

Some effects of 'pre-crime' concept in combating domestic violence



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Abstract:

The paper discusses the role of police, public prosecutor and court in combating domestic violence and the effects achieved in the 2018-2021 period. The aim of the study was to establish whether the provisions of the law that empower the police and judicial bodies are adequately implemented in the entire territory of the Republic of Serbia and whether they offer sufficient mechanisms to efficiently and effectively prevent and suppress domestic violence and provide efficient protection of the victims. The study also aimed to establish what effects were achieved by proactive approach of the relevant authorities in the analysed four-year period, what the sentencing policy of the courts has been, and how efficient the public prosecution was in suppressing domestic violence. The research results have shown that the effects of the new concept applied in suppressing domestic violence are not uniform in all the regions of Serbia, that there has been a decrease in the number of criminal offences, but that the number of fatalities among family members has not declined.

Keywords: Serbia; domestic violence; risk assessment; urgent measures; criminal offence; sanction

INTRODUCTION

Crime combating strategy involves operationalization of general crime-combating policy but also countering certain forms of nation- or region-specific crime. However, crime combating strategy means more than deploying police forces in order to achieve the goals of criminal policy (Kube & Schreiber, 1992). Crime combating strategy is a separate field which includes a broad range of resources and some authors find that it is by no means only the "third pillar of criminalistics" (Klink & Kordus, 1986). Criminal policy conveys and shapes political will of the government through crime combating strategy. This means that the actions of police and other competent authorities cannot be politically neutral as they must always follow the guidelines of criminal policy. Modern models of work in the area of combating crime are based on the 'pre-crime' concept, an approach that implies the action of the competent authorities before the commission of a criminal offence. This means that the competent authorities act before domestic violence occurs and before more serious consequences for the victim occur, and the Law on Protection against Domestic Violence (LPDV) offers a solid foundation for the police, the public prosecutor's office and the court to act in accordance with this concept. The model is built on improved prevention and proactivity, effective forecasting based on an analysis of the observed problem, achieved through coordination of police and judicial authorities at the national and local levels, along with cooperation with the social welfare centres (SWC), as well as other institutions and non-governmental organizations. A proactive approach is the activity of the competent authorities aimed at acting on the sources of potential problems before the problem arises or escalates, and a reactive approach involves the activity that is aimed at acting towards the source of the problem after the criminal intention has been realized. The goal of the proactive action is to collect information that indicates possible commission of criminal offences in order to prevent them (Vuković, 2017).

Curbing domestic violence in Serbia today involves a complex preventive and repressive procedure in which competent authorities and institutions cooperate (police, public prosecutor's offices, courts, social welfare centres, health and educational institutions, lawyers, legal aid services in local self-government units, etc.), which is carried out in order to prevent violence, punish perpetrators, protect and support the victims of domestic violence.

By applying normative and statistical methods, content analysis, comparative and formal-logic analysis, the paper analyses the provisions of legal regulations and scientific papers pertaining to this area, as well as the data of the Ministry of the Interior (MI) of the Republic of Serbia and the Statistical Office of the Republic of Serbia relating to domestic violence for the entire territory of Serbia in the 2018–2021 period. To obtain more complete results, we have done a comparative analysis of data for the statistical regions set out in the Law on regional development (*Zakon o regionalnom razvoju, 2009–2015*): Vojvodina Region (VR), Belgrade Region (BR), Šumadija and West Serbia Region (SWSR), and South and East Serbia Region (SESR). We started from the general hypothesis that positive legal regulations in Serbia provide adequate mechanisms for the police and judicial authorities to timely and effectively combat domestic violence. Based on the general hypothesis set out in this way, we have put forward the following individual hypotheses: 1) The effectiveness of the protection of victims of domestic violence depends on the efficiency of the police and the effects of the measures taken; 2) The risk assessment of domestic violence is carried out by the police in an adequate manner; 3) Timely implementation of the provisions of Law on Prevention of Domestic Violence leads to a decrease in the number of crimes of domestic violence; 4) Cooperation between the competent authorities and the combination of preventive and repressive measures is a key aspect of countering domestic violence.

Legal framework for preventing and countering domestic violence

Combating domestic violence, the notion of domestic violence and the concept of a family member are regulated by the provisions of several statutes within our national legislation. The Criminal Code (CC) incriminates the offence of domestic violence, and defines family members in the narrowest sense (*Krivični zakonik, 2005–2019*). This criminal offence is a consequential criminal offence and consists in endangering the tranquillity, physical integrity or mental state of a family member. It includes three alternatively prescribed forms of perpetration: the use of violence, threats or brazen and reckless behaviour. It is sufficient for the use of violence and a threat to occur only once for the offence to exist, while when it comes to brazen and reckless behaviour, it is to occur repeatedly (*Stojanović, 2012; Marković, 2018*). The CC envisages the measure of restraining order and communication with the victim and it is important for preventing the revictimization of victims of domestic violence (*Čopić, 2019*).

The Family Law (FL) stipulates measures for the protection against domestic violence (Articles 197–200), lasting up to one year and implemented in civil proceedings (*Porodični zakon, 2005–2015*). The FL has envisaged and regulated a special procedure pertaining to the litigation conducted for protection against domestic violence (*Petrušić et al., 2018*). A lawsuit for implementing and extending measures of protection against domestic violence may be filed by a family member against whom violence was directed, their legal representative, the public prosecutor and the guardianship authority (*Article 284 FL*). The infringement of the measures is sanctioned under paragraph 5 of Article 194 CC wherein a special form of the criminal act of domestic violence is stipulated. The concepts of domestic violence and family members are defined more broadly in the FL.

