

The Criminal Offence Of Domestic Violence In Judicial Practice - New Trends and Challenges

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Foreword

The publication *The Criminal Offence of Domestic Violence in Judicial Practice - New Trends and Challenges* is a result of scientific research conducted with the aim of understanding changes in the phenomenology of the criminal offence of domestic violence, recording the key challenges in the functioning of the mechanism of criminal justice protection against domestic violence, establishing the degree of its effectiveness and efficiency, and identifying changes and current trends based on the comparison with the results of previous research.

The latest research on judicial practice in cases of the criminal offence of domestic violence was conducted nine years ago; since a new practice has been established in the meantime, its analysis would provide a critical insight into the functioning of the existing mechanism of criminal justice protection against domestic violence and the changes that occurred in the meantime in interpreting regulations, conducting procedures and punishing perpetrators. Although there were no significant legal changes in the criminalisation of domestic violence over the past nine years, the National Strategy for the Prevention and Elimination of Violence against Women in Family and in Intimate Partner Relationship was adopted in 2011, and on 31 October 2013 Serbia ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). In addition, a number of educational programmes have been implemented and expert conferences have been held for judicial office holders, and it should be possible to examine whether education influenced their work. These were the main reasons for carrying out this new research.

The research results presented in this monograph provide an overview of the situation and allow for the monitoring of future changes in the work of judicial authorities in the context of the new Law on Prevention of Domestic Violence, which was adopted in late 2016. The findings and knowledge gained through this research can be the basis for a new scientific generalisation and expert discussion on disputable issues in the

interpretation and application of the Law, but also for a wider social debate on how to overcome the identified problems and for the critical review of practice with a view of improving the efficiency and effectiveness of criminal justice protection provided in cases of domestic violence.

During our research, distinguished professor Slobodanka Konstantinović Vilić, PhD, who had led the earlier research, provided us with her expert suggestions, friendly encouragement and support, for which we are wholeheartedly grateful.

AUTHORS

Part One

The criminal offence of domestic violence - theoretical and legal framework

1. Domestic violence as gender-based violence

Domestic violence is a social phenomenon that affects both the lives of individuals and the whole of society. Domestic violence is considered a “phenomenon of long duration” and has almost become part of our everyday lives as a social pathological phenomenon. Models and patterns of its existence and perpetuation are part of patriarchal or traditional understanding of sexes, gender patterns and family relationships. The family is the place where the patterns of behaviour are formed, but also the models of cultural patterns, necessary for the functioning of society and relations among people, primarily in traditional societies. Traditional models of family relationships and induced social awareness of gender and gender relations are still part of the prevailing family schemes, in which the family life takes place in our community, and of the positions and roles of men and women in such relations.

One of the main reasons for not having considered domestic violence as a serious form of violence in society for a long time, but as a common and socially acceptable behaviour, lies in the way of public presentation and definition of the main social and cultural characteristics of domestic violence. Looking at the family in Serbia from the 1990s onward, from a gender perspective, we will see that it is characterised by a fall in the individual and social material standard, as well as the overall level of living of both men and women. The process of pauperisation, especially among the urban population, as well as a high degree of economic and overall social uncertainty, among other things, resulted in a drastically high rate and dynamics of domestic violence in Serbia (Nikolić-Ristanović, 2002: 13). The long-term economic crisis, the general pauperisation of the population, the enormous increase in unemployment rates, the arrival of a large number of refugees, etc. have produced a "fertile soil" for the spread of domestic violence and its alarming rates.

Sociological research shows that the past events and living conditions in our region have "left a profound impact on the field of bio-social reproduction of families, which is unlikely to be mitigated in the near future. The society is left to deal with the numerous and severe consequences of the negative demographic balance in the situation of extreme social and individual poverty, which in any case does not give any brighter prospects for a durable solution to the problem" (Milić, 2002: 260). The countries in transition, including Serbia, have undergone the long, complex and interconnected processes of retraditionalisation and repatriarchalisation, causing that the female power manifests primarily in the private sphere, that the masculine values are strengthened, that women are instrumentalised and their interests are subordinated to the interests of the nation, which is especially evident in the demographic discourse, when it comes to population and fertility, that is, in insisting on the "return of women" to the family or in anti-abortion campaigns (Blagojević, 2002: 294).

Research on domestic violence in the field of criminology, sociology and psychology¹ has shown: that the rise in violence in society is directly linked to the increase in domestic violence; that persons can be exposed to domestic violence throughout their life; that the most frequent victims of domestic violence are women, children and elderly people; that domestic violence is a behaviour aimed at establishing power and/or control or satisfying some of the perpetrator's needs at the expense of the victim; that the consequences of exposure to violence are numerous and significantly affect the mental health of both direct victims and witnesses of violence; that domestic violence is a result of the interaction of a number of factors, both individual and social, and that the violence

1 In recent decades, research into the causes of domestic violence has been intensified and encouraged by the strong demands of social movements, especially women's, for introducing significant changes in the procedure and finding an effective social response to domestic violence. Such research has also been used in the feminist discourse in theoretical research in the field of criminology, sociology and psychology. See more: (Lukić, Jovanović, 2001:13); (Walsh,1997).

experienced in childhood contributes to resorting to violence as a way of resolving interpersonal conflicts in adulthood (Ajduković, 2000: 11). Accordingly, domestic violence is defined as a continued use of physical and psychological force towards family members, while endangering and violating the domain of safety and the relationship of trust, and exercising control and power over family members, regardless of whether such behaviour is defined as a criminal offence in the applicable legislation or whether the perpetrator of violence has been reported to the prosecuting authorities (Konstantinović Vilić, Nikolić-Ristanović, 2003:128; Lukić, 2003:14).

Article 3(a) of the Council of Europe Convention on preventing and combating violence against women and domestic violence² defines violence against women as *“as a violation of human rights and a form of discrimination against women and shall mean all acts of gender-based violence that result in, or are likely to result in, physical, sexual, psychological or economic harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life”*. Article 3(b) defines domestic violence as *“all acts of physical, sexual, psychological or economic violence that occur within the family or domestic unit or between former or current spouses or partners, whether or not the perpetrator shares or has shared the same residence with the victim”*. According to the Convention, there are two types of domestic violence³: *partner violence* between current or former spouses or partners and *intergenerational violence*, usually between parents and children. Violence in a partner relationship is recognised as a type of gender-specific violence, while intergenerational domestic violence is determined as gender-neutral and includes victims and perpetrators of both sexes (Ignjatović, Pavlović Babić, Lukić, 2015: 17).

Domestic violence occurs in several forms: violence in marriage, violence against household members and violence against children. Each of these forms constitutes the endangering and violation of safety domain and trust relationship between family members, and manifests power and control over the victim. Violence against family members is usually a well-hidden secret and family members do not speak publicly about it, which is why we refer to the phenomenon of “dark figures” of domestic violence. It is very important for family members to maintain the appearance of family stability and security of family life in contact with the outside world. Abusers often behave differently in public and in their family or private environment, expressing their aggressive nature in their own home. For a long time, it was a common attitude that family relationships were strictly the private sphere of life and that the protection of privacy was much more

2 Official Gazette of RS - International Treaties, no. 12/13.

3 The use of the terms “domestic violence” and “intimate partner violence”, but also the more recent term “gender-based violence” conceals, however, their gender dimension, that is, the fact that women are much more often victims of this type of violence, in a specific way and with serious consequences. (Ignjatović, 2011:14).

important than the protection of the physical and mental integrity of a family member who was the victim of violence. There are still many stereotypes and prejudices about domestic violence, especially violence in marriage (Konstantinović Vilić, 2004: 76; Stošić, 2012: 32; Petrušić, Konstantinović Vilić, 2012:9). Nevertheless, the perception of domestic violence has changed - it is today a social problem and a form of crime, because it has become evident that, because of the consequences it causes, it should not be socially tolerated, and that active opposition to violence is one of the basic obligations of every democratic state that respects and protects human rights.

There is no reliable statistics on the extent of domestic violence, as victims very rarely report violence to the prosecuting authorities for fear of abuser's revenge, and because of the patriarchal attitude that the woman who suffers violence is always guilty for it, that she should keep "silent" and be "loyal" to the family and the like. Men, if they are victims, almost never report violence because under the enormous burden of tradition and its cultural values they want to keep the myth of their undisputed power and "main" role in the family. Victims are mainly afraid that they will not receive proper protection and that the reporting of violence will only infuriate the abuser and aggravate violence. Their fear is often justified, especially if the response of state institutions is not efficient and effective.

Research has shown that in many countries domestic violence is widespread and has serious consequences. In the USA, 25% of women victims of domestic violence were physically mistreated during pregnancy; children of abused mothers are six times more likely to commit suicide and five times more likely to use alcohol than children of non-abused mothers; in Great Britain, there are at least half a million cases of domestic violence every year and women are victims in 80% of these cases (Inter-Balkan Conference on Legal Strategies to Combat Domestic Violence, 1997). An EU-wide survey conducted in 2014 shows that violence against women is a widespread, but often unreported, violation of human rights across the European Union. Approximately 8% of women experienced physical and/or sexual violence in the period prior to the interviews conducted in the 2014 survey, and one in three women experienced some form of sexual and/or physical abuse before the age of 15 (Violence against women: an EU-wide survey. Main results report, 2014: 9). The results of Eurobarometer on gender-based violence (2017) and domestic violence reveal that 22% of women over 15 years of age experienced physical and/or sexual violence by their partners; one in three women experienced physical and/or sexual violence; and one in twenty women was a victim of rape; 74% of respondents think that domestic violence is a common phenomenon in society; 23% of respondents know women from their community who were victims of domestic violence. Asked why people avoid speaking about domestic violence, 26% of respondents say "they do not care", 18% think that there is no sufficient evidence for domestic violence, 16% believe "that the situation is not clear" and

16% “do not want to cause problems”. Only 12% of respondents state that they reported to the police the suspected violence in the family of one of their acquaintances. As regards the institutional assistance to victims of domestic violence, 74% of respondents think that such assistance is available to victims, while 15% consider that domestic violence is a private matter that should be solved within the family. The conclusion is that EU citizens recognise family violence, but many of them do not speak about it.

The surveys conducted in our country show that the extent of violence is relatively large, that its consequences are increasingly serious and that its victims are much more often women and children than adult men. The most common victims of domestic violence are women of all age groups, although men, primarily male children, can also be victims of domestic violence. According to the results of a survey conducted in 1993 (Nikolić-Ristanović, 1994), more than half of surveyed women (112 or 58.3%) were victims of some form of violence in marriage; 94 or 49% of women reported that they had been psychologically abused in marriage (serious insults, doing deliberately something that seriously hurts, threats of beating and murder); 36 or 18.7% of women were physically mistreated, that is, beaten by their husbands; 36 or 18.7% of women were victims of rape or attempted rape by their husbands. Physical abuse is usually accompanied by other forms of violence. Women who were beaten by their husbands were at the same time the victims of psychological violence (38.9%), sexual violence (25%) or both (52.8%). However, women are not the victims of violence committed only by their husbands. They are also the victims of violence committed by their adult sons, fathers-in-law, mothers-in-law, etc. According to the statements of women victims, the most common triggers of violence are: quarrels about money (14.3%), disagreement with the parents of one partner (10.4%), quarrels about children and husbands’ alcoholism and jealousy. The violent behaviour of husband usually begins before marriage (13.4%), at the very beginning of marriage (8.9%) or after the birth of the second child (4.5%) (Nikolić-Ristanović, 1994: 41-42).

