and men, and the full realization of women's rights, corresponding to the double approach recommended by the Council of Europe and as foreseen by the CEDAW Convention. The suggestions and proposals intended to guide the Serbian authorities towards a more structured and streamlined approach towards implementing the full range of provisions of the law.<sup>2</sup>

Since its adoption, the Law on Gender Equality has been constantly under attack, but the negative campaign intensified by a group of traditional academics and right-wing parties led by the religious leaders in Serbia. Backlashes have been initially focused on the obligations regarding the use of gender-sensitive language prescribed by the Law. Even though the Serbian language is gender-sensitive, such provisions have caused great controversy in society. The Committee for the Standardization of the Serbian Language sent a public letter in which it expressed its opposition to the changes introduced in connection with the use of gender-sensitive language. In 2023, the Serbian Orthodox

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<sup>1</sup> Official Gazette RS, No. 52/2021

<sup>2</sup> Opinion on the draft Law on Gender Equality of Serbia On the basis of comments by Claire Guiraud and Susana Pavlou, Council of Europe, Directorate General for Democracy, Human Dignity and Gender Equality Department, Strasbourg, May 2021 available at <https://rm.coe.int/opinion-gender-equality-law-serbia/1680a2b5b2>

Church, i.e., its head, Patriarch Porfirije, joined the campaign against gender-sensitive language.<sup>3</sup> Even more, in February 2024, [the Protector of Citizens – Ombudsman announced](#) that this institution would initiate a procedure before the Constitutional Court to assess the harmonization of the provisions related to gender-sensitive language with the Constitution of the Republic of Serbia. Almost 300 signatories (civil society and individuals) reacted against this announcement.

Not only does that backlash against gender equality and women's rights pose a genuine legislative risk, but it is also spreading false information and misconceptions in the public opinion. Women's rights and human rights organizations from Serbia expressed gravest concerns about the continual attacks on gender equality and women's rights in Serbia. This narrative directly influences support, protection and justice provided by the state authorities to all women victims of any form of violence.

In June 2024, the Constitutional court initiated the process of assessing the constitutionality of the Gender Equality Law based on eight received initiatives. The Court suspended the implementation of the law until the final decision is made ("The execution of an individual act or action undertaken based on the provisions of the Law ... is hereby suspended"). Although the Constitutional Court had in mind certain provisions of the Istanbul Convention<sup>4</sup> and the definition of "gender", the very notion of gender equality and gender has been contested all the time. In the Decision the Court stated that the question 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.

The changes in judicial legislation have also affected the area of domestic violence prevention. The Law on Judges<sup>5</sup> provides that on the day of the constitution of the High Judicial Council, the provision in Article 6 of the Law on Preventing Domestic Violence<sup>6</sup>, which provides that inaction by judges, public prosecutors and deputy public prosecutors within legally defined timeframes shall represent a disciplinary violation, shall expire. Although it is unknown whether there have been any disciplinary proceedings pursuant to the Law on Preventing Domestic Violence, it was important that this law clearly established the responsibility of judges and prosecutors. Additionally, on the provincial level, the Programme for the protection of women from domestic and intimate partner and other forms of gender-based violence in APV for the period 2023-2026 was adopted.<sup>7</sup> The aim of the programme is to ensure efficient prevention and protection from all forms of gender-based violence against women and girls and domestic violence, as well as to develop a gender-responsive system of support services for the victims of violence. The aim contributes to comprehensive implementation of ratified international agreements,

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<sup>3</sup> In the Easter Epistle in April 2023, which was broadcast in all media and was broadcast on television with a national frequency, the following was stated: "We appeal to normalize the use of the Cyrillic alphabet in public space, as well as to stop violence against the Serbian language and repeal the provisions of the Law that impose that violence, especially through the unconstitutional law that imposes the so-called gender-sensitive language behind which is hidden the fight against marriage and family, as divinely established sanctuaries and natural forms of human personal and congregational life."

<sup>4</sup> 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)

<sup>5</sup> Official Gazette RS, No. 10/2023

<sup>6</sup> Official Gazette RS, No. 94/2016

<sup>7</sup> Provincial Parliament Decision on the Programme for the protection of women from domestic and intimate partner and other forms of gender-based violence in the Autonomous Province of Vojvodina for the period 2023-2026, AP Vojvodina Official Gazette, No. 16/23

primarily the provisions provided in the Istanbul Convention and CEDAW. But, how the Programme is been implemented is unknown.

#### List of key issues:

- How the rights guaranteed by the Gender Equality Law would be executed during the court procedure and does the state has the obligation to provide funding for specialized support services for women victims of violence;
- Will the judges and prosecutors be responsible and who will hold them accountable for lengthy procedures, especially when the risk of violence is high;
- How the monitoring of the implementation of policies at local and provincial level is done and why the state is not responsible for pore implementation and/or lacking of key documents such as Action plan for implementation of the Strategy for prevention and combating of gender based violence against women and domestic violence for the period from 2021 to 2025.

## Article 8: Funding

### Question 5

As part of the activities of the *Open about tenders* coalition, and through cooperation with Civic Initiatives, FemPlatz organization carried out an analysis of the public tenders of competent authorities carried out during 2023, which aimed to support projects and programs of organizations aimed at the promotion, protection and improvement of gender equality and /or prevention of violence against women<sup>8</sup>. A special segment of the analysis was devoted to the financing of services intended for women victims of violence.

The analysis included a review of public tenders, according to the methodology of BIRN and Civic Initiatives of the following ministries: Ministry for Human and Minority Rights and Social Dialogue, Ministry of Labour, Employment, Veterans and Social Affairs, Ministry of Family Care and Demography, Provincial Secretariat for Social Policy, Demography and Gender Equality.

