**INPUTS FROM THE PROTECTOR OF CITIZENS OF THE REPUBLIC OF SERBIA**

**RELATED TO THE SPECIAL RAPPORTEUR’S REPORT ON FEMICIDE**

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1. On the existence, or progress in the creation, of a national femicide watch and/or femicide observatory and/or observatory on violence against women with a femicide watch role; observatories at Ombudspersons’ office or Equality Bodies; academic institutions and/or NGOs, or any plans to create one.

On 22 April 2021, the Government of the Republic of Serbia adopted the Strategy for the Prevention and Combating of Gender Based Violence against Women and Domestic Violence for the period 2021-2025[[1]](#footnote-1). The Protector of Citizens, in his regular annual reports, has for years been pointing to the need to adopt this strategic document and reiterates the recommendation that the Government should adopt a National Strategy for the Prevention and Elimination of Violence in the Family and in Intimate Partner Relationships.

The Strategy prescribes the Specific Objective 2: Ensure efficient and effective protection of victims and establish accessible and adequate general and specialized support services for victims of violence. One of the measures for achieving the Special Objective 2 is ***Measure 2.5. Prevention of femicide as an extreme manifestation of existing forms of violence against women.***

**Description and effects of the measure:** The aim of this measure is to establish a control mechanism for monitoring cases of femicide in the RS. Gender-based murders of women are not a new form of violence, but an extreme manifestation of existing forms of gender-based violence against women. These murders are not isolated incidents that happen suddenly and unexpectedly, but represent a final act of violence that has been going on for a long time. These manifestations are deeply culturally and socially rooted, society accepts them as inevitable, tolerates them and justifies them, as evidenced by publicly available information and articles about that act in the media. The responsibility of the state when it comes to the murders of women is missing.

The description of this measure states, among other things, that the establishment of specialized state bodies for conducting investigations and initiating criminal proceedings in cases of femicide was also recommended by the UN Special Rapporteur on violence against women[[2]](#footnote-2), in order to prevent impunity for the perpetrators. Accordingly, consideration should be given to treating femicide as a separate crime against life and body in the Serbian criminal law, which would include any gender-motivated deprivation of a woman's life, whether premeditated, or negligent, provided that it occurred as a result of gender-based violence. Cases of femicide should be further classified as femicide committed in the context of domestic and intimate partner violence, based on the relationship between the perpetrator and the victim, and other cases of femicide. In addition, states should collect data on women's suicides or deaths related to injuries in cases of violence against women and on the murders of children in connection with gender-based violence against their mothers.

The effects of the measure are reflected in the creation of the possibility of collecting and recording all data and information on acts of femicide in order to analyze the actions of the competent authorities and prevent violent deaths of women by men.

**Institution responsible for implementing the measure**: Ministry of Justice, Ministry of Interior, Ministry of Labor, Employment, Veteran and Social Affairs

**Institutions participating in the implementation of the measure:** Ministry of Family Welfare and Demography, courts, public prosecutor's offices, Republic Public Prosecutor's Office, Supreme Court of Cassation, women's specialized NGOs

1. On other measures including research and studies undertaken to analyse femicide or gender related killings of women and girls, or homicides of women by intimate partners or family members and other femicides. If available, please share a copy of such studies.

In the procedures of control of the work of the competent bodies, and through two special reports in 2014 and 2015, the Protector of Citizens identified numerous shortcomings in the system of protection of women from violence in the family and in intimate partner relationships. Starting from that, we do not have unique records of cases of violence against women, but each system keeps records for itself, which makes it almost impossible to verify and compare data. Acting officials do not sufficiently recognize violence and forms of violence and do not understand the position of a woman who suffers violence, the power imbalance between the victim and the perpetrator; violence that occurs for the first time is often given the meaning of a family or partner conflict that does not require a response from the authorities, except for advisory work or warnings. Not enough attention is given to the fact that murders of women in the family or in intimate partner relationships are most often the final outcome of long-term violence against the victim; cooperation and exchange of information between the competent authorities is insufficient, measures are not implemented efficiently and in a timely manner, which leads to the fact that violence is not sanctioned or is sanctioned inadequately. This is supported by the data from our research from 2014, that the number of criminal charges filed due to domestic violence is many times less than the number of reported cases, and only 25% of criminal charges reach the indictment stage, while more than two thirds of verdicts for violence against women are in the form of suspended sentences.

