

# Protection of women from domestic and intimate partner violence

SELECTED RECOMMENDATIONS OF THE PROTECTOR OF CITIZENS

Protector of Citizens



**PROTECTION OF WOMEN  
FROM DOMESTIC  
AND INTIMATE PARTNER  
VIOLENCE**

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OF THE PROTECTOR OF CITIZENS**

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I

FOREWORD

Having ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention), the Republic of Serbia has made a commitment to implement necessary legislative and other measures to prevent all forms of violence against women in the family and intimate partner relationships. This commitment is not merely declarative but imposes specific duties on public authorities with the aim of preventing and combating violence against women.

Even so, the existing regulations and their implementation do not provide women with immediate protection in any situation of violence. The existing penal policy, with a high rate of postponement of criminal prosecution and imposition of conditional sentences, does not contribute to the prevention and elimination of violence against women, in the circumstances of widespread violence against women in Serbia, which was established by the 2014 Protector of Citizens Special Report on the on the implementation of the General and Special Protocols on Protection of Women against Violence.

Although the adoption of the General and Special Protocols on Protection of Women against Violence included the standards of work performance in the system of the protection of women against violence, the practice of the Protector of Citizens has shown that they are applied either rarely or selectively and insufficiently, and that often there is no good cooperation between the authorities responsible for preventing and combating violence against women. Lack of knowledge, insufficient training, inadequate number of experts, insufficient supervision of their work and absence of personal responsibility of professionals and managers for omissions in their work are some of the key reasons that have led to the present situation where the existing system of protection does not provide sufficient protection for victims and, therefore, it needs substantial changes.

Not only women are victims of domestic and intimate partner violence; children in the family are victims to the same extent as women. Even 11 years after the adoption of the General and Special Protocols for the Protection of Children from Abuse and Neglect, the child protection

system does not function fully. Children are not provided with protection from exposure to domestic or intimate partner violence against a parent or other close family member, of from parental instrumentalization, parental abduction, separation from parents, prevention of quality personal relations with parents and other forms of child abuse and neglect that cause serious and severe, sometimes irreparable, harm to the child's growth and development. Having investigated 60 cases - including 14 cases of femicide - the Protector of Citizens has established numerous omissions of the authorities working on the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect. In order to rectify the identified omissions, the Protector of Citizens issued dozens of recommendations to the authorities, as presented in this publication.

The publication is intended for the professionals who work with women and children victims of violence, as well as for the public, in order to provide them with additional information about the right to protection from all forms of violence as well as about the duties of relevant authorities in cases of suspicion or knowledge of violence.

I am convinced that by following up on the recommendations presented in this publication, the relevant authorities would improve significantly their efforts in addressing violence against women and children.

*Deputy Protector of Citizens for Child Rights and Gender Equality,  
Gordana Stevanović*

## II

### FEMICIDE AS A RESULT OF DOMESTIC AND INTIMATE PARTNER VIOLENCE AGAINST WOMEN

#### RECOMMENDATIONS OF THE PROTECTOR OF CITIZENS

Pursuant to Article 138 paragraph 1 of the Constitution of the Republic of Serbia (*Official Gazette of RS*, no. 98/06) and Article 31 paragraph 2 of the Law on the Protector of Citizens (*Official Gazette of RS*, no. 79/05 and 54/07), in the procedures of controlling the legality and regularity of the work of social welfare centres, the Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, the Provincial Secretariat for Social Policy, Demography and Gender Equality, the Ministry of Health and health care institutions, launched upon own initiative, the Protector of Citizens hereby.

#### ESTABLISHES

##### I

**The Ministry of Interior has made the following omissions in working on the protection of women from domestic and intimate partner violence and on the protection of children from abuse and neglect:**

- It failed to respond to all cases of reported violence or responded in an untimely fashion;
- It did not always notify the guardianship authority of the received reports of violence and measures taken, or did it in an untimely fashion;
- It failed to notify of the received reports of violence the health care institutions in which the perpetrators of violence were hospitalised after the police intervention;
- It failed to obtain information related to the received reports of violence from all available sources, and particularly from the guardianship authority, and to exchange such information;
- In certain cases, it instructed the persons who reported violence and who were direct and indirect victims of violence to conduct procedures before other authorities on their own, or required the victims to perform certain actions and activities before taking any action;
- Not in all cases of reported violence did it check whether the reported person possessed a weapon;
- Not in all cases did it seize the weapon from the person reported for violence;

- It labelled the reported violence as a family, marital or partnership conflict or problem, due to which it decided not to take measures or actions;
- In one case the Police Directorate failed to investigate allegations of unlawful influence of police officers on the victim's family;
- The same Police Directorate failed to conduct a procedure of establishing the responsibility of police officer for unlawful influence on the victim of violence.

## II

The guardianship authorities have made omissions in working on the protection of women from domestic and intimate partner violence and on the protection of children from abuse and neglect, because they did not do the following in all the cases:

- Undertaking efficient and timely measures of assessment and checking, prescribed for the cases of report, suspicion or knowledge of violence against woman in the family and intimate partner relationships;
- Undertaking victim protection measures after having gained knowledge or suspicion of violence against woman in the family and intimate partner relationships;
- Proposing the imposition of measures against a person suspected of having perpetrated violence for the purpose of providing protection against domestic violence;
- Notifying the police of their knowledge about perpetrated violence and a high level of risk for the victim and the perpetrator;
- Filing reports with the police and prosecutor's offices after learning about perpetrated violence;
- Conducting a risk assessment procedure, in accordance with the prescribed obligations.

## III

The Ministry of Labour, Employment, Veteran and Social Affairs, in overseeing the professional work of the guardianship authority in Žitište, failed to establish some obvious irregularities in the organisation of work of the guardianship authority, which contributed to the deviation of professional procedure from the regulations and standards of professional work.



#### IV

By stating in the press release, issued immediately after the tragedy, that the procedure at the Social Welfare Centre Žitište had been conducted and „terminated by the standards of professional procedure“, the Ministry violated the right of citizens to truthful information because it was not possible to conduct a professional assessment procedure in the provision of family legal protection in accordance with the regulations and standards of professional work due to the improperly organised professional work at the Social Welfare Centre, which the Ministry failed to establish.

#### V

The health care institutions made omissions in their work on protecting women from domestic and intimate partner violence because they did not always notify the guardianship authorities, police and prosecutor's offices about the observed or reported violence against women in the family and intimate partner relationships.

On the basis of constitutional and legal powers and considering that the omissions in the work of police officers and professionals of guardianship authorities can be rectified only through a systemic approach, the Protector of Citizens issues to the Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender Equality, the following:

### RECOMMENDATIONS

#### 1.

Starting from the facts established by the Protector of Citizens, the Ministry of Interior should conduct an analysis of the work of the City of Belgrade Police Directorate and the Police Directorates in Valjevo, Kikinda, Kruševac, Požarevac, Smederevo, Sombor and Čačak, and establish reasons for the omissions made in the protection of women against violence in the family and intimate partner relationships.

#### 2.

The Ministry of Interior should implement measures based on the letter of Acting Head of Police Directorate in Zaječar, related to the possible omissions in the work of the Head of Police Station Knjaževac.

3.

The Ministry of Interior should particularly analyse the reasons why the police officers did not notify the guardianship authority and health care institutions about the received reports of domestic and intimate partner violence.

4.

The Ministry of Interior should particularly analyse the reasons why the police officers, acting on reports of violence, did not obtain information from guardianship authorities.

5.

The Ministry of Interior should particularly analyse the reasons why the police officers, acting on reports of violence, did not use other powers, measures and actions to establish additional facts and obtain additional information, but limited their activities to taking statements from the persons reporting violence and the persons reported for violence.

6.

The Ministry of Interior should particularly analyse the reasons why the police officers labelled violence as a family, marital or partnership conflict or problem. Complying with this recommendation, the Ministry will particularly establish also the level of training of police officers in the field of violence against women in the family and intimate partner relationships.

7.

The Ministry of Interior should particularly analyse the reasons why the police directorates did not check possible holding and carrying of weapons, and in case of holding and carrying of weapons why they did not use appropriate powers, preventive and precautionary measures and actions, as well as measures and actions aimed at protecting safety and reducing the risk of violence repetition.

8.

After completed analysis of work, the Ministry of Interior should establish whether there are grounds for initiating an appropriate procedure and undertaking measures against the police officers who made omissions and heads of police directorates and stations.

9.

In case of establishing that there are grounds for initiating an appropriate procedure and undertaking measures against the police officers and heads of police directorates and stations who made omissions, the Ministry of Interior

should conduct such a procedure and impose measures. In this procedure, the Ministry will also examine whether the police officers attended training regarding the protection of women against domestic and intimate partner violence.

10.

The Ministry of Interior should establish responsibility of the police officer of the Police Directorate Smederevo for unlawful influence on the victim of violence.

11.

The Ministry of Interior should establish whether the police officers of the Police Directorate Smederevo exerted unlawful influence on the victim's relatives, and decide on further actions in accordance with the established facts.

12.

The Ministry of Interior should establish whether the police officer of the Police Directorate Smederevo held the service weapons in the family house conscientiously and properly and took all safeguards against the misuse of weapons by his father, and decide on further actions in accordance with the established facts.

13.

The Ministry of Interior should impose measures on the Police Directorate Smederevo for failing to take measures for the purpose of punishing the police officer for unlawful influence on the victim of violence and measures for the purpose of complete and proper establishment of whether the police officers of that Directorate exerted unlawful influence on the victim's relatives.

14.

The Ministry of Interior should ensure that police officers notify the guardianship authority and exchange information with the guardianship authority on each and every case of reported violence in the family and intimate partner relationships.

15.

The Ministry of Interior should ensure that police officers notify of reported violence the health care institution to which the victim or the perpetrator is brought after the police intervention.

16.

The Ministry of Interior should ensure that police officers, in acting upon

reports of violence, in addition to obtaining statements from the persons reporting violence and the persons reported for violence, collect all available information of relevance for further work, including the information from the guardianship authority.

17.

The Ministry of Interior should ensure that police officers, in acting upon reports of violence, carry out checks and obtain information about possible holding and carrying of weapons, and in the case of holding and carrying of weapons use appropriate powers, preventive and precautionary measures and actions, as well as measures and actions aimed at protecting safety and reducing the risk of violence repetition.

18.

The Ministry of Interior should ensure that police officers thoroughly inform the competent prosecutor's office about each and every report of violence, measures taken and all collected facts, and in particular about: the existence of earlier reports of violence, convictions of the reported person, filed criminal or misdemeanour charges and requests for initiating criminal proceedings, confiscation of weapons in the possession of the reported person and the information obtained from the guardianship authority.

19.

The Ministry of Interior should ensure that police directorates, in all cases of violence where reported persons are police officers or persons living in the family household with police officers, use appropriate powers, preventive and precautionary measures and actions, as well as measures and actions aimed at protecting safety and reducing the risk of violence repetition, with respect to holding and carrying service weapons.

20.

The Ministry of Interior should ensure that police directorates initiate and conduct the procedures of establishing personal responsibility of police officers for omissions made in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect, and impose sanctions appropriate for the omissions made.

21.

The Ministry of Interior should ensure that police directorates, in the procedures of establishing personal responsibility of police officers for omissions made in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect, establish whether the police officers attended training related to the protection

of women from violence in the family and intimate partner relationships and the protection of children from violence, abuse and neglect, and take into account the established facts in deciding on responsibility and choice of sanctions.

22.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs should perform the oversight of professional work of the City of Belgrade Social Welfare Centre and the Social Welfare Centres Varvarin and Čičevac, Ivanjica, Kruševac, Ljig and Čačak, and establish reasons of omissions made in the protection of women from violence in the family and intimate partner relationships.

23.

Starting from the facts established by the Protector of Citizens, the Provincial Secretariat for Social Policy, Demography and Gender Equality should perform the oversight of professional work of the Social Welfare Centre Čoka and the Social Welfare Centre Žitište and establish the reasons of omissions made in the protection of women from violence in the family and intimate partner relationships.

24.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not act upon notifications of reported violence received by the police.

25.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities failed to inform the police about their knowledge of perpetrated violence and the high level of risk to which the victim was exposed.

26.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, in cooperation with the Republic Institute for Social Protection and the Provincial Institute for Social Protection, should establish the reasons for which the guardianship authorities did not conduct a risk assessment procedure after having received reports and learned about domestic violence.

27.

The Ministry and the Provincial Secretariat for Social Policy, Demography and Gender Equality, in cooperation with the Republic Institute for Social Protection and the Provincial Institute for Social Protection, should establish whether the professionals who handled the concrete cases had attended training courses related to the protection of women from violence in the family and intimate partner relationships.

28.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should establish whether the social welfare centres have been adequately staffed in accordance with norms and standards and the increased number of cases of violence in the family and intimate partner relationships and child abuse and neglect.

29.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, if they establish that the number of employees in the social welfare centres is not in accordance with norms and standards and the increased number of cases of violence in the family and intimate partner relationships and child abuse and neglect, should take measures to provide the required and prescribed number of employees.

30.

After performed oversight of the professional work of guardianship authorities, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should establish whether there are grounds for initiating an appropriate procedure against the professionals who made omissions.

31.

In case of establishing that there are grounds for initiating an appropriate procedure against the professionals who made omissions, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should order to the head of guardianship authority to conduct such a procedure.

32.

After performed oversight of the professional work of guardianship authorities, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should establish whether the head of guardianship authority is responsible for omissions.

33.

If they establish that the head of guardianship authority is responsible for omissions, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should take appropriate measures.

34.

If the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality establish that the professionals from the said guardianship authorities who handled the concrete cases did not attend training courses related to the protection of women from violence in the family and intimate partner relationships, they should take measures to establish responsibility of the head of guardianship authority.

35.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should establish in the Social Welfare Centre *Žitišće* and all other guardianship authorities whether the organisation of work ensures conducting of the professional procedure of providing family legal protection in accordance with the regulations and standards of professional work.

36.

The Provincial Secretariat for Social Policy, Demography and Gender Equality should perform oversight of the work of the Provincial Institute for Social Protection for having issued a child unit supervisor licence to a lawyer of the Social Welfare Centre *Žitišće* who did not have necessary expertise for performing the basic professional tasks of social protection in the unit for children and youth, despite this lawyer's explicit warning about these facts.

37.

The Provincial Secretariat for Social Policy, Demography and Gender Equality should establish the reasons for which the Provincial Institute for Social Protection did not inform the Provincial Secretariat that the head of guardianship authority had sent to the training for child unit supervisor a lawyer who did not have necessary expertise for performing the basic professional tasks of social protection in the unit for children and youth, despite the lawyer's warning about these facts.

38.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality

should ensure that guardianship authorities initiate and conduct the procedures of establishing personal responsibility of professionals for the omissions made in the protection of women from domestic and intimate partner violence, and impose sanctions appropriate for the omissions made, particularly taking into consideration the training courses attended by professionals in relation to the protection of women from violence in the family and intimate partner relationships.

39.

Starting from the facts established by the Protector of Citizens, the Ministry of Health should carry out the inspection of the work of the Medical Centre Čačak, the General Hospital in Senta, the Health Care Centre Čoka, the Health Care Centre Malo Crniće and the General Hospital in Požarevac, and establish the reasons for the omissions made in the protection of women from violence in the family and intimate partner relationships.

40.

The Ministry of Health should establish the reasons for which the health care institutions have failed to notify the police, guardianship authority and/or prosecutor's office about reports of violence.

41.

Upon completed oversight inspections, the Ministry of Health should establish whether there are grounds for initiating an appropriate procedure against the health care professionals and associates who made omissions.

42.

In case of establishing that there are grounds for initiating an appropriate procedure against the health care professionals and associates who made omissions, the Ministry of Health should order to the head of health care institution to conduct such a procedure.

43.

Upon completed oversight inspections, the Ministry of Health should establish whether the head of health care institution is responsible for omissions.

44.

In case of establishing that the head of health care institution is responsible for omissions, the Ministry of Health should take appropriate measures.



**45.**

**The Ministry of Health should ensure that health care institutions fully cooperate with the Protector of Citizens and provide all requested information.**

The Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender Equality will inform the Protector of Citizens on the implementation of recommendations, by 1 October 2016 at the latest, and submit relevant evidence.

**Rationale**

The Protector of Citizens investigated, upon its own initiative, 14 cases of the murders of women by their (former) partners or family members (hereinafter referred to as: femicide), after having learned about these cases from the media and civil society organisations.<sup>1</sup> This body has conducted the procedures of controlling the legality and regularity of work of 14 social welfare centres<sup>2</sup>, 16 health care institutions<sup>3</sup>, the Ministry of Interior and the Ministry of Labour, Employment, Veteran and Social Affairs, and on the basis of the statements received from the social welfare centres<sup>4</sup>

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<sup>1</sup> Autonomous Women's Centre and Association of Women Sandglass.

<sup>2</sup> Social Welfare Centres: City of Belgrade Social Welfare Centre, Varvarin and Čičevac, Žitište, Ivanjica, Jagodina, Knjaževac, Kruševac, Ljig, Malo Crniće, Petrovac na Mlavi, Smederevo, Sombor, Čačak and Čoka.

<sup>3</sup> Health Care Centre Varvarin, Health Care Centre Voždovac, Health Care Centre Jagodina, Health Care Centre Kruševac, Health Care Centre Malo Crniće, Health Care Centre Petrovac na Mlavi, Health Care Centre Smederevo, Health Care Centre Čoka, Medical Centre Čačak, General Hospital Jagodina, General Hospital Kruševac, General Hospital Požarevac, General Hospital Senta, General Hospital Smederevo and General Hospital Čačak.

<sup>4</sup> Acts: The City of Belgrade SWC - Department Voždovac no. 56199-4061/2016 of 25 May 2016, SWC Varvarin and Čičevac no. 560-987/15 of 02 December 2015; SWC Ivanjica no. 551/305-2015 of 07 May 2015 and no. 551/305-2015-4 of 16 December 2015; SWC Jagodina no. 05-560-03-380/15 of 30 April 2015; SWC Kruševac no. 56200-1270/2014 of 11 February 2014; SWC Ljig 01-53/15 of 31 March 2015 and 21 December 2015; SWC Malo Crniće no. 551-178/15 of 01 April 2015 and 560/99-1047/15 of 29 December 2015; SWC Petrovac na Mlavi no. 561-99-973/2016 of 15 May 2016; SWC Smederevo no. 55401-5140/2015 of 05 May 2015 and no. 55401-5140-1/2015 of 12 January 2016; SWC Sombor no. 561/2-69-01/14 of 02 February 2014; SWC Čačak no. 07-2153/1 of 17/03/2014 and no. 07-6052/1 of 29 December 2015; SWC Čoka no. 1-56056-3-116 of 14 July 2015 and 16 December 2015.

health care institutions<sup>5</sup>, the Ministry of Interior<sup>6</sup>, the Ministry of Labour, Employment, Veteran and Social Affairs<sup>7</sup>, the Ministry of Health<sup>8</sup> and the Provincial Secretariat for Health, Social Policy and Demography<sup>9</sup>, as well as on the basis of the facts established in direct oversight inspections of the work of authorities, has established the following facts:

## POLICE ACTIONS

### Notification of guardianship authorities and health care institutions

The police directorates did not notify the guardianship authorities of the reports of violence before the femicide. Only in one<sup>10</sup> out of 14 investigated cases the police notified the social welfare centre of the received report of violence, measures taken and assessment made by police officers. Some police directorates did not submit any notification to the guardianship authority<sup>11</sup>,

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<sup>5</sup> Acts of the Health Care Centre Varvarin no. 846 of 07 December 2015; Health Care Centre Voždovac no. 3067 of 30 May 2016; Health Care Centre Jagodina no. 1090 of 06 May 2015; Health Care Centre Kruševac no. 6056 of 22 December 2015; Health Care Centre Malo Crniće no. 395 of 09 April 2015; Health Care Centre Petrovac na Mlavi no. 01-463 of 18 May 2016; Health Care Centre Smederevo no. 1153/3 of 06 May 2015 and of 25 April 2015; Health Care Centre Čoka no. 157/2015 of 15 July 2015; Medical Centre Čačak no. 2441 of 29 April 2015; General Hospital Jagodina no. 2130 of 29 April 2015; General Hospital Kikinda no. 01-312/2 of 20 July 2015; General Hospital Kruševac no. 5540/12 of 18 December 2015 and no. 5521/12 of 17 December 2015; General Hospital Požarevac no. 1192 of 27 March 2015; General Hospital Senta no. 51-855/2 of 18 December 2015; General Hospital Smederevo no. 1146/2015-3 of 11 May 2015; General Hospital Čačak no. 2002 of 10 December 2015.

<sup>6</sup> Acts of the MoI: 01-2266/14-2 of 20 March 2014; 01-779/14-3 of 06 February 2014, 01-779/14-3 of 02 April 2015, 01-779/14-6 of 23 September 2015, 01-779/14-8 of 30 December 2015; 11175/13-4 of 19 March 2014, 01-13397/15-2 of 28 December 2015, 02/5-648/16-2 of 02 June 2016, 02/5-638/16-2 of 26 May 2016; Acts of Police Directorates: Police Directorate in Valjevo, no. 05-48/15 of 01 April 2015, 01-53/15 of 04 December 2015; Police Directorate in Jagodina no. 1142/15 of 06 May 2015; Police Directorate in Kikinda no. KU 2105/14 of 21 July 2015; Police Directorate in Kruševac no. 02-642/15 of 27 November; Police Directorate in Požarevac no. 037-530/2015 of 07 April 2015; Police Directorate in Smederevo No. 037-596/15 of 11 May 2015, no. PU-6136/15 of 17 December 2015 and no. 037-46/16-2 of 28 January 2016; Police Directorate in Čačak no. 230-20121/15-1 of 05 May 2015 and 116-1838/15-1 of 07 December 2015.

