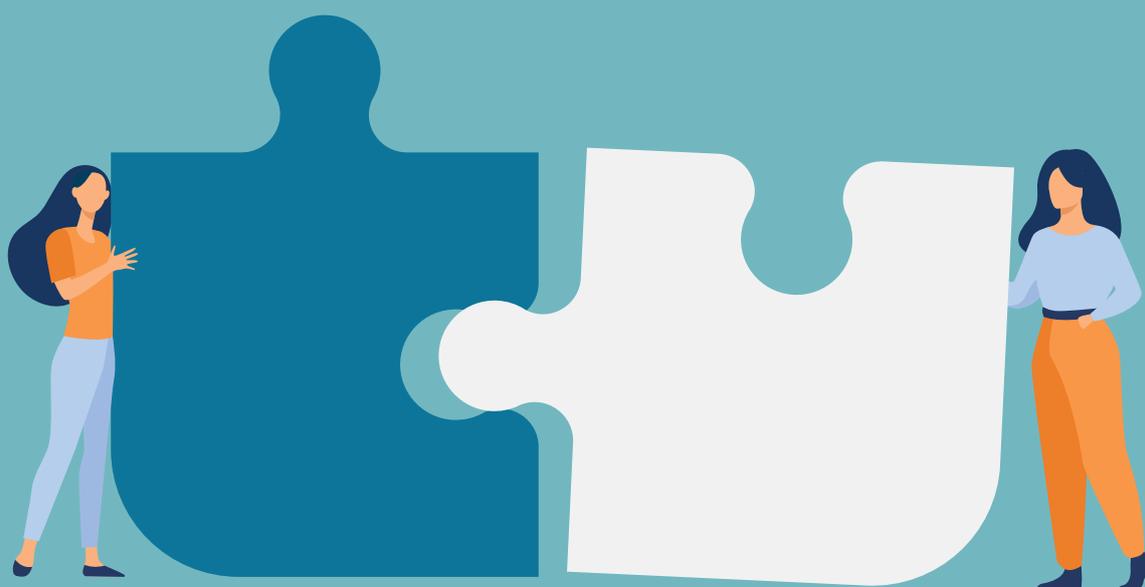


# SMALL ARMS AND LIGHT WEAPONS, GENDER-BASED VIOLENCE AND DOMESTIC VIOLENCE

ANALYSIS OF REGULATORY FRAMEWORK AND PRACTICE



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This analysis was conducted within the project “Reduce Risk - Increase Safety - Towards Ending SALW Misuse in the Context of Domestic Violence,” implemented by the United Nations Development Program (UNDP) in Serbia. The project is realized with the financial support of the Federal Foreign Office, Germany, and contributes to the implementation of the Roadmap for a sustainable solution to combat illicit possession, misuse, and trafficking of small arms and light weapons (SALW) and related ammunition in the Western Balkans by 2024.

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# INTRODUCTION

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Gender-based violence against women is still one of the most widespread obstacles towards achieving gender equality, thus endangering the lives of women, their children, families as well as the safety of the community in the world. At a global level, almost 30% of women have been subjected to physical and/or sexual violence once in their lifetime.<sup>1</sup> The most common form of violence against women is intimate partner violence.

Most of the victims of gender-based violence and domestic violence in the Republic of Serbia are women. The available data undoubtedly show that firearms misuse is not a neutral phenomenon, but affects the lives of women and men differently, especially endangering the lives of women in the context of domestic violence and intimate partner violence.

In families and relationships in which perpetrators have access to firearms, the risk of misusing the weapon and the risk of violence escalation is increased up to five times and the consequences of the misuse are severe. As a consequence of firearms' lethal power, there is a greater risk of fatal outcomes or injuries that lead to permanent consequences such as disability, especially because this form of violence most often occurs in private premises in which victims do not have the possibility of avoiding attacks.<sup>2</sup>

Out of the total number of murders committed as a matter of domestic violence, a third has been committed with a firearm and the majority of the victims are women. Most men and women killed with a firearm were killed in their homes or yards, and a fatal outcome of firearms misuse is more frequent in domestic violence than in criminal violence.<sup>3</sup>

In addition, not only are firearms used for homicide, but they are also used for intimidation, threat, psychological violence, sexual violence, control of victims, and other forms of violence.

It has already been determined that overcoming the problem of domestic violence and gender-based violence requires a comprehensive approach that implies full harmonization of laws of different jurisdictions, other regulations, strategic documents, and policies. In this regard, the aspects of gender, gender-based violence and domestic violence need to be included in the strategic approach to weapons control, as well as the aspect of weapons to be included in the framework of gender equality and violence against women.

Several of our laws recognize the correlation between the misuse of firearms and domestic violence - there is a decrease in the number of homicides committed through the misuse of firearms, but we still face risks that prevent effective and complete protection. The number of cases of domestic violence reported to institutions is growing each year, but that number is still small and does not provide us with an accurate picture of the scale of the problem. In addition, the presence of a firearm in the house or its availability to the perpetrator, keeps victims in fear, discouraging them from contacting competent authorities, and also prevents potential witnesses to the violence to report the crime or help the victim. When a crime is reported, in more than half of the cases the

<sup>1</sup> *Violence against women Prevalence Estimates, 2018. Global, regional and national prevalence estimates for intimate partner violence against women and global and regional prevalence estimates for non-partner sexual violence against women*, WHO, Geneva, 2021.

<sup>2</sup> Božanić, D., *Gender and Small Arms in Serbia: Fast Facts*, SEESAC, 2019. Available at: [https://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms\\_SERBIA\\_ENG\\_WEB.pdf](https://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms_SERBIA_ENG_WEB.pdf).

<sup>3</sup> *Ibid.*

report is rejected due to lack of evidence or unwillingness of the victim to testify, which does not mean that the violence did not happen, but that it did not reach an institutional epilogue. This situation must be taken into account, as it limits the effective enforcement of the existing laws and institutional procedures aimed at sanctioning perpetrators and the long-term protection of all those exposed to violence.

By documenting the existing improvements in the regulatory and institutional framework for prevention of and protection from domestic violence, this analysis aims at determining the space and possibility for further improvement in the country's effective response to misuse of firearms in the context of domestic violence. This way, the analysis contributes to further steps in improving the safety of our society and our homes by protecting us against violence and weapon misuse.

The analysis was conducted within the project "Reduce Risk - Increase Safety - Towards Ending SALW Misuse in the Context of Domestic Violence", which is part of the implementation of the Roadmap for a sustainable solution to combat the illicit possession, misuse, and trafficking of small arms and light weapons (SALW) and related ammunition in the Western Balkans by 2024.<sup>4</sup>

The project is implemented by the United Nations Development Programme (UNDP) in Serbia, with the financial support of the Federal Foreign Office, Germany, and in cooperation with national partners: Ministry of Interior (Mol) – as the main national partner, Ministry of Justice, Coordination Body for Gender Equality of the Government of Serbia, and the group "Journalists against Violence".

Through the joint effort of the UNDP and national partners, the project aims at reducing the risk of firearm misuse in the context of domestic violence, especially gender-based violence.

The specific purpose of the project is the improvement of the legislative and strategic framework and institutional measures as an effective response to the complexity of domestic violence, improving the system of prevention, and raising awareness of men and women, girls and boys of risks of firearm misuse. The project contributes to the decrease of risk from firearm misuse and strengthening the victim protection system by supporting relevant institutions and making their work and results visible, which also has an impact on developing trust of victims and citizens to report gender-based violence and domestic violence.

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<sup>4</sup> The Roadmap for a sustainable solution to combat the illicit possession, misuse, and trafficking of small arms and light weapons and ammunition in the Western Balkans by 2024 was jointly developed by the six Western Balkans jurisdictions, under the auspices of Germany and France, in coordination with the European Union and with technical support from the South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (UNDP SEESAC). The Roadmap is the most comprehensive arms control exercise in the region, covering all key aspects, from securing the stockpiles of weapons and ammunition to mainstreaming gender in firearm control and countering firearms trafficking. The Roadmap was adopted at the London Summit in 2018. The text of the Roadmap is available at the following address: <https://www.seesac.org/f/docs/publications-salw-control-roadmap/Regional-Roadmap-for-a-sustainable-solution-to-the.pdf>.

# ABBREVIATIONS

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**SIA** – Security Information Agency

**CEAS** – Center for Euro-Atlantic Studies

**GREVIO** – Group of Experts on Action against Violence against Women and Domestic Violence

**EU** – European Union

**MoI** – Ministry of Interior

**DV** – Domestic Violence

**NGO** – Non-Governmental Organizations

**OSCE** – Organization for Security and Cooperation in Europe

**PS** – Psychoactive substances

**PoA** – Programme of Action

**PTSD** – Post-traumatic stress disorder

**RCC** – Regional Cooperation Council

**GBV** – Gender-based violence

**SORS** – Statistical Office of the Republic of Serbia

**SALW** – Small Arms and Light Weapons

**SDGs** – Sustainable Development Goals

**SEESAC** – South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons

**UN** – United Nations

**UNDP** – United Nations Development Programme

**MSA** – Military Security Agency

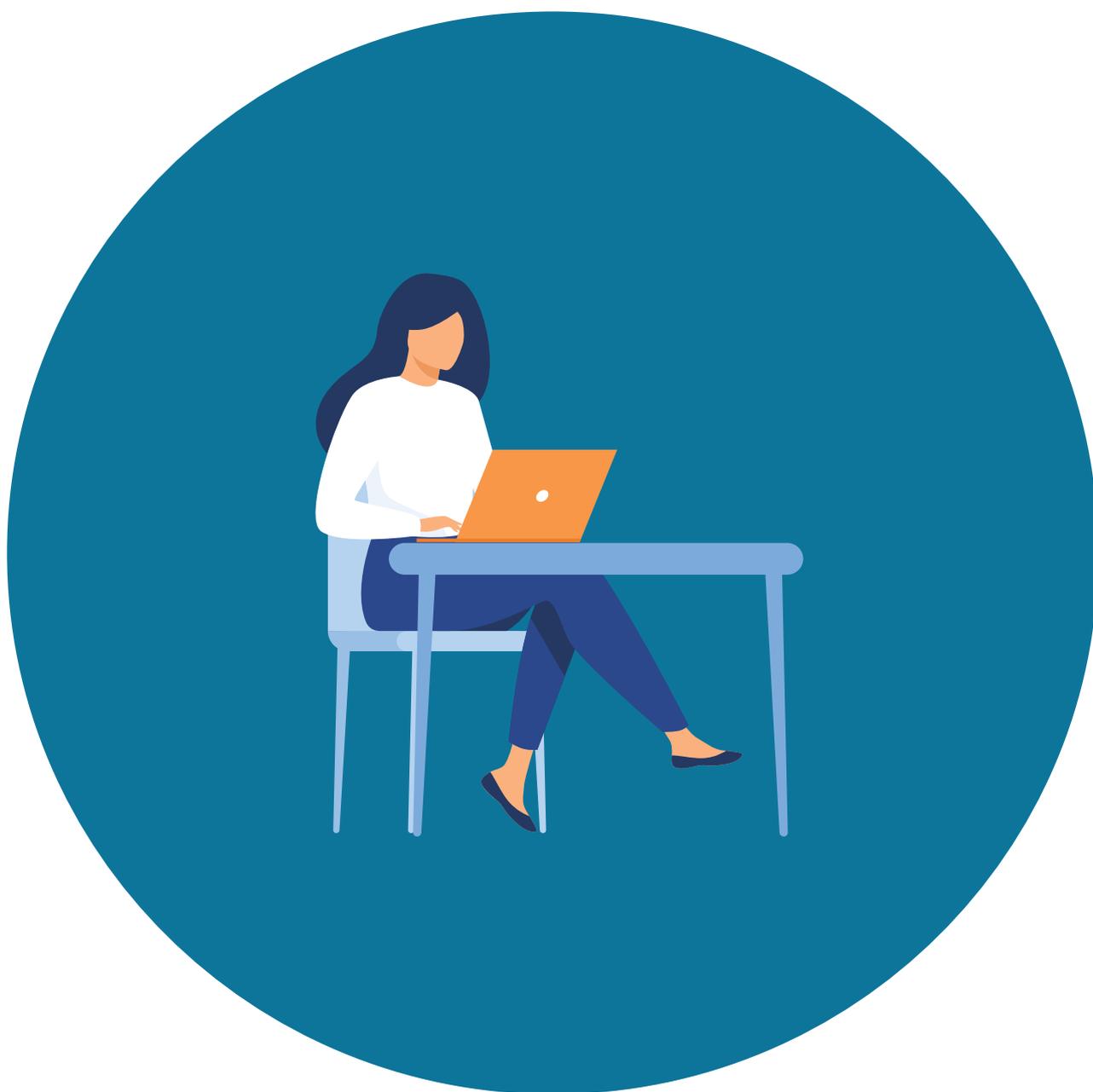
**MIA** – Military Intelligence Agency

**LWA** – Law on Weapons and Ammunition

**LPDV** – Law on the Prevention of Domestic Violence

# METHODOLOGY

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The Project “Reduce Risk – Increase Safety – Towards Ending SALW Misuse in the Context of Domestic Violence” contributes to the achievement of Goal 4 of the Roadmap: by 2024 significantly reduce the supply, demand, and misuse of firearms through increased awareness of dangers of firearms, education, outreach, and advocacy. The project aims at updating regulatory framework and policies to effectively respond to domestic violence, improve the prevention system and increase the level of awareness of men and women of the risks and dangers of misuse of weapons. In addition, it also aims at reducing the risk of misuse of small arms and light weapons and providing more efficient protection to victims of violence. The starting points of the project is strong evidence of the correlation between firearm possession and domestic violence which disproportionately affects women, available data on the degree of misuse of weapons for domestic violence, data on a large number of weapons owned by citizens (civilians), as well as data on violent crime and homicide rates in the Western Balkans which are higher compared to neighboring countries.

The need for research arose from the fact that even though there was an improvement in the regulatory and institutional framework for prevention and protection against domestic violence and recognizing the risks of the presence of weapons in a domestic context, there is still a need for additional improvements. An analysis of the existing regulatory and strategic framework of the Republic of Serbia and the existing procedures is needed to promote and advocate for changes and identify obstacles or gaps that prevent adequate state response to the misuse of firearms in the context of domestic violence.

The research included an analysis of the national, legal, and regulatory framework and its compliance with international documents binding on the Republic of Serbia and rules of the European Union (EU) law which the Serbian law had to be harmonized with during the negotiations. The purpose of the analysis of the national legal framework was to determine how it could be improved so that national legislation relating to the problem of firearms is not only gender-sensitive but also sensitive to the correlation between gender-based violence and weapons.

The research was conducted in three phases.

The following was analyzed in the preparatory phase: relevant literature; international contracts relevant to domestic violence (DV), gender-based violence (GBV) and purchase, possession, and carrying of weapons; rules of the EU law on purchase, possession, and carrying of weapons; strategic documents of the Republic of Serbia related to DV, gender equality and arms control; and national legislation (law and bylaws) on protection against DV and GBV, conditions for purchase, possession and carrying of weapons and conditions for carrying and possessing weapons for officials of different professions who carry weapons when acting in the course of their official duties and when allowed by their national law. Documents of relevant international bodies and statistical data important for the correlation between DV, GBV and weapons, were also analyzed.

In the next phase, the national legislation and strategic framework was analyzed concerning the international agreements confirmed by the Republic of Serbia and the EU acquis which the national legislation and practice must be harmonized with during the EU accession process. An analysis of the existing legal solutions was performed with

the existing numerous data showing the correlation between firearms and GBV and DV. In addition, the strategic framework of the Republic of Serbia was also analyzed by studying the existing and identifying the missing strategic documents with particular attention to the Roadmap for a sustainable solution to the illegal possession, misuse, and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024 whose implementation was supported by the EU and adopted in the EU Strategy on arms control.<sup>5</sup> We also analyzed statistical data from both official and formal resources such as the Statistical Office of the Republic of Serbia (SORS), and research data and data from reference non-governmental organizations (NGOs), primarily the “Women against Violence Network. The practice of the Protector of Citizens (Ombudsman) was also analyzed by reviewing the reports and recommendations that this body sent to competent authorities on several occasions due to omissions in providing protection against GBV and DV, to practically illustrate and support the theoretical aspects of misusing firearms in GBV and DV through the work of this body and by assessing and evaluating its cases and recommendations. The analysis of legal documents of the effective national legislation and strategic documents in this field involved the analysis of key provisions of the positive legislation which regulates the purchase, possession, carrying, and use of firearms and domestic and partner-relationship violence. The study of international legal and other documents, rules of the EU law, and documents of international organizations and bodies involved the review of key provisions, recommendations, views, standards, and guidelines on the purchase, possession, and carrying of firearms, GBV, DV, and views of the mutual correlation between possession of weapons and gender-based violence. The analysis of information and data obtained from expert literature included available research and literature on the correlation between firearms and weapons in general and GBV and DV, as well as women’s participation in the process of strengthening firearms control. Statistical data were collected related to the outcomes of reported DV and court proceedings so that the actions of the relevant authorities and penal policy could be indirectly concluded.

Since it was not possible to obtain additional data from the competent authorities, due to the state of emergency in response to the Covid-19 pandemic crisis at the time of writing this report, the data were acquired from available resources of the competent authorities (Statistical Office of the Republic of Serbia, data from the website of the Ministry of Interior and the Ministry of Justice, NGOs and their reports, reports of the Protector of Citizens, data from foreign authors, international organizations, groups, and bodies).

The last phase involved interpreting all collected data, identifying shortcomings and challenges, and defining proposals for their elimination and improvement of GBV and DV prevention through firearms control. They were summarized in conclusions and proposals, and the text of the report was prepared.

The term “firearms” is used in accordance with the Roadmap for a sustainable solution to the illegal possession, misuse, and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024<sup>6</sup> to mark the weapons used by civilians.<sup>7</sup>

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<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024, *op. cit.*

# SUMMARY

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**The correlation between firearms and DV has been established unequivocally.**

Women make up 64.2% of all people killed by a member of their family compared to men with a percentage of 35.8%. Of the total number of murders committed by family members, 42.2% were committed by intimate partners. Women make up the vast majority of people killed by intimate partners - 88.1%, compared to 11.9% of men. Around 31.2% of those killed by a family member, were killed with a firearm. Women make up 63.2% of people killed by a family member with a firearm, compared to 36.8% of men. Women make up 91.1% of people killed by a partner with a firearm, compared to 8.9% of men. The share of 39.4% of women killed by an intimate partner was killed with a firearm. As many as 51.9% of DV cases involving firearms resulted in death. The probability of death due to misuse of firearms in DV cases is the highest and three times more frequent than in a criminal context.<sup>8</sup>

**Protection against DV and GBV requires a comprehensive approach that implies full harmonization of laws of different jurisdictions, of other regulations, strategic documents, and policies.** In this regard, the aspects of gender and GBV and DV need to be included in the strategic approach to firearms control, as well as for the aspect of weapons to be included in strategic and other documents concerning gender equality and violence against women.

**“Gun culture” is still strong** and it is not only based on the traditional aspects but a certain level of mistrust of citizens in institutions. The weakening of the “gun culture” is prevented by social memory, especially in the period of low level of security of people in Serbia, high crime rate, and high level of corruption and impunity for violence. Media reports on firearms misuse in DV and GBV are not adequate. They are mostly neutral and describe the weapon only as a means of committing violence. Weapons are usually presented in the context of “traditional values”.<sup>9</sup>

**In Serbia, there are no publicly available data from institutions based on which a precise insight into the firearms misuse for domestic violence and gender-based violence could be made.** An additional difficulty in perceiving this phenomenon, based on data and statistics, is the fact that those statistical and other data that are publicly available and relate to criminal offenses, are not sufficiently informative and do not contain categories related to the misuse of firearms. This way, for example, the data obtained from the Statistical Office of the Republic of Serbia on adult perpetrators of criminal offense or data on perpetrators and victims in the context of enforcing the Law on the Prevention of Domestic Violence (LPDV) published by the Ministry of Justice cannot be interpreted with certainty. Statistics on issued urgent measures and statistics on risk assessments (even the measures and assessments related to firearms possession) are not available, so the extent to which they can be used for investigating the phenomenon of misusing weapons for DV cannot be determined and recording data by risk factors is not prescribed by law. A complex problem is also the way data related to GBV and DV are collected, considering that, for example, femicide can be treated not only as the most serious form of the criminal act of domestic violence but also as one of the

<sup>8</sup> Božanić, D., *Gender and Small Arms in Serbia: Fast Facts*, op. cit.

<sup>9</sup> *The rifle has the devil inside – Gun Culture in South Eastern Europe*, South Eastern and Eastern Europe Clearing-house for the Control of Small Arms and Light Weapons (SEESAC), 2006.

criminal acts of homicide. The situation is similar to other forms of DV (infliction of injuries, sexual violence, etc.). Data obtained from the Ministry of Interior from 2016 show that women were victims of firearm-related homicide in 21.2% of cases, and in 16.6% of cases, they were victims of injuries inflicted with firearm.. Women make 64.2% of victims of domestic violence-related homicide committed by family members, and as many as 88.1% of those killed by an intimate partner or spouse. Murders were mostly committed with firearms (62.3% of murders which were committed by family members). Of the total number of homicide cases committed by the victim's partners using weapons, women are victims in 91.1% of cases.<sup>10</sup>

**Strategic approaches to firearms control have not adequately used the aspect of gender through women's participation and by taking into account different views and needs of women and men, girls and boys, and gender mainstreaming of policies.** It is not just the classification of data and analysis of weapons and GBV that are sufficient for the strategic approach to firearms control, but also the involvement of women in the process of firearms control and decision-making process regarding firearms control, GBV, and DV. Gender mainstreaming of firearms control must involve the process of deconstruction of "gun culture, "gun cult", and of gender roles in Serbia.

**Legal rules concerning the conditions for the purchase, keeping, and carrying of weapons, reasons for confiscating firearms, conditions for carrying service weapons, manner of keeping weapons and numerous other issues require analysis and improvement** from the aspect of prevention of violence committed with firearms, DV, and GBV. Improvements need to be made in the laws governing institutional response to DV and GBV and penal policy, which is still mild in the field of DV, must be redefined

**For a strategic approach to the correlation between Small Arms and Light Weapons - SALW and GBV data are needed,** which are currently unavailable. The strategic approach requires evidence, and pieces of evidence require facts and numbers, which is why it is necessary to improve the system of monitoring data related to weapons and violence committed with weapons as soon as possible. From the aspect of GBV, a coherent system of recording and monitoring, with the networking of different entities that act in protection against GBV, must be created.

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<sup>10</sup> *Small Arms and Light Weapons Survey – Republic of Serbia 2012–2016*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), 2019.

# FIREARMS IN SERBIA

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According to estimates from 2016 for Serbia, the number of registered firearms in civilian possession was 618 061 and 23 539 firearms were in the possession of private legal entities (non-state entities). Data on the number of service weapons were not available, and the state authorities could not estimate the number of illegal weapons. Some other estimates, however, indicate the numbers between 200 000 and 900 000 firearms.<sup>11</sup> This represents a significant decrease compared to the data on the number of weapons in 2007, when it was estimated that there were over two million weapons in Serbia, both in legal and illegal possession.<sup>12</sup> The fact that the number of weapons is still large is confirmed by the figures, according to which over 10 000 weapons were seized in 2016, and only 744 of them were in illegal possession. That year, 874 misdemeanor charges were filed for negligent possession and use of weapons.<sup>13</sup>

A significant number of citizens of the Republic of Serbia own, carry and use weapons. Some of them are authorized to carry, own and use firearms based on the work they do, and the circle of persons authorized is wider compared to the number of army and police members: firearms can be possessed, carried, and used by members of security agencies, customs officers, members of the Administration for the Execution of Criminal Sanctions, court guards, private security companies, individuals performing detective work, forest guards, gamekeepers, persons managing hunting grounds. In addition, a significant number of people in Serbia who do not carry out activities that require possessing and carrying weapons, keep weapons in their homes, with authorized by the competent authorities. Citizens who apply for a firearms permit mostly justify their request with self-defense, which speaks of the citizens' distrust in institutions.<sup>14</sup> This number, however, indicates that the "gun culture" still exists in Serbia and which is, on the one hand, a cultural heritage (for example, various customs such as "shooting the apple" during wedding rituals, or shooting during celebrations, especially when a male child is born)s), and, on the other hand, it is part of the patriarchal culture. A great majority of people in possession of firearms are men (94.7%). They also make up the majority of the perpetrators of crimes committed with firearms (96.6%) and the majority of the victims of such crimes: 78.8% of homicide victims committed with firearms are men, and 83.4% of them are injured with firearms. The number of women who own weapons is extremely small, and they are disproportionately more often victims of crimes committed with firearms: 5.3% of women own a firearm; women are victims of homicide committed with firearms in 21.2% of cases, and victims of injuries with firearms in 16.6 % of cases.<sup>15</sup>

<sup>11</sup> Spasić, D., Tadić, M., *Zloupotreba oružja i rodno zasnovano nasilje*, Udruženje CENTAR, Centar za istraživanje javnih politika, Beograd, 2017. Available at: <http://publicpolicy.rs/documents/302291386e5a5a15d9d9c25a697f116addabe382.pdf>.

<sup>12</sup> *Firearms Possession and Domestic Violence in the Western Balkans: A Comparative Study of Legislation and Implementation Mechanisms*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, 2007. Available at: [https://www.files.ethz.ch/isn/45839/2007\\_Domestic\\_Violence\\_Firearms.pdf](https://www.files.ethz.ch/isn/45839/2007_Domestic_Violence_Firearms.pdf).

<sup>13</sup> Strategy on Small Arms and Light Weapons Control in the Republic of Serbia for the Period from 2019–2024, *Official Gazette RS*, no. 44/2019.

<sup>14</sup> Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024, *op. cit.*

<sup>15</sup> Božanić, D., *Gender and Small Arms in Serbia: Fast Facts*, *op. cit.*

There is a need to change the cultural pattern of firearms possession as an “image” of men in the social milieu in Serbia (a “protector”, “defender”, “warrior”) and weapons as an expression of masculinity,<sup>16</sup> which is recognized in various documents as a significant risk factor in processes aimed at reducing the number of weapons and controlling the use of firearms.<sup>17</sup>

Firearms control, both in the area related to illegal flows and in the area related to the conditions for obtaining a permit to possess, carry and use weapons, is part of the strategic goals of the Republic of Serbia, the process of harmonization of the legal system with the EU acquis and with international treaties relating to arms trade and management, or GBV.<sup>18</sup>

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<sup>16</sup> *Ibid.*

<sup>17</sup> Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024, *op. cit.*

<sup>18</sup> Action plan for Chapter 24 – Justice, freedom, security. Available at: <https://eukonvent.org/objavljen-akcioni-plan-za-poglavlje-24-pravda-sloboda-i-bezbednost/>

# GENDER ASPECT OF FIREARMS CONTROL

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The gender perspective in firearms control has not been sufficiently integrated into national or international documents. The gender aspect is primarily recognized in the “protective” form, that is, it implies recognizing a woman as a victim of a crime committed with a firearm, ranging from domestic violence to war crimes and crimes against humanity. The aspect of the needs of men and women, boys and girls with regards to weapons control is present to some extent and the aspect of equal participation of men and women in the decision-making process about firearms control is the least present.