The Law on Prevention of Domestic Violence (LPDV) (*Zakon o sprečavanju nasilja u porodici, 2016*) bestows new preventive powers on the police, regulates the procedure for assessing the risk of domestic violence, the imposition and extension of urgent measures that may last up to 32 days, sanctioning of offenders who violate the urgent measures, as well as planned protection of victims of domestic violence, i.e., the adoption of an individual plan of protection and support to the victim by the Group for Coordination and Cooperation. Under this law, the concepts of domestic violence and

family members are defined in a broader way as compared to criminal law, yet to some extent more narrowly than in the FL. In case of Article 36, LPDV stipulates the sanction of 60 days' imprisonment.

The Misdemeanour Law (ML) provides for the possibility of imposing a precautionary measure against offenders, lasting up to one year, which includes prohibition of access to the victim of domestic violence and the place of perpetration, or the facility where the victim resides or stays ([Zakon o prekršajima, 2013–2022](#)). It also envisages the liability of the offender who infringes the precautionary measure and the same sanction is envisaged as for the offence for which the measure was pronounced.

The Criminal Procedure Code (CPC) defines the concepts of extramarital union and other lasting unions ([Zakon o krivičnom postupku, 2011–2021](#)). Possible perpetrators of domestic violence and persons suspected of committing this offence are arrested based on the provisions of LPDV, CPC and ML.

The role of police in combating domestic violence

Preventing and suppressing domestic violence is a strategic priority of the Serbian police set out in the Strategic Assessment of Public Security for the 2022-2025 period, where the degree of risk regarding this security problem has been estimated as moderate to high ([Ministarstvo unutrašnjih poslova RS, 2021](#)). The main strategic direction in combating this adverse social phenomenon since 2017 and the implementation of the LPDV has been that of prevention. The procedure of preventing domestic violence is carried out by a competent police officer (CPO). Where the risk assessment indicates immediate danger of repeated violence, or a likelihood of it being committed for the first time, it is the duty of the CPO to exercise powers, issue orders in writing, imposing urgent measures against a possible perpetrator of domestic violence, a temporary ban on contacting or approaching the victim, and removal from the apartment if they reside at the same address. Urgent measures are the measures that sui generis constitute a limitation of certain freedoms and rights (they cannot be criminal sanctions by their nature as they are not provided for in the CC, so that they are referred to as quasi-criminal sanctions). The urgent measures should precede the protective measures envisaged by the FL, yet the practice shows that this is not the case. Family law measures of protection are imposed in a very small number of cases. In 2018, 2,479 lawsuits were filed for the imposition of these ([Kolarić & Marković, 2019](#)), which is 13% of the total number in relation to the number of orders issued by the police imposing urgent measures. Basic Public Prosecutor's Offices (BPPO) filed 297 lawsuits for the imposition of security measures in the same year, and the largest number of the lawsuits, over 80%, was filed by family members who were the victims of domestic violence and their representatives ([Kolarić & Marković, 2021](#)). Mandatory protection on two tracks could be legally prescribed, so the measures could be linked to each other ([Kolarić & Marković, 2019](#)). The CPO and SWC have to take a more active part in the procedures for imposing family law protection measures. The legitimacy of LPDV is seen, among other things, in the rare lawsuits in civil procedures based on the FL, insufficiently efficient cooperation of competent state bodies, but also in the need for prompt response and protection of the victim even in the cases where other court procedures are instituted. That is why the LPDV is based on a concept that is new to us, that of 'pre-crime'. The entire procedure, from the moment of apprehension, along with the risk assessment, may last eight hours at the most ([Kolarić & Marković, 2022](#)).

In the analysed period, the police acted in 113,567 incidents on the basis of received information on domestic violence, and in 69% of the cases they estimated that there was a risk of domestic violence. The fewest incidents were registered in 2018 and the most in 2019, while in 2020 and 2021 the number of events was at approximately the same level. The total number of victims was 128,210, out of whom 63,920 or 50% were in a marital, extramarital or partner relation with the potential perpetrator; 90,343 or 70% of victims were female, and the most frequent ages ranged between 31 and 50, as registered in 50,084 or 39% of the total number of cases.

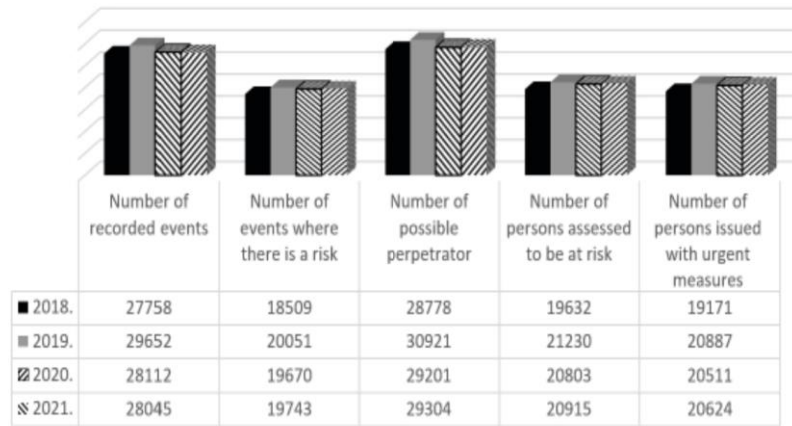


Figure 1.

