



UNIVERSAL PERIODIC REVIEW

ANNEX IN THE ASPECT OF THE IMPLEMENTATION OF WOMEN'S RIGHTS

Position of human rights defenders (WB)

1. The position of human rights defenders in Serbia is deteriorating. Especially are targeted activists involved in activities related to dealing with the war past, with LGBT rights, as well as those who are questioning the patriarchal social template. Attacks on activists have been rising steadily since 2014. What further worries is the failure of state authorities to respond to these attacks.

2. Below we will list several examples of attacks and reactions from state authorities. In March 2014, Radomir Počuča, a spokesman for the Counter-Terrorism Unit of the MIA of Serbia, called for a lynch of an activists on the occasion of the Women in Black action, which marked 15 years since the crimes against Serbian citizens and Albanian civilians in Kosovo, through his Facebook profile:

"I do not think this should happen ..., gentlemen hooligans, Delije, Grobari, Radovci, Firmasi, instead of fighting each others, and you are great patriots - join and beat the cunts"¹

The epilogue of a three-year trial is a acquittal. What further concerns are the views of the court, which it took in the explanation of verdict:²

The court takes the alleged patriotism of the accused as justification for violence:

"The court accepted the defence of the defendant Radomir Pucuca, who was consistent, clear and detailed ... the defendant made clear that the main and only motives for his message, were more patriotic in nature, than the nature that would indicate the motive to threatened someone security."

The court does not see a threat in the defendant's statement:

"The written status does not contain a clear and unequivocal threat"

As one of the reasons for the acquittal, the court also states that the activists of "Woman in Black" are constantly targeted, since their establishment, because of their attitudes.

An even more extreme example is the attack on Women in Black activists in July 2014 in Valjevo, during an action marking the anniversary of the genocide in Srebrenica.³ On that occasion, 4 activists and 3 policemen were injured as a result of the attack of members of extreme right-wing organizations. After two years of investigation, the court ruled that there were no grounds for prosecuting the perpetrators, despite the fact that the attack took place in front of twenty policemen, and that there was a video of the attack.

In addition, activists were also attacked in other cases, when there was also a lack of response from the authorities.

In March 2016, prior to the March 8th march, activists were attacked and on that occasion the flag they were carrying was took away.⁴

¹<http://www.balkaninsight.com/en/article/serbian-ex-policeman-acquitted-of-threatening-peace-women-12-14-2016>

²Belgrade Higher Court, Verdict since December 14th 2016

³<http://www.blic.rs/vesti/drustvo/navijaci-i-cetnici-napali-zene-u-crnom-u-valjevu/zsdq072>

⁴Dossier 6 – Attacks on Women in Black

In May 2016, during a peace action in Leskovac, a group of members of extreme right-wing organizations insulted and threatened activists, and throw eggs on them. The police that were present did not respond, and in their report they stated that there were no incidents. The prosecution, citing a police report, dismissed the criminal complaint filed by activists.⁵

In June 2016, during a street action in Belgrade, a group of members of extreme right-wing organizations harassed activists, photographed them from the vicinity, and in front of the activists put a flower wreath with the inscription "rest in peace". Among those who harassed activists was Nemanja Ristic, a criminal-related person who was repeatedly convicted for the most serious crimes, including murder. The police and the prosecution did not respond to this intimidation.⁶

In May 2017, a group of extreme right-wingers interrupt the promotion of the film and the book "Women's Court" at the Faculty of Political Science.⁷

3. In addition to these cases of direct violence, we want to specially emphasize the media lynch of activists in government controlled media. We point out the case of the attack on Women in Black and the coordinator of the organization, StašaZajović, in the newspaper Informer. In November 2016, in several editions of these newspapers, the Women in Black organization was accused of receiving more than 1.5 million euro for "anti-Serb activities."⁸

Such media campaigns create an atmosphere of lynch towards activists. When we add to this impunity for previous attacks on activists, an atmosphere is created in which attacks on activists are legitimate, justified, and desirable.

Recommendations:

- **Ending of the practice of impunity and prosecution of the perpetrators of the attacks on activists**
- **Limitation of influence of government on media and ending of defamation campaign against activists and organizations who are critical towards authorities**

⁵<https://www.juznevesti.com/Drushtvo/Mirovni-mars-u-Leskovcu-uz-uvrede-i-psovke.sr.html>

⁶Dossier 7 – Attacks on Women in Black

⁷<http://rs.n1info.com/a252636/Vesti/Vesti/Prekinuta-tribina-Zena-u-crnom-na-FPN-u.html>

⁸<http://informer.rs/vesti/politika/101988/ZENE-CRNOM-NAJVECI-STRANI-PLACENICI-Zapad-dao-evra-optuzuju-Srbiju-ratne-zlocine>

Anti-Discrimination Policy and Gender Equality (AWC)

1. Only half of the measures listed in the Action Plan (AP) for the implementation of the Strategy for Prevention and Protection against Discrimination have been implemented. Most of the planned activities relate to the implementation of the analyses, preparation and adoption of the laws, strategies, action plans, establishment of mechanisms or capacity building and training implementation, and **very rarely** to the “full implementation” of relevant policies and laws. Therefore, reports on the implementation of the *AP for the Implementation of the Strategy for Prevention and Protection against Discrimination*⁹ clearly confirm that the relevant implementers are able to meet **only half** of the planned measures and activities.