The survey of domestic violence in Vojvodina has shown that this is a region with a high rate of psychological and physical violence. More than half of the women surveyed (the sample included 516 women from seven towns in Vojvodina) responded that they had been the victims of some form of domestic violence after the age of 18. Nearly every second woman was a victim of psychological violence; nearly every third woman was threatened with physical violence, and about one third of them were victims of physical violence. Nearly every fifth woman was a victim of stalking, and somewhat fewer than a dozen of women answered that they had been the victims of sexual violence. The prevailing form is partner violence, but there is also violence committed by children against parents, parents against adult children, as well as violence among in-law relatives (Nikolić-Ristanović, 2010: 127).

In recent years, there has been an increase in the number of domestic violence cases resulting in death.⁴ The victims of femicide are most often the women who have previously suffered the violent behaviour of their husbands or other male relatives and who have not received adequate protection from the police, social welfare centres and other state bodies or from the people in their immediate surroundings. Women are particularly vulnerable when they decide to leave their violent husbands. A woman who suffers violence in marriage, and who is usually asked why she has not left the abuser if she does not feel good being with him and if she is really abused, is most often a woman trapped by fear of being murdered in case of leaving the abuser. The cases reported through SOS hotlines for women and children victims of violence show that the abuser rarely wants the marriage to end. He is dependent on his relationship with the victim, because he exercises his power in that relationship.

A relatively satisfactory system of legal protection against domestic violence has recently been established in Serbia. However, well-defined legal provisions and inter-institutional cooperation do not yield a quick and positive result, given that the negative trends in mass culture, culturally accepted pattern of violence, difficult economic situation, global and local increase in violence and crime, inconsistent social policies and practices, etc. contribute to the general increase in violence including violence against women and children. This is confirmed by the findings contained in the official reports of state bodies and in the independent reports of women's non-governmental organisations (Jovanović, Višnjić, Ignjatović, Macanović, 2009: 25-26; Jovanović, Simeunović-Patić, Macanović, 2012), but also in the Concluding observations of the Committee on the Elimination of Discrimination Against Women (CEDAW), which, among other things, urge the state to further strengthen its efforts to overcome stereotypical attitudes regarding the roles and responsibilities of women and men in the family and in society and continue implementing measures to eliminate gender stereotypes by promoting positive images and substantive equality of women.⁵

Previous research on the legal practice of prosecuting the criminal offence of domestic violence in Serbia has shown that institutions do not respond properly and timely

4 According to the monitoring of femicide by the Women against Violence Network in 2017, at least 26 women were killed in Serbia in the family/partnership. All the killed women knew the perpetrator: twenty-three women were killed by partners (former/current, spouse/cohabitation partner) and three by their family members. Most women (12) were killed with a knife, ten were killed with firearms, one woman was drowned, while three were killed in another way. Nine women were killed in the house/apartment where they lived with the abuser, five in their own house/apartment, one in the abuser's house/ apartment and 11 in other places. There is a steady increase in the number of women killed without an adequate social response (www.zeneprotivnasilja.net/femicid-u-srbiji). Femicide is monitored on the basis of media reports, which are certainly not complete statistics or a true indicator of the prevalence of this most severe form of violence against women including domestic violence.

5 See: Concluding observations on the combined 2nd and 3rd periodic reports of Serbia, UN Committee on the Elimination of Discrimination Against Women (CEDAW), /C/SRB/CO/2-3, of 22 July 2013.

to domestic violence, which often leads to secondary victimisation (Lukić, Jovanović, 2001; Konstantinović Vilić, Petrušić, 2007; Jovanović, Simeunović-Patić, Macanović, 2012). Most often, there is no timely police intervention in cases of less severe forms of violence (insults, threats, disparagement, insolent and ruthless behaviour and similar forms of psychological violence), and after reporting violence, the victim gives up seeking further protection. In addition, victims of domestic violence very often do not receive support and assistance from social welfare centres, which should act in coordination with the police, but are sometimes advised to keep and maintain a partner relationship. As regards the criminal prosecution of domestic violence, the data indicate that men are more often arrested, detained and sentenced than women perpetrators of this type of violence. Courts more often pronounce a sentence of imprisonment in cases where the criminal offence of domestic violence is treated as part of a wider context of long-lasting violence, while detention and punishment depend on the gravity of violence and the abuse of other family members. On the other hand, alcoholism has a significant impact on the police decision to arrest and the court decision to order detention, but not on the decision about punishment or suspended sentence. (Nikolić-Ristanović, 2013: 44).

The experience shows that the sexist attitudes of professionals who handle the cases of domestic violence are the key causes of institutional discriminatory practices that are manifested in the treatment of women victims of domestic violence (Petrušić, Konstantinović Vilić, Žunić, 2015, 31-45; Mršević, 2014). Hence, there is no doubt that in addition to improving the legislative and institutional framework, there must be a wider social support for the prevention of domestic violence as part of the cultural system of values, creating an atmosphere where it is not socially acceptable, that is - society with zero tolerance for violence. The achievement of this goal is not possible without the elimination of the underlying causes of violence against women, which implies combating discrimination against women, eliminating the existing gender hierarchy, marginalisation of women and structural gender inequalities, overcoming the ideology of sexism, stereotypical social and cultural attitudes towards gender and establishing genuine equality between women and men (Petrušić, Konstantinović Vilić, Žunić, 2015, 44).

2. History of the development of the national system of legal protection against domestic violence

Domestic violence is a social pathological phenomenon that has been marginalised and ignored by our society for decades. Patriarchal attitudes towards gender and parenting, which are still prevailing in our society, are among the main reasons why domestic violence has not been considered, for a long time, a serious form of violence, but a usual and socially acceptable behaviour. Despite the fact that during the past twenty

years of the social crisis in Serbia the scope and dynamics of domestic violence have taken on dramatic proportions (Nikolić-Ristanović 2002: 13), influenced particularly by the long-term economic crisis, the general pauperisation of the population, the enormous increase in unemployment rates, the arrival of a large number of refugees, etc., there were no adequate legal mechanisms for the prevention and elimination of domestic violence until 2002.⁶

As a result of the years of efforts, primarily of women's NGOs, to make domestic violence socially visible and their systematic advocacy and lobbying for the adoption of appropriate legal provisions in Serbia, a valid legal framework for the prevention and elimination of domestic violence and protection of its victims has been established.

The first step in the building of a coherent system of protection against domestic violence⁷ was made by passing the Law on Amendments to the Criminal Code of the Republic of Serbia.⁸ These Amendments to the Code criminalised domestic violence, which was introduced as a separate criminal offence (Article 118a), thus establishing a repressive, criminal justice protection against domestic violence. Qualifying domestic violence as a criminal offence under Article 118a of the Law on Amendments to the Criminal Code of the Republic of Serbia in 2002, the psychological and physical integrity of family members was better protected. In addition, in this way the legislator clearly showed that violence in marital and family relations is no longer a private matter of the patriarchal and traditional family, but rather the reason for the justified repressive response of law enforcement authorities.

Article 118A provided four forms of the criminal offence of domestic violence, from the least severe (injuries or violation of the physical or psychological integrity of a family member by using force or serious threat) to the most severe one (death of a family member). The envisaged penalties for individual forms of this criminal offence ranged from a fine to the prison sentence of minimum ten years. The Law did not precisely define the term "family member" and in practice it remained open for interpretation. Most often, the term "family member" was interpreted restrictively, which led to the narrowing of the scope of criminal justice protection against domestic violence, and in practice cohabiting partners, divorced and separated spouses, persons in intimate relationships and persons in factual cohabitation were excluded from the system of legal protection. In addition, there was no legal basis for pronouncing protective or security measures, due to which it was deemed that, despite the undoubted importance of new criminalisation

6 For more information about the problems related to the response to violence by the institutions of the system in this period, see (Ćopić, 2002: 63-73).

7 For more details about the need to establish a system of protection against domestic violence based on the combination of preventive and repressive measures, see (Petrušić, 2003: 195-216).

8 *Official Gazette of RS*, no. 10/02. The Law became effective on 9 March 2002.

provisions, we can hardly “talk about the existence of the basis for achieving adequate legal protection for victims of domestic violence” (Nikolić-Ristanović, 2003: 10).

As a result of the reform of criminal legislation and its harmonisation with international and European standards, the Criminal Code of the Republic of Serbia was passed in 2005. Article 194 in Chapter Nineteenth “Criminal Offences related to Marriage and Family” dealt with the criminal offence of domestic violence.⁹ Compared to the previous Code, the new one reduced the duration of imprisonment for all forms of domestic violence and added the fifth form of criminal offence - violation of the imposed protection measure against domestic violence (Article 194, paragraph 5 of the Criminal Code).

The next amendments to the Criminal Code of the Republic of Serbia¹⁰ brought several novelties: “insolent” behaviour was removed from Article 194, paragraph 1; “family member” was defined; the severity of penalties was increased for all forms of domestic violence; and the security measure of no approaching or communicating with the injured party was introduced. The currently applicable Criminal Code of the Republic of Serbia¹¹ has re-introduced in paragraph 1 the “insolent” behaviour that endangers the tranquillity, physical integrity or mental condition of a family member. Other provisions related to other forms of domestic violence, the type and severity of punishment, security measures and definition of family member have not been changed¹².

In the process of establishing a system of legal protection against domestic violence, the adoption of the Law on Family of the Republic of Serbia¹³, which became effective on 1 July 2005, is of particular importance. This Law made the system of protection against violence complete, since the legislator explicitly prohibited domestic violence and acknowledged the right to protection against domestic violence to family members (Article 10 of the Law on Family of the Republic of Serbia), regulated preventive, family-law measures of protection and conditions for pronouncing them (Articles 197 - 200 of the Law on Family) as well as a special procedure and rules for conducting civil proceedings for protection against domestic violence (Article 283 - 289 of the Law on Family).

In the meantime, the criminalisation of domestic violence has undergone several changes through the adoption of the 2005 Criminal Code and the 2009 Law on Amendments to the Criminal Code. In an effort to establish a coordinated functioning of the institutions of the system in preventing and protecting against domestic violence, the Law on Prevention of Domestic Violence was adopted in 2016. This Law regulates the

9 *Official Gazette of RS*, nos. 85/05, 88/05 - corrigendum, 107/05 - corrigendum.

10 *Official Gazette of RS*, no. 72/09,

11 *Official Gazette of RS*, nos. 85/05, 88/05 – corrigendum, 107/05 corrigendum, 72/09, 111/09, 121/12, 104/13, 108/14, 94/2016.

12 See more under point 3.

13 *Official Gazette of RS*, no. 18/05

actions of public authorities and institutions in preventing domestic violence and providing protection and support to victims of domestic violence.