Risk Assessment, Imposition and Extension of Urgent Measures

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

Of the total number of possible perpetrators, 96,533 or 82% were male, 58,722 or 50% were between 31 and 50 years of age, and 70% were estimated to present risk of domestic violence. The most common risk factors were that the victim felt fear of the possible perpetrator which was noted in 55,460 or 71% of events, the possible perpetrator had committed domestic violence earlier or immediately before the risk assessment in 48,677 or 62% of events, the possible perpetrator threatened the victim or the members of the victim's family in 40,904 or 52% cases, and the possible perpetrator drank alcohol in 30,248 or 49% events. Based on these data, we can conclude that the possible perpetrators are mostly men who have perpetrated violence in the past, who have threatened the victim, who drink, are aggressive, and who the victims are afraid of. Urgent measures are imposed ex parte and have immediate effect regardless of the court proceedings for or in connection with the criminal offence of domestic violence (Jovašević, 2018). Both urgent measures were pronounced simultaneously in 43% cases.

The number of repeat offenders increased annually, which is logical considering that the records contain a larger number of possible perpetrators as well as persons to whom urgent measures have been imposed. Thus, in 2018, 3,206 repeat offenders were recorded for whom urgent measures were imposed two or more times; in 2019, there were 6,392, in 2020, a total of 7,633, and in 2021 there were as many as 8,536 or 41% of the total number of persons to whom urgent measures were imposed. Therefore, it is necessary to form specialized teams in police directorates, which would include a certain number of CPOs who would exclusively deal with combating domestic violence. This is not the case in most police departments today. Specialist training for preventing domestic violence was attended and completed by a large number of police officers, so that they perform CPO tasks alongside their regular duties.

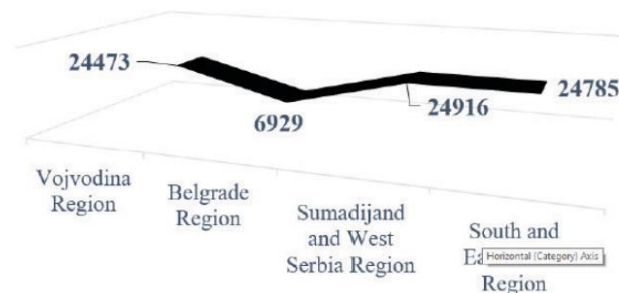


Figure 2.

The Number of Orders on Urgent Measures in the 2018–2021 Period

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

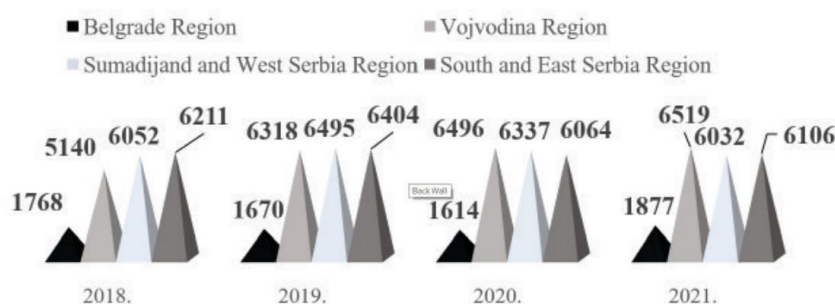


Figure 3.

The Number of Orders Issued per Year

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

In the course of the observed period, a similar number of orders on urgent measures was issued in three regions, the largest number having been issued in the SESR in 2018, SWSR in 2019, and VR in 2020 and 2021. The lowest number of urgent measures were issued in the BR, and it was 3 to 4 times smaller than in other regions. [Figure 4](#)

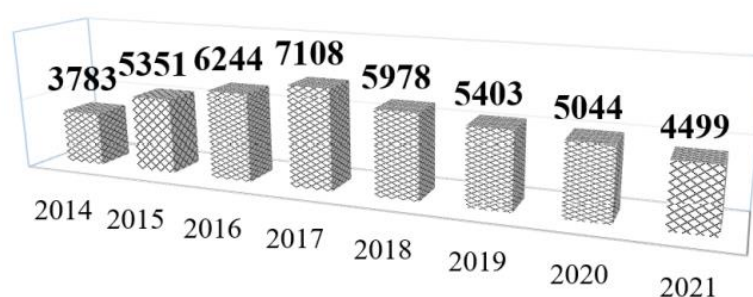


Figure 4.

The Number of Criminal Offences of Domestic Violence

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

The police registered the largest number of criminal offences (CO) of domestic violence in 2017, which was preceded by a steep and steady increase, and then followed by a slight but continuous decline. This coincided with the beginning of implementation of the LPDV, so that the decrease in the number of criminal offences can be seen as one of the effects of the work of responsible bodies and institutions on preventing domestic violence. In the period between 2014 and 2017, 22,486 criminal offences were committed, accounting for 52% of offences committed in the eight-year period, which was 1,562 offences more than in the period from 2018 to 2021.

In the analysed eight-year period, the most acts of domestic violence were committed in the VR, 36%, and the fewest occurred in the BR, only 15%. Additionally, in the period from 2018 to 2021 there was a significant increase, unlike in the SWSR and SESR, where there was a significant decrease in the number of registered CO. It is interesting that the number of committed CO in the SWSR was smaller than in the BR although four times more urgent measures were imposed over the observed four-year period. In the same period, the average annual crime rate in the VR was the highest, 120, whereas in the SWSR it was the lowest, 52. In the BR it was 57, and in the SESR - 86. The data indicate that the highest risk of becoming a victim of the CO of domestic violence is in the VR. It can be concluded that preventive measures had effects in two regions, yet the increase in the number of CO in the VR is worrying since 40% of the total number of CO domestic violence was committed in the 2018-2021 period. We find that competent authorities have to plan and implement adequate effective measures in order to solve this problem in the forthcoming period.