Bearing in mind that the first contact with the victim of violence is made by acting officials and that their timely and correct treatment significantly affects further work with the victim of violence, we investigated in 2015 the extent to which trainings on protection of women from violence in the family or in intimate partner relationships are conducted and how the efficiency of trainings and application of newly acquired knowledge in work is monitored. Assessment of the situation is that there are inequalities in the number of trainings of acting officials in different systems, the number of trainings is insufficient, multidisciplinary trainings are not organized enough, there are no records on who is sent to trainings, acquired knowledge and its application in practice is not checked, and these are just some of the shortcomings identified in our report.

Findings obtained by the Protector of Citizens in the procedures of control of regularity and legality of work of bodies in the system of protection of women from violence in the family and in intimate partner relationships, initiated on complaints of citizens and on his own initiative, in 14 cases of murder of women (femicide), by their (former) partners, i.e. family members, in 12 cases of femicide, as well as in 46 cases of violence in the family and in intimate partner relationships (and in 2016 alone sent 141 systemic collective recommendations[[3]](#footnote-3) after control procedures in 63 cases), among other things, confirmed all previously established facts, pointing to the relativization of the phenomenon of domestic violence by the acting officials, arising from lack of understanding, i.e. giving the reported violence the meaning of marital or partner conflict.

Namely, in 2016, the Protector of Citizens determined that, although the General[[4]](#footnote-4) and Special[[5]](#footnote-5) Protocols for the protection of women from violence in health, social welfare, internal affairs and justice systems were adopted, which contain an explanation of what domestic violence is and how it manifests itself, in practice, acting officers still do not sufficiently recognize and understand domestic and intimate partner violence and the reactions of victims to violence, minimizing the importance of all forms of violence against women in family and in intimate partner relationships. This results in inappropriate decisions of the authorities, failure to take appropriate measures and inadequate and untimely selection of measures to protect women from violence. It was noticed that, especially in the case of verbal violence, the victims of violence are instructed to conduct proceedings before the competent authorities themselves, regardless of the obligation of the authorities to take measures for which they are competent. Victims are not provided with professional, or other help and support. It is not always checked whether the person reported for violence has a weapon. Although the obligation of all bodies in the system of protection of women from domestic violence and protection of children from abuse and neglect is to cooperate and regularly exchange all information, we found that it is often not done or not implemented in a timely manner, and that information related to violence is not given due attention, which affects the efficiency of the work of bodies and the choice of measures to protect the victim. The key role in the prevention and protection of women from violence should be played by the authorities at the local level, where support for women, potential victims, or women who have already survived violence, is most important and where it can be obtained.

The Protector of Citizens also identified the same or similar omissions of police officers, guardianship authority professionals and health workers, which indicate the need to immediately assess the reasons that led to these omissions, non-implementation or inadequate implementation of existing measures, as well as the need to determine the responsibility of acting officers, sanction them, and plan activities that will lead to the elimination of these omissions or reduce the risk of their recurrence in the future. Therefore, on 27 July and 28 August 2016, the Protector of Citizens sent a series of systemic recommendations to the competent authorities in order to eliminate the identified shortcomings that are clearly recurring and improve the conduct of the police, guardianship authorities and health institutions in cases of violence in the family and in intimate partner relationships, and to prevent similar omissions in the future.