The state has ratified almost all international agreements in the field of human rights and gender equality. A number of strategic documents and protocols have been adopted since 2008. The 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention), ratified by Serbia in 2013,¹⁴ established the legally binding standards for the protection of women against domestic violence, indicating that gender prejudices and the lack of necessary knowledge on gender (non)-equality and gender-based violence are a serious obstacle to the establishment of an effective system of protection against domestic violence. Accordingly, the member States are expected to work towards the eradication of sexism and establishment of *de jure* and *de facto* gender equality in accordance with the due diligence standard¹⁵. Among other things, this means taking the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with

14 Law on the Ratification of the Council of Europe Convention on preventing and combating violence against women and domestic violence, *Official Gazette of RS - International Treaties*, no. 012/2013.

15 The term "due diligence" is used in the Istanbul Convention. This concept appears in human rights documents and expresses the state's obligation to prevent human rights violations by private individuals through preventive action, preventing violations, punishing perpetrators (detection, prosecution and punishment) and providing victims with adequate compensation. The implementation of this concept is very complex in the practice of international institutions because it is necessary to prove that the state has not acted in accordance with the due diligence standard, that its institutions did not take all necessary preventive measures, and that in a particular case they could have taken measures for preventing and punishing the perpetrator of a violent act (Branković, 2013: 38-39). This standard was first used by the Inter-American Court of Human Rights in 1988 in the case *Velasquez Rodriguez v. Honduras*. In this case, the Court found the state responsible, pointing out that an illegal act which violated human rights and which was initially not directly imputable to a State could lead to responsibility of the State, not because of the act itself, but because of the lack of due diligence to prevent the violation (Hasellbacher, (2010). The due diligence standard is a key criterion used by the CEDAW in monitoring the application of the Convention, i.e. in the process of considering the reports of Member States, but also in handling individual cases and conducting investigations of serious or systematic violation of law, on the basis of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. One of the important indicators taken into account by the CEDAW is the action of authorities in breaking gender stereotypes and traditional patterns on the roles and responsibilities of women and men in the family and in society, as well as the action in the field of education and training of judges, police officers and representatives of public authorities in order for them to understand the gender dimension of domestic violence, its causes and consequences. Thus, for example, in the case of *A.T. v. Hungary*, (CEDAW Communication No. 2/2003, U.N. Doc. CEDAW/C/32/D/2/2003 (2005), <http://www1.umn.edu/humanrts/cedaw/decisions/2-2003.html>), handling the complaint of Mrs. A.T. who, being a victim of partner violence for many years, lodged a complaint against the violation of the right to effective protection against domestic violence, the Committee established that "legal and institutional system in Hungary is not ready yet to ensure the internationally expected, coordinated, comprehensive and effective protection and support for the victims of domestic violence", finding that part of the cause for such a situation are "entrenched traditional stereotypes regarding the role and responsibilities of women and men in the family[...], and attitudes towards women that the Committee recognized vis-à-vis the country as a whole". The due diligence standard is used also by the European Court of Human Rights. See more details in: (Petrušić, Konstantinović Vilić, Žunić, 2015).

a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority of women or on stereotyped roles for women and men.¹⁶ By ratifying the Istanbul Convention, Serbia committed to preventing any form of discrimination against women by taking appropriate measures, including the prevention and protection against gender-based violence. This includes the state's duty to take all necessary measures to change the social and cultural patterns of behaviour and eliminate gender stereotypes in the society.¹⁷

One of the specific goals of the first *National Strategy for Improving the Position of Women and Promoting Gender Equality (2009 - 2015)*¹⁸ is the prevention and elimination of all forms of violence against women and the provision of a comprehensive system of protection for women victims of violence. One of the specific goals of the second *National Gender Equality Strategy 2016-2020*¹⁹ is an enhanced safety of women with respect to gender-based violence in the family and intimate partner relationships.

The way of acting and the cooperation of institutions in preventing and protecting victims of domestic violence are defined in the 2011 General Protocol for Action and Cooperation of Institutions, Bodies and Organisations in the Situations of Violence against Women within the Family and in Intimate Partner Relationship of the Government of the Republic of Serbia as well as these special protocols: *Special Protocol of the Ministry of Labour, Employment and Social Policy of the Government of the Republic of Serbia for Action of Social Welfare Centres – Guardianship Authorities in Cases of Domestic and Intimate Partner Violence against Women* (2013); *Special Protocol of the Ministry of Interior of the Government of the Republic of Serbia for Action of Police Officers in Cases of Domestic and Intimate Partner Violence against Women* (2013); *Special Protocol of the Ministry of Health of the Government of the Republic of Serbia for Action in Cases of Domestic and Intimate Partner Violence against Women* (2010); and *Special Protocol for Judiciary in Cases of Domestic and Intimate Partner Violence against Women* (2014). For AP Vojvodina, the *Strategy for the Protection of Women against Domestic and Other Forms of Gender-based Violence in AP Vojvodina for the period 2008-2012* was adopted in 2008, while the *Programme for the Protection of Women against Domestic and Intimate Partner Violence and Other Forms of Gender-based Violence in AP Vojvodina for the period 2015-2020* was adopted in 2014.

16 Article 12 of the Istanbul Convention. Besides, Article 6 provides that Parties shall have gender-sensitive policies, that is, to include a gender perspective in the implementation and evaluation of the impact of the provisions of the Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women. (Branković, 2013).

17 Article 5 of CEDAW states that Parties shall take the necessary measures to promote changes in the social and cultural patterns of behaviour of women and men with a view to eradicating prejudices, customs, traditions and all other practices which are based on the idea of the inferiority or superiority of either sex or the traditional roles for men and women.

18 *Official Gazette of RS*, no. 15/2009.

19 *Official Gazette of RS*, no. 4/2016.

Although there is still no national centralised system for collecting data on domestic violence, which would provide a reliable insight into the prevalence of domestic violence, the data collected by institutions and women's NGOs show that domestic violence is still widespread and increasingly brutal. The victims are usually women, children and infirm persons, which confirms that domestic violence is gender-based and possible because of gender discrimination and a lack of social responsibility for violence against those who have neither power nor ability to resist it. 79.6% of the victims of domestic violence recorded in the social welfare system are women. Women make up 75% of the injured parties in the criminal proceedings for domestic violence with final court decisions. As many as 54% of women have experienced some form of domestic violence during their lives (Babović, Ginić, Vuković, 2010: 89).

One of the key elements of the successful fight against domestic violence is criminal justice protection. This form of protection is achieved in the criminal proceeding conducted against the persons accused of committing the criminal offence of domestic violence. The level of effectiveness and efficiency of criminal justice protection against domestic violence is not satisfactory. This was pointed out also by the CEDAW in its Concluding observations on the combined 2nd and 3rd periodic reports of Serbia.

Developing legal instruments for the protection against domestic violence is the fulfilment of the state's international obligation to protect the right to life, freedom and personal safety of its citizens, to prevent violence, regardless of where it is happening, and to provide the survivors of violence with comprehensive legal protection, social assistance and support in order to exit the situation of violence and mitigate its harmful consequences. On the other hand, the creation of appropriate mechanisms for the protection against domestic violence is the fulfilment of the state's international obligations concerning the elimination of domestic violence as gender-based violence that keeps women in a subordinate position compared with men and seriously diminishes their ability to enjoy human rights and freedoms equally with men.²⁰

20 *"...violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men".* (Declaration on the Elimination of Domestic Violence against Women, 1993). See also: Recommendation no. 19 of the Committee on the Elimination of Discrimination Against Women - CEDAW (1992), Beijing Declaration and Platform for Action (1995), Recommendation of the CoE Committee of Ministers to Member States on the protection of women against violence (Rec2002/5). See more about the international standards for the protection of women against violence: (Mršević, 2000; Konstantinović Vilić, Petrušić, Žunić, 1999; Ignjatović, 2005; Konstantinović Vilić, Petrušić, 2010:93-120).

3. Current criminal legislation

In the existing legislation of the Republic of Serbia, the criminal offence of domestic violence is criminalised in the Criminal Code where this offence is defined in Article 194, Chapter Nineteenth “Criminal Offences related to Marriage and Family”.

Article 194 of the Criminal Code of the Republic of Serbia provides five forms of the criminal offence of domestic violence. Each of the forms implies physical and psychological violence, but not economic or sexual violence²¹ (regulated by other provisions of the Criminal Code in Chapter Eighteen - Criminal Offences against Sexual Freedom) and indicates the endangerment of the tranquillity, physical integrity or mental state of a family member.

The first, basic form of the criminal offence consists of several alternative actions: the use of violence, the threat of attacks against life or body, insolent or ruthless behaviour (Article 192, paragraph 1 of the Criminal Code of the Republic of Serbia). The consequence of this offence manifests in the form of concrete danger, which consists in endangering the tranquillity, physical integrity or mental state of a family member, and in the infliction of visible injuries on the body of victims that can be qualified as light bodily injuries, which are proved by medical certificates and can be subject to evaluation by court-appointed experts.

Violence can take the form of: physical, sexual, psychological, emotional and economic abuse. Article 189 of the Criminal Code criminalises physical, psychological and emotional violence, while economic violence is not specified, but can be interpreted as psychological violence in a wider context; sexual violence is criminalised in Chapter XVIII as part of criminal offences against sexual freedom.

Physical violence defined in Article 194, paragraph 1 consists of the use of physical force, by which a light bodily injury of the victim is inflicted or attempted to inflict or by which the integrity of body is violated without inflicting any injury. It can be done in different ways and using different means including: beating up, punching on the head and body, hair pulling, burning, kicking, choking, throwing on the floor, pouring hot water or gasoline, burning with a cigarette, breaking the arm, nose or jaw, hitting with a belt, wooden, metal or other object, etc. The signs of physical abuse are usually visible and manifest as: injuries to the face, chest, arms, legs, stomach, in the form of haematoma, scratches, cuts, burns, bone fractures, broken teeth, choking marks on the neck, eardrum injury, etc. The indication of physical violence does not have to imply visible changes on

21 Law on Protection from Domestic Violence of the Republic of Croatia, adopted on 14 July 2003 (*Official Gazette*, no. 116/03), Article 4 introduces “sexual harassment” as a form of domestic violence.

the victim's body, which are usually proven by medical certificates and can be subject to evaluation by court-appointed experts. If there are no visible changes on the victim's body, physical violence is proved by all other available means of evidence.

Although in practice physical violence, as a rule, is used continuously over a longer period of time, an individual act of physical violence, in itself, constitutes a sufficient legal basis for instigating criminal proceedings for the protection against domestic violence. If in such cases the public prosecutor does not initiate criminal proceedings, the abuser, empowered by the idea that the use of violence is legal and legitimate, can repeat violence in a more dangerous form and cause more serious consequences.

Psychological violence consists of insulting, defamation, threats of the use of force, threats to take away children, isolation and control of the victim, intimidation, belittling, mocking, provoking feelings of personal insecurity, constant malicious criticism, abuse of trust, emotional distance, emotional blackmail, etc. (Konstantinović Vilić, Petrušić, 2007:29).

Emotional violence includes the failure to express love and attention, rejection, neglect of the emotional needs of a family member, etc. Emotional violence can also be spiritual, consisting of the systematic deriding or destruction of religious or cultural beliefs (Jovanović, 2010: 174).

Economic violence involves the deprivation of financial resources, the conditioning of the provision of financial resources, the prevention of access to common sources of income, etc. Economic violence is not specifically mentioned in the description of the basic form of criminal offence. However, given that different forms of economic violence (taking money and valuable things by force, control of earnings and income, spending money solely for the satisfaction of one's own needs, forbidding a family member to get a job and earn own income, destroying or damaging property, etc.) can lead to endangering the tranquillity and mental state of a family member, there is no doubt that economic violence should be considered a form domestic violence within the meaning of Article 194 of the Criminal Code.