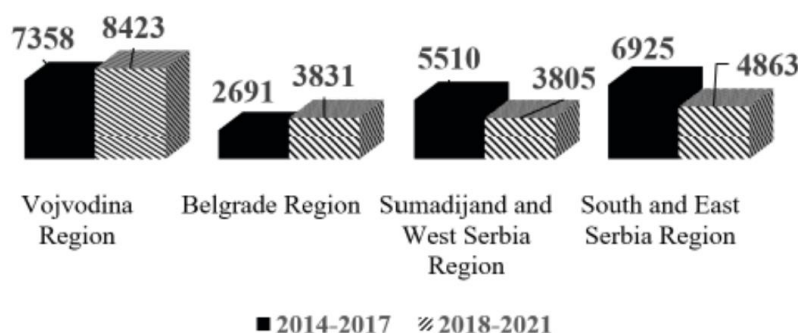


Figure 5.

The Relative Number of CO per Region in the Periods 2014–2017 and 2018–2021

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

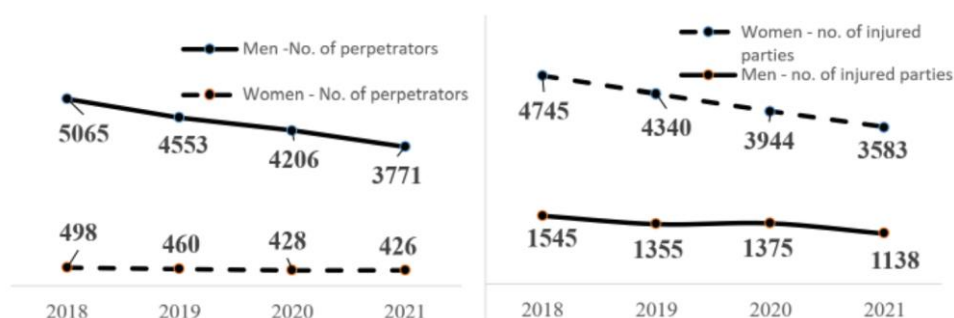


Figure 6.

Gender Structure of Perpetrators and Injured Parties in CO Domestic Violence

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

In 91% of cases, the perpetrators of domestic violence were men, and women were the victims in 75% of these cases. The conclusion is that the CO is gender-based, although there is a large number of cases in which men committed violence against male family members. Most perpetrators were aged between 31 and 40 (4,690), then 41 to 50 (4,298), which means that men aged 31 to 50 committed violence in more than a half (51%) of the cases. There were 2,964 men aged 21 to 30 who committed violence, 2,643 men aged 51 to 60, and 2,189 over 60 years of age. We can see that the number of men who resort to violence increases until the age of 50 and afterwards declines, and that most women, 869 or 44%, also commit domestic violence at this age. Observed annually, we can see that the total number, but also the number of men and women suspected of perpetrating this CO steadily declined from 2018 to 2021.

Female victims were most often aged 31 to 40 (3,884), then 41 to 50 (3,205), over 60 years of age (3,018), 21 to 30 (2,775), 51 to 60 (2,314). This means that women aged 31 to 50 were the victims of this CO in 43% of the cases. Men were most commonly the victims after the age of 60 (1,587), then between 51 and 60 (841); from 41 to 50 (792), from 31 to 40 (649), and from 21 to 30 (602).

In 161 incidents, children were harmed by domestic violence. The police should bear in mind that Serbia has ratified the Convention on the Rights of Child Resolution No. 109/1990 (1989) and Article 19 thereof provides for the obligation to take measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child. It is interesting that only male children aged 6 and younger were victims more often than females (101:80), whereas the ratio of the victims of both sexes becomes more balanced until the age of 20. After that, the ratio constantly increases until the age of 50, and after 60 it becomes

balanced again. This can be related to the physical strength of men, which is much lower at these ages.

The role of judicial authorities in the prevention of domestic violence

There is no single strategy of combating violence that will work in all situations (Bartolomei, 2014) and that is why it should be designed in a comprehensive and integrated framework and applied in order to prevent violence and protect victims. Protection of the victim, in addition to being urgent and timely, must also be effective and efficient. CPO imposes urgent measures for 48 hours from the moment of delivery of the order. This time cannot be shortened (Kolarić & Marković, 2019) and in this period of time the basic public prosecutor (BPP) and the court are obliged to decide whether there are reasons for extending the urgent measures and to carry out the procedure. Only the urgent measures imposed by the CPO can be extended. The BPP is obliged to carry out a risk assessment and submit a proposal to the court for the extension of urgent measures in every case where it determines that there is a risk of immediate danger of domestic violence. The court also has the obligation to assess the risk, conducting the procedure and making decisions according to the rules of civil proceedings. The BPP and the court make decisions based on the files submitted by the CPO.

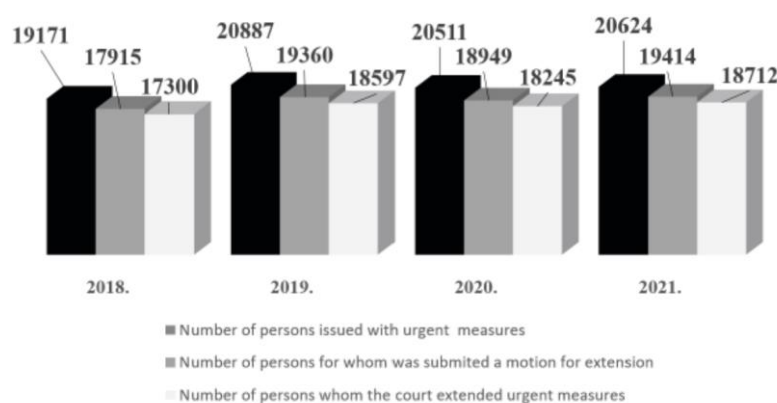


Figure 7.