The UN Programme of Action on Small Arms and Practical Disarmament Measures (*Programme of Action – PoA*)<sup>19</sup> refers to the aspect of gender in the part in which the Member States express great concern about the severe consequences of illicit arms trade for children, as well as its negative impact on women and the elderly.<sup>20</sup> A clear lack of information about the gender aspect in the document itself was overcome by submitting periodic reports on the implementation of the Programme of Action, so in the last report, the aspect of gender was mentioned several times, as well as the correlation between firearms and GBV, thus encouraging countries to approach this problem more closely.<sup>21</sup> The Arms Trade Treaty has a legally binding norm regarding the export of firearms and the preceding assessments, and they must include the GBV or violence against women and children.<sup>22</sup>

Although the Security Council Resolution 1325 – Women, Peace, and Security does not focus on firearms control, it is one of the most important international documents in which the gender aspect is integrated into the traditionally “male” fields of armed conflicts, prevention, and settling of conflicts, peace negotiations and peace building processes in conflicting and post-conflicting societies.<sup>23</sup> It is of particular importance to emphasize that this document largely focuses on the participation of women in decision-making processes and policymaking and implementation, while at the same time addressing the problem of security and protection of women against violence in armed conflicts and the post-conflict period. The resolution urges the Member States to ensure an increased representation of women at all levels of decision-making processes in national, regional, and international institutions and mechanisms for conflict prevention, management, and resolution, and to provide increased support for gender-sensitive training. It also calls on them to adopt a gender perspective when negotiating and implementing peace agreements, including considering specific needs of women and girls during repatriation and resettlement and for rehabilitation, reintegration, and post-con-

<sup>19</sup> UN Programme of Action on small arms and practical disarmament measures (PoA), UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons. Available at: <http://unrcpd.org/conventional-weapons/poa/>.

<sup>20</sup> United Nations Office For Disarmament Affairs Gender Mainstreaming Action Plan. Available at: <https://www.un.org/disarmament/wp-content/uploads/2016/06/update-gender-action-plan-2016.pdf>.

<sup>21</sup> Report of the third United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, UN, 2018. Available at: [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/CONF.192/2018/RC/3&referer=/english/&Lang=E](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/CONF.192/2018/RC/3&referer=/english/&Lang=E).

<sup>22</sup> Law on Ratification of Arms Trade Treaty, *Official Gazette RS –International agreements*, no. 14/2014.

<sup>23</sup> Security Council Resolution 1325 – Women, peace and security. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement>, <http://zeneucrnorn.org/images/pdf/rezolucija1325.pdf>.

flict reconstruction, as well as measures supporting local women's peace initiatives and local processes for resolving conflicts which also involve women in all mechanisms for implementing peace agreements.<sup>24</sup>

The UN General Assembly Resolution 65/69 - Women, Disarmament, Non-proliferation and Arms Control<sup>25</sup> encourages Member States, regional and sub-regional organizations, the United Nations (UN), and specialized agencies to promote equal participation of women in all decision-making processes about disarmament, non-proliferation and arms control, and support the effective participation of women in disarmament organizations at the local, national, regional and sub-regional levels. Security Council resolutions on small arms and light weapons require the Member States, UN bodies, intergovernmental, regional, and sub-regional organizations to take steps to ensure the full and meaningful participation of women in policy-making and planning and implementation processes to combat the illicit trade and misuse of firearms.<sup>26</sup>

The Committee on the Elimination of Discrimination against Women, in its General Recommendation no. 30 on Women in Conflict Prevention, Conflict, and Post-Conflict Situations, emphasized that Member States must focus on the prevention of conflicts and all forms of violence, including robust and effective regulation of the arms trade apart from the appropriate control over the circulation of the existing and often illicit conventional weapons, such as small arms, to prevent their use for committing or facilitating serious acts of GBV.<sup>27</sup> The Committee pointed out that the proliferation of conventional weapons, especially small arms, including diverted weapons from legal trade, could have a direct or indirect impact on women as victims of GBV and domestic violence. The recommendation aimed at the Member States is that they should reinforce and support women's formal and informal efforts in conflict prevention, ensure equal participation of women in preventive diplomacy and establish early warning systems, and adopt gender-specific security measures to prevent the escalation of GBV and other violations of women's rights.<sup>28</sup>

Sustainable Development Goals (SDGs) include gender equality and gender aspects, and arms control, and reduction in the amount of weapons. Goal 5 - Gender Equality, includes the following targets: *Eliminate all forms of violence against all women and girls in public and private spheres, including human trafficking, sexual and other forms of exploitation, and ensure women's full and effective participation and equal opportunities for leadership at all levels of decision-making processes in political, economic and public life* (target 5.2). Goal 16 - Peace, Justice, and Strong Institutions, also includes the following targets: *By 2030, significantly reduce illicit financial and arms flows and*

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<sup>24</sup> *Ibid.*

<sup>25</sup> UN General Assembly Resolution 65/69 - Women, disarmament, non-proliferation and arms control, Resolution adopted by the General Assembly on 8 December 2010 [on the report of the First Committee (A/65/410)] 65/69. Women, disarmament, non-proliferation and arms control. Available at: <https://undocs.org/A/RES/65/69>.

<sup>26</sup> United Nations Office for Disarmament Affairs Gender Mainstreaming Action Plan, *op. cit.*

<sup>27</sup> The Committee on Elimination of Discrimination against Women - Conclusion regarding the Fourth periodic report of the Republic of Serbia on the implementation of Convention on Elimination of All forms of Discriminations against Women. Available at: <https://ljudskaprava.gov.rs/sr/node/156>.

<sup>28</sup> The Committee on Elimination of Discrimination against Women - General recommendation no. 30 on women in conflict prevention, conflict and post-conflict situations. Available at: <https://ljudskaprava.gov.rs/sr/node/156>.

*ensure responsive, inclusive, participatory, and representative decision-making at all levels (target 16.4).*<sup>29</sup>

The EU Strategy against Illicit Firearms, Small Arms and Light Weapons and Their Ammunition<sup>30</sup> adopted in 2018, has introduced the principle of incorporating a gender aspect in firearms control as one of the key principles.<sup>31</sup> However, this principle has not been further developed in the Strategy.

Although some progress has been made, the problem of firearms control is essentially insufficiently gender-sensitive in Serbia. National documents mostly use a protective approach, that is, they focus on the correlation between firearms and security and protection of women against violence, while the participatory approach is included to a lesser extent. For example, even though the gender aspect in firearms control in the Western Balkans is quite clear, in 2016, women accounted for only 14-29% of members of the commissions on small arms and light weapons, and most commissions in South-east Europe are headed by men.<sup>32</sup>

However, not even the protective approach is adequate, primarily because there are no adequate data and records on the correlation between GBV and firearms in Serbia. Currently, there are no universal records established and maintained by state bodies about gender aspects and otherwise classified data on the misuse of firearms for GBV. There are some official data about physical injuries and murders of women, as well as judicial proceedings for DV. Furthermore, this is monitored by NGOs and SEESAC (*South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons*), through data collection from competent authorities and institutions and media analysis. However, this is only a part of the cases of GBV committed with weapons, because many cases remain “under the radar” of the authorities and media, both due to non-reporting and non-recognition of the correlation between violence and weapons in the possession of the perpetrator (this is especially evident in non-physical forms of GBV such as the threat of misusing weapons as emotional and psychological violence or the misuse of weapons and the threat of using weapons as a *modus operandi* of sexual, social, economic and other forms of violence). There are no official records that would indicate the extent to which weapons are misused for psychological, sexual, social, and other forms of GBV, as well as in committing other crimes that are or may be gender-based and not qualified by the authorities as DV (murder, aggravated murder, grievous bodily harm, endangering safety, crimes against sexual freedom, etc.).

<sup>29</sup> Sustainable development goals, United Nations Team in Serbia. Available at: <https://www.stat.gov.rs/media/3707/un-sdg-brochure-srb-cir-2018-2-web.pdf>.

<sup>30</sup> Council Conclusions on the Adoption of an EU Strategy Against Illicit Firearms, Small Arms & Light Weapons & Their Ammunition – Council Conclusions (19 November 2018). Available at: <https://data.consilium.europa.eu/doc/document/ST-13581-2018-INIT/en/pdf>.

<sup>31</sup> *Ibid.*

<sup>32</sup> Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, *op. cit.*

Certain research data clearly show the gender aspect and differences regarding firearms, not only in terms of the number of women who own and carry weapons and disparities in the number of women who own firearms and women who are victims of firearms-enabled violence, but also in attitudes towards firearms and their representation in “typically male” professions. This way, men make up 98.3% and women only 1.7% of employees in private security companies who are authorized to carry firearms when acting in the course of their duties; 37.6% of men and 19% of women surveyed in 2017 owned a weapon; 60.2% of women and 45.2% of men think that weapons in their own home make them less safe.<sup>33</sup>

The Strategy on Small Arms and Light Weapons Control in the Republic of Serbia for the period 2019–2024 includes the gender perspective to some extent; however, the Action Plan for Chapter 24 – Justice, freedom, security, does not involve gender-sensitive goals or gender-related activities even though there are aims and activities related to firearms control.<sup>34</sup> Considering the fact that it is a document adopted in the EU accession process and covers the harmonization of the national regulatory and strategic framework with the EU acquis, it will need to be revised and updated additionally especially due to the EU documents approved after adopting the Action Plan for Chapter 24 – Justice, Freedom, Security. Among other things, the Strategy aims at respecting human rights and gender perspective as a total effort to reduce and control small arms and light weapons, ammunition, and explosives for civilian use. It recognizes the correlation between firearms and GBV and the “clear gender perspective” of possession, use, misuse, and effects of small arms and light weapons, which is why special attention will be paid to implementing preventive measures for preventing violence against women, DV and other forms of GBV. One activity will be taking measures related to preventive work, informing and awareness raising of citizens about the correlation between GBV and the possession of small arms and light weapons.<sup>35</sup>

The National Action Plan for the implementation of Resolution 1325 for the period from 2017–2020 is effective, and among its activities is the introduction of a gender perspective in all public policies in the field of defense and security, but also the improvement of the work of all relevant actors so that all acts of violence against women can be fully investigated, punished, and prevented and women employed or engaged in the security system can be protected against all forms of violence and discrimination. The National Action Plan also points out researching women’s security, improvement of the regulatory framework and public policies on improving women’s security, as well as activities aimed at strengthening women’s participation in all processes related to peace and security. The following activity is also planned by the National Action Plan which is of significance: *Taking all necessary measures for confiscating weapons or restricting access to firearms to perpetrators of violence (activity 4).*<sup>36</sup>

<sup>33</sup> Božanić, D., *Gender and Small Arms in Serbia: Fast Facts*, *op. cit.*

<sup>34</sup> Strategy on Small Arms and Light Weapons Control in the Republic of Serbia for the Period 2019–2024, *op. cit.*

<sup>35</sup> *Ibid.*

<sup>36</sup> National Action Plan for the implementation of the United Nations Security Council Resolution 1325 – Women, Peace and Security in the Republic of Serbia (2017–2020). Available at: <https://www.osce.org/sr/mission-to-serbia/341161>.

# CORRELATION BETWEEN FIREARMS AND GENDER- -BASED VIOLENCE AND DOMESTIC VIOLENCE

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The correlation between violence and the misuse of firearms is unequivocal, ranging from individual violent incidents, through mass killings to crimes against humanity. Between 40% and 50% of murders in the world are committed with weapons.<sup>37</sup>

The number of suicides committed with firearms is also high – the most common victims are men (96%)<sup>38</sup> and the most commonly used weapons are guns (60%) and rifles (14%).<sup>39</sup>

Global data also point to the gender aspect of violence committed with firearms. Men are most often both perpetrators (95%) and victims (79%). However, the number of women who are victims (21%) is disproportionately higher than the number of women who are perpetrators (5%).<sup>40</sup> A fatal outcome is a more common outcome when the victim is a woman (44%) and an injury when a victim is a man (54% of men were injured and 34% of them died).<sup>41</sup> According to the data on suicides, there are also cases of so-called prolonged murder, that is, femicide followed by the suicide of the perpetrator. Those are acts that are in most cases committed with firearms.<sup>42</sup> The share of prolonged homicides in GBV is not negligible, and in the world, it ranges between 19% and 40% of the total number of femicides. The most common weapon used is a pistol.<sup>43</sup>

Several studies indicate significant data on the presence of weapons as a risk of death in domestic violence. In the United States of America, which is among the most liberal states in possessing, holding, and carrying weapons, 84% of all murdered women are killed with firearms. In that country, the risk of killing women in the family increases by almost 300% if there are weapons in the house. There are also numerous studies showing that the risk of a woman being killed in the context of domestic violence increases by five to twelve times if the perpetrator possesses a weapon, or if the weapon is in the house. Several additional factors contribute to such high rates of a fatal outcome in GBV when the perpetrator possesses a weapon: severity of injuries, reduced ability of a woman to resist, reduced opportunity for a woman to escape or have strangers intervene and help, and increased chances that the perpetrator will actually misuse weapons in DV cases.<sup>44</sup>

According to the analysis of data from 104 countries in the period 2009-2013, it was reported that around 44 000 murders in the world took place in the context of domestic violence each year and that around 66 000 women were killed, of which about 40% were killed with firearms. It was estimated that of the total number of women killed in 2012 globally, 47% of them were killed by a family member or partner. The number of men killed in domestic violence makes up 6% of the total number of men killed in the world.<sup>45</sup>

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<sup>37</sup> Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, *op. cit.*

<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*

<sup>43</sup> Spasić, D., Tadić, M., *Zloupotreba oružja i rodno zasnovano nasilje*, *op. cit.*

<sup>44</sup> Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, *op. cit.*

<sup>45</sup> *Ibid.*

Various studies lead to the conclusion that owning a weapon and keeping a weapon at home are high-risk factors for murder in GBV. The chance of a woman being killed in domestic violence increases by five times if the perpetrator owns a weapon.<sup>46</sup>

The correlation between firearms and DV can also be seen through the examples of countries that have introduced stricter arms control. In Canada, since the adoption of strict laws governing the purchase, possession, and carrying of weapons, the homicide rate has decreased by 15 %, and the rate of female homicide by as much as 45%. Similarly, in Australia, the number of homicides has decreased by 45% and the number of female homicides by 57%.<sup>47</sup> Some of the measures introduced by these countries will be explained later.

According to the data obtained from SEESAC, 304 media reports on incidents committed with firearms were recorded in Serbia in 2019.<sup>48</sup> Of these, 18 incidents were related to DV. There were 309 perpetrators in these incidents, of which 300 (97%) were men and 9 (3%) were women. There were 210 victims, of which 167 (80%) were men and 43 (20%) were women. In 12% of cases, the incidents resulted in the murder of the victim (35 cases), in 10%, it was suicide (30 cases), and in almost 27% of cases (80 cases), the incidents resulted in gun injuries. In 52 cases, weapons were used as a threat (17%).<sup>49</sup>

Data from the SEESAC survey are alarming: women make up 64.2% of all persons killed by a family member, compared to 35.8% of men. Of the total number of homicides committed by family members, 42.2% were committed by intimate partners. Women made up the vast majority of people killed by intimate partners – 88.1% compared to 11.9% of men. The percentage of 31.2% of people killed by a family member were killed with firearms. Women made up 63.2% of people killed by a family member with a firearm, compared to 36.8% of men. Women made up 91.1% of people killed by a partner with a firearm, compared to 8.9% of men. 39.4% of women killed by an intimate partner were killed by firearms, and 51.9% of DV cases involving firearms resulted in death. The probability of death due to misuse of firearms is the highest in DV cases and is more than three times more common than incidents in a criminal context.<sup>50</sup>

According to the research on the correlation between the possession of weapons and female homicide in the period from 2007 to 2012, Serbia was in 17th place out of 48 observed countries in terms of the rate of these homicides.<sup>51</sup>

<sup>46</sup> Spasić, D., Tadić, M., *Zloupotreba oružja i rodno zasnovano nasilje*, op. cit.

<sup>47</sup> Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, op. cit.

<sup>48</sup> SEESAC was launched in 2002 as and functions as an executive arm of the Regional Implementation Plan on Combating Proliferation of Small Arms and Light Weapons (SALW) with a mandate given by the UNDP and *Regional Cooperation Council* – RCC. The mission of this body is strengthening the capacities of national and regional stakeholders to control and reduce proliferation and misuse of small arms and light weapons, and thus contributing to enhanced stability, security and development in South Eastern and Eastern Europe. Taken from: <http://www.seesac.org/>.

<sup>49</sup> SEESAC platform for tracking firearms-related incidents in South East Europe which is mostly based on media reports. Available at: [http://www.seesac.org/AVMP/?glance\\_year=2019&glance\\_month=0&glance\\_region=1308#glance](http://www.seesac.org/AVMP/?glance_year=2019&glance_month=0&glance_region=1308#glance).

<sup>50</sup> Božanić, D., *Gender and Small Arms in Serbia: Fast Facts*, op. cit.

<sup>51</sup> Lacmanović, V., „Femicid u Srbiji: potraga za podacima, odgovorom institucija i medijska slika“, *Annals for Istrian and Mediterranean Studies*, 2019. Available at: [https://www.zeneprotivnasilja.net/images/pdf/ASHS\\_29-2019-1\\_LACMANOVIC.pdf](https://www.zeneprotivnasilja.net/images/pdf/ASHS_29-2019-1_LACMANOVIC.pdf).

In the period from 2012–2016, 84 homicides were committed with firearms in Serbia, whereat 18 (21%) of victims were women. In the same period, 35 women and 186 men were injured by firearms.<sup>52</sup>

There are no official data on the misuse of firearms in GBV in Serbia. The ‘Women against Violence’ Network compiled a record based on media reports. The data show a significant share of weapon misuse in femicides:

Year	Number of femicides	Percentage of femicides committed with a weapon
2019.	27	22%
2018.	30	20%
2017.	26	38%
2016.	33	27%
2015.	35	46%
2014.	27	29%
2013.	43	30%
2012.	32	34%

*Data from quantitative-narrative reports obtained from the “Women against Violence” Network<sup>53</sup>*

Data obtained from the Network from 2018<sup>54</sup> and 2019<sup>55</sup> show that the number of weapons in legal and illegal possession was approximately the same. About 43% of perpetrators of femicide killed themselves and 11% of them tried to do so.<sup>56</sup>

Data published by the SEESAC, covering the period from 2012–2016, show similar trends. Women were predominantly victims of domestic violence and about a third of them were killed with firearms.

Year	Number of people killed in domestic violence	Number of female victims	Number of male victims
2012–2016.	279	179	100

*SEESAC data<sup>57</sup>*

<sup>52</sup> Strategy on small arms and light weapons control in the Republic of Serbia for the period 2019–2024, *op. cit.*

<sup>53</sup> Data from quantitative-narrative reports of the ‘Women against Violence’ Network. Available at: [www.zeneprotivnasilja.net](http://www.zeneprotivnasilja.net).

<sup>54</sup> *Femicide – female homicides in Serbia, Quantitative-narrative report January 1 – December 31, 2018*. Available at: [https://www.zeneprotivnasilja.net/images/pdf/FEMICID\\_Kvantitativno-narativni\\_izvestaj\\_za\\_2018\\_godinu.pdf](https://www.zeneprotivnasilja.net/images/pdf/FEMICID_Kvantitativno-narativni_izvestaj_za_2018_godinu.pdf).

<sup>55</sup> *Femicide – female homicides in Serbia, Quantitative-narrative report January 1 – December 31, 2019*. Available at: [https://womenngo.org.rs/images/femicid/FEMICID\\_Kvantitativno-narativni\\_izvestaj\\_2019.godina.pdf](https://womenngo.org.rs/images/femicid/FEMICID_Kvantitativno-narativni_izvestaj_2019.godina.pdf).

<sup>56</sup> Spasić, D., Tadić, M., *Zloupotreba oružja i rodno zasnovano nasilje, op. cit.*

<sup>57</sup> *Gender and Small Arms in Serbia – Fast Facts*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), 2019. Available at: [https://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms\\_SERBIA\\_ENG\\_WEB.pdf](https://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms_SERBIA_ENG_WEB.pdf).

Year	Number of femicides	Number of femicides committed with firearms	Percentage of femicides committed with firearms
2012–2016.	179	55	30.7%

SEESAC data<sup>58</sup>

Unlike femicides about which there are some data, there are no data on the misuse of weapons in domestic violence that has not resulted in death or injury. Research conducted around the world leads to the conclusion that the misuse of weapons for psychological violence or use of weapons as a threat is not negligible. It is used in psychological violence, emotional violence, as well as in sexual violence.<sup>59</sup> According to a survey conducted in Vojvodina, in more than a third of cases, firearms were misused as a threat,<sup>60</sup> while according to another survey, about two-thirds of women stated that their partners used weapons as a threat of injury or murder.<sup>61</sup>

The correlation between DV and GBV, as well as the participation of perpetrators of violence in armed conflicts and survived experiences, is not satisfactorily incorporated in the current strategic documents. Research conducted by the Organization for Security and Cooperation in Europe (OSCE) points to the importance of this aspect and the necessity to respond systematically to the needs of women – victims of partners – soldiers, as well as to the needs of participants in the wars in the former Yugoslavia for support in bearing the consequences of survived experiences. According to this study, war veterans in former Yugoslavia continue to suffer from post-traumatic stress disorder (PTSD), which potentially exacerbates the existing tendencies toward violence against women. PTSD symptoms can be further exacerbated by economic and personal insecurity, poverty, unemployment, crime, violence, and general intolerance. Although data should be interpreted cautiously, the research shows that women whose partners had fought in an armed conflict were two to four times more likely to be threatened with physical violence (9%) than those whose partners had not participated in armed conflicts (3%); that women were more likely to experience being pushed away (11% compared to 5%), being slapped (12% compared to 6%), or being grabbed by their partners (9% compared to 3%) and being forced to engage in sexual intercourse against their will (4% compared to 1%). Similarly, if former partners who committed the violence participated in armed conflict, they were more likely to commit most forms of physical or sexual violence.<sup>62</sup>

<sup>58</sup> *Ibid.*

<sup>59</sup> Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, *op. cit.*

<sup>60</sup> *Ibid.*

<sup>61</sup> Lacmanović, V., „Femicid u Srbiji: potraga za podacima, odgovorom institucija i medijska slika”, *op. cit.*

<sup>62</sup> *Well-being and Safety of Women – Serbia Results Report*, OSCE, 2019. Available at: [https://www.osce.org/files/f/documents/e/4/419750\\_1.pdf](https://www.osce.org/files/f/documents/e/4/419750_1.pdf)

# WEAPONS OWNED BY CIVILIANS

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## Acquisition, possession and carrying of weapons with authorization from competent authorities

International agreements on arms control are mainly focused on regulating the arms trade, the flow of weapons between states, reduction in the number of weapons, and illegal arms trafficking. However, by recognizing the risks of non-selective approval of arms possession and carrying among the civilians and the relationship between violence and deaths with weapons, these agreements also prescribe norms related to the possession of weapons by civilians and the number of small arms and light weapons in the country and among civilians.

The Arms Trade Treaty, ratified by the Republic of Serbia in 2014, establishes the general rules on arms acquisition and trade, with the aim of “establishing the highest possible common international standards for regulating or improving the regulation of international trade in conventional arms and preventing and eradicating the illicit trade in conventional arms and preventing their diversion”.<sup>63</sup> The treaty established only a framework within which states were given a significant disposition to regulate all issues related to the trade, acquisition, possession, storage, marking, and destruction of arms, as well as the manner in which they would restrict the illegal trade in arms. This approach is the result of the principles on which the Treaty is based, including “the legal right of all states to individual and collective self-defense, non-interference in matters that are within the internal jurisdiction of any state, and respect for the legitimate interest of states to acquire conventional arms to gain the right to self-defense and peacekeeping operations; as well as to produce, export, import and transfer conventional arms. According to the provisions of this Treaty, each state shall implement it “in a consistent, objective and non-discriminatory manner in accordance with the principles outlined in this Treaty” and “shall establish and maintain its national control system, including a national control list, to implement the provisions of this Treaty.”<sup>64</sup>

Similarly, the EU Law has established frameworks (minimum standards) on all issues related to arms and they are binding on the EU Member States. In the process of joining the EU, Serbia is obliged to harmonize its legal system with the EU acquis, including the legally binding EU documents governing arms control.

According to the Directive 91/477/EEZ dated 1991<sup>65</sup> as amended by Directives 2008/51/EZ<sup>66</sup> and 2017/853/EZ<sup>67</sup>, all states may allow the acquisition and possession of firearms classified in category B only by persons who are 18 years old and over (except for hunting and target shooting) and “who have the good ground” and “who are unlikely to be

<sup>63</sup> Article 1. The Arms Trade Treaty.

<sup>64</sup> *Ibid.*, Art 5.

<sup>65</sup> The Council Directive on the control of the acquisition and possession of weapons (91/477/EEZ) dated 1991. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31991L0477>.

<sup>66</sup> The Directive of the European Parliament and of the Council amending Council Directive 91/477/EEZ on control of the acquisition and possession of weapons (2008/51/EZ). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32008L0051>.