Some of the key findings:

- At the national level, there was no public competition for CSOs whose goal is exclusively promotion, protection and improvement of gender equality or the prevention of violence against women during 2023.
- Coordination body for gender equality has not announced any competition for civil society organizations for the promotion and advancement of gender equality. During 2023, Ministry for Human and Minority Rights and Social Dialogue did not have a competition for citizens' associations on the topic of gender equality.

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<sup>8</sup> Analysis is available at [https://www.gradjanske.org/wp-content/uploads/2024/07/FemPlatz\\_Analiza-RODNA-RAVNOPRAVNOST.docx.pdf](https://www.gradjanske.org/wp-content/uploads/2024/07/FemPlatz_Analiza-RODNA-RAVNOPRAVNOST.docx.pdf) in Serbian language

- Of the 15 projects funded by the Ministry of Family Care and Demography deeply analyzed, which in some way dealt with the position of women or the prevention of violence against women:
  - only two were implemented by women's organizations, in the total amount of RSD 4,369,000.00 (app 37,000.00 EUR), which is 2% of the total approved funds
  - only five projects have proper and publicly available financial reports for the previous two years, have annual revenues in 2022 greater than or similar to the amounts approved for project implementation, have at least one profile on the Internet and at least one information and/or photo about the realized project.
  - none of the projects included support services for women in situations of violence.
  - in seven associations, the legal representatives are men.

A total of RSD 45,552,065.00 (app 388,000.00 EUR) was approved for the implementation of these 15 projects. The largest amount was approved to the Crvena Zvezda Football Club Foundation for the implementation of the "Zvezda against violence against women" project in the amount of RSD 6,875,200.00 (app 58,500.00 EUR). Although this foundation has implemented a public campaign against violence against women, as well as educational workshops and visits to the Safe House, according to the texts on the website and the media, these funds could have been directed to associations that focus on improving the position of women or preventing gender-based violence against women. In this way, the funds necessary for basic and specialized support services for women in situations of violence are redirected to associations and foundations for which this is not even their primary activity.

The Provincial Secretariat for Social Policy, Demography and Gender Equality is the only one announcing a public competition/tenders for the allocation of funds to CSOs/women's organizations for financing projects in the field of gender equality with the aim of improving the position of women and gender equality in AP Vojvodina. However, the total funds amount to only 5,000,000.00 dinars (app 42,500.00 EUR), and in 2023, 29 projects were approved (of which 17 in Novi Sad and eight in Bačka Palanka). The largest approved budget for an individual project is 250,000.00 dinars (app 2,100.00 EUR).

Women's organizations that provide general and specialized services for women victims of violence, generally do not apply for public competitions. Some organizations have decided not to apply until funding becomes transparent or because they want to maintain autonomy, and some organizations have not been approved for a project for years and do not want to invest more effort and resources in the process.

#### List of key issues:

- Why the Gender Equality Strategy and the Strategy for prevention and combating of gender based violence against women and domestic violence are not fully implemented. They recognizes cooperation with civil society organizations, especially women's organizations, in various areas of achieving gender equality and improving the position of women and providing specialized services;
- Why there are no allocations from the budget to support projects and programs of women's organizations aimed at the promotion, protection and improvement of gender equality and prevention of violence against women with transparent procurement process and just criteria.

## Article 11: Data collection and research

### Question 6 in connection with question 50 (Article 51)

In the period from 2018 to 2021, FemPlatz and the Women's Research Centre for Education and Communication from Serbia began developing a framework for understanding the characteristics, patterns and causes of femicide in Serbia, as the most extreme manifestation of violence against women. The process involved developing a research methodology, desk research, data collection, analysis of collected quantitative and qualitative data and resulted in the first interdisciplinary research on societal and institutional response to femicide in Serbia.<sup>9</sup>

In the period covered by the research (2015-2019)<sup>10</sup>, 124 cases were finalised; out of that number there were 30 attempted femicide cases (attempted murder and aggravated attempted murder) and 94 cases of femicide (murder, qualified/aggravated murder, manslaughter in a heat of passion, domestic violence resulting in death of a family member). Femicide was classified in court judgments as: murder (45%), various forms of qualified (aggravated) murder (47%), manslaughter in a heat of passion (2%), serious bodily injury resulting in death (3%), and domestic violence resulting in death (3%). Most of the committed criminal offences are qualified (aggravated) murders – 47, independently or concurrently with other criminal offences. Both femicides and attempted femicides are most often committed in the victim's flat/house/yard and in the flat/house/yard that the victim had shared with the perpetrator, which confirms that the least safe and secure place for a woman to stay is actually her home.

The predominant sanction for perpetrators of femicide was imprisonment (63.2%), while in 20.4% of the cases the court imposed imprisonment and a security measure, namely, compulsory psychiatric treatment and confinement in a medical institution, confiscation of objects (instrumentalities), confiscation of weapons, and compulsory drug addiction treatment. A security measure only was imposed on 15.04% of the perpetrators who had a "mental illness" at the time when the criminal offence was committed and therefore lacked mental capacity. The sentences ranged from three to 40 years in prison. Imprisonment for 40 years and imprisonment for 15 years were imposed in the largest number of cases (15.4% each), followed by imprisonment for 20 years (14.08%).

As for the sentences imposed for attempted femicide, 78.8% is the rate of imposition of imprisonment sentences, either as a stand-alone imprisonment sentence or imprisonment along with security measures and fines. The largest number of sentences was for five years (19.2%), four years (15.4%), and three years (11.5%) in prison.