The Number of Extended Urgent Measures

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

For 93% of persons to whom the CPO imposed urgent measures, the BPP submitted a proposal for extension, and the court adopted the proposal in 96% of the cases. We concluded that the court extends the urgent measures for additional 30 days for 90% of persons to whom the police impose urgent measures. This indicates that the CPOs were good at assessing the risk.

Misdemeanour courts gained a significant role in combating domestic violence with the adoption of the Law on Preventing Domestic Violence which stipulates that a violation of urgent measures is a misdemeanour punishable by up to 60 days in prison. The Misdemeanour Law provides for the precautionary measure of "prohibition of access to the injured party, objects or the place where the offence was committed" which is imposed in order to prevent the perpetrator from repeating the offence or continuing to endanger the injured party and which also includes the prohibition of access to a shared apartment or household so that it represents an adequate means of protection for the victims of domestic violence.



Figure 8.

Misdemeanour of Urgent Measure Violation

(Source: Ministry of the Interior of the Republic of Serbia, 2022)

In the observed period, the police registered 7,761 misdemeanours under Article 36 of the LPDV and the same number of requests for the initiation of misdemeanour proceedings. Slightly less than 11% of persons violated the extended urgent measures. About 85% of the proceedings ended in conviction. From the above table we can see that a deviation occurred only in 2020, when 78% defendants were convicted of violating the urgent measures. Out of the total number of the convicted, 87% were sentenced to imprisonment, 13% to a fine, and only one person was sentenced to community service. It is interesting that in some courts a huge percentage of fines are imposed, while in some courts almost none are imposed. Thus, in the Misdemeanour Court in Belgrade - 182 or 29% of fines were imposed; 53 or 35% in Vranje; while in Novi Pazar only one was imposed (102 prison sentences); Sombor 2 (225 prison sentences); Prokuplje 4 (66 prison sentences); Prijepolje 5 (77 prison sentences); Sremska Mitrovica 7 (164 prison sentences), Kruševac 9 (253 prison sentences); and Jagodina 12 fines (297 prison sentences). Furthermore, we have concluded that there is a decreasing trend in pronouncing the prison sentence: 94% of persons were sentenced in 2018, 89% in the following year, 84% in 2020, and only 82% in 2021, whereas the number of fines increased. Given that the LPDV prescribes the sanction of imprisonment, that the fine is envisaged only if the offence did not cause serious consequences and if there are reasons for mitigating the sentence (extenuating circumstances), we have concluded that the court has adopted increasingly lenient penal policy in this field, especially some misdemeanour courts, including the largest one in Belgrade. In addition, the security measure prohibiting convergence to the injured party was issued only in respect of 158 or 2% of the convicted offenders. This measure may last up to one year, and the offender is punishable for its violation just as for the offence for which it was imposed. Considering that this security measure cannot be imposed without a written proposal of the applicant, i.e., of the police, or a spoken request put forward by the injured party during the hearing, we find that the police must use their legal right more often, submit a written proposal at the time of submitting the request, and thus enable the court to protect the victim more effectively and for a longer period of time. Most of these security measures were imposed in the area of misdemeanour courts in: Valjevo - 106, then in Belgrade - 22, in Novi Sad - 12, Kragujevac - 7, and Pančevo - 6. The security measure of compulsory treatment of alcoholics and drug addicts was imposed 32 times, out of which 20 times in the area of the Misdemeanour Court in Kragujevac. The security measure of compulsory psychiatric treatment was pronounced 43 times by the Misdemeanour Court in Belgrade, whereas it was never pronounced in the territories of courts in Valjevo, Užice, Čačak and Kraljevo.

The presented analysis shows that there is an uneven practice in terms of actions of competent authorities in different areas of the national territory.

In order to determine the penal policy of the courts regarding the crime of domestic violence defined in Article 194 of the CC, we analysed the data of the Statistical Office of the Republic of Serbia.

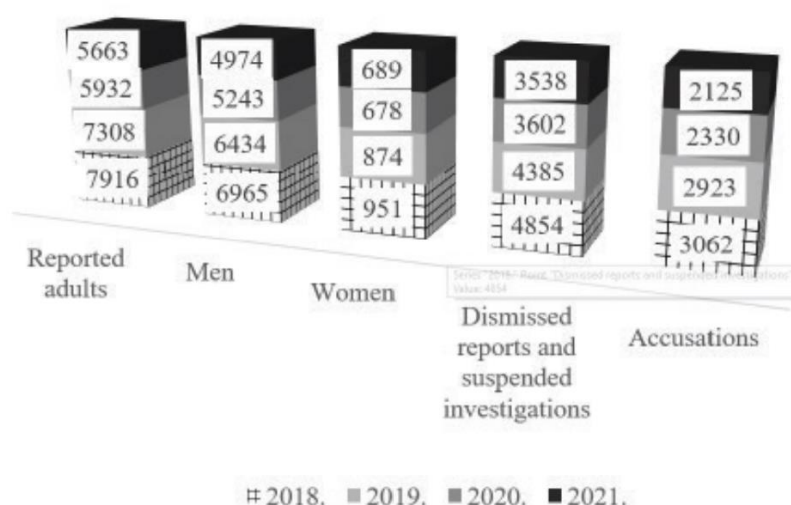


Figure 9.