<sup>67</sup> The Directive of the European Parliament and of the Council 2017/853 amending the Council Directive 91/477/EEZ on control of the acquisition and possession of weapons. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32017L0853>.

dangerous to themselves and others, to public order or public safety. The fact that they were convicted of a violent crime committed with intent is considered an indicator of such danger". Minors may keep but not purchase a firearm provided they have parental consent or are under parental supervision or the supervision of an adult with a valid firearms license or hunting license, who assumes responsibility for the proper use and storage of firearms, or are part of the licensed or otherwise authorized training center.<sup>68</sup>

The directive emphasized the importance of monitoring the fulfillment of all conditions for issuing permits for the acquisition and possession of firearms, but it is the Member States which must decide whether the assessment of the fulfillment of conditions for the acquisition and possession of weapons will include a medical examination and psychological testing.<sup>69</sup> In addition, the Directive calls on the Member States to set up a monitoring system, which may be permanent or temporary, to ensure that the requirements for authorizing the acquisition and possession of firearms laid down by national law are met during the entire period of license validation. In this regard, states shall be liable to assess relevant health and psychological information. The national law governs the specific verification mechanisms. If any of the requirements for the acquisition and possession of firearms during that period are not met, states are required to revoke the permits issued.<sup>70</sup>

According to the Directive, the Member States shall be liable to set out rules on the control of firearms and ammunition and rules on safe storage of firearms and ammunition with the aim of preventing unauthorized access to firearms. Firearms and ammunition must not be easily accessible, and appropriate supervision implies that the person legally possessing firearms or ammunition has control over them during their transport and use.<sup>71</sup> Additional stricter conditions for the possession and acquisition of firearms are specified in the new Article 7 of the Directive, which stipulates that firearms licenses must be periodically reviewed at time intervals not exceeding five years. The license may be renewed or extended if all the conditions on the basis of which it was issued are still met.<sup>72</sup>

The Action Plan for Chapter 24 - Justice, Freedom, Security, pointed out that the new Law on Weapons and Ammunition (LWA), adopted in 2015, is more restrictive in terms of acquisition and possession of weapons, and that it is in line with the EU directives.<sup>73</sup> However, as a key goal of passing this Law, the Action Plan states that "a more efficient system of control over the acquisition, storage, transfer and trade of firearms must be created because the number of illegally possessed firearms, as well as their misuse, can be reduced and general security of citizens can be improved".<sup>74</sup> The action plan does not include the gender aspect, nor does it sufficiently focus on the issue of conditions for holding and carrying firearms, that is, the correlation between the GBV and weapons in

<sup>68</sup> *Ibid.*, Art. 1. Item. 6.

<sup>69</sup> *Ibid.*, Previous provisions, Paragraph 11.

<sup>70</sup> *Ibid.*, Art. 1. Item 6.

<sup>71</sup> *Ibid.*

<sup>72</sup> *Ibid.*, pg. 7.

<sup>73</sup> Action plan for Chapter 24 - Justice, Freedom, Security, *op. cit.*

<sup>74</sup> *Ibid.*

the possession of citizens. Although it aims at reducing the misuse of weapons in legal possession, the focus of the Action Plan is primarily on firearms in illegal possession and illegal arms trafficking.

The Roadmap for a sustainable solution to the illegal possession, misuse, and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024 is a very important document for improving arms control in Serbia. By building on the UN Programme of Action on small arms and practical disarmament measures (PoA) and Protocols against the illicit manufacturing of and trafficking in firearms, their parts and components, and ammunition (Firearms Protocol), the Roadmap also sets the two following goals: “By 2023, ensure that arms control legislation is in place and fully harmonized with the EU regulatory framework and other related international obligations and standardized across the region”, and “By 2024, significantly reduce the supply, demand, and misuse of firearms through increased awareness, education of dangers of firearms, outreach, and advocacy of arms control and better informing system”, as well as a specific target: “Fully integrate the gender and age concern into small arms and light weapons/firearms control policies and ensure meaningful participation of women in small arms and light weapons/firearms control”. Among 14 key performance indicators of the implemented activities are: the “number of legal frameworks on arms control in the Western Balkans that are fully harmonized with the EU legislation, the Arms Trade Treaty and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition” (Firearms protocol); “the number of adopted strategic documents on arms control, based on statistical data, which address the specific needs of men, women, boys and girls in each jurisdiction in the Western Balkans”; “the number of incidents involving the use of firearms and victims of misuse of firearms in each jurisdiction of the Western Balkans based on sex and age”; and “citizens’ level of satisfaction (perception) of security or sense of security about firearms misuse in the Western Balkans (based on gender and age)”. The last three indicators undoubtedly include a gender aspect.

The Strategy on Small Arms and Light Weapons Control in the Republic of Serbia relies significantly on the Roadmap, recognizing the need for further harmonization of legislation with international standards. It contains a gender aspect recognizing that the “possession, use, misuse and effects of small arms and light weapons is related to the gender perspective. Special attention is paid to the implementation of measures for preventing violence against women, DV, and other forms of GBV. One of the activities will be taking measures related to preventive work, informing and raising of awareness of citizens about the correlation between GBV and the possession of small arms and light weapons. The planned activities involve harmonization of the existing legal framework with international and European legal regulations in the field of acquisition, possession, and carrying of firearms (it is mentioned in the Directive 853/2017 dated 2017), adoption of bylaws regulating the acquisition, possession and carrying of weapons and strengthening capacities through training of professionals working in the field of the control of small arms and light weapons, explosives and ammunition, measures to strengthen citizens’ awareness on the impact and risks of illegal possession of weapons and implementation of long-term, regular control of small arms and light weapons. The effects

of the Strategy will be assessed on the basis of fourteen key performance indicators identified in the Roadmap, including the gender-sensitive indicators of that document.<sup>75</sup>

The main law governing the acquisition, possession, and carrying of weapons is the Law on Weapons and Ammunition<sup>76</sup>, but the general provisions regarding the conditions and procedures followed when applying for license issuance are also found in other laws, primarily the Law on Police<sup>77</sup> and the Law on Game and Hunting.<sup>78</sup> Weapons are classified into four categories: “A”, “B”, “C” and “D”<sup>79</sup>. Category B weapons can be purchased, held, and carried – based on an authorization from the competent authority.<sup>80</sup> The permit for the acquisition and possession of category B weapons can be obtained by persons who meet the legally prescribed conditions that are checked following the set procedure. The law imposes many requirements, including the condition “to have a justifiable reason to possess firearms”.<sup>81</sup> When it comes to firearms that are not used for hunting or sports, the justifiable reason is that the applicants “make it probable that their personal safety could be endangered due to the nature of their work or other circumstances”;<sup>82</sup> that they are medically capable of possessing and carrying weapons;<sup>83</sup> that they have not been convicted to imprisonment for criminal offenses against life and body, against freedom and rights of man and the citizen, against sexual freedom, against marriage and family, property, human health, general security of people and property, against the constitutional order and security of the Republic of Serbia, against state bodies, public order and peace, against humanity and other goods protected by international law, or that they have not been subject to criminal proceedings for the aforementioned offenses;<sup>84</sup> that they have not been convicted in the last four years for offenses against public order and peace and for offenses prescribed by the Law on Weapons and Ammunition<sup>85</sup>; that they do not pose a threat to themselves or others and public order and peace based on security and operational checks.<sup>86</sup>

When it comes to sporting and hunting weapons,<sup>87</sup> a person proves the justifiable reason by active membership in a sport or target shooting organization, that is, by proving that all the conditions for obtaining a hunting card<sup>88</sup> are met and he/she must also meet the previously mentioned conditions just like other citizens.

<sup>75</sup> Strategy on Small Arms and Light Weapons control in the Republic of Serbia for the period 2019–2024, *op. cit.*

<sup>76</sup> Law on Weapons and Ammunition, *Official Gazette RS*, No. br. 20/2015, 10/2019 and 20/2020.

<sup>77</sup> Law on Police, *Official Gazette RS*, no. 6/2016, 24/2018 and 87/2018.

<sup>78</sup> Law on Game and Hunting, *Official Gazette RS*, no. 18/2010 and 95/2018.

<sup>79</sup> Art. 4. of the Law on Weapons and Ammunition

<sup>80</sup> *Ibid.*, Art. 5.

<sup>81</sup> *Ibid.*, Art. 11.

<sup>82</sup> *Ibid.*

<sup>83</sup> *Ibid.*, Art. 11. and 12.

<sup>84</sup> *Ibid.*, Art. 11.

<sup>85</sup> *Ibid.*

<sup>86</sup> *Ibid.*

<sup>87</sup> *Ibid.*

<sup>88</sup> According to the provisions of the Law on Game and Hunting, a hunter must meet all the conditions from the Weapons and Ammunition Law. The Law on Game and Hunting defines a hunter as a person who has obtained a hunting card for the current year, meets all the conditions from the regulations governing the weapons and ammunition and is capable of hunting game (Art. 4). In order to obtain a hunting card, a person must pass a hunting exam or appropriate education (Art. 60) and must submit evidence of fulfillment of the conditions for obtaining a hunting license (Art 61). A person cannot take a hunting exam if he does not have an act confirming that he has been trained to handle hunting weapons, which is issued in accordance with the regulations on weapons and ammunition (Art. 64).

The permit for the acquisition and possession of firearms is not limited. However, the permit holder must submit a new medical certificate certifying that he/she is medically fit to possess and carry firearms to the competent authority every five years, that is, after the expiration of the validity of the old medical certificate and it must not be older than one month.<sup>89</sup>

A collector's permit to acquire firearms may be issued to a person who fulfills all previously listed conditions, and owns at least five registered, category B firearms, and has a safe place for storage of firearms from spatial-technical aspects. The collector's permit is not limited, and several pieces of category B weapons can be acquired based on that permit. The collector's permit will be revoked if its holder stops fulfilling the set conditions.<sup>90</sup>

According to the Law on Weapons and Ammunition, deactivated firearms (firearms whose all basic parts have been permanently modified so that a full metal jacket bullet cannot be fired from) are defined as special category weapons, and no special permit is issued for these weapons (and in this case, the conditions for acquiring, possession and carrying of firearms are not checked), and they can be acquired and kept after being reported to the competent authority.<sup>91</sup> This is a significant provision of the Law on Weapons and Ammunition, bearing in mind the "gun culture" and frequent emotional attachment to weapons (they are inherited, gift, and even a reminder of participation in war conflicts) which can be one of the most important reasons for citizens to own and carry firearms.

Firearms are not allowed to be carried in public places except in cases prescribed by the Law on Weapons and Ammunition.<sup>92</sup> One of those cases is the issuance of a permit to carry firearms. A permit to carry firearms may be issued to a person who owns a registered weapon for personal security (that is, he/she has a permit to acquire and keep a weapon), if he/she meets all the conditions for obtaining a permit to acquire and keep a weapon, with the additional condition of proving that his/her security is significantly compromised or could be compromised to such an extent that it is necessary for his/her safety to carry a weapon. This permit is issued for a limited period (up to five years).<sup>93</sup>

Unlike the provisions relating to the possession of firearms, which have no rule on the manner of handling firearms for which a permit for possession has been obtained for personal safety, the LWA contains a special rule related to persons who obtain a permit to carry firearms – in a public place, the holder of a license for carrying a weapon for personal security must not make the weapon visible to other persons, that is, he/she must not carry the weapon in a way that causes disturbance to other persons.<sup>94</sup>

The owner of the weapon shall be liable to handle it carefully and keep it conscientiously in a way that it does not come into the possession of unauthorized persons and does not endanger the safety of people and facilities.<sup>95</sup>

<sup>89</sup> Law on Weapons and Ammunition, Art. 12.

<sup>90</sup> *Ibid.*, Art. 18.

<sup>91</sup> *Ibid.*, Art. 3. and 4.

<sup>92</sup> *Ibid.*, Art. 26.

<sup>93</sup> *Ibid.*, Art. 25.

<sup>94</sup> *Ibid.*

<sup>95</sup> *Ibid.*, Art. 32.

The competent authority, *ex officio*, makes sure the person possessing a weapon from category 'B' meets the prescribed conditions. If any of the stated conditions of this law cease to exist, the competent authority shall make a decision on confiscating the weapons carry license, weapons, and ammunition.<sup>96</sup> The body that issues the weapons carry license to an individual shall be liable to immediately inform the doctor of that person about that fact, in line with the law governing health care, that is, his selected practitioner. The selected practitioner who learns that the health condition of the person who possesses and carries a weapon has changed and affects the health ability to hold and carry a weapon, must immediately inform the nearest organizational unit of the Ministry of Interior.<sup>97</sup> During the supervision, Mol officials are authorized to inspect general acts and business books, records, premises where weapons are stored, as well as the weapons themselves, request information, propose measures intended to enforce regulations, conduct administrative proceedings, file misdemeanor offenses and criminal charges and take all actions arising from these procedures, in accordance with the law.<sup>98</sup> Based on the information received from the Ministry of Interior, the authorized persons of the Ministry of Interior have performed 289 inspections of the premises where weapons are stored in the previous three years in accordance with the provision of Article 9 of the LWA.

The Law on Weapons and Ammunition also stipulates misdemeanor, among other things, when: an individual fails to submit a medical certificate of fitness to possess and carry a weapon after five years or after the expiration of a medical certificate to possess and carry a weapon; the selected practitioner does not immediately inform the nearest organizational unit of the Ministry of Interior about the changes in the health condition of the individual who owns and carries a weapon;<sup>99</sup> the holder of a license for carrying a weapon for personal safety makes the weapon visible to other persons in a public place, that is, he/she carries the weapon in a manner that causes disturbance to other persons; an individual does not handle weapons carefully and does not safeguard them conscientiously in a way that they do not come into the possession of unauthorized persons and endanger the safety of people and objects.<sup>100</sup>

Although the LWA prescribes a misdemeanor offence, among other things, even when the selected medical practitioner does not immediately inform the nearest organizational unit of the Ministry about the change in the health condition of the individuals who own and carry weapons which affect their fitness to hold and carry weapons, the practice in our country shows that we have no misdemeanor charges on this basis. The same is confirmed by the information obtained from the Ministry of Interior.<sup>101</sup>

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<sup>96</sup> *Ibid.*, Art. 28.

<sup>97</sup> *Ibid.*, Art. 12.

<sup>98</sup> *Ibid.*, Art. 9.

<sup>99</sup> *Ibid.*, Art. 47.

<sup>100</sup> *Ibid.*, Art. 48.

<sup>101</sup> *Ibid.*, Art. 47.

The following table shows data obtained from the Ministry of Interior on the number of misdemeanor offenses charged by the police for violation of Article 48 of the LWA:

Year	Number of misdemeanor offenses charged for violation of Article 48. Paragraph 1. Item 7. of the LWA	Number of misdemeanor offenses charged for violation of Article 48. Paragraph 1. Item 3. of LWA
<b>2018.</b>	621	2
<b>2019.</b>	733	0
<b>2020.</b>	736	0

Two conditions from the Law on Weapons and Ammunition are additionally regulated by bylaws: physical fitness and the manner of keeping the firearms.

The Rulebook on determining the physical fitness of an individual for possessing and carrying firearms<sup>102</sup> stipulates that persons are considered to be physically fit to keep and carry weapons if it is determined by medical examinations that they are physically and mentally healthy, that is, that there are no contraindications (diseases and health conditions) that make them medically incapable of holding and carrying weapons.<sup>103</sup> The authorized health institution shall be liable to inform the examined person and the nearest organizational unit of the Ministry of Interior about the assessment of medical fitness, if the person is assessed as “incapable” and/or if the Ministry of Interior has requested additional medical examination for the firearms owner. If an individual is ruled unfit to hold and carry a weapon, a new medical evaluation cannot be performed before the expiration of six months.<sup>104</sup> The report on the change in the health condition of an individual who holds a license to possess and carry a weapon shall be submitted by the selected practitioner to the nearest organizational unit of the Ministry of the Interior – immediately upon discovering the change in the health condition of that individual.<sup>105</sup>

The medical certificate of fitness to hold and carry weapons includes: an insight into the report of the selected practitioner on the health of the person holding and carrying a weapon not older than 30 days; taking anamnestic data; clinical examination of an individual performed by a team of health workers and associates<sup>106</sup> which involves a medical examination by a psychiatrist or specialist in neuropsychiatry who examines the mental status, speech, and writing skills, conducts a psychological interview and assesses personality traits.<sup>107</sup>

<sup>102</sup> Rulebook on determining physical fitness of an individual for possessing and carrying firearms, *Official Gazette RS*, No. 25/2016 and 79/2016.

<sup>103</sup> *Ibid.*, Art. 6.

<sup>104</sup> *Ibid.*, Art. 8.

<sup>105</sup> *Ibid.*, Art. 9.

<sup>106</sup> *Ibid.*, Art. 3.

<sup>107</sup> *Ibid.*, Art. 4.

The following diseases and health conditions are also considered contraindications for holding and carrying weapons: psychiatric and neurological diseases and conditions; all dementia disorders; tendency to have panic attacks and phobia, which affects the safe handling of weapons; acute or chronic psychosis; posttraumatic stress disorder; alcoholism; addiction to psychoactive substances; diseases and sleep disorders (narcolepsy and catalepsy) if they are resistant to treatment; affective disorders (mood disorders), which affect the safe handling of weapons; sudden outbursts in cognitive functioning (memory, attention, concentration).<sup>108</sup>

The Regulation on Premises and Technical Arrangement for Secure Storage and Keeping of Firearms and Ammunition<sup>109</sup> stipulates the norm according to which the persons who purchase the weapons and those who have applied for issuance of a collector's permit shall be liable to provide conditions for safe storage and keeping of weapons and ammunition so that they are inaccessible to unauthorized persons, that is, they are locked and isolated in metal cabinets, safe boxes or similar cabinets that may not be easily opened; the weapons and ammunition must be kept in residential or other facilities located in the place of residence.<sup>110</sup> This Regulation does not include a more detailed definition of the manner in which firearms are kept in residential buildings.

The Law on Weapons and Ammunition stipulates that all persons who have been issued weapons carry licenses and permits to carry weapons for personal security according to previously valid regulations must submit a request for issuing the document by March 5, 2022, together with a certificate of medical fitness to hold and carry a weapon in accordance with this law. Persons who obtained a license for holding trophy weapons are obliged to re-register, sell, deactivate or hand over weapons without reimbursement from the Republic of Serbia within one year from the date of enforcement of this law (the law was enacted on March 5, 2016). Persons who had a weapons carry license with the right to use hunting weapons with unlabeled barrels shall be liable to submit the said document to the competent authority within six months from the day of enforcement of this Law.<sup>111</sup> Replacing the documents (the so-called re-registration) for new documents was not accepted with a positive response from those who hold or carry weapons, as well as from the police officers themselves. A police union warned of the risk of an increased number of weapons in illegal possession by the population and strengthening of the illegal trade in weapons, primarily due to the finance charges that the so-called re-registration imposes on citizens and more stringent conditions for holding weapons.<sup>112</sup>

**Although there is an evident improvement in regulating the acquisition, possession, and carrying of weapons, there are still significant shortcomings in the Law on Weapons and Ammunition. Imposing emergency measures in compliance with**

<sup>108</sup> *Ibid.*, Art. 6.

<sup>109</sup> Regulation on Premises and Technical Arrangement for Secure Storage and Keeping of Firearms and Ammunition, *Official Gazette RS*, No. 9/2016, 106/2016 and 50/2018.

<sup>110</sup> *Ibid.*, Art. 1.

<sup>111</sup> Law on Weapons and Ammunition, *op. cit.*, Art. 50.

<sup>112</sup> *Police union: numerous reasons for extending the deadline for re-registration of weapons*. Available at: <https://www.juznevesti.com/Drushtvo/Sindikata-policije-Brojni-razlozi-da-se-rok-za-preregistraciju-oruzja-produzi-sr.html>.

**the Law on the Prevention of Domestic Violence<sup>113</sup> and imposing measures of protection against violence under the Family Law<sup>114</sup> are not among the prescribed reasons for rejecting the request for obtaining a permit and neither is the fact of reporting the violence to the competent authority which has not been processed in appropriate criminal proceedings yet. The current legal framework regulates the practice of assessing family situations and relationships to a lesser degree (some of which have been mentioned in risk factors on the Risk List applied by the Ministry of Interior acting in compliance with the Law on the Prevention of Domestic Violence, such as divorce, child custody dispute, separation of partners and alike) through operative work and records of Center for Social Work. Some countries have introduced this form of assessment. For example, the police in Croatia, North Macedonia, and Montenegro are required to assess all circumstances that may indicate potential misuse of weapons, including the issue of dysfunctional family relationships.<sup>115</sup>**

**The condition under which an individual “has” the justified ground for holding/acquiring/carrying a weapon is not regulated in more detail, but it is the police officers who should assess whether the reasons stated by the applicant are justified or not. There are no rules on what the owner/holder of the weapon can or cannot do with that weapon in his private space, and there are no protective provisions or sanctions if the owner/holder of the weapon disturbs family or household members by his behavior.**

**The provision on the relationship between the police and selected general practitioner in providing the information is very important, but the obligations and duties of other doctors, primarily specialists who may have significant health data regarding the ability to hold and carry weapons, are not yet determined. The role and duties of other health workers who are not general practitioners have not been defined yet regarding information about their patients, who are authorized to hold or carry a weapon, misusing that weapon, or the knowledge about the change in the health condition of the patients in possession of the weapon. A special issue is private health practices and their relationship with the general practitioner. These gaps are additionally highlighted by the existence of medical secrecy and the provisions of the Law on Patients’ Rights<sup>116</sup> on the confidentiality of medical data and the provisions of the Law on Personal Data Protection.<sup>117</sup>**

The Law on Weapons and Ammunition Law does not regulate the manner of performing security vetting procedures, and they are performed in accordance with the Law on Police. A first-level security vetting, which includes processing data from the official records of the Ministry of Interior and collecting data through direct operational and fieldwork, is conducted for persons who have submitted a request for a permit to hold or carry a weapon.<sup>118</sup> The security vetting is carried out based on place of residence,

<sup>113</sup> Law on the Prevention of Domestic Violence, *Official Gazette RS*, no. 94/2016.

<sup>114</sup> Family Law, *Official Gazette RS*, no. 18/2005, 72/2011 and 6/2015.

<sup>115</sup> *Firearms Possession and Domestic Violence in the Western Balkans: A Comparative Study of Legislation and Implementation Mechanisms*, *op. cit.*

<sup>116</sup> Law on Patients’ Rights, *Official Gazette RS*, no. 45/2013 and 25/2019 – other law.

<sup>117</sup> Law on Personal Data Protection, *Official Gazette RS*, no. 87/2018.

<sup>118</sup> Law on Police, *op. cit.*, Art. 141.

stay, employment, education, and other places where the person being checked moves, by direct conversation with the person being checked, direct observation by the police officer performing the security check, direct conversations with other persons based on the assessment of the police officer performing the security vetting, by gaining insight into public data, official records, and data collections kept by the competent authorities and institutions, by checking the data on the basis of international police cooperation and, if necessary, by analyzing data through other security services in compliance with the law.<sup>119</sup>

**Although the Law on Police offers a wide range of sources of information for security vetting procedures, it is the police officer performing the security vetting who should choose what source to use. There is no obligation for police officers to get the opinion of family members on potential possession of firearms in the household, nor to question potential conflicting and dysfunctional family relationships. Considering the discretion that is given to a police officer to choose the source of information, there is no certainty that these data will be analyzed and taken into consideration.**

### *Illegal possession of weapons*

All key documents in this area, such as the already mentioned Arms Trade Treaty and EU directives, focus on the illegal possession, carrying, trade, acquisition, and storage of firearms. In 2018, the EU adopted a Strategy against Illicit Firearms, Small Arms and Light Weapons and their Ammunition, which explicitly linked illegal firearms to growing instability and armed violence.<sup>120</sup> A particularly important part of the Strategy is the one that aims at strengthening EU support for the UNDP-SEESAC efforts in reducing the number of firearms in Southeast Europe, promoting EU cooperation with regional organizations in the field of firearms control, and supporting regional initiatives such as the Roadmap for a sustainable solution to the illegal possession, misuse, and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024. The strategy is based on the fact that, despite the efforts made in Southeast Europe, the number of firearms and ammunition is still large, and a large number of people illegally own firearms, and firearms control in the Western Balkans is not efficient enough. Therefore, the priorities of this Strategy are the destruction of firearms, detection, and monitoring of illegal weapons, and development of information exchange systems. The strategy envisages further EU support for the efforts against illegal weapons in Southeast Europe and strengthening the capacity and developing awareness of law enforcement.

The Roadmap for a sustainable solution to the illegal possession, misuse, and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024 aims at significantly reducing the estimated number of firearms in illegal possession in the Western Balkans by 2024.<sup>121</sup>

<sup>119</sup> *Ibid.*, Art. 144.

<sup>120</sup> Council Conclusions on the Adoption of an EU Strategy Against Illicit Firearms, Small Arms & Light Weapons & Their Ammunition – Council Conclusions (19 November 2018), *op. cit.*

<sup>121</sup> A Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light

One of the general goals of the Strategy on Small Arms and Light Weapons Control in the Republic of Serbia is “reducing threats from illegal possession and misuse of small arms and light weapons, ammunition and explosives used by civilians” and the goal of “updating the national mechanisms for reducing the number of small arms and light weapons (SALW), ammunition and explosives used by civilians in illegal possession” is among the five specific goals. The Strategy aims at additional harmonization of the regulatory framework to achieve harmonization with international treaties and the EU acquis, making the penal policy stricter on the production, possession, and trade of illegal weapons, ammunition, and explosives, undertaking activities to raise public awareness of the impact and risks of illicit possession of weapons, conducting long-term, regular control of small arms and light weapons, intensifying the combating of illegal possession, trade in weapons, ammunition and explosives, as well as their diversion, and implementing the legalization of weapons.

Several processes of weapons legalization have been carried out in the Republic of Serbia. In the process of legalization in 2015, a total of 6 438 weapons were legalized, of which a total of 2 138 weapons were handed over, and 4 300 requests for registration were submitted. In the process of legal legalization, 979 bombs, 128 mines and explosive ordnance and 160 434 pieces of ammunition of various calibers were handed over. During the legalization process in 2016, 926 weapons were handed over, 484 requests for weapons registration were submitted (a total of 1 410 pieces), 298 bombs, 115 mines and explosive ordnance and 61 755 pieces of ammunition of various calibers were handed over. In 2017, a total of 1 104 weapons were legalized, of which 661 weapons were handed over, and 443 requests for registration were submitted. During this legalization, 124 bombs, 189 mines and explosive devices and 56 852 pieces of ammunition of various calibers were handed over.<sup>122</sup> Implementing the legalization process is considered in the professional literature as one of the most useful methods for reducing the number of illegally possessed weapons by citizens, together with adequate penal policy, control mechanisms, and especially campaigns that would encourage citizens to “get rid” of illegal weapons.<sup>123</sup>

The Criminal Code prescribes the criminal act of *illicit production, possession, carrying, and trafficking of firearms and explosives*, which is punishable by imprisonment of six months and a fine for a person who illegally manufactures, modifies, sells, purchases, exchanges or possesses firearms, convertible or deactivated weapons, its parts, ammunition, explosives or mines, and explosive devices.<sup>124</sup> A prison sentence of one to eight years or fine is imposed in case of the weapons whose production, sale, purchase, exchange, or possession is not allowed to citizens. A person carrying a weapon specified in the description of this criminal act without authorization shall face two to 12 years imprisonment. Punishment for a person carrying a weapon without authorization but has a permit to hold and possess a weapon, is imprisonment for a period of six months to five years.<sup>125</sup> In 2018, 1 104 reports for this crime were filed. Criminal charges were filed in most cases (748). In the same year, almost 800 convictions were issued.<sup>126</sup>

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weapons and their ammunition in the Western Balkans by 2024, *op. cit.*

<sup>122</sup> Strategy on the Small Arms and Light Weapons Control in the Republic of Serbia for the period of 2019–2024, *op. cit.*

<sup>123</sup> Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, *op. cit.*

<sup>124</sup> Criminal Code RS, *Official Gazette RS* no. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019.