One of the reasons for femicide cases being inadequately addressed in the entire Western Balkans region is weak, inefficient implementation of laws. Despite the fact that femicide is not incriminated as a separate crime, except for the recent legal changes in North Macedonia, the court has the legal option to address gender-based killings of women as first-degree murders, and the judiciary should more thoroughly analyze and better

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<sup>9</sup> Publications available at [www.femplatz.org](http://www.femplatz.org)

<sup>10</sup> Data presented are extracted from *Judicial Response to Femicide in the Western Balkans – Legal framework and judicial practice*, the AIRE Center, Gender and the Judiciary, FemPlatz, 2023, available at <https://www.femplatz.org/index.php?l45>

understand these types of crimes, which would result in fairer proceedings, and finally, more adequate penalties for perpetrators.<sup>11</sup>

Organizations gathered in the ad hoc coalition *Together against Femicide* have sent an initiative<sup>12</sup> to the Ministry of Justice to criminalize femicide. We believe that the special criminalization of femicide in the Serbian criminal legislation is necessary in order to adequately process and sanction all cases of femicide, to narrow the scope for possible errors in the qualification of the criminal offense and to punish the perpetrators, to standardize judicial practice, to reduce legal uncertainty, as well as to statistically monitor the number of reported, accused and convicted persons for femicide.

In Serbia, there are still no publicly available statistical data on the prevalence of femicides, but data on the number of femicides are collected by women's civil society organizations, using media reports. By the end of August 2024, there were 14 femicides in Serbia.

FemPlatz is collecting cases and creates interactive map<sup>13</sup> with informations about every case collected from the media. This should help and serve as a reminder that more should be done.

According to available data, around 30 women are killed in Serbia every year, which means that on average every two weeks, one woman is killed by an intimate partner or a family member, most often in her home. Available research shows that almost every femicide could have been prevented. In many cases, there was a lack of reaction of system institutions to reports of violence, i.e., untimeliness and inefficiency of the reaction, as well as inadequate consideration of the risk to the victim's safety.<sup>14</sup>

However, despite the appeals of women's non-governmental organizations, the institutions responsible for preventing and fighting violence against women still do not provide an adequate response to femicide, which is why a large number of murders of women have not been prevented.

It should be borne in mind that the Strategy for the prevention and fight against gender-based violence against women and domestic violence for the period 2021-2025, within the framework of Special objective 3. planned criminalization of all forms of violence against women and domestic violence, in accordance with international standards and ensuring conditions for adequate prosecution and punishment of perpetrators, while measure 2.5. the planned establishment of a control mechanism for monitoring femicide in Serbia. Criminalizing femicide as a separate crime would, among other things, contribute to the fulfillment of this strategic goal.

A mechanism (Femicide Watch / Observatory for Prevention of Femicide) should be established in accordance with the recommendations of the UN Special Rapporteur on Violence against Women, addressed to all countries and requiring collection and analysis of data on violence against women, and detection of omissions leading to gender-related killings of women.

Although the establishment of a body to monitor femicide in Serbia was announced as far back as 2018, this body was not established. For several years FemPlatz has been

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<sup>11</sup> Kosana Beker, *Judicial Response to Femicide in the Western Balkans – Legal framework and judicial practice*, The AIRE Centre, 2023, available at: <https://gcjnetwork.org/wp-content/uploads/PUBLIKACIJE/regional-femicide-report-2023-eng.pdf>

<sup>12</sup> Information available at <http://femplatz.org/index.php?n111>

<sup>13</sup> About the map available at <http://femplatz.org/index.php?t16>

<sup>14</sup> Mechanism for monitoring femicide in Serbia, FemPlatz, Pancevo, 2023, available at <http://femplatz.org/index.php?n88>



advocating for the establishment of an independent body for monitoring femicide cases in Serbia (Femicide Watch). Having in mind the Serbian legal system, our proposal is to establish this body within the Ombudsman Office, whereby we have based this on the legal competencies and powers of this independent institution, rather than the current personnel solutions. For data collection, analyses and providing recommendations, the powers vested in the Ombudsman would be used, as the national institution protecting human rights, considering that femicide is the most extreme form of violation of women's human rights. In addition to a Deputy Ombudsperson in charge of gender equality issues, we proposed that this mechanism also include the representatives of the Commissioner for the Protection of Equality, representatives of the Provincial Ombudsman, representatives of organisations working on the prevention and protection from femicide, and independent experts in the area of prevention and protection from femicide.<sup>15</sup>

#### List of key issues:

- Why Action Plan for the implementation of the Strategy for Preventing and Combating Gender-Based Violence against Women and Domestic Violence for the period 2021-2025 has still not been adopted;
- When will femicide be incriminated as a separate crime;
- Why the Femicide Watch (monitoring body on femicide) has not been established;
- The definition of rape as criminal offence has not been amended in accordance with the Istanbul Convention;
- The definition of family member has not been amended in the criminal legislation.

## Part II: Information on the implementation of selected provisions in priority areas in the field of prevention, protection and prosecution

### Article 22: Specialist support services

Researches focusing on the rights of women with disabilities are rare, and official statistics are not sufficiently segregated to provide all the necessary data. *Shelters - capacities for providing affordable and accessible services to women with disabilities - Serbia baseline analysis*<sup>16</sup> was conducted in 2020, but there have been no major changes so far.

The results of the analysis show that none of the nine safe houses that participated in the research fully meet the standards of accessibility, both in terms of the accessibility of the building where the safe house is located, and also in terms of the accessibility of the service, as well as that the employees do not sufficiently understand the concept of accessibility. This is very worrying because it is a violation of international standards, as well as domestic regulations on accessibility and the prohibition of discrimination against

<sup>15</sup> *Nacionalni kontrolni mehanizam za praćenje slučajeva femicida u Srbiji* [National Control Mechanism for Monitoring Femicide Cases in Serbia], FemPlatz, Pančevo, 2023, available at: [http://femplatz.org/library/2023-02\\_SRB\\_Policy\\_brief\\_smanjeno.pdf](http://femplatz.org/library/2023-02_SRB_Policy_brief_smanjeno.pdf)

<sup>16</sup> Beker K, Milosevic T, Covic A, *Shelters - capacities for providing affordable and accessible services to women with disabilities - Serbia baseline analysis*, FemPlatz, 2020, available at [http://femplatz.org/library/publications/2021-02\\_Sigurne\\_kuce.pdf](http://femplatz.org/library/publications/2021-02_Sigurne_kuce.pdf) in Serbian language

persons with disabilities. The consequences are very serious and far-reaching for women with disabilities in a situation of violence because it is difficult or impossible for them to use the service of shelters.