<sup>7</sup> Acts of the Ministry of Labour, Employment, Veteran and Social Affairs no.: 551-00-51/2014-14 of 26 February 2014, 551-00-261/2014-14 of 05 June 2015, 26 May 2015 and 14 December 2015, 551-00-246/2016-14 of 30 June 2016, 551-00-245/2016-14 of 21 June 2016, 551-00-343/2016-14 of 12 July 2016.

<sup>8</sup> Act of Ministry of Health no. 920-530-072-308/2015-09 of 22 June 2015.

<sup>9</sup> Act of the Provincial Secretariat for Health, Social Policy and Demography no. 129-551-3/2014 03 of 10 February 2014.

<sup>10</sup> Police Directorate in Čačak - Police Station Ivanjica.

<sup>11</sup> Police Directorate in Čačak, Police Directorate in Kruševac, Police Directorate in Sombor, Police Directorate in Valjevo, Police Directorate in Požarevac, Police Directorate in Smederevo.

while others notified the guardianship authority untimely<sup>12</sup> or selectively<sup>13</sup>.

In their contacts with health care institutions regarding specific cases of violence (in providing assistance with bringing the persons reported for violence to health care institutions and other contacts), the police officers did not inform the health care professionals about perpetrated violence, which influenced or could have influenced the choice of medical measures and procedures applied by the health care professionals and institutions with respect to the patient - person reported for violence<sup>14</sup>.

### **Acting upon received reports of violence against women in the family and intimate partner relationships**

Upon receiving a report of violence, the police officers usually went to the spot, conducted an interview with the reported person and the person who had reported the violence, and then carried out consultation with the deputy public prosecutor on duty and acted according to the instructions received. Acting upon reports usually ended by taking statements from the person who reported violence and the person/s reported for violence. The police officers very often did not use other measures, actions or powers to collect all necessary facts and information, nor did they request such information from the guardianship

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<sup>12</sup> The Police Station in Petrovac notified the guardianship authority of the report of violence received before the femicide only after the woman was killed by her former partner.

<sup>13</sup> The Police Directorate in Kikinda did not notify the SWC Čoka of the victim's report of harassment by her husband although the reported person had been convicted and served his sentence in prison for domestic violence and sexual abuse of the child. The guardianship authority was notified only after the victim reported physical abuse. The Police Directorate for the City of Belgrade - PS Voždovac notified the social welfare centre only after the third report of violence. However, the police officers did not notify the guardianship authority about subsequent reports.

<sup>14</sup> After receiving the several reports of violence, the Police Directorate in Kruševac received a request from the Health Care Centre to assist in bringing a person reported for domestic violence to the health care institution because he was suffering from mental illness but refused to undergo treatment. However, the Police Directorate did not inform the health care institution to which the reported person was brought about the reports of domestic violence against that person. The health care institution did not keep the reported person for treatment; The Police Directorate in Smederevo did not notify the health care institution in which the perpetrator of violence was hospitalised of the violence he had committed against his partner. During treatment, the health care institution allowed the patient to stay out of the institution for the weekend, with the obligation to return. Neither the police nor the social welfare centre had information about that. The femicide was committed on the day when the perpetrator was supposed to return to the health care institution, after the weekend spent outside and with the permission of the health care institution.

authority, not even in the case of reported threats of death and physical violence<sup>15</sup>.

In a number of cases, the police officers gave assessments of reported incidents, without qualifying them as violence but rather as „family disagreements”<sup>16</sup>, „verbal conflict”<sup>17</sup>, „disturbed family relationships”<sup>18</sup>, „bad marital relationships”<sup>19</sup>, although prior to giving such assessments they did not perform activities to establish these facts - except for taking statements from the reporting person and the reported person. In accordance with such assessments the police officers were choosing the way of further action - most often they used the police power of warning but in some cases the police did not take any measure<sup>20</sup>.

Such assessments of reported incidents, along with insufficient data collected, influenced the way in which the police officers presented these incidents to the deputy public prosecutor on duty and, consequently, the public prosecutor’s decision.

The public prosecutors usually considered that there were no elements of a criminal offence for which the perpetrators were prosecuted *ex officio*<sup>21</sup>. The public prosecutors were instructing the police to file criminal charges only after several reports of violence against the same person and in cases where serious

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<sup>15</sup> After receiving a report from the victim stating that her former partner threatened her with death and that the day before he had pointed a gun at her head and hit her several times, the Police Directorate in Požarevac - Police Station Petrovac interviewed the woman who had reported violence and the man who was reported for violence, but did not take any other measures because „there were no witnesses”. The police did not act or examine the facts more thoroughly even after establishing that the reported person had a weapon (gun) in possession - which was seized, or after they subsequently established that the perpetrator had concealed the possession of three more guns, which he used to „fake a criminal offence”. The police established that he had fired from one gun and then filed a report with the aim to accuse his former partner and her then-partner. The Police Directorate in Kruševac collected the information only through an interview with the reported person and the reporting person although the reason for report was physical and verbal violence (threats) committed by the reported person under the influence of alcohol. The victim was referred to the social welfare centre from which the police, however, did not request any information. The Police Directorate for the City of Belgrade - PS Voždovac did not examine the facts despite the multiple reports of violence against a woman who was blind and had health problems, filed by a health care institution and her neighbours.

<sup>16</sup> Police Directorate in Valjevo.

<sup>17</sup> Police Directorate in Kikinda.

<sup>18</sup> Police Directorate in Čačak.

<sup>19</sup> The Police Directorate in Kruševac gave this assessment although the reporting person stated in her report that the reported person „comes drunk and breaks things in the house”, „beats me up using his legs, hands, poles, etc.”, „slapped me and hit me with his hands and legs”.

<sup>20</sup> The Police Directorate in Valjevo did not take any measure because the reporting person „did not point that the violence is ongoing or that it was imminent... but that it was about family disagreements”.

<sup>21</sup> The public prosecutor’s offices in Čačak, Kruševac, Sombor, Smederevo, Požarevac, Belgrade (First Basic Public Prosecutor’s Office) and Petrovac na Mlavi.

bodily injuries were recorded. The public prosecutors gave the assessments that there were no elements of a criminal offence for which the perpetrators were prosecuted *ex officio* even in cases of reported physical violence and threats with weapons<sup>22</sup>.

In some cases the police submitted a request for initiating misdemeanour proceedings despite the established physical violence<sup>23</sup>.

Denial of violence by the victim and her mental state were the reasons why the police officers did not undertake measures and actions to establish the facts even when violence was repeatedly reported and the victim had visible injuries<sup>24</sup>; in one case the head of police station neither took any measure nor did he inform

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<sup>22</sup> After the victim's report stating that her former partner beat her up and pointed a gun at her head, the Public Prosecutor's Office in Petrovac na Mlavi found that there were no elements of a criminal offence for which the perpetrators were prosecuted *ex officio*. However, this public prosecutor's office ordered the police to file criminal charges against the reported person for false reporting, after the police established that he had concealed the possession of three guns used by him to fake and report a criminal offence. The First Basic Public Prosecutor's Office in Belgrade ordered the police to submit a report with files when the police, acting upon the report of a health care institution, established visible injuries on the head of a blind woman with health problems, who stated that „she fell down the stairs by herself”, but the police did not check this statement or other facts in order to exclude suspicion of domestic violence. The Public Prosecutor's Office in Požarevac found that that there were no elements of a criminal offence for which the perpetrators were prosecuted *ex officio* with respect to the victim's report stating that her former partner had beat her up.

<sup>23</sup> The PS Voždovac filed misdemeanour charges against the victim's husband because he „insulted, dragged and hit her.”

<sup>24</sup> The PS Voždovac did not take measure or actions within its scope of competence even though the „visible head injuries” had been identified. The police officers established also that it was a mentally ill and blind person. The patrol established that „it could not establish the circumstances under which the victim suffered injuries because she is blind and mentally ill and therefore unable to say who has been hurting her.” This police station did not take actions even after multiple information on injuries and violence submitted to the police by the emergency service, social welfare centre and citizens because the victim „expresses herself with difficulty and inarticulately, which is the consequence of her mental illness” or denied the occurrence of violence stating that she „fell down the stairs”.

the police officers of his own knowledge that the victim's partner had threatened the victim<sup>25</sup>.

### **Attitude towards persons reporting violence**

After taking measures and actions, the police officers were instructing the person reporting violence to initiate a court procedure and address the guardianship authority. However, the police officers from some police directorates acted in this way even without previously establishing all the facts<sup>26</sup> and without obtaining information from the guardianship authority. Some police officers failed to act even in case of repeated reports<sup>27</sup>, and in one case because the woman who reported violence did not provide medical documentation<sup>28</sup>. In one case, the police officer exerted unlawful influence on the victim of violence after

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<sup>25</sup> The Head of PS Knjaževac of the Police Directorate in Zaječar was addressed „informally” by the killed woman's brother asking for a „friendly and informative” conversation because his sister told him that her husband - who was then in hospital - threatened her after she had announced her intention to divorce. The killed woman's brother stated that in that conversation he had not revealed the content of the threat and had no intention to file a report, but to get informed, and that „at no time he said that his brother-in-law abused his sister physically or mentally”, but that he was concerned about his gambling debts and the uttered but unspecified threat. However, the killed woman's brother also stated that he „thoroughly informed the Head of Police Station about all the facts concerning the problems of my sister's marriage”. Taking into consideration different statements of the killed woman's brother, contained in the official records on the notifications received from citizens in the Police Station Zaječar, and the statement of the Head of Police Station given to the authorised persons of the Protector of Citizens according to which the killed woman's brother did not tell him that his sister had been threatened, the Protector of Citizens could not establish with certainty whether there were omissions in the work of this senior police officer or not. Acting Head of Police Directorate Zaječar, however, conducted a procedure and obtained all necessary information, and sent it to the Ministry for the purpose of taking measures for controlling the legality of work of this police officer.

<sup>26</sup> Having received a victim's report against the harassment of former partner, the Police Directorate in Kikinda assessed the case as „verbal conflict”, despite knowing that the reported person had been convicted for domestic violence and sexual abuse of the child.

<sup>27</sup> The Police Directorate in Kruševac selectively notified the public prosecutor of reports and failed to notify the guardianship authority, but after the repeated report it instructed the reporting person to file a report with the public prosecutor on her own, noting that „if the public prosecutor calls the police and says that [the perpetrator] is to be arrested and that the measure of detention is to be determined, the police will immediately do so”.

<sup>28</sup> The Police Directorate in Kruševac requested from the reporting person to provide medical documentation in order for the police to take measures and actions within its scope of competence. As she failed to do so, the police officers repeatedly looked for the reporting person who, one month after filing a report, stated that she wanted to withdraw a criminal complaint. Therefore, the police drafted a notification and submitted it to the competent public prosecutor's office, but failed to send it to the guardianship authority.

she suffered violence from the former partner<sup>29</sup>, and after the victim's death her relatives claimed that the police had visited them without announcement or grounds and exerted influence on them<sup>30</sup>.

The fact that the reported person did not allow the person reporting violence to take her personal belongings from the shared household was not treated by the police officers as a form of violence. The only activity in such cases was assisting the victim to take her belongings.

### **Checking whether the reported person is in possession of a weapon**

Not all police directorates checked whether a person reported for violence was in possession of a weapon<sup>31</sup>.

In cases where checks were carried out the police officers seized the weapons if they found them. In one case, however, the weapon was not seized because the person reported for violence „was not recorded as perpetrator of criminal offence or misdemeanour“<sup>32</sup>. In cases where the reported person was a police officer's relative or family household member, the measures were not taken concerning the investigation of the way in which the police officer held weapons

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<sup>29</sup> The police officer of the Police Directorate in Smederevo, whose father committed violence against his former partner, sent an SMS to the victim: „Just do as I told you on Monday. Just do on Monday as I told you and say that you did not see anything if they call you.“ The police officer stated that he had done it „in order to alleviate and calm the situation... to prevent further problems“. In that case, the Police Directorate did not take any measures against the police officer in order to establish the existence of a criminal offence, misdemeanour and/or disciplinary responsibility.

<sup>30</sup> The killed person's relatives claimed that the police officers of the Police Directorate in Smederevo had visited them after the murder, demanding „not to ask questions“. The police officers of this Directorate denied the contact with the killed person's relatives, but this Police Directorate did not obtain from the killed person's relatives the information about the interventions of police officers and their identity in order to establish complete facts about these allegations even at the request of the Protector of Citizens.

<sup>31</sup> The checks whether a person reported for violence was in possession of a weapon were carried out by the Police Directorates in Sombor, Požarevac (in two cases investigated by the Protector of Citizens) and Smederevo. The Police Directorate in Kruševac carried out these checks in one of the investigated cases, while in another it did not. The Police Directorates in Čačak and Valjevo and the Police Directorate for the City of Belgrade - PS Voždovac did not carry out these checks.

<sup>32</sup> The statement of the Police Directorate in Sombor regarding the failure to seize the weapons from the person reported for violence. This weapon was used for committing murder.

in the house, or the measures for ensuring that the service weapons were not held in the house of the perpetrator of violence<sup>33</sup>.

### **Assessment of security risks**

Only in one of the investigated cases, the person reported for violence was previously sentenced to imprisonment for criminal offences with elements of violence against family members. In that case, however, the police did not - before the sentenced person completed serving the sentence or after having been released - initiate, and together with the guardianship authority, perform the assessment of risk for the family members<sup>34</sup>.

### **Insufficient knowledge and minimising the importance of all forms of violence against women in the family and intimate partner relationships**

The police officers are not well acquainted with verbal violence as form of violence in the family and intimate partner relationships. They qualify harassment and threats as „verbal conflicts“, „disturbed relationships“, „marital disagreements“ and give them other meanings that move the police away from the procedures prescribed in cases of reported violence. Preventing a woman to take her personal belongings when leaving the family and threats to other family members or third persons are not seen by the police officers either as committed violence or as risk of violent behaviour towards the former or current partner and/or family members (especially children).

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<sup>33</sup> The Police Directorate in Smederevo did not take measures against its police officer whose father was reported for violence against his former partner (although the firearms were seized from him) or when he attempted to commit suicide. This Police Directorate failed to check whether the police officer conscientiously and properly held the service weapons, since it was established that the police officer: lived in the same household with his father; held the weapons „in a cupboard, locked, and the key was left in a chest drawer in another part of the room furniture“; knew that his father had perpetrated violence against his former partner and third persons, and that for that reason the police had confiscated the weapons he possessed; and he knew that his father attempted to commit suicide because of which he was hospitalised.

<sup>34</sup> The Police Directorate in Kikinda had the information that the person sentenced for the criminal offence of domestic violence and sexual abuse of a minor child by abuse of position was or would be released after serving the sentence. The Police Directorate, however, did not conduct a procedure for assessing the security risks for the family members who were victims of his violence, nor the assessment of risks for other family members who may become victims; The Police Directorate in Smederevo did not initiate or conduct the assessment of risks for the victim of violence after the perpetrator's release from hospital although it had knowledge about his hospitalisation and reasons for it (attempted suicide after committed violence against the former partner).



The police consider that the separation of partners reduces the risk of violence, even though all the evidence suggests that most victims of femicide are women who left or planned and announced their leaving the intimate partner relationship, and that the greatest risk of committing serious forms of violence is the fact of the separation of partners.

### **Insufficient knowledge about the obligation to take measures within the scope of competence regardless of the victim's capacity and possibilities**

The police see an obstacle for action, particularly in cases of verbal violence, in the fact that the victim does not want to file a criminal complaint, denies violence and is not actively engaged in the cases where violence against her is reported by a family member. The restraint of the police in such cases is visible even when there are children in the family household, although in these cases the will of the victim's parents/relatives to report or not to report violence is not and cannot be a decisive factor in police work. The police obligation to take measures within the scope of its competence exists regardless of the victim's capacity and possibility to conduct procedures for the protection from domestic violence, and arises from the obligations undertaken by ratifying the international documents.

### **Level of training of police officers**

On the basis of survey conducted in 2015, the Protector of Citizens established that 271 police officers were trained on violence against women in the family and intimate partner relationships in 2014, while in 2015 the training was planned for at least 380 police officers.

### **Responsibility of police officers for omissions in work**

Most often, disciplinary procedures were not initiated against the police officers who had not acted in accordance with the General and Special Protocols for the Protection of Women from Violence in the Family and Intimate Partner Relationships and the General and Special Protocols for the Protection of Children from Abuse and Neglect<sup>35</sup>. In cases where disciplinary procedures were initiated, the fines were imposed in the amount of 20% of one monthly salary. There is no uniform practice with respect to establishing disciplinary responsibility of police officers in one and the same police directorate dealing

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<sup>35</sup> Disciplinary procedures were initiated and conducted in three police directorates: in Sombor, Kruševac and Valjevo.

with similar omissions<sup>36</sup>. In these disciplinary procedures the fact of whether the accused police officers received training on gender-based violence, violence against women in the family and intimate partner relationships, protection of children from abuse and neglect and other training courses of relevance for police actions in case of domestic or intimate partner violence against a woman or violence against children, was not examined, taken into consideration or assessed.

## ACTIONS OF GUARDIANSHIP AUTHORITY

### **Notifying the guardianship authority of violence against women in the family and intimate partner relationships**

In a large number of investigated cases, the police, public prosecutor's offices and health care institutions did not notify social welfare centres of the received reports of violence<sup>37</sup>. In some cases the guardianship authority did not have any information that would initiate its action<sup>38</sup>, while in some cases the available information did not constitute the sufficient grounds to confirm the suspicion of

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<sup>36</sup> In dealing with the same or similar omissions, in one case the Police Directorate in Kruševac conducted a disciplinary procedure and imposed a fine in the amount of 20% of one monthly salary, while in another case a disciplinary procedure was not even initiated.

<sup>37</sup> The SWC Čačak was not informed about any of the two reports filed with the police; The Police Directorate in Kruševac did not notify the SWC Varvarin and Čičevac of two received reports of violence, taken actions and measures, or hospitalisation of the reported person for his mental illness; The same Police Directorate failed to notify the SWC Kruševac of any of the four reports of violence to which the police responded; The SWC Sombor and the SWC Valjevo did not have any knowledge about reported violence before the murders of women who had reported violence to the police; The police did not notify the SWC Čoka about the first report of violence (verbal) but did it only after the report of physical violence with serious bodily injuries; The Police Station Voždovac notified the Social Welfare Centre of the City of Belgrade only after receiving the third report of violence, but it did not inform the guardianship authority about subsequent reports.

<sup>38</sup> SWC Sombor, SWC Valjevo, SWC Kruševac, SWC Požarevac, SWC Malo Crniće, SWC Jagodina, SWC Petrovac na Mlavi.

ongoing violence or risk of its repetition.<sup>39</sup> In other cases, social welfare centres had the information obtained from the victim and/or her family<sup>40</sup>, health care institutions<sup>41</sup> or the police in cases where the information was submitted timely<sup>42</sup> or subsequently<sup>43</sup>.

### **Actions of the guardianship authority after having knowledge or suspicion of violence against a woman in the family and intimate partner relationships**

The measures taken by the guardianship authority have not always been timely, complete, appropriate and efficient. The guardianship authority: did not perform the activities prescribed for the case of reported violence against

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<sup>39</sup> In the professional procedures for marriage divorce initiated in December 2015, the SWC Žitište received the information from the wife that during their marriage her husband „was nervous, yelling and stomping around the house,” and an allegation in the lawsuit filed for divorce in February 2016 that „the defendant exercised various forms of domestic violence.” Both allegations of violence were related exclusively to the period of the marriage, which actually ended in October 2015, before the victim addressed the guardianship authority with a request for assistance in drawing up a petition for divorce by mutual agreement. Since then, during the procedure conducted before the SWC and after the adoption of a final court decision on divorce, neither the victim nor her family members have reported violence to the SWC or otherwise pointed to the existence of violence; the former partners also had an appropriate parental cooperation. The killed woman’s brother addressed the SWC Knjaževac asking for an „informal” conversation with the SWC professional and indicating that he was worried because of his brother-in-law’s threats to his sister after she had told him about her intention to divorce. The SWC professional warned the brother about the fact that „every threat is violence” and that therefore it was important that someone filed a report either to the SWC or to the police, also instructing him that it could be done by him, his sister or both. The killed woman’s brother stated explicitly that he did not want to file a report without the previous agreement with his sister, but that he would inform her about everything he had learned. The day after the conversation in the SWC, the killed woman’s brother also talked to the Head of Police Station Knjaževac. However, neither the brother nor his sister, or the police, addressed the SWC later on.

<sup>40</sup> SWC Varvarin and Čičevac.

<sup>41</sup> SWC Čačak, SWC Čoka.

<sup>42</sup> SWC Ivanjica.

<sup>43</sup> SWC Čoka.

women in the family and intimate partner relationships<sup>44</sup>; did not take measures despite being notified of the high level of risk<sup>45</sup>; did not inform the police about its knowledge of violence<sup>46</sup>; did not initiate a procedure for the protection from violence<sup>47</sup>; did not initiate or conduct, in cooperation with other bodies, a security risk assessment procedure<sup>48</sup>; did not take measures or activities even after learning about the repetition of violence<sup>49</sup>; formed an opinion about the existence of violence without carrying out assessments<sup>50</sup>.

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<sup>44</sup> Assessing the professional work of the City Social Welfare Centre - Department Voždovac, the Ministry of Labour, Employment, Veteran and Social Affairs stated that „there was no timely, comprehensive and continuous intervention of the guardianship authority”, that „the assessment of the guardianship authority was based exclusively on the statements of the perpetrator and the victim of violence and on the failure of the police to repeat the notification in a certain period of time”, that the guardianship authority „has completely neglected its role as defined within the framework of the Special Protocol for Action of Social Welfare Centres/Guardianship Authorities in Cases of Domestic and Intimate Partner Violence against Women”.

