



REPUBLIC OF SERBIA

To Gender Equality Council of the Government of the Republic of Serbia  
President of the Council, Ms. Snežana Lakićević Stojačić

Belgrade, April 23, 2010

**Subject: Suggestions and comments of the Autonomous Women's Center on the Draft National Strategy for Combating Domestic Violence in the Republic of Serbia**, submitted to the authors, Nives Radeljić and Danijela Spasić

Referring to the existing international documents quoted in the Draft Strategy for combating domestic violence in the Republic of Serbia (hereinafter: Draft Strategy), the existing national strategic documents (first of all, *the National Strategy for improvement of the position of women and promotion of gender equality (2009-2015)*), - (hereinafter: National Strategy), the laws of the Republic of Serbia and the long-term experience in combating violence against women, the Autonomous Women's Center states that the proposed document:

1. Does not comply with the basic national strategic document in this field – the National Strategy, on which this Strategy is based (as a separate document), in terms of the kind of (subject of) the document, in terms of major general provisions and definitions and in terms of the proposition if the strategic goals;
2. does not comply with the key provisions and principles of the relevant international documents, some of which are the binding legal acts for the Republic of Serbia (first of all, it is the *UN Convention on the Elimination of All Forms of Discrimination against Women*);
3. contains the unacceptably large number of unnecessary, inaccurate and incorrect data, as well as the wrong statements based on which the strategic recommendations have been made;
4. Shows in unnecessary details „results of the process” of planning the Draft Strategy, although they cannot be the excuse for the departure from the national and international documents in force.
5. makes strategic and operational recommendations which could not have been made without the relevant analysis information, i.e. it is done in arbitrarily.
6. Completely ignores the document *Strategy for the protection from domestic and other forms of gender based violence in Vojvodina (2008)*, as well as its all positive solutions.
7. Tendentiously leaves out the activities and relevant data of the Autonomous Women's Center, including the analysis of the judicial practice, at the same time recommending the adoption of a separate law on the protection from domestic violence, without taking into account the grounds for recommendation.

For the above mentioned reasons, the Autonomous Women's Center suggests that it should be stated that the text of the document of the Draft Strategy **does not meet the basic criteria for validity**, thus it is necessary to **start drafting a new document**. The Autonomous Women's Center reminds of the comments on the process of drafting this document, that have been submitted to the director of the Gender Equality Directorate, manager of the project „Combating Sexual and Gender Based Violence“, UNDP gender advisor as well as the

president of the Council for Gender Equality and it recommends that they should be taken into account during the next attempt to draft a valid and comprehensive strategic document the *National Strategy for combating violence against women in the Republic of Serbia*, which is based on international standards and adopted national strategies. Argumentation is enclosed.

On behalf of Autonomous Women's Center

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Tanja Ignjatović

The Autonomous Women's Center's comments are supported by the women's organizations, members of the cluster WomenPovertyDevelopment.

*This letter was also submitted to:*

Natalija Mićunović, director of the Gender Equality Directorate

Vladimir Đurić, manager of the project „Combating Sexual and Gender Based Violence“

## **ARGUMENTATION for the cited statements and recommendations**

(Text bolded by Autonomous Women's Center)

### **1. Noncompliance of the Draft Strategy with the key national documents**

Although the Draft Strategy relies on existing national documents, its contents are not in accordance with them:

1.1. The National Strategy for improvement of the position of women and promotion of gender equality (2009-2015) defined *the adoption of the National strategy for combating violence against women, which includes the special measures taken to improve the position of vulnerable and marginalized women*<sup>1</sup> as one of its activities and the point 181 states: „To develop a comprehensive strategy for combating violence against women which would define both measures of prevention and protection for victims and sanctions for the perpetrators“. It is not clear how the decision to develop a *Strategy for combating domestic violence in the Republic of Serbia* has been made?

1.2. The National Strategy, in the thematic area of *Prevention and combating violence against women and improvement of the protection of victims* has set 4 strategic goals<sup>2</sup>:

- *To improve the normative framework for the protection from violence against women*
- *To build the capacity of the system of the protection of women from violence*
- *To conduct research and improve documentation and statistics*
- *To raise awareness on violence against women as a social problem and combat negative media representation of women*

We wonder how it happened that this Draft Strategy made the **completely new** strategic decisions:

- *Strategic decisions related to programs, services and range of target groups*
- *Strategic decisions related to internal capacity of decision makers and service providers*
- *Strategic decisions related to joint activities in the community*
- *Strategic decisions related to finances*

### **2. Noncompliance of the provisions in the Draft Strategy with the key international documents**

2.1. Although it relies on the international documents ratified by the Republic of Serbia (*Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)* and the *General recommendation No. 19* of the Committee on the Elimination of Discrimination against Women), as well as a series of other documents of the United Nations and Council of Europe, the definitions and explanations of the key notions in the Draft Strategy are **unacceptably inaccurate**. We will only quote the most conspicuous examples:

*“Domestic violence represents a form of social and family pathology which has been marginalized for decades as the internal, personal problem within the family relations”.*

(Chapter 3, page 11, repeated several times throughout the entire document). We would like to note that the Draft's author could not have read this statement in any of the quoted

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<sup>1</sup> In a thematic area *Prevention and combating violence against women and improvement of the protection of victims*, in a strategic goal *Improvement of the normative framework for the protection from violence against women*

<sup>2</sup> National Strategy relies also on the *Conclusions from the national conference on combating violence against women* (October 25, 2007) within the Council of Europe Campaign to combat violence against women, in which these 4 goals are recognized as the key strategic goals in the area of prevention and protection of women from violence

international documents or the National Strategy either (see: description of situation, points 168 and 169). Further on: “*Today it can be described as a form of criminality of violence the true proportion of which is hidden...*” (Page 11); “*Domestic violence is a form of family and social pathology which cannot be associated with only one historically limited social-economic surroundings*” (chapter 5).

“*Each state defines violence introducing into the contents new elements which are in accordance with the social capacity to achieve the change of attitude towards the manifestation forms of violence...A starting point and the ultimate goal of the Strategy are conditioned by a level of socially accepted norms in a certain community and achievability of expected change in a certain period of time.*” (Point 1.2.2, page 5). We would like to note that the state has ratified international documents which make a clear definition of violence against women and, therefore, it cannot depend on the “level of socially accepted norms” or “social capacity”.

“*Among the groups which suffer the consequences of domestic violence, children are especially vulnerable and the perpetrator (man) is not the only one who is responsible. The mother is responsible as well because she stays in a violent relationship which puts children in danger*”. (Point 1.2.4, page 6). This attitude indicates the lack of understanding of the phenomenon of violence against women in a family context, the concept of the “abuse of control and power” and the mechanism of violence “child manipulation”. At the same time, the authors do not take into account the current inefficient, ineffective and uncoordinated protection of women victims of violence by state institutions and agencies, as a factor of why they stay in abusive relationships, why they return to abusive partners and why they fail to protect children.

## 2.2. The lack of understanding **the difference between the causes of violence and factors** which affect the manifestation of violence:

“*Following the period after the dissolution of Yugoslavia, at the beginning of the 90s in the last century, in which Serbia entered the process of transitional changes, a lot of drastic social and economic disturbances took place, together with a series of epidemiological changes related to domestic violence in which deep roots and causes of the rise of this social and family pathology should be sought.*”. (Chapter 5, page 15)

## 3. Unacceptably large number of imprecise and inaccurate data

Even without in-depth analysis, there is evidently a large number of imprecise and inaccurate data in the Draft text. We will only mention a few of them:

3.1. In the chapter 4, *The basic characteristics of domestic violence in Serbia/result of conducted research studies* (pages 13-15) there is a significant number of incorrect and imprecise data, and most of them lack the quotation source.

3.2. *The Criminal Code* (“*The Official Gazette of the Republic of Serbia*”, 85/2005, 88/2005 – amended to 107/2005 – amended)...(chapter 2, page 9) – The Criminal Code of the Republic of Serbia **was amended in 2009**, provisions of the article 194 were revised (increased penalties for violence), as well as the article 112, paragraph 28 (meaning of term), article 89a – new security measure was introduced (restraining order) and the provisions of the Code of Criminal Procedure, relevant for the implementation in situations of domestic violence related criminal offences.

3.3. *Participants in the planning process: 23 civil society organizations were involved in the drafting process* (chapter 1, page 8) – City Administrations and municipal Gender Equality Commissions are not civil society organizations. We cannot but notice the constant tendency to compensate the absence of women’s civil sector organizations with representatives of state authorities on a local level. We would like

to note that the Autonomous Women's Center lodged an objection to the consultative process<sup>3</sup>, obviously without any effect.

#### **4. Unreasonable and unnecessary detailed description of the “results of the process” of planning the Draft Strategy**

There are 27 pages (chapter 6, pages 17-44) of a text representing **the working material** of different analyses conducted within the project “Combating Sexual and Gender Based Violence“, as well as the “products” of the consultation processes. This material **cannot be the contents** of the Draft Strategy. It unnecessarily burdens the reading with multiple repetitions of the same data, overview of tables with data without any explanation of the meaning of the marks, etc. If this is the way the authors try to justify “outputs” of the Draft Strategy, this cannot be an **excuse** for changing the strategic decisions in relation to the strategic goals defined in the National Strategy.