The authorities followed the systemic recommendations issued by the Protector of Citizens in 2018 after identifying numerous individual and systemic omissions in 30 examined cases of femicide[[6]](#footnote-6), violence in the family and in intimate partner relationships, and child abuse and neglect, such as: despite the progress made, there is still a lack of adequate cooperation between the authorities responsible for combating domestic violence, untimely and inefficient exchange of information, inadequate risk assessment, implementation of measures that do not correspond to identified and assessed risks, lack of exchange of information, non-recognition of violence, failure to take measures and activities that the authorities are obliged to take. Children that witness domestic violence are not treated as victims of violence, as a result of which measures prescribed for the protection of victims are not taken.[[7]](#footnote-7) Also, an adequate number of professional workers in centers for social work has not been provided, which would enable full application of professional work standards and adequate conduct of centers for social work in cases of violence in the family and in intimate partner relationships, violence, abuse and neglect of children and in other professional work; an adequate number of trainings on the application of the Law on Prevention of Domestic Violence has not been provided for professional workers of centers for social work, as well as for police officers, especially for police officers with a general jurisdiction; failure to take appropriate measures to protect and support victims of violence and to protect children from violence, abuse and neglect.

The Administration for the Enforcement of Penal Sanctions of the Ministry of Justice conducted supervision in institutions for the enforcement of penal sanctions and acquainted them with the content of the recommendations of the Protector of Citizens from 2018, while the implementation of these recommendations will be monitored by the Inspection Department of the Administration through the process of supervision. The Administration instructed the institutions to intensify cooperation and exchange of information with the regional centers for social work and the competent police administrations and stations. The Ministry of Labor, Employment, Veteran and Social Affairs instructed the directors of centers for social work to provide the standards of professional work pointed out by the Protector of Citizens, and the experts of the centers for social work to adopt and apply them in the procedures for protection from domestic violence. This Ministry, in accordance with the recommendations of the Protector of Citizens and based on the analysis of data on the number of vacancies, submitted a Draft Conclusion to the Ministry of Finance and the Government Commission for approval of new employment and additional employment in centers for social work and in social protection institutions, but no employment occurred. The Republic Institute for Social Protection, in accordance with the recommendations of the Protector of Citizens, planned to conduct trainings related to domestic violence, but with a focus on protecting children from domestic violence, abuse and neglect. The Criminal Police Directorate of the Ministry of Interior forwarded an instructive dispatch issued in 2019 to all police administrations and organizational units at the Ministry's headquarters with guidelines for the conduct of police officers in cases of domestic violence. The Health Inspectorate of the Ministry of Health announced the performance of supervision in all health care institutions covered by the recommendations.

The mentioned collective recommendation from 2018 especially pointed out the problem of insufficient and inadequate number of professional workers in centers for social work that would enable full application of professional work standards and adequate conduct of centers for social work in cases of violence in family and in intimate partner relationships, violence, child abuse and neglect and in other professional activities.

In 2020, the Protector of Citizens again, as in previous annual reports, recommendations[[8]](#footnote-8) and opinions[[9]](#footnote-9) sent to the competent ministries, pointed out the obligation of the state to provide an adequate number of professional workers in centers for social work, which would enable full application of professional work standards and adequate conduct of centers for social work in cases of violence in family and in intimate partner relationships, violence, child abuse and neglect and in other professional activities and recommended to the Ministry of Labor, Employment, Veteran and Social Affairs and the Ministry of Finance to take the necessary measures and actions to provide an adequate number of professional workers in guardianship authorities, which would enable the full application of professional work standards and adequate conduct of centers for social work[[10]](#footnote-10). In its statement submitted to the Protector of Citizens on 19 November 2020, the Ministry of Labor, Employment, Veteran and Social Affairs stated that by conclusion of the Government Commission for giving consent for new employment and additional employment with beneficiaries of public funds, dated 28 October 2020, consent was given for the employment of a total of 187 persons for an indefinite period of time, i.e. for filling a total of 187 vacancies, i.e. vacancies with beneficiaries of public funds that are under the jurisdiction of this Ministry – Sector for Family Welfare and Social Protection, including job positions in social protection institutions, which the Protector of Citizens welcomes.