<sup>125</sup> *Ibid.*, Art. 348.

<sup>126</sup> SORS, *Minor offenders, 2018*. Available at: <https://www.stat.gov.rs/publikacije/publication/?p=12219>.

## Service weapons

The Law on Weapons and Ammunition is a general law that stipulates the acquisition, possession, and carrying of weapons. However, many special laws stipulate who may carry and use weapons and for what reason. Some of these laws and related bylaws regulate in more detail the possession, carrying, and use of service weapons, while others prescribe only the authorization to carry weapons, referring to the Law on Weapons and Ammunition for other conditions and requirements. The Law on Police can partly be considered as a systemic law, as it regulates certain actions of the competent authority in procedures that precede decisions on the acquisition, possession, or carrying of weapons, such as security vetting.

Security vetting is performed to determine the (non)existence of security issues that are prescribed as an obstacle for gaining certain rights (employment, obtaining a permit to hold, carry and purchase weapons, enrollment in certain education institutions, etc.). Security checks are performed at three different levels. The first level of security vetting – which is applied when observing the conditions for issuing a permit to hold, carry or possess weapons – involves processing data from the official records of the Ministry of Interior and collecting data by direct operational and fieldwork.<sup>127</sup> The security vetting is performed by filling in and signing a questionnaire on the identification and numerous data about the person being checked,<sup>128</sup> as well as data about the persons with whom the person being checked lives in a shared household.<sup>129</sup> The provided data are then checked in the place of residence, stay, employment, education, and other places where the person being checked moves, in the following way: by direct conversation with the person being checked; direct observation by a police officer performing a security vetting; direct conversations with other persons based on the assessment of the police officer carrying out the security vetting; insight into public data, official records and data kept by competent authorities and institutions; data analysis based on international police cooperation; if necessary, by checking data through other security services, in compliance with the law.<sup>130</sup> Not even the Rulebook on the security vetting procedure and the content of the questionnaire provides more precise and detailed regulation of the manner of security vetting by direct conversations with other persons based on the assessment of the police officer.<sup>131</sup>

Specific laws governing the issue of carrying service weapons can be roughly divided into three groups.

### 1. Laws relying on the application of the Law on Weapons and Ammunition

The first group is formed of regulations according to which certain employees in the public sector are authorized to carry and use weapons based on the conditions that a person must meet to carry a weapon that fully comply with the Law on Weapons and Ammunition. Those are the Law on Game and Hunting and the Forest Law<sup>132</sup> which prescribe that carrying weapons is allowed to persons who manage hunting grounds and

<sup>127</sup> Law on Police, *op. cit.*, Art. 141.

<sup>128</sup> *Ibid.*, Art. 142.

<sup>129</sup> *Ibid.*, Art. 143.

<sup>130</sup> *Ibid.*, Art. 144.

<sup>131</sup> Rulebook on the security vetting procedure and the content of the questionnaire, *Official Gazette RS*, no. 97/2015.

<sup>132</sup> Forest Law, *Official Gazette RS*, no. 30/2010, 93/2012, 89/2015 and 95/2018.

gamekeepers, in compliance with the Law on Game and Hunting and regulations governing weapons and ammunition,<sup>133</sup> or that a forest guard may carry a service weapon<sup>134</sup> in accordance with the Forest Law and regulation governing the possession and carrying of weapons.

## 2. Laws relying on the Law on Weapons and Ammunition, but containing special provisions

The second group is formed of two specific regulations: Law on Detective Activity<sup>135</sup> and Law on Private Security.<sup>136</sup> They stipulate the manner of performing detective and security tasks that are given to the private sector, and the issue of carrying weapons which is part of those tasks. In this regard, these laws rely significantly on the Law on Weapons and Ammunition, but at the same time, they contain special provisions regarding the conditions that a person must meet in order to perform these tasks, that is, to be able to carry a weapon.

The Law on Detective Activity stipulates that a license is required to perform detective activity and can be obtained only under the condition that there are no security-related impediments.<sup>137</sup> Security-related impediments prevent the issuance of a license to perform detective activity, and they can be: explicitly stated final prison sentences or a final sentence for violations of public order and peace in the previous four years, criminal proceedings for certain groups of crimes, security measures, or protective measures, or if, on the basis of a security vetting in the place of residence, stay or place of work, it has been determined that the person by his behavior, habits, and inclinations poses a threat to himself or others and public order and peace.<sup>138</sup>

The Law on Private Security stipulates that a natural person needs a license to perform private security activities. The license for performing physical and technical protection tasks can be twofold: the license to perform basic tasks of security officers – without carrying weapons, and the license to perform special activities of security officers – by carrying weapons.<sup>139</sup> A license to perform private security activities may be issued to a natural person in case no security-related impediments have been identified; if the person is mentally and physically fit to perform these tasks by providing a medical certificate or a report from the competent health care institution or a certificate that he/she is medically fit to hold and carry a weapon in case he/she performs tasks that involve carrying a weapon, not older than 60 days at the time of application; if he/she has completed training in handling a firearm or if he/she has served the military service carrying a weapon, or if performing work involves carrying a weapon. Security-related impediments are: if a person has been sentenced to imprisonment or is being convicted for

<sup>133</sup> Law on Game and Hunting, *op. cit.*, Art. 54. and 56.

<sup>134</sup> Forest Law, *op. cit.*, Art. 40.

<sup>135</sup> Law on Detective Activity, *Official Gazette RS*, no. 104/2013 and 87/2018.

<sup>136</sup> Law on Private Security, *Official Gazette RS*, no. 104/2013, 42/2015 and 87/2018.

<sup>137</sup> Law on Detective Activity, *op. cit.*, Art. 4.

<sup>138</sup> *Ibid.*, Art. 3.

<sup>139</sup> Law on Private Security, *op. cit.*, Art. 11.

certain criminal offenses, if a final security measure or certain protective measures have been imposed by a final decision, if he/she has been convicted in the last four years for misdemeanors in the field of public order and peace and violations prescribed by the law governing weapons and ammunition.<sup>140</sup>

Security officers may carry weapons and ammunition only in a protected facility or area while performing those tasks directly.<sup>141</sup> A security officer carrying a weapon must have an order to carry a service weapon. When performing official duties, a security officer must not carry a personal weapon.<sup>142</sup> Exceptionally, security officers may carry weapons outside the protected facility or premises being secured, but only in four cases prescribed by the Law on Private Security and only during the period of implementation of actions and measures.<sup>143</sup> These provisions stipulate that a security officer is not authorized to carry a weapon outside these facilities and areas or to keep a service weapon in his/her residential or other private building.

However, the Law on Private Security offers the possibility for legal entities and entrepreneurs to be issued a license to organize self-protection activities under the conditions specified above and without fulfilling additional conditions, that is, to protect their property, business, facilities, space, and persons therein, and organize their own internal (guard security) services.<sup>144</sup> In this case, licensed persons can keep weapons in their place of residence, if it is the subject of self-protection activities. However, the conditions do not differ from those related to jobs that involve carrying weapons only during the performance of work, that is, they are more lenient than those conditions for holding and carrying weapons in the Law on Weapons and Ammunition.

Private security is supervised by the Ministry of Interior, which is authorized to control and enforce regulations on possessing and carrying private security weapons.<sup>145</sup> While performing supervision, the authorized police officer has the right and duty to check, among other things, the manner of keeping and carrying firearms, as well as to, if necessary, undertake other actions to ensure direct and unannounced insight into the performance of private security work.<sup>146</sup> The officer is also authorized to refer a person holding license issued to a natural person for performing private security activities to another professional for a medical examination, if there is a reasonable doubt that the person no longer meets the mental and physical conditions for performing the activities.<sup>147</sup>

When it comes to carrying weapons, the Law on Detective Activity fully relates to the Law on Weapons and Ammunition. A detective may obtain a permit to carry a personal weapon, in compliance with the law governing weapons and ammunition.<sup>148</sup> Considering that, the person who receives this authorization can keep a weapon in his place of residence under the conditions prescribed by the Law on Weapons and Ammunition. Since

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<sup>140</sup> *Ibid.*, Art. 12.

<sup>141</sup> *Ibid.*, Art. 25.

<sup>142</sup> *Ibid.*, Art. 26.

<sup>143</sup> *Ibid.*, Art. 25.

<sup>144</sup> *Ibid.*, Art. 45.

<sup>145</sup> *Ibid.*, Art. 70.

<sup>146</sup> *Ibid.*, Art. 71.

<sup>147</sup> *Ibid.*, Art. 73.

<sup>148</sup> Law on Detective Activity, *op. cit.*, Art. 15.

the Law on Detective Activity explicitly refers to the Law on Weapons and Ammunition when it comes to carrying weapons, it means that a person performing detective activity will have to meet all the conditions prescribed by the Law on Weapons and Ammunition in order to carry (and keep) a weapon.

The Law on Private Security does not refer to the Law on Weapons and Ammunition, but it does not allow weapons to be carried after working hours and after completing the official activities, which means that members of a security service are not authorized to keep service weapons in private space. The exception is the insufficiently regulated situation of self-protective activity.

**Both the Law on Detective Activity and Law on Private Security extended the list of impediments for obtaining the license for performing the activities to include the imposed safety and protective measures. However, the imposed emergency measures under the Law on the Prevention of Domestic Violence and protective measures under the Family Law do not represent an impediment for a person to obtain a license to perform activities or carry a weapon in the course of work given that the Law on Weapons and Ammunition does not recognize these reasons as an impediment for obtaining a permit to carry weapons. In addition, a conviction for the listed criminal offenses is prescribed as an impediment only if the person is sentenced to imprisonment, which “amnesties” persons who are not prosecuted due to deferring criminal prosecution prescribed by the Criminal Procedure Code, as well as those sentenced to non-custodial sentences – which means the conditions are more lenient than the conditions in the Law on Weapons and Ammunition.**

### 3. Laws governing the authorizations of officials or employees in state institutions to carry weapons

The largest group is formed of regulations relating to officials of various states and other bodies. These laws and bylaws contain special provisions governing the carrying of service weapons by officials, **without reference to the applicable Law on Weapons and Ammunition**, and rarely or hardly ever prescribing special conditions for carrying weapons. Based on these regulations, the officials are authorized to carry weapons “from the fact” that they are employed or assigned to jobs that involve carrying and using weapons. Therefore, the conditions for authorizing the persons to carry and use weapons are in fact those conditions that are prescribed for concluding the employment contract, that is, employment. Carrying of weapons by police officers, members of the Serbian Armed Forces, members of the Security Information Agency (SIA), the Military Security Agency (MSA) and Military Intelligence Agency (MIA), customs officers, members of the Security Service for the Administration for the Execution of Penitentiary Sanctions and court guards were regulated in this way. Considering that in all these cases, the authorization (right and duty) to carry a weapon arises exclusively from the fact that the person has been hired for jobs that include the right, duty, and authorization to carry weapons, the manner in which the authorization to carry a weapon is regulated, as well as the way of holding and carrying of service weapons after the working hours and out of duty and the conditions for employing these persons, are presented in more detail.

### 3.1. Authorization for carrying service weapons

The Law on Police stipulates that a police officer in the status of an authorized officer shall have the right and obligation to carry service weapons and ammunition. A police officer in the status of authorized officer on special duty is not entitled to carry service weapons and ammunition or to use means of coercion.<sup>149</sup>

The Law on the Serbian Armed Forces<sup>150</sup> stipulates that military personnel have the right to carry and use firearms in accordance with the service regulations.<sup>151</sup> Officers and non-commissioned officers who are permanently employed may acquire short firearms and ammunition through the Ministry of Defense. The Minister of Defense adopts a procedure for issuing permits for acquiring weapons and ammunition and issuing permits for holding and carrying weapons, the manner of holding, carrying, using weapons, and other issues related to these weapons, as well as weapons that an officer or non-commissioned officer receives as a gift or as a reward for results achieved in services. Permits for holding and carrying weapons are issued by the Military Police, which grants authorizations for acquiring weapons and ammunition and keeps records, inter alia, of submitted applications and issued permits for acquiring weapons and permits for possession of weapons and personal security weapons.<sup>152</sup>

The members of the Military Security Agency and MIA have the right and obligation to keep, carry and use firearms within the competencies prescribed by the Law on Military Security Agency and Military Intelligence Agency.<sup>153</sup>

The Law on the Security Information Agency does not prescribe special provisions regarding the possession, carrying, and use of service weapons.<sup>154</sup>

The Law on the Execution of Criminal Sanctions<sup>155</sup> stipulates that the security service personnel have the status of authorized officials and are authorized to carry weapons.<sup>156</sup> With approval from the Director of the Administration, a member of the security service may carry a service weapon for personal safety after working hours. The competent police administration shall be notified of the issued approval in order to keep records of the issued approvals. A security service officer who has been approved to carry service weapons for personal safety after working hours is entitled to carry them in a safe manner, as well as to take all security measures to prevent the misuse of weapons or to prevent possession of weapons by an unauthorized person.<sup>157</sup>

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<sup>149</sup> Law on Police, *op. cit.*, Art. 36.

<sup>150</sup> Law on the Serbian Armed Forces, *Official Gazette RS*, no. 116/2007, 88/2009, 101/2010, 10/2015, 88/2015, 36/2018 and 94/2019.

<sup>151</sup> *Ibid.*, Art. 47.

<sup>152</sup> *Ibid.*, Art. 47a.

<sup>153</sup> Law on the Military Security Agency and Law on the Military Intelligence Agency, *Official Gazette RS*, no. 88/2009, 55/2012 and 17/2013, Art. 33.

<sup>154</sup> Law on Security Information Agency, *Official Gazette RS*, no. 42/2002, 111/2009, 65/2014, 66/2014 and 36/2018.

<sup>155</sup> Law on the Execution of Criminal Sanctions, *Official Gazette RS*, no. 116/2007, 88/2009, 101/2010, 10/2015, 88/2015, 36/2018 and 94/2019.

<sup>156</sup> *Ibid.*, Art. 21.

<sup>157</sup> *Ibid.*, Art. 22.

The Law on Organization of Courts<sup>158</sup> stipulates that Court Guards are an armed and uniformed service ensuring security of people and property, order and peace, and the unhindered conduct of official activities in judicial premises.<sup>159</sup>

Customs Law stipulates that a customs officer who performs activities on preventing smuggling, intelligence, and internal control, has the right and obligation to carry weapons and ammunition under the conditions and in the manner prescribed by the Minister.<sup>160</sup> The regulations applied to authorized officials of the ministry in charge of internal affairs (Articles 36, 38, and 245 of the Law on Police) specify the ability and mental and physical fitness of customs officers to carry and use weapons.<sup>161</sup>

A customs officer who has been temporarily dismissed from work shall be deprived of his/her official identification card, official badge, weapons, and other equipment and items.<sup>162</sup> According to the Rulebook on the conditions and manner of carrying weapons and ammunition by customs officers, the customs officer must be mentally and physically fit and specially trained to carry and use firearms.<sup>163</sup> Control of the ability and mental and physical fitness of customs officers to carry and use firearms shall be performed at least once a year.<sup>164</sup>

### 3.2. Holding and carrying weapons after working hours or off duty

The Law on Police does not contain special provisions that explicitly prescribe the (non) existence of the authority of police officers (authorized officials) to keep and carry service weapons even after working hours, that is, to keep them in their homes. The existing practice has proven that there is such an authorization so it can be assumed (which requires additional verification) that keeping the service weapons at home is in some way legally regulated. The law allows employees in the Ministry of Interior to perform tasks and activities after working hours, that is, perform additional work, but employees cannot invoke the status of police officers or employees in the Ministry of Interior, nor may they use official identification, weapons, and other means.<sup>165</sup>

Carrying and using weapons are additionally regulated by the Rules of Services of the Serbian Armed Forces. Considering the fact that no access is available to the bylaws enacted under the Law on the Serbian Armed Forces, the Law on the Military Security Agency and Law on Military Intelligence Agency, and the Law on Defense, it is not possible to determine with certainty whether the rules have been established as to whether persons employed in the Ministry of Defense Serbia, the Military Security Agency and the Military Intelligence Agency, who have acquired the right and obliga-

<sup>158</sup> Law on Organization of Courts, *Official Gazette RS*, no. 116/2008, 104/2009, 101/2010, 31/2011, 78/2011, 101/2011, 101/2013, 40/2015, 106/2015, 13/2016, 108/2016, 113/2017, 65/2018, 87/2018 and 88/2018.

<sup>159</sup> *Ibid.*, Art. 77.

<sup>160</sup> Customs Law, *Official Gazette RS*, no. 95/2018.

<sup>161</sup> *Ibid.*, Art. 28.

<sup>162</sup> *Ibid.*, Art. 99.

<sup>163</sup> Rulebook on the conditions and manner of carrying weapons and ammunition by customs officers, *Official Gazette RS*, No. 53/2019.

<sup>164</sup> *Ibid.*, Art. 4.

<sup>165</sup> Law on Police, *op. cit.*, Art. 168.

tion to carry service weapons outside work, can keep them in their homes, as well as whether there are rules on the manner of keeping those weapons in their homes. The informal information that was obtained refers to a decision according to which most of these persons must leave their service weapons in the facility where they perform their duties, and that they are not authorized to keep weapons in their home. According to this information, possible exceptions are members of the military police, the Military Security Agency, and the Military Intelligence Agency.

We received information from the Ministry of Interior that the provisions of the LWA do not apply to the rules on carrying and use of service weapons by members of the Serbian Armed Forces, the Ministry of Defense, the Military Security and Military Intelligence Agency under Article 2 of the Law on Weapons and Ammunition, which stipulates that the provision of this law do not apply to state bodies that purchase, hold, carry and transport weapons and ammunition in accordance with special regulations.

The Law on the Execution of Criminal Sanctions stipulates that, with the approval of the Director of the Administration for the Execution of Criminal Sanctions, a member of the security service may carry a service weapon for personal safety after working hours. The competent police administration shall be notified of the issued approval to keep records of the issued approvals. A security service officer who has been approved to carry service weapons for personal safety after working hours, shall be liable to carry them in a safe manner, as well as to take all security measures to prevent the misuse of weapons or to prevent possession of weapons by an unauthorized person.<sup>166</sup> The Law on the Execution of Criminal Sanctions does not refer to the applicable Law on Weapons and Ammunition regarding the possibility for a security officer to carry service weapons for personal safety after working hours. Instead of the Ministry of Interior, this approval is given by the Director of the Administration, and since there are not enough prescribed conditions, it can be concluded that the person is a member of the security service, which means that the conditions under which a security service officer in the Administration for the Execution of Criminal Sanction keeps and carries weapons outside the workplace are more lenient than conditions regarding the persons who possess weapons under the Weapons and Ammunition Law.

The Ministry of Interior has informed us that it does not participate in any way in observing the conditions for issuance of approvals for carrying service weapons for the personal safety of officials employed at the Administration for the Execution of Criminal Sanctions.<sup>167</sup> Apart from the authority to record permits for carrying weapons for personal safety issued to officials of the Administration for the Execution of Criminal Sanctions by the Head of the Administration, the Ministry of Interior has no additional roles in issuing permits.<sup>168</sup>

Members of the Court Guard are explicitly prohibited by the Rulebook on Court Guards to carry firearms and ammunition when they are not performing their duties of the Court Guards.<sup>169</sup> Firearms and ammunition are kept in metal cabinets or safe boxes.

<sup>166</sup> Law on the Execution of Criminal Sanctions, *op. cit.*, Art. 22.

<sup>167</sup> *Ibid.*

<sup>168</sup> *Ibid.*

<sup>169</sup> Rulebook on Court Guards, *Official Gazette RS*, no. 91/2005, 107/2005, 104/2006 and 33/2011.

Ammunition is kept separate from weapons.<sup>170</sup> This arrangement is an example of good practice because it prevents bringing the service weapons in private spaces and is applicable to other professions with the right and authority to carry and handle weapons.

According to the Rulebook on the conditions and manner of carrying weapons and ammunition by customs officers, a customs officer who owns service weapons and ammunition may carry weapons and ammunition during working hours, when acting in the course of their duties and when performing tasks assigned to him, and after working hours only by order of the immediate manager.<sup>171</sup> The customs officer must keep service weapons secured in places that cannot be easily accessed by unauthorized persons and must not leave them in public places, in official or private premises, or vehicles, without supervision and control.<sup>172</sup>

Based on the information received from the Ministry of Interior regarding the possibility for customs officers to carry weapons after working hours by order of the immediate supervisor, the LWA does not apply to these persons because according to Article 2 of the Law on Weapons and Ammunition, the provisions of this law do not apply to state bodies that purchase, hold, carry and transport weapons and ammunition in accordance with special regulations.

### 3.3. Requirements for starting an employment, that is, entering into service

The Law on Police stipulates that employment in the Ministry of Interior may be offered to a person who meets the general conditions for employment in a state body and certain special conditions, including the condition that there are no security-related impediments to work in the Ministry of Interior.<sup>173</sup> The security-related impediments are: if a person has currently been subject to criminal proceedings for crimes prosecutable *ex officio*; if a person has been convicted of a criminal offense prosecutable *ex officio*; a person has been sentenced to imprisonment for a term of at least six months; whose employment at a state body has been terminated due to a serious violation of official duty by a final and enforceable decision of the competent authority; if a person's employment by a legal entity with public powers has been terminated due to violation of work obligations or failure to observe work discipline; if a person has been convicted for offenses in public order with elements of violence and for offenses in the field of regulations governing the acquisition, possession and carrying of weapons and ammunition; if a person by his habits, behavior or inclinations indicates that he will not be worthy to work in the Ministry of Interior; and if a person being screened in the security vetting procedure provides false information about himself/herself in order to conceal facts representing a security-related impediment. These provisions are applied accordingly to the admission of candidates for the basic police training and basic training of fire and rescue units and the admission of candidates for enrollment in a higher education insti-

<sup>170</sup> *Ibid.*, Art. 24.

<sup>171</sup> Rulebook on the conditions and manner of carrying weapons and ammunition by customs officers, *op. cit.*

<sup>172</sup> *Ibid.*, Art. 7.

<sup>173</sup> Law on Police, *op. cit.*, Art. 137.

tution for the needs of police education.<sup>174</sup> According to the Rulebook on the manner of providing protective health care and criteria and manner of determining psychological and physical capabilities for certain job positions of police officers, a person employed to occupy the position of a police officer must meet the criteria and be mentally and physically fit to perform the duties in the position of the police officer.<sup>175</sup> These capabilities are prescribed by the Act on internal organization and systematization of job positions in the Ministry of Interior and represent special abilities for performing police duties and exercising police powers.<sup>176</sup> The Act on job systematization passes the special abilities required for each job position and jobs that require special mental abilities (adequate level of intellectual efficiency and adequate personal structure) and jobs that require special skills.<sup>177</sup> Loss or lack of work abilities will have an impact on carrying of service weapons. A police officer shall deliver to his immediate manager the service weapons, ammunition, official identification card, and official badge when by decision of the competent health institution he is declared incapable of performing the duties of a police officer due to an illness from the group of mental illnesses and disorders, on the first day of temporary incapacity to work. If the police officer fails to do so, the immediate manager shall temporarily seize the weapons and ammunition – on the day of learning about the temporary inability. Upon the end of temporary incapacity to work, service weapons, ammunition, official ID card, and badge are returned to the police officer – on the first day of work.<sup>178</sup>

The Law on the Serbian Armed Forces stipulates that a citizen of the Republic of Serbia may be admitted to professional military service if he/she meets the general conditions, and, among other things, has not been sentenced to a six-month imprisonment minimum; has undergone security vetting procedure and there are no security-related impediments for admission to professional military service, in accordance with the regulations governing the security vetting in the Ministry of Defense; and has completed appropriate military training with weapons.<sup>179</sup> The manner and conditions of admission to service are regulated by the Decree on the Admission to Professional Military Service, but it does not pass (nor can it prescribe) broader conditions concerning the Law on the Serbian Armed Forces.<sup>180</sup> Security vetting of candidates for employment in the Ministry of Defense and service in the Serbian Armed Forces are performed by the

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<sup>174</sup> *Ibid.*, Art. 138.

<sup>175</sup> Rulebook on the manner of providing protective health care and criteria and manner of determining psychological and physical capabilities for certain job positions of police officers, *Official Gazette RS*, no. 110/2006.

<sup>176</sup> Apart from other things, special abilities are: special ability (physical and functional) to perform mainly physical, professional activities; special ability to perform professional activities that require good eyesight; special ability to perform professional activities that require good hearing; special ability to perform professional activities that require ability to counter the harmful effects of working environment and climate conditions; special ability to perform professional activities that require working at night, being on standby, working under the high risk conditions to life and health and under other difficult working conditions. The Act on job systematization passes the special abilities required for each job position. These descriptions do not apply to job positions of police officers which require all types of special abilities. Jobs that require special mental abilities (adequate level of intellectual efficiency and adequate personal structure) and special skills are indicated separately in the Act on job systematization. *Ibid.*, Art. 5.

<sup>177</sup> *Ibid.*, Art. 6.

<sup>178</sup> Law on Police, *op. cit.*, Art. 38.

<sup>179</sup> Law on the Serbian Armed Forces, *op. cit.*, Art. 39.

<sup>180</sup> Decree on the Admission to Professional Military Service, *Official Gazette RS*, no. 35/2015, 98/2018 and 63/2020.