Adults Reported to the Public Prosecutor's Office for the Criminal Offence of Domestic Violence

(Source: Statistical Office of the Republic of Serbia, 2022)

The number of persons suspected of this CO was on the decline starting from 2018, being by 29% smaller in 2021 than in 2018. Men were suspects in 88% of the cases (the percentage was 91% in the police records). It should be emphasized that the number of suspects is registered at the moment when decisions have been made on criminal charges (CCH), so that these data are not identical to the number of CCH submitted by the police in the same period. Namely, in the records of the Statistical Office of the Republic of Serbia, a reported person is registered when the CCH is completed, whereas the police will register the perpetrator immediately upon discovery or several days after the commission of the offence.

The Statistical Office of the Republic of Serbia data show that the number of dismissed CCH is enormous, accounting for almost 61% of the total number, including the decisions of the public prosecutor's office to discontinue investigation (totalling at 283). The number of indictments decreased annually, being by almost one third smaller in 2021 than it was in 2018. [Figure 10](#)

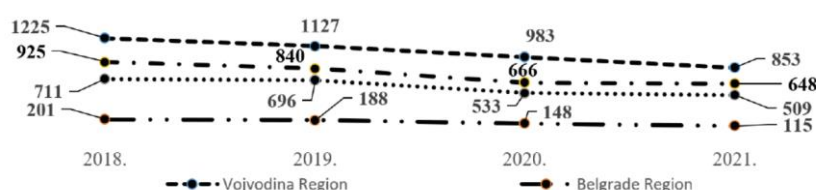


Figure 10.

The Number of the Accused Across Regions in the 2018–2021 Period

(Source: Statistical Office of the Republic of Serbia, 2022)

The number of persons accused of domestic violence was consistently the lowest in the BR, with only 115 persons accused in 2021, and the highest in the VR, where a maximum of 1,225 persons were accused in 2018. It is interesting that the number of the accused declined annually in all of the regions, so that based on this parameter a conclusion could be drawn that the prevention in this filed has yielded results. The number of the accused in the BR was 6.5 times lower than in the VR, 5 times lower than in the SESR, and almost 4 times lower than in the SWSR. Based on this, we may conclude that public risk of aggravated forms of domestic violence in the BR is significantly lower than in other regions. We wonder if this is indeed so or the dark figure is multiple times higher in this part of Serbia. If these data are compared with the number of filed CCH, we will see that the number of filed charges in

the three remaining regions is disproportionately higher than in the BR, unlike the number of criminal complaints filed in the same period.

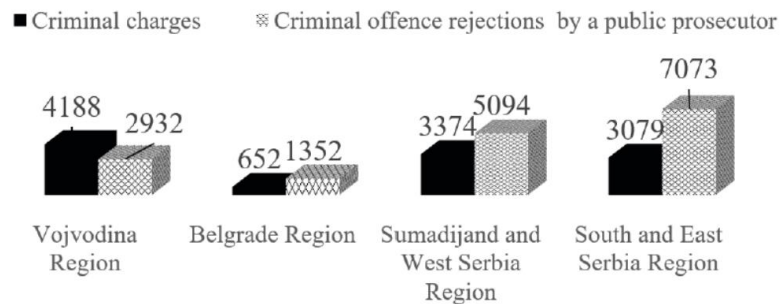


Figure 11.
The Ratio of Criminal Charges and Rejections in the 2018–2021 Period
(Source: Statistical Office of the Republic of Serbia, 2022)

We can see from the graph above that only in the VR there were more criminal charges filed than dismissed, which suggests that the quality of CCH submitted by the police and the collected evidence was substantially higher in this region as compared to others. Namely, 'only' 40% of CCH were dismissed. Unlike this region, the number of dismissed charges in the SWSR is 60%, in the BR it is 67%, and in the SESR almost 70% of the filed criminal charges.

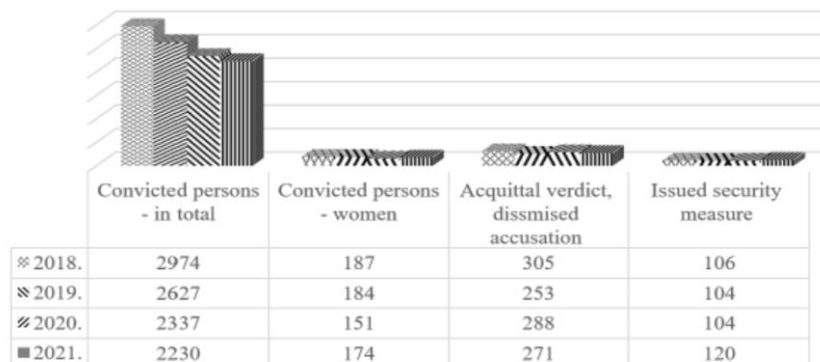


Figure 12.
Decisions in Court Proceedings
(Source: Statistical Office of the Republic of Serbia, 2022)

The number of convictions was on the decrease from 2018, with 85% defendants found guilty and sentenced in this period. In 2018 and 2019, the percentage of the convicted offenders was about 86%, and in 2020 and 2021 it was about 82%. Then, 4% of the accused were found mentally incompetent, that is, the court proceedings in 434 cases ended in the imposition of the security measure of compulsory psychiatric treatment and confinement in a medical institution, or compulsory psychiatric treatment at liberty. Namely, if based on the presented evidence the court establishes that the defendant committed a criminal offence and that he was mentally incompetent at the time of the commission of the offence, the security measure will be imposed ([CPC, Article 526](#)).