It is not possible to determine how much was spent by the Office for Human and Minority Rights, which is responsible for implementation and reporting for the *Strategy on Prevention and Protection against Discrimination (2013-2018)* and *AP(2014-2018)*¹⁰. It is **not possible** to determine the scope of financial resources allocated for the measures aiming at eliminating discrimination against women.

The Council for Monitoring the Implementation of the Recommendations of UN Human Rights Mechanisms **does not submit** reports on its work in specified time and to designated bodies¹¹. Serbia has submitted information to the UN CEDAW Committee with a delay of 7 months¹².

2. The new Law on Gender Equality has not yet been adopted.

The Gender Equality Index¹³ is 40,6% (average for EU countries is 52,9%), with the best result in the area of "power", which is a direct result of the “quotas” in the electoral legislation, and the worst result in the area of "work" and "money" below 30%¹⁴. However, this is **not** an "instrument" sufficient for measuring progress and resolving the decline in improving the status of women, according to the areas defined in the Convention on the Elimination of All Forms of Discrimination against Women.

There are municipalities and towns in Serbia that have **not established** or lack functional gender equality mechanisms, and their actions have been uneven. Where these mechanisms exist, **there are no data** about their actual impact and influence on local policy.

3. External evaluation of the National Strategy for Improving the Position of Women and Promoting Gender Equality (2010-2015)¹⁵ states that the process of monitoring this strategy was

⁹First report (November 2015) – available at: <http://www.ljudskaprava.gov.rs/sr/node/19991>

Second report (December 2016) – available at: <http://www.ljudskaprava.gov.rs/sr/node/19991>

¹⁰ Most of the available funds (67%) of this Office in 2013 and 2014 were spent for *national councils of national minorities, and it was also the case in 2015*.

¹¹The Council is obliged to submit to the competent committee the report on its work at least once every 60 days, and to the Government at least once every 90 days (Decision on Establishing the Council for Monitoring the Implementation of the Recommendations of the UN Human Rights Mechanisms, *Official Gazette of RS*, No. 140/2014. Available at: <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/reg/viewAct/512d700e-47e5-413b-9ca3-106ae3d40981>). **Third** session of the Council was held on 28 February 2017, available at: <http://www.ljudskaprava.gov.rs/sr/node/19962>

¹²http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW%2FC%2FSRB%2FCO%2F2-3%2FAdd.1&Lang=en

¹³ Index is a measuring instrument of the European Union, which measures gender equality on a scale 1 (complete inequality) to 100 (complete equality) through six areas: knowledge, work, money, health, time, power, and two sub-areas, violence and "confronting the inequality".

¹⁴*Measuring Gender Equality in Serbia 2014* (*Measuring Gender Equality in Serbia 2014* http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2016/02/Izvestaj_indeks_rodne_ravnopravnosti_2016_EN.pdf (in English)

¹⁵ The evaluation encompassed almost the entire period and all areas, with the exception of the area of "preventing and combating all forms of violence against women" (which will be separately evaluated through the process of evaluation of

never established. Documents about the activities and results were "scattered, insufficiently detailed or lacked precision", so it is "difficult or impossible to reconstruct whether the activities are in connection with the implementation of the NAP and to what specific objectives they are related". There is no clear and systematic trace of financial resources invested in the implementation of the NAP, which severely limits the evaluation of effectiveness¹⁶.

4. There is no report on the implementation of measures from the new National Strategy for Gender Equality (2016-2020) and the Action Plan (2016-2018) for its implementation in 2016. A system to coordinate the monitoring and reporting on the implementation of AP has **not been established**, there is **no report** on the implementation of measures and activities in 2016 on the internet presentation of the Coordination Body for Gender Equality¹⁷.

5. Coordination Body for Gender Equality of the Government of the Republic of Serbia did not have budget in 2015. This body did not have the budgetary resources to implement the *Work Plan of the Coordination Body for Gender Equality for 2015*. There is no report on activities implemented in 2016, nor an plan of activities for 2017.

6. Insignificant number of civil servants attended training in connection with the elimination of (protection from) discrimination, women's rights and gender equality organised by the Government HR Management Service. The *Special Report of the Ombudsman* (December 2015)¹⁸ states that in the period 2010-2013 a total of 235 people attended this training¹⁹, and the data on training in 2014 are not known; the training was not implemented in the first half of 2015, although 6 training courses were planned for 120 civil servants.

Although the Judicial Academy, in charge of the organisation of initial and permanent training of the judiciary, announced that it organised the training with the specified contents, there is **no precise data** on the number of participants. The *Special Report of the Ombudsman* (December 2015) states that there has **not been any mechanism** established for monitoring and assessment of needs of the judiciary, nor has adequate cooperation been established between the Judicial Academy with the High Court Council, State Prosecutorial Council, courts and prosecutors' offices in relation to these issues²⁰.

7. The National Action Plan for the Implementation of UN Security Council Resolution 1325 - Women, Peace and Security in Serbia for the period 2016-2020 adopted on May 19, 2017 (with delay). Although civil society organisations had been invited to submit suggestions on the draft NAP²¹, it should be emphasised that this Working Group, composed of 31 members²², **did not**

the National Strategy for Prevention and Elimination of Violence against Women in the Family and in Intimate Partner Relationships (2010-2015).