The analysis showed that women with disabilities and their experiences of gender-based violence are mostly invisible to service providers. Most staff in shelters has no or very little experience in supporting women with disabilities, especially women with mental disabilities. It is significant that there is an interest in participating in trainings related to the protection from violence and on the position and needs of women with disabilities. Sensitization of employees and acquisition of new knowledge through training would certainly contribute to the provision of more adequate services to women with disabilities who are in a situation of violence.

The research also showed that there are discriminatory practices related to admission to certain shelters, that is, there are criteria for admission that are not prescribed by general acts, and which deny women with mental disabilities admission to a shelter.

List of key issues:

- What action does the state implementing to provide appropriate, easily accessible shelters in sufficient numbers to provide safe accommodation for and to reach out proactively to all victims, especially women and their children.

## Article 51: Risk assessment and risk management

The interconnectedness of violence against women and the misuse of firearms, as well as the “gun culture” is widespread throughout the Balkans<sup>17</sup>. Research and analyses on the use of firearms, particularly in the context of domestic violence, show the culture of armament, which together with patriarchal gender patterns, affects women adversely. The fact that we do not have reliable data on ownership of legal firearms in the region, is of more concern when it comes to the possession of illegal weapons, which is known to be quite widespread throughout the region.<sup>18</sup> In Serbia, the number of illegal weapons surrendered in less than two months is another indicator of this fact.

Furthermore, the need to improve the legal framework regarding the conditions for purchase, keeping and carrying firearms, support services, adequate response of the judiciary system and similar, were also indicated through the activities under the project titled Reduce the Risk, Increase the Safety – Towards Reduced Use of Firearms in the Context of Domestic Violence.<sup>19</sup> The recommendations that came out of this study related to: changing courts practices regarding the punishment of domestic violence perpetrators committed using firearms; ensuring sustainable support services for violence victims; improving the legal framework regarding the conditions for purchase, keeping and carrying firearms; establishing statistical evidence about domestic violence cases perpetrated using firearms; improving cooperation among government authorities in

<sup>17</sup> Kosana Beker, Biljana Janjić, Andrijana Čović, Report on women’s rights and gender equality in serbia for 2023, FemPlatz, 2024, available at [https://femplatz.org/library/reports/2024-03-19\\_PreneraZena\\_2023\\_SR.pdf](https://femplatz.org/library/reports/2024-03-19_PreneraZena_2023_SR.pdf)

<sup>18</sup> Kosana Beker, *Zloupotreba vatrenog oružja* [The Misuse of Firearms], FemPlatz Magazine, October 2023, available at: [http://femplatz.org/library/newsletters/FemPlatz\\_Magazin\\_8.pdf](http://femplatz.org/library/newsletters/FemPlatz_Magazin_8.pdf)

<sup>19</sup> Implemented by UNDP in Serbia, funded by the Ministry of Foreign Affairs of Germany.

charge of prevention and protection from domestic violence; working on creating a safer environment and providing gender responsive support services and focusing the attention of legal professionals on detailed examination of circumstances in each individual case of violence perpetrated by threat of using or using firearms, taking into account overall prior behaviour of the perpetrator, the history of his violent acts, and similar.<sup>20</sup>

In 2021, SEESAC conducted a large-scale gender analysis that documented noticeable efforts undertaken across the region to ensure that laws on weapons prevent the use of firearms in the domestic violence context. Risk assessment procedures in the Western Balkans recognise, although to a varying degree, risks associated with firearms in the domestic violence context. Risk assessments primarily take into account the possession of firearms by a perpetrator and, to a lesser extent, access to firearms, and also whether a firearm was misused in the reported incident.<sup>21</sup> Despite evident efforts to address the risks related to the firearms misuse in domestic violence, available data document the persistence of domestic violence, including the use of firearms in such a context.<sup>22</sup>

Therefore, the *Guidelines for assessing and addressing risks related to the firearms misuse in domestic violence* were developed with the goal to support police officers to effectively: assess, address, prevent and reduce risks related to the presence and firearms misuse in domestic violence cases, and violence against women in particular, and, in doing so, contribute to improved safety of domestic violence survivors.<sup>23</sup> The Guidelines aim to further enhance the effectiveness of actions, including risk assessments, already performed by designated officers with no intention of replacing the existing standard operating procedures. They provide a more detailed guidance on how to assess these specific risks associated with firearms more thoroughly, address them properly, and ensure the safety of victims.<sup>24</sup>

The Guidelines encompass a set of practical checklists aimed to assist police officers to appropriately assess the risks of misuse of firearms, both legally and illegally owned, in domestic violence and respond to them with required urgency.<sup>25</sup>

List of key issues:

- How the correlation between firearms and violence against women reflects to possession, use/misuse, and protection measures;
- What actions will be taken for preventing violence against women and misuse of firearms in this context.