The convicted persons were male in 93%, which is an even higher percentage compared to reported persons (88%), so we can state that this CO is committed by men between the ages of 30 and 59, because their percentage was 67% or 6,568 convicts. Most convicts were between the ages of 40 and 49 (2,468), then 30 and 39 (2,459), 50 and 59 (1,641), over 60 (1,476), whereas the fewest were aged between 20 and 29, 1,182. The number of convicts aged between 18 and 20 was 175.

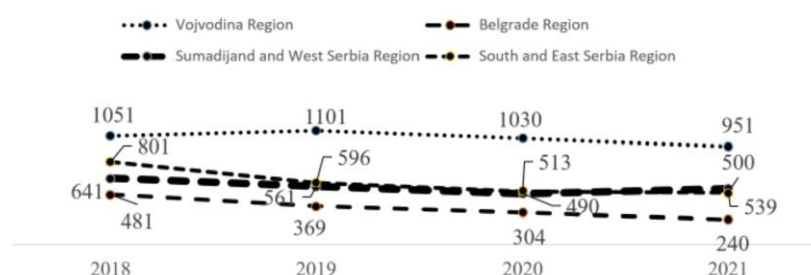


Figure 13.

The Number of Persons Convicted of the CO of Domestic Violence Across Regions

(Source: Statistical Office of the Republic of Serbia, 2022)

We can see that the highest number of persons was convicted in the VR, with 4,133 persons convicted for domestic violence in the analysed period, which is three times more than in the BR, where 1,394 persons were convicted. The number of convicts in the VR remained constant year after year, whereas in the BR this number fell by half in 2021 as compared to 2018.

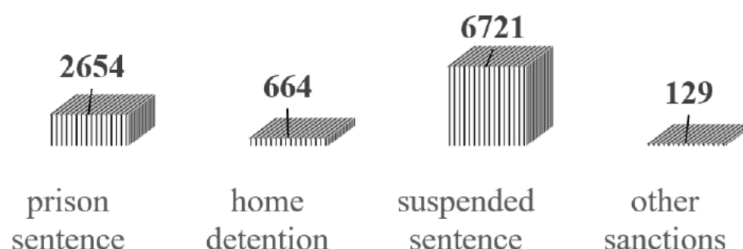


Figure 14.

Convicted Adults – Type of Sanction

(Source: Statistical Office of the Republic of Serbia, 2022)

Most persons convicted of domestic violence were sentenced to a suspended sentence, 66%, while 26% of them were sentenced to a prison sentence and 6.5% to house arrest. A study covering a ten-year period, from 2007 to 2016, showed that the share of suspended sentences for this CO was 66% (Marković, 2018a). The trend continued in the period observed in our research. Most suspended sentences were passed in 2018, 1,998 or 67%, then in 2019, 1,827 or 70%, in 2020, 1,508 or 65% and the smallest in 2021, a total of 1,338 or 62%. The share of suspended sentences in the overall number of sanctions was the highest in 2019, and the lowest in 2021. We assume that changes in the criminal legislation contributed to this because as of December 1, 2019, the court cannot reduce the sentence, i.e., pronounce it below the limit prescribed by the law if the perpetrator of domestic violence was previously convicted of an intentional crime (if five years have not passed from the previous conviction or served punishment) (CC, Article 55). It is debatable whether the desired degree of prevention can be achieved with a stricter punishment (Đorđević & Bodrožić, 2020), but the fact is that the share of suspended sentences and reduced sentences for this criminal offence is disproportionately high.

The highest number of prison sentences was passed in 2018 and amounted to 768 or 26% of the total number of convictions, then in 2020, with the total of 669 or 25%; then in 2019, with 628 or 27%; and the lowest in 2021, with a total of 589 or 26%. From 2018 to 2020, the share of house arrest sentences was just below 6%, and in 2021 it rose to almost 10%. If we cross-check the data, we can conclude that in 2021 the courts opted for house arrest more often than for a suspended sentence, while the percentage of prison sentences remained at a similar level. We believe that the previously mentioned amendment to the CC also contributed to this and that the courts resorted to house arrest in the cases in which, before the adoption of the limitation provision of the CC they would have ruled a suspended sentence. It should be noted that a person convicted of a crime against marriage and family who lives with the injured party in the same family household cannot be sentenced to house arrest,

and a prison sentence of up to one year can be imposed to be served at home if the purpose of punishment can be achieved in this way (CC, Article 45).

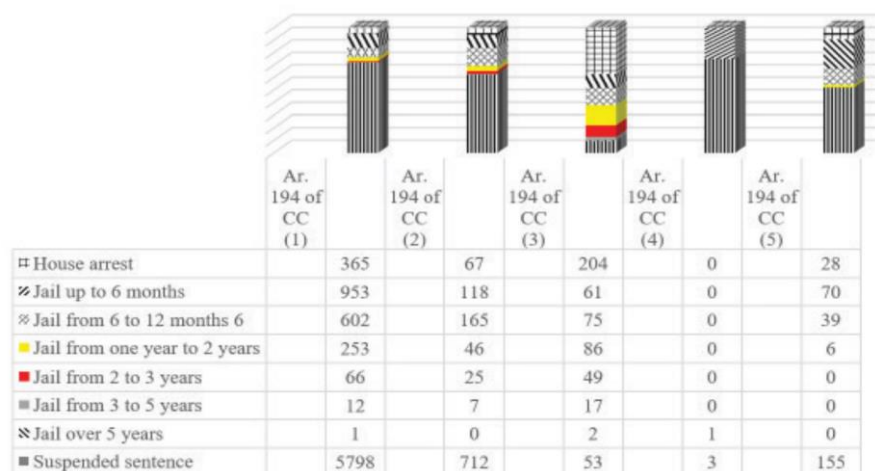


Figure 15.