These forms of violence rarely happen independently, but there is usually a combination or concurrent manifestation of two or more forms.

The **threat** of attacking life or body is a form of psychological violence. It should be objectively serious and create the subjective feeling of compromised safety. The subjective feeling of compromised safety depends on the psychological traits of the threatened person, which means that the same threat will not cause the same feeling of compromised safety in persons with different psychological traits.

Ruthless behaviour is any behaviour that deviates considerably from the usual behaviour in the family and is expressed as intolerance, hatred, humiliation, contempt, manifestation of power and control over the victim. This is a legal standard that the court will take into account in considering each particular case. In doing so, it has to take into consideration “zero tolerance” for violence, which means that the victim’s personal high tolerance level should not be a decisive criterion at the time of establishing domestic violence.

Endangering consists of causing danger to the protected goods and creating the possibility of harming the protected goods. This means that endangering in a way precedes the immediate manifestation of violence and poses a real danger of violence actually occurring.

Stalking may occur as a form of psychological violence. This form of psychological violence is not part of the provisions on domestic violence in Article 194 of the Criminal Code, but it is envisaged as a separate criminal offence in the latest amendments to the Criminal Code, Chapter XIV dealing with criminal offences against the freedoms and rights of persons and citizens (Article 138a).²² In most cases, stalking occurs between persons who are in an intimate relationship or have previously been in such a relationship, which means that it begins to manifest during intimate relationship or after its termination. Similar to domestic violence, the perpetrator of stalking uses various means and forms (phone calls, sending letters and gifts, sending SMS and e-mail messages, etc.) to exercise and maintain control over the victim. (Nikolić-Ristanović, Kovačević-Lepojević, 2007: 6). Unlike the Serbian Criminal Code, the Croatian Law on Protection from Domestic Violence²³ defines “stalking and all other ways of harassment” as a form of domestic violence (Article 4). The Law on Protection from Domestic Violence of the Federation of B&H²⁴ also includes “stalking and other similar forms of harassment of another family member” in domestic violence (Article 6).

The criminal offence of domestic violence referred to in Article 194 of the Criminal Code of the Republic of Serbia exists if the action is taken towards a particular victim - a member of one’s family. The previous Criminal Code did not specify who was considered a member of the family, but its Article 112, paragraph 28 provided that family members were also former spouses and their children, as well as parents of former spouses. This general provision was included in Chapter XII of the Criminal Code of the Republic of Serbia, under the marginal title “Definition of Terms”. Thus, the legislator recognised the status of a family member only to current or former spouses, their children and parents. The lack of clear rules on who is entitled to criminal justice protection against domestic

22 *Official Gazette of RS*, nos. 85/05, 88/05 - corrigendum, 107/05 - corrigendum, 72/09, 111/09, 121/12, 104/13, 108/14 i 94/16

23 *Official Gazette*, no. 116/03.

24 *Official Gazette of the Federation of B&H*, no. 2205

violence was one of the key problems in legal practice, which was left unsolved by the legislator, despite the fact that both theory and legal practice pointed out this problem (Konstantinović Vilić, Petrušić, 2004: 164; 2007:109).

The applicable Criminal Code eliminates the dilemma regarding the interpretation of who is considered a family member. Its Article 112, point 28, under the marginal title "Definition of Terms in this Code", determines that family members are spouses, their children, spouse's lineal ancestors, cohabiting partners and their children, adopting parents and adopted children, foster parents and foster children. Family members are also siblings, their spouses and children, former spouses and their children and parents of former spouses, if they live in the same household, as well as persons who have or will have a common child although they have never lived in the same household. By defining "family members" in this way, the Criminal Code excludes from the criminal justice protection against domestic violence former spouses who do not live in the same household and do not have a common child, former cohabiting partners who may live in the same household but are not considered family members, and parents of cohabiting partners. By accepting these provisions, the requirements set out in international documents that insist on providing special protection to former spouses and cohabiting partners, regardless of whether they live in the same household or not, remain unmet. Moreover, this definition ignores the fact, confirmed by research, that domestic violence does not cease as soon as the marriage or cohabitation is terminated.

The question arises whether for the existence of the criminal offence of domestic violence referred to in Article 194 of the Criminal Code of the Republic of Serbia, both its basic and other forms, it is necessary to have continuity of violence. According to the criminological understanding (Walker, 1979:46; Konstantinović Vilić, Nikolić-Ristanović, 2003:128), a woman is considered abused if she is subjected to the abuse cycle at least twice, and domestic violence is defined as the continuous use of physical and psychological force towards family members. In practice, this attitude was dominant in the initial period of the implementation of the criminal norms for domestic violence in Serbia, but under the influence of argued criticism that requesting the continuity of violence prevented the provision of timely criminal justice protection for victims of domestic violence (Konstantinović Vilić, Petrušić, 2004:30, 2007:24), it was mainly abandoned. We consider that duration and continuity of violence are not relevant for qualifying violence against a family member as a criminal offence of domestic violence under Article 194 of the Criminal Code. This position is now based on the Criminal Code, which, in Article 112, paragraph 30, provides that, when an imperfect verb is used to express an act of criminal offence ("who, by using violence, threat... insolent or ruthless behaviour endangers the tranquillity..."), *it shall mean that the offence is committed if the act is done **once** or several times*. Accordingly, the criminal offence of domestic violence referred to in Article 194,

paragraph 1 of the Criminal Code is committed also when the act of “endangerment” is performed only once. We also consider that in order to qualify the criminal offence of domestic violence, it is completely irrelevant whether the competent authorities intervened on the occasion of its perpetration and whether this intervention was recorded in the official protocol records (Konstantinović Vilić, Petrušić, 2007: 24-25).

For **the first form** of the criminal offence of domestic violence, which can be committed by a member of victim’s family, in terms of guilt, it is necessary to have premeditation and it is punishable with three months to three years of imprisonment.

The second form of the criminal offence of domestic violence exists if, in the perpetration of the offence referred to in Article 194, paragraph 1 of the Criminal Code, weapons, dangerous implements or other means suitable to inflict serious injury to body or seriously impair health are used (Article 194, paragraph 2 of the Criminal Code). The qualifying circumstance for this form of criminal offence is the use of weapons, dangerous implements or other means suitable to inflict serious injury to body or seriously impair health, which means that it is irrelevant whether there has been an injury. The term “weapons” refers to various types of firearms or cold weapons. The term “dangerous implements” refers to devices intended for performing certain jobs and which, by their nature, are suitable to inflict serious injury to body or seriously impair health. “Other means” can be a product of nature: stone, wood or a product of human labour (bottle, ashtray, etc.). The judicial practice is uneven in the understanding of whether the foot with a shoe on it, as well as different parts of the perpetrator’s body, are considered dangerous implements (Lukić, Jovanović, 2003: 18). We consider that only “endangerment” without visible bodily injury is sufficient for the qualification of this form of criminal offence. The consequence of this act is a concrete danger to the physical integrity or mental state of a family member, and it can also be a light bodily injury. In case of injury and inflicting a light bodily injury, this injury gets qualified as “dangerous light bodily injuries” because weapons, dangerous implements or other means suitable to inflict serious injury to body or seriously impair health were used.

This form of domestic violence is punishable with six months to five years of imprisonment.

The third form of the criminal offence of domestic violence exists in case where the committed violence results in grievous bodily harm or serious health impairment or if committed against a minor (Article 194, paragraph 3 of the Criminal Code).

The act of committing this form of criminal offence is the same as in the first two forms, but the consequences are different. The qualifying circumstance is a more serious consequence, which means that the consequence of the act is not only the creation of danger to physical integrity or mental state, but actually inflicted grievous bodily harm

or serious health impairment of a family member. This form of the criminal offence of domestic violence is punishable with two to ten years of imprisonment.

The type of domestic violence defined in Article 194, paragraph 3 of the Criminal Code exists also in cases where the victim is a minor member of the family - child (under 14) and minor (14-18 years). The subject of protection against all forms of physical and psychological violence in the family is a child. The act of perpetration, i.e. using violence in this form of the criminal offence of domestic violence, is similar to the act of perpetration in the criminal offence of "neglecting and abusing a minor" (Article 193 of the RS Criminal Code). Due to the vague legal formulation of the term "abuse"²⁵ and different penalties provided for these forms of criminal offences, in practice it is very difficult to make a distinction and delineate whether it is a defined form of domestic violence or neglect and abuse of a minor. The envisaged punishment is two to ten years of imprisonment.

The fourth and the most severe form of the criminal offence of domestic violence is when violence results in death of a family member (Article 194, paragraph 4 of the Criminal Code). The penalty for this most severe form of domestic violence is three to fifteen years of imprisonment. In recent years, the number of domestic violence cases resulting in death has increased in Serbia. In most cases, the victims are women who, for many years, have suffered violent behaviour of their husbands or other male relatives, and have not received adequate protection from public authorities and institutions or other services they addressed seeking protection against violence. According to the NGO Women against Violence Network, in the first seven months of 2010, 24 women, including two minors, were killed in Serbia. In nearly 80% of cases, the killers were the victims' current or former partners, spouses, fathers or sons. Seven perpetrators committed suicide after the murder; ten women were killed with a gun, and twelve with sharp objects (knife, axe, hey-fork); one woman was burned with gasoline. In Serbia, from 1 January to 30 June 2017, 15 women were killed by a partner or family member. In the same period of 2016, 18 women were killed and as many as 33 women in the whole year of 2016.²⁶

The fifth form of the criminal offence of domestic violence exists when the perpetrator of violence to whom the court imposed a measure of protection against domestic violence violates this measure (Article 194, paragraph 5 of the Criminal Code). The measures of protection against domestic violence are envisaged in the Law on Family (Article 198, paragraph 2) and they are basically limiting or temporary prohibiting the

25 Abuse is usually interpreted as undertaking certain actions that cause certain low-intensity physical and mental sufferings of the victim, which do not constitute a light bodily injury; an activity that causes to another person physical or mental pain, anxiety, discomfort or fear of high intensity. The actions referred to in Article 194 of the Criminal Code can certainly be considered abuse, although the legislator does not use that term. See: (Jovanović, 2010:187)

26 www.zeneprotivnasilja.net/vesti/89-femicid-u-srbiji, (accessed on 23 December 2017); www.zeneprotivnasilja.net/femicid-u-srbiji (accessed on 23 December 2017).

maintenance of personal relations between the perpetrator of violence and the victim of violence, which includes the limitation of certain rights and freedoms of the perpetrator of violence (Petrušić, Konstantinović Vilić, 2007:15). Pursuant to Article 194, paragraph 5 of the Criminal Code of the Republic of Serbia, whoever violates a measure of protection against domestic violence shall be punished with three months to three years of imprisonment and a fine.

A new provision in the Criminal Code is the measure of no approaching or communicating with the injured party (Article 89a). This security measure can be imposed in case where the perpetrator has been punished with a fine, community service, confiscation of driver's licence, suspended sentence and judicial admonition. The court may prohibit the perpetrator to approach the injured party at a certain distance, prohibit access to the area around the place of residence or the workplace of the injured party and prohibit further harassment of the injured party or further communication with the injured party, if it can reasonably be considered that such actions by the perpetrator could be dangerous for the injured party. The measure may last for a maximum of three years and may be terminated before the expiration of determined period if the reasons for its determination cease to exist.

The criminal offence of domestic violence is prosecuted *ex officio*, which means that the public prosecutor initiates criminal proceedings. This provision is in line with the importance of the values (family) protected by the criminal justice system and is in line with the recommendations and legal standards contained in international human rights documents. The prosecution and criminal proceedings in cases of domestic violence are two criminal procedural provisions that, if applied contrary to their intended purpose (including the efficiency and acceleration of criminal proceedings, achieving the prompt pronouncement of judgment, avoiding secondary victimisation, etc.) can weaken the criminal justice protection of the victims of domestic violence. These are *plea agreement* and *hearing for the imposition of a criminal sanction* (Articles 313-319 and Articles 512-516 of the Criminal Procedure Code).²⁷As regards the plea agreement, it is a simplified procedural form when an agreement is concluded between the public prosecutor and the defendant from the moment of issuing an order to conduct an investigation until the completion of main hearing. The agreement is concluded when the public prosecutor and the defendant agree that the defendant fully admits the commission of the criminal offence charged against him/her, and that the prosecutor, in return, makes certain privileges and concessions to the defendant, primarily with regard to a more lenient punishment. An agreement between the parties is decisive for a court decision on the substance because it determines the type and level of the sanction to be pronounced

27 Criminal Procedure Code of the Republic of Serbia, *Official Gazette of the Republic of Serbia*, nos. 72/11, 101/11, 121/12, 32/13, 45/13 i 55/14.

and the court makes a decision to accept the agreement or to reject it if the legal requirements are not met. Hearing for the imposition of a criminal sanction may be held only if the following conditions are met: if the criminal offence is punishable by a fine or a term of imprisonment of up to five years as the principal penalty, and if the public prosecutor in his/her motion to indict may request the holding of a hearing for the imposition of a criminal sanction. The public prosecutor can make this request if he deems the holding of a trial unnecessary because of the complexity of the case and the evidence collected, and especially because the defendant was arrested during the commission of the criminal offence or has confessed the criminal offence. The law stipulates which penalties may be proposed by the public prosecutor to the court to impose on the defendant; the defendant should agree with the public prosecutor's allegations and declare that he/she will not file an objection or appeal against the first-instance decision.

Part Two

Research Of Judicial Practice In Cases Of Domestic Violence

1. Subject, Goal and Methodology of Research

The research of judicial practice in prosecuting the cases of domestic violence, the results of which are presented in this publication, relies on the results of two previous research studies of the legal practice in the Republic of Serbia in prosecuting the cases of violence. These are: *Criminal Offence of Domestic Violence - Legal Practice in the Republic of Serbia* (March 2002 - December 2003) (Konstantinović Vilić, Petrušić: 2004) and *Criminal Offence of Domestic Violence - Current Judicial Practice in Belgrade and Niš* (Konstantinović Vilić, Petrušić: 2007).

The research study *Criminal Offence of Domestic Violence - Legal Practice in the Republic of Serbia* (March 2002 - December 2003) is the first critical review of the police, public prosecutorial and judicial practice in five cities in Serbia (Belgrade, Novi Sad, Niš, Leskovac and Subotica), which, based on the examined and analysed sample of 620 cases, identified negative phenomena and problems in detecting and reporting domestic violence, in conducting criminal proceedings and punishing perpetrators. This research has determined the attitudes of professionals on certain issues related to the perpetrators and victims of

violence against family members, the way they perceived this type of crime, the possibilities of preventive and repressive action of the institutions of the system, and the direction of improving the existing model of legal protection against domestic violence.

The second research, *Criminal Offence of Domestic Violence - Legal Practice in the Republic of Serbia*, was aimed at analysing the public prosecution and court cases of domestic violence in Belgrade and Niš and comparing them with the previous research. This research was conducted in the period January 2006 - May 2007 on the sample of 529 cases. One of the goals of this research was to examine the practical effects of the new legal provisions introduced in 2005 by criminalising domestic violence.

There are more reasons and justifications for conducting a new research of judicial practice in prosecuting the criminal offence of domestic violence. First of all, the latest research was conducted nine years ago, and in the meantime a new practice has been established; its analysis has allowed a critical insight into the functioning of the existing mechanism of criminal justice protection against domestic violence and the changes that occurred in the meantime in interpreting regulations, conducting procedures and punishing perpetrators. Although there were no recent legal changes in the criminalisation of domestic violence, the National Strategy for the Prevention and Elimination of Violence against Women in Family and in Intimate Partner Relationship was adopted in 2011, and on 31 October 2013 Serbia ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention). In addition, a number of educational programmes have been implemented and expert conferences have been held for professionals, and it is important to examine whether education influenced their actions in practical work. The results of this research will provide an overview of the current situation and a baseline for monitoring future changes in the work of judicial authorities regarding the implementation of the new Law on Prevention of Domestic Violence, adopted in 2016,²⁸ which regulates the actions of public authorities and institutions in preventing domestic violence and providing protection and support to victims of domestic violence.

The direct subject of the new research is the analysis of the current practice of courts in prosecuting the criminal offence of domestic violence in three largest cities in Serbia - Belgrade, Niš and Novi Sad, at all stages of the criminal procedure. The analysis covers the court cases with final court decisions where the charging documents (indictment, motion to indict) were submitted in 2014 and 2015. In total, 100 court cases selected on a random sample basis were examined and analysed: 50 cases of the First, Second and Third Basic Courts in Belgrade, 25 cases of the Basic Court in Niš, and 25 cases of the Basic

28 *Official Gazette of RS*, no. 94/2016. Pursuant to Article 39, the Law became effective on 1 June 2017.

Court in Novi Sad. The number of court cases in the sample is 100; the number of crimes committed is 109; the number of perpetrators is 101 and the number of victims is 122.

According to the information obtained from the courts²⁹ covered by research, in 2014 and 2015, they received a total of 762 charging documents, as follows:

Court	First Basic Court in Belgrade	Second Basic Court in Belgrade	Third Basic Court in Belgrade	Basic Court in Novi Sad	Basic Court in Niš	Total
2014	46	215	18	65	47	391
2015	124	81	31	90	45	371

The aim of the research is to collect and analyse relevant data on the work of judicial bodies in conducting criminal proceedings initiated in cases of all forms of domestic violence referred to in Article 194 of the Criminal Code, to identify changes in the phenomenology of the criminal offence of domestic violence and critically analyse the effectiveness and efficiency of judicial procedure in cases of domestic violence, assess its effectiveness and efficiency, and compare it with the results of previous research.

A special questionnaire, based on the instruments used in the previous research studies, was used to collect data from the court case files, to obtain comparable data. The data collected were statistically processed by using SPSS 14.0.

The collection and processing of relevant data were carried out in three phases. In the preparatory phase of the research, the coordination and preparation of the research was done (the sample, methodology and plan of research were determined; the questionnaire was created; and the permissions for carrying out the research were obtained from

²⁹ The information was provided upon the freedom of information requests submitted to courts by the authors in October 2017. The following information related to the period 2014-2015 was asked: 1) Number of criminal complaints for the criminal offence of domestic violence submitted in 2014 and 2015 (Article 194 of the Criminal Code of the Republic of Serbia, specified by paragraphs); 2) Number of convictions and number of acquittals for this criminal offence, by year, and number of cases with rejecting judgments; 3) Number of appeals against first-instance decisions, filed by the basic public prosecutor's office; 4) Number of appeals against first-instance decisions, filed by the convicted persons through their attorneys; 5) Number of concluded plea agreements; 6) Number of upheld judgments, number of abolished judgments and number of reversed judgments. Although all courts provided data, they are not complete. If we assume that the reason for not providing the requested data is that they were not entered in the official records, which was indicated in some responses, it is worrying that the courts do not possess the data about concluded criminal cases, and it remains unknown how they monitor the implementation of the penal policy and its effectiveness in prosecuting the crimes of violence, which is one of their permanent tasks.

the presidents of the courts). In the second phase, data from court cases were collected and statistically processed. In the third phase of the research, a scientific analysis of the collected data was conducted and the text of the monograph was prepared.

2. Judicial practice in Belgrade

2.1. General information about court cases

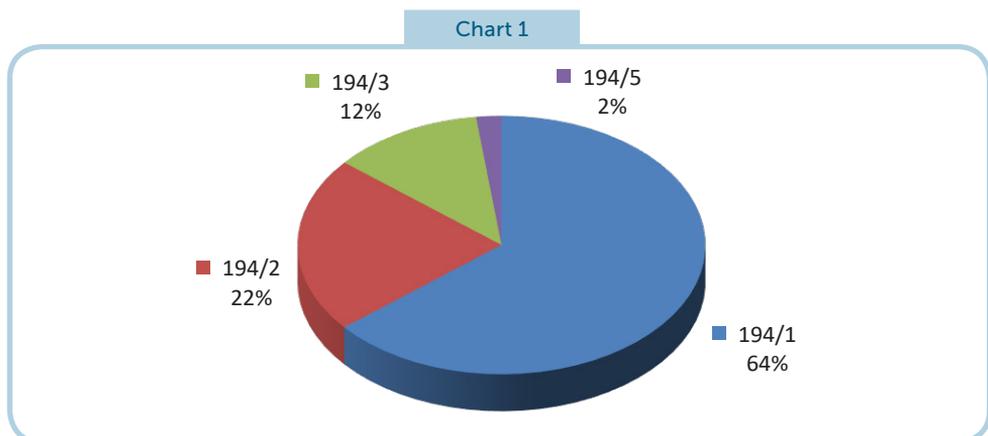
A total of 50 court cases were examined, including the court cases of First Municipal Court in Belgrade (covering the city municipalities of Vračar, Zvezdara, Palilula, Savski Venac and Stari grad), Second Municipal Court in Belgrade (covering the city municipalities of Voždovac, Čukarica, Rakovica and Grocka), and Third Municipal Court in Belgrade (covering the city municipalities of Zemun, Novi Beograd and Surčin).

2.2. Phenomenology of the criminal offence of domestic violence

Form of perpetration

The examined sample included 50 criminal offences of domestic violence. The highest percentage of criminal offences (64%) have the characteristics of the first form of domestic violence referred to in Article 194, paragraph 1. All other forms of this criminal offence are less frequent: 22% of committed criminal offences of domestic violence referred to in Article 194, paragraph 2; 12% of committed criminal offences of domestic violence referred to in Article 194, paragraph 3 of the Criminal Code of the Republic of Serbia).

As regards the criminal offences of domestic violence referred to in Article 194, paragraph 5 of the Criminal Code of the Republic of Serbia (violation of protection measure against domestic violence), only in one case (2%) the perpetrator was convicted for this criminal offence, which indicates that such cases are rarely prosecuted in practice (Chart 1).



Joinder of offences

Most criminal offences are not perpetrated in joinder - 82%. 16% of criminal offences are perpetrated in joinder, while this information is unknown for 2% of cases. In several cases where there was a joinder of offences, it was noted that the offence was continued.

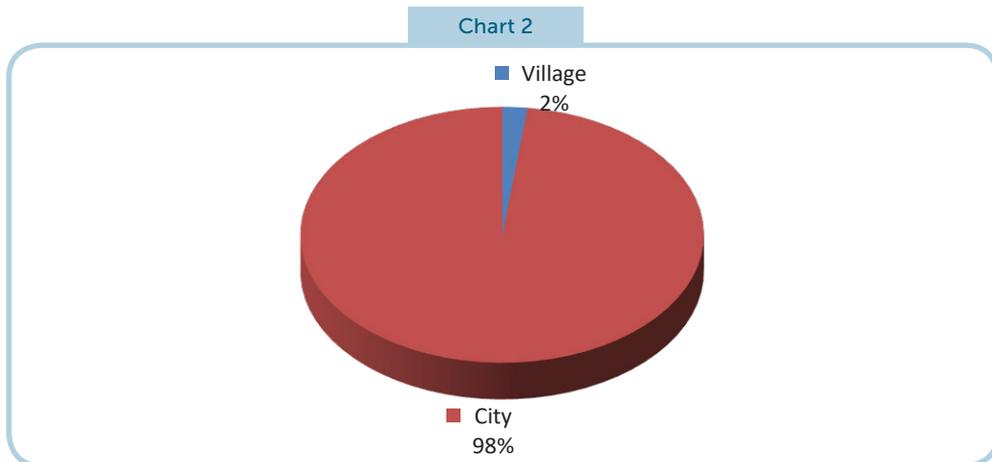
Complicity

There was not any form of complicity in the examined sample. The perpetrators committed the criminal offence of domestic violence alone.

At the time of perpetration, in 48% cases there were witnesses, mainly children or other family members, but also neighbours, who were heard as witnesses in criminal proceedings.

Place of perpetration

According to the data from the sample, in 98% of cases, the criminal offence of domestic violence was committed in cities. A village is the place of perpetration only in one case, which is in line with the previous research of this phenomenon, when it was also found that a city was more frequently the place of perpetration of domestic violence than a village (62.10%:18.60%). In most cases (98%), the place of perpetration is the place of residence of both perpetrator and victim (Chart 2).



The location of event is usually the joint apartment of the perpetrator and the victim - 74%, victim' apartment – 14% and perpetrator's apartment – 8%. Similar data were obtained in the previous research, when it was found that in 78% of cases the place of the event was the joint apartment of the perpetrator and the victim, which shows that the common place of residence (apartment, house, yard) where family members should feel most safe, in actually the least safe place.

Time of perpetration

In analysing the phenomenological characteristics of the criminal offence, the time of perpetration is also important for monitoring the distribution of crime in different periods (seasons, time of the day). The data from the sample do not show any specific regularity regarding seasons or the time of the day. The majority of the criminal offences of domestic violence in the sample were perpetrated in summer - 15 (30%), slightly fewer in autumn - 14 (28%), much fewer in winter - 6 (12%) and spring - 5 (10%), while in the longer period of time (for example from winter to autumn or from summer to winter), 10 criminal offences were committed (20%). This finding is in line with the criminological research according to which criminal offences related to property are most often committed in autumn and winter months, while criminal offences against persons (domestic violence could belong to this category considering the target of attack) are most often committed in summer and autumn months. Observed in relation to the time when domestic violence was committed, in most cases where the time of the crime was noted (33), the crime was committed in the afternoon or evening - 22 (66%).

Means of perpetration

The means of perpetration of the criminal offence of domestic violence in the examined sample are various objects, including the body parts (hands, fingers, fists, legs, teeth - bites), various items (electrical cables, tying instruments, shopping bag handle, wooden armchair leg, broom stick, wooden guitar, tennis shoe, drilling machine, stone) and cold weapons (knife, axe). As in previous research, physical violence was the most common form of violence - in 78% of cases: in 22 cases (44%) it was physical violence without the use of implements or weapons, while implements/weapons were used in 17 cases (34%). The combination of physical and psychological violence was perpetrated in 8 cases (16%), while in other 3 cases (6%) only psychological violence was perpetrated. Different methods of perpetration were combined in using physical, psychological and sexual violence.

Methods of perpetration

The methods of perpetration depended on the type of violence (physical, psychological), but also on the means of perpetration.

Physical violence was perpetrated in different ways including: punching on the head and face, pulling hair, kicking, slapping, putting a knife to the throat, choking, biting the hand and the like.

Psychological violence was perpetrated by cursing, insulting by name-calling ("whore", "slut", "peasant", "you're nobody", etc.), spitting, harassing with text messages, threats of murder, etc.

The analysis of the description of committed crimes shows that violence is sometimes very brutal, as illustrated by the following examples:

- ⇒ The defendant insulted the injured party, saying that she was irresponsible with respect to their nine-month-old child, pushed her away and twisted her left arm, causing her light bodily injuries in the form of a fracture of the third finger of her left hand.
- ⇒ In the course of 2013, 2014 and 2015, the defendant insulted the injured party, telling her that she was nobody, that she was a Bosnian peasant, that all his girlfriends were better than her, and then he physically attacked her, punching her head, dragging her on the floor by the hair, kicking her, hitting her with chairs, threatening to slaughter her, kill her, bury her, demanding from the injured party to provide the money for heroin.
- ⇒ The defendant hit the injured party's face first with the open hand and then with a 1.90 m pole first on the head and body, and then continued punching her face and body with his fist, inflicting light bodily injuries in the form of head trauma and contusion.
- ⇒ The injured party sustained light bodily injuries in the form of head and right knee contusion as a result of being repeatedly punched on the head and kicked on the body and leg by the defendant.
- ⇒ In the course of 2013, 2014 and 2015, the defendant controlled the injured party's going to and returning from work on a daily basis, requesting from her to come at a precise time, and if she failed to do so he would hit, threaten and shout at her. When she moved with her daughter and grandson to a rented apartment, he visited and threatened her: "You have to die before me; I will kill you and then myself because I've completed my mission, my children are married and I have lived to see my grandchildren." When the injured party returned with her daughter to the house addition, he threatened and insulted her every day, saying that she was "a whore, a slut, that she had advisers at work"; he disparaged her by saying that she was nobody, that she would have been a peasant if it hadn't been for him who brought her to Belgrade; he accused her of being in love with her employer and threatened that he had acquired a rifle to kill her and sharpened the knife to finish with her, demanding from her to bring him a photo of the two of them together and put it on the table, and that he would put that photo on a monument when he killed her because he did not want to burden the children with expenses. The next time he phoned the injured party when she was returning from work and threatened her: "Get out wherever you are so that I can rip out your heart and soul, cut off your head and finish with you." On the same day, he physically attacked the injured party by squeezing her neck with one hand and twisting her left arm with another, and thus inflicted upon her light bodily injuries in the form of bruised back of the neck, and contusion with haematoma on the back of her left hand.

- ⇒ The defendant verbally attacked his mother requesting money, after which he was breaking things in the house with his fist and physically attacked his father by repeatedly punching him on the body. Then he took the armrest of the wooden armchair and hit his father several times on the body, on which occasion the injured party sustained light bodily injuries in the form of left sub-clavicle contusion, several bruises on the forehead and cheekbone, bruised root of nose, several lacerations of the left ear lobe and forehead abrasion.
- ⇒ The defendant insulted the injured party by saying that he would like her not to be his mother, that he would like her to be dead; he asked for money, pulled her hair and then hit her with a wrench "twelve", first on the hand and forearm and then on the head "because she was checking on him".
- ⇒ After a brief discussion, the defendant began to insult his wife, and when she did not want to allow him to take their seven-month-old daughter, he entered the kitchen where he took a kitchen knife, put it in his pocket, took the baby, went to the bathroom, sat on the toilet bowl and began feeding the child while refusing to give it to the injured party. He went out of the bathroom several times, holding the child in one hand and the knife in the other hand, insulting the injured party with the words "Cry you whore, maybe your fat melts away, how much does your womb cost so that I pay you for giving birth", and threatening to kill the child because "he created it and he will also kill it".
- ⇒ Due to his mental illness (paranoid psychosis), the defendant swung a knife towards his father in a state of mental incompetence, and then stabbed him in the back, causing him a light bodily injury - an open wound of the back of the chest.
- ⇒ Under the influence of alcohol, the defendant abused his mother by threatening to kill her, grabbing her neck and choking her, dragging her on the floor, breaking things in the house, sharpening the knives and hitting them in the cupboard, the door, the floor. He threatened his mother that he would slaughter her with a knife and meat chopper and that nobody would gather her pieces if she told the medical doctor from the Special Hospital for Addiction Diseases that he was drinking again.
- ⇒ The defendant abused her mother on a daily basis by requesting from her to go and buy her cigarettes, breakfast and coffee without thinking about whether her mother had any money; she demanded that her mother gave her money by saying "create it out of nothing" and when her mother did not give her money, she physically attacked and insulted her with the words "my dad was a good man and you are the worst of all women", breaking glasses and other things in the house. On one occasion, after a verbal confrontation over the "Christmas cake", the defendant knocked down her mother, punched her on the head, and when the injured party raised her hand to protect herself, she bit her hand inflicting a light bodily injury on her.

- ⇒ By using violence, threatening to attack life and body and behaving ruthlessly, he endangered the tranquillity, physical integrity and mental state of a family member - his father. On several occasions he threatened to kill and slaughter him, pierce the tyres of the car; he defecated in the bathtub of the house bathroom; he banged on the locked gate of the house; after a brief discussion, he punched his father on the head and body, causing him light bodily injuries.
- ⇒ The defendant, in the state of acute intoxication and under the influence of opiates and sedatives, psychologically and physically abused his bed-ridden mother suffering from cancer and his father, by insulting them, banging around the house, falling to the floor, threatening his father that he would kick him out of the apartment, hitting him on the cheek with a glass ashtray, pushing his chest, taking two knives from the kitchen and hitting him on the face with a metal knife handle and threatening to kill him, while his mother was screaming helplessly frightened for the safety of her husband.
- ⇒ The defendant under the influence of alcohol threatened and insulted his mother, wife and daughters, telling them that they were whores and “all he can do is to kill them”. When he was taken to the police, he said “when I leave the police station, I will kill all of you”.
- ⇒ The defendant used to send to his former cohabiting partner threatening text message: “You are dead, believe me, I swear to you, you are dead, you will be spitting blood, you’re a disgusting animal, if I get you, I will kill you, I will take your child.”
- ⇒ Dissatisfied with the food prepared by his cohabiting partner, with whom he lived in the same household, the defendant first insulted her with the words “whore, slut”, and then, he pushed towards the cupboard the shoulder of the injured party, who was carrying the child in her arms, and when she ran to the yard, he took a bread knife and chased her in the yard saying “I’ll kill you”. The following day, after a discussion, he struck the injured party on the back twice with an electric cord, causing her light bodily injuries in the form of several haematoma.
- ⇒ The defendant hit his wife with his head causing her light bodily injuries in the form of haematoma on the forehead. On another occasion, he entered the room where the injured party was sleeping and started banging, shouting, cursing, insulting, saying that he would break her arms and legs, kill her, then he hit her several times on the face, pulled her hair, knocked her to the floor, kicked her on the back, stomach and legs, causing haematoma on her body.
- ⇒ The defendant pushed his wife with both open hands towards her chest, which caused her to fall, and when she got up, the defendant hit her jaw with his right hand open, resulting in an injury in the form of cut.
- ⇒ The defendant physically attacked his mother grabbing her stomach, lifted her in the air, threw himself on the bed, hit her several times on the top of her head, insulting and

threatening her; when the police came, he hit a police officer causing him a severe bodily injury in the form of a fracture of the right hand metacarpal bone.

- ⇒ After insults, the defendant punched his mother on the head and caused a light injury of her eyelid. On another occasion, he physically attacked her and hit her on the right temple.
- ⇒ After the quarrel, the defendant repeatedly punched the injured party/his wife on the left side of her face and shoulder; trying to defend herself, the injured party scratched the defendant's hand pushing him away from her, while he was squeezing her left upper arm, which caused her light bodily injuries.
- ⇒ The defendant slapped his ex-wife repeatedly with the palm of the hand both on the face and other parts of the body, which caused her injuries in the form of haematoma on the body, neck, back and head; he insulted, cursed and threatened to kill her.
- ⇒ The defendant approached his wife while she was sitting in the driver's seat, opened the door of the car, gave her a health card for the child and threatened that, when the divorce trial ended and when the minor child was "given to her", she would regret the day she was born, that it would be the last day she laughed, that "he would cut her into pieces".
- ⇒ Under the influence of alcohol, the defendant came to the apartment and started yelling at his wife that she had made a high phone bill, then pulled her hair and spat at her, pushed his finger into her eye, hit her on the ribs, causing her light bodily injury in the form of contusion in the left chest area, and then punched her on the chin, causing her a light bodily injury in the form of face contusion. When a few hours after escaping the victim returned to the apartment where they lived together, the defendant did not want to unlock the door and let her in their joint apartment, but left her in the hallway. When the police arrived and arrested the defendant, he threatened the victim in the presence of the police saying that he would "judge her", that "she will not exist any more" and that she would bear the consequences "because she was selling drugs".
- ⇒ The dependent repeatedly punched his cohabiting partner on the body and head, pulled her hair, knocked her on the bed, choked her with his hands and pillow, put the pillow in her mouth, bit her hands while she was trying to defend herself, and saying that he would strangle her.
- ⇒ The defendant came to the house where the victim/his wife lived with her parents and sister, banged on the front door, then pushed from the front door the victim who opened the door to him, as a result of which she fell to the floor; then he pulled her hair, dragged her on the floor to the living room, insulted and threatened, kicked her on the body, holding in his hand a metal rod that he had brought and was swinging to hit the victim; their underage child was watching the event, crying, screaming, begging the father to stop, after

which the defendant unlawfully took his minor daughter from the victim, thus preventing the execution of the decision of the competent authority - Second Basic Court in Belgrade, which determined the manner of maintaining personal relations between the defendant and his minor children. He took his daughter, who lived with her mother according to that decision, and brought her in her pyjama out of the apartment at around midnight.

- ⇒ The defendant first prohibited her granddaughter/victim, with whom he lived in the same household, to wash her clothes in the washing machine and took her stuff out of it, then took a metal rod (plastic-coated floor mop stick) and hit the victim several times on the hands, thus causing her light bodily injuries in the form of a cut on the right upper arm, an abrasion on the right forearm and an abrasion on the left-hand thumb, whereas the stick used for hitting broke into two due to the impact force.
- ⇒ The defendant inflicted a serious bodily injury on his cohabiting partner while forcing her into an unwanted sexual intercourse; he fractured her thigh bone by punching her all over the body. After she had been discharged from hospital, he continued to beat her every day, and since she was not able to walk, he would leave her without food, did not take her to toilet, and raped her several times. Due to the complications of injuries, the victim ended up in a wheelchair.
- ⇒ After a brief verbal conflict, the defendant hit his mother on the back, grabbed her hair with both hands and dragged her across the room, then took the axe from the garage and threatened to kill her if she called the police.
- ⇒ The defendant, under the influence of alcohol, insulted his wife, then slapped her and hit her on the body, used a wooden chair leg to hit her on the back, legs and body, causing her a large number of bodily injuries, assessed together by the court as serious bodily injury.
- ⇒ Upon leaving the day hospital where he was treated for alcoholism, the defendant consumed alcohol, came to the apartment, began cursing his mother, threw a chair at her, knocked her on the bed, grabbed her neck and began squeezing it, and at one point the victim started to run out of the apartment calling for help.
- ⇒ In their joint family home, the defendant under the influence of alcohol harassed his wife, daughter and son-in-law: he threatened to his wife and cursed, pushed their daughter and slapped her, and then he approached the son-in-law while holding a knife and threatened to slaughter him because he was meddling in their conflict.
- ⇒ After a discussion between the defendant and the mother of underage victim, who, out of fear for his own and his mother's safety, took the mobile phone to call the police, the defendant took a broom handle, used for stirring boiling laundry, began to chase the underage victim and hit him once.

- ⇒ The defendant sent to his former wife text messages threatening to kill and crush her and insulting her.
- ⇒ The defendant repeatedly punched and smacked his underage son on the head and body, then hit him several times with a wooden guitar on the legs after which the guitar broke, and the defendant continued hitting him with his hands on his body, and then threatened him saying that he would become a bum, a thief, and then resumed slapping him.
- ⇒ When the defendant, upon having sent text messages to the former cohabiting partner, came to the apartment of his former cohabiting partner's mother, he entered the bathroom where the victim was, approached and slapped her, after which the victim lost balance and her head hit the door of the shower booth. Then he hit the victim's mother in the neck, which was witnessed by the underage daughter of the defendant and the victim, who fell on the couch due to the stress. The defendant continued to punch the victim on the head and arms and injured her right-hand thumb.
- ⇒ The defendant asked the mother to give him money for transportation and since he was not satisfied with the money he got, he pushed her on the chest with both hands, pulled her fingers and hit her with a wet towel. Sometime later, he again asked for money, and since the victim rejected again to give him any money, he spat in her face, swearing and insulting her and the father who was calming him down.
- ⇒ During a long period of time (from 2012 to 16 October 2014), he physically and psychologically abused his parents with whom he lived in the same household by cursing, insulting them, threatening to kill them and throw them out of the house. On one occasion, when his mother asked him what he would like her to prepare for his meal, he yelled at her: "Why would you give me anything, you're nothing to me, I'm going to kill you now", then he pulled her hair and pushed her away so that the victim's back and head hit the wall. Under the influence of alcohol and antidepressants, he uncontrollably yelled at his mother and swore, then he grabbed and clutched her jaw with his right hand due to which the victim suffered great pain and fear.
- ⇒ After the divorce and eviction from the apartment, during the period of one year the defendant repeatedly harassed his ex-wife by going to the apartment where she lived, harassing her, banging on the door, calling her on the doorphone, painting the door, spraying the door, spraying the lock so that the victim could not unlock, breaking into her mailbox, cutting television cables, calling her by phone at night, threatening and insulting her.
- ⇒ In a long period of time, the defendant cursed and insulted his wife calling her names and hit her on the head and body.

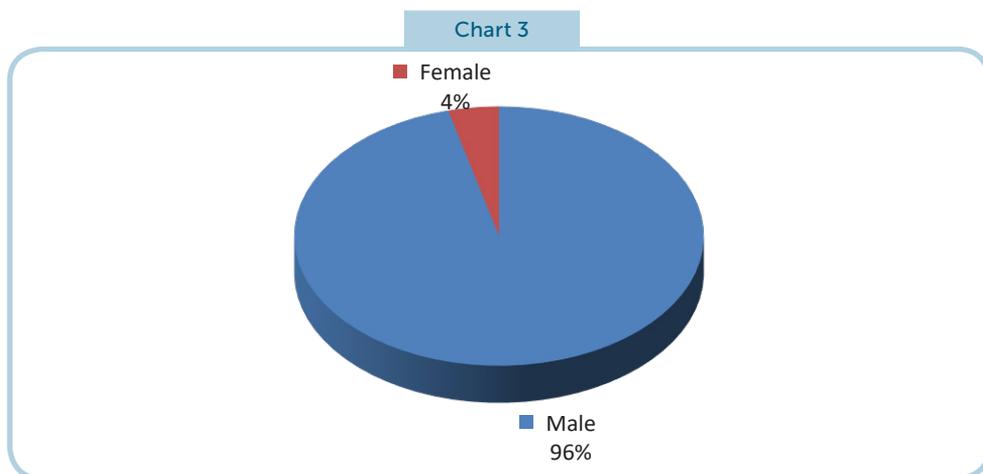
- ⇒ In the period from July 2012 to July 2014, he physically and psychologically abused his wife by insulting words, swearing and threatening with the words “I will end your life; I’ll do to you what no one has ever done to anyone; I will hit you on the head to make you stunned; I’ll tie you and cut you, so that the newspapers will write and the TV will record”, “nobody can protect you, I will judge you”, “I’ll get you”, after which he attacked the victim by punching and hitting her with an open hand all over the body.
- ⇒ The defendant has been a heroin addict for many years and has abused his parents physically and psychologically. He has insulted and cursed them, and on one occasion, after a quarrel, he grabbed his mother’s hair, pulled it and punched her on the top of the head.
- ⇒ The defendant quarrelled with his mother, threatened to kill her, then waved his hand and hit her on the head.
- ⇒ Under the influence of alcohol, the defendant began a discussion with his wife, pushed her away and hit her several times on the head, causing her light bodily injuries in the form of bruises on the top of her head.
- ⇒ The defendant woke up his underage son because of a grade in English language he had received, reproached him, said that he could not sleep if he was getting poor grades, that he did not need him as such and that he could leave home. The underage victim left home in his pyjamas; the defendant followed him and reached the apartment of his mother-in-law where the victim was and hit him several times with his hand on the head and body. He dragged him barefoot out of the apartment, grabbed his shoulder with both hands, threw him down in the corridor so that the victim’s nose began to bleed. The victim sustained light bodily injuries in the form of crush injury of the inside upper lip, a haematoma on the left side of the neck, an external nose haematoma and a left-cheek haematoma.
- ⇒ The defendant came to the apartment in which his ex-wife and underage children lived, and began to drill the door lock damaging it, after which the victims called the police and the defendant left before the police arrived. In this way he endangered the tranquillity and mental state of his family members, his former wife and underage children. The judgment states that the court did not pronounce the security measure of no approaching or communicating with the victim because it considered that pronouncing this measure was not justified in that particular case: the civil procedure initiated upon the defendant’s lawsuit against the injured party for eviction from the apartment was terminated; the injured party with the children moved out of the apartment, which was the basis for the defendant’s insolent behaviour and his “exertion of pressure” on the injured party to leave the apartment; in addition, the defendant and the injured party have not been in contact for more than four years.

- ⇒ The defendant came in front of the house of the injured party's parents, where she now lives with her parents and children, and by throwing stones, smashed the double-glazed window of the room in which his underage son was sleeping, thus violating the measure of protection against domestic violence.
- ⇒ In the presence of two underage children, the defendant physically attacked the victim/his wife, punched her on the head, insulted her and threatened to kill her and dig out her eyes.
- ⇒ In his family house, the defendant threatened his wife with the words: "Do you want me to slaughter you now", then grabbed her clothes and her right hand and began slapping her, causing her light bodily injuries in the form of contusion with an abrasion on the forehead.
- ⇒ In the courtyard of the family house, the defendant intercepted the injured party/his wife, grabbed her hair, put a knife to her throat and threatened to cut her son, make him a cripple and disabled, and if she did not leave the house, she and her son would suffer a great disaster.

2.3. Profile of perpetrators

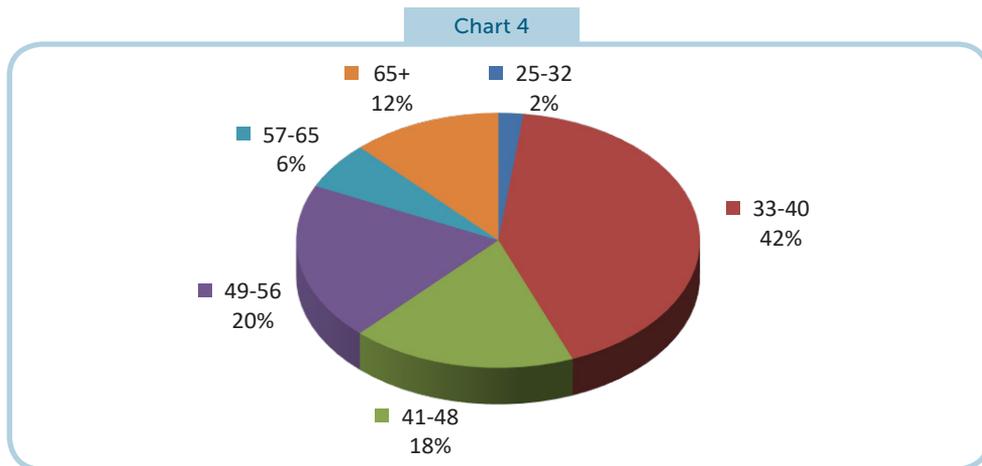
Structure of perpetrators by sex

In most cases, the procedure was conducted against men - 96%, only 4% of perpetrators in the sample were women (Chart 3). This coincides with the findings of previous research according to which a large majority of perpetrators were men (91.5%) and a much smaller percentage of offenders were women (8.5%).



Age of perpetrators

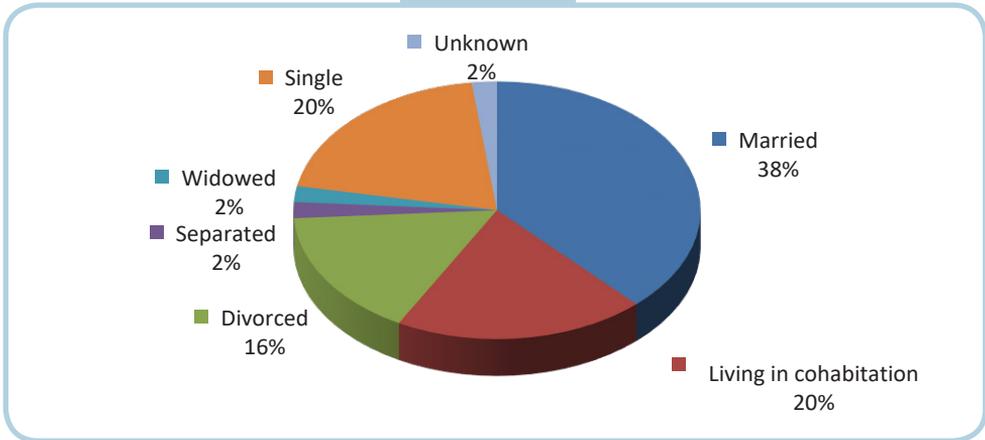
As regards the age of perpetrators, the largest age group is 33-40 years (42%), followed by the age group 41-48 years (18%). Interestingly, the age group 65+ makes up 12%, which is a significant increase compared to previous research where this age group made up 6.41%. The age group 25-32 years makes up only 2% of the examined sample, which is less than in the previous research where this age group made up 7.9%. If we take into consideration the share of perpetrators in the age groups 49-56 (20%), 41-48 (18%) and 57-65 years (18%), we can conclude that the age of perpetrators of the criminal offence of domestic violence has slightly increased (Chart 4).



Marital status of perpetrators

The marital status of perpetrators in the examined sample at the time of perpetration of domestic violence was taken into consideration. This should be noted because the marital status of most perpetrators and victims changed after the perpetration of criminal offence, and conducting and terminating criminal proceedings. At the time of criminal offence perpetration the majority of perpetrators were married - 38% or living in cohabitation - 20%. 20% of perpetrators were single, 16% were divorced, 2% were separated and 2% were widowed (Chart 5). Compared to previous research, there are no significant changes in the marital status of perpetrators since a higher percentage of perpetrators were also married at the time of perpetration.

Chart 5



Number of children

Most perpetrators (46%) have two or more children, 25% of them have one child, while 26 of them have no children. The results of the previous research also show that the majority of perpetrators had two or more children, but a significantly smaller percentage of perpetrators were without children (14.22%) compared to the present research (Table 2).

Table 2

	Number	Percentage
No children	13	26
One child	14	28
Two or more	23	46
Total	50	100.0

It is evident that the fact of perpetrator’s parenthood is not relevant to the perpetration of domestic violence. On the other hand, the fact that 74% of domestic violence perpetrators have child(ren) confirms that the risk of transgenerational transmission of violence is extremely high and that it is one of the reasons for the need to make combating domestic violence one of the government’s important political priorities. It should be borne in mind that in a large number of cases of domestic violence, children either witnessed or were direct victims of violence.

Education of perpetrators

Compared to previous research findings, there are no substantial changes with respect to the education of perpetrators. Most perpetrators have secondary education - 66%, followed by those with junior college or faculty - 14% and primary education - 12%. 4% of perpetrators have incomplete primary school education and one perpetrator (2%) has a master's degree (Table 3). Based on this finding, we can conclude that domestic violence perpetrators are not individuals without education and that education did not have a preventive effect with respect to violence.

	Number	Percentage
Incomplete primary school	2	4
Primary school	6	12
Secondary or high school	33	66
Junior college or faculty	7	14
Master or doctoral studies	1	2
Unknown	1	2
Total	50	100.0

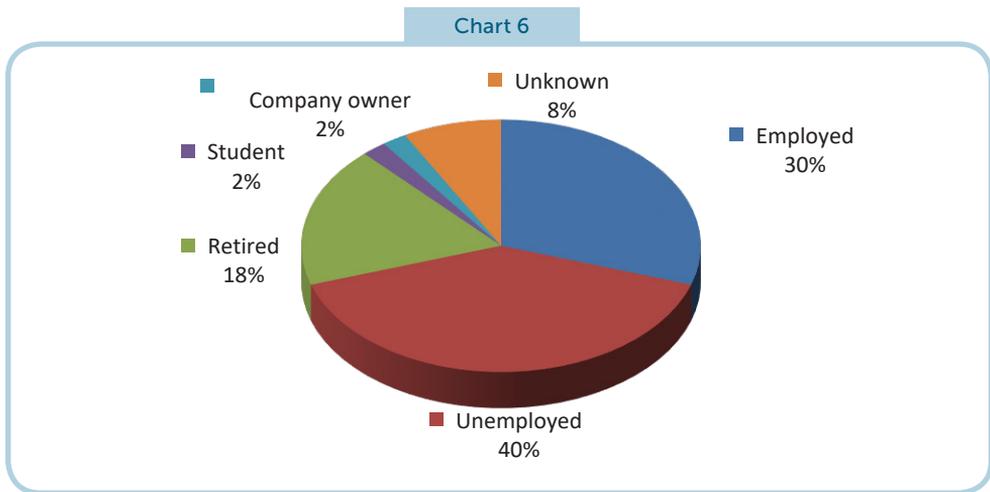
Occupation of perpetrators

The perpetrators of the criminal offence of domestic violence from the examined sample have different occupations, which is understandable given that most of them have secondary and tertiary education. These are the occupations from the sample: army member, engine fitter, graduate mechanical engineer, car mechanic, waiter, customs officer, sales specialist, worker, electrician, driving instructor, car electrician, wall painter, police officer, mechanic, programmer, priest, driver, precision mechanic, law student, flight attendant, installer, tourism technician, salesperson, graduate musician (violinist), medical technician, shoemaker, playwright, senior medical technician, construction technician, electrical technician, rubber worker, communal worker, leather technician.

The findings related to education and occupation of domestic violence perpetrators coincide with the generally accepted view that domestic violence perpetrators come from all social strata and that their educational profiles and occupations are various.

Employment status of perpetrators

Regarding the employment status of domestic violence perpetrators, it can be concluded that the examined sample contains mainly unemployed persons and job seekers - 40%, somewhat fewer employed persons - 30%, in contrast to previous research where the largest percentage of perpetrators were employed (56.40%). A smaller percentage of perpetrators are retired (18%) and students - 2% (Chart 2).



Perpetrators' place of birth and residence

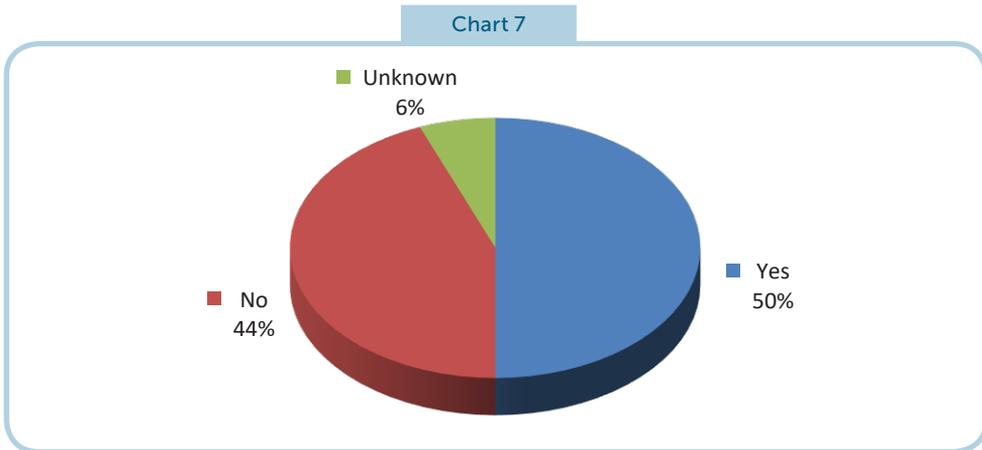
Analysing the places of birth and residence of perpetrators, we have established the following: 76% of perpetrators were born in cities and 84% of perpetrators reside in cities. 24% of perpetrators were born in villages, 2% of perpetrators reside in villages and 14% in reside in suburban settlements (Table 4 and 5).

Table 4 Place of birth		
	Number	Percentage
Village	12	24
City	38	76
Total	50	100.0

Table 5 Residence		
	Number	Percentage
Village	1	2
City	42	84
Suburban settlement	7	14
Total	50	100.0

Previous convictions of perpetrators

Data on the previous convictions of domestic violence perpetrators show a higher percentage of those previously convicted (50%) than those without previous convictions (44%). These data differ from the previous research where the percentage of perpetrators without previous convictions was higher (55%). The perpetrators were convicted for various criminal offences, mainly related to property, and 11 perpetrators were previously