Military Security Agency in cooperation with the Security Information Agency and the police,<sup>181</sup> and the manner of conducting security checks is regulated by the Rulebook on Security Vetting of Persons Performed by the Military Security Agency.<sup>182</sup>

The Law on the Military Security Agency and the Military Intelligence Agency stipulates that the law and other regulations governing the Serbian Armed Forces shall apply to the recruitment, rights, and duties and termination of service of the professional members of the Serbian Armed Forces deployed to the Military Security Agency or Military Intelligence Agency unless this law and regulations adopted in compliance with the law prescribe otherwise. The law governing the defense of the Republic of Serbia and regulations on civil servants and state employees shall apply to the commencement of service, rights, and duties and termination of employment of civil servants and state employees serving in the Military Security Agency or Military Intelligence Agency unless this law and regulations passed in compliance with this law prescribe otherwise. Special criteria and procedure for employment and termination of employment of a person referred to in par. 1 and 2 of this Article shall be regulated by the Government, at the proposal of the Minister of Defense.<sup>183</sup>

With regard to the requirements for employment, the Law on Security Information Agency refers to the provisions of the Law governing employment in the Ministry of Interior,<sup>184</sup> and concerning the rights and duties of employees, it refers to the general provisions of the Law governing employment in state authorities and laws relating to police officers.<sup>185</sup> A special provision regarding employment is related to security-related impediments and security vetting procedures. The law specifies that a security-related impediment is “a fact that represents a real and unacceptable security risk in the case of hiring a person, including a person returning to work based on a final decision of the competent authority” and its (non)existence which is determined by the Security Information Agency during the security clearance procedure. Security vetting includes the collection of information through questionnaires and verification of such data by conducting interviews with the person being screened, with persons related to the person and other persons, as well as collecting data from other authorities or registers, records, collections, and databases in compliance with the law.<sup>186</sup>

In addition to the general conditions prescribed by the Law on Civil Servants, there are other conditions for employing the person in the Administration for the Execution of Criminal Sanctions regulated by the Law on the Execution of Criminal Sanctions and one of them is that a person has not been convicted for criminal offense prosecutable *ex officio*, he has not been subject to criminal proceedings for crimes prosecutable *ex officio*, he has not been sentenced to unconditional imprisonment for more than three

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<sup>181</sup> Law on the Military Security Agency and Military Intelligence Agency, *op. cit.*, Art. 6.

<sup>182</sup> *Security vetting in Serbia – analysis by the Center for Euro-Atlantic Studies*, Center for Euro-Atlantic Studies – CEAS, Organization for Security and Cooperation in Europe, OSCE Mission in Serbia, 2015. Available at: [https://www.ceas-serbia.org/images/2015-i-pre/Bezbednosne\\_provere\\_SRB\\_book.pdf](https://www.ceas-serbia.org/images/2015-i-pre/Bezbednosne_provere_SRB_book.pdf).

<sup>183</sup> Law on the Military Security Agency and Military Intelligence Agency, *op. cit.*, Art. 41.

<sup>184</sup> Law on Security Information Agency, *op. cit.*, Art. 20b.

<sup>185</sup> *Ibid.*, Art. 20a.

<sup>186</sup> *Ibid.*, Art. 20v.

months and that he is not a person who cannot be employed due to security-related impediments in compliance with the regulations on carrying out security vetting.<sup>187</sup>

The Law on the Organization of Courts stipulates that members of the Court Guard conclude an employment contract under the conditions prescribed by the Law on Civil Servants.<sup>188</sup> According to this law, apart from citizenship, level of education, and conditions related to a breach of professional duties, the other requirement is that the candidate must not be sentenced to a six-month imprisonment minimum.<sup>189</sup> Although a member of the Court Guard has the authority to carry and use firearms, the Law on the Organization of Courts does not refer to the obligation of security vetting. However, considering the fact that unless otherwise stipulated by another regulation, the Law on Police stipulates that a police officer has the right to perform security vetting procedure for employment in other state bodies in compliance with the regulations governing this area, and on request of that body, it can be concluded that security vetting procedures are not mandatory, but will be performed when the body that employs court guards requests so.<sup>190</sup> Furthermore, in the history of punishments, the conditions are more lenient for a member of the police and security service in the Administration for the Execution of Criminal Sanctions, since there are no prescribed restrictions imposed on a person who is prosecuted or sanctioned for crimes prosecuted *ex officio*, including current criminal proceedings, and proceedings that ended in lenient sentences (suspended sentence, imprisonment of less than three months, fine).

The Law on Customs Services stipulates that a person who, in addition to the requirements for the admission of civil servants and state employees and other conditions prescribed by the Law on Customs Service, meets the following conditions may be employed as a customs officer: that a person has not been convicted to imprisonment for a criminal offense of at least three months, he has not been convicted of a criminal offense that makes him ineligible for performing duties in the Customs Administration; that a person meets general and special health and mental and physical conditions for doing work; that he has not been subject to criminal proceedings for a criminal offense prosecuted *ex officio*; and other conditions determined by the act on internal organization and systematization of jobs in the Customs Administration.<sup>191</sup>

**Given that these laws, in essence, prescribe the conditions of carrying service weapons as conditions of employment, their inconsistency with the Law on Weapons and Ammunition is apparent, and there is also a difference in the conditions imposed by different bodies and services. These conditions are more lenient than those laid down by the Law on Weapons and Ammunition Law, so it is possible (and probably it is common in practice) that a weapon is carried by an official who would not otherwise meet the conditions set out by the Law**

<sup>187</sup> Law on the Execution of Criminal Sanctions, *op. cit.*, Art. 253.

<sup>188</sup> Law on Civil Servants, *Official Gazette RS*, no. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018.

<sup>189</sup> *Ibid.*, Art. 45.

<sup>190</sup> Law on Police, *op. cit.*, Art. 102.

<sup>191</sup> Customs Law, *op. cit.*, Art. 59.

**on Weapons and Ammunition. More detailed and stricter rules of the Law on Weapons and Ammunition regarding the health ability to hold and carry weapons do not apply to many officials, because their main governing laws, regarding health ability, conviction, and other conditions, refer to general conditions laid down by the Law on state administration. Security vetting is not mandatory for all officials authorized to carry weapons, and security-related impediments are defined differently. This is especially evident in an example of previous convictions and sentences. What is common to all regulations related to officials and service weapons and the Law on Weapons and Ammunition is that none of them recognized the imposed emergency measures under the Law on Prevention of Domestic Violence, the reports of violent behavior (including domestic violence), and imposed protective measures against violence under the Family Law as a security-related impediment. In addition, these laws have excluded the implementation of the provisions of the Law on Weapons and Ammunition and all verification processes that must be carried out in order to issue permits to carry weapons. A permit to carry a weapon in these cases is given by the bodies in which the persons work, and not by the Ministry of Interior. In the cases of the Law on the Execution of Criminal Sanctions and the Customs Law, this is especially evident because – judging by the regulations governing these issues – the Administration for the Execution of Criminal Sanctions and the Customs Administration may decide to allow an official to carry a weapon after working hours and outside the place of work, and in the case of the Administration for the Execution of Criminal Sanctions, they may authorize officials to carry a service weapon as a weapon for personal security. None of these two laws stipulates that these officials must meet the requirements for carrying weapons and carrying weapons for personal safety, which are prescribed by the Law on Weapons and Ammunition.**

# WEAPONS, GENDER-BASED VIOLENCE AND DOMESTIC VIOLENCE IN SERBIA

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The most important international documents recognize and state the correlation between GBV and firearms as well as the correlation between DV and possession of weapons in a family.

The Convention on the Elimination of All Forms of Discrimination against women obliges the Member States to eliminate all forms of discrimination against women, of which violence is the most severe.<sup>192</sup> States are required to incorporate the principle of equality of men and women into their national constitutions or relevant laws; to ensure, by legal or other appropriate measures, the practical application of that principle; to adopt appropriate measures, including sanctions, prohibiting all forms of discrimination against women; to refrain from any act or practice of discrimination against women and to ensure that public authorities and institutions comply with this obligation; and to take all necessary measures to eliminate discrimination against women by any person, organization or enterprise.<sup>193</sup> States are obliged to implement all appropriate measures, including legal measures as well, in all areas, especially political, social, economic, and cultural, in order to ensure the full development and advancement of women, and guarantee them the establishment and enjoyment of human rights and fundamental freedom, on an equal footing with men.<sup>194</sup>

The Committee on the Elimination of Discrimination against Women in General Recommendation no. 30 on Women in Conflict Prevention, Conflict, and Post-Conflict Situations, calls on states to establish appropriate control over the circulation of conventional arms, including small arms, in order to prevent their use to commit or facilitate serious acts of gender-based violence. Referring to the General Recommendation no. 35 on GBV against women, updating General Recommendation no. 19, the Committee requires States to pay due attention to the acts and omissions of non-state actors.<sup>195</sup> States are required to enforce laws, establish institutions and systems that deal with such violence, and ensure their effective functioning in practice. The failure of the state, inability to take all appropriate measures to prevent acts of gender-based violence against women in cases in which its authorities are aware or should be aware of the risk of such violence, or failure to investigate, prosecute and punish, and to provide compensation to victims/survivors of such acts, provides tacit permission or encouragement for acts of the GBV against women. These failures or omissions constitute human rights violations. Due attention of the state should include analysis of factors that increase the risks of exposing women to serious forms of gender-based violence, including accessibility and availability of firearms, including their export.

The Council of Europe Convention on preventing and combating violence against women and domestic violence, that is, the Law on the Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence

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<sup>192</sup> Law on the Ratification of the Convention on the Elimination of all Forms of Discrimination against Women, *Official Gazette SFRY – International agreements*, no. 11/81.

<sup>193</sup> *Ibid.*, Art. 2. of the Convention.

<sup>194</sup> *Ibid.*

<sup>195</sup> Committee on the Elimination of All forms of Discrimination against Women – General Recommendation no. 35 on gender-based violence against women updating the General Recommendation no. 19. Available at: [https://www.ljudskaprava.gov.rs/sites/default/files/dokument\\_file/preporuka\\_35\\_sedow\\_srb.pdf](https://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/preporuka_35_sedow_srb.pdf).

(Istanbul Convention),<sup>196</sup> obliges states to introduce gender-sensitive, comprehensive, effective, continuous and coordinated policies<sup>197</sup> that include all relevant measures to prevent and combat all forms of violence covered by this Convention and offers a holistic response to violence against women.<sup>198</sup> States are obliged to take the necessary measures to ensure that the rules on confidentiality laid down by the internal law on certain experts do not prevent experts from reporting to the competent organizations or authorities if they have a reasonable ground to believe that a serious act of violence covered by the scope of this Convention has been committed; and that further acts of violence can be expected.<sup>199</sup> Criminal legislation must stipulate that the fact that the offense has been committed with the use or threat of a weapon should be taken into consideration as an aggravating circumstance in determining the sentence concerning the criminal offenses established in accordance with this Convention.<sup>200</sup> States shall ensure that all relevant authorities assess the risk of mortality, the seriousness of the situation, and the risk of repeated violence with the aim of managing the risk and, if necessary, providing coordinated safety and support. In doing so, they shall take into account all legislative or other measures for all stages of the investigation and application of protective measures in relation to the presumption that the perpetrators of violence covered by this Convention possess firearms or have access to firearms.<sup>201</sup>

In its Concluding Observations on the fourth periodic report of the Republic of Serbia on the elimination of all forms of discrimination against women, the Committee for the Elimination of Discrimination against Women expressed concerns about the high level of physical violence against elderly women; increase in all forms of GBV against women with disabilities in institutions; frequent misuse of firearms in domestic violence and intimate partner violence; inadequate risk assessments for preventing the GBV against women and girls, including femicide; and the lack of effective criminal proceedings against GBV against women and the constant disparity between the number of criminal charges and the number of convictions, of which the majority are suspended sentences.<sup>202</sup> The Committee recommended that the Republic of Serbia review and revise the Criminal Code, the Family Law, and other relevant laws and policies, including regulations on handling and possession of firearms, in order to effectively prevent and combat all forms of violence against women and protect victims. In addition to this recommendation, the Committee made many other recommendations regarding the analysis of the prevalence and causes of GBV; development of a comprehensive strategy and action plan to eliminate all forms of GBV against women; ensuring that all GBV cases are investigated and perpetrators prosecuted and punished with proportionate sanctions; providing timely and efficient emergency protection orders for women at risk; strengthening cooperation between sectors; ensuring that all women victims of GBV have unhindered access to effective protection against violence; improving the system

<sup>196</sup> The Council of Europe Convention on preventing and combating violence against women and domestic violence, Law on the Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, *Official Gazette RS – International agreements*, no. 12/13.

<sup>197</sup> *Ibid.*, Art. 6.

<sup>198</sup> *Ibid.*, Art. 7.

<sup>199</sup> *Ibid.*, Art. 28.

<sup>200</sup> *Ibid.*, Art. 46.

<sup>201</sup> *Ibid.*, Art. 51.

<sup>202</sup> Adopted in March 2019, the Committee on the Elimination of all forms of Discrimination of Women, *op. cit.*

for collecting and monitoring cases of all forms of GBV and classifying data according to the type of violence and the relationship between the perpetrator and the victim; and promoting the establishment of a central register for DV cases.

In its report on legislative and other measures of the Republic of Serbia for the implementation of the Istanbul Convention, the Group of Experts on Action against Violence against Women and Domestic Violence – GREVIO, indicated the lack of information on the actions of the groups for coordination and cooperation when it comes to the assessments of the groups on the access of perpetrators of violence to firearms, noting that the risk in Serbia is high.<sup>203</sup> GREVIO strongly encourages the Republic of Serbia to provide a systematic risk assessment in all cases and forms of violence covered by the Istanbul Convention, so that all risk factors are detected in a timely manner and adequately addressed, especially to reduce deaths among women and children.

The Roadmap for a sustainable solution to the illegal possession, misuse, and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024, has identified current key issues. Data collection is not adequate as different data collection methodologies are applied, and there is no possibility of obtaining comparable statistical and other data reviews from all institutions of the criminal justice sector; annual reports on crimes committed with firearms cannot be compared; data collection practices are underdeveloped, non-standardized and incoherent, sporadically used in policy development; and key data on small arms and light weapons/firearms are often unavailable. The interaction between gender and age perspective is limited, which negatively affects the successful implementation of firearms control measures. Underrepresentation of women makes it difficult to integrate a gender perspective into firearms control policies. Coordination between institutions has not been established in many cases, which altogether prevents the development of policies based on evidence and data, and there is a lack of a harmonized methodology for estimating the number of illegal firearms. There is no comprehensive approach and commitment to planning and implementing appropriate awareness-raising measures, and educational institutions are not sufficiently involved. There is also a lack of public awareness of the widespread misuse of firearms in DV and GBV, and the institutional response is underdeveloped. Media reporting on the misuse of firearms is superficial and benevolent, mainly in the context of the 'gun culture' and presenting 'firearms within traditional values', etc. The response of institutions to media reporting is inappropriate, as well as their monitoring.<sup>204</sup>

In accordance with the assessment of this situation, the Roadmap has set the following targets: standardize and institutionalize data collection on firearms by gender and age regarding the illegal and legal small arms and light weapons/firearms interdictions, armed violence incidents, ballistic evidence and other firearms related data resulting in periodic regional risk analysis and assessment of dangers related to the use of firearms, ammunition and explosives; institutionalize the systematic collection of criminal justice data across the criminal justice sector (at the level of police and customs, prosecutors,

<sup>203</sup> GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) SERBIA. Available at: <https://rm.coe.int/grevio-report-on-serbia/16809987e3>.

<sup>204</sup> Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024, *op. cit.*

court, penitentiary and correctional institutions); fully integrate gender and age aspects into small arms and light weapons/firearms control policies and ensure meaningful participation of women in small arms and light weapons/firearms control; increase the level of awareness of the public, women and men about the dangers of misuse, illicit possession and trafficking of firearms, ammunition and explosives; increase awareness and reduce the misuse of firearms in violence against women, DV and other forms of GBV; and enhance partnerships with the media and raise their awareness of the importance of adequate reporting on firearms misuse and firearms-enabled violence.<sup>205</sup>

The National Gender Equality Strategy for the period from 2016 to 2020 has set the Strategic Goal: *Changed Gender Patterns and Improved Gender Equality Culture* as one of the general goals and has formulated the specific objective under the mentioned goal: *Increased safety of women from GBV in family and intimate partner relationships*. The strategy announced urgent improvement in the comprehensive regulatory, political and institutional framework for the prevention of domestic violence and intimate partner violence, and in 2016, it stipulated the adoption of the National Strategic Document for Preventing and Combating Violence against Women in the Family and Intimate Partner Relationships for the next medium-term 2016–2020.<sup>206</sup> However, this document was not adopted. Establishing a unified and standardized system for collecting, recording, and exchanging data on all forms of violence against women, taking into account that data is classified by type of violence and the relationship between perpetrators and victims, and by social vulnerability, is one of the prescribed measures. The second measure for achieving the objective is the inclusion in the system of recording all relevant state bodies and institutions, as well as associations working on combating violence against women and protection of victims, and enabling statistics and data in this area to become available to the public.

Weapons in the context of DV were viewed only as a means of committing a crime until the General Protocol for Action and Cooperation of Institutions, Bodies, and Organizations in the Situations of Violence against Women within the Family and Intimate Partner Relationships<sup>207</sup> was adopted along with the Special protocol on conduct of police officers in cases of domestic and intimate partner violence against women.<sup>208</sup> The Criminal Code prescribes qualifying forms of many criminal offenses if the basic form of the offense was committed using or threatening with a weapon. When it comes to criminal acts that (may) represent GBV, this is the case only with the following: slight bodily injury, endangering safety by using dangerous tools during fights and quarrels, and domestic violence. Weapons as a means of committing a crime are not the basis for prescribing qualifying forms of any criminal act of murder; the situation is the same when it comes to criminal acts against sexual freedom, and there are no provisions in the general part of the Criminal Code according to which committing a crime with a weapon (in the case in which a weapon is not the basis for defining a qualifying form of a crime) should be considered an aggravating circumstance.

<sup>205</sup> *Ibid.*

<sup>206</sup> National Gender Equality Strategy for the period from 2016 to 2020 with an action plan for the period from 2016 to 2018, *Official Gazette RS*, no. 4/2016.

<sup>207</sup> The General Protocol was adopted by the Government of Serbia in November 2011. Available at: <https://www.minrsz.gov.rs/sites/default/files/2018-11/Opsti%20protokol%20nasilje%20u%20porodici.pdf>.

<sup>208</sup> The Special Protocol was adopted by the Ministry of Interior in February 2013. Available at: <https://iskljucinasilje.rs/wp-content/uploads/2016/09/Poseban-protokol-o-postupanju-policijskih-slu%C5%BEbenika-u-slu%C4%8Dajevima-nasilja-nad-%C5%BEenama-u-porodici-i-u-partnerskim-odnosima.pdf>.

The Special protocol on the conduct of police officers in cases of domestic and intimate partner violence against women, recognizes the possession of weapons as a risk to the safety of the victim and stipulates that police officers are required to collect all information necessary to clarify and prove a crime or misdemeanor relating to domestic and intimate partner violence against women upon arrival at the scene. In doing so, special information will be taken into account regarding the circumstances related to the specific event of violence, more precise determination of the type of violence and the manner in which the violence was committed, duration, continuity, possible previous violence, and the question of whether the competent institutions have already acted in this context and to what extent. When gathering information, police officers must assess the possible risks to their safety, as well as to the safety of the victim. One of the most common risks is that the perpetrator has access to a weapon, uses it, or threatens to use a weapon.

With the adoption of the Law on Prevention of Domestic Violence, the possession of weapons became regulated by law as a risk factor, and the law also passed a new approach to DV. Since it is based on the duty of state bodies and institutions responsible for the application of this law so that DV can be prevented quickly, effectively and in a coordinated manner and protection, legal assistance and psychological and social, and other support can be provided to victims so that they could recover, become stronger and independent,<sup>209</sup> the Law on Prevention of Domestic Violence prescribes measures that aim at detecting imminent danger of DV and the measures to be applied when the imminent danger is detected.<sup>210</sup> The competent police officer must immediately assess the risk of imminent danger from the DV and, under the prescribed conditions, impose emergency measures to prevent it.<sup>211</sup> The risk assessment is based on available information and must be performed as soon as possible. In assessing the risk, special attention is paid, among other things, to whether the perpetrator possesses a weapon.<sup>212</sup> The group for coordination and cooperation is formed of representatives of public prosecutors, police administrations, and centers for social work, from the area for which the group is being formed.<sup>213</sup> Although the law stipulated that the competent ministers would issue a rulebook on cooperation, which would regulate in more detail the mutual rights within the group, this did not happen.<sup>214</sup>

A person who violates an emergency measure imposed or extended shall be punished by a prison sentence of up to 60 days. A fine shall be paid by a responsible person in a state and other body, organization, and institution who does not immediately report to the police or public prosecutor or does not react to the report or obstructs the report or reaction to any knowledge of DV or imminent danger.<sup>215</sup>

This law was used as the basis for formation of a Risk Assessment List for police officers. The list also contains two risk factors: *threatens to use weapons* and *has weapons in*

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<sup>209</sup> Law on Prevention of Domestic Violence, *op. cit.*, Art. 12.

<sup>210</sup> *Ibid.*, Art. 3.

<sup>211</sup> *Ibid.*, Art. 15.

<sup>212</sup> *Ibid.*, Art. 16.

<sup>213</sup> *Ibid.*, Art. 26.

<sup>214</sup> *Exclude violence – Frequently asked questions*. Available at: <https://iskljucinasilje.rs/cesta-pitanja/>.

<sup>215</sup> Law on Domestic Violence Prevention, *op. cit.*, Art. 36.

*legal possession*. The list of risks, however, deviates from the Law on Prevention of Domestic Violence, which treats the possession of weapons as a risk factor, regardless of the weapon being in legal or illegal possession. The practice of the Protector of Citizens shows that such actions are neither in the spirit of the law nor in accordance with real risks. Namely, in 2018, the Protector of Citizens identified some oversights in the work of the competent authorities regarding 30 cases of domestic violence, several of which had a tragic outcome. Among other things, the Protector of Citizens determined that some police administrations do not check whether the reported person has a weapon with or without the permission of the competent authority, while others check only if the weapon is in legal possession. The Protector of Citizens has given numerous recommendations, including that the Ministry of the Interior should determine the reasons for the oversights and take measures accordingly, as well as to send the guidelines and instructions to police officers of all police administrations in cases of reports of domestic violence, intimate partner violence, and abuse and neglect of children, which will oblige police officers to always check whether the reported person possesses a weapon, either legally or illegally.<sup>216</sup>

As recommended, the Ministry of Internal Affairs sent a dispatch to all police stations and organizational units of the Police Directorate with guidelines as defined by the Protector of Citizens. Disciplinary proceedings were conducted against the responsible police officers and disciplinary measures were imposed. Proceedings were conducted for serious breaches of duty. In case of expired limitation of disciplinary prosecution, the responsible police officers were called upon on report and warned. In one case, the chief of a police administration unit ordered a violent police officer not to take the service weapon home but to leave it in a locker at work.

***From the practice of the Protector of Citizens:***<sup>217</sup> *After numerous violent incidents, a woman was shot dead by her extramarital partner. Before the fatal event, the victim had reported violence on several occasions, but the police failed to check whether the person marked as the perpetrator of the violence possessed a weapon. After one of the last reports, the checks on possession of weapons were conducted by inspecting the databases, but police officers did not check possible possession of weapons without the approval of the competent authority.*

***From the practice of the Protector of Citizens:***<sup>218</sup> *The Protector of Citizens determined and noted proper conduct of police officers from the aspect of checking the possession of illegal weapons: In the Brodarevo police unit, after the victim reported her husband for beating and threatening with firearms and melee weapon, the police checked whether the perpetrator was in legal possession of a weapon and then searched the apartment for a possible illegal weapon. At that time, several weapons were confiscated from the relatives of the violent perpetrator. Having conducted the said police actions, the police officers filed a criminal complaint. This is an example of conscientious conduct of police officers but it also reflects the fact that checking the possession of illegal weapons is subject to the disposition of specific police administra-*

<sup>216</sup> Act with recommendations of the Protector of Citizens. Available at: <https://www.rodnaravnopravnost.rs/attachments/article/302/preporuka%20final-poslata.doc>.

<sup>217</sup> *Ibid.*

<sup>218</sup> *Ibid.*

tions and stations and competent prosecutor's offices, although LPDV recognizes mere possession of a weapon as a risk factor (any weapon regardless of its possession being legal or illegal).

**From the practice of the Protector of Citizens:**<sup>219</sup> *The Protector of Citizens also discovered that the police officers with the status of authorized officials have the right and duty to carry a weapon at all times, as well as to keep it at their home when off duty, but are obliged to conscientiously and properly secure it from unauthorized persons. However, police officers do not have special standards regarding the keeping of service weapons, and they are not provided with metal lockers. Instead, they decide for themselves where to deposit weapons at their home and how to secure that space from other persons.*

On the other hand, neither the Law on Prevention of Domestic Violence nor the Risk Assessment List check the availability of weapons that are not in the possession of a person registered for DV (e.g. weapons that are legally or illegally owned by a family member, a common household member, relative of the perpetrator or a third party which can easily make their weapons available to the perpetrator), although there have been cases where femicide or DV was committed with a weapon that was not even in the possession of the perpetrator. Neither the Law on Prevention of Domestic Violence nor the Risk List deal with the issue of the availability of weapons that are not in the possession of the perpetrator. The Protector of Citizens also pointed out this problem after determining the facts in the control procedures that indicated these oversights.

**From the practice of the Protector of Citizens:**<sup>220</sup> *The service weapon of a police officer was used by his father to kill his ex-partner. The police officer kept his service weapon, outside working hours, in the house where he lived with his father and grandmother. He kept the weapon in his wardrobe and, in the statements he gave to the police officer, claimed that the wardrobe where he kept his service weapon was locked and that the key was in the chest of drawers. However, after the murder was committed, the investigation team determined that the wardrobe in which the police officer had kept his service weapon was found unlocked with a key in the lock. The father of the police officer had already been reported for violence against his ex-partner when his rifle was confiscated. During the investigation of the case, the Protector of Citizens concluded that the competent police station did not take any measures to investigate how the police officer kept service weapons in the house, nor have they taken any measures to ensure that service weapons were not in the house of the perpetrator of violence. The police station also did not take any measures towards its police officer because he made the weapon available to his father even though he knew that his father already had a history of violent behavior towards his ex-partner and that he used the weapon on such occasions, which was subsequently confiscated. The competent police administration failed to take measures against the police officer for his improper and irresponsible keeping of service weapons, having in mind that his father easily accessed the weapon and committed a murder with it. The Protector of Citizens recommended taking measures against the police administration in question because it did not take measures regarding its officer and his keeping of service weapons at home. Acting on the recommendations of the Protector of Citizens, a disciplinary procedure was initiated*

<sup>219</sup> Act with recommendations of the Protector of Citizens. Available at: [https://www.rodnaravnopravnost.rs/attachments/214\\_Sistemske%20preporuke.doc](https://www.rodnaravnopravnost.rs/attachments/214_Sistemske%20preporuke.doc).