In the procedure initiated on his own initiative, regarding the murder of three persons and one child in May 2020, the Protector of Citizens identified numerous omissions in the work of the Ministry of Labor, Employment, Veteran and Social Affairs and centers for social work in the process of protection of children from violence and abuse in a family that was in the records of the centers. More specifically, the Protector of Citizens found that the competent centers for social work, during the nine years of work with the family, did not initiate any proceedings with the aim to protect against domestic violence or deprive the parents of parental rights, and the Ministry did not provide timely professional assistance to guardianship authorities, which it was obliged to do. Furthermore, there was no timely exchange of information regarding the level of risk for victims of violence, abuse and neglect, and the protection of beneficiaries was not achieved in accordance with the regulations and standards of professional work in the field of family law and social protection. The Protector of Citizens sent a recommendation[[11]](#footnote-11) to the Ministry of Labor, Employment, Veteran and Social Affairs and the competent centers for social work, in order to eliminate the observed omissions. The competent authorities acted on the recommendation.

We are enclosing a publication with selected recommendations of the Protector of Citizens, dedicated to the protection of women from violence in the family and in intimate partner relationships from 2016, as well as the Monograph "Social and institutional response to femicide in Serbia I and II", with the results of research conducted by independent female experts from this area in 2019.

1. On concrete measures taken to improve support to victims of violence and to prevent femicide, (risk assessment, efficiency of protection orders), in connection with the information gathered via femicide watches or observatories.

The amendments to the Criminal Code from 2016 largely came as a result of acting in accordance with the Initiative of the Protector of Citizens to amend the Criminal Code in the field of criminal protection of victims of domestic violence and sexual abuse, which the Protector of Citizens sent to the Ministry of Justice in 2011 and reiterated in 2012[[12]](#footnote-12), as well as in accordance with the recommendations of the regular annual reports, that the Criminal Code be harmonized with the Council of Europe Convention on preventing and combating violence against women and domestic violence. Amendments to the Criminal Code introduced new criminal offenses (Female genital mutilation, Persecution and Sexual harassment), penalties were increased for the criminal offenses of Rape, Sexual intercourse with a helpless person, Sexual intercourse with a child, Sexual intercourse by abusing a position, Inducing a child to attend sexual acts; ex officio criminal prosecution was introduced for some forms of criminal offenses of Rape, Sexual intercourse with a helpless person and Illegal Sexual Activities, instead of the previous prosecution at the suggestion of the victim. Amendments to the Criminal Code also introduced a new criminal offense of Forced marriage, which is in line with the Concluding Observations and Recommendations of the UN Committee on the Elimination of Discrimination against Women after considering the Periodic Report of the Republic of Serbia.

However, the Criminal Code is not fully in line with international standards. The criminal act of rape is not precisely defined and does not include the penetration of another part of the body other than the male sexual organ or the penetration of an object. In cases when there is penetration of another part of the body, or an object, the court and the prosecutors were of the opinion that this activity of the perpetrator represents an illegal sexual act and not a sexual intercourse or an act that could be considered equal to sexual intercourse, regardless of whether – except for the part of the body/object that is used – this act retained all the elements of an intercourse and its consequences.

With the initiative to amend the Criminal Code, submitted on two occasions (in 2011 and 2012), the Protector of Citizens proposed redefining this criminal act in accordance with the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence. This initiative of the Protector of Citizens has not been adopted to date, and the criminal act of rape and other crimes against sexual freedom are not in line with Article 36 of the Convention.

In 2013, the Republic of Serbia adopted the Law on Special Measures for Preventing the Commission of Sex Crimes against Minors, which placed criminal acts against sexual freedom committed against minors under a special and stricter legal regime. Thus, the Initiative of the Protector of Citizens for the amendments to the Criminal Code was implemented in one part. With the introduction of the criminal offenses of Persecution, Sexual harassment and Female genital mutilation, this Initiative of the Protector of Citizens was also adopted.