#### **5. Recommendations that could not have been made without the analysis data**

##### **5.1. Recommendation to harmonize the laws of the Republic of Serbia with the EU legislation**

*“The process of harmonizing the legislation of the Republic of Serbia with the EU legislation, on the road to European integration, should be continued by mainstreaming the principles of gender equality and protection of women victims of gender based domestic violence”* – there is still no “EU legislation” on violence against women (there are no directives on this issue) and the legal solutions of the member states are completely different (they are not unique). In the Draft Strategy, among the list of relevant international documents, there is no mention of any EU document.

##### **5.2. Recommendation to adopt a separate Law on combating domestic violence**

*“To strengthen the legal framework in the area of the protection from domestic violence and adopt a separate Law on combating domestic violence”* (page 24). We would like to note that in the situation analysis (chapter 4) **there is no data** which indicate the necessity of adoption of a new separate law. The problem of the lack of implementation of the existing laws **will not solved** by adopting new laws. Both the National Strategy, as well as the Conclusions of the Conference on combating violence against women and the recommendations of the UN Committee on the Elimination of Discrimination against Women to the Republic of Serbia (2007) suggest **“taking into account the grounds for adoption** of a separate Law on the protection against domestic violence” (point 181 of the National Strategy). Available research studies today about the implementation of “separate laws” point put that their adoption did not serve its purpose.

**5.3. Recommendations regarding the programs for treatment of violence**, which indicate that the authors **do not distinguish between conflict and violence**, so they recommend **mediation** as a method even though there are clear recommendations that mediations should not be done in situations of violence (as our law foresees as well). Also, the authors do not refer to the available information about **the effects of treatment** for resocialization of perpetrators (which do not show results good enough to justify a large number of planned activities of this kind), they are not aware of the phenomenon of **“overlapping violence against women and violence against children”** as a way of controlling a woman partner, they are not aware that the family therapy, couples therapy and other similar **“integrative approaches”** are contraindicated in situations of domestic violence.

*“To develop prevention programs for dysfunctional families so that they recognize gender based domestic violence and use the mediation programs at an early stage of a couple's dysfunctionality, work towards development of the parental responsibility of mothers who are victims of domestic violence”* (page 28)

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<sup>3</sup> The letter, Suggestions related to the process of drafting the National strategy for combating domestic violence, March 8th, 2010

*“To put a special emphasis on the work with the perpetrators of violence (page 46)  
“To ensure an integrative approach in development of programs: programs for women, for children and perpetrators of violence” (page 45) – it is completely unclear what “integrative approach” is.  
“It is important to define both the perpetrators and the potential perpetrators, regardless of their gender and age” (page 29).*

#### **6. Complete ignoring of the document *Strategy for the protection from domestic and other forms of gender based violence in Vojvodina (2008 – 2012)*<sup>4</sup>**

Having reviewed the existing European and regional strategies, the authors conclude that they “lack a harmonized vision of a **community free from violence**, a harmonized mission of each factor and a **system of shared values to be advocated**” (point 1.2.1, page 5), as well as the socio-economic measures of support of victims, completely ignoring the fact that the *Vojvodina Strategy* contains all of this.

We wonder if a policy of ignoring the activities of the Autonomous Province of Vojvodina has something to do with the political beliefs of the manager of the project „Combating Sexual and Gender Based Violence“ or if it an expression of the authors’ political views, or just an expression of general superficiality.

#### **7. Tendentious leaving out the activities and data of the Autonomous Women’s Center**

Not only the data of the Autonomous Women’s Center are not precisely quoted (“Almost unique *data of civil society organizations* (VSS, Counseling against Domestic Violence, AWC and others... page 14), but the **research of the legal practice** data are also completely ignored – implementation of the Criminal Code<sup>5</sup> and the implementation of the protection measures according to the Family Law<sup>6</sup>, conducted by Autonomous Women’s Center and Women’s Research Center from Niš (in compliance with the recommendations of the National Strategy in points 181 and 182). At the same time, the authors of the Draft Strategy suggest: *To strengthen the legal framework in the area of the protection from domestic violence and adopt a separate Law on combating domestic violence (page 24)*, so it is not clear where this recommendation came from.

It is not acceptable to cite an organization’s **acronym** without the previous citing the full name of organization. We would like to note that Autonomous Women’s Center, at this point, is the oldest (18 years of work) and largest women’s organization specialized in violence against women related issues, with a significant experience with this issue.

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<sup>4</sup> Adopted in 2008

<sup>5</sup> Konstantinović-Vilić, S. and N. Petrušić, (2006), *Criminal Offence Domestic Violence – Current Judicial Practice in Belgrade and Niš*, Autonomous Women’s Center, Belgrade and Women’s Research Center, Niš

<sup>6</sup> Petrušić, N. and S. Konstantinović-Vilić (2008), *Domestic Violence – Towards European Solutions, Measures of Protection from Domestic Violence*, Autonomous Women’s Center, Belgrade, Women’s Research Center, Niš