<sup>20</sup> Slobodanka Konstantinović Vilić et al., *Nasilje u porodici i zloupotreba vatrenog oružja* [Domestic Violence and the Misuse of Firearms], UNDP, Belgrade, 2021, available at: [https://femplatz.org/library/publications/2022-01\\_Nasilje\\_u\\_porodici\\_i\\_zloupotreba\\_vatrenog\\_oruzja.pdf](https://femplatz.org/library/publications/2022-01_Nasilje_u_porodici_i_zloupotreba_vatrenog_oruzja.pdf)

<sup>21</sup> Guidelines for assessing and addressing risks related to the firearms misuse in domestic violence, UNDP SEESAC, Belgrade, 2024 available at <https://www.seesac.org/f/docs/Gender-and-SALW/Guidelines-for-Assessing-and-Adressing-Risks-ENG.pdf>

<sup>22</sup> Ibid, p. 15

<sup>23</sup> Ibid, p. 17

<sup>24</sup> Ibid, p. 17

<sup>25</sup> Ibid, p. 19

## Contribution submitted by Fenomena Association

Submission on specific article of the Istanbul Convention (IC) (**Article 22: Specialist support services, answers related to GREVIO's Questionnaire** for the evaluation of the implementation of the IC, within 1<sup>st</sup> thematic evaluation round, most specifically answers to **questions 25, 26 and 27**) is prepared by Fenomena Association by primary data collection through survey among specialist women's and human-rights focused support services from different parts of Serbia complemented by desk research (data available from published and unpublished research and legal/policy documents). The contribution by Fenomena Association focuses exclusively on **(e.) legal counselling**.

### Article 22: Specialist support services - KEY FINDINGS

The Republic of Serbia does NOT have in place the necessary legislative or other measures, as required by the Article 22 of the IC, to provide or arrange for, in an adequate geographical distribution, immediate, short- and long-term specialist women's legal counselling services to all women victims subjected to any of the acts of violence covered by the scope of the IC and their children.

Free legal aid which is organized in the majority of municipalities by local self-governments is not specialized for work with women survivors of any form of gender-based violence nor for work with multiple discriminated groups.

Most recently collected data show that specialist women's legal services are provided by independent women's and human-rights focused CSOs whose services are supported by international funds and donors, own funds/membership fees, and pro bono services.

Specialist women's CSOs working with women who survived GBV registered for free legal services in the Ministry of Justice registry, are eligible providers only for free legal support: they can provide legal information and support clients in filling out the FLA requests/forms (defined by article 11 of LFLA).

Policy related to the Law on Free Legal Aid does not allow registered specialist CSOs to refund expenses from the public budget, which deprives victims of violence of specialized services and threatens the sustainability of specialist legal services.

486 persons (data are not segregated by sex) received FLA as a protection from domestic violence in 2023, which represents about 0.2% of women who experienced physical, sexual or psychological violence from intimate partner during the previous year in the Republic of Serbia.

Amendments to the Law on Free Legal Aid and accompanying bylaws need to go in three directions:

1. Enabling women's specialist CSOs to become equal FLA providers within FLA system, i.e. that specialist CSOs may provide legal aid to victims of gender-based violence (besides the right for asylum and prohibition of discrimination), under conditions that apply to all legal aid providers.
2. Enabling CSOs registered for FLA to be reimbursed for the costs of providing FLA, from the public budget.
3. Equating all forms of GBV with domestic violence in the sense that FLA is available under equal conditions to all victims of GBV, regardless of their financial status.

## **SURVEY DATA ANALYSIS**

### ***Introduction***

Survey was conducted in August/September 2024 among independent women's and human rights focused CSOs<sup>26</sup> throughout Serbia, majority of whom are members of Women Against Violence Network (officially registered Union of CSOs women's support services; the Union established first feminist National helpline for women and girls gender-based violence survivors in Serbia). 15 CSOs, who work towards ending gender-based violence for more than 20 years in average, provided data for the survey.

### ***General information – frequency, territory coverage, means of communication and types of beneficiaries***

All participating CSOs provide legal services to women who survived gender-based violence (8 CSOs provide legal services on a regular basis, 5 CSOs sometimes and 2 CSOs rarely provide legal services), mainly to survivors of:

- Domestic / intimate partner violence (primarily physical violence) – 87%,
- Sexual harassment – 73%,
- Sexual violence / rape – 60%,
- Psychological violence – 67%,
- Stalking – 67%,
- Forced marriage – 27%.

CSOs who provide legal services regularly are mainly located in Central and Southern Serbia, Belgrade and Novi Sad. Facilitated by the means of electronic and telephone communication, 3 CSOs provide legal services on the territory of the whole country. Majority of CSOs provide legal services through telephone communication and in direct consultations in their offices (2/3), more than a half of CSOs use electronic mail to provide legal services, minority of CSOs provide legal services in the offices of the lawyer they cooperate with (1/4) by the registered lawyer, and only one CSO provide legal services by the specialized

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<sup>26</sup> The terms CSOs, NGOs, organizations, and associations are used interchangeably in the document.

website. 40% of CSO provide accompanying the beneficiary in institutions as social support that complements legal services.

Legal services provided by specialist CSOs can be provided immediately by 73% of CSOs who participated in the survey, while other 27% can rarely provide immediate legal services. Regarding the child psychologists or other professional support to children exposed to domestic violence, majority of CSOs (47%) does not have established this kind of services combined with legal services, 27% can provide said service sometimes, and 27% provide psychologic support to children as a regular service.

CSOs are specialized to work with and provide legal services to various groups of women:

- National or ethnic minority – 12 CSOs,
- Women with disabilities – 9 CSOs,
- LBT+ women – 7 CSOs,
- Refugees – 4 CSOs,
- Human trafficking survivors – 3 CSOs,
- Migrant women – 3 CSOs,
- Women seeking asylum – 2 CSO.

CSOs that are not specialized to work with women belonging to a specific multiply-discriminated group, usually refer their beneficiaries to other specialized CSOs within or outside the network.