<sup>45</sup> The SWC Čačak received a letter by which the Medical Centre in Čačak informed the guardianship authority that the victim „has left the family home after physical violence against her and her daughter by her husband... That she went to her mother’s place... that he [her husband] came to talk and ask her to come back and when she refused there was a conflict with her brother... of which the police have been informed... A few days ago he visited his daughter at work and physically assaulted her... I think that she [the victim] is at a very high risk and I therefore ask the SWC to take measures to protect the victims of domestic violence and measures to ensure social security,.. Following these allegations, the guardianship authority „supported” the victim in her intention to divorce and to initiate a criminal procedure and offered her accommodation in the Safe House.

<sup>46</sup> The SWC Čačak did not inform the police about the content of the letter received from the Medical Centre in Čačak or its knowledge about domestic violence.

<sup>47</sup> The SWC Varvarin and Čičevac neither initiated nor instructed the clients to initiate a procedure for the protection from violence, which could have resulted in imposing the temporary measure for protection from violence although it had assessed that „all family members are at a high safety risk due to the changed behaviour of the ill person [reported for violence]; it neither took other measures except „advising the family members to be cautious, giving them the explanation about the disease of alcoholism... instructing them on how to file a criminal complaint”. This procedure was not initiated by the SWC Čačak either although it possessed information on the high risk.

<sup>48</sup> The SWC Čoka had information about the convictions of the reported person for domestic violence and sexual abuse of the child, but did not initiate a risk assessment procedure prior to his leaving the institution for the execution of criminal sanctions, and not even after his release from that institution.

<sup>49</sup> After having learned that a restraining order had been imposed to protect the victim and her child, the SWC Čoka did not perform any activity to assess the vulnerability of the woman victim of violence and the child victim of abuse and neglect, and the security risks for these victims, or to take protective measures. The guardianship authority failed to perform any activity even upon finding out that the victim had suffered a serious form of physical violence by her husband.

<sup>50</sup> The SWC Ivanjica received a notification from the Police Station Ivanjica and the police assessment that this case was about „family disagreements and disturbed family relationships without the elements of misdemeanour - a violation of the public tranquillity and order, or the elements of criminal offences”. After receiving the notification and accepting the police assessment, the SWC concluded that „there are no elements of physical, mental or emotional abuse, or minor children, and the clients did not address the Social Welfare Centre personally requesting assistance in solving the disturbed family relationships”. Such assessment was made exclusively on the basis of the police opinion and without a previous assessment procedure conducted by the guardianship authority.

In the procedures of controlling the legality and regularity of the work of social welfare centres, the Protector of Citizens has established that none of the social welfare centres that possessed the information of violence, filed a criminal complaint with the competent public prosecutor's office or the police, or filed a lawsuit for protection from domestic violence.

### **Understanding the risk of violence against women in the family and intimate partner relationships**

Failure to identify violence in its early stages and not understanding the cycle of violence are serious risk factors for untimely action of the guardianship authority. In the early stages of the cycle of violence, the work of the guardianship authority most often ends with counselling and support to the victim. There is also a failure to recognise the fact that the separation of partners constitutes a risk factor for the development or continuation of intimate partner violence. This type of risk recognition is particularly important in cases where the partners live in the family with a child who is exposed to these forms of violence.

### **Number of professional staff members in the guardianship authority and the organisation of work**

According to the information received in the procedures of controlling the legality and regularity of the work of the Ministry of Labour, Employment, Veteran and Social Affairs and social welfare centres, the Protector of Citizens was informed on several occasions that in a large number of social welfare centres the number of employees for years had been lower than the number prescribed in the norms and standards for social protection services, although the guardianship authority's scope of competences has been expanded on several occasions and the number of cases of domestic and intimate partner violence and child abuse and neglect has increased. The guardianship authority's professional staff, in addition to dealing with family legal and social protection, provide other services (handling requests for various financial benefits, registration of permanent residence, exercise of the rights arising from the status of energy-related vulnerable customer, etc.) at the national and local level, without an appropriate number of employees for the newly introduced competences.

The improper organisation of work in the guardianship authority is an additional risk factor for the quality of professional work and the manner of providing family legal and social protection. Supervisory support to case managers is insufficient and provided mainly „upon request“ of a case manager, and sometimes - contrary to regulations - such support is not provided at all. Supervisory support is provided also by the employees who have unsuitable qualifications, which is contrary to the aim and essence of supervisory work.

Besides, the support of other professional staff is also missing because the guardianship authority does not have the employees with appropriate qualifications or has not established an internal team due to organisational omissions or other reasons<sup>51</sup>.

### **Level of training of professional staff in the guardianship authority**

Based on the survey conducted in 2015, the Protector of Citizens has established that 41 professionals from the social protection system were trained in 2014 and 2015 through the accredited training programmes related to the protection of women from violence, and that in the same period additional 680 professionals received the accredited training related to the phenomenon of domestic violence in general and protection of the victims of violence including women.

### **Responsibility of professional staff in the guardianship authority for omissions in work**

The Protector of Citizens has not established, in any of the investigated cases, that the guardianship authority that had omissions in work conducted any procedures to establish the responsibility of professionals for these omissions, or to take measures against the responsible professionals (either a disciplinary measure or a measure for the correction of irregular or unprofessional work). The Protector of Citizens also notes that the responsibility of the heads of guardianship authorities has not been established in any of the cases.

### **Oversight over the professional work of the Social Welfare Centre Žitište**

The Ministry of Labour, Employment, Veteran and Social Affairs performed oversight of the work of the Social Welfare Centre Žitište, taking over that duty from the AP Vojvodina authority, which was not constituted at that time. The Ministry issued a public statement saying that „the procedure of divorce dispute at the Social Welfare Centre Žitište was conducted in accordance with the legal powers and completed by the standards of professional procedure”.

Performing the oversight, the Ministry failed to establish the obvious organisational irregularities in the work of the guardianship authority, which had an impact on the professional procedure of assessment in the provision of family legal support in the Social Welfare Centre Žitište, preventing it to be

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<sup>51</sup> According to the Director, the SWC Žitište does not have a sufficient number of professional staff. In fact, the employed psychologist was hired for a fixed term and does not meet the requirements for the training for professional staff of social welfare centres for performing the basic professional tasks of social protection (case manager).

conducted in accordance with the regulations and standards of professional work, as a result of improperly organised professional work in the SWC<sup>52</sup>.

## ACTIONS OF HEALTH CARE INSTITUTIONS

### **Actions of health care institutions after having knowledge or suspicion of violence against a woman in the family and intimate partner relationships**

The health care institutions usually did not have any information on domestic or intimate partner violence. It has been established that in the investigated cases in which the health care institutions had such information, they acted differently: some health care institutions informed the competent social welfare centres, others did not, but none of them informed the police of reported violence, established injuries and information received from the women victims<sup>53</sup>.

On the other hand, the health care institutions did not receive the information on violence from other competent authorities, primarily from the police, but also from other health care institutions and guardianship authorities<sup>54</sup>.

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<sup>52</sup> The supervisor in the SWC Žitište is a lawyer who was sent to the supervisor training by the previous SWC Director and who was admitted to training by the Provincial Institute for Social Protection despite his opposition and argument that training could not make him competent for the supervision of professional work of psychologists, pedagogues, social workers and other related professions, because he did not have the necessary knowledge and skills for performing the basic professional tasks of social protection (case manager). In such circumstances, in the particular case or in any other case of family legal protection, the supervisor (according to his statement) was not able to provide support to the case manager although he had been assigned to the position of supervisor. He stated that in all cases he had relied on the professional assessment of his colleagues - case managers. The Protector of Citizens also noted that the case files of the SWC Žitište lacked the supervisor's signature in the Assessment Forms and in the expert findings and opinion submitted to the court. The support of psychologist was also lacking because the employed psychologist was hired for a fixed term and did not meet the requirements for the training for professional staff of social welfare centres for performing the basic professional tasks of social protection (case manager).

<sup>53</sup> The Medical Centre Čačak notified the guardianship authority about the woman victim being „at high risk” but did not submit that information to the police; The Health Care Centre Čoka informed orally the social welfare centre about the reported violence but failed to inform the police; The General Hospital in Senta did not notify the social welfare centre or the police of the identified serious bodily injuries of the victim because „the case has already been reported to the police in Čoka and the Social Welfare Centre in Čoka... The Police Station in Senta is not responsible for the cases that happen in another municipality”; The Health Care Centre Malo Crniće did not notify the guardianship authority of identified injuries upon having examined the victim. This health care institution informed the Protector of Citizens that „the examined health records did not indicate any ailments or diagnosis that could point to potential problems”; The General Hospital in Požarevac did not submit a statement requested by the Protector of Citizens, but asked for the „legal basis” for the provision of information.

<sup>54</sup> The General Hospital in Kruševac was not informed about the violence perpetrated by a patient brought to the institution at the referral of the Health Care Centre Kruševac and with the police assistance. The General Hospital in Smederevo was not informed about the violence perpetrated by a person brought for treatment.

## **Level of training of health care professionals**

The survey conducted in 2010, which included 621 health care professionals and associates, has revealed that: 82% of health care professionals and associates have never attended any training on gender-based violence; 14% of health care professionals have participated in some of the training courses related to the topic of violence against women<sup>55</sup>.

## **Responsibility of health care professionals for omissions in work**

The Protector of Citizens has not established, in any of the investigated cases, that the health care institution that had omissions in work conducted any procedures to establish the responsibility of health care professionals for these omissions.

### **SITUATION ASSESSMENT**

**Responsibility for deprivation of life lies only with the perpetrator. Possible omissions in the work of public authorities and other bodies and services cannot reduce, mitigate or eliminate this responsibility of the perpetrator.**

**The key factors that contribute to successful prevention and protection of women from violence and children from abuse and neglect are timeliness and completeness. The measures taken immediately after the initial manifestation and milder forms of domestic and intimate partner violence and violence against children are also the most efficient ones, because at the very beginning they (can) eliminate, rectify, isolate and, as appropriate, impose sanctions for violent behaviour, and provide the victim with efficient protection and successful rehabilitation.**

**Complete mutual exchange of information between all the bodies that are or may be involved in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect is the obligation of all competent authorities and a necessary precondition for achieving the full effectiveness of the measures taken and their optimal effect. The lack of exchange of information or incompleteness and irregularity in the exchange of information increase the risk of losing some potentially crucial information about the case, which, if known, would lead to different actions of the bodies involved.**

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<sup>55</sup> The Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence is available at: [http://www.zastitnik.rs/attachments/3710\\_Posebani%20izvestaj%20Zaštitnika%20građana%20o%20primeni%20Opšteg%20i%20posebnih%20protokola%20za%20zaštitu%20žena%20od%20nasilja.doc](http://www.zastitnik.rs/attachments/3710_Posebani%20izvestaj%20Zaštitnika%20građana%20o%20primeni%20Opšteg%20i%20posebnih%20protokola%20za%20zaštitu%20žena%20od%20nasilja.doc), accessed on 10.10.2016."



**The exchange of information, even when it is regular and of good quality, will not yield the desired effects in the prevention of violence, if the information is not given adequate attention, weight and importance. Any information related to violence against women in the family and intimate partner relationships and child abuse and neglect must be considered carefully and with due diligence, separately and in the light of other known data, and it must be interpreted and assessed properly and in accordance with the regulations and standards of work. Casual or negligent attitude towards crucial information almost always leads to erroneous interpretations and conclusions, and consequently to the wrong choice of measures and ineffective procedure.**

**Identical or similar omissions in the work of authorities indicate the necessity to begin performing, without delay, a comprehensive assessment of the causes of these omissions, establishing responsibility and, in accordance with law, imposing sanctions for these omissions and planning activities in order to eliminate or reduce the risk of their repetition in the future. Such acting is a characteristic of the responsible work and attitude of authorities not only towards beneficiaries - whose vital interests, including life and health, depend on the regularity of their work - but also towards the profession, professional integrity of experts and officials and one's own work.**

Investigating a large number of cases, the Protector of Citizens has established identical or same types of omissions made by police officers, professional staff in guardianship authorities and health care professionals.

The Protector of Citizens finds that the Ministry of Interior should begin analysing the acting of police officers, starting from the facts established by the Protector of Citizens. The outcome of such analysis will be the measures aimed at eliminating the identified omissions where possible and reducing the risk of their repetition in the future. The Protector of Citizens deems that such action of the Ministry of Interior will contribute to the improvement of work and accountability of police officers in cases of domestic violence, violence against women in intimate partner relationships and child abuse and neglect.

The Protector of Citizens also considers that the elimination of omissions in the work of guardianship authorities requires a systemic approach that implies active involvement of the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, as well as of the oversight bodies. Therefore, the Protector of Citizens has recommended to these bodies to perform oversight of the professional work of the social welfare centres whose work was controlled by the Protector of Citizens, taking into consideration the facts established by the Protector of Citizens, in order to eliminate the existing omissions in their work and improve the work of guardianship authorities in the process of protecting women against violence.

Having regard to the role of health care institutions in the protection of women against violence in the family and intimate partner relationships and the protection of children from abuse and neglect, the Protector of Citizens finds it necessary that the Ministry of Health should carry out the inspection of the work of the health care institutions where the Protector of Citizens found omissions, in order to eliminate the causes of these omissions and prevent their repetition in the future. The Protector of Citizens considers it necessary that the Ministry should take appropriate measures in order to establish good cooperation of the health care institutions with the guardianship authorities and the police, and ensure full exchange of information, as well as measures to ensure the full cooperation of health care institutions with the Protector of Citizens.

Based on the established facts and circumstances, and by applying Article 31 paragraph 2 of the Law, the Protector of Citizens has issued recommendations to the Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender Equality, for rectifying the established omissions to the maximum extent possible, improving the work of authorities and preventing similar omissions in the future.

### III

## VIOLENCE IN THE FAMILY AND INTIMATE PARTNER RELATIONSHIPS AND CHILD ABUSE AND NEGLECT

### RECOMMENDATIONS OF THE PROTECTOR OF CITIZENS

Pursuant to Article 138 paragraph 1 of the Constitution of the Republic of Serbia (*Official Gazette of RS, no. 98/06*) and Article 31 paragraph 2 of the Law on the Protector of Citizens (*Official Gazette of RS, no. 79/05 and 54/07*), in the procedures of controlling the legality and regularity of the work of social welfare centres, the Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, initiated upon citizen complaints, the Protector of Citizens hereby

### ESTABLISHES

#### I

**The Ministry of Interior has made the following omissions in working on the protection of women from domestic and intimate partner violence and on the protection of children from abuse and neglect:**

- **It did not always notify the guardianship authority of the received reports of violence and measures taken, or did it in an untimely fashion;**
- **It failed to obtain information related to the received reports of violence from all available sources, and particularly from the guardianship authority, and to exchange such information;**
- **In certain cases, it instructed the persons who reported violence and who were direct and indirect victims of violence to conduct procedures before other authorities on their own, without first taking the measures within its scope of competence;**
- **Not in all cases of reported violence did it check whether the reported person possessed a weapon;**
- **Not in all cases did it seize the weapon from the person reported for violence;**
- **It gave legal assessment and qualification of reported violence;**
- **It minimised and relativised violence and responsibility for the violence perpetrated against a woman in the family and intimate partner relationships;**
- **It did not conduct risk assessment procedures, in accordance with the prescribed obligations;**

- The children witnessing domestic or intimate partner violence against their parents and other family members were not treated as victims of abuse and neglect, and protection measures were not taken accordingly.
- The guardianship authority was not notified of the knowledge or suspicion about the presence of children during the act of domestic or intimate partner violence against their parents or other family members.

## II

The guardianship authorities have made the following omissions in working on the protection of women from domestic and intimate partner violence and on the protection of children from abuse and neglect:

- They failed to undertake appropriate, effective and timely measures of assessment and checking, prescribed for the cases of report, suspicion or knowledge of violence against a woman in the family and intimate partner relationships;
- They minimised and relativised violence against women in the family and intimate partner relationships, and responsibility for perpetrated violence;
- They failed to take measures after the violence against women in the family and intimate partner relationships had been established;
- They referred the women who reported violence to address other authorities;
- They failed to notify the police, public prosecutor's office and court of reported violence;
- They did not propose measures for protecting the victims of violence, and in some cases they proposed protection measures against the victim of violence;
- They did not conduct risk assessment procedures, in accordance with the prescribed obligations;
- The children witnessing domestic or intimate partner violence against their parents and/or other family members were not treated as victims of abuse and neglect;
- They did not take into account domestic or intimate partner violence and the history of domestic or intimate partner violence, in issuing expert opinions, assessments, proposals and assessing the child's best interests;
- In the court procedures of family legal protection, they failed to notify the courts of jurisdiction of the fact of ongoing or previously perpetrated domestic or intimate partner violence;
- They failed to take measures against child abduction and prevention or obstruction of children's personal contacts with the parents with whom they did not live;

- **Child abduction and prevention or obstruction of children's personal contacts with the parents with whom they did not live were not treated as a form of child abuse and neglect and continuation of domestic or intimate partner violence;**
- **They did not provide parents with services aimed at re-establishing contacts with children;**
- **Contrary to professional standards, they acted with the aim of „formalising“ and legalising the consequences and situation after perpetrated violence;**
- **They gave proposals to the courts of jurisdiction to give custody of a child to the parent who had violated or abused the child's rights;**
- **They gave custody of children to relatives despite the fact that these children had a parent without established risks and flaws in parenting, but who was forcibly prevented from exercising the parenting right.**

### III

The health care institutions made omissions in their work on protecting women from domestic and intimate partner violence because they did not always notify the guardianship authorities, police and prosecutor's office about the observed or reported violence against women in the family and intimate partner relationships, and did not provide the Protector of Citizens with the requested information in the procedures of control conducted by that body.

On the basis of constitutional and legal powers and considering that the omissions in the work of police officers and professionals of guardianship authorities can be rectified only through a systemic approach, the Protector of Citizens issues to the Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender Equality, the following:

## RECOMMENDATIONS

### 1.

Starting from the facts established by the Protector of Citizens, the Ministry of Interior should conduct an analysis of the work of the City of Belgrade Police Directorate and the Police Directorates in Bor, Novi Pazar, Pančevo, Užice and Čačak, and establish the reasons for the omissions made in the protection of women against violence in the family and intimate partner relationships.

2.

Starting from the facts established by the Protector of Citizens, the Ministry of Interior should conduct an analysis of the actions of the City of Belgrade Police Directorate and the Police Directorates in Bor, Novi Pazar, Pančevo, Užice and Čačak, and establish the reasons for the omissions made in the protection of children from abuse and neglect.

3.

The Ministry of Interior should particularly analyse the reasons why the police officers did not notify the guardianship authority about the received reports of domestic violence and child abuse and neglect.

4.

The Ministry of Interior should particularly analyse the reasons why the police officers did not submit the requested information to guardianship authorities.

5.

The Ministry of Interior should particularly analyse the reasons why the police officers, acting on reports of violence, did not obtain information from guardianship authorities.

6.

The Ministry of Interior should particularly analyse the reasons why the police officers, acting on reports of violence, did not use other powers, measures and actions to obtain additional facts and information, but limited their activities to taking statements from the persons reporting violence and the persons reported for violence.

7.

The Ministry of Interior should particularly analyse the reasons why the police officers did not notify the guardianship authority about the facts they knew about substance and alcohol abuse by the reported person.

8.

The Ministry of Interior should particularly analyse the reasons why the police officers minimise and relativise violence and responsibility for perpetrated violence. Complying with this recommendation, the Ministry will particularly establish also the level of training of police officers in the field of violence against women in the family and intimate partner relationships.

9.

The Ministry of Interior should particularly analyse the reasons why the police directorates did not check possible holding and carrying of weapons, and in case of holding and carrying of weapons why they did not use appropriate powers, preventive and precautionary measures and actions, as well as measures and actions aimed at protecting safety and reducing the risk of violence repetition.

10.

The Ministry of Interior should particularly analyse the reasons why the police directorates did not take measures against the police officers reported for violence, with respect to holding and carrying service weapons.

11.

The Ministry of Interior should particularly analyse the reasons why the police officers did not act in accordance with the General Protocol for the Protection of Children from Abuse and Neglect and the Special Protocol on Conduct of Police Officers in the Protection of Minors from Abuse and Neglect in cases where violence had been reported in the family with minors.

12.

After completed analysis of work, the Ministry of Interior should establish whether there are grounds for initiating an appropriate procedure and undertaking measures against the police officers who made omissions and heads of police directorates and stations.

13.

In case of establishing that there are grounds for initiating an appropriate procedure and undertaking measures against the police officers and heads of police directorates and stations who made omissions, the Ministry of Interior should conduct such a procedure and impose measures. In this procedure, the Ministry will also examine whether the police officers attended training regarding the protection of women against domestic and intimate partner violence and the protection of children from violence, abuse and neglect.

14.

The Ministry of Interior should ensure that police officers notify the guardianship authority and exchange information with the guardianship authority on each and every case of reported violence in the family and intimate partner relationships, and on each and every case of reported child abuse and neglect.

15.

The Ministry of Interior should ensure that police officers, in acting upon reports of violence, in addition to obtaining statements from the persons reporting violence and the persons reported for violence, collect all available information of relevance for further work, including the information from the guardianship authority.

16.

The Ministry of Interior should ensure that police officers, in acting upon reports of violence, carry out checks and obtain information about possible holding and carrying of weapons, and in the case of holding and carrying of weapons use appropriate powers, preventive and precautionary measures and actions, as well as measures and actions aimed at protecting safety and reducing the risk of violence repetition.

17.

The Ministry of Interior should particularly ensure that police officers refrain from referring the persons reporting violence to other authorities, from giving a legal qualification to reported events and from groundless use of repressive measures against the persons reporting violence or persons designated in the report as victims of violence.

18.

The Ministry of Interior should ensure that police officers thoroughly inform the competent prosecutor's office about each and every report of violence, measures taken and all collected facts, and in particular about: the existence of earlier reports of violence, convictions of the reported person, initiated criminal or misdemeanour proceedings, confiscation of weapons in the possession of the reported person and the information obtained from the guardianship authority.

19.