<sup>220</sup> *Ibid.*

*against the police officer in the specific case and a disciplinary measure was imposed on him.*

The question of adequate practice regarding weapons as a risk factor for DV is linked with the attitudes of officials in the relevant bodies. A recent survey showed that the attitude of officials is not clear, even among members of the police and prosecutors.<sup>221</sup> Male officials generally disagree with the view that 'liberal regulations on the possession and carrying of weapons increase the risk of violence against women,' while female officials are neutral. This is a worrying fact as there has been much research and numerous data that unequivocally indicate an increase in the risk of DV and femicide with the weapons present in the household. Nevertheless, 97% of police officers, 88% of prosecutors and their deputies, 79% of employees in health care institutions, and 82% of employees fully agree with the necessity to examine whether a person reported for violence has a weapon.<sup>222</sup>

According to the Ministry of Justice, from the beginning of the implementation of the Law on Prevention of Domestic Violence (June 1, 2017) until the end of January 2020, more than 132 600 cases of domestic violence were considered, 46 690 proposals for extension of emergency measures were submitted by the competent prosecutor's offices and 45 994 cases were approved.<sup>223</sup> The number of submitted proposals for the extension of the emergency measure is increasing every year, so in the third year of the application of the Law, that number is by 1 460 proposals higher than in the second year of application and by 3 101 proposals higher than in the first year of application. These data are encouraging because the imposition of emergency measures is one of the most important points in the process of protection against DV and a very important factor in the prevention of violence.

Family Law stipulates that domestic violence is prohibited and that everyone has the right to protection from violence, further stipulating that domestic violence is considered to be any behavior by which one family member endangers the physical integrity, mental health, or tranquility of another family member and that a lawsuit can be, among others, submitted by the public prosecutor and the guardianship authority for the purpose of protection from domestic violence.<sup>224</sup>

The Law on Prevention of Domestic Violence does not specifically prescribe a measure of confiscation of weapons from a person registered for DV. Similarly, the Code of Criminal Procedure does not prescribe specific norms regarding the confiscation of weapons - except when the weapon is a means of committing a crime. The Code of Criminal Procedure<sup>225</sup> stipulates that authorized officials may, without a court order and the presence of a witness, search a person during deprivation of liberty or the execution of an arrest warrant, if there is a suspicion that the person possesses a weapon or assault weapon, or if there is a suspicion that the person will discard, hide or destroy items to be taken from him as evidence in the proceedings.<sup>226</sup>

<sup>221</sup> Petrušić, N., Žunić, N., Vilić, V., *Društveni i institucionalni odgovor na femicid u Srbiji II*, Udruženje građanki *Fem-Platz*, Pančevo, 2019.

<sup>222</sup> *Ibid.*

<sup>223</sup> Ministry of Justice of RS. Available at: <https://www.drzavnauprava.gov.rs/sr/vest/29055/razmotreno-vise-od-132600-slucajeva-nasilja-u-porodici-.php>.

<sup>224</sup> Family Law, *op. cit.*, article 10, 197. and 284.

<sup>225</sup> Criminal Procedure Code, *op. cit.*

<sup>226</sup> *Ibid.*, čl. 159.

The relation of legal framework for the acquisition, possession and carrying of weapons and the legal framework for the prevention and combating of DV is two-fold. The first is the condition that the potential weapon holder has not been convicted of violent crimes and offenses, and to perform security checks that can determine if there are security obstacles to possessing a weapon. However, linking an executed DV or GBV only to convictions by which a potential weapon holder was found guilty excludes all those against whom no report has ever been filed (but there is knowledge about it), those against whom a report has been filed but they have not been prosecuted (eg. the prosecutor dismissed the charges, or the offense limitation period expired), those who were imposed urgent measures under the Law on Prevention of Domestic Violence (with or without extension) but the criminal proceedings have not been initiated yet, those who were imposed protection measures (only) in civil proceedings under the Family Law, as well as those against whom criminal proceedings have not been conducted due to the application of the institute of postponement of criminal prosecution under the Criminal Procedure Code. The second is the confiscation of weapons in case of reported violence. Neither the Law on Weapons and Ammunition nor the Law on Prevention of Domestic Violence contains specific provisions that would prescribe what to do with the weapons owned by those registered for DV. The Law on Weapons and Ammunition stipulates that the Ministry of the Interior, as the competent authority, *ex officio* checks whether the person in possession of the weapon meets the conditions, which is the basis for the police to temporarily confiscate weapons after receiving a report for the DV – but there is no clearly stated obligation to do this. If criminal proceedings are conducted and the perpetrator is convicted, he/she loses the license to own/carry a weapon, and the weapon certificate and weapon are confiscated. This applies to all cases of conviction for DV, regardless of whether the violence was actually committed or there was only the act of threatening with firearms during the violence. However, there is still a question about what will happen in the case of an acquittal, dismissal of a criminal report (which is very common according to the provided data), as well as in the case of the postponement of criminal prosecution prescribed by the Criminal Procedure Code. Thus, there is no determined guilt and no conviction.

A good practice example is the legislation of Montenegro, whose law governing weapons and ammunition stipulates that the Ministry of Interior may, if circumstances indicate that 'weapons may be misused (...) especially due to (...) dysfunctional family relations, weapons, ammunition and weapon document shall be confiscated immediately, even before the completion of a criminal, offense or administrative proceedings, until the end of the proceedings, in order to take preventive measures of protection against DV or protection of public order, which must be taken without delay, and the facts based on which the decision on confiscation of weapons have been determined or regarded at least as probable'. The law of Montenegro governing DV stipulates that 'upon receiving a report on violence, the police shall without delay take actions and measures to protect the victim in accordance with this law and the laws governing the work and authorities of the police, offense proceedings, criminal proceedings, and witness protection'.<sup>227</sup>

<sup>227</sup> Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, op. cit.

**In Canada, information about the spouse has been introduced as a mandatory part of the requirements for obtaining a license to possess and acquire weapons. If a person applies for a permit, his or her current or former spouse/partner (in the last two years) must be notified about it. The consent of the spouse is not necessary for the permit, but disagreement with the application can present the basis for the revision of the application. In the event of a criminal report, including DV, the request will be reconsidered. In Australia, there is a mandatory suspension of weapon license for an adult if the competent authority reasonably believes that the licensee has been charged, committed or threatened to commit the crime of DV. The license is then automatically revoked on the basis of the law governing DV. The license is also automatically revoked if the court issues an emergency measure. As already mentioned, these and other measures have reduced the number of murders of women by 45% in Canada and by 57% in Australia.<sup>228</sup>**

The Criminal Code stipulates that the crime of domestic violence is committed by anyone who threatens the peace, physical integrity, or mental state of a family member by using violence, threatening to attack life or body, endangers tranquility, physical integrity, or mental state of a family member by insolent or reckless behavior, and this person is at risk of being imprisoned to a period from three months to three years. An act qualifies as a DV act when it is committed using a weapon, dangerous tool, or other means suitable for seriously injuring the body or impairing someone's health, which results in a prison sentence of six months to five years. The most serious form of this crime is if DV resulted in the death of the victim, for which a prison sentence of at least ten years is prescribed.<sup>229</sup> However, DV and GBV may be qualified as such in other ways too, depending on the form of violence (sexual as a crime against sexual freedom, physical as a crime against life and body, etc.). Thus, when it comes to femicide, court practice qualifies the act more often as a crime against life and body than as a DV act.<sup>230</sup> Analysis of legal qualification on a random sample of 65 final court verdicts, which included 71 criminal offenses, shows that femicides are most often qualified as murder (40.8%)<sup>231</sup>, aggravated murder - in a cruel and insidious manner (11.3%)<sup>232</sup> and aggravated murder - out of greed, for the purpose of committing or concealing another criminal offense, out of reckless revenge or for other low motives (14.1%)<sup>233</sup>. The DV cases with fatal outcomes<sup>234</sup> are to a much lesser extent qualified as femicide (2.8%).<sup>235</sup>

The response of the competent authorities to firearms as a risk factor or a means of committing DV cannot be adequately considered or assessed without appropriate data, some of which are, unfortunately, not recorded and some are not available. Pursuant to the Law on Records and Data Processing in the Field of Internal Affairs, the Ministry of Interior keeps various records with significant data related to various aspects of fire-

<sup>228</sup> *Ibid.*

<sup>229</sup> Code of Criminal Procedure, *op. cit.*, article 194.

<sup>230</sup> Vilić Konstantinović, S., Petrušić, N., Beker, K., *Društveni i institucionalni odgovor na femicid u Srbiji I*, Udruženje građanki *FemPlatz*, Pančevo, 2019.

<sup>231</sup> Code of Criminal Procedure, *op. cit.*, article 113.

<sup>232</sup> *Ibid.*, article 114 p. 1.

<sup>233</sup> *Ibid.*

<sup>234</sup> *Ibid.*, article 194 p. 4.

<sup>235</sup> *Ibid.*

arms.<sup>236</sup> This information, however, in a large number of cases has been declared secret by law. According to this law, the Ministry of Interior analyzes and permanently records data on criminal offenses,<sup>237</sup> misdemeanors specified by the laws within the competence of the Ministry of Interior and the outcome of misdemeanor charges and procedures,<sup>238</sup> manner of execution (*modus operandi*), weapons, PS dependence, gender, age of the perpetrator and injured party, jobs of perpetrators, the outcome of criminal prosecutions, decisions of prosecutors, sentences, sanctions and security measures, the legal consequences of conviction,<sup>239</sup> and plenty of other information. The Ministry of the Interior also keeps records of crimes committed by police officers which include a history of sanctions (such data are also secret and are kept permanently)<sup>240</sup> and collects data on decisions of prosecutors and courts.<sup>241</sup>

The Law on Prevention of Domestic Violence prescribes that the records of police administrations, basic courts, basic public prosecutor's offices, and social institutions are kept in electronic form and constitute the Central Record of DV cases, kept by the republic public prosecutor's office.<sup>242</sup> This record is not public, nor is any data available from it. According to the provisions of the Law on Prevention of Domestic Violence, the records should also contain data on reported DV, risk assessment, emergency measures (duration, extension, refusal on extension), DV protection measures (type of measure, extension, termination of measures), lawsuits and convictions rendered for determining protection measures, by types of measures.<sup>243</sup> These records are not public; they are kept for ten years, and access to these records is provided only to persons and bodies specified in the Law on Prevention of Domestic Violence.<sup>244</sup>

Statistical and other publicly available data related to criminal offenses contain all collected data for a specific criminal offense, but not the data about its forms (serious or minor). Such sorted data exist but are not available. Thus, information regarding the criminal offense of domestic violence is available but not the data on the forms of this offense, or on the qualifying form specified by the Criminal Code if the offense was committed with a weapon or dangerous instrument. Data on the means of execution of criminal offense and its form are not available, which, if classified by gender, age, perpetrator-victim relationship, and possession of weapons (civilian population, officials, legal or illegal possession, use of someone else's weapon) could give a clearer picture on the actual misuse of weapons.

Statistics on imposed emergency measures and statistics on risk assessments are also not available to the public. Therefore, it is impossible to determine in which cases the legal possession of a weapon was identified as a risk factor, how the possession of a weapon was related to other risk factors, in which cases possession of a weapon was the only risk factor, and what was the police action (were there any emergency measures imposed and which, whether the weapon was confiscated), what was the rela-

<sup>236</sup> Law on Records and Data Processing in the Field of Internal Affairs, Official Gazette RS, no. 24/2018.

<sup>237</sup> *Ibid.*, art. 41.

<sup>238</sup> *Ibid.*, art. 42.

<sup>239</sup> *Ibid.*, art. 41.

<sup>240</sup> *Ibid.*

<sup>241</sup> *Ibid.*

<sup>242</sup> Law on Domestic Violence, op. cit., art. 27.

<sup>243</sup> *Ibid.*, art. 32.

<sup>244</sup> *Ibid.*, art. 33.

tionship between the victim and the perpetrator, on which grounds the reported person possessed the weapon (Law on Weapons and Ammunition, an official authorized to carry a weapon under other laws).

The Law on Prevention of Domestic Violence does not prescribe the classification of data according to risk factors, so the prescribed records will not contain data on how many cases were identified as having a specific risk factor (for example, possession of weapons) and what measures have consequently resulted.

Croatia has an example of good practice where the police keep very detailed records of weapons-enabled violence. These records have been kept for three decades and contain data that allow for different analyses: how many times each crime involved the use of weapons; which age group is most common among perpetrators and victims; the relationship between women and men among perpetrators and victims of firearms-enabled crimes; what is the social and ethnic structure of the perpetrators and victims; which type of crimes most commonly involve weapon; most common location of armed violence (residential, commercial, school, etc.); the connection between committing a crime with a weapon and using PS, and others.<sup>245</sup>

In the absence of official data, information on the frequency of weapon use in DV and GBV can be obtained from various surveys and recorded data which are based on incomplete and insufficient data such as media articles used by the “Women Against Violence” Network and SEESAC. Regardless of the incompleteness of such data, these records and research are extremely important because they provide a sufficient basis for conclusions with high certainty, such as the conclusion on the significant frequency of weapon use in DV and GBV. The cases examined by the Protector of Citizens also provide information on practices that need to be improved in order to combat and achieve more efficient prevention of DV and GBV.

In 2016, the Protector of Citizens identified numerous oversights by the authorities, having analyzed over 60 cases of domestic violence, 12 of which tragically ended in the murder of women. He also included the oversights regarding the checks of weapon possession and the behavior of police officers towards those reported for violence, who were holding weapons or threatened with weapons. The Protector of Citizens concluded that the Ministry of Interior had failed to protect women from domestic violence and intimate-partner violence, as well as to protect children from abuse and neglect, by not checking whether all the persons reported for violence possessed a weapon, and it did not, in all cases, confiscate weapons from a person who was reported for violence. The Protector of Citizens recommended, among other things, that the Ministry of Interior:

- particularly analyze the reasons why the police administrations did not check for possible possession and carrying of weapons, and in the case of possession and carrying of weapons they did not use appropriate authority, measures and preventive actions, precaution, protection of safety and reduction of risk of recurrence of violence,

<sup>245</sup> *Firearms Possession and Domestic Violence in the Western Balkans: A Comparative Study of Legislation and Implementation Mechanisms, op. cit.*

- after the analysis of conducted work, determine whether there is a basis for initiating appropriate proceedings and taking measures against police officers and the heads of police administrations and stations that have made mistakes,
- ensures that police officers check and obtain information on possible possession and carrying of weapons when dealing with reports of violence and, in the case of possession and carrying of weapons, to demonstrate appropriate authorities, impose measures and preventive actions, take precaution, safety measures and reduce the risk of violence recurrence,
- ensures that police officers fully inform the competent prosecutor's office of any report of violence, actions taken, and all collected facts, in particular: the existence of previous reports of violence, convictions of the reported person, criminal or misdemeanor charges and requests for misdemeanor proceedings, confiscation of weapons in the possession of the reported person and information obtained from the guardianship authority, and
- ensures that police stations, in all cases of reports of violence filed against police officers or persons living in the same household, demonstrate appropriate authorities, take measures and preventive actions, precaution, protection of security and reduce the risk of recurrence of violence, in terms of possessing and carrying service weapons.<sup>246</sup>

Following the recommendations, the Ministry of the Interior has intensified the training of police officers, and since the Law on Prevention of Domestic Violence has been passed in the meantime, specific trainings are planned regarding the application of that law. Disciplinary proceedings and disciplinary measures were initiated against a certain number of police officers, and in cases of the expired limitation period for initiating and conducting disciplinary proceedings, police officers were brought on the report and warned.

**From the practice of the Protector of Citizens:**<sup>247</sup> *The police officers interviewed the person who reported violence and the perpetrator, regarding the victim's report that her ex-partner was threatening her with death and that he had pointed a gun at her head and inflicted several blows the previous day, but the police did not take other measures because 'there were no witnesses'. Responses to this report and a more detailed examination of the facts did also not occur when it was determined that the perpetrator had a weapon (pistol) in his possession - which was confiscated from him, and even when the police subsequently determined that the perpetrator concealed possession of three other pistols. Regarding the victim's report that her ex-partner beat her and pointed a gun at her head, the prosecution found that there were no elements of a crime for which the perpetrator would be prosecuted ex officio. The Police Administration did not confiscate the reported person's weapon because he 'was not registered as a perpetrator of a crime or misdemeanor'. The reported man later killed his partner with this weapon.*

<sup>246</sup> Act with recommendations of the Protector of Citizens. Available at: [https://www.rodnaravnopravnost.rs/attachments/214\\_Sistemske%20preporuke.doc](https://www.rodnaravnopravnost.rs/attachments/214_Sistemske%20preporuke.doc), <https://www.rodnaravnopravnost.rs/attachments/article/229/preporuka%20nasilje%20zbirna.doc>.

<sup>247</sup> Act with recommendations of the Protector of Citizens. Available at: [https://www.rodnaravnopravnost.rs/attachments/214\\_Sistemske%20preporuke.doc](https://www.rodnaravnopravnost.rs/attachments/214_Sistemske%20preporuke.doc).

The relativization of threats using weapons was also noticed on the part of prosecutors, at a time when the Law on Prevention of Domestic Violence had already been widely applied.

**From the practice of the Protector of Citizens:**<sup>248</sup> *After meeting the victim who reported her ex-partner, who was serving a prison sentence, as he announced that he would kill her and that he had already come into possession of a weapon, the police informed the competent prosecutor who stated that 'there is a risk from further violence'. The same assessment was given by the competent police officer, and the perpetrator of the violence was imposed an emergency measure, which was extended to 30 days by the court decision. However, in the following consultations of the police and the prosecutor on duty, the prosecutor who was involved in the consultations at that time, although informed of all the facts and measures taken, including the emergency measures, stated that there were no elements of a criminal offense. This was the reason why the police could not search the apartment to find weapons in the possession of the perpetrator without the permission of the competent authority. Police officers acknowledged a risk of violence and informed the prosecutor's office where the prosecutors had significantly different opinions on the matter. In such a situation, police officers were seriously limited in the application of the measures available to them. The applicant was subsequently killed by her ex-husband.*

Successful implementation of the Law on Prevention of Domestic Violence greatly depends on its understanding and interpretation. In that sense, the police are closely connected with the prosecutor's office, but at the same time, they are obliged to consistently and completely enforce this law. However, there are situations (unfortunately) in which a misinterpretation of the law leads to the absence of protection measures under the Law on Prevention of Domestic Violence and contributes to its escalation.

**From the practice of the Protector of Citizens:**<sup>249</sup> *On several occasions, police received information about violence against a woman from her former extramarital partner. She, among other things, reported that her former extramarital partner committed psychological violence against her and then fired several shots from a gun in the presence of her minor child. After the relatives of the victim also reported threats from the perpetrator of the violence, a misdemeanor report was filed against him. Police officers did not file criminal charges for domestic violence, nor did they act in accordance with the Law on Prevention of Domestic Violence (they did not apply the Risk List or check the possession of weapons), explaining that this particular case was not domestic violence because the victim and the perpetrator of the violence 'lived in an extramarital union from which they do not have a common child'. The police never treated these reports as reports of domestic violence until the tragic end (murder of a woman), despite the constant reports of the victim. The killer, in addition to his ex-partner, killed another person and wounded five.*

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<sup>248</sup> Act with recommendations of the Protector of Citizens. Available at: <https://www.rodnaravnopravnost.rs/attachments/article/302/preporuka%20final-poslata.doc>.

<sup>249</sup> *Ibid.*

The analysis of the penal policy regarding DV and GBV is also complicated, given that these forms of violence can be found in various crimes, from domestic violence to some forms of aggravated murder. The analysis of actions upon DV reports and the manner in which the judiciary conducted and concluded the cases of domestic violence, and SORS data from 2018, show that the total number of reported adults for the crime of domestic violence in 2018 amounted to 7 916, of which 6 969 were men and 951 women. The results of actions of prosecutor's office were:

Total number of charges	7 916	100%
Dismissed charges	4 792	62.8%
Suspended investigation	62	0.8%
Raised charges – information	3 062	36.7%

*Data from SORS<sup>250</sup>*

Concluded court proceedings:

Total number of the accused:	3 385	100%
Convictions – defendant pleaded guilty	2 974	87.9%
Verdict of acquittal	86	2.8%
Verdict of release	97	2.9%
Imposed emergency measure	106	3.1%

*Data from SORS<sup>251</sup>*

Considering that one of the forms of the criminal offense is aggravated murder, the data for that criminal offense were also analyzed. Only collective data were available so they were not classified according to the forms of this criminal offense.<sup>252</sup> The total number of adults reported for the crime of aggravated murder in 2018 was 93, of which 85 were men and 8 were women. The results of actions of prosecutor's office were:

Total number of charges	93	100%
Dismissed charges	6	6.5%
Suspended investigation	1	1.1%
Raised charges – information	60	64.5%
Unknow perpetrator	27	29%

*Data from SORS<sup>253</sup>*

<sup>250</sup> SORS, Adult criminal offenders, 2018. Available at : <https://www.stat.gov.rs/publikacije/publication/?p=12218>.

<sup>251</sup> *Ibid.*

<sup>252</sup> *Ibid.*

<sup>253</sup> *Ibid.*

Concluded court proceedings:

Total number of the accused:	55	100%
Convictions – defendant pleaded guilty	40	73%
Verdict of acquittal	12	21.8%
Imposed emergency measure	3	5.5%

*Data from SORS*<sup>254</sup>

In 2018, the following sentences for criminal act of domestic violence were pronounced:

Suspended sentence	1 998	67.30
House arrest	166	5.59
Community service	19	0.64
Judicial admonition	4	0.13
Corrective measure	4	0.13
Imprisonment	766	25.80
Fine	8	0.27
Convicted but discharged	4	0.13
Total	2 961	100%

*Data from SORS*<sup>255</sup>

A comparison with the data from the Special Report of the Protector of Citizens from 2014, shows a worrying increase in the number of dismissed criminal charges, by more than two times.<sup>256</sup> At the same time, the number of charges has increased, the number of convictions has increased significantly, and the number of acquittals has almost tripled. There is a continued practice of imposing just a suspended sentence for DV cases, which indicates consistency in mild punishment policy enforcement despite the firm attitude of the state about zero tolerance for violence. The share of imprisonment was slightly lower in 2018 (26%) than in 2013/2014 (28%), but in the meantime, the introduction of 'house arrest' in 2018 took a share of almost 6%. Fines have been drastically reduced.

<sup>254</sup> *Ibid.*

<sup>255</sup> *Ibid.*; SORS, Minor criminal offenders, *op. cit.*\_\_

<sup>256</sup> Special report by the Protector of Citizens on the application of General and special protocols for protection of women against violence. Available at: [https://www.rodnavnopravnost.rs/index.php?option=com\\_content&view=article&id=138:2015-02-24-15-03-31&catid=17:2012-12-13-09-53-59&Itemid=30](https://www.rodnavnopravnost.rs/index.php?option=com_content&view=article&id=138:2015-02-24-15-03-31&catid=17:2012-12-13-09-53-59&Itemid=30).

	1. 1. 2013 – 30. 6. 2014	2018
Dismissed criminal charges	25%	62.8%
Convicted	25%	36.7%
Guilty verdict	71%	87.9%
Verdict of acquittal	7%	2.8%
Suspended sentence	67%	67.30%
Imprisonment	28%	26%
House arrest	/	5.6%
Fine	3%	0.27%

*Data from SORS<sup>257</sup> and the Special report of the Protector of Citizens*

The SORS statistics on the length of prison sentences show that sentences of up to one year are most often imposed, followed by sentences ranging from one to two months and one to two years, and then sentences ranging from two to three years. The shortest prison sentences (less than two months) and prison sentences over three years are the rarest (below 2):

Prison sentences – total	766	100%
Up to 2 months	11	1.44
2–3 months	78	10.18
3–6 months	288	37.60
6–12 months	255	33.29
1–2 years	94	12.27
2–3 years	33	4.31
3–5 years	6	0.78
5–10 years	1	0.13

*Data from SORS<sup>258</sup>*

<sup>257</sup> SORS, Adult criminal offenders a, *op. cit.*\_

<sup>258</sup> *Ibid.*\_

The provisions of the Law on Weapons and Ammunition and the Rulebook on Determining the Health Ability of a Natural Person to Hold and Carry Weapons are very important for the prevention and combating of DV and GBV as they set far more serious criteria for psychophysical health conditions necessary for obtaining a license for acquisition, possession and carrying of a weapon; they also introduced the procedures for determining health status, which in turn include numerous aspects of psychological health and personality traits, and which finally require close cooperation of the selected doctor with the Ministry of Interior and their exchange of information. On the one hand, the Ministry of the Interior must inform the chosen doctor about the issued permit, and on the other hand, the chosen doctor must inform the Ministry of the Interior about changes in a person's health condition that could be an obstacle to further carrying, possession and acquisition of weapons. Over the past few years, there were widespread attitudes of health institutions about patient information that could only be provided to the court and prosecutor's office, at their request, and that providing medical information about a patient without his/her consent violates the Patients' Rights Act and the Personal Data Protection Act. The practice of the Protector of Citizens showed that certain health care institutions do not cooperate with social institutions and do not exchange information about the patient - perpetrator of violence, and the patient - victim of violence, based on the belief that health care institutions cannot reveal medical information about patients due to the provisions of the Patients' Rights Act and the Personal Data Protection Act.

***From the practice of the Protector of Citizens:***<sup>259</sup> *The health institution refused to submit data to the center for social work, but also the Protector of Citizens during the process of reviewing the legality and regularity of work, taking an attitude that it could not provide data and information 'until the court releases them from the obligation of secrecy', as well as because of the Patients' Rights Act and the Personal Data Protection Act. The said health care institution informed the Protector of Citizens that they were 'debating competencies' with the center for social work, the center for social work reported that 'cooperation with doctors has turned into the sharpest polarity', and the health care institution asked the Protector of Citizens to answer questions about the responsibility for the protection and care of victims of violence, and who is responsible for taking over and caring for a psychiatric patient when his/her hospitalization is over and when it is well known that he/she has committed violence against family members and people around him/her'. The Ministry of Health informed the Protector of Citizens about the manner in which this health institution acted, but that did not contribute to the elimination of omissions in the work of that institution. Identifying the oversights by both the health institution and the Ministry of Health, the Protector of Citizens sent recommendations for an audit of the work of the health institution. In response to the recommendations, the health institution announced its intention to fully cooperate with the Protector of Citizens in the future, but as regards the cooperation with social institutions, it restated its view of the problem - that the Patients' Rights Act and the Personal Data Protection Act prevent health care workers to share medical information about the patients who are either perpetrators or victims of DV.*

Another important aspect of the obligations of selected doctors is the relationship between the selected doctor of the person who has received a permit to possess and carry a weapon and the selected doctor and other doctors who deal with the victims of violence (emergency doctors, specialists). There is also the issue of informing the selected

<sup>259</sup> Act with recommendations of the Protector of Citizens. Available at: <https://www.rodnaravnopravnost.rs/attachments/article/302/preporuka%20final-poslata.doc>.

doctor, by the Ministry of the Interior and the center for social work, that the patient of the said doctor has a permit to possess or carry a weapon and that has also performed an act of DV. This issue still has not been regulated by the existing Law on Weapons and Ammunition, so its regulation is necessary so that the selected doctor can adequately perform his legal duty.