### *Type and number of legal services provided by specialized women's and human rights focused CSOs*

DESK RESEARCH INPUT: Legal services are categorized in two general groups and belonging sub-services:

1. Free legal support (FLS), including – providing general legal information, and filling out the forms (mainly for free legal aid requests);
2. Free legal aid (FLA), including – providing legal advice, writing submissions, legal representation, defense in legal proceedings.

According to the Law on Free Legal Aid (LFLA)<sup>27</sup>, Article 9, NGOs have the right to provide free legal aid (FLA) only related to asylum and prohibition of discrimination. Regarding the scope of their work / topics they cover (e.g. gender-based violence), NGOs may only provide free legal support - general legal information and fill out the forms.

Majority of CSOs that participated in the survey provide FLS – general legal information (87%) and filling out the forms (67%). In addition, free legal aid, namely providing legal advice and writing submissions – is provided by 67% of CSOs. When it comes to legal representation 4 CSOs provide said services, while defense in legal proceedings is provided by 3 CSOs.

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<sup>27</sup> Law on Free Legal Aid, article 9

Participating specialist CSOs annually provide legal services to more than 1.500 beneficiaries / women who survived GBV, with about 7.500 provided legal services of various types.

The most usual beneficiaries' needs, when approaching women's specialist services are to:

- confirm if her experience is considered gender-based or domestic violence,
- be informed about her rights and the ways of exercising those rights,
- understand in advance the course of legal proceedings,
- be informed about specific law regulations and measures related to urgent protection measures, divorce, property issues, obtaining children guardianship rights and alimony, obtaining social benefits, sanctions policy, etc,
- be referred to the right institution and service,
- understand how each mandatory institution is working (police, centers for social work, prosecutor's office and courts) and what their legal obligations are,
- obtain direct legal aid in the form of advice, writing submissions, legal representation, defense in front of the courts.

Besides legal services, beneficiaries in majority of cases require additional psycho-social support during the legal proceedings due to violence consequences and secondary victimization by the institutions. Specialist CSOs provide psycho-social individual support and some also provide the self-help and support group services, as well as monitoring of the legal proceeding/accompanying the beneficiary in institutions as social support that complements legal services.

### ***Means of informing, referring beneficiaries to legal services and referrals to specialized women's legal services by local self-government / municipal FLA (MFLA) offices***

The citizens are informed about CSOs legal services through different means of communication – leaflets and posters, classic and online media, social networks' adds, through referrals from institutions such as hospitals, police, centers for social work, public prosecutor, National employment service, and other CSOs. However, the FLA offices in local self-governments / municipal FLA (MFLA) are not referring women who survived GBV to specialized women's CSOs for legal services, as a regular activity. 87% of CSOs say that MFLA never referred beneficiaries to them (40%) or they are not sure about it (47%).

*2 CSOs have occasional or rare referrals of beneficiaries by MFLA which should be underlined as good practice example.*

*“The Center for Social Work, other women's organizations and organizations of persons with disabilities refer women with disabilities to support in cases of protection from gender-based violence. On a monthly basis, it is between two and five women. For some of these women, we assess that urgent legal support and aid is needed, and we intervene.” (Quotation from the survey.)*

*“The local self-government does not see the association as collaborators but as rivals. Even more, the users experience discomfort when they say that they have used CSOs services.”*

*“Center for Social Work, Safe house/Shelter, and police refer beneficiaries to our lawyer to write lawsuits for divorce or protection measures against domestic violence, as well as criminal charges.” (Quotation from the survey.)*

DESK RESEARCH INPUT - According to the bylaw policy *Rulebook on referring the applicant to a free legal aid providers*<sup>28</sup> issued by Ministry of Justice in 2019 and based on article 39 of Law on Free Legal Aid (LFLA) referral system of FLA providers is described as follows: local self-government/municipal free legal aid (MFLA) officer is deciding for each submitted request, by reviewing the Register whether free legal aid can be provided by the MFLA or by a registered provider of free legal aid that is NOT directly financed from either the local self-government or republic budget. If either of them do not have the ability to provide free legal aid in a specific case, the MFLA officer refers the applicant to a lawyer from the list of free legal aid providers managed by the Serbian Bar Association. From the noted Rulebook, it is not clear who are exactly the registered providers that are NOT directly financed from the public budgets. NGOs are specifically noted only for two areas: “If the request refers to the right to asylum or discrimination, the association to which the applicant is referred to, can hire a lawyer exclusively from the list of providers of free legal aid managed by the Serbian Bar Association.”

In conclusion, specialist women’s NGOs working with women who survived GBV registered for free legal services in the Ministry of Justice registry, are eligible providers only for free legal support: they can provide legal information and support clients in filling out the FLA requests/forms (defined by article 11 of LFLA).

### ***Funding of specialist women’s legal services***

Data collected through survey show that specialist women’s legal services provided by independent women’s and human-rights focused CSOs are mainly funded by (resources are combined):

- international funds and donors – 73%,
- own funds/membership fees – 33%,
- or services are provided pro bono – 27%.

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<sup>28</sup> [Rulebook on referring the applicant to a free legal aid provider, article 2](#)



NGOs' position in the new FLA system is not favorable - policy related to the Law on Free Legal Aid does not allow registered specialist NGOs to refund expenses from the public budget, which deprives victims of violence of specialized services and the sustainability of specialist legal services is threatened.