¹⁶ <http://www.gendernet.rs/rrpage.php?chapter=24> (page 12, in Serbian only)

¹⁷ <https://rodnaravnopravnost.gov.rs/sr/dokumenti/strategije/nacionalna-strategija-za-rodnu-ravnopravnost-za-period-od-2016-do-2020-godine> (accessed on 25 June 2017)

¹⁸ *Special Report of the Ombudsman on the training for the acquisition and improvement of skills and competencies for the prevention, control and protection of women from domestic violence and violence in intimate relationships* (p. 33)

http://www.ombudsman.rs/attachments/4613_Poseban%20izvestaj%20Zastitnika%20gradjana.pdf (in Serbian only)

¹⁹ State administration employs **25,572 civil servants**, without representatives of the Ministry of Interior and the Security Information Agency.

²⁰ *Special Report of the Ombudsman* (p. 4);

http://www.ombudsman.rs/attachments/4613_Poseban%20izvestaj%20Zastitnika%20gradjana.pdf (in Serbian only)

²¹ <http://www.civilnodrustvo.gov.rs/vest/rezolucija-1325-javni-poziv-za-dostavu-sugestija-na-nacrt-nacionalnog-akcionog-plana.37.html?newsId=724>.

²² Decision on Establishing the Working Group for Drafting the National Action Plan of the Republic of Serbia for the Implementation of the UN Security Council Resolution 1325 - Women, Peace and Security (2016-2020), Official Gazette of RS No. 109/2015:

<http://www.pravno-informacioni-sistem.rs/SIGlasnikPortal/reg/viewAct/18545947-1d0d-4cd4-9757-1c261576cab8>

include representatives of women's and peace organisations (contrary to the CEDAW Committee recommendations - par. 26 (b), 27 (b), as well as par. 14 and 15 (b)), which clearly indicates the Group's attitude towards women's organisations and the document's content.

8. A number of relevant sectoral strategies²³ do not contain gender-sensitive measures and are not revised in the sense of the introduction of specific measures against gender discrimination and multiple discrimination against women, although it would be important in relation to the areas and contents of these documents. A number of relevant national strategies and action plans have²⁴, in our opinion, **insufficient** number of gender-sensitive measures. For the State it will be a challenge to ensure the synchronisation of all the planned measures and to follow their implementation, in particular the effects.

9. There is systematic state discrimination of poor children. Right to the monetary state support of children who live in their families is around 23 eur per month (2.660,00 serbian dinars), while the same children, placed in foster care receive monthly allowance in the amount of 35 eur (3.892,00 serbian dinars) and 32 eur for the transport to school (3.344,00 serbian dinars), monetary aid at the beginning of the school year for the books, aid for the school excursions, twice a year monetary aid for the clothing, and the foster parent receives salary in amount of 250 eur (26.268,00 serbian dinars) per one child²⁵ or 160 eur (16.164,00 serbian dinars) if there are two or more children accommodated.

AWC filled the petition regarding structural discrimination of children to the Commissioner for the protection of Equality, because the Centers for social welfare in Serbia, in 2011 took 444 children from their parents and placed them into foster care because of their socio-economic status²⁶. Although, **the Commissioner found out that there are no grounds for discrimination**, it did issued recommendations to Centers for social welfare not to place children into foster care just on the bases of their socio-economic status and to revise the cases of the current placed children²⁷. In 2012, CSW took 575 children and placed them in foster care because on the bases of socio-economic grounds²⁸. Reports of the Institute for social protection on the work of Centers for social welfare in Serbia for 2013, 2014 and 2015 did not present these data, but for 2015²⁹ it is stated that 1.186 children³⁰ had been removed from their families out of which 551 because of neglect of children

²³ For example: *Judicial Reform Strategy (2013-2018)*, *Strategy for Free Legal Aid (2008)*, *Strategy on Small Arms and Light Weapons Control (2010-2015)* *Strategy for Professional Training in Local Units and the accompanying Action Plan (2015-2016)*, *Strategy for Professional Training of Civil Servants (2011-2013)*.

²⁴ For example: *Social Housing Strategy and its accompanying AP*, *Education Development Strategy until 2020 and the accompanying AP*, *Strategy for the Police in the Community and AP (2015-2016)*.

²⁵ http://demo.paragraf.rs/documents/editorial/statistika/27_stat.htm

²⁶ data gathered from the Report from the Institute for social protection on the work of Centers for social welfare in Serbia for 2011, pg. 41 table 46, available only in Serbian at

<http://www.zavodsz.gov.rs/PDF/izvestavanje/Izvestaj%20o%20radu%20CSR%202011%20-.pdf>

²⁷ Recommendation available only in Serbian at <http://www.ravnopravnost.gov.rs/sr/druga-li%C4%8Dna-svojtva/pritu%C5%BEa-a-%C5%BE-c-protiv-centara-za-socijalni-rad-zbog-diskriminacije-po-osnovu-imovnog-stanja-u-oblasti-socijalne-za%C5%A1tite>

²⁸ data gathered from the Report from the Institute for social protection on the work of Centers for social welfare in Serbia for 2012, pg. 49 table 40, available only in Serbian at

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

²⁹ <http://www.zavodsz.gov.rs/PDF/izvestaj2016/deca%20u%20sistemu%20socijalne%20zastite%202015.pdf>

³⁰ *ibid*, pg. 15, chart 15: for 142 children parents deceased, for 74 children parents were deprived of the legal capability or their parental rights, for 115 children parents had been prevented in performing their parental role, for 551 children parents neglected them, for 67 children parents abused them, for 27 children parents misused them, for 60 children there were other types of inadequate parental guardianship, for 68 children the parents could not respond to children needs, 5 children had been placed by the decision of the court, 51 children with problems in behavior and for 26 children there were other reasons for their removal from the family.