The Ministry of Interior should ensure that police directorates act upon reports of violence filed against police officers or persons living in the same household with enhanced care and particular urgency.

20.

The Ministry of Interior should ensure that police directorates, in all cases of violence where reported persons are police officers or persons living in the household with police officers, use appropriate powers, preventive and precautionary measures and actions, as well as measures and actions aimed at protecting safety and reducing the risk of violence repetition, with respect to holding and carrying service weapons.



**21.**

The Ministry of Interior should ensure that police directorates initiate and conduct the procedures of establishing personal responsibility of police officers and heads of police directorates and stations for omissions made in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect, and impose sanctions appropriate for the omissions made.

**22.**

The Ministry of Interior should ensure that police directorates, in the procedures of establishing personal responsibility of police officers for omissions made in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect, establish whether the police officers attended training related to the protection of women from violence in the family and intimate partner relationships and the protection of children from violence, abuse and neglect, and take into account the established facts in deciding on responsibility and choice of sanctions.

**23.**

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs should perform the oversight of professional work of the City of Belgrade Social Welfare Centre and the Social Welfare Centres Arandelovac, Bajina Bašta, Blace, Bor, Varvarin and Čičevac, Vranje, Loznica, Medveđa, Petrovac na Mlavi and Žagubica, Požarevac, Požega, Prijepolje, Smederevo, Užice and Čačak, and establish the reasons of omissions made in the protection of women from violence in the family and intimate partner relationships.

**24.**

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs should perform the oversight of professional work of the City of Belgrade Social Welfare Centre and the Social Welfare Centres Arandelovac, Bajina Bašta, Blace, Bor, Varvarin and Čičevac, Vranje, Loznica, Medveđa, Petrovac na Mlavi and Žagubica, Požarevac, Požega, Prijepolje, Smederevo, Užice and Čačak, and establish the reasons of omissions made in the protection of children from abuse and neglect.

**25.**

Starting from the facts established by the Protector of Citizens, the Provincial Secretariat for Social Policy, Demography and Gender Equality should

perform the oversight of professional work of the Social Welfare Centres Kikinda and Pančevo and establish the reasons of omissions made in the protection of women from violence in the family and intimate partner relationships.

26.

Starting from the facts established by the Protector of Citizens, the Provincial Secretariat for Social Policy, Demography and Gender Equality should perform the oversight of professional work of the Social Welfare Centres Kikinda, Pančevo and Sečanj and establish the reasons of omissions made in the protection of children from abuse and neglect.

27.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not take measures for the protection of women from violence in the family and intimate partner relationships.

28.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not submit information on reports of violence and their knowledge about perpetrated violence to the police, public prosecutor's office and court.

29.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not request information from the competent authorities, in relation to the filed reports of violence.

30.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not act upon notifications of reported violence submitted by the police.

31.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs should establish the reasons for which the guardianship authorities refused to act upon reports of violence in the situation where a marriage or common-law marriage had been terminated; where the public prosecutor's office had assessed that there were no elements of a criminal offence; or where a woman victim of violence had initiated procedures before other authorities.

32.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs should establish the reasons for which the guardianship authority suggested to the court to impose a measure for protection against domestic violence against the victim.

33.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, in cooperation with the Republic Institute for Social Protection and the Provincial Institute for Social Protection, should establish the reasons for which the guardianship authorities did not conduct a risk assessment procedure after having received reports and learned about domestic violence.

34.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should order to the guardianship authorities to take measures for rectifying the omissions and for protecting women victims of violence in the family and intimate partner relationships.

35.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not take measures for the protection of children exposed to domestic violence from abuse and neglect.

36.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial

Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not examine the fact of (repeated) domestic violence or take that fact into account in assessing the child's best interests.

37.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did not take measures for the protection of children from abuse and neglect in case of child abduction and/or prevention or obstruction of personal contacts between the child and the parent.

38.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did neither examine the fact of child abduction and/or prevention or obstruction of personal contacts between the child and the parent, nor considered that fact in assessing the child's best interests.

39.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities issued proposals on giving custody of children to the parents who had abducted these children and/or prevented or obstructed the maintenance of personal contacts between the child and the parent.

40.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should establish the reasons for which the guardianship authorities did neither examine nor include in the assessment of parenting capacity the fact that a parent had committed a child abduction offence, prevented or obstructed the maintenance of personal contacts between the child and another parent, and committed domestic/intimate partner violence.

41.

Starting from the facts established by the Protector of Citizens, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, should order to the guardianship authorities to take measures for rectifying the omissions and for protecting children from abuse and neglect, if expedient and in the best interests of the child.

42.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, in cooperation with the Republic Institute for Social Protection and the Provincial Institute for Social Protection, should establish whether the professionals, who handled the concrete cases, had attended training courses related to the protection of women from violence in the family and intimate partner relationships and the protection of children from abuse and neglect.

43.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should establish whether the social welfare centres have been adequately staffed in accordance with norms and standards and the increased number of cases of violence in the family and intimate partner relationships and child abuse and neglect.

44.

If the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality establish that the number of employees in the social welfare centres is not in accordance with norms and standards and the increased number of cases of violence in the family and intimate partner relationships and child abuse and neglect, they should take measures to provide the required and prescribed number of employees.

45.

In accordance with the recommendations 41-43, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality will determine whether the organisation of work in the social welfare centres was in compliance with the regulations and professional standards.

46.

After performed oversight of the professional work of guardianship authorities, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should establish whether there are grounds for initiating an appropriate procedure against the professionals who made omissions.

47.

In case of establishing that there are grounds for initiating an appropriate procedure against the professionals who made omissions, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should order to the head of guardianship authority to conduct such a procedure.

48.

After performed oversight of the professional work of guardianship authorities, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should establish whether the head of guardianship authority is responsible for omissions.

49.

If they establish that the head of guardianship authority is responsible for omissions, the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should take appropriate measures.

50.

If the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality establish that the professionals from the guardianship authorities who handled the concrete cases did not attend training courses related to the protection of women from violence in the family and intimate partner relationships and the protection of children from abuse and neglect, they should take measures to establish responsibility of the head of guardianship authority.

51.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should ensure that guardianship authorities notify the police, public prosecutor's office and court before which the procedures are conducted or initiated and/or reports are filed, about all information they have about domestic and intimate partner violence, child abuse and neglect.

52.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should ensure that the fact of child's exposure to violence against a parent, sibling, other family member or person close to the child is treated in the professional procedure as child abuse and neglect, in accordance with the General Protocol for the Protection of Children from Abuse and Neglect.

53.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should take measures to eliminate or reduce the minimisation and relativisation of violence in the family and intimate partner relationships and child abuse and neglect; referral of the persons reporting violence to other authorities; and application and proposal of repressive measures against victims of violence.

54.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should ensure that guardianship authorities, in all cases of reported violence in the family and intimate partner relationships and child abuse and neglect, use appropriate powers, preventive and precautionary measures and actions, as well as measures for assessing the risk, protecting safety and reducing the risk of violence repetition.

55.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should ensure that procedures are conducted for the purpose of establishing personal responsibility of professional staff and heads of guardianship authorities for omissions made in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect, and that sanctions appropriate for the omissions made are imposed.

56.

The Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality should ensure that guardianship authorities, in the procedures of establishing personal responsibility of professional staff for omissions made in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect, establish whether the professionals attended training related to the protection of women from

**violence in the family and intimate partner relationships and protection of children from violence, abuse and neglect, and take into account the established facts in deciding on responsibility and choice of sanctions.**

**57.**

**Starting from the facts established by the Protector of Citizens, the Ministry of Health should carry out the inspection of the work of the Clinical Centre of Serbia, the General Hospital Požarevac and the Health Care Centre Rakovica and establish the reasons for omissions made in their work.**

**58.**

**Upon completed oversight inspections, the Ministry of Health should establish whether there are grounds for initiating an appropriate procedure against the health care professionals and associates and heads of health care institutions.**

**59.**

**The Ministry of Health should ensure that health care institutions fully cooperate with the Protector of Citizens and provide all requested information.**

The Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender Equality will inform the Protector of Citizens on the implementation of recommendations, by 1 December 2016 at the latest, and submit relevant evidence.

## **Rationale**

The Protector of Citizens has received citizen complaints against the irregular work of social welfare centres and the Ministry of Interior in the process of the protection of women from violence in the family and intimate partner relationships and the protection of children from abuse and neglect. The complaints include allegations that the police and social welfare centres have failed to act timely and appropriately upon reports and knowledge of violence in the family and intimate partner relationships and child abuse and neglect.



The Protector of Citizens has conducted the procedures of controlling the legality and regularity of the work of 45 social welfare centres<sup>56</sup>, the Ministry of Interior and the Ministry of Labour, Employment, Veteran and Social Affairs, and based on the allegations from the complaints and their supplements, statements of social welfare centres<sup>57</sup>, health care institutions<sup>58</sup>, local self-

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<sup>56</sup> Social Welfare Centres: Arandelovac, Bajina Bašta, Belgrade (Departments of Stari grad, Voždovac, Novi Beograd, Zemun, Vračar, Grocka, Čukarica, Kikinda, Lazarevac, Palilula and Rakovica), Blace, Bor, Valjevo, Vranje, Kikinda, Loznica, Medveđa, Novi Pazar, Pančevo, Petrovac na Mlavi, Požarevac, Požega, Prijepolje, Sečanj, Smederevo, Užice and Čačak.

<sup>57</sup> Acts: SWC Arandelovac 22-560-4131/15 of 18 January 2016; SWC Bajina Bašta no. 561-20-78 of 17 September 2014, 561-20-78/2 of 20 November 2015, 561-20-78 of 24 March 2014, 561-20-78/1 of 15 December 2014; The City of Belgrade SWC no. 550-317/7 of 06 May 2014, 551-1038/11 of 12 November 2015, 56199-287/2016 of 10 February 2016 (Department of Stari grad), 56090-224/15 of 20 January 2015, 55403-7281/2015 of 15 December 2015, 55100-2880/2015 of 18 May 2015, (Department of Voždovac), 55103-6-97/2015 of 15 December 2015, 55103-6-78/14 of 23 May 2014, 551-11-50/13 of 18 March 2013 (Department of Vračar), 55100-2217 of 25 September 2013, 55103-3411/2015 of 5 April 2016, 56099-1653 of 28 June 2013 (Department of Grocka), 55103-6159 of 25 November 2013, 56199-1544/2013 of 03 June 2013 (Department of Lazarevac), 55103-6159 of 25 November 2013, 56099-7596/2015 of 15 December 2015, 56089-7034/15 of 24 February 2016 (Department of Novi Beograd), 56199-5184/2015 of 29 December 2015, 06 November 2015 and 12 November 2015 (Department of Palilula), 56099-3615/2015 of 22 June 2015, 56089-7397/2015 of 17 December 2015, 56099-5121/13 of 28 January 2014, 56089-669/2016 of 10 March 2016, 56099-7596/2015 of 15 December 2015 (Department of Zemun), 56199-3818/2016 of 22 July 2016, 02-56199-2522/16 of 12 May 2016, 03 June 2016 and 06 July 2016 (Department of Rakovica), 55041-5147/2016 of 03 June 2016 (Department of Čukarica); SWC Blace no. 01-572/16 of 10 June 2016, SWC Bor 553-560 of 31 August 2015, 553-560/2 of 25 November 2015, 553-560/3 of 02 February 2016; SWC Valjevo no. 01-56124-3-212/2013 of 05 March 2013, 01-56124-3-694/2013 of 22 July 2013; SWC Vranje 56089-5852 of 11 January 2016, 56089-2120 of 25 March 2015, 56089-1639 of 01 April 2014, 56099-5091 of 04 December 2014 and 04 November 2014, 56089-5762 of 09 December 2015; SWC Kikinda no. 01-58003-3231/2013 of 09 September 2013, 01-58003-3231/2013-1 of 27 November 2013; SWC Loznica 560-965/16 of 09 March 2016, 560-1742/16 of 13 May 2016; SWC Medveđa no. 551-344/14-01 of 16 May 2014, 551-669/14-01 of 11 September 2014, 560-117/14-01 of 28 February 2014, 551-393/13-01 of 14 June 2013, SWC Novi Pazar no. IV-551-1506/15 of 11 September 2015, 551/2323/15 of 15 December 2015; SWC Pančevo 55401-589/2015 of 29 January and 21 December 2015; SWC Petrovac na Mlavi 560-33-3-1383/15 of 10 December 2015, 7690/7691 of 19 February 2016, 561-99-3-359/2015 of 09 April 2015, 561-99-212/15 of 28 May 2015, 561-99-212/15 of 10 May 2015, 561-99-367/15 of 28 December 2015 and 03 March 2016; SWC Požarevac no. 01-55410-4375/2015 of 23 July 2015, 01-55410-7550/2015 of 31 December 2015; SWC Požega no. 56094-17/2015 of 19 January 2014; 56094-796/2015 of 29 December 2015; SWC Prijepolje no. 927-2/15 of 08 June 2015; SWC Sečanj no. 551-258 of 29 June 2015, 551-472 of 01 December 2015; SWC Smederevo no. 55401-3749-1/2013 of 09 August 2016, 55401-1712/2016 of 04 May 2016; SWC Užice no. 560-34/16 of 09 September 2015, 022-17/2 of 25 April 2013, 022-17/4 of 24 July 2013; SWC Čačak no. 07-228/1 of 10 February 2014, 07-2771/1 of 18 July 2014.

<sup>58</sup> General Hospital Novi Pazar no. 4575 of 09 December 2015; Health Care Centre Sečanj 01-410/1 of 09 July 2015; Health Care Centre Rakovica no. 5979/1 of 18 July 2016; Clinical Centre of Serbia - Emergency Centre no. 2751 of 25 July 2016; Clinic for Neurology and Psychiatry for Children and Youth no. 1742/1 of 06 September 2013 and no. 1798 of 11 September 2013; Health Care Centre Blace no. 1319 of 08/06/2016.

governments<sup>59</sup>, educational institutions<sup>60</sup>, the Ministry of Interior<sup>61</sup>, the Ministry of Labour, Employment, Veteran and Social Affairs<sup>62</sup>, the Ministry of Health<sup>63</sup>, the Ministry of Education, Science and Technological Development<sup>64</sup> and the Provincial Secretariat for Social Policy, Demography and Gender Equality<sup>65</sup>, and data collected in direct oversight of the work of controlled authorities, established the following facts:

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<sup>59</sup> Municipal Administration Žagubica no. 01-022-393/15 of 14 July 2015, 01-022-393-1/15 of 12 January 2016; Act of the Secretariat for Education and Child Protection of the Belgrade City Administration no. 614-302/2014 of 02 April 2015.

<sup>60</sup> Letter of Technical School no. 154 of 21/03/2016.

<sup>61</sup> Acts of the MoI: 01-10296/14-5 of 05 March 2015, 02/5-93/16-3 of 01 March 2016, 01-2/15-2 of 28 January 2015, 01-4373/13-2 of 07 May 2013, 01-4373/13-4 of 30 July 2013, 01-780/14-3 of 24 February 2014, 10462/13-2 of 05 November 2013, 10461/13-2 of 07 November 2013, 01-674/15-2 of 12 February 2015, 8136/15 of 24 July 2015, 01-13374/15-2 of 18 January 2016, 20/16 of 25 January 2016, 02/5-786/16-2 of 05 August 2016, 01-5883/13-2 of 19 June 2013, 01-6711/13-2 of 04 July 2013, 01-6711/13-6 of 10 April 2014, 01-6711/13-4 of 16 October 2013, 723/16-2 of 05 July 2016, 02/5-590/16- of 07 June 2016. Acts of Police Directorates: PD for the City of Belgrade no. 07.3-8/15 of 31 July 2015, 07.3-7/15 of 16 June 2015, 214.1-1441/15 of 09 July 2015, 07.2-115/15 of 10 July 2015; PD Bor no. 120/15 of 31 August 2015, 120/15-3 of 29 October 2015; PD in Novi Pazar no. 01-112/15 of 04 September 2015, 214-114002/15-1 of 15 December 2015; Act of PD in Požarevac no. 037-562/15-3 of 16 April 2015, 070-629/14-4 of 03 July 2015; PD in Užice no. 516/15 of 11 September 2015; PD in Čačak no. 723/16-2 of 05 July 2016.

<sup>62</sup> Acts of the Ministry of Labour, Employment, Veteran and Social Affairs no.: 551-00-24/2015-14 of 30 March 2015, 551-00-558/2015-14 of 16 October 2015, 551-00-243/2014-14 of 16 January 2015, 551-00-557/2015-14 received on 26 January 2016, 551-00-312/2013-04 of 19 July 2013, 551-00-29/2012-14 of 11 September 2012, 551-00-207/2013-14 of 12 July 2013, 551-00-27/2014-14 of 07 April 2014, 551-00-546/2013-14 of 03 February 2014, 551-00-459/2015-14 of 17 September 2015, 551-00-547/2013-14 of 18 November 2013, 551-00-628/2015-14 of 04 November 2015, 551-00-557/2015-14 of 10 November 2015, 551-00-355/2016-14 of 26 July 2016, 551-00-263/2016-14 of 15 July 2016, 551-00-156/2015-14 of 30 March 2015, 551-00-438/2013-14 of 05 September 2013, 570-03-304/2015-14 of 11 March 2016 and 14 October 2015, 551-00-198/2015-14 of 21 September 2015 and 24 April 2015, 551-00-516/2013-14 of 15 January 2015, 20 August 2014 and 16 December 2013, 551-00-136/2012-3-14 of 10 April 2013, 570-155/2015-14 of 18 November 2015, 551-00-298/2013-14 of 05 August 2013, 551-00-111/2013-14 of 25 March 2013, 570-03-641/2013-14 of 03 March 2014, 551-00-322/2013-14 of 30 August 2013 - 01-6711/13-6 of 10 April 2014, 551-00-789/2015-14 of 18 March 2016, 551-00-493/2015-14 of 28 September 2015.

<sup>63</sup> Acts of Ministry of Health no. 072-00-1362/2013-09 of 16 September 2013, 551-00-304.

<sup>64</sup> Act of Ministry of Education, Science and Technological Development no. 614-02-01449/2013-02 of 18 October 2013.

<sup>65</sup> Acts of the Provincial Secretariat for Social Policy, Demography and Gender Equality (at the time of control procedures: the Provincial Secretariat for Health Care, Social Policy and Demography) no. 129-551-25/2015-03 of 04 August 2015, 20 August 2015 and 11 September 2015 and 129-551-50/2013-03 of 02 August 2013.

## POLICE ACTIONS

### Notification of guardianship authorities

In the cases investigated by the Protector of Citizens it has been established that the police directorates, stations and outposts notified the guardianship authorities about a significantly lower number of the reports of violence than the number received by the police<sup>66</sup>, while some police directorates, stations and outposts did not notify the guardianship authority of any report of violence (even in cases where there were more than one report of violence)<sup>67</sup>. In one case, the police officers submitted the information on the reports of violence they handled only after the repeated request from the guardianship authority<sup>68</sup>.

**Only in two of all investigated cases, the Protector of Citizens has established that full inter-sector cooperation was established in the protection of women from violence in the family and intimate partner relationships<sup>69</sup> and the protection from domestic violence<sup>70</sup>.**

### Acting upon received reports of violence against women in the family and intimate partner relationships

Upon receiving a report of violence, the police officers went to the spot, conducted an interview with the reported person and the person who had reported the violence, and then carried out consultation with the deputy public prosecutor on duty and acted according to the instructions received. In these cases, they were usually instructed to submit a request for initiating a misdemeanour procedure against the reported person or to submit a report to the public prosecutor's office or to use the police power of warning. In a small number of cases, the deputy public prosecutor on duty gave an instruction that the reported person had to be heard as a suspect, after which a criminal complaint should be filed.

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<sup>66</sup> PD Bor notified the guardianship authority only about one of five received reports of violence; PD Pančevo notified the guardianship authority only about two of four received reports of violence; PD for the City of Belgrade - PS Čukarica notified the guardianship authority only of one of three filed reports.

<sup>67</sup> PD for the City of Belgrade - PS Voždovac - PO Beli Potok did not notify the guardianship authority of any of eight received reports of violence; The police officers in the PD for the City of Belgrade - PS Novi Beograd and PS Zemun acted in the same way; PD Novi Pazar did not submit a notification of any of the eight received reports of violence.

<sup>68</sup> PD for the City of Belgrade - PS Voždovac - PO Beli Potok provided the guardianship authority with the requested information only upon repeated request.

<sup>69</sup> The Police Station Sečanj, the SWC Sečanj and the Health Care Centre Sečanj.

<sup>70</sup> The City of Belgrade SWC - Department Lazarevac, PS Lazarevac, the health care institution in Lazarevac.

However, in some cases the police officers independently gave assessments about the presence or absence of a criminal offence or misdemeanour<sup>71</sup>, or the absence of violence<sup>72</sup> and in accordance with that assessment opted for the way of further action (in the investigated cases the police officers used the police power of warning).

Acting upon reports usually ended by taking statements from the person who reported violence and the person/s reported for violence. The police officers usually did not use other measures, actions or powers to collect all necessary facts and information, nor did they request such information from the guardianship authority.

### Attitude towards persons reporting violence

After taking measures and actions, the police officers were usually instructing the person reporting violence to initiate a court procedure and address the guardianship authority. The police officers from some police directorates acted in this way even without previously undertaken actions and measures<sup>73</sup>. In one case, the police officers used repressive measures against a woman designated as a victim of violence<sup>74</sup>.

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<sup>71</sup> PS Požega.

<sup>72</sup> The police officers of the PD for the City of Belgrade - PS Zemun established that in the reported cases „there was no violence but minor family disagreement“.

<sup>73</sup> **PD for the City of Belgrade - PS Voždovac - PO Beli Potok** referred the woman who had reported harassment from her former husband to address the City Social Welfare Centre and file a report again in the case of repeated harassment.