However, the Criminal Code stipulates that the criminal offenses of Incest and Extramarital union with a minor, although essentially implying sexual activities with a child (minor), are not considered criminal offenses against sexual freedom[[13]](#footnote-13), so there is no possibility of applying the Law on Special Measures for Preventing the Commission of Sex Crimes against Minors, because it prescribes that the law is applied "against perpetrators of criminal offenses against sexual freedom committed against minors"[[14]](#footnote-14).

The criminal offense of *Illegal sexual act* is still punishable by a fine and a low prison sentence, so it is suitable for the imposition of a suspended sentence and the application of the institute of postponement of criminal prosecution (criminal prosecution is not undertaken if the perpetrator performs any of the prescribed obligations)[[15]](#footnote-15). This is also the case when this crime is committed against a child. Illegal sexual acts are very common, if not the most common form of sexual abuse of children.

With the Initiative sent in 2011 and 2012, the Protector of Citizens requested that appropriate amendments be made to the Criminal Code in relation to these criminal offenses, but the Initiative has not been implemented in that part to date.

In his regular annual reports, the Protector of Citizens points out that the Criminal Code is not fully in line with the Council of Europe Convention on preventing and combating violence against women and domestic violence and reiterates the recommendation that the Government should propose, and the National Assembly adopt, amendments to the Criminal Code so that it is fully in line with the Council of Europe Convention on preventing and combating violence against women and domestic violence.

The Law on Prevention of Domestic Violence, which was adopted in 2016, contains norms that can contribute to better protection of victims of domestic violence and elimination of omissions in the work of competent bodies that exist today in the system of protection of women from violence in the family and in intimate partner relationships. The law is the result of numerous recommendations, opinions, initiatives and proposals of the Protector of Citizens from previous years, which identified shortcomings in the protection system in the normative and practical aspect. In accordance with the proposals and positions of the Protector of Citizens, urgent measures for prevention of domestic violence were introduced (measure of temporary removal of the perpetrator from the apartment and measure of temporary prohibition for the perpetrator to contact and approach the victim of violence), the obligation of coordination and cooperation of all competent bodies in the system of prevention and protection of women from violence in the family and in intimate partner relationships was prescribed as well as the obligation of bodies to exchange daily information and data important for the prevention of domestic violence, prosecution of perpetrators and for providing protection and support to victims. It is planned to establish groups for coordination and cooperation in the area of ​​each basic public prosecutor's office, which consists of representatives of the prosecutor's office, police administrations and centers for social work. In accordance with the recommendations of the Protector of Citizens from special reports, the obligation to attend specialized trainings of police officers, prosecutors and judges who apply this law was prescribed, as well as the establishment of a single Central Register of cases of domestic violence. In accordance with the recommendations of the Protector of Citizens from special and regular annual reports, it is prescribed that a victim of domestic violence is entitled to free legal aid.

A special report of the Protector of Citizens on the work of coordination and cooperation groups in the city of Belgrade[[16]](#footnote-16), was prepared and presented to the competent authorities in October 2020, with an assessment of the situation and recommendations, prepared with the aim to monitor the implementation of the Law on domestic violence prevention and conduct of competent authorities in cases of domestic violence, and their work within coordination and cooperation groups (September 2020).