(this number coincides with previous reason on socio-economic ground). In 2015, 851 children had been placed in foster care³¹. The report for 2016 is still not available.

Recommendations:

- **Adopt the missing laws, strategic documents and action plans and allocate relevant budget funds for their implementation;**
- **Define clear and measurable indicators to monitor and assess the effects of implementation of laws, national strategies and action plans;**
- **Establish functional mechanisms to implement and monitor the implementation of policies for combating discrimination and gender equality, which allow horizontal and vertical communication and coordination with the strategic sector policies;**
- **Ensure participation of civil society organisations, particularly women's organisations, in working groups for drafting laws, strategic and action plans, with the obligation to report on the results of the consultation processes.**

³¹ *ibid*, pg. 14, first bullet

Violence against women (AWC)

1. The number of women murdered in the context of domestic and intimate partner violence is still worryingly high. Serbia still has no official data on femicide. The number of women who were killed by their partners, ex-partners or members of the family is increasing (in 2010 - 26, in 2011 - 29, in 2012 – 32, in 2013 – 43, in 2014 – 27, in 2015 – 35 and in 2016 - 33)³². Reports of femicide are still made based on the analysis of newspaper articles and records of women’s organisations. The State **has no system** for monitoring and analyzing this phenomenon and for taking systematic steps in order to decrease the number of femicides. Initiated by the “Women against Violence“ Network, the Government of Serbia adopted May 18 as Remembrance Day for Women Killed in the Context of Domestic Violence.

2. There have been serious omissions and unacceptable conduct in the work of the competent institutions that have not ensured the protection of women’s lives. According to the Ombudsman’s Report, in 12 of 14 cases of femicide serious shortcomings have been registered in the work of competent institutions. The Ombudsman has issued 45 systemic recommendations to the ministries and the provincial secretariat³³. He has also issued 59 systemic recommendations in 45 cases of domestic violence and child abuse in which monitoring procedures have been conducted³⁴, to the same ministries and the provincial secretariat, as he has found omissions in the work of most institutions in all the cases³⁵.

3. A new National Strategy to prevent all forms VAW for the period 2016-2020, has not been adopted. An evaluation of the implementation of the previous *National Strategy to prevent violence against women* (2011-2015) was not developed.

4. Most of the activities related to increasing the safety of women from gender-based violence have not been realised. A large number of **rejected** reports of domestic violence (36% in 2014 and 51% in 2015) is related to the fact that under the *Criminal Procedural Code*, prosecutors have the possibility to defer criminal prosecution, **without asking the victim** for her consent/opinion, if the perpetrators accept to go to perpetrators programs, do community work or pay money to humanitarian purposes. The Ombudsman’s Special Report³⁶, showed that Prosecutor’s offices dismiss a quarter of criminal charges filed for domestic violence, while in 15,2% of the cases they have applied the institute of deferred criminal prosecution (the opportunity principle), mostly by imposing an obligation to pay a certain amount of money for humanitarian purposes. In this manner the Prosecution’s offices in Serbia are imposing monetary sanction for domestic violence, which was removed as a sanction for this criminal act in 2009.

5. A detailed analysis of compliance of domestic criminal justice legislation with the Council of Europe Convention on preventing and combating VAW and domestic violence has not been completely implemented. The state of Serbia **ratified** the CoE Convention on October 31st, 2013.

³² available in English at <http://www.zeneprotivnasilja.net/en/femicide-in-serbia>

³³ Available (only in Serbian) at: <http://www.zastitnik.rs/index.php/2012-02-07-14-03-33/4833-2016-07-28-08-59-32>.

³⁴ Available (only in Serbian) at: <http://www.zastitnik.rs/index.php/2012-02-07-14-03-33/4869-z-sh-i-ni-gr-d-n-pr-p-zn-i-n-silj-u-p-r-dici>.

³⁵ With the exception of three cases of femicide in which the police administration conducted disciplinary proceedings (punished police officers by reducing their salaries by 20% for a period of one month³⁵ (page 15, footnote 21 of the Report on the Ombudsman)), other ministries and institutions have **not** even initiated disciplinary proceedings against their employees.

³⁶ *Special Report of the Protector of Citizens on the Implementation of the General and Special Protocols on Protection of Women Against Violence*, pg. 3. par. 15, available in English at <http://www.ombudsman.rs/index.php/lang-sr/izvestaji/posebnii-izvestaji/3711-special-report-of-the-protector-of-citizens-on-the-implementation-of-the-general-and-special-protocols-on-protection-of-women-against-violence>

A detailed analysis of compliance of the *Criminal Code* with the Convention³⁷ has been conducted, but the analysis of compliance of the *Criminal Procedure Code* has **not**. Although the legislative framework has been **improved**, it is **not fully compatible** with the Convention. It should be noted that a number of amendments to the *Criminal Code*³⁸, relate only to the severity of the penalty, **not to the changes** in definitions of offences in accordance with the Convention (this applies to all criminal offences against sexual freedoms, since the criminal offence of rape in Article 178 has remained inconsistent with the Convention).