**PD for the City of Belgrade - PS Palilula** instructed the reporting person to „address the competent institutions and file a report again in the case of repeated abuse by her former husband“. Upon repeated report, the police officers referred the reporting person to „the competent judicial bodies and the City Social Welfare Centre - Palilula Department for the purpose of solving disputable situations“.

<sup>74</sup> **The police officers of the PD for the City of Belgrade - PS Čukarica**, acting upon a father's report against his son for death threats against him (the father), his wife and minor child, brought to the police station also the reporting person's wife (designated as a victim of violence - death threats), with the use of restraints, and then filed a request for initiating criminal proceedings against her.

## **Checking whether the reported person is in possession of a weapon, particularly in cases where the reported person is a police officer**

A small number of police directorates checked whether a person reported for violence was in possession of a weapon. Such checks are usually not carried out. In the cases where the reported persons were police officers, the police directorates did not take measures for ensuring that the service weapons were not in the house of victim and preventing the misuse of weapons by police officers; they neither examined the way in which the police officers held weapons in their houses. These checks were not carried out even in the cases where a report of violence contained the allegations on threats with weapons<sup>75</sup>.

## **Police actions with respect to children, upon reports of domestic and intimate partner violence**

In most cases, the police officers did not investigate the reports of domestic and intimate partner violence against women in the light of child abuse and neglect, not even when they had information about the children living in the family and being exposed to the incidents of violence. The police directorates did not inform the social welfare centres about that.

## **Level of training of police officers**

On the basis of survey conducted in 2015, the Protector of Citizens established that 271 police officers were trained on violence against women in the family and intimate partner relationships in 2014, while in 2015 the training was planned for at least 380 police officers.

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<sup>75</sup> PD Čačak did not take any measures with respect to the police officer reported for violence by his wife, although she stated that he kept the weapons under his pillow and used to show the weapons to the family members in a threatening manner, that he had expressed suicidal intention, and that he threatened her and their child with the bombs that he had brought from the frontline and kept in the house against their will. PD Čačak did not do it even after receiving the minutes from a hearing in the court proceedings in which the police officer stated: „As a member of the Police Directorate, I am authorised to carry weapons, and therefore to keep them in the apartment where I want; it is true that I moved the weapon to different places in the apartment; I did not have a reason for that and I did not threaten anyone with the gun. It is true that on one occasion I had a gun under the pillow; it was before the divorce procedure; I think that it was safe both for her and for myself. At the very beginning of our life together... I said [to the complainant's mother]: do not interfere or I'll blow you all up in the air, never before and never after that,„. PD Požarevac did not take any precautionary measures, security measures or measures for reducing the risk of repeated violence with respect to its police officer against whom eight reports of violence had been filed. The police officers characterised the reported incidents, including physical violence, as „disturbed marital relations“, and disregarded the fact of the reported person's misdemeanour convictions after reported violence and his statement that „his wife provoked a physical assault.“

## **Responsibility of police officers for omissions in work**

Most often, disciplinary procedures were not initiated against the police officers who had not acted in accordance with the General and Special Protocols for the Protection of Women from Violence in the Family and Intimate Partner Relationships and the General and Special Protocols for the Protection of Children from Abuse and Neglect. The responsibility of police officers for failure to notify the guardianship authorities of the received reports of violence and/or failure to take measures and activities within the police purview and powers was not established. In the cases where disciplinary procedures were conducted, the mildest sanctions were imposed, even in the cases of serious violation of law, the General and Special Protocols for the Protection of Women and the General and Special Protocols for the Protection of Children from Abuse and Neglect.<sup>76</sup> In these disciplinary procedures the fact of whether the accused police officers received training on gender-based violence, violence against women in the family and intimate partner relationships, protection of children from abuse and neglect and other training courses of relevance for police actions in case of domestic or intimate partner violence against a woman or violence against children, was not examined, taken into consideration or assessed.

## **ACTIONS OF GUARDIANSHIP AUTHORITY**

### **Actions of guardianship authorities after receiving the information about violence against a woman in the family and intimate partner relationships**

Investigating the actions of guardianship authorities upon receiving the information about, learning of or suspecting violence in the family and intimate partner relationships and child abuse and neglect, the Protector of Citizens has established that the measures taken by guardianship authorities were most often untimely, incomplete, inadequate or taken without a plan and cooperation with other bodies and agencies. Some social welfare centre did not take any measures at all. Thus, there are cases where the guardianship authority: did not take measures to protect women in a particularly vulnerable

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<sup>76</sup> PD for the City of Belgrade, PD Valjevo, PD Kruševac fined the police officers for gross violation of official duty in the amount of 20% of one monthly salary for the omission in work and failure to notify the guardianship authority and/or public prosecutor's office. In all three cases, the women were killed by their partners.

position for five years<sup>77</sup>; did not take victim protection measures despite its own assessment about the existence of violence<sup>78</sup>, did not take measures

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<sup>77</sup> Having been addressed by a young woman aged slightly above 18, SWC Medveđa assessed that she had been exposed to emotional abuse and intimate partner violence, due to which she had left her husband and his household. The guardianship authority was fully informed about the situation where the beneficiary did not have any support in her primary family (her parents explicitly told her that they would not receive her if she had decided to take the child and leave her husband), and had no choice or possibility to take care of the child. However, in the following six years of work, the guardianship authority did not take measures to protect her and support her in taking care of her child. The guardianship authority did not perform the activities aimed at reuniting the child and the mother and supporting the mother to assume her parental role, even when the court imposed the measure of protection against violence to protect the young beneficiary from her mother-in-law who perpetrated violence during the maintenance of personal contacts between the young woman and her child. SWC Vranje did not take the measures within its purview although the victim had filed several reports of violence committed against her and her family members by her husband - a police officer of the Police Directorate in Vranje. The SWC failed to act even upon learning that the victim's husband kept the child unlawfully. SWC Loznica, upon receiving the information from the woman who had left the family household due to domestic violence without being able to take her two children, did not take any measure prescribed for the case of reported domestic violence; it neither responded to the fact that the contacts between the children and the mother were not maintained in the proper manner due to the alleged children's resistance and the father's attitude. After the father's death, the Social Welfare Centre did not take any measure to give the children to the mother as the only parent, but on the contrary - despite the fact of having a living parent who wanted to exercise the parental right, put the children under the custodian protection of their uncle who opposed and prevented the mother's contacts with her children.

<sup>78</sup> **The City of Belgrade SWC - Department Rakovica** worked on the case of the woman's family for over twenty years. The SWC received on several occasions the notifications from the police and public prosecutor's office of the report of violence, and also had the information that the children had committed certain offences as minors and for that reason the measure of increased supervision by the guardianship authority was imposed. The SWC was also familiar with the victim's bad state of health and the fact that she had attempted suicide twice. The guardianship authority assessed that „there are violent patterns of behaviour in the family and that it is a dynamics of family functioning”. The SWC submitted this assessment to the public prosecutor's office. The SWC did not perform the activities or take measures from the purview of the guardianship authority, prescribed for the case of violence against women. The only activities performed were counselling (the perpetrator of violence was „informed that all psychological and physical violence is a criminal offence and that he should refrain from any form of violent behaviour”) and preparing a plan of services with respect to which the SWC itself established that the „planned activities cannot provide safety and security to the family members”.

even after more than ten years<sup>79</sup>; did not provide the victim with assistance and support despite having the information on violence she had suffered<sup>80</sup>; drew conclusions about the degree of vulnerability without conducting an assessment procedure, which led to further decisions on taking or not taking protection measures<sup>81</sup>; conducted professional procedures of the family legal protection of children upon reported violence without protecting the woman

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<sup>79</sup> Since 2003 the SWC Blace had the information about violence perpetrated by the husband against his wife, and then also against their child. The victim address the SWC many times, stating the economic and psychological violence against her and the son (threats, insults, incitement to suicide, etc.), and the SWC was also familiar with the fact that the perpetrator of violence had been sentenced for that in criminal proceedings. Apart from counselling, the SWC did not perform any other activities despite knowing that the victim had left her house for violence against her and lived as a tenant for 13 years because of the exposure to verbal violence and persecution by her former husband in the house. Although the SWC assessed that „the conflicts between the former spouses were continuous, consistent, of certain duration and intensity, and that the consequences of these conflicts can be more tragic,“ it found that it could not act further because it „has exhausted all methods of counselling.“ The only activity after that assessment was filing reports to the public prosecutor’s office, which rejected the SWC’s reports on two occasions. The SWC failed to notify the police of its assessment and numerous reports received by the victim, did not conduct a risk assessment, did not take other measures in order to ensure, independently or in cooperation with other authorities, the victim’s return to her house and her protection from violence. As a reason for its failure to act the SWC stated also the fact „that the family does not accept the further plan of services consisting of counselling“, although it had already assessed that counselling did not yield any results.

<sup>80</sup> **The City of Belgrade SWC - Department Rakovica** refused to register the victim’s permanent residence at the address of the guardianship authority, thus preventing the victim of violence from exercising her rights in the field of social protection and health care. Although the victim stated and documented that she had left her previous place of permanent residence because of violence suffered by her son, due to which she had stayed in the Safe House, the guardianship authority failed to perform any activity in accordance with the regulations and standards for working with women victims of domestic and intimate partner violence. **The City of Belgrade SWC - Department Sopot** had the information about violence suffered by the victim by her former common-law partner, due to which she had left the common-law marriage. The guardianship authority was acquainted also with the fact that she had established a new common-law marriage and that her financial situation and dependence on her new partner and his family constituted a risk factor for her life with her children in the same household. Due to the lack of any support from the guardianship authority, the mother gave her children to their father and they are presently in the care of their grandmother. The guardianship authority did not take any measure to reunite the mother with her children and help the mother in exercising her parenting right. Instead, the guardianship authority informed the mother - victim of violence about the possibility of placing the children in foster family care.

<sup>81</sup> **The City of Belgrade SWC - Department Ćukarica**, without conducting a professional procedure, concluded that the „family members are at low risk“. The guardianship authority failed to establish all the facts relevant to the protection of woman from violence and the protection of child from abuse and neglect; failed to determine the measures of protection; did not conduct a risk assessment after the woman victim and the child returned to the family of the partner/father on whom the measures for the protection of woman from domestic violence had been imposed.



victim of violence<sup>82</sup>; refused to act in cases where a marriage or common-law marriage had been terminated, and did not treat former wives and common-law partners as victims of violence<sup>83</sup>; made its actions conditional upon the actions of public prosecutor's office<sup>84</sup>; contrary to the law, refused to act upon a report of violence because the women victim of violence had filed a criminal complaint or initiates a court procedure<sup>85</sup>; disregarded information and reports of violence<sup>86</sup>, even when they were received from the police<sup>87</sup> or obtained in another procedure before the guardianship authority<sup>88</sup>; instead of conducting professional procedures, limited the protection measures to the provision of

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<sup>82</sup> **SWC Arandelovac** conducted the professional procedures for placing the children under custody of one parent and regulating the way of the maintenance of personal contacts between the children and the father, but did not conduct the procedures prescribed for the cases of learning about violence against a woman in the family and intimate partner relationships, although the SWC was acquainted with the existence of violence through the information received from the victim and the police. **The SWC Čačak**, acting upon the police notification, conducted a professional procedure without including the measures and activities prescribed for the case of suspicion or knowledge about violence against woman in the family and intimate partner relationships, but informed the court that „due to the indications of domestic violence...an expert assessment of the parental functionality of both spouses is required”, and notified the public prosecutor's office that „partner disagreements and inadequate communication have been present for a long period of time”.

<sup>83</sup> **The SWC Požega** informed the PD Požega that „they do not act when the spouses do not live together any more”.

<sup>84</sup> **The SWC Bor** did not take any measure upon receiving the notifications from the police officers about the complainant's reports of intimate partner violence, because the „public prosecutor has stated that there are no elements of criminal offence or criminal activity”.

<sup>85</sup> **The SWC Užice** notified the court of jurisdiction that „there is no room for the SWC's intervention concerning protection against domestic violence because [the complainant] filed a criminal complaint for domestic violence...”

<sup>86</sup> **The SWC Petrovac na Mlavi** in two cases did not take any measures to protect women from intimate partner or domestic violence, although it had or should have had knowledge thereof. **The City of Belgrade SWC - Department Novi Beograd** did not act upon the information on domestic violence suffered by the woman, or on the effects of violence on the minor children. It neither investigated the mother's allegations about violence against her and her minor child perpetrated by her older son, nor the mother's allegations according to which the violence of the older son was motivated by the reasons related to property.

<sup>87</sup> **The SWC Užice** did not take measures even upon receiving the police notifications and official notes on the information received by citizens, which included numerous allegations of violence against the woman perpetrated by the husband and father. **The SWC Pančevo** received two notifications from the PD Pančevo of filed reports of violence, but did not perform any activity because the victim „did not address the SWC for assistance in this period, since she was employed, had the support of her parents, of her friends who gave her the apartment to use, accompanied her on her way to work and waited for her after work, and a court procedure for domestic violence was initiated upon her report as well as a procedure related to violation of the imposed measures against violence”.

<sup>88</sup> **The City of Belgrade SWC - Department Voždovac** obtained the information about violence against the complainant through her request for one-off assistance in which she stated that she had suffered violence.

information about the impermissibility of violence and the services that may be made available to women victims of violence<sup>89</sup>. In some cases the police were not informed about violence<sup>90</sup>, and a professional procedure was not conducted in the case where the reported person was a police officer who had a service weapon in possession<sup>91</sup>.

In the procedures of controlling the legality and regularity of the work of social welfare centres, the Protector of Citizens established that none of the social welfare centres filed a criminal complaint with the competent public prosecutor's office or filed a lawsuit for protection from domestic violence, but instructed the women who reported violence to do so on their own. In two cases, the guardianship authority sent its opinion to the court with the proposal for imposing the protection measure also against the victim of violence, considering that such a measure was purposeful<sup>92</sup>, i.e. that contributed to the prevention of deepening the conflict between the partners<sup>93</sup>.

In the procedures of controlling the legality and regularity of the work of guardianship authorities, the Protector of Citizens has noticed also the minimisation and relativisation of violence. The guardianship authority labels violence as

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<sup>89</sup> **The City of Belgrade SWC - Department Stari Grad** performed only the activity of „pointing out to the parents that their physical separation is in the interest of minor child taking into account the risk of escalation of disturbed partner relationship, and informing the mother about the possibility of emergency accommodation for her and her child in the Safe House“; **The SWC Užice** „informed the victim about the procedures that she can initiate before the public prosecutor's office and court“. **The SWC Požega** „clarified the victim's dilemmas related to her rights and to filing a criminal complaint by her and her son“. **The professional staff of SWC Požarevac** explained to the woman who had reported her husband's violence that „conflicts among parents adversely affect minor children... that she should solve peacefully all disagreements and conflicts with her husband“.

<sup>90</sup> **The SWC Petrovac na Mlavi and the City of Belgrade SWC - Department Zemun** did not notify the police of reported violence.

<sup>91</sup> **The SWC Čačak** failed to conduct a procedure in accordance with the provisions of the General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women within the Family and in Intimate Partner Relationship and the Special Protocol for Action of Social Welfare Centres/Guardianship Authorities in Cases of Domestic and Intimate Partner Violence against Women in order to protect the woman and other family members from violence and assess security risks, although it had been notified by the PD Čačak of the report of violence perpetrated by the police officer and had all other information related to the circumstances of the report: expression of suicidal intention, holding the service weapon under the pillow, threatening with the bombs brought from the frontline and holding bombs in the apartment.

<sup>92</sup> **The SWC Požarevac** gave an opinion to the court that it was „purposeful to impose a measure of prohibiting further harassment by both parties“.

<sup>93</sup> **The City of Belgrade SWC - Department Stari grad**, finding that „such a measure contributes to the prevention of deepening the conflict between the partners, which may cause the occurrence of intimate partner violence in the future“, proposed to the court to impose a measure for protecting the perpetrator of violence from the victim of violence, and the court did so.

„situational incident“<sup>94</sup>, requests from the woman who has reported violence to provide valid evidence and shows a lack of understanding of the reasons for which the woman refuses to be placed in the Safe House and gives up court proceedings<sup>95</sup>, and in planning and performing further activities fails to take into account the court decisions on imposing the measures of protection because they have been adopted without an expert opinion of the guardianship authority<sup>96</sup>. It happens, although very rarely, that two organisational units of a guardianship authority have opposing opinions about the existence of violence<sup>97</sup>, which affects the planning and implementation of appropriate measures not only in relation to the woman victim, but also to the children who are the victims exposed to a traumatic event (domestic violence).

### **Actions of guardianship authorities with respect to children, after receiving the information about violence against a woman in the family and intimate partner relationships and child abuse and neglect**

Most social welfare centres did not treat the children exposed to domestic or intimate partner violence against the mother as victims of abuse and neglect. Consequently, they did not perform any activities aimed at protecting children from violence, abuse and neglect, as set forth in the General and Special Protocols for the Protection of Children from Abuse and Neglect, or take any measures of support, protection and rehabilitation/recovery of children from abuse and neglect resulting from the exposure to intimate partner and/or domestic

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<sup>94</sup> **The City of Belgrade SWC - Department Stari grad** notified the court that „it has been established that the violent incident was a „situational incident and not a pattern of violent behaviour“. **The SWC Smederevo** notified the court of „the violence that was situational“ stating that it was „a provoked situation that resulted in an assault on the complainant [by her husband]“, although the SWC had a record of the Police Directorate in Smederevo on a criminal complaint received by the woman against her husband and her parents for perpetrating violence against her jointly, the medical certificate of the injuries sustained by the woman, the information that the company Telenor had warned the customer (husband) for disturbance and the reports of violence filed by the women with the SWC.

<sup>95</sup> **The professional staff of the City of Belgrade SWC - Department Novi Beograd** assessed that the woman was „not authentic“ and that she „wanted to manipulate us“ because „if she were really endangered she would document it with medical findings and she would submit information about [her husband]... „if she were really endangered... she would not be choosing a place of shelter and would not withdraw her lawsuit“.

<sup>96</sup> City of Belgrade SWC - Department Zemun.

<sup>97</sup> City of Belgrade SWC - Department Zemun and Department Vračar.

violence against the mother<sup>98</sup>. Domestic or intimate partner violence against the children's mother was not taken into account as one of the crucial facts and risk factors for child neglect and violation of law by the children<sup>99</sup>.

In the procedures of awarding the sole custody of the child to one of the parents and establishing the way in which the child would maintain personal contacts with the parent with whom the child did not live, in most cases the social welfare centres excluded domestic violence as a fact important for the assessment of parenting competencies and the child's best interest. In assessing the best interest of the child and giving opinions and proposals to the court of jurisdiction, the guardianship authority failed to take into account the history of

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<sup>98</sup> **The SWC Užice** did not take measures to protect the child from abuse and neglect, although it had the information, provided by the police, about possible abuse and neglect of the child in the form of repeated and prolonged exposure to domestic violence against the mother by the mother's father and by her husband, the mother's inability to leave the household together with the child due to being prevented by her father, the father's and the former husband's threats, and her father's prevention to establish a contact with her child. **The SWC Loznica** did not conduct a risk assessment and then failed to take the measures of support or recovery of the boy who informed them about concrete forms of violence and abuse by his father against his mother. **The City of Belgrade SWC - Department Sopot** did not take any measure to support the mother - victim of violence in her parenting. On the contrary, the guardianship authority first informed the mother repeatedly about the possibility of placing the children in a foster family. Since she was not provided with support, the mother gave the children to their father. However, instead of being taken care by the father, the children are in the care of their grandmother, of which the guardianship authority has knowledge. Due to the SWC's omission to support the mother in her parenting, particularly at the delicate time after she had suffered violence, the family life of the mother and her children was interrupted, but the SCW failed to take any actions in order to reunite the children and the mother, and supported the grandmother in „regulating the legal status of the children“.

<sup>99</sup> **The City of Belgrade SWC - Department Rakovica** has worked with the family for over twenty years, including for the reason of violence against the wife and children and the children's violation of law (perpetration of criminal offences), due to which the educational measures were imposed on the children. Even when the SWC implemented the diversion measure of enhanced supervision by the guardianship authority, it failed to investigate the existence of domestic violence or risks of child neglect stemming from domestic violence, particularly taking into consideration the mother's illness and her suicidal attempts. In the absence of assessments, no adequate measures were implemented to protect children from abuse and neglect. There were neither assessments nor measures aimed at helping young persons in the adverse family environment, although the reports of domestic violence included children - adolescents, and despite the fact that the SWC had established that the plan of services and the activities envisaged by that plan „cannot provide safety and security to the family members“.

violence perpetrated by the father against the child's mother<sup>100</sup>; in the procedures of family legal protection of the child, it failed to take into consideration the allegations of domestic and/or intimate partner violence against the child's mother<sup>101</sup>; in applying the measures of custodian protection, it failed to take into consideration the allegations of violence perpetrated by the potential guardian against the family members<sup>102</sup>; in assessing the best interests of the child and providing proposals on giving custody of children or maintaining personal contacts with the parent with whom the child did not live, the guardianship authority failed to take into account that fact that the parent was a perpetrator of violence and had abducted the child from the mother who had the child

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<sup>100</sup> In assessing the father's parenting competencies and the child's best interests in the procedure of giving the child to care and custody of one parent and regulating the child's personal contacts with the parent with whom the child did not live, **the SWC Vranje** did not take into account the violence perpetrated by the father against the mother of the child even after the termination of marriage. **The SWC Loznica** decided to give the children to care and custody of their uncle, although the professional staff knew that the uncle had been preventing their contacts with the mother. At the same time, they did not enable the mother to exercise her parental right, despite the fact that she was not deprived of her parental right and there were no objections to her parenting or risks observed; besides, the mother addressed them, both directly and during the court proceedings, seeking support in taking care of her children, both after the termination of marriage and after the death of children's father. **The SWC Arandjelovac** did not include the existence of violence against the children's mother in the facts relevant to the assessment of parenting competencies, and accepted the mother's decision on giving to the father the care and custody of the children and began with its implementation without examining the reasons for such a decision and possibility of being forced by repeated violence by the children's father, although the SWC had been acquainted with the existence of violence through the information received from the victim and the police. Although **the SWC Sečanj** took all measures in the process of protecting the mother from violence, it proposed to the court of jurisdiction to give the care and custody of the children to the father who had perpetrated violence against the mother, and excluded the violence perpetrated against the mother from its assessment of father's parenting competencies.