Also, a significant aspect of weapons involved in DV and GBV are the officials who are authorized to carry weapons based on their service, especially those persons who are authorized to carry weapons outside the place of work and working hours. It is not known how many officials authorized to carry weapons committed DV or GBV using their service weapons, because records are either not kept or marked as secret. The practice of the Protector of Citizens showed that there were cases when the perpetrators of violence were members of the police and the army, as well as private security staff.

***From the practice of the Protector of Citizens:***<sup>260</sup>*The police administration did not take any action against the police officer when his wife reported him for violence, although it said in the report that he kept the weapon under his pillow, used to take it out and show it to family members in a threatening manner, exhibited suicidal intent, and threatened her and the common child with bombs that he brought from the battlefield and which he kept in the house against their will. The police administration did not do take action even after receiving the minutes from the court hearing with the statement of the police officer: 'As a police officer, I am authorized to carry a weapon and to keep it in the apartment where I want. I indeed moved it around the apartment, although I had no reason to do that and I did not threaten to anyone with a gun. It is true that my gun was under my pillow on one occasion, and that was before the divorce proceedings. I thought it was safer that way both for her and me. At the very beginning of our life together (...) I told [mother-in-law] not to interfere, I will blow you all up, never before and never after.' In spite of eight filed reports of violence, the police did not take any precautions or protection measures against its police officer, nor did it try to reduce the risk of recurrence of violence. Police officers characterized the reported incidents – some of which involved physical violence – as 'disturbed marital relations', and ignored his previous convictions of misdemeanors involving violence.*

The conditions for establishing and keeping a person's employment are different from the conditions for possession and carrying weapons under the Law on Weapons and Ammunition, so there is still the issue of consequences (in terms of carrying weapons) in the case of a suspended sentence, low prison sentence, in cases of postponed criminal prosecution against the perpetrator of a criminal offense, imposing urgent measures under the Law on Prevention of Domestic Violence and imposing protection measures under the Family Law. The aforementioned laws governing the authority of officials to carry weapons – even outside working hours and place of work – as well as the Law on Weapons and Ammunition, have not regulated these issues.

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<sup>260</sup> *Ibid.*

# CONCLUSIONS

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1. A number of officials of different professions are authorized to carry weapons, but such a liberal attitude towards the possession and acquisition of weapons has led to a significant number of firearms being possessed by the civilian population as well. One of the consequences of the wars in the former Yugoslavia was a large number of illegal weapons in the entire region of the Western Balkans.
2. There is an unambiguous link between firearms and DV. Firearms in the family household or in the possession of a household member/family significantly increase the risk of armed DV and GBV in general. Particularly the risk of a fatal outcome of DV and GBV is increased. The data show that women are the majority of victims of homicides by family members, that homicides are most often committed by intimate partners, that a third of these homicides are committed with firearms, and that women make up over 90% of victims of homicide committed with firearms by their partners.
3. Protection against DV and GBV requires a comprehensive approach that includes full harmonization of various laws, other regulations, strategic documents and policies. Thus, it is particularly important that the strategic approach to firearms control includes, as far as possible, the gender aspect and the DV and GBV aspects, as well as those strategic and other documents related to gender equality and violence against women, include the weapons aspect.
4. The legislation of the Republic of Serbia has recognized this connection and considers the possession of weapons as a risk factor, both in legal and strategic documents. Possession of a weapon is defined as a risk factor for DV in the Law on Prevention of Domestic Violence, and conviction for DV or a procedure initiated on the grounds of DV is an obstacle to obtaining a permit to hold and carry a weapon under the Law on Weapons and Ammunition. However, the postponement of criminal prosecution of the perpetrator of a criminal offense, imposed emergency measures, and adjudicated measures of protection against domestic violence are not obstacles to obtaining a permit.
5. Public awareness of the misuse of firearms in DV and GBV is low. The 'weapons culture' is still present, and this is not just due to tradition, but also a consequence of a significant degree of distrust of citizens in institutions. The weakening of the 'weapons culture' has been also hampered by memories of periods of low security of Serbian citizens, high crime and even higher levels of corruption and impunity for violence. Media coverage of the misuse of weapons in DV and GBV is inadequate, mostly neutral, and treats weapons only as a means of execution, often presented as part of 'traditional values'.
6. Certain research data on femicide are available but there are no data on the number of weapons misused for DV in Serbia that did not result in death. Research suggests that the misuse of weapons for psychological violence or the misuse of weapons as threats is by no means negligible and that weapons are more often misused as a means of threat and pressure. Given that weapons are not defined as a general aggravating circumstance, that many crimes do not have a qualifying circumstance with the threat of weapons, and that those who have them combine

weapons and dangerous weapons as one qualifying circumstance – such records are not kept, except in standard police records which are, however, labeled as secret and not available to the public.

7. The widespread misuse of weapon in DV and GBV in Serbia cannot be determined with accuracy because the current records offering such information are not publicly available, and many data have been categorized as secret. In addition, statistical and other publicly available data related to criminal offenses are not properly classified or do not contain any data that could be a source of information on the misuse of weapons. Statistics on imposed emergency measures and statistics on risk assessments are not available, so it is impossible to determine to what extent they can be used to study the phenomenon of weapon use in DV. It has been concluded that the Law on Prevention of Domestic Violence does not prescribe the classification of data according to risk factors, so the records are very likely not to contain information about how many specific risk factors (for example, possession of weapons) were determined and what measures resulted thereof. Due to the lack of this data, as well as the absence of verification and records on illegal possession of weapons as a risk factor, as well as the availability of weapons that is not in possession of the reported person – it is impossible to obtain the needed data which, if it had existed, would most certainly have had a significant impact on the policy regarding acquisition, possession and carrying of weapons, as well as the legal and institutional response to DV and GBV.

8. Strategic approaches to firearms control will not be adequate unless structural and meaningful participation of women and a gender-based approach to this process is ensured. Women and men, boys and girls, have different views and needs and without adequate consideration of all aspects, strategic approaches will remain incomplete and purposeless. Women's participation in decision and policy-making processes is as important as the recognition of the risks that lack of adequate firearms control poses to women's safety, and it is, therefore, necessary for women in Serbia to be far more involved in these processes. The issue of strengthening the security of women and their protection from the misuse of firearms, especially in the context of gender-based violence, is impossible to address adequately without proper information. The strategic approach must be based on facts with statistics being one of the important elements of the evidence corpus. This approach to firearms control needs more than just a classification of perpetrators and victims by gender – it needs much more information about the reports of gender-based violence committed with weapon, on forms of such violence (physical violence, injury, death, threat, sexual and other violence committed by threatening with weapons, etc.), on the decisions of the prosecution, application of opportunities, the length of court proceedings, imposed sanctions, emergency measures under the Law on Prevention of Domestic Violence imposed due to possession of weapons as a risk factor and imposed due to reporting violence committed with weapons, imposed protection measures according to the Family Law due to violence committed with weapons, perpetrators (persons carrying service weapons, citizens who have a permit to hold and / or carry weapons, kinship, relationship with the victim, age, etc.) – and other adequate data that could provide information on the extent of gender-based violence committed through misuse of weapons.

9. The Action Plan for Chapter 24 – Justice, Freedom, Security, is not gender-sensitive in the part that refers to weapon control, and it does not contain the objectives that correlate weapon control with DV and GBV. Bearing in mind Directive 2017/853, which entered into force after the adoption and approval of the Action Plan, there is a need to align the Action Plan with new EU documents – if not formally, then at least structurally – which have been increasingly recognizing not only the link between violence and weapons but also the need for a more rigorous approach to weapon permit issuance to citizens.
10. The strategic document for preventing and combating violence against women in the family and relationship with partners has not been adopted yet, although it was announced in the National Strategy for Gender Equality for the period from 2016 to 2020 and the Strategy for the Control of Small Arms and Light Weapons in the Republic of Serbia. The international bodies dealing with women’s rights and GBV recognized this as the state’s failure. The absence of such a document affects the coordination of different policies when it comes to GBV – The Strategy for Small Arms and Light Weapons Control in the Republic of Serbia was adopted last year without an umbrella strategic and political framework for combating GBV and DV, although gender aspects of this strategy had to be generated from global plans of national strategic document for the combating and prevention of GBV and DV. Similarly, even four years after its adoption and three years since the beginning of the application of the Law on Prevention of Domestic Violence, bylaws regulating the manner of exchanging information of liaison officers and the rulebook on the cooperation of competent authorities have not been adopted.
11. The Law on Weapons and Ammunition has introduced stricter conditions for the acquisition and possession of weapons with respect to the previous law, by prescribing more detailed conditions and introducing new ones. This law, however, requires additional improvements in terms of conditions, criteria, types, and manner of conducting assessments and rules relating to the acquisition, possession and carrying of weapons.
12. The conditions set by the Law on Weapons and Ammunition, which relate to the violent behavior of a potential weapon holder, introduce an obstacle to obtaining a permit for the acquisition, possession and carrying of weapons for a person convicted of certain crimes or misdemeanors, as well as for a person against whom proceedings are being conducted for such acts. However, this does not prevent a person to acquire, possess and carry a weapon although he/she has committed violent crimes but has not been prosecuted because the institute of postponement of criminal prosecution under the Criminal Procedure Code has been applied, in case of imposed emergency measures based on the Law on Prevention of Domestic Violence without initiating criminal proceedings, and in the case of protection measures against DV imposed under the Family Law. Having in mind the prevalence of DV and GBV, which the Republic of Serbia recognized in numerous documents and which was the reason for the adoption of a special law on DV, it is a huge drawback of the Law on Weapons and Ammunition not to consider the protection measures imposed against a possible perpetrator as obstacles to acquisition, possession and carrying of weapons, as this leaves a serious loophole.

The only possibility to fill this gap is with the measures taken by the Ministry of the Interior *ex officio*, i.e. additional security checks and the possibility of security and operational assessment by police officers to treat the reports of DV, imposed emergency measures, or postponing of prosecution of the perpetrator as a security obstacle, to withdraw the given permit and permanently confiscate the weapon. Introduction of new security risks – imposed emergency measures under the Law on Prevention of Domestic Violence, imposed measures of protection against violence under the Family Law, postponement of criminal prosecution of perpetrators who have committed the criminal acts already listed in the Law on Weapons and Ammunition, extension of security risks to all criminal offenses prosecuted *ex officio* – would provide additional protection and support to prevent the perpetrators of DV and GBV to have weapons in their hands.

13. An important aspect of the conditions for the acquisition, possession and carrying of weapons is related to security checks. These checks, which are carried out according to the Law on Police and the rules of the police profession, should provide important information based on which the institution may or may not issue a permit. However, none of the laws explicitly stipulates that during those checks the opinion and attitude of family members and their views on the potential possession of weapons in the household must be obtained, nor should there be any checks of family circumstances and the possible existence of conflict, dysfunctional or violent patterns and relationships in the family and household of the license applicant. Such rules have been set out in many countries and have proven to be a significant measure of prevention of armed DV and GBV, and violence in general. The legal regulation of the obligation to obtain data from various persons in the security check procedure based on the assessment of the police officer conducting the check does not prove that the family situation of the license applicant will be checked in all cases. This would become a certainty, as is the case in several countries if the obligation to obtain information on the family situation and opinions of family members on the submitted application was prescribed, as well as the obligation to obtain data from centers for social work on the same issue.
14. The condition for a person to 'make probable' the existence of a justifiable reason for holding/acquiring/carrying a weapon enables the acting officers to judge for themselves whether the reasons stated by the applicant are justified or not. This is especially evident when it comes to collector's weapons, where collecting weapons is a 'justified' reason, although it is a case of the collection of items with deadly power. The law does not prescribe what could be justified reasons for keeping a weapon, and unlike health issues and, in part, the issues regarding weapon storage, there are no bylaws, standards, or guidelines on methods and criteria for determination of whether the reason given by the applicant is indeed justified.
15. Although the fact that the Law on Weapons and Ammunition is in line with EU directives in the part related to inspection and retest deadlines, the five-year period for a retest is too long regarding the handling of weapons. Retesting the fulfillment of conditions is not in itself an obstacle to the misuse of weapons, but more frequent checking of all conditions, as well as periodic effective control of the fulfillment of conditions, certainly represent a significant preventive measure.

16. Unlike the carrying of weapons in public which is also regulated by the rule that weapons cannot be visible to others, i.e. weapons must not be carried in a manner that disturbs others, such rules are not established for keeping weapons in private spaces, except for the general rule related to conscientious keeping so that the weapon does not come into the possession of unauthorized persons. The Law on Weapons and Ammunition does not govern the possibility of the holder to keep a weapon in a manner that provokes harassment of family or household members, nor does it set any rules regarding the said issue, including the rule on the responsibility of the holder.
17. Regulations regarding carrying of service weapons, or their absence, have led to various criteria and rules specifying who will or will not be able to carry weapons, how they will carry them and whether they will be authorized to carry weapons outside work hours, and keep them at their home or other private space. There is also a disparity in relation to the Law on Weapons and Ammunition, which prescribes conditions that are stricter than most regulations governing the carrying of service weapons. More detailed and stricter rules of the Law on Weapons and Ammunition regarding the health ability to possess and carry weapons do not apply to a large number of officials, given that their governing laws regarding health ability, convictions, and other conditions are aimed at the general conditions prescribed by law which regulate the operation of state bodies. Security checks are not mandatory for all officials authorized to carry weapons, and safety risks are defined differently. This is especially evident in the example of the existence of previous convictions and sentences. What is common to all regulations related to officials and service weapons and the Law on Weapons and Ammunition, is that none of them recognizes the emergency measures imposed under the Law on Prevention of Domestic Violence as an obstacle, nor the existence of reports of violent behavior (including domestic violence) or imposed measures of protection against violence under the Family Law.
18. There is an evident problem of 'exemption' of the Law on Weapons and Ammunition from the regulations relating to the carrying of weapons by officials because special laws governing the conditions for carrying and using weapons of officials in various professions 'bypass' the conditions and criteria of the Law on Weapons and Ammunition prescribed as conditions for holding and carrying weapons. The conditions for carrying a weapon are *de facto* the conditions prescribed for employment at a workplace that involves carrying and using weapons. These conditions differ from those prescribed by the Law on Weapons and Ammunition and are considerably more tolerant, such as the Law on the Organization of Courts, the Law on Customs Service, or the Law on Execution of Criminal Sanctions. Certain professions involve protective measures, primarily through security checks and licensing (such as the Law on Detective Activity and the Law on Private Security), while in others (Law on Execution of Criminal Sanctions, Law on Customs Service, etc.) there are no such measures. This is especially noticeable in the cases of the Law on Execution of Criminal Sanctions and the Law on Customs Officers because - judging by the regulations governing these issues - other bodies (not the Ministry of Interior) and other officials (not police officers) may decide to allow an official

to carry a weapon outside working hours and place of work, and in the case of the Directorate for the Execution of Criminal Sanctions, they can even allow an official to carry a service weapon as a weapon for personal safety (and not for the requirements of the service). Neither of these two laws stipulates that these officials must meet the conditions for carrying weapons and carrying weapons for personal safety prescribed by the Law on Weapons and Ammunition. They all share a common characteristic that neither the establishment nor the duration of employment, as well as the acquisition, possession, and carrying of weapons - is an obstacle for a candidate or employee if he/she committed DV but was not prosecuted based on the decision of the Public Prosecutor's Office and in compliance with the Criminal Procedure Code. Neither is an obstacle the fact that the candidate or employee has been imposed emergency measures under the Law on Prevention of Domestic Violence or measures of protection against violence under the Family Law.

19. The Law on Weapons and Ammunition also does not regulate in enough detail the manner of keeping service weapons. The Rulebook dealing with this issue prescribes standards on safe storage in locked and secured facilities, but without any further details. Special regulations do not regulate clearly (or such regulations are not publicly available) whether officials have the right to carry service weapons outside working hours and place of work or have the duty to safely deposit service weapons in a business facility. This is especially true for the police and the Serbian Army, whose members are also the most numerous officials carrying service weapons. The regulations governing the carrying of weapons by customs officers are more precise in that sense and based on them it can be concluded that, except with the approval of the immediate supervisor, the customs officer is not authorized to carry weapons outside the place of duty and outside working hours. The Judicial Guard has an explicit regulation on this issue which regulates not only the duty of an official to dispose of weapons at the end of working hours, but also the manner in which the weapons will be deposited - a model that could be accepted by other bodies as well which should regulate this issue in a clearer and more detailed manner.
20. The Law on Prevention of Domestic Violence and the Law on Weapons and Ammunition do not regulate the issue of confiscation of weapons in situations when the violence was committed by an official authorized to carry a weapon (on the grounds of the work he/she performs, not the Law on Weapons and Ammunition), and particularly by someone authorized to carry weapons outside the workplace and outside working hours. These issues are also not regulated by special laws that authorize officials to carry weapons. In the light of the fact that according to the valid Law on Weapons and Ammunition, the Law on Prevention of Domestic Violence and special laws prescribing the authorization to carry weapons, file reports, impose urgent measures under the Law on Prevention of Domestic Violence and protection measures under the Family Law, and application of the institute of postponement of criminal prosecution against the perpetrator of the criminal offense, are not the grounds for revoking the license and confiscating the weapon, and in the absence of a conviction for the criminal offense committed with that weapon - there is still a possibility for the officials to continue work without any

problems and continue to carry weapons (and potentially misuse them). In some services, this remains true even if a conviction is handed down – because the condition for employment (which is *de facto* also a condition for carrying a weapon) is less strict. For example, in the case of the Customs Administration, the condition for employment is non-conviction for a suspended or unconditional prison sentence of more than six months. In the case of suspended sentences and short-term imprisonment (and it has already been shown that unconditional sentences of up to six months are imposed in almost 40% of cases), there are no obstacles to continuing employment and continuing to carry a service weapon – even outside the workplace and working hours. Here, the security checks to fill the gap are of no help when it comes to civilians because the officials, above all, did not even acquire the right to carry arms according to the Law on Weapons and Ammunition.

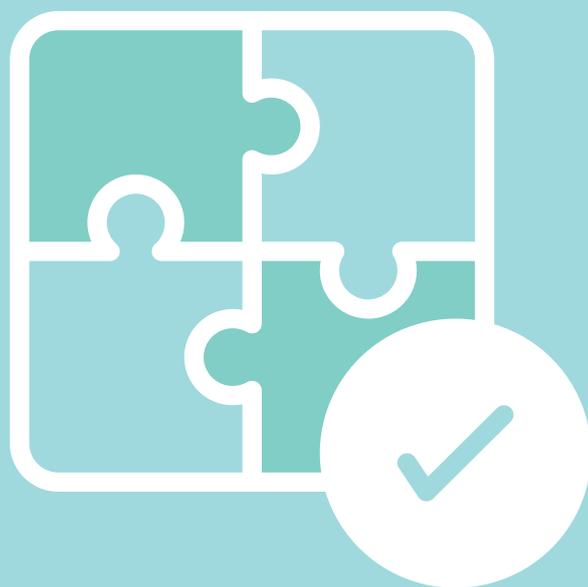
21. The risk assessment list is not harmonized with the Law on Prevention of Domestic Violence. Unlike the Law on Prevention of Domestic Violence, which identifies weapons as a risk factor, regardless of whether they are in legal or illegal possession, the Risk List identified **legal possession of weapons** as a risk factor. In practice, this narrowing of the legal norm has led to police officers checking only whether the perpetrator of the violence has a weapon in legal possession and not checking whether he/she also possesses a weapon that he/she has not registered.
22. The Law on the Prevention of Domestic Violence indicates the **possession** of weapons as a risk factor, but not the **availability** of weapons. This is a significant shortcoming of the Law on Prevention of Domestic Violence, which is inconsistent with the provisions of the Istanbul Convention and the views of the Committee on the Elimination of Discrimination against Women, as possible risks of misuse of other people's available weapons are disregarded (weapon in possession of a household member, family member, a relative, or other persons).
23. Although the data on the number of imposed and extended emergency measures under the Law on Domestic Violence Prevention are encouraging, there is a worrying fact that only suspended sentences and short prison sentences are imposed for the crime of DV. This fact indicates that in practice the penal policy is still mild, and as such does not contribute to the reduction and prevention of domestic violence.
24. The Law on Weapons and Ammunition contains an important provision regarding the exchange of information between healthcare workers (in assessing health ability), especially the chosen doctor of the person holding or applying for a license to carry and own a weapon. The Law on Domestic Violence Prevention also prescribes the obligation to exchange information and cooperate with all relevant bodies for the prevention of DV, including the health system. These two laws, however, remained unrelated to each other, without a legal link and a legal obligation to exchange and cross-reference data relating to the acquisition, possession and carrying of weapons and DV. Thus, in the Law on Weapons and Ammunition, it remains unclear what role and duties other health workers, who are not chosen doctors,

have regarding the knowledge that their patient, who is authorized to hold or carry a weapon, has committed DV (with or without using a weapon), or the information obtained from his/her patient – a victim of DV, that the perpetrator of the violence possesses a weapon or that the weapon is in the household, or with the knowledge about the change in the health condition of the patient who owns a weapon. The obligation of these health workers towards the police is not regulated clearly, and their duties concerning the chosen doctor, who in turn has to inform about all changes in the health condition of his patient who has a license to acquire, keep or carry weapons, are not clearly defined under a threat of prosecution. Except for the chosen doctor who has knowledge about his/her patient being given a license to acquire, hold or carry a weapon, it is also unclear how other health professionals, and especially the specialists in conditions and diseases, which are according to the Law on Weapons and Ammunition an obstacle for acquisition, possession and carrying of weapons (neuropsychiatrists, psychiatrists, ophthalmologists, internists or otorhinolaryngologists, etc.) have information about the need to treat, examine and medically control a patient who is licensed to acquire, hold and carry weapons – so that they could notify the chosen physician about possible changes. A special issue is the attitude of private health practices towards this problem and their relationship with the chosen doctor. The obligation to exchange data within the health systems, which would imply the obligation of every doctor who receives information that a person, who committed violence against his/her patient, has a weapon and information about the identity of that person, is obliged to inform the chosen doctor about that person is a necessity because then, the chosen doctor, who is by law obliged to take necessary steps, would have all the necessary information about the patient. At present, the Law on Weapons and Ammunition prescribes only the obligations of the chosen doctor and prescribes penalties for failing to perform such obligations, although the chosen doctor will often not have any information that would be a reason or 'trigger' to suspect that the health of his/her patient has changed enough not to meet the requirements for possessing or carrying a weapon.

25. The issue of internal exchange of information on health and medical data of the patient, as well as the issue of external exchange of information between the health system and other systems responsible for weapon control, DV, and GBV, remain unresolved due to inconsistencies in the so-called doctor-patient privilege. The patient's right to confidentiality of his medical data prescribed by the Law on Patients' Rights and the right of every person to protection of personal data, including medical data, according to the Personal Data Protection Act, has resulted in other regulations exempting physicians from testifying about the information acquired in the doctor-patient relationship. On the other hand, the Law on Prevention of Domestic Violence obliges health workers to fully cooperate and exchange information when it comes to DV. This, as well as the fact that neither the Ministry of Health nor the Ministry of Justice took actions to harmonize the law - are the reasons for the absence of almost any cooperation of health care institutions with centers for social work, as well as the refusal of health care institutions to provide data regarding their patients - perpetrators or victims of violence.

# RECOMMENDATIONS

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1. It is necessary to continue as well as intensify the activities envisaged by the Roadmap for a sustainable solution to combat illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans until 2024 and the Strategy on the Control of Small Arms and Light Weapons in the Republic of Serbia. In addition, it is especially important to intensify activities in the area of:
  - research into the links between firearms and DV, as well as between firearms and GBV;
  - upgrading the data recording methods;
  - quantitative and qualitative processing of data on firearms as the instrument for GBV, which includes analysis and cross-referencing of existing data on crime, means of execution, sex and age of perpetrators and victims, and legal basis of possession of weapons (legally, illegally, as an official, as a collector, etc.); and
  - improving the legislative framework governing the possession, carrying, acquisition, and use of weapons, DV, criminal acts, and offenses.
2. It is necessary to improve the implementation of the gender aspect in the strategic approach and decision-making processes regarding firearms control. In addition to gender-sensitive data gathering methods, it is also necessary to:
  - integrate the gender aspect into all policies regarding firearms control;
  - the needs of women and men, girls and boys need to be examined before and during the implementation of strategic activities;
  - use strategic and other documents to establish rules on the minimum representation of women in decision-making related to firearms control;
  - ensure the participation of at least 30% of women in bodies dealing with firearms control issues.
3. The Action Plan for Chapter 24 - Justice, Freedom, Security needs to be improved by introducing a gender perspective and involving women to a greater extent in the implementation of measures and activities envisaged by the Action Plan which are related to weapon control and are planned and implemented in a gender-sensitive way.
4. It is necessary to adopt a National Strategy for the Combating of GBV, which will be fully based on the standards of the Istanbul Convention, the Convention on the Elimination of All Forms of Discrimination against Women, and other international documents and generally accepted standards of international law on GBV prevention and combating. The strategy should also include the firearms aspect and it should be aligned with valid national documents on firearms control. More particularly, it should rely on existing research and expert data on the relationship between firearms and GBV, and its objectives should include the changes in the legislative framework related to the possession, carrying, acquisition, and use of weapons, DV and GBV, especially the changes regarding criminal and family law.