6. The new Law on the Prevention of Domestic Violence has been adopted, introducing emergency protective measures, improving coordination and cooperation of the competent institutions, providing specialised training of professionals, and improving records of domestic violence cases. Implementation of the new legislative changes starts from 1 June 2017, so their effectiveness and efficiency is yet to be seen. Central electronic record-keeping has not been developed within the legal timeframe, which will significantly hinder the monitoring of the Law's implementation.

7. The Law on Free Legal Aid has not yet been adopted. In November and December 2016, CSOs interested in the Law on Free Legal Aid received **three new drafts** of this Law. Even though CSOs are recognised in the latest version of the Draft Law as providers of free legal aid, this applies only to cases of collective complaints and **not to individual cases**³⁹. The specialised women's organisations that provide legal and psychosocial support are still **dependent** on foreign donations and irregular and small funds from the local budget.

8. Specialized support to women victims of violence in partner relations and in the family either does not exist or is insufficient. The general support to victims of violence is insufficient. The data base of the Republic Institute for Social Protection on social services at the local level is **not available**⁴⁰.

Information Offices for Victims and Witnesses at the Higher Public Prosecution Offices do not provide support, only information. They are located in Higher Prosecution Offices whose jurisdictions are severe criminal acts, like rape. All other acts of VAW are under the jurisdiction of Basic Prosecution Offices in which these Information offices do not exist.

National SOS Helpline still hasn't been established, although women's organizations (gathered around Network called "Women against violence"), created a draft *Regulations on Detailed Conditions and Standards for Providing SOS Helpline Services for Women Survivors of Violence* (adopted in 2015 by the Ministry of Social Policy with amendments)⁴¹. The Network also adopted Common platform for action in the process of forming the national SOS Helpline, created document called *Importance and Uniqueness of Specialized Services for Supporting Women*, as well as the plan and budget of the establishment of the national SOS Helpline, and submitted all these documents to the Ministry of Social Policy in 2015. Although it was calculated that the annual amount of funds necessary for the functioning of National SOS Helpline will be similar to the amount

³⁷ Assistant Professor Vesna Ratković PhD, *Compliance Analysis of the Serbian CC with the EU Acquis, including Recommendation for the Amendments to the Legislative Framework and a Planning Framework*, Policy & Legal Advice Centre (PLAC), 2015.

³⁸ The Law on Amendments to the Criminal Code, *Official Gazette of RS*, No. 94/2016; available at: http://www.paragraf.rs/izmene_i_dopune/241116-zakon_o_izmenama_i_dopunama_krivicnog_zakonika.html

³⁹ For example, if the latest version is adopted, AWC's lawyers will not be allowed to provide free legal aid to women victims of intimate partnership and sexual violence, although it has been doing so for more than 20 years.

⁴⁰ AWC noticed that this data base has not been available since February 2016
http://www.zavodsz.gov.rs/index.php?option=com_content&task=view&id=240&Itemid=240

⁴¹ "Official Gazette of RS" No. 93/2015

of funds the city of Nis gives to a third league male football club⁴², the Ministry replied that there are **no funds** for this service.

There is no plan created by the state of the necessity to build **shelters/safe houses**. The total number of places/beds is 322 (252 in state institutions and 70 in NGOs). In Serbia there should be 719 places (beds) in shelters/safe houses⁴³. According to desk research conducted by AWC in 2015⁴⁴, only 60% (9 out of 15) shelters/safe houses are specialized for women and children victims of violence. Most of them are open 24/7 for emergency accommodation, but only 45,5% are available for women and children with disabilities. Only 1/3 replied that accommodation is available even without referral from the Center for social welfare and 58% stated that services are free of charge.

During 2014-2015, AWC made three proposals to the Ministry of Health to initiate the creation of the *Protocol on sexual violence* and creation of **Rape crises centers**⁴⁵, but the Ministry of Health **never replied** to these proposals.

9. Universal and standardized systems for collecting, recording and exchange of data on all forms of VAW, have not been established. This significantly hinders the monitoring of the phenomenon and evidence-based planning. AWC has registered a tendency of **reduction** of publicly available information.⁴⁶

10. A systematic approach to combatting stereotypes and discrimination of women, promotion of gender equality and elimination of all forms of violence against women and girls in the education system, has not been established. The Ministry of Education, Science and Technological Development has **banned** the use of *Education packs for learning about the topic of sexual violence*⁴⁷, after protest by a conservative group of intellectuals. Even though AWC is currently implementing the three-year prevention program “Zero tolerance for gender-based violence”, with the approval of the Ministry of Education and funds from the UN Trust Fund to End Violence against Women, this is not enough for systematic change.

11. Sensationalist media reporting justifying and normalizing VAW, has not decreased. Even though the number of campaigns against gender-based violence implemented by state bodies has increased, the state does not implement regular public informing on the effects of measures for prevention and elimination of VAW or protection mechanisms. There is no regular monitoring of media content on all forms of VAW (periodical research is implemented by civil society organizations and UN agencies) There is no state reaction to practices of VAW on TV stations with national frequencies. The State Regulatory Body for Electronic Media is completely inactive in this field (all complaints submitted by AWC were rejected). The only complaints received by the Press Council were those by AWC (all were confirmed). Editorial policy is key to improving the situation.