<sup>101</sup> In the procedure of protecting the child's rights to protection from violence and the child's interests, the City of Belgrade SWC - Department Novi Beograd failed to investigate the allegations of the mother (reported for violence) about the violence she had suffered by the children's father or the allegations of the violence suffered continuously by her elder son. Having been notified by the police of reported violence against the children's mother, the SWC Petrovac na Mlavi failed to take any activity prescribed for the case of suspicion of child abuse or neglect.

<sup>102</sup> The City of Belgrade SWC - Department Novi Beograd appointed the minor ward's brother as his guardian, without previously examining the allegations of the child's mother about the violence perpetrated by her elder son against her, his father and his brother, or the allegations of fraudulent acts and suspected abuse of alcohol and psychoactive substances. They also failed to check the mother's allegations of possible property-motivated abuse of the minor child by his elder brother and an adult unrelated to the child and who had submitted a request to the guardianship authority for being appointed as guardian.

in her care and custody<sup>103</sup>; it failed to provide support to the mother victim of domestic violence who had been unlawfully deprived of her parenting right, with the aim of reuniting or re-establishing personal contacts between the mother and the child<sup>104</sup>; it failed to take measures of child protection from abuse and neglect resulting from exposure to intimate partner and/or domestic violence against the mother<sup>105</sup>; it failed to take measures against the prevention of child's contacts with the parent or to take such behaviour into account in

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<sup>103</sup> **The SWC Vranje** refused to act upon the mother's report in which she stated that the father, a police inspector, had unlawfully kept the child in 2013 after visitation, thus interrupting the child's medical treatment and check-ups, but referred the parents to other authorities. The SWC also failed to take into account the fact that the father had abducted the child from the mother's custody in assessing and giving proposals in the procedure of altering a judgement on entrusting the child and on the protection of the best interests of the child. The SWC examined only the father's reports of the mother's abuse of the child filed in 2014. Finally, the SWC caseworkers had completely opposite views and established contradictory facts about these events and reports. **The SWC Prijepolje** did not take any measure after the children's father had abducted them from their mother who had been awarded the sole custody of the children, on the basis of court decision, after he had refused to cooperate with the SWC and prevented the child's contacts with the mother; and when the child's father requested the translation of all the files in the criminal and civil proceedings into his mother tongue - Bosnian, the SWC assessed that „it had no right to take any activities within its purview in the future.“ The SWC also established that it was in the best interest of the child, who did not maintain personal contacts with the mother due to the father's unlawful decision, to „try to monitor the child's development while living with the father and when it has been assessed that there is no risk that the child tends or wants to live only with one parent, take and give the child to the parent as determined by the valid court decision“.

<sup>104</sup> **The SWC Medveđa** failed to provide appropriate support to a young mother who had left the family household while pregnant due to violence in the family and intimate partner relationships, and left her newly born child in the father's care because of the lack of support in her parental family and her father's explicit prohibition to bring the child to her the house of her parents. The fact of violence against her did not have any impact on the SWC's opinions, views and proposals, although it continued during the establishment and development of personal contacts of the child and the mother, in the form of violence perpetrated by the child's grandmother (due to which the measures of protection were imposed) and the obstruction of contacts and instrumentalization of the child by its father and grandmother. **The SWC Loznica** failed to take any measure or perform any activity upon learning that the woman had left her family household due to the violence suffered from her husband and the woman's report of her husband's prohibition to have any contacts with her children. On the contrary, in deciding about the custodian protection of the children after their father's death, this guardianship authority assessed the mother's leaving the household and her failure to establish contacts with her children as her neglect of parental duties.

<sup>105</sup> **The SWC Užice** did not take measures to protect the child from abuse and neglect, although it had the information, provided by the police, about possible abuse and neglect of the child in the form of repeated and prolonged exposure to domestic violence against the mother by the mother's father and by her husband, the mother's inability to leave the household together with the child due to being prevented by her father, the father's and former husband's threats, and her father's prevention to establish a contact with her child.

expert assessments, opinions and proposals<sup>106</sup>; it failed to take measures upon reports of violence against them<sup>107</sup>.

The guardianship authorities fail to adequately respond to the unlawful keeping of the child and the prevention of the child's contacts with the parent with whom the child does not live. They do not treat such behaviour of the parents as child abuse and neglect and therefore do not take the measures prescribed by the General Protocol for the Protection of Children from Abuse and Neglect. In some cases, despite noting the instrumentalization of the children by the parent with whom they live (unlawfully or on the basis of court decision) and their influence on the development of resistance in children, the guardianship authority fails to take measures within its purview<sup>108</sup> and then issues opinions by which it „legalises“ the unlawful behaviour of parents, contrary to the child's interest<sup>109</sup>, which was the reason why the European Court of Human Rights found the

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<sup>106</sup> **SWC Užice.**

<sup>107</sup> **The City of Belgrade SWC - Department Voždovac** did not take any measures, either with respect to the mother or with respect to the children, after the child's mother had reported violence she had suffered. **The SWC Užice** notified the court that „there is no room for the SWC's intervention concerning protection from domestic violence because [the complainant] has filed a criminal complaint for domestic violence.... Otherwise, if the procedures for protection from violence had not been initiated, the guardianship authority would have taken measures within its purview in accordance with the expert assessment in order to achieve the best interests of the minor child. **The SWC Medveđa** failed to take any measures *ex officio* against the paternal grandmother because she directly prevented the mother to assume her parental role and because she punished the boy inappropriately, disparaged and threatened him for developing closeness and maintaining contacts with his mother.

<sup>108</sup> **The SWC Bajina Bašta** stated that the children's resistance to meeting with their mother was the result of father's instrumentalization and manipulation, which was confirmed by the competent health care institution. Both institutions established a high level of children's vulnerability due to the behaviour of their father. The Social Welfare Centre established also that the father had refused to cooperate with the SWC and bring the children to re-establish contacts with their mother. Despite that, the SWC did not perform any activity to ensure the establishment and maintenance of these contacts, or any measure prescribed for the cases of child abuse and neglect, but explained to the court in the enforcement procedure that „the measures and activities for establishing an emotional contact between the children and the parent can be performed only in the counselling centre for parents and children in Užice“.

<sup>109</sup> **The City of Belgrade SWC - Department Čukarica**, having stated that the child's resistance to the father was largely a result of the mother's influence, instructed the father to initiate an enforcement procedure. In that procedure, the guardianship authority informed the court that it was not possible to prepare the child because the mother had not responded to the SWC's invitations, after which the court submitted an opinion that the further maintenance of contacts was not possible due to the child's resistance and instructed the parents to „work independently on the adoption of parental actions that would be more appropriate for the child“. **The SWC Bajina Bašta**, despite the established child neglect by the father, issued an opinion and proposal to give the care and custody of the children to their father, by which the SWC „verifies the present situation after taking into account all the risks for the interests of the children if decided otherwise, for example... a high level of children's alienation from their mother“, which, according to the assessments of the SWC and the health care institution, was a result of „the manipulative and disavowing behaviour of the father who, by such conduct, has stepped outside the bounds of the child's interest and prioritised his self-interest, which boils down to the confrontation with his former wife and deepening of partnership conflict“.

Republic of Serbia responsible for violations of human rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, in more than one judgement<sup>110</sup>.

Relativisation and minimisation of violence are among the reasons for which the guardianship authority did not take measures to protect children from exposure to domestic violence as a form of child abuse and neglect<sup>111</sup>; while another important reason is a lack of knowledge about the General and Special Protocols for the Protection of Children from Abuse and Neglect.<sup>112</sup>

Failure to notify the court of the suspicion or existence of domestic or intimate partner violence against the mother, which the children witnessed or were exposed to, results in the situation where court actions and decisions in family disputes are usually not based on complete and accurate information about all the facts relevant to the issuance of decision and the determination of the child's best interests. On the other hand, some guardianship authorities did not have any knowledge about repeated domestic and intimate partner violence against women, even in the cases where the woman suffered serious bodily injuries and where the measure for protecting the victim from violence had been pronounced, because the guardianship authority was not informed about that either by the police directorate, public prosecutor's office or court<sup>113</sup>, although they have an obligation of informing the guardianship authority about the existence of violence. Although courts are obliged to provide the guardianship authority with the information about the pronounced measures of protection against violence, sometimes they fail to do so and consequently the social welfare centres can neither perform their duty of protecting women

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<sup>110</sup> For example, the judgement of the European Court of Human Rights in the case *V.A.M. v. Serbia*, no. 39177/15, judgement of 13 March 2007, available at [http://www.ombudsman.pra-vadeteta.com/index.php?option=com\\_content&view=article&id=375%3A2012-06-21-20-28-47&catid=47%3A2012-05-10-09-09-29&Itemid=60&lang=sr](http://www.ombudsman.pra-vadeteta.com/index.php?option=com_content&view=article&id=375%3A2012-06-21-20-28-47&catid=47%3A2012-05-10-09-09-29&Itemid=60&lang=sr), accessed on 10.10.2016.

<sup>111</sup> **The SWC Smederevo** notified the court that „manifested violence was situational and certainly did not affect the children” although in the previously conducted procedure it assessed that in the complainant's family there was violence witnessed by children: „having witnessed violence between her parents, (the girl) underwent psychological treatment”, „...the boy witnessed violence and asked his mother to leave the apartment with his sister as soon as possible to stop all that... the mother talked to the psychologist... and received the information that the boy had assumed the role of a „hostage” to protect his mother and sister”.

<sup>112</sup> Before proposing the model of personal contacts between the children and the father, the **SWC Petrovac na Mlavi**, did not conduct an assessment of whether the children's mother had been a victim of domestic and intimate partner violence and whether the children - in terms of the provision of the General Protocol for the Protection of Children from Abuse and Neglect - had been exposed to abuse and neglect through witnessing domestic and intimate partner violence against their mother. In direct oversight, the Protector of Citizens has established that the professionals are not acquainted with and do not apply the General Protocol for the Protection of Women from Violence, the General Protocol for the Protection of Children from Abuse and Neglect and the Special Protocol for the Protection of Women from Violence.

<sup>113</sup> SWC Novi Pazar.



from violence nor their duty of recording domestic violence, as prescribed by law<sup>114</sup>.

### **Level of training of professional staff in the guardianship authority**

Based on the survey conducted in 2015, the Protector of Citizens has established that 41 professionals from the social protection system were trained in 2014 and 2015 through the accredited training programmes related to the protection of women from violence, and that in the same period additional 680 professionals received the accredited training related to the phenomenon of domestic violence in general and protection of the victims of violence including women.

### **Responsibility of professional staff in the guardianship authority for omissions in work**

The Protector of Citizens has not established, in any of the investigated cases, that the guardianship authority conducted any procedures to establish the responsibility of professionals for omissions made, or to take measures against the responsible professionals (either a disciplinary measure or a measure for the correction of irregular, unprofessional or negligent work).

## **ACTIONS OF HEALTH CARE INSTITUTIONS**

### **Actions of health care institutions after having knowledge or suspicion of violence against a woman in the family and intimate partner relationships**

The health care institutions usually did not have any information on domestic or intimate partner violence. However, in one of the investigated cases, the health care institution did not inform the police, social welfare centre or public prosecutor's office about the knowledge that the patient had suffered physical violence<sup>115</sup>. In its statement provided to the Protector of Citizens, this institution stated that „such patients are instructed to fill out a form for reporting domestic violence or abusers, and that the institutions files reports and advises patients to do so as well „. However, the statement of this institution also informed the

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<sup>114</sup> The Basic Court in Pančevo, the Basic Court in Novi Pazar.

<sup>115</sup> In 2015 **the Emergency Centre of the Clinical Centre of Serbia** admitted a patient who stated that she was „beaten by a person known to her“. The patient was provided with emergency medical assistance and „advised to report to the police the person who inflicted the injuries on her“.

Protector of Citizens that this „most overloaded health care institution in the country does not have psychologists or psychiatrists among its staff”.

On the other hand, some health care institutions did not submit the requested statement to the Protector of Citizens, finding that such information could not be provided to the Protector of Citizens since there were no legal grounds for that<sup>116</sup>.

### **Level of training of health care professionals**

The survey conducted in 2010, which included 621 health care professionals and associates, has revealed that 82% of health care professionals and associates have never attended any training on gender-based violence, while 14% of health care professionals have participated in some of the training courses related to the topic of violence against women<sup>117</sup>.

## **SITUATION ASSESSMENT**

**The key factors that contribute to successful prevention and protection of women from violence and children from abuse and neglect are timeliness and comprehensiveness. The measures taken immediately after the initial manifestation and milder forms of domestic and intimate partner violence and violence against children are also the most efficient ones, because at the very beginning they (can) eliminate, rectify, isolate and, as appropriate, impose sanctions for violent behaviour, and provide the victim with efficient protection and successful rehabilitation.**

**Complete mutual exchange of information between all the bodies that are or may be involved in the protection of women from domestic and intimate partner violence and the protection of children from abuse and neglect is the obligation of all competent authorities and a necessary precondition for achieving the full effectiveness of the measures taken and their optimal effect.**

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<sup>116</sup> **The General Hospital in Požarevac** did not submit a statement requested by the Protector of Citizens, but asked for the „legal basis” for the provision of information. **The Health Care Centre Rakovica** did not submit the requested information invoking the confidentiality of medical records, despite the provisions of the Law on the Protector of Citizens according to which the authorities are obliged to provide all information regardless of the degree of confidentiality (Article 21 of the Law).

<sup>117</sup> The Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence is available at: [http://www.zastitnik.rs/attachments/3710\\_Posebna%20izvestaj%20Zaštitnika%20građana%20o%20primeni%20Opšteg%20i%20posebnih%20protokola%20za%20zaštitu%20žena%20od%20nasilja.doc](http://www.zastitnik.rs/attachments/3710_Posebna%20izvestaj%20Zaštitnika%20građana%20o%20primeni%20Opšteg%20i%20posebnih%20protokola%20za%20zaštitu%20žena%20od%20nasilja.doc), accessed on 10.10.2016.

The lack of exchange of information or incompleteness and irregularity in the exchange of information increase the risk of losing some potentially crucial information about the case, which, if known, would lead to different actions of the bodies involved.

The exchange of information, even when it is regular and of good quality, will not yield the desired effects in the prevention of violence, if the information is not given adequate attention, weight and importance. Any information related to violence against women in the family and intimate partner relationships and child abuse and neglect must be considered carefully and with due diligence, separately and in the light of other known data, and it must be interpreted and assessed properly and in accordance with the regulations and standards of work. Casual or negligent attitude towards the key information almost always leads to erroneous interpretations and conclusions, and consequently to the wrong choice of measures and ineffective procedure.

The Protector of Citizens has repeatedly pointed out that exposure to domestic violence makes the child a victim of abuse and neglect and that in such cases the authorities have a duty to act entirely in accordance with the operating rules and standards prescribed for the cases of violence against a child. The child's exposure to domestic violence compromises its proper development and welfare to the same extent as direct violence against the child, and requires an effective and functional response of authorities in order to stop the violence, prevent its repetition and re-traumatization of the child.

Child abduction and preventing the child from maintaining personal contacts with the parent with whom the child does not live is a criminal offence under the Criminal Code and constitutes a form of child abuse and neglect, which is the reason for terminating parental rights. In such cases, the competent authorities have a duty to treat such parental behaviour in accordance with law and take all measures to terminate and punish such behaviour. Due to the lapse of time and high sensitivity of children to parental instrumentalization and manipulation, any delay of the action taken by the authorities leads to the consequences for the child's proper development, which are either irreparable or difficult to mitigate. The European Court of Human Rights, in the judgments delivered against the Republic of Serbia, took the legal position that child abduction and denial of contact with the parent with whom the child does not live requires a prompt and efficient response of authorities in order to prevent irreparable damages and violation of the right to family life.

Identical or similar omissions in the work of authorities indicate the necessity to begin performing, without delay, a comprehensive assessment of the causes of these omissions, establishing responsibility and, in accordance with law, imposing sanctions for these omissions and planning activities in order to eliminate or reduce the risk of their repetition in the future. Such acting is

**a characteristic of the responsible work and attitude of authorities not only towards beneficiaries - whose vital interests, including life and health, depend on the regularity of their work - but also towards the profession, professional integrity of experts and officials and one's own work.**

Investigating a large number of cases, the Protector of Citizens has established identical or same types of omissions made by police officers and professional staff in guardianship authorities.

The Protector of Citizens finds that the Ministry of Interior should begin analysing the actions of police officers, starting from the facts established by the Protector of Citizens. The outcome of such analysis will be the measures aimed at eliminating the identified omissions where possible and reducing the risk of their repetition in the future. The Protector of Citizens deems that such action of the Ministry of Interior will contribute to the improvement of work and accountability of police officers in cases of domestic violence, violence against women in intimate partner relationships and child abuse and neglect.

The Protector of Citizens also considers that the elimination of omissions in the work of guardianship authorities requires a systemic approach that implies active involvement of the Ministry of Labour, Employment, Veteran and Social Affairs and the Provincial Secretariat for Social Policy, Demography and Gender Equality, as well as of the oversight bodies. Therefore, the Protector of Citizens has recommended to these bodies to perform oversight of the professional work of the social welfare centres whose work was controlled by the Protector of Citizens, in accordance with the facts established by the Protector of Citizens, in order to eliminate the existing omissions in their work and (where possible) their adverse consequences, and improve the work of guardianship authorities in the process of protecting women against violence and protecting children from abuse and neglect. The Protector of Citizens is especially mindful of the possibility that potential measures imposed by the oversight bodies may be contrary to the best interests of children and women victims, and therefore the oversight bodies will assess the purposefulness of imposing measures in each particular case and choose appropriate measures.

Based on the established facts and circumstances, the Protector of Citizens, by applying Article 31 paragraph 2 of the Law, issued recommendations to the Ministry of Interior, the Ministry of Labour, Employment, Veteran and Social Affairs, the Ministry of Health and the Provincial Secretariat for Social Policy, Demography and Gender Equality, in order to rectify the identified omissions to the fullest extent possible, improve the work of authorities and prevent similar omissions in the future.

## IV

## NORMATIVE FRAMEWORK

In the process of establishing omissions, the Protector of Citizens was guided by the provisions of the Council of Europe Convention on preventing and combating violence against women and domestic violence<sup>118</sup>, the Law on Family<sup>119</sup>, the Law on Social Protection<sup>120</sup>, the Law on Police<sup>121</sup>, the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres<sup>122</sup>, the Rulebook on Prohibited Conduct of Social Protection Employees<sup>123</sup>, the Instructions on Conduct of Police Officers towards Minors and Young Adults<sup>124</sup>, the General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women<sup>125</sup>, the Special Protocol for Action of Social Welfare Centres/Guardianship Authorities in Cases of Domestic and Intimate Partner Violence against Women<sup>126</sup>, the Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women<sup>127</sup>, the General Protocol for the Protection of Children from Abuse and Neglect<sup>128</sup> and the Special Protocol on Conduct of Police Officers in the Protection of Minors from Abuse and Neglect.<sup>129</sup>

<sup>118</sup> *Official Gazette of the Republic of Serbia - International Treaties*, no. 12/13, 4/14.

<sup>119</sup> *Official Gazette of RS*, no. 18/05, 72/11 and 6/15.

<sup>120</sup> *Official Gazette of RS*, no. 24/11.

<sup>121</sup> *Official Gazette of RS*, no. 101/05, 63/09, 92/11 and 64/15.

<sup>122</sup> *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

<sup>123</sup> *Official Gazette of RS*, no. 8/2012.

<sup>124</sup> The Instruction 01 no. 4898/06 was adopted by the minister of interior on 1 May 2006.

<sup>125</sup> The General Protocol was adopted by the Government of the Republic of Serbia in November 2011.

<sup>126</sup> The Special Protocol was adopted by the Ministry of Labour, Employment, Veteran and Social Affairs in March 2013.

<sup>127</sup> The Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women, which was adopted in February 2013 by the Ministry.

<sup>128</sup> The Government of the Republic of Serbia adopted the General Protocol in September 2005.

<sup>129</sup> The Special Protocol no. 01-1039/12-7 was adopted by the Ministry of Interior on 14 March 2012. The adopted Protocol superseded the previous Special on Conduct of Police Officers in the Protection of Minors from Abuse and Neglect No. 4645/05-17 of 11 October 2006.

## International law and standards

### *International Covenant on Civil and Political Rights*<sup>130</sup>

By the ratification of or accession to the International Covenant on Civil and Political Rights, the State Parties undertake to respect and to ensure to all individuals within their territories and subject to their jurisdiction the rights recognised in the Covenant, without distinction of any kind, including sex.<sup>131</sup>

The States Parties undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant<sup>132</sup>.

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. The law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground, including sex<sup>133</sup>.

Every human being has the right to life<sup>134</sup>, liberty and personal security<sup>135</sup>.

The family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The States Parties shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children<sup>136</sup>.

The Human Rights Committee in its General Comments<sup>137</sup> called on the States to include in their periodic reports on the implementation of the Covenant the

<sup>130</sup> *Official Journal of SFRY - International Treaties*, no. 7/71.

<sup>131</sup> Art. 2 of the International Covenant on Civil and Political Rights, *Official Journal of SFRY - International Treaties*, no. 7/71.

<sup>132</sup> Art. 3 of the International Covenant on Civil and Political Rights, *Official Journal of SFRY - International Treaties*, no. 7/71.

<sup>133</sup> Art. 26 of the International Covenant on Civil and Political Rights, *Official Journal of SFRY - International Treaties*, no. 7/71.