### ***Registration of specialist women's legal services in the FLS and FLA Registries of the Ministry of Justice***

DESK RESEARCH INPUT - After adoption of the LFLA, some NGOs (including women's specialist organisations) have registered in the Ministry of Justice Register. Up to the present moment 28 NGOs – of which 8 specialist women's organisations – are registered for Free Legal Aid (FLA) and 40 NGOs - of which 6 specialist women's organisations - are registered for Free Legal Support (FLS). The key reason why the NGOs decided to register formally after new LFLA adoption lies in insecurity and fear of sanctions if they continue to provide any legal services to their beneficiaries without being registered. The controversies that followed the public debate on the occasion of the passing of the Law on Free Legal Aid, open attacks from some bar associations, as well as a campaign directed against the civil sector in Serbia caused the reluctance of certain associations of citizens to continue their work on providing free legal aid.<sup>29</sup>

### ***Obstacles in the new system of free legal aid for women who survived GBV who seek FLA***

The vast majority of CSOs who participated in the survey noticed the obstacles for their beneficiaries, women who survived GBV, in the new FLA system (80%), while 20% are not sure. Underlined obstacles are next:

- all women GBV survivors are not recognized as category of beneficiaries who can use legal aid for free (only victims of domestic violence are categorized this way); nevertheless, domestic violence survivors who are employed are sometimes denied this right in practice;
- the rights to FLA and related information for exercising these rights are not transparent – citizens are not informed;
- the procedure to obtaining FLA is complicated; the FLA application form is too complex and beneficiaries usually need at least law graduate for assistance;
- the conditions for requesting FLA in the cases of GBV are not confidential in the MFLA offices (usually there are other public servants in the same office, or it is communication over the counter);
- beneficiaries are rarely referred to a registered lawyer for FLA;
- the MFLA officer has the authority to decide about the probability of the success of the case and according to that to allow or not to allow FLA to applicant; but, MFLA is not allowed to request any specific documents or proofs in case of the application

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<sup>29</sup> The right to free legal aid of victims of gender-based violence, p. 25, YUCOM, 2020.

for FLA in the case of domestic violence; hence, it is unclear on which basis the MFLA officer can conclude about the probability of the success of the case;

- immediate providers of free legal aid – municipal free legal aid offices (MFLA) do not have the necessary specialized knowledge, nor experience, about GBV phenomenon and the needs of GBV survivors; the same also applies to majority of lawyers;
- MFLA and majority of lawyers do not have necessary specialized knowledge about specific categories of women who experience GBV including national/ethnic minorities, women with disabilities, LBT+ women, refugees and asylum seekers, human trafficking survivors and migrant women;
- there is no information in adapted formats, nor is there accessible (architectural and communication) free legal aid for women with disabilities;
- GBV survivors do not have adequate legal aid since specialist CSOs are not incorporated well in the new FLA system.

Due to many obstacles it can be concluded that GBV survivors do not use their right to FLA or give up after application for FLA.

## DESK RESEARCH INPUT

*Publishing the percentage of provided free legal aid classified by the legal fields, including approved FLA requests in the cases of domestic violence, in the Annual Report should be considered as the good practice of the Ministry of Justice.*

In 2023, out of 6321 approved FLA cases 7.69% were in the field of domestic violence, meaning that **486 persons** (data are not segregated by sex) **received FLA as a protection from domestic violence. This number represents about 0.2% of women who experienced physical, sexual or psychological violence from intimate partner during the previous year.**<sup>30</sup>

*“They do not have adequate legal aid because the associations that deal with the topic do not have the right to provide aid to victims of violence, and lawyers registered with the Bar Association in most cases are not sensitized for the topic and cannot prevent beneficiaries to withdraw from the process. Also, the first officer at municipality to whom the beneficiary must come with the request is also not sensitized and does not have an instruction that he/she can refer the beneficiary to a specialized GBV association (because the law allows only for discrimination and asylum). Additionally, research data shows that municipal FLA services too rarely refer victims of violence to registered lawyers. So currently victims of violence do not have access to specialized legal assistance in the current FLA system.” (Quotation from the survey.)*

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<sup>30</sup> Data used for comparison - 9% of women experienced physical, sexual or psychological violence by an intimate partner in the 12 months before the survey, OSCE research (2019) (230.000 of women older than 18 years) [https://www.osce.org/files/f/documents/7/5/419756\\_1.pdf](https://www.osce.org/files/f/documents/7/5/419756_1.pdf)

DESK RESEARCH INPUT<sup>31</sup> - According to the latest telephone monitoring of Fenomena Association in the beginning of 2024, 9% of municipalities stated that they do not provide FLA in their municipality. MFLA working conditions are assessed as unsatisfactory, especially in terms of:

- insufficient number of staff (for example, some FLA employees are working alone and appointed for other tasks besides FLA, which is why they cannot respond adequate to all FLA requests timely, properly, completely and efficiently),
- small working space (multiple people in the same office, which is small, which significantly hinders work with clients, especially when it comes to sensitive cases such as domestic violence),
- lack of basic technical means for work (for example outdated computers, the office does not have equipment, so beneficiaries are referred to commercial photocopying offices which may violate confidentiality).

The main conclusions and recommendations related to MFLA services given by lawyers and MFLA officers:

- to increase the number of employees in free legal aid offices,
- forming expert teams within MFLA offices,
- conduct continuous training for MFLA officers so they understand the GBV phenomenon and obligations arising from the Law on FLA and education against discrimination of multiple marginalized groups,
- introduce multi agency in FLA provision by e.g. greater involvement of centers for social work, police, and NGOs.

Research show that 15% of MFLA officers request the evidence from FLA applicants, domestic violence survivors, during the application process: unemployment certificate, list of income, extracts from registers, judgments, personal card, pension cheque, decision on extension of measures - protection from settlement in the family, medical certificate, records and official notes, records of the Center for Social Work, medical documentation, and notification of the emergency measure imposed.

95.5% of MFLA had no requests for providing free legal aid for gender-based violence, other than domestic violence. There were several criminal offences of sexual harassment (Article 182, paragraph 2 of the Criminal Code) and the criminal offense of stalking (Article 138 of the Criminal Code). However, these data are relative, taking into the account that not all MFLA collect such data.