Recommendations:

⁴² Nis, third largest city in Serbia, located in the south, gives local football club 48 mil. Serbian dinars annually (app. 391.000 Eur), while the cost of national SOS hotline run by women NGO's will cost app. 58 mil. Serbian dinars annually (app. 470.000 Eur), or app. 3.000 Eur per each city/municipality in Serbia

⁴³ according to CoE standards, 1 place/bed per 10.000 inhabitants

⁴⁴ Desk research was conducted in accordance with the *Law on free access of information of public importance*

⁴⁵ <http://www.potpisujem.org/eng/996/proposal-for-the-establishment-of-centers-for-victims-of-sexual-violence-in-serbia>

⁴⁶ For example: *Synthesis Report on the Work of Centres for Social Work in 2014* (Republic Institute for Social Protection submitted to AWC spreadsheet upon request) <http://www.zavodsz.gov.rs/PDF/izvestaj2015/CENTRI%20ZA%20SOCIJALNI%20RAD.pdf> (in Serbian only)

⁴⁷ The Education pack was developed by the Incest Trauma Center (November 2016) in partnership with the Ministry of Education – Group for Protection against Violence and Discrimination

- Completely harmonise criminal legislation with the standards of the Council of Europe Convention on preventing and combating VAW and domestic violence, and ensure monitoring of the legislation implementation in order to assess real effects;
- Ensure implementation of all planned measures and activities related to increasing the security of women against gender-based violence, and the inclusion of specialised women's organisations in this activity;
- Fulfil the Ombudsman's recommendations provided in special reports on femicide cases, and cases of VAW and child abuse;
- Ensure effective and accessible legal protection and psychosocial support for victims of gender-based violence.
- Adopt an appropriate Law on Free Legal Aid;
- Include women CSOs in the process of revising and harmonising laws and by-laws in line with the minimum standards concerning the rights, support and protection of victims of crime/injured parties;
- Include women CSOs that are providing support only to women victims of violence in the activities of establishing a country-wide network of services for support to the victims, witnesses and injured parties in the investigative phase and all the phases of criminal proceedings.

Violence against children (AWC)

1. There is no efficient monitoring of cases in which children are direct victims of violence, while police, social workers, judges and prosecutors do not implement the Convention on the Rights of the Child, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lansarote Convention⁴⁸), and the General and Special Protocols on Protection of Children from Abuse and Neglect. These procedures are not considered urgent. Furthermore, provisions of the *Law on Juvenile Offenders and Judicial Protection of Juveniles*, regulating the protection of child victims, are not applied.

On 7 March 2017, the Committee for the Rights of the Child issued the Concluding observations on the combined second and third periodic reports of Serbia⁴⁹, in which it stated that *inadequate harmonisation between the Criminal Procedure Code and the Law on Juvenile Criminal Offenders and Criminal Protection of Juveniles, in relation to the criteria for questioning particularly vulnerable witnesses, often leads to re-victimisation of child witnesses*. It was also noted that *legislative reform to ensure child-sensitive procedures is slow, while lengthy court cases and a lack of support services for children and their parents often result in the re-victimisation of children during court proceedings*⁵⁰. Proposal of the new draft *Law on Juvenile Offenders and Criminal Protection of Juveniles* was presented in December 2015⁵¹ and after public discussion, Ministry of Justice still hadn't presented the final version.

2. The practice of Centres for Social Welfare of moving children into foster care without previously providing them with judicial protection continues. Because of the inability of a parent (mother) to protect the child/children from the violence of the other parent (father), 350 children had been removed from their families and placed into foster care⁵². In all of these cases the social services didn't, previously to removal, file complaints for protection measures of these children⁵³. 30% of children had been separated from non abusive mothers, 22% of children stayed for more than a year in a foster care, and in only 7% of cases Centres for Social Welfare filed complaints for the protection measures from domestic violence in accordance with the Family law⁵⁴.

In 2015, in cases of domestic violence, 338 children had been removed from home without non-violent parent and 372 children with non-violent parent⁵⁵. In only 10% of cases Centres for Social Welfare initiated court cases against violent parent⁵⁶.

Recommendations:

- **Amend criminal legislation in order to enhance the rights of the juvenile victims and improve protection by requiring additional specialisation of all actors in cases of child victims**
- **Improve the rights of children as victims by prescribing immediate protection and state support.**
- **Regulate individual responsibility of professionals in cases of failure to protect the child.**
- **Prescribe better protection mechanisms of child and non abusive parent prior to placing child in foster care.**

⁴⁸RS Official Gazette – International Treaties, No 1/2010.