<sup>134</sup> Art. 6 of the International Covenant on Civil and Political Rights, *Official Journal of SFRY - International Treaties*, no. 7/71.

<sup>135</sup> Art. 9 of the International Covenant on Civil and Political Rights, *Official Journal of SFRY - International Treaties*, no. 7/71.

<sup>136</sup> Art. 23 of the International Covenant on Civil and Political Rights, *Official Journal of SFRY - International Treaties*, no. 7/71.

<sup>137</sup> General Comment of the Human Rights Committee, No. 28 (2000) on Article 3 of the International Covenant on Civil and Political Rights (equality of women and men in rights) available at official web page of the Office of the High Commissioner, [http://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/bGeneralCommentNo28Theequalityof-rightsbetweenmenandwomen\(article3\)\(2000\).aspx](http://www.ohchr.org/EN/Issues/Education/Training/Compilation/Pages/bGeneralCommentNo28Theequalityof-rightsbetweenmenandwomen(article3)(2000).aspx), accessed on 10.10.2016.

information on national laws and practice with regard to domestic and other types of violence against women, including rape.<sup>138</sup>

### ***International Covenant on Economic, Social and Cultural Rights***<sup>139</sup>

By the ratification of or accession to the Covenant, the States undertake to guarantee that the rights enunciated in the International Covenant on Civil and Political Rights will be exercised without discrimination of any kind, including sex<sup>140</sup> and to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant<sup>141</sup>.

The States recognise that the widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, and that special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination<sup>142</sup>.

The right of everyone is to enjoy the highest attainable standard of physical and mental health.<sup>143</sup>

### ***Convention on the Elimination of All Forms of Discrimination against Women***<sup>144</sup>

Discrimination against women is any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.<sup>145</sup>

The States Parties undertake to pursue by all appropriate means at their disposal and without delay a policy of eliminating discrimination against women, and particularly to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women; to establish legal protection of the rights of women on an equal basis

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<sup>138</sup> *Ibid.*

<sup>139</sup> *Official Journal of SFRY - International Treaties, no. 7/71.*

<sup>140</sup> Art. 2 of the International Covenant on Economic, Social and Cultural Rights, *Official Journal of SFRY - International Treaties, no. 7/71.*

<sup>141</sup> Art. 3 of the International Covenant on Economic, Social and Cultural Rights, *Official Journal of SFRY - International Treaties, no. 7/71.*

<sup>142</sup> Art. 10 of the International Covenant on Economic, Social and Cultural Rights, *Official Journal of SFRY - International Treaties, no. 7/71.*

<sup>143</sup> International Covenant on Economic, Social and Cultural Rights, Article 12, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/cescr.aspx>, accessed on 10.10.2016.

<sup>144</sup> *Official Journal of SFRY - International Treaties, no. 11/81.*

<sup>145</sup> Art. 1 of the Convention on the Elimination of All Forms of Discrimination against Women, *Official Journal of SFRY - International Treaties, no. 11/81.*

with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination; to refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation; and to take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women<sup>146</sup>.

***General Recommendation no. 19 of the Committee on the Elimination of All Forms of Discrimination against Women***<sup>147</sup>

Violence against women is a form of discrimination within the meaning of Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women and should be considered a serious violation of women's human rights. In its General Recommendation, the Committee requires taking all necessary measures to eliminate discrimination against women and to combat violence against women, including the adoption of specific legislation on all forms of violence against women, penal sanctions for perpetrators of violence, civil remedies, preventive measures (raising public awareness and education and protection measures including support services for victims of violence). In this way, the general provision prohibiting discrimination on grounds of sex extends to include also gender-based violence - violence directed against a woman because she is a woman or violence that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. The Committee considers that violence against women is a violation of their internationally recognised human rights, regardless of whether the perpetrator is a public official or private person.

***Convention on the Rights of the Child***<sup>148</sup>

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. Such protective

<sup>146</sup> Art. 2 of the Convention on the Elimination of All Forms of Discrimination against Women, *Official Journal of SFRY – International Treaties*, no. 11/81.

<sup>147</sup> General Recommendation of the Committee on the Elimination of All Forms of Discrimination against Women, no. 19, available at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm><http://www.womenngo.org.rs/publikacije-dp/medjunarodni%20dokumenti.pdf> or at <http://www.un.org/womenwatch/daw/cedaw/recommendations/recomm.htm><http://www.womenngo.org.rs/publikacije-dp/medjunarodni%20dokumenti.pdf>, accessed on 10.10.2016.

<sup>148</sup> *Official Journal of SFRY - International Treaties*, no. 15/90 and *Official Journal of FRY - International Treaties*, no. 4/96 and 2/97.



measures should, as appropriate, include effective procedures for the establishment of social programs to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.<sup>149</sup>

***General Comment No. 13 of the Committee on the Rights of the Child - The right of the child to freedom from all forms of violence***<sup>150</sup>

Exposure of a child to domestic violence is a form of child mental abuse.

***Convention on the Rights of Persons with Disabilities***<sup>151</sup>

States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.<sup>152</sup>

In order to protect persons with disabilities from exploitation, violence and abuse, States Parties undertake to take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects. These measures should ensure, inter alia, appropriate forms of gender- and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. That protection services should be age-, gender- and disability-sensitive. Also, in order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties undertake to ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.<sup>153</sup>

In addition, States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection

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<sup>149</sup> Art. 19 of the Convention on the Rights of the Child (Official Journal of SFRY - International Treaties, no. 15/90 and *Official Journal of FRY - International Treaties*, no. 4/96 and 2/97.

<sup>150</sup> General Comment of the Committee on the Rights of the Child, No. 13 The right of the child to freedom from all forms of violence, point 21, available at [http://www.pravadeteta.com/attachments/288\\_OK%2013.pdf](http://www.pravadeteta.com/attachments/288_OK%2013.pdf), accessed on 10.10.2016.

<sup>151</sup> *Official Gazette of RS*, no. 42/09.

<sup>152</sup> Art. 6 of the Convention on the Rights of Persons with Disabilities, *Official Journal of SFRY - International Treaties*, no. 42/09.

<sup>153</sup> Art. 16 of the Convention on the Rights of Persons with Disabilities, *Official Journal of SFRY - International Treaties*, no. 42/09.

services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender- and age-specific needs. States Parties shall put in place effective legislation and policies, including women- and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.<sup>154</sup>

***European Convention for the Protection of Human Rights and Fundamental Freedoms***<sup>155</sup>

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground, including sex.<sup>156</sup> Everyone's right to life shall be protected by law.<sup>157</sup> Everyone has the right to liberty and security of person.<sup>158</sup> No one shall be discriminated against by any public authority on any ground such as sex or other grounds.<sup>159</sup>

***Council of Europe Convention on preventing and combating violence against women and domestic violence***

Parties shall take the necessary legislative or other measures to protect all victims from any further acts of violence and to ensure that there are appropriate mechanisms to provide for effective cooperation between all relevant state agencies, including the judiciary, public prosecutors, law enforcement agencies, local and regional authorities as well as non-governmental organisations and other relevant organisations and entities, in protecting and supporting victims and witnesses of all forms of violence, including by referring to general and specialist support services. The measures taken must meet the following criteria:

- be based on a gendered understanding of violence against women and domestic violence and shall focus on the human rights and safety of the victim;
- be based on an integrated approach which takes into account the relationship between victims, perpetrators, children and their wider social environment;

<sup>154</sup> Art. 16 of the Convention on the Rights of Persons with Disabilities, *Official Journal of SFRY – International Treaties*, no. 42/09.

<sup>155</sup> *Official Journal of SaM - International Treaties*, no. 9/03.

<sup>156</sup> Art. 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, *Official Journal of SaM - International Treaties*, no. 9/03.

<sup>157</sup> Art. 2 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, *Official Journal of SaM - International Treaties*, no. 9/03.

<sup>158</sup> Art. 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, *Official Journal of SaM - International Treaties*, no. 9/03.

<sup>159</sup> Art. 1 of the Protocol no. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, *Official Journal of SaM - International Treaties*, no. 9/03.

- aim at avoiding secondary victimisation;
- aim at the empowerment and economic independence of women victims of violence;
- allow, where appropriate, for a range of protection and support services to be located on the same premises;
- address the specific needs of vulnerable persons, including child victims, and be made available to them.<sup>160</sup>

Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies respond to all forms of violence covered by the scope of this Convention promptly and appropriately by offering adequate and immediate protection to victims.

Parties shall take the necessary legislative or other measures to ensure that the responsible law enforcement agencies engage promptly and appropriately in the prevention and protection against all forms of violence covered by the scope of this Convention, including the employment of preventive operational measures and the collection of evidence.<sup>161</sup>

Parties shall take the necessary legislative or other measures to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and if necessary to provide coordinated safety and support.

Parties shall take the necessary legislative or other measures to ensure that the assessment referred to in paragraph 1 duly takes into account, at all stages of the investigation and application of protective measures, the fact that perpetrators of acts of violence covered by the scope of this Convention possess or have access to firearms.<sup>162</sup>

### *The views of the European Court of Human Rights*

Article 1 of the Convention<sup>163</sup>, taken in conjunction with Article 3, imposes on the States positive obligations to ensure that individuals within their jurisdiction are protected against all forms of ill-treatment prohibited under Article 3, including where such treatment is administered by private individuals. This obligation should include effective protection of, inter alia, an identified individual or

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<sup>160</sup> Art. 18 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, *Official Gazette of the Republic of Serbia - International Treaties*, no. 12/13, 4/14.

<sup>161</sup> Art. 50 of the Council of Europe Convention on preventing and combating violence against women and domestic violence, *Official Gazette of the Republic of Serbia - International Treaties*, no. 12/13, 4/14.

<sup>162</sup> Art 51. of the Council of Europe Convention on preventing and combating violence against women and domestic violence, *Official Gazette of the Republic of Serbia - International Treaties*, no. 12/13, 4/14.

<sup>163</sup> European Convention for the Protection of Human Rights and Fundamental Freedoms, *Official Journal of SaM - International Treaties*, no. 9/03.

individuals from the criminal acts of a third party, as well as reasonable steps to prevent ill-treatment of which the authorities knew or ought to have known.<sup>164</sup>

Article 3 requires that the authorities conduct an effective official investigation into the alleged ill-treatment even if such treatment has been inflicted by private individuals. For the investigation to be regarded as „effective”, it should in principle be capable of leading to the establishment of the facts of the case and to the identification and punishment of those responsible.<sup>165</sup>

Interference by the authorities with the private and family life may become necessary in order to protect the health and rights of a person or to prevent criminal acts in certain circumstances. To that end States are to maintain and apply in practice an adequate legal framework affording protection against acts of violence by private individuals.<sup>166</sup>

Children and other vulnerable individuals, in particular, are entitled to effective protection.<sup>167</sup>

The concept of private life includes a person’s physical and psychological integrity. Furthermore, the authorities’ positive obligations – in some cases under Articles 2 or 3 and in other instances under Article 8 taken alone or in combination with Article 3 of the Convention – may include, in certain circumstances, a duty to maintain and apply in practice an adequate legal framework affording protection against acts of violence by private individuals. The Court notes in this respect that the particular vulnerability of the victims of domestic violence and the need for active State involvement in their protection has been emphasised in a number of international instruments.<sup>168</sup>

Article 2 enjoins the State to take appropriate steps to safeguard the lives of those within its jurisdiction. This involves a primary duty on the State to secure the right to life by putting in place effective criminal-law provisions to deter

<sup>164</sup> See *A. v. the United Kingdom*, 23 September 1998, § 22, Reports of Judgments and Decisions 1998VI and Opuz, cited above, § 159. See also § 49 of the judgment of the European Court of Human Rights in the case of *Ermia versus the Republic of Moldova*, Application no. [3564/11](#), judgment of 28 May 2013, available at [www.hudoc.echr.coe.in](#), accessed on 10.10.2016.

<sup>165</sup> See *M.C. v. Bulgaria*, no. [39272/9832704/04](#), § 151, ECHR 2003XII, and *Denis Vasilyev v. Russia*, no. [39272/9832704/04](#), §§ 98-99, 17 December 2009. See also § 51 of the same judgment, available at [www.hudoc.echr.coe.in](#), accessed on 10.10.2016.

<sup>166</sup> Paragraph 52 of the same judgment available at [www.hudoc.echr.coe.in](#), accessed on 10.10.2016.

<sup>167</sup> Paragraph 64 of the judgment of the European Court of Human Rights in case *Bevacqua and S. v. Bulgaria*, Application No. 71127/01, judgment of 28 May 2013, available at [www.hudoc.echr.coe.in](#), accessed on 10.10.2016.

<sup>168</sup> See the judgments cited in paragraph 85 above and, also, *Osman v. the United Kingdom*, judgment of 28 October 1998, Reports 1998VIII, §§ 128-130, and *M.C. v. Bulgaria*, no. [39272/98](#), ECHR 2003XII). See paragraphs 49-53 above - § 65 of the same judgment available at [www.hudoc.echr.coe.in](#), accessed on 10.10.2016.

the commission of offences against the person backed up by law-enforcement machinery for the prevention, suppression and punishment of breaches of such provisions.<sup>169</sup>

The right to respect for one's family life under Article 8 includes a parent's right to the taking of measures with a view to his or her being reunited with his or her child and an obligation – albeit not absolute – on the national authorities to take such action.<sup>170</sup>

Mutual enjoyment by parent and child of each other's company constitutes a fundamental element of „family life“ within the meaning of Article 8 of the Convention.<sup>171</sup>

Article 8 includes for parents a right that steps be taken to reunite them with their children and an obligation on the national authorities to facilitate such reunions.<sup>172</sup>

The adequacy of a measure is to be judged by the swiftness of its implementation, as the passage of time can have irremediable consequences for relations between the child and the parent who do not cohabit.<sup>173</sup>

Although coercive measures against the children are not desirable in this sensitive area, the use of sanctions must not be ruled out in the event of unlawful behaviour by the parent with whom the children live.<sup>174</sup>

Effective respect for family life requires that future relations between parent and child not be determined by the mere passage of time.<sup>175</sup>

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<sup>169</sup> Paragraph 49 of the ECHR judgment in case *Branko Tomašić and Others v. Croatia* (Application no. 46598/06, judgment of 15 December 2009, available at: <https://uredzastupnika.gov.hr/UserDocsImages//arhiva//TOMASIC.pdf>, accessed on 10.10.2016.

<sup>170</sup> See, as a recent authority, *Sobota Gajić v. Bosnia and Herzegovina*, no. 27966/06, § 51, 6 November 2007, with further references - paragraph 65 of the judgement in the case *Bevacqua and S. v. Bulgaria*, Application no. 71127/01, judgment of 28 May 2013, available at [www.hudoc.echr.coe.in](http://www.hudoc.echr.coe.in), accessed on 10.10.2016.

<sup>171</sup> Paragraph 130 of the European Court of Human Rights in the case *V.A.M. v. Serbia*, Application no. 39177/15, judgment of 13 March 2007, available at: [http://www.ombudsman.pravdeteta.com/index.php?option=com\\_content&view=article&id=375%3A2012-06-21-20-28-47&catid=47%3A2012-05-10-09-09-29&Itemid=60&lang=sr](http://www.ombudsman.pravdeteta.com/index.php?option=com_content&view=article&id=375%3A2012-06-21-20-28-47&catid=47%3A2012-05-10-09-09-29&Itemid=60&lang=sr) accessed on 10.10.2016.

<sup>172</sup> Paragraph 132 of the same judgment, available at [www.hudoc.echr.coe.in](http://www.hudoc.echr.coe.in), accessed on 10.10.2016.

<sup>173</sup> Paragraph 134 of the same judgment, available at [www.hudoc.echr.coe.in](http://www.hudoc.echr.coe.in), accessed on 10.10.2016.

<sup>174</sup> Paragraph 135 of the same judgment, available at [www.hudoc.echr.coe.in](http://www.hudoc.echr.coe.in), accessed on 10.10.2016.

<sup>175</sup> Paragraph 101 of the European Court of Human Rights in the case *Tomić v. Serbia*, Application no. 25959/06, judgment of 26 June 2007, available at: [http://www.ombudsman.pravdeteta.com/index.php?option=com\\_content&view=article&id=375%3A2012-06-21-20-28-47&catid=47%3A2012-05-10-09-09-29&Itemid=60&lang=sr](http://www.ombudsman.pravdeteta.com/index.php?option=com_content&view=article&id=375%3A2012-06-21-20-28-47&catid=47%3A2012-05-10-09-09-29&Itemid=60&lang=sr) accessed on 10.10.2016.

## National legislation

### *Constitution of the Republic of Serbia*<sup>176</sup>

The State shall guarantee the equality of women and men and develop equal opportunities policy<sup>177</sup>.

The Constitution guarantees equality before the Constitution and law and the right to equal legal protection without discrimination and prohibits any form of discrimination on any grounds<sup>178</sup>. It guarantees: the right to dignity and the free development of personality<sup>179</sup>; the right to life<sup>180</sup>; inviolability of physical and psychological integrity<sup>181</sup>; the right to equal protection of rights and legal remedy<sup>182</sup> and the right to the protection of physical and mental health<sup>183</sup>

The Constitution guarantees special protection of the family, mother, single parent and child<sup>184</sup>.

### *Law on Family*

Domestic violence is prohibited. Everyone has, in accordance with law, the right to protection from domestic violence.<sup>185</sup>

Domestic violence... is the behaviour by which a family member endangers the physical integrity, mental health or tranquillity of another family member.<sup>186</sup>

The court may impose one or more measures of protection from domestic violence against a family member who perpetrates violence, temporarily prohibiting or restricting personal contacts with other family members. Measures of protection from domestic violence shall be:

- issuing an order for eviction from the family apartment or house, regardless of the right of ownership or lease of real estate;
- issuing an order for moving into the family apartment or house, regardless of the right of ownership or lease of real estate;
- prohibition of approaching a family member at a certain distance;

<sup>176</sup> *Official Gazette of RS, no. 98/2006.*

<sup>177</sup> Art. 15 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>178</sup> Art. 21 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>179</sup> Art. 23 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>180</sup> Art. 24 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>181</sup> Art. 25 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>182</sup> Art. 36 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>183</sup> Art. 68 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>184</sup> Art. 66 of the Constitution of the Republic of Serbia, *Official Gazette of RS, no. 98/2006.*

<sup>185</sup> Art. 10 of the Law on Family, *Official Gazette of RS, no. 18/05, 72/11 and 6/15.*

<sup>186</sup> Art. 197 of the Law on Family, *Official Gazette of RS, no. 18/05, 72/11 and 6/15.*

- prohibition of accessing the area around the place of residence or workplace of a family member;
- prohibition of further harassment of a family member.<sup>187</sup>

The procedure for protection from domestic violence shall be initiated by filing a lawsuit. The lawsuit for determining the measures of protection from domestic violence, as well as for extending the measures for protection from domestic violence may be filed by: the family member against whom the violence has been perpetrated, his or her legal representative, the public prosecutor and the guardianship authority.<sup>188</sup>

The parental right is derived from the duties of parents and exists only to the extent necessary for the protection of child's person, rights and interests.<sup>189</sup>

Everyone, including parents, has a duty to act in the best interests of the child in all actions concerning the child.<sup>190</sup>

The parent abuses his or her parental rights if he or she physically, sexually or emotionally abuses the child. The parent severely neglects his or her duties stemming from the parental right if he or she prevents the maintenance of personal relations between the child and the parent with whom the child does not live; or otherwise severely neglects the duties stemming from the parental right.<sup>191</sup>

### ***Law on Social Protection***

Social protection services are divided into the following groups: ...assessment and planning services - assessment of the situation, needs, strengths and risks of beneficiaries and other important persons in their environment; ...; counselling-therapeutic and socio-educational services - intensive support services to families in crisis; ...counselling and support in cases of violence; family therapy; mediation; SOS hotlines;<sup>192</sup>

The beneficiary of the rights or services of social protection is an individual or family that faces obstacles in meeting the needs, due to which they cannot reach or maintain the quality of life, or that lacks sufficient resources to meet basic needs and cannot gain them through work, income from property or from other sources.

The adult aged 26-65 (hereinafter referred to as adult) and the adult older than 65 years (hereinafter referred to as elderly beneficiary) shall be a beneficiary when his or her well-being, security and a productive life in society is at risk...

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<sup>187</sup> Art. 198 of the Law on Family, *Official Gazette of RS*, no. 18/05, 72/11 and 6/15.

<sup>188</sup> Art. 284 of the Law on Family, *Official Gazette of RS*, no. 18/05, 72/11 and 6/15.

<sup>189</sup> Art. 67 of the Law on Family, *Official Gazette of RS*, no. 18/05, 72/11 and 6/15.

<sup>190</sup> Art. 6 of the Law on Family, *Official Gazette of RS*, no. 18/05, 72/11 and 6/15.

<sup>191</sup> Art. 81 of the Law on Family, *Official Gazette of RS*, no. 18/05, 72/11 and 6/15.

<sup>192</sup> Art. 40 of the Law on Social Protection, *Official Gazette of RS*, no. 24/11.

and in particular if there is a risk of becoming a victim or if he or she is a victim of self-neglect, neglect, abuse, exploitation and domestic violence.<sup>193</sup>

Social protection services shall be provided in accordance with the best interests of beneficiaries, taking into account their life cycle, sex, ethnic and cultural background, language, religion, life style, developmental needs and the need for additional support in everyday functioning.<sup>194</sup>

Social protection is implemented in a way that ensures timely identification of beneficiary's needs and provision of services in order to prevent the occurrence and development of conditions that threaten the security and fulfilment of needs and hinder social inclusion.<sup>195</sup>

The ministry responsible for social protection shall oversee the work of authorities, institutions and other holders of public powers in performing the tasks set forth under this Law, in accordance with the law regulating the state administration.<sup>196</sup>

The ministry responsible for social protection shall oversee the professional work of social welfare centres, residential care institutions and centres for foster care and adoption established by the Republic of Serbia or autonomous province, institutions for children and youth and social protection institutions. In overseeing the professional work, it shall establish whether requirements have been met in terms of compliance with the prescribed professional procedures and the use of professional knowledge and skills that are applied in admission, assessment, planning, review of the outcome of performed activities, and completion of work with the beneficiary, based on the inspection of professional documentation and process of delivery and effects of services.<sup>197</sup>

### *Law on Police*

The police shall cooperate with the bodies of territorial autonomy and local self-governments in undertaking measures to safeguard human life and property.