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<sup>31</sup> Based on the unpublished Fenomena's comparative analysis on FLA in 2023, and [research that University of Kragujevac Faculty of Law](#) conducted in cooperation with Fenomena Association in 2022 on FLA, in which 67 MFLA officers and 112 lawyers participated.

## *Obstacles in the new system of free legal aid for women's specialist CSOs*

The vast majority of CSOs who participated in the survey noticed the obstacles for their functioning in the new FLA system (87%), while 13% are not sure. Underlined obstacles are next:

- specialist women's CSOs are not recognized with their capacities for legal service provision as MFLA offices and lawyers (even when CSOs are cooperating with private practice lawyers);
- specialist women's CSOs are not recognized as legal FLA providers for women who experienced GBV (they can only provide FLS – give general legal information and fill out the FLA request – to GBV survivors; while, CSOs can only provide FLA in cases of discrimination and to asylum seekers);
- specialist women's CSOs who are registered for FLS or FLA can not refund for their legal services from the public budget, the same way as registered lawyers can; therefore the service provision sustainability is unsure for the CSOs;
- CSOs must cooperate with lawyers who are registered for FLA and not all lawyers, which narrows the possibility for cooperation with most quality lawyers;
- the referral system of the FLA beneficiary is not clear
- the cooperation system of the registered specialist CSO with registered lawyer is not clear.

Due to many obstacles, specialist women's CSOs refrain from registering for FLA and providing legal services due to ambiguity in the law regarding the status of CSOs and possible financial fines. Moreover, majority of CSOs think that it would be better that CSOs are incorporated in the FLA system of referrals and refunding (80%) instead of staying outside the FLA system and base the provision of legal services on donations even though it may allow flexibility and independence in work (7%). 13% of CSOs are unsure if it is better to become equal part of FLA system or stay outside the system.

*“The new FLA system does not allow specialized CSOs to provide legal aid to victims of GBV, but only free legal support (legal information and filling out forms). CSOs can provide legal aid in cases of seeking asylum and protection against discrimination. GBV in Serbian legislation is not defined as gender-based, but is gender-neutral; victims cannot refer to the anti-discrimination law, but to the Criminal Code, the Family Law and the Law on Prevention of Domestic Violence (which are gender neutral). As far as we know, IC is not applied directly, although it can be. In addition, the new FLA system does not allow CSOs to reimburse FLA expenses from the public budget, which deprives victims of violence of specialized assistance and the sustainability of specialized services is threatened.” (Quotation from the survey.)*

## *Recommendations for improving the system of free legal aid for women who survived gender-based violence in Serbia*

CSOs who participated in the survey (93%) think that FLA is either necessary (80%) or very important (13%) for the GBV survivors. General situation improvement recommendations from the perspective of specialist women's CSOs are next:

- to start implementing current FLA system as required by current legislation, as a minimum requirement, since domestic violence survivors at least could have some benefits from it;
- change/improve the FLA application form so that it can be comprehensive to more beneficiaries;
- simplify the procedure, especially for minority groups;
- change the law to include other categories of GBV survivors as FLA beneficiaries without requirements related to their material status;
- change the legislation/policy to include specialist women's CSOs as equal legal aid providers for GBV survivors, including the possibility to refund the legal aid costs from the public budget;
- change the legislation/policy to reduce the discretionary right of MFLA officers when deciding who does not need FLA that is their right to arbitrary access the probability of the success of the case; in addition, a clear and precise definition of each individual decision, who has the right, under what conditions, the deadlines of decision-making, separation of those who decide from those who provide FLA in municipalities;
- supplement the rotating system of referrals to registered lawyers with the specialization criteria (e.g. group the lawyers according to their expertise for specific category of beneficiary and make referrals only to lawyers with proven expertise, knowledge and experience, for GBV);
- provide the architectural and communication accessibility of free legal aid to women with disabilities;
- organize continuous education to all FLA providers;
- ensure wide distribution of information related to FLA rights and FLA system in all local communities/municipalities.

*“Apart from the inclusion of all forms of GBV (according to the IC), so that the most vulnerable victims of violence get the possibility of FLA, it is necessary that specialized associations get the opportunity to provide a full range of legal services, as well as to be given equal treatment among FLA providers, including the reimbursement of costs from the public budget, since this is the only way to ensure the sustainability of the service and that the victims of violence receive adequate and free legal aid, which is guaranteed to the citizens of the Republic of Serbia by law.” (Quotation from the survey.)*

Three recommendations for improving the system of free legal aid for women who survived gender-based violence in Serbia are selected by participating CSOs as most urgent for implementation:

1. Legally enable (amend the Law on Free Legal Aid) women's specialist CSOs to become equal FLA providers within FLA system, i.e. that specialist CSOs may provide legal aid to victims of gender-based violence under conditions that apply to all legal aid providers (besides the right for asylum and prohibition of discrimination). (87%)
2. Legally enable (change the bylaws related to FLA referral and refunding system) CSOs registered for FLA to be reimbursed for the costs of providing FLA, from the public budget. (73%)
3. Legally equate (amend the Law on Free Legal Aid) all forms of GBV (as defined by the Istanbul Convention) with domestic violence in the sense that FLA is available under equal conditions to all victims of GBV, regardless of their financial status. (67%)

### ***Further actions undertaken by Fenomena Association and other CSOs***

In 2024 Fenomena Association will initiate amendments to the Law on Free Legal Aid in cooperation with other women's specialist organisations and with the assistance of Serbian Association for Criminal Law Theory and Practice. The need for improvements of the LFLA is related to unfavorable and limited role of NGOs registered in FLA and FLS register of Ministry of Justice, and limited rights of all GBV victims to FLA. In relation to said problems the legal recommendations will be formulated in three directions, according to above listed recommendations.