⁴⁹http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fSRB%2fCO%2f2-3&Lang=en

⁵⁰ *ibid*, par. 66

⁵¹<http://www.mpravde.gov.rs/sekcija/53/radne-verzije-propisa.php>

⁵² data gathered from the Report from the Institute for social protection on the work of Centers for social welfare in Serbia for 2012, pg. 49 table 40, available only in Serbian at

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

⁵³ answers from Centers for social welfare on the request for public available data

⁵⁴ Available only in Serbian at

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

⁵⁵ *ibid*, pg. 26, Chart 28

⁵⁶ *ibid*, pr. 22

- **Improve better statistics on the children victims of any form of violence, segregated by age, sex, relationship with perpetrator, in order to be able to track the cases from the reporting to convictions.**

Trafficking in human beings (ASTRA)

1. The highest percentage of identified victims of human trafficking in Serbia are its citizens (2013 - 96%; 2014 – 96%; 2015 -92,5%; 2016 – 93%)⁵⁷, mainly being exploited internally, on the Serbian territory. Very high percent of identified victims of human trafficking are children (60% in 2015, 61.8% in 2016), while women constituted 85 % in 2016 (80% in 2015, 19.2% in 2014, 68.4% in 2013). If we put aside 2014 when a big number of identified victims were men, exploited in construction sites in Sochi, victims are mainly subjected to some forms of sexual exploitation (2013 – 41%; 2015- 55%; 2016 – 61%). Other forms of trafficking are present in a lower percentage (labour exploitation, forced begging etc).

Until 2014, the average number of identified victims of human trafficking in Serbia was around 90-100 annually. The sharp drop was registered in 2015, both at the level of police reports (by 12%) and the number of victims (by 68%). This is a consequence of several factors, including the fact that investigations of human trafficking cases are conducted by border police, which does not correspond to the trends in human trafficking. Thus, criminal police officers, who are more in the position to come across victims, are not trained to recognize them. For this reason, many victims remain unidentified. Further, it even happens that persons who can objectively be identified as victims end up being prosecuted and punished for offences committed under coercion. In addition, the same police formations are responsible for investigating human trafficking, migrants' smuggling and handling administrative issues in relation to aliens. In view of this and of the refugee crisis, they did not have time (and were unofficially instructed not to) investigate trafficking cases, which resulted in dramatic decrease in the number of official identifications (40 in 2015, 55 in 2016, compared to 125 in 2014). What is expected in the upcoming period is the reorganization of the police, i.e. shifting the responsibility for human trafficking investigations from border police to criminal police. This will certainly bring positive change in the long run, but short-term difficulties are also expected, especially having in mind that not only new managing and operational structures will be established, but a large number of police officers will need to be trained for this very sensitive topic, especially when it comes to victims and avoiding secondary victimization.

2. There is also a concern in regard the ability of relevant institutions to **identify and prosecute** other types of exploitation, beside sexual exploitation. The most deficiencies are seen in the identification and prosecution of labour exploitation, where institutions do not have a proper answer to prevent and prosecute these cases. So far, only one case of labour exploitation has been prosecuted in Serbia. It could be said that there is a current trend of non-punishment of persons who are involved and who organize labour exploitation of Serbian citizens. That is why there is a need to change interpretation of the human trafficking in Criminal code of Republic of Serbia, so that these cases could be processed.
3. Bearing in mind that in 2015 and 2016, a total of three persons **among refugees** was identified as a victim of human trafficking, the identification process of trafficking victims among refugees should be improved. Refugees in Serbia stay short, which as a consequence leads to difficulties in identification of potential victims. State officials do not possess adequate methods to deal with this mobile and vulnerable population. The Ministry of Labour, Employment, Veteran and Social Policy in

⁵⁷ Official data by the Center for human trafficking victims protection <http://www.centarzztlj.rs/eng/index.php/stats-and-reports>

cooperation with UNICEF and IDEAS developed Standard operating procedures on protecting migrants and asylum seekers from violence and exploitation,⁵⁸ which are, however, not officially adopted and implemented in practice. Non-governmental organizations working in the field reported that, due to the short stay of migrants, as well as an inadequate environment, a relationship of trust, which would allow victims to possibly reveal their experience and request help, could not have been established. Further, the information provided by the institutions that have been in contact with refugees and migrants indicate that only a small number of persons working in the field were trained to identify victims of human trafficking.

4. There is an impression that there is a **lack of political will** to work on the issue of human trafficking, and that the state is not putting enough effort to suppress and prevent these cases. In the four years during which the adoption of the Strategy and Action Plan has been continuously postponed, the system of human trafficking suppression has stagnated because former coordination bodies have in the meantime ceased to operate, and the new ones envisaged by the Strategy have not yet been established. Position of the National Anti-Trafficking Coordinator – who is a police officer sitting in the Border Police Directorate of the Ministry of the Interior - is not clear yet. The Anti-Trafficking Council is not an active body and most of the members are not informed about their roles, duties and expectations. Further, the National Anti-Trafficking Team practically does not exist, since its last meeting took place in 2013. **The Council recommendation 132.49 was not adopted.**
5. **Office for National rapporteur on trafficking** in Serbia, which should enable objective monitoring of national mechanisms responding to human trafficking, still does not exist. It is not clear when the office will be established since its main purpose is to monitor and evaluate the work of other agencies, conduct research, analysis and make recommendations for improvement of the national mechanism. In order to achieve this, the office of national rapporteur must be established as an independent body.
6. It can be said that the only body within the anti-trafficking referral mechanism with clearly defined role is the Centre for Human Trafficking Victims' Protection, which is an institution of social protection. The good side is that in Serbia, the confirmed status of victims and all the following rights are not restrained by pressing the criminal charges or judicial proceeding. In fact, in accordance with the Law on Social Protection, the victims are treated as people in need which allows more of them to obtain the right to an aid. On the other hand, treating the victims the same as all other citizens who are in need for social support, the State does not offer any specialized programs that could contribute and address the needs of victims, especially in urgent cases. Instead, within the system for social protection, the State offers programs that are supposed to address people in need in general. Victims of trafficking in a need of accommodation are provided with alternative accommodation like shelters for family violence coordinated by the social welfare centres. The establishment of the state shelter has been envisaged in 2012, as an integral part of the Centre for Trafficking Victims' Protection, but five years later, such shelter does not exist. **The Council recommendation 132.51 was not adopted.**
7. **The Budget of Serbia** so far did not envisaged any funds for anti-trafficking activities outside the budget of the Centre for Trafficking Victims' Protection (90% of which are operating costs). Moreover, the civil societies' resources and expertise who have the focus on victims of human trafficking for more than a decade are being marginalized and disregarded since the Centre for trafficking victims' protection is established. (For example, in 2016 one out of 55 identified victims was referred to ASTRA, in 2015 2 out of 40 identified, and one out of 125 identified victims in 2014 were referred to services of ASTRA). The main explanation is that victims refuse assistance or that