This report points out, among other things, that newly reported cases are not always considered at the next group meeting, which prevents the timely and effective protection of victims of violence; victims of violence very rarely participate in group meetings and in the development of an individual plan, as well as representatives of educational, health institutions and the National Employment Service and other legal and natural persons who provide protection and support to victims; contrary to the Law on Prevention of Domestic Violence, in a number of cases the competent police officers did not assess the risk upon receipt of a report of violence or imminent danger of it; in cases where a juvenile is the perpetrator of the criminal offense of domestic violence, the question arises as to how necessary assistance and support will be provided to the victim and the juvenile perpetrator, given that they are exempt from the measures prescribed by the Law on Prevention of Domestic Violence; children exposed to domestic or intimate partner violence are not always recognized as victims of violence, abuse and neglect, which is why measures for their protection are most often lacking, and in cases when violence is committed against both adults and children, police officers rarely impose emergency measures to protect the children; often even a risk assessment is not performed by the acting police officers, and the child is not covered by an individual protection pl

1. This strategic document is available at: https://www.minrzs.gov.rs/sr/dokumenti/ostal [↑](#footnote-ref-1)
2. Dubravka Šimonović, Combating violence against women – bringing security home; available at: https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=20953&LangID=E [↑](#footnote-ref-2)
3. System recommendations available at: http://www.ombudsman.rs/attachments/article/5032/Protection%20of%20women%20against%20domestic%20and%20intimate%20partnership%20violence%20Selected%20recommendations%20of%20the%20Protector%20of%20Citizens.pdf [↑](#footnote-ref-3)
4. General protocol on the conduct and cooperation of institutions, bodies and organizations in situations of violence against women in the family and in intimate partner relationships. [↑](#footnote-ref-4)
5. Special protocol on the conduct of centers for social work – guardianship authorities, in cases of violence against women in the family and in intimate partner relationships; Special protocol on the conduct of police officers in cases of violence against women in the family and in intimate partner relationships; Special protocol of the Ministry of Health for the protection and treatment of women exposed to violence; Special protocol for the judiciary in cases of violence against women in the family and in intimate partner relationships. [↑](#footnote-ref-5)
6. Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj> [↑](#footnote-ref-6)
7. Recommendations available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/5985-u-vrd-ni-pr-pus-i-u-r-du-n-dl-znih-u-bl-s-i-z-sh-i-zr-v-u-sluc-vi-p-r-dicn-g-i-p-r-n-rs-g-n-silj>. [↑](#footnote-ref-7)
8. Recommendations number 13-1-3273/16 dated 27 July 2016, 13-1-2005/16 dated 25 August 2016, 13-1-1657/18 dated 30 November 2018 and 321-74/20 dated 27 August 2020. [↑](#footnote-ref-8)
9. Opinion number 13 -1- 2248/17 dated 11 July 2019. [↑](#footnote-ref-9)
10. Recommendation number 322-336/2019 dated 5 October 2020. [↑](#footnote-ref-10)
11. Available at: <https://www.ombudsman.rs/index.php/2012-02-07-14-03-33/6789-u-vrdi-i-dg-v-rn-s-s-rucnih-r-dni-u-n-dl-zni-c-n-ri-i-inis-rs-vu-z-r-d-p-sl-r-g-di-u-l-s-vcu>. [↑](#footnote-ref-11)
12. The initiative is available at:

http://www.zastitnik.rs/index.php/zakonske-i-druge-inicijative/1529-2011-10-14-09-40-39. [↑](#footnote-ref-12)
13. The criminal offense of incest is prescribed by Article 197, extramarital union with a minor by Article 190, and criminal offenses against sexual freedom are included in the provisions of Art. 178-185b of the Criminal Code. [↑](#footnote-ref-13)
14. Art. 3. of the Law on Special Measures for Preventing the Commission of Sex Crimes against Minors. [↑](#footnote-ref-14)
15. Art. 283 of the Code of Criminal Procedure ("Official Gazette of the RS" no. 72/11, 101/11, 121/12, 32/13, 45/13 and 55/14, 35/2019 and 27/2021 – decision of the Constitutional Court). [↑](#footnote-ref-15)
16. Available at: <https://ombudsman.rs/index.php/izvestaji/posebnii-izvestaji/6804-p-s-b-n-izv-sh-z-sh-i-ni-gr-d-n-r-du-grup-z-rdin-ci-u-i-s-r-dnju-n-p-druc-u-gr-d-b-gr-d>. [↑](#footnote-ref-16)