Sanctions Pronounced to Convicted Persons

(Source: Statistical Office of the Republic of Serbia, 2022)

The highest number of convictions was for the basic form of the CO of domestic violence, 80% of the total number of convicted persons, where the share of suspended sentences was 72%, and 23% of prison sentences, among which the most prevalent was the sanction of imprisonment of up to 6 months, which accounted for over 50% of all prison sentences passed for this form. A quarter of the prison sentences of up to 6 months are below the prescribed legal minimum, that is, 237 sanctions are to imprisonment of up to three months. It means that the prison sentence envisaged in Article 194 CC for this form of CO (three months to three years) was passed in only 20% of the cases. It is interesting that in 13 convictions the prison sentence exceeded the stipulated maximum, so we assume that the defendants were convicted of domestic violence in connection with a more serious CO or another institute from the general part of criminal law was applied. For the first qualified form that is envisaged in case of use of weapons in the commission of the basic form, or dangerous implements or other means suitable to inflict serious injury or seriously impair health, 1,140 persons were convicted or 11%, of whom 62% to suspended sentences. There were 361 or 32% persons convicted within the prescribed legal range of imprisonment for this form of CO (from 6 months to 5 years). Five percent of the total number of convicted persons were charged with the second qualified form which implies that the commission of crime results in the infliction of grievous bodily harm or serious health impairment, or the commission of the offence against a minor. The proportion of suspended sentences was 10%, and only 68 or 12% were sentenced to the prison sentences prescribed for this form (from 2 to 10 years). A high percentage of house arrests were imposed for this form of crime, as much as 37%, and prison sentences of up to 2 years account for 41%. For the third qualified form, which implies that due to the intentional act of the basic or the first qualified form, the death of a family member occurs due to negligence and for which a prison sentence of 5 to 15 years is provided, 4 persons were sentenced, of whom 3 received a suspended sentence. It should be emphasized that, in our legal system, the perpetrator who deliberately takes the life of a family member is liable for the criminal offence of murder, aggravated murder or some other serious criminal offence. As many as 85% respondents believe that women who report violence committed by their partners are at a greater risk of being killed (Bartolomei, 2015). Alcohol plays a significant role and serves the purpose of demonstrating masculinity, just as the use of violence. In cases where males under the influence of alcohol kill women, the latter are most often wives or common law partners (Ignjatović & Lukić, 2022). The right to human life, as universally accepted, represents the supreme human right that is placed above any other right so that the application of the 'pre-crime' concept in combating domestic violence should, above all, lead to a reduction of the most serious consequences.

In 2021, there were 48 (28 female) victims, the same as in 2020, while in 2018 there were 54 (23 female) victims and in 2017 there were 47 (34 females). In the 2014-2017 period, 191 persons were deprived of their lives, which was 6 victims fewer than in the 2018-2021 period, which shows that the implementation of LPDV had little bearing on the most serious cases of domestic violence, i.e., the actions of the competent authorities did not lead to a smaller number of victims of the most severe form of domestic violence in the observed period. On the contrary, there was a slight increase. However, although the total number of fatalities rose in the 2018-2021 period, there was a decline in the number of female victims: there were 121 or 61% of female fatalities, which is 11 fewer than in the previous four-year period, when 132 or 69% were killed.

There were 298 persons sentenced for a special form of the CO which involves a violation of the family law protection measure against domestic violence, 155 or 52% of whom received a suspended sentence. The prescribed prison sentence of 3 months to 3 years was imposed in 92 cases or 31% of convictions for this form of crime.

CONCLUDING CONSIDERATIONS

The research results show that the hypotheses have been confirmed.

LPDV has been effectively implemented by competent authorities and there is a good coordination of the said authorities in combating violence. However, the efficiency does not imply effectiveness. Inefficiency of the established legal system in the field of combating domestic violence and the applied strategy is reflected in the number of victims who were killed, which has increased.

Protecting victims from the gravest consequences can be achieved by prompt, timely and effective response and the adoption and implementation of high-quality plans for the individual protection of the victims. A reduction in the number of submitted CCH is not an adequate indicator of efficiency, nor is the large number of individual plans if they lack quality and do not serve the purpose for which they were adopted. Urgent implementation of the risk assessment, imposition and extension of security measures, the deprivation of liberty of the perpetrators and ordering detention in all cases where the legal requirements are met, the adoption of quality plans for the protection of victims and their adequate implementation, the imposition of family law protection measures, and an adequate penal policy of the courts constitute prerequisites for reducing the incidence of the most serious consequences and increasing the trust of victims in the competent authorities, i.e. reducing the dark figure, which is still huge in this area.

The results of the research show that the uneven practice of the competent organs in different regions causes a major problem and this refers to the procedures of imposing urgent measures, misdemeanour and criminal proceedings, as well as the procedures of imposing measures of protection against domestic violence.

We find that the lenient penal policy is still a major problem in our judicial system, despite efforts to change this by increasingly stricter legislative penal policy. The number of imposed security measures of prohibiting convergence and communication with the victim is encouraging. In the observed period, 1,688 measures were imposed, as compared to the 2012-2015 period, when a total of 110 or 16% less were passed, so we may conclude that the courts have realized that special security measures must be applied in order to eliminate the danger of repeated commission of this criminal offence.

Graphical abstract



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