⁵⁸The document is available in Serbian language here <https://www.unicef.org/serbia/SOP-za-zastitu-dece-izbeglica-i-migranata.pdf>

sufficient assistance is provided within the state social protection system. Assistance that could be obtained at social welfare centers is, as a rule, insufficient and does not respond to the needs of victims, while in many cases such assistance is not even available. **The Council recommendation 132.50 was not adopted.**

8. Additionally, there are **no clear indicators or criteria for victims' identification** that Centre for Human Trafficking Victims' Protection uses in its identification procedure. In 2015 Centre developed set of criteria for preliminary identification of victims for employees in the social welfare centre, police and schools. However, these indicators were not adopted by the competent ministries.
9. **Judiciary is still one of the weakest points** in the process of protection and realisation of victims' rights. ASTRA's analysis of judgments on human trafficking shows that the average prison sentence for convicted human traffickers is still around 4,5 years.⁵⁹ On the other hand, from a stand point of victims' protection, the criminal proceedings last too long and the court appearances are being often postponed. Moreover, the victim's testimony is the main evidence in proving the crime, thus the victim has to make a regular appearance in court in order to avoid a fee and because of that she is risking the confrontation with the trafficker. Because of all these, the victim is reliving a trauma for years, which slows down her recovery process. According to the Law on crime offenses, a victim can receive a status of especially vulnerable witness. However, this is not always applied, but even when it's granted, it's not very efficient since the courts are lacking resources for providing a proper protection. **The Council recommendation 131.22 was not adopted.**
10. One of the weakest links in victims' rights protection is a **right to compensation**. Criminal legislation allows possibility of compensation, however in practice, criminal judges always refer victim to civil proceedings, which last too long and which requires significant costs, while victims usually do not possess that amount of money. Despite the fact that a right to compensation is one of the main victims' rights (in international and national documents), for the past thirteen years (since the human trafficking is introduced as crime), only one victim managed to achieve this right after seven years of criminal proceeding, which wouldn't be possible without civil society's support.
11. In Serbia, **cooperation between NGOs and institutions** quite often relies on political willingness and is often only official. Additionally, instead of dealing with the issues, new procedures introduced which entails more official approvals and authorization. Further on, the form becomes more relevant than content and its quality. It is victims of trafficking who suffer most because of such an approach, because assistance they are entitled to, is missing, delayed or incomplete.

Recommendations:

- **The Strategy for Combating Human Trafficking in Republic of Serbia and the National Action Plan should be adopted as soon as possible as their absence have negative impact on both successful fight against human trafficking and the protection of victims.**
- **In order to ensure effective prosecution of human trafficking and that victims feel free to testify and to avoid their secondary victimization, active use of the possibilities to protect the identity and safety of victim-witnesses should be made during criminal proceedings, as provided for by the law. This includes actively protecting the victim from intimidation and threats, intervening whenever victim-witnesses are asked questions that are irrelevant to the case, avoiding repeated hearings of the victims and their direct confrontation with defendants, awarding victims of trafficking the status of vulnerable witnesses, and making use of technical possibilities such as hearing a victim-witness' testimony over a video link. Every trafficked person involved as a witness**

⁵⁹ Detailed analysis of judicial practice can be found on the following link: <http://www.astra.rs/astra-publications/reports-and-studies/position-of-trafficking-victims-in-court-proceedings-2016/?lang=en>

in the investigation and prosecution of traffickers must have free legal representation so that someone participates in the process who takes care of the protection of his/her rights and interests. Every trafficked person who testifies in criminal proceedings should be informed on a regular basis about all relevant developments in the case (and not only of the date when he/she has to come to make the statement or testify).

- Indicators for the identification of children and adult victims in all phases and for all forms of human trafficking should be developed and put into use. These indicators should be clearly defined both at the levels of preliminary and final identification. Further, new methods should be worked out that would facilitate the self-identification of (possible) victims.
- A policy on minimum standards for the provision of assistance to trafficking victims during all phases of assistance should be developed and adopted, as well as procedures to be observed by relevant actors that would be based on the principles of respect for the victim's wishes, her/his best interests and non-discrimination.
- The authorities should organize systematic training for officials in charge of refugee protection and irregular migrants, so they too can identify possible trafficking victims and make appropriate referrals, as ad hoc project events organized so far have proved inadequate.
- The shelter for urgent accommodation of victims of trafficking should be established without delay, including specialized shelter for trafficked children.