5. It is necessary to adopt a Rulebook on cooperation, the adoption of which was prescribed by the Law on Prevention of Domestic Violence, and a bylaw that would regulate the exchange of information and cooperation of liaison officers.
6. It is necessary to amend the Law on Weapons and Ammunition to prescribe the following:
  - that in order to obtain a permit for the acquisition, possession, and carrying of weapons, including collectibles, an insurmountable obstacle is:
    - if the person has been convicted of and prosecuted *ex officio* for criminal offenses, as well as for the criminal offenses prosecuted upon request, in case of acts of violence,
    - if it is a person who was imposed the postponement of criminal prosecution by the public prosecutor based on the Criminal Procedure Code,
    - if an emergency measure has been imposed on him/her under the Law on Prevention of Domestic Violence, and
    - if a measure of protection against domestic violence has been imposed on him/her under the Family Law;
  - that security checks necessarily and without exception include collection of information about the applicant's family situation, which should be done by interviewing family members, ex-partners and other persons who can provide information on whether there are any dysfunctional, violent and conflict patterns in the applicant's family; data must also be collected from the competent center for social work and in cooperation with other bodies, not only in the current place of residence of the applicant but also previous places of residence;
  - that family members and former partners of the applicant must be notified of the submitted application for a permit, and in case of their argued disagreement with the adoption of the application, it is a reason for special caution when deciding on the application, while disagreement of household members (persons with whom the applicant lives) is a reason for rejection of the application;
  - standards for conducting interviews, including persons who must be interviewed (family members, former partners, persons with whom the applicant lives in the household, neighbors) and obligatory data sources (workplace, former workplace, center for social work), in order to exclude the dispositive decision-making of police officers in the selection of these sources of information;
  - the justified reasons for obtaining a permit for possession and carrying of a weapon, and methods of proving the existence of justified reasons, whereby the methods of proving (in)existence of such reasons, need to be regulated in more detail by a bylaw;

- shorter time to check whether the conditions for possessing and carrying weapons are fulfilled, as well as the shorter period for re-checking the health ability to own and carry weapons, which should not be longer than two years, and a deadline of one year should be reconsidered as well due to the fact that weapons are dangerous and they represent a significant risk factor for armed violence and armed GBV and DV;<sup>261</sup>
  - that the weapon must be kept so that it does not disturb other family or household members, and it is especially important to prescribe a ban according to which persons licensed to hold and carry weapons cannot cause a disturbance with their behavior to family members, households or third parties, then a ban on weapons being shown, pointed, cocked, assembled, loaded in the presence of family members, as well as the prohibition of any activity with weapons that may cause discomfort or fear;
  - that the rules for holding and keeping weapons apply to all persons holding a license, including persons who carry, hold and keep weapons as officials;
  - obligations of health workers other than the chosen doctor regarding the flow of information on the health condition of a patient who is licensed to hold or carry a weapon.
7. It is necessary to amend the special laws governing the rights and duties of the officials who carry weapons, to expand the conditions for employment at the jobs that allow carrying weapons to adjust to the conditions prescribed by the Law on Weapons and Ammunition, as well as to expand the reasons for the suspension of a license to carry service weapons to the cases when the employee ceases to meet the conditions prescribed by the Law on Weapons and Ammunition.
  8. It is necessary that the Law on Weapons and Ammunition, and special laws governing the rights and duty of officials to carry weapons, prescribe the manner in which officials can keep service weapons. In that sense, it is necessary to prescribe the place where the weapon should be kept, whereby the best option would be to keep the weapon in the place provided by the employer and to regulate precisely and clearly the conditions under which the official is licensed to carry the weapon in public after working hours, on the way from work to home, and to keep it at home. This case should be prescribed as an exception to the rule that, outside the working hours, service weapons are kept in the provided space by the employer.
  9. The Law on Execution of Criminal Sanctions and the Law on Customs Service should be amended to exclude the possibility of issuance of a permit for carrying a service weapon outside working hours and place of work by any other state body except the Ministry of the Interior.

<sup>261</sup> Law on Obligations, *Official Gazette SFRY*, nos. 29/78, 39/85, 45/89 and 57/89, *Official Gazette FRY*, no. 31/93, *Official Gazette of Montenegro*, no. 1/2003 – Constitutional Charter and *Official Gazette RS*, no. 18/2020, prescribe specific provisions on damage incurred by a dangerous instrument or dangerous activities.

10. The Rulebook regulating the manner of holding and keeping weapons should be amended by more detailed provisions on the manner of keeping weapons and obligations of the holders, which would include technical parameters of facilities and spaces where weapons are to be kept, how these spaces are locked and secured from unauthorized access, the manner of holding locking devices (keys, electronic keys, codes) and how weapons and ammunition are kept in those areas (assembled or disassembled, ammunition kept separately from weapons, etc.).
11. It is necessary to amend the Law on Prevention of Domestic Violence by prescribing that, in addition to possession of weapons, the availability of weapons may also be regarded as a risk factor, and also defining that there is always a risk when there are weapons in the household, regardless of who the license holder is (if in legal possession), when the weapon is owned by a relative or a person with whom the DV perpetrator has close connections, when it is a member of a hunting association, as well as in other cases when the perpetrator of violence can easily get a weapon.
12. The list for risk assessment needs to be harmonized with the Law on Prevention of Domestic Violence by defining the risk as 'someone possessing a weapon', instead of the current definition 'having a weapon in legal possession'.
13. Given the still widespread prevalence of DV and GBV, the existing penal policy needs to be reconsidered concerning domestic violence, given the predominant share of suspended sentences and a large number of dismissed criminal charges. In particular, the justification of postponement of criminal prosecution should be reconsidered, which is prescribed by the Criminal Procedure Code, as well as sentencing to house arrest when it comes to DV and GBV.
14. Laws prescribing the authorization of an employee to carry and use a weapon should be amended by prescribing stricter employment conditions. This law should stipulate that an employment agreement cannot be established with a person who has been convicted of criminal offenses and prosecuted *ex officio*, and of criminal offenses with elements of violence prosecuted on request, against whom proceedings are being conducted for those acts, against whom criminal prosecution has been postponed by the Criminal Procedure Code, for whom there has been an urgent measure imposed under the Law on Prevention of Domestic Violence, who was imposed protection measures against violence under the Family Law, and who was convicted of misdemeanors with elements of violence or has been prosecuted for such offenses. A conviction for the mentioned criminal offenses, application of the postponement of criminal prosecution, and pronounced measure of protection against violence according to the Family Law should be the basis for termination of employment due to non-fulfillment of conditions, or reason for the employee to lose the license for carrying a weapon. The fact that criminal or misdemeanor proceedings have been initiated against the employee for the stated criminal offenses and misdemeanors, should be defined as a reason for temporary suspension of the authorization to carry a service weapon.

15. The Law on Health Care, the Law on Patients' Rights, and the Law on Personal Data Protection need to be amended to stipulate that the provisions on the right to medical confidentiality do not apply in cases of suspected GBV or DV, or in case of knowledge of committed GBV or DV, and by prescribing the conditions under which the right to medical confidentiality is suspended. It is necessary to explicitly prescribe that the health worker is obliged to provide all competent bodies and institutions (police, judiciary, center for social work) with information on the health condition (possible or confirmed) of the perpetrator or victim of DV and GBV, and for such cases, to 'lift the veil' of doctor-patient confidentiality in the laws governing court proceedings.
16. More intensive and extensive training in state bodies and other institutions is necessary regarding the risks of DV and GBV concerning the possession of weapons, and on weapons as a risk factor for serious forms of DV, GBV, and femicides.
17. It is necessary to inform the public systematically and regularly about the relation between the possession of weapons in the household and DV and GBV, and about the increased risks of death and injuries.
18. It is necessary to provide training for journalists, editors, and other media representatives on the 'culture of weapons' and how to deconstruct it, on stereotypes about possession of weapons and risks of owning a weapon, and especially about the higher risks of armed violence and armed DV and GBV, as well as weapons as a factor that significantly increases the risk of armed DV, armed GBV and serious forms of DV and GBV, including femicide.
19. Various national, international, and other programs and projects should encourage media to take a role in the deconstruction of stereotypes about weapons, and in raising public awareness of the risks of weapon possession, as well as weapons as a significant risk factor for DV, GBV, serious forms of GBV and DV, and femicide.
20. There is a need for regular, systematic, comprehensive and evidence-based campaigns aimed at deconstructing the 'culture of weapons', the 'cult of weapons' and the traditional patterns and roles of men and women. Special attention should be paid to the deconstruction of stereotypes about weapons as a symbol of masculinity, the preservation of weapons as part of tradition, and the possession of weapons as a means of protection and defense of the family.
21. Regular, comprehensive, systematic and evidence-based campaigns on the risks of firearms in households need to be conducted. Public awareness should be raised particularly regarding the difference between the risks of 'having' and 'not having' a weapon in the household. Special attention should be paid to campaigns that deconstruct beliefs about the need for Serbian citizens to have weapons, as well as activities that build and strengthen citizens' trust in institutions. The campaigns should particularly emphasize the increased risk of DV, GBV, severe injuries, and fatalities that are all related to the possession of weapons in the household.

22. It is necessary to institutionalize the collection and processing of data on firearms, DV and GBV to include: data on the number of weapons in Serbia (classified by gender, age, and legal basis of possession, storage, and carrying); cases of armed violence, armed DV and GBV (classified by sex and age of perpetrators and victims, type of weapon, basis of acquisition, possession, carrying and keeping of weapons, type of license - according to the Law on Weapons and Ammunition or the laws governing the carrying of service weapons); criminal offenses committed with weapons (classified by forms of criminal offenses) and misdemeanor committed with weapons (classified by forms of misconduct, criminal charges, requests to initiate misdemeanor proceedings, decisions of prosecutors and courts and sanctions in criminal and misdemeanor proceedings).
23. With all respect to the Law on Data Secrecy and the Law on Personal Data Protection, it is necessary to provide statistical processing of data from the records of the Ministry of the Interior that are important for the monitoring of GBV, DV and weapons control. This data should be published periodically (semi-annually or more frequently) either by the SORS or in another way.
24. It is necessary to amend the Law on Prevention of Domestic Violence and provide, in compliance with the laws governing personal data protection and criminal and misdemeanor proceedings, statistical processing of data from the Central Records important for monitoring GBV, DV and weapon control. This data should be published periodically (semi-annually or more frequently) either by the SORS or some other way.
25. It is necessary to amend the Law on Prevention of Domestic Violence by stipulating that the data in the Central Register are kept based on risk factors, with the possibility of cross-referencing data on risk factors, imposed measures, procedures that have been or have not been initiated, and other data.
26. It is necessary to amend the Law on Prevention of Domestic Violence and to keep records in the Central Records on the manner and means of execution of DV, and in the case of weapons, to keep records on how it was misused in a violent act (for example, whether the perpetrator threatened to use the weapon without showing it, threatened to use the weapon and showed it, pointed the weapon at the victim, or misused the weapon; what were the consequences of the misuse of the weapon - death / injury / no injuries).
27. The manner of keeping records on actions and decisions of courts and prosecutor's offices needs to be improved by introducing data on each form of the criminal offense, which would include: reports, actions of the prosecutor's office, court actions, and court and prosecutorial decisions. These records should be linked to the records under the Law on Prevention of Domestic Violence and data on protection measures against violence imposed under the Family Law; these records should also be improved by including data on the manner of perpetration of violence and means of execution, and as regards the weapons, there should also be information about the perpetrator's possession of the weapon, whether he/she was a civilian or an official, and how the weapon was misused in the act of violence (as proposed above).
28. There should be special records of data on the application of postponement of criminal prosecution and the application of 'house arrest' for criminal offenses of DV and GBV, as well as specific data on these institutes in cases of armed DV and GBV.

# REFERENCES

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## International binding and non-binding documents

1. Sustainable development goals, United Nations Team in Serbia. Available at: <https://www.stat.gov.rs/media/3707/un-sdg-brochure-srb-cir-2018-2-web.pdf>.
2. GREVIO's (Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) SERBIA. Available at: <https://rm.coe.int/grevio-report-on-serbia/16809987e3>.
3. The Committee on Elimination of Discrimination against Women – General recommendation no. 30 on women in conflict prevention, conflict and post-conflict situations. Available at: <https://ljudskaprava.gov.rs/sr/node/156>.
4. Committee on the Elimination of all forms of Discrimination against Women – General Recommendation no. 35 on gender-based violence against women updating the General Recommendation no. 19. Available at: [https://www.ljudskaprava.gov.rs/sites/default/files/dokument\\_file/preporuka\\_35\\_sedow\\_srb.pdf](https://www.ljudskaprava.gov.rs/sites/default/files/dokument_file/preporuka_35_sedow_srb.pdf).
5. The Committee on Elimination of Discrimination against Women – Conclusion regarding the Fourth periodic report of the Republic of Serbia on the implementation of Convention on Elimination of All forms of Discriminations against Women. Available at: <https://ljudskaprava.gov.rs/sr/node/156>.
6. Convention on Elimination of all forms of Violence against Women, Law on the Ratification of the Convention on the Elimination of all forms of Discrimination against Women, *Official Gazette SFRY – International agreements*, No. 11/81.
7. The Council of Europe Convention on preventing and combating violence against women and domestic violence, Law on the Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, *Official Gazette RS – International agreements*, No. 12/13.
8. Roadmap for a sustainable solution to the illegal possession, misuse and trafficking of small arms and light weapons and their ammunition in the Western Balkans by 2024. Available at: <https://www.seesac.org/f/docs/publications-salw-control-roadmap/Regional-Roadmap-for-a-sustainable-solution-to-the.pdf>.
9. Report of the third United Nations Conference to Review Progress Made in the Implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, UN, 2018. Available at: [https://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/CONF.192/2018/RC/3&referer=/english/&Lang=E](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/CONF.192/2018/RC/3&referer=/english/&Lang=E).

10. UN General Assembly Resolution 65/69 – Women, disarmament, non-proliferation and arms control, Resolution adopted by the General Assembly on 8 December 2010 [on the report of the First Committee (A/65/410)] 65/69. Women, disarmament, non-proliferation and arms control. Available at: <https://undocs.org/A/RES/65/69>.
11. Security Council Resolution 1325 – Women, peace and security. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement>, <http://zeneucnom.org/images/pdf/rezolucija1325.pdf>.
12. The Arms Trade Treaty, Law on Ratification of Arms Trade Treaty, *Official Gazette RS – International agreements*, No. 14/2014.
13. UN Programme of Action on small arms and practical disarmament measures (PoA), UN Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons. Available at: <http://unrcpd.org/conventional-weapons/poa/>.
14. United Nations Office For Disarmament Affairs Gender Mainstreaming Action Plan. Available at: <https://www.un.org/disarmament/wp-content/uploads/2016/06/update-gender-action-plan-2016.pdf>.
15. *Violence against women Prevalence Estimates, 2018. Global, regional and national prevalence estimates for intimate partner violence against women and global and regional prevalence estimates for non-partner sexual violence against women*, WHO, Geneva, 2021.

## EU acquis

1. Council Conclusions on the Adoption of an EU Strategy Against Illicit Firearms, Small Arms & Light Weapons & Their Ammunition – Council Conclusions (19 November 2018). Available at: <https://data.consilium.europa.eu/doc/document/ST-13581-2018-INIT/en/pdf>.
2. The Directive of the European Parliament and of the Council amending Council Directive 91/477/EEZ on control of the acquisition and possession of weapons (2008/51/EZ). Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32008L0051>.
3. The Directive of the European Parliament and of the Council 2017/853 amending the Council Directive 91/477/EEZ on control of the acquisition and possession of weapons. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32017L0853>.
4. The Council Directive on the control of the acquisition and possession of weapons (91/477/EEZ) dated 1991. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31991L0477>.

## Strategic documents of the Republic of Serbia

1. Action plan for Chapter 24 – Justice, freedom, security. Available at: <https://eu-konvent.org/objavljen-akcioni-plan-za-poglavlje-24-pravda-sloboda-i-bezbednost/>.
2. National Gender Equality Strategy for the period from 2016 to 2020 with an action plan for the period from 2016 to 2018, *Official Gazette RS*, No. 4/2016.
3. National Action Plan for the implementation of the United Nations Security Council Resolution 1325 – Women, peace and security in the Republic of Serbia (2017–2020). Available at: <https://www.osce.org/sr/mission-to-serbia/341161>.
4. General Protocol for Action and Cooperation of Institutions, Bodies, and Organizations in the Situations of Violence against Women within the Family and Intimate Partner. Available at: <https://www.minrzs.gov.rs/sites/default/files/2018-11/Opsti%20protokol%20nasilje%20u%20porodici.pdf>.
5. Special protocol on conduct of police officers in cases of domestic and intimate partner violence against women. Available at: <https://iskljucinasilje.rs/wp-content/uploads/2016/09/Poseban-protokol-o-postupanju-policijskih-slu%C5%BEbenika-u-slu%C4%8Dajevima-nasilja-nad-%C5%BEenama-u-porodici-i-u-partnerskim-odnosima.pdf>.
6. Strategy on small arms and light weapons control in the Republic of Serbia for the period 2019–2024, *Official Gazette RS*, No. 44/2019.

## Expert literature

1. *Bezbednosne provere u Srbiji – analiza Centra za evroatlantske studije*, Centar za evroatlantske studije – CEAS, Organizacija za evropsku bezbednost i saradnju, Misija OEBS-a u Srbiji, 2015. Available at: [https://www.ceas-serbia.org/images/2015-i-pre/Bezbednosne\\_provere\\_SRB\\_book.pdf](https://www.ceas-serbia.org/images/2015-i-pre/Bezbednosne_provere_SRB_book.pdf).
2. Božanić, D., *Gender and SALW in South East Europe – Main Concerns and Policy Response*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC) 2016. Available at: [https://serbia.un.org/sites/default/files/2020-07/Gender\\_and\\_SALW\\_publication\\_eng-web.pdf](https://serbia.un.org/sites/default/files/2020-07/Gender_and_SALW_publication_eng-web.pdf).
3. Božanić, D., *Rod i malokalibarsko oružje u Srbiji: Ključne činjenice*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), 2019. Available at: [http://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms\\_SERBIA\\_SRB\\_WEB.pdf](http://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms_SERBIA_SRB_WEB.pdf).
4. *Wellbeing and Safety of Women – Serbia Results Report*, OSCE, 2019. Available at: [https://www.osce.org/files/f/documents/e/4/419750\\_1.pdf](https://www.osce.org/files/f/documents/e/4/419750_1.pdf)

5. *Firearms Possession and Domestic Violence in the Western Balkans: A Comparative Study of Legislation and Implementation Mechanisms*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons, 2007. Available at: [https://www.files.ethz.ch/isn/45839/2007\\_Domestic\\_Violence\\_Firearms.pdf](https://www.files.ethz.ch/isn/45839/2007_Domestic_Violence_Firearms.pdf).
6. *Gender and Small Arms in Serbia – Fast Facts*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), 2019. Available at: [https://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms\\_SERBIA\\_ENG\\_WEB.pdf](https://www.seesac.org/f/docs/Gender-and-SALW/Gender-And-Small-Arms_SERBIA_ENG_WEB.pdf).
7. Global Firearms Holdings, Small Arms Survey. Available at: <http://www.smallarms-survey.org/weapons-and-markets/tools/global-firearms-holdings.html>.
8. Lacmanović, V., „Femicid u Srbiji: potraga za podacima, odgovorom institucija i medijska slika“, *Annals for Istrian and Mediterranean Studies*, 2019. Available at: [https://www.zeneprotivnasilja.net/images/pdf/ASHS\\_29-2019-1\\_LACMANOVIC.pdf](https://www.zeneprotivnasilja.net/images/pdf/ASHS_29-2019-1_LACMANOVIC.pdf).
9. *Oružje na meti – Zloupotreba vatrenog oružja u Srbiji*, SEESAC, 2015. Available at: <https://www.seesac.org/f/docs/SALW-Awareness-and-Communication/Oruzje-na-metiTargeting-Weapons-EN.pdf>.
10. Petrušić, N., Žunić, N., Vilić, V., *Društveni i institucionalni odgovor na femicid u Srbiji II*, Udruženje građanki FemPlatz, Pančevo, 2019.
11. *Small Arms and Light Weapons Survey – Republic of Serbia 2012-2016*, South Eastern and Eastern Europe Clearinghouse for the Control of Small Arms and Light Weapons (SEESAC), 2019. Available at: [https://www.seesac.org/f/docs/SALW-Surveys/Serbia\\_SALW-Survey\\_ENG.pdf](https://www.seesac.org/f/docs/SALW-Surveys/Serbia_SALW-Survey_ENG.pdf).
12. Spasić, Danijela, Tadić, Marina, *Zloupotreba oružja i rodno zasnovano nasilje*, Udruženje CENTAR, Centar za istraživanje javnih politika, Beograd, 2017. Available at: <http://publicpolicy.rs/documents/302291386e5a5a15d9d9c25a697f116addabe382.pdf>.
13. *The rifle has the devil inside – Gun Culture in South Eastern Europe*, SEESAC, 2006. Available at: <https://www.seesac.org/f/docs/SALW-Awareness-and-Communication/Gun-Culture-in-South-Eastern-Europe-EN.pdf>.
14. Vilić Konstantinović, S., Petrušić, N., Beker, K., *Društveni i institucionalni odgovor na femicid u Srbiji I*, Udruženje građanki FemPlatz, Pančevo, 2019.

## National legislation

1. Criminal Code of RS, *Official Gazette RS*, No. 85/2005, 88/2005, 107/2005, 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 and 35/2019.
2. Family Law, *Official Gazette RS*, No. 18/2005, 72/2011 and 6/2015.
3. Rulebook on the manner of providing protective health care and criteria and manner of determining psychological and physical capabilities for certain job positions of police officers, *Official Gazette RS*, No. 110/2006.
4. Rulebook on the security vetting procedure and the content of the questionnaire, *Official Gazette RS*, No. 97/2015.
5. Rulebook on Court Guards, *Official Gazette RS*, No. 91/2005, 107/2005, 104/2006 and 33/2011.
6. Regulation on Premises and Technical Arrangement for Secure Storage and Keeping of Firearms and Ammunition, *Official Gazette RS*, No. 9/2016, 106/2016 and 50/2018.
7. Rulebook on the conditions and manner of carrying weapons and ammunition by customs officers, *Official Gazette RS*, No. 53/2019.
8. Rulebook on determining physical fitness of an individual for possessing and carrying firearms, *Official Gazette RS*, No. 25/2016 and 79/2016.
9. Decree on the Admission to Professional Military Service, *Official Gazette RS*, No. 35/2015, 98/2018 and 63/2020.
10. Law on Security Information Agency, *Official Gazette RS*, No. 42/2002, 111/2009, 65/2014, 66/2014 and 36/2018.
11. Customs Law, *Official Gazette RS*, No. 95/2018.
12. Law on Detective Activity, *Official Gazette RS*, No. 104/2013 i 87/2018.
13. Law on Game and Hunting, *Official Gazette RS*, No. 18/2010 and 95/2018.
14. Law on Civil Servants, *Official Gazette RS*, No. 79/2005, 81/2005, 83/2005, 64/2007, 67/2007, 116/2008, 104/2009, 99/2014, 94/2017, 95/2018.
15. Law on records and data processing in the area of internal affairs, *Official Gazette RS*, No. 24/2018.
16. Law on the Execution of Criminal Sanctions, *Official Gazette RS*, No. 55/2014 and 35/2019.

17. Weapons and Ammunition Law, *Official Gazette RS*, No. 20/2015, 10/2019 and 20/2020.
18. Law on Police, *Official Gazette RS*, No. 6/2016, 24/2018 and 87/2018.
19. Law on Patients' Rights, *Official Gazette RS*, No. 45/2013 and 25/2019 – other law
20. Law on Private Security, *Official Gazette RS*, No. 104/2013, 42/2015 and 87/2018.
21. Law on Domestic Violence Prevention, *Official Gazette RS*, No. 94/2016.
22. Forest Law, *Official Gazette RS*, No. 30/2010, 93/2012, 89/2015 and 95/2018.
23. Law on Organization of Courts, *Official Gazette RS*, No. 116/2008, 104/2009, 101/2010, 31/2011, 78/2011, 101/2011, 101/2013, 40/2015, 106/2015, 13/2016, 108/2016, 113/2017, 65/2018, 87/2018 and 88/2018.
24. Law on the Military Security Agency and the Military Intelligence Agency, *Official Gazette RS* No. 88/2009, 55/2012 and 17/2013.
25. Law on the Serbian Armed Forces, *Official Gazette RS*, No. 116/2007, 88/2009, 101/2010, 10/2015, 88/2015, 36/2018 and 94/2019.
26. Law on Personal Data Protection, *Official Gazette RS*, No. 87/2018.
27. Criminal Procedure Code, *Official Gazette RS*, No. 72/2011, 101/2011, 121/2012, 32/2013, 45/2013, 55/2014 and 35/2019.

## Statistical data

1. SORS, Adult criminal offenders, 2018. Available at: <https://www.stat.gov.rs/publikacije/publication/?p=12218>.
2. SORS, Minor criminal offenders, 2018. Available at: <https://www.stat.gov.rs/publikacije/publication/?p=12219>.
3. *Femicide – female homicides in Serbia, Quantitative-narrative report January 1 – December 31, 2018*. Available at: [https://www.zeneprotivnasilja.net/images/pdf/FEMICID\\_Kvantitativno-narativni\\_izvestaj\\_za\\_2018\\_godinu.pdf](https://www.zeneprotivnasilja.net/images/pdf/FEMICID_Kvantitativno-narativni_izvestaj_za_2018_godinu.pdf).
4. *Femicide – female homicides in Serbia, Quantitative-narrative report January 1 – December 31, 2019*. Available at: [https://womensngo.org.rs/images/femicid/FEMICID\\_Kvantitativno-narativni\\_izvestaj\\_2019.godina.pdf](https://womensngo.org.rs/images/femicid/FEMICID_Kvantitativno-narativni_izvestaj_2019.godina.pdf).

## Acts and reports of the Protector of Citizens

1. Act of the protector of Citizens with recommendations. Available at: <https://www.rodnaravnopravnost.rs/attachments/article/302/preporuka%20final-poslata.doc>,  
  
[https://www.rodnaravnopravnost.rs/attachments/214\\_Sistemske%20preporuke.doc](https://www.rodnaravnopravnost.rs/attachments/214_Sistemske%20preporuke.doc),  
  
<https://www.rodnaravnopravnost.rs/attachments/article/229/preporuka%20nasilje%20zbirna.doc>.
2. Special Report from the Protector of Citizens on the implementation of General and Special Protocol on protection of women against violence. Available at: [https://www.rodnaravnopravnost.rs/index.php?option=com\\_content&view=article&id=138:2015-02-24-15-03-31&catid=17:2012-12-13-09-53-59&Itemid=30](https://www.rodnaravnopravnost.rs/index.php?option=com_content&view=article&id=138:2015-02-24-15-03-31&catid=17:2012-12-13-09-53-59&Itemid=30).

## Internet sources

1. *Exclude violence – Frequently asked questions*. Available at: <https://iskljucinasilje.rs/cesta-pitanja/>.
2. SEESAC. Available at: <https://www.seesac.org/>.
3. SEESAC. Available at: [http://www.seesac.org/AVMP/?glance\\_year=2019&glance\\_month=0&glance\\_region=1308#glance](http://www.seesac.org/AVMP/?glance_year=2019&glance_month=0&glance_region=1308#glance).
4. *Police union: numerous reasons for extending the deadline for re-registration of weapons*. Available at: <https://www.juznevesti.com/Drushtvo/Sindikato-policije-Brojni-razlozi-da-se-rok-za-preregistraciju-oruzja-produzi.sr.html>.



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