The police shall cooperate with other bodies and institutions, non-governmental and other organisations, minority and other organised groups and self-organised individuals for the purpose of establishing partnerships in preventing or detecting offences and their perpetrators and achieving other security goals.<sup>198</sup>

In performing their duties, the police shall observe national standards of law-enforcement procedure, requirements set forth in laws and other regulations

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<sup>193</sup> Art. 41 of the Law on Social Protection, *Official Gazette of RS*, no. 24/11.

<sup>194</sup> Art. 26 of the Law on Social Protection, *Official Gazette of RS*, no. 24/11.

<sup>195</sup> Art. 29 of the Law on Social Protection, *Official Gazette of RS*, no. 24/11.

<sup>196</sup> Art. 166 of the Law on Social Protection, *Official Gazette of RS*, no. 24/11.

<sup>197</sup> Art. 167 of the Law on Social Protection, *Official Gazette of RS*, no. 24/11.

<sup>198</sup> Art. 6 of the Law on Police, *Official Gazette of RS*, no. 101/05, 63/09, 92/11 and 64/15.



and official documents of the Republic of Serbia, and international treaties and conventions to which the Republic of Serbia is a signatory.

In the performance of their duties referred to in paragraph 1 of this Article, the police shall observe international standards of police conduct, in particular the requirements set forth in the international documents related to: the responsibility to serve the public; to act in compliance with law and combat unlawful activities; to actively respect human rights; to proceed without discrimination in the performance of police function; to practice restraint in the means of enforcement; to prohibit torture and inhuman or degrading treatment; to aid and assist victims; to safeguard confidential information; to disobey unlawful orders and to resist bribery and corruption.<sup>199</sup>

If reasonable grounds exist to expect resistance to the enforcement of orders issued by public authorities or legal entities with public powers, the police shall provide assistance to these authorities and entities, upon their written request, to ensure enforcement.<sup>200</sup>

### ***Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres***

The SWC shall organise its work in a way to allow access to services to all those who need them, with a special focus on vulnerable groups (children, elderly, disabled, minorities and others.).

The SWC shall ensure access to services through: coordination of activities with other public agencies, humanitarian organisations, citizens' associations and other organisations in the local community...<sup>201</sup>;

The circumstances taken into account and explained in determining the priorities of actions shall be:

- Need for support or provision of security, the age and vulnerability of a child, adult or elderly person;
- Special characteristics of the situation and severity of the circumstances that endanger a child, adult or elderly person;
- The SWC's previous knowledge of the case;
- Existing stressful circumstances that endangers a child, adult or elderly person
- Urgency of action<sup>202</sup>.

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<sup>199</sup> Art. 12 of the Law on Police, *Official Gazette of RS, no. 101/05, 63/09, 92/11 and 64/15.*

<sup>200</sup> Art. 3 of the Law on Police, *Official Gazette of RS, no. 101/05, 63/09, 92/11 and 64/15.*

<sup>201</sup> Art. 8 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS, no. 59/08, 37/10, 39/11, 1/12.*

<sup>202</sup> Art. 49 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS, no. 59/08, 37/10, 39/11, 1/12.*

The initial assessment for children and youth shall include the following:

- Assessment of the situation and needs of the child and family, including the information from the submission: child safety, risks, social history, needs of the child and family, and information about the incident that caused concern or difficulty identified by the family or by the referral agency or body...;
- Work with the family to create a situation of safety for the child and overcome the current difficulties if applicable;
- Taking actions to protect the child and arrange access to services necessary to overcome the current situation and respond to the problem, if needed.

The initial assessment for adults and elderly persons shall include the following:

- Assessment of the situation and needs of the adult or elderly person, including the information from the report, referral or request (biological, psychological and social risks, social history, needs of the beneficiary, and information about the incident that caused concern or difficulty identified by the family or by the referral agency or body);
- Work with the beneficiary, family members and other relevant persons to overcome the current difficulties or, if applicable, to create a situation of safety for the adult or elderly person at risk;
- Taking actions to protect the adult or elderly person at risk and arrange access to services necessary to overcome the current situation and respond to the problem, if needed.<sup>203</sup>

Special plans shall be developed for the purpose of timely, comprehensive and continuous provision of services.<sup>204</sup>

The plans for the provision of services to beneficiaries must include the following general elements:

- Overview of information from the assessment;
- Defined general and specific goals of work;
- For all identified problem areas - defined indicators/expected outcomes showing that the existing problem, need or risk has been overcome, reduced or that the need has been satisfied (outcomes should be clear, visible, specific in terms of required conduct and desirable conditions, and measurable or verifiable);
- Decision on what needs to be done to reach the goals and outcomes;

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<sup>203</sup> Art. 56 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

<sup>204</sup> Art. 66 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

- Determination of activities to be taken: who, how and where, to achieve the set goals;
- Persons involved, i.e. who is responsible for the performance of particular tasks;
- Time frame with defined dates for the beginning and completion of tasks;
- Description of procedures and indicators used by a person or agency to prove that the tasks have been completed and the goals of work have been achieved, and the ways and time limits for redefining the plan if necessary;<sup>205</sup>

The plan of services and measures for a child or young person, or the plan of services and measures for an adult or elderly person shall be continuously monitored and reviewed, while the undertaken services, measures and interventions shall be documented, aligned and altered in line with the identified goals.<sup>206</sup>

Reassessment shall be conducted on the basis of the findings of evaluation at least every six months from the day of adoption of the plan of services, unless the plan envisages a shorter period of time or unless a special law defines different time limits.<sup>207</sup>

Work with the beneficiary and/or provision of services may be terminated in the following situations:

- The beneficiary has ceased to be eligible for the use of services;
- The beneficiary has given up on the use of services;
- The beneficiary does not need the services any more;
- The time envisaged for the use of service has expired;
- The young person has become independent or acquired legal capacity before the age of majority;
- The SWC is no longer territorially competent and another SWC has taken over the work with the beneficiary;
- The beneficiary has deceased or has been declared dead.<sup>208</sup>

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<sup>205</sup> Art. 67 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

<sup>206</sup> Art. 77 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

<sup>207</sup> Art. 78 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

<sup>208</sup> Art. 83 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

### ***Rulebook on Prohibited Conduct of Social Protection Employees***

It is prohibited to the employee to neglect the beneficiary.<sup>209</sup>

Neglect shall refer to the employee's negligence or omission in ensuring adequate fulfilment of needs, protection of beneficiaries and child development in the areas of health, nutrition, accommodation and safe living conditions, and the child's emotional development and education, in accordance with the standards of service, rules of profession, ethical standards and specific rules of procedure.

Neglect shall also include the omission in properly supervising and protecting the beneficiaries from injury and self-injury.<sup>210</sup>

### ***Instruction on Conduct of Police Officers towards Minors and Young Adults***

The presence of a professional from the guardianship authority instead of a parent, adoptive parent or guardian shall be provided in situations where the authorised officials referred to in point 7, paragraph 1 of this Instruction, assesses that the presence of the said persons is not in the best interest of the child in cases of perpetrated crimes specified in Article 150 of the Law on Juvenile Criminal Offenders and Criminal Legal Protection of Juveniles to the detriment of the child and if their presence would be irritating for the child and hence compromise to a great extent the performance of the police task. If in these circumstances it is not possible to ensure the presence of a professional from the guardianship authority, the presence of another person who has capacity to exercise rights and has experience in working with children and who is not employed by the police or involved in the event - the responsible person in the institution for accommodation of beneficiaries, the psychologist or pedagogues in the school attended by the child - shall be ensured.<sup>211</sup>

If there are grounds to suspect that an adult has committed any of the offences set forth in Article 150 of the Law on Juvenile Criminal Offenders and Criminal Legal Protection of Juveniles, to the detriment of the child, the competent guardianship authority shall be notified immediately and the guardianship authority shall then determine the way of temporary placement of the child in the home of an individual or in an institution and shall ensure the presence of persons in the process of obtaining information.<sup>212</sup>

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<sup>209</sup> Art. 12 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

<sup>210</sup> Art. 12 of the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, *Official Gazette of RS*, no. 59/08, 37/10, 39/11, 1/12.

<sup>211</sup> Point 11 of the Instruction on Conduct of Police Officers towards Minors and Young Adults, 01 no. 4898/06 of 1 May 2006

<sup>212</sup> Point 12 of the Instruction on Conduct of Police Officers towards Minors and Young Adults, 01 no. 4898/06 of 1 May 2006

***General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women***

In order to establish an efficient system of protection of victims of violence in intimate partner relationship and within the family, it is necessary to establish continuous cross-sector cooperation between the main social protection institutions. This involves cooperation between social protection institutions, in particular social welfare centres, the police, public prosecutor's offices, investigating courts and health care institutions.

Professionals are obliged to detect and recognise other signs of violence and express suspicion about its presence, as well as to document it appropriately. This can be achieved by asking certain questions during their regular activities and providing other services, that is - by checking for violence in all situations with relevant indications.

The factors indicating the particularly severe consequences of domestic violence:

- Multiple victims
- Experienced assault or repeated assault on the same victim
- Victim belongs to a group of particularly vulnerable family members
- Other persons witnessing violence, e.g. relatives, and especially children or other particularly vulnerable family members
- Additional humiliation and degradation of the victim (e.g. taking photographs, exposing the victim to the view of others after perpetrating the violence and other).

It is necessary to ensure that the victim of violence receives all the necessary support so that she would be encouraged to accept assistance and take steps to ensure her safety. It is important to build trust and unambiguously indicate that violence is unacceptable behaviour, and that the responsibility for violence lies always on the perpetrator and not on the victim. It is necessary to provide complete information about the actions, procedures and their outcomes, as well as about the available resources for help and support to the victim and other vulnerable family members. When, based on the interview, it is obvious that children or other vulnerable family members are exposed to domestic violence against women, it is necessary to report the case to the social welfare centre.

The circumstances indicating a serious imminent danger from violence against women within the family and in intimate partner relationship include one of the mentioned or more often a combination of several factors, in particular: threat of murder or suicide by the perpetrator..., previous incidence of violence..., substance abuse, escalation of stalking or harassment of the victim, her family or friends..., criminal history of the perpetrator, regardless of whether it is connected to the violence, existing court protection orders and history of failure to comply with them, experience of fear with the victim and her assessment of the risk of violence occurrence or recurrence.

In order to ensure immediate protection of the woman victim of violence within the family and intimate partner relationship and other family members exposed to violence, the public prosecutor's office and guardianship authority shall, in accordance with law, file a petition to impose domestic violence protection measures. Monitoring the compliance with the domestic violence protection measures requires the exchange of information and appropriate actions taken by the participants in the protection system, in accordance with law.

The officers who come in contact with the victim of violence shall offer her assistance and support they are authorised to offer and shall ensure adequate repeated contacts and monitoring. The case conference shall be summoned to plan services and protection measures for women victims of violence and other family members exposed to violence. ... All participants shall by way of cooperation contribute to the development of individual plan of integrated services ensuring comprehensive, coherent, effective and efficient protection for the woman victim and non-violent members of her family. The plan of protection must ensure the safety of victims, stop the violence and prevent recurrence, protect the victims' rights, enable free decision-making in their best interest, ensure they receive services in support of their recovery, empowerment and independence. Planned measures need to be well coordinated and focus on avoiding secondary victimisation.

„Children are considered victims of domestic violence not only when they experience it directly, but also when they are exposed to acts of violence perpetrated by one family member against another family members as witnesses. Witnessing and being exposed to violence traumatises children, regardless of whether they see the violence directly, or hear sounds, thumps or screams from a close range, when they know that violence is occurring or can occur, or when they subsequently see the consequences of violence among family members.

The term „child witness” does not relate only to children who witness the act of domestic violence directly, but also to children exposed to violence indirectly. In these cases it is necessary to apply complementarily the General Protocol on Protection of Children from Abuse and Neglect.

***Special Protocol for Action of Social Welfare Centres/Guardianship Authorities in Cases of Domestic and Intimate Partner Violence against Women***

The circumstances taken into account and explained in determining the priorities of actions in cases of domestic violence shall be:

- Need for support or safety of the victim or the child who is an indirect victim of domestic violence;
- Specific characteristics of the situation and the severity of circumstances threatening the victim or the child who is an indirect victim of domestic violence, which may lead to acute domestic violence, which cannot be prevented;
- If the victim of domestic violence or the child who is an indirect victim of domestic violence has sustained physical injury or if the threat is such that

it may lead to physical injury; prior knowledge of the social welfare centre/guardianship authority about the specific case of domestic violence;

- Quality of cooperation of members of the family in which violence takes place or in which there is a risk of occurrence of domestic violence, in prior contacts with the professionals of the social welfare centre/guardianship authority;
- Objective and subjective circumstances in the family and the relations of family members which threaten the victim of violence or the child who is an indirect victim of domestic violence;
- Other circumstances, which indicate the priority of action in cases of domestic violence.

Initial assessment shall comprise the following components relating to the needs of the beneficiary – victim of domestic violence and the child who is an indirect victim, the witness of domestic violence and the family itself; safety of the beneficiary – victim of domestic violence and the child who is an indirect victim, the witness of domestic violence; risks, social history, needs, the family and information about domestic violence.

### ***Special Protocol on Conduct of Police Officers in Cases of Domestic and Intimate Partner Violence against Women***

Upon arrival to the scene of event, the police officers have a duty to:

- Perform identification of the perpetrator of violence (one or more), victim and witnesses to the event;
- Separate the victim from the perpetrator and provide physical protection to the victim of violence and enable her to make her statement without the presence of the perpetrator and out of his sight;
- Collect all data necessary to inform and prove the criminal offence or misdemeanour of domestic or intimate partner violence; in doing so, police officers should particularly ensure to take into account all information regarding the circumstances related to the concrete situation of violence, define precisely the type of violence and the way in which the violence was perpetrated, its duration, continuity, possible incidents of earlier violence and if the authorities have already been involved and to what extent;
- Take into special consideration the children exposed to violence;
- Inform the victim of violence that the relevant social welfare centre will be notified about the case;
- Inform the perpetrator of violence about the concrete measures that will be taken against him.

Police officers who have the above information should be aware of the high risk that accompanies the cases of domestic violence. When collecting information, it is necessary to make an assessment of potential risks to their own safety as well as that of the victim, and take all necessary measures and activities of precaution and the protection of safety.

The most common risks:

- The perpetrator of violence has access to, is using or threatening to use weapons;
- Prior history of domestic violence and escalation of violence;
- There are court orders in place and a history of their violation;
- The perpetrator has criminal history (not necessarily related to acts of domestic violence);
- There is alcohol or substance abuse or suspicion of mental disorders or illness;
- Victim's feeling of fear and her opinion about the risks of future violence;
- Current problems in intimate partner or family relations;
- If there are children present, whether they have been or might be hurt;
- Threats addressed to the victim, her family, friends;

The victim must be informed about the measures taken by the police.

The police officer shall consider all issues relevant for the assessment of the victim's safety, as well as the safety of other family members and discuss with them the measures of their safety. In cases where there is a risk of repeated victimisation, the police officer shall warn the victim about the potential risk to her or her child.

If it is necessary to conduct an interview with or assist a child or a minor, urgent arrival and intervention of a social worker shall be requested from the social welfare centre, while ensuring that the time spent in the police station is as short as possible.

Giving protection shall not depend on the victim's readiness to file charges or testify against the perpetrator of violence.

It is important to ensure good exchange of information between all the participants in providing protection. In accordance with the Law on Social Protection and the Rulebook on the Organisation, Norms and Standards of Work of Social Welfare Centres, the social welfare Centre has a duty to coordinate measures and services in the community.

The police shall refer all victims of domestic and intimate partner violence to the social welfare centre, exchange information and participate in case conferences organised for the purpose of developing a plan of protection and services for the victims of violence.

The plan of protection must ensure the victims' safety, stop the violence and prevent recurrence, protect the victims' rights, enable the victims' free decision-making in their best interest, ensure they receive services in support of their recovery, empowerment and independence. The plan of protection and services should also include repeated contacts with the victim, monitoring and evaluation of the effects of the measures taken.



Written information shall be produced and submitted to the social welfare centre about the measures taken and the situation found, in order to enable social and intervention measures or measures of legal family protection.

***General Protocol for the Protection of Children from Abuse and Neglect***

„Emotional abuse refers to a relationship between the primary caregiver(s) and the child where the interactions are actually or potentially harmful to the child. It comprises developmentally inappropriate, insufficient or inconsistent interactions with the child, and includes: exposure to confusing or traumatic events and circumstances (e.g. domestic violence)...”

The role of coordinator in this process shall be assumed by the social welfare centre (hereinafter referred to as SWC), which, in our society, is the basic agency for child protection and which, at the same time, perform duties of the guardianship authority.

***Special Protocol on Conduct of Police Officers in the Protection of Minors from Abuse and Neglect***

In order to achieve effective protection and advancement of the welfare of minors, it is necessary to have a good cooperation and clearly defined roles, in accordance with the provisions of the General Protocol relating to the matter. The social welfare centre (hereinafter: the guardianship authority) has a role of coordinator in this process, in accordance with its social function - basic agency for the protection of minors, which also performs the duties of the guardianship authority.

In all cases of abuse and/or neglect of minors, the police shall notify the guardianship authority without delay.

In order to specially protect the minor victims of abuse or neglect, in taking measures and actions the authorised officers shall:

- Act with particular urgency, carefully, taking into account the maturity, other personal characteristics and privacy of minors;
- Be sure to invite a representative of the guardianship authority and inform him or her about the event with elements of abuse and/or neglect of a minor, in order to take measures of social and family legal protection;

All the necessary police assistance in the execution of services and measures for the protection of rights or for the fulfilment of other needs of the child or minor shall be provided by authorised officers in compliance with Article 3 in conjunction with Article 16 of the Law on Police.

V

**RELEVANT SPECIAL REPORTS OF THE PROTECTOR OF CITIZENS**

***Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women against Violence***

Some of the shortcomings in the system of the protection of women against violence, established by the Protector of Citizens, are insufficient recognition of violence against women, lack of understanding of the situation of women victims, lack of awareness of the existence and content of the General and Specific Protocols, lack of adequate records, lack of cooperation between the competent authorities.<sup>213</sup> Recommendations have been issued to the competent authorities with a view to more efficient implementation of the General and Special Protocols, which will lead to a more comprehensive protection of women victims of domestic and intimate partner violence. The Protector of Citizens particularly recommended regular, planned, coordinated and continuous information and training of professionals in the bodies and institutions responsible for the protection of women against violence. The Protector of Citizens also recommended that the competent authorities and caseworkers should take all actions they are authorised to take and cooperate with other authorities and officials, without referring the victims of violence to take actions by themselves although such actions can be taken *ex officio*; that the guardianship authorities should cooperate to a greater extent with other authorities (through organising case conferences and in other ways), file appropriate reports and initiate court proceedings in order to protect women from violence in the family and intimate partner relationships; provide two-way notifications of violence against women in the family and intimate partner relationships between the police, guardianship authorities, health care institutions, public prosecutor's offices and courts; improve records on cases of violence against women in the family and intimate partner relationships and internal rules on documenting and reporting on these cases, and harmonise the records and rules in accordance with the General and Special Protocols; develop services of protection and rehabilitation of victims of domestic and intimate partner violence.

***Special Report of the Protector of Citizens on Training for Acquisition of Knowledge and Improvement of Competencies in the Prevention, Suppression of Domestic and Intimate Partner Violence and Protection of Women from Such Violence***

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<sup>213</sup> Report available at: [http://www.zastitnik.rs/attachments/3710\\_Poseban%20izvestaj%20Zastitnika%20građana%20o%20primeni%20Opšteg%20i%20posebnih%20protokola%20za%20zaštitu%20žena%20od%20nasilja.doc](http://www.zastitnik.rs/attachments/3710_Poseban%20izvestaj%20Zastitnika%20građana%20o%20primeni%20Opšteg%20i%20posebnih%20protokola%20za%20zaštitu%20žena%20od%20nasilja.doc), accessed on 10.10.2016.

Insufficient number of training events on the protection of women from violence in the family and intimate partner relationships; noticeable disparity in the number and scope of training events for employees who have received training in different systems; lack of adequate records of training, their content and objectives and of the number of employees who received training; lack of assessment of acquired knowledge and skills of employees who are directly involved in the protection of women from violence and ways of applying the acquired knowledge in practice - these are some of the shortcomings established by the Protector of Citizens,<sup>214</sup> which significantly contribute to the occurrence of omissions in the work of authorities related to the protection of women from domestic and intimate partner violence. The Protector of Citizens has recommended, inter alia, regular, planned, coordinated and continuous information and training of professionals in the bodies and institutions responsible for the protection of women against violence; regular obtaining, exchanging and recording of data about all training events on the protection of women against violence, attended by the employees of the systems of social protection, internal affairs, justice, health care, education and public administration. The Protector of Citizens has also recommended that in controlling and appraising the quality of employees' performance, the authorities should obtain information about attended training events and professional development related to the protection of women from violence and how they apply the acquired knowledge in their work; in order to establish and develop the standards of work and harmonise procedures for protecting women from violence, the public authorities should issue binding instructions on handling cases of violence against women in the family and intimate partner relationships, recognising victims of violence against women and acting in cases where they have knowledge or suspicion of violence against women.

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<sup>214</sup> Report available at: <http://www.zastitnik.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/4613-2016-02-26-10-48-42>, accessed on 10.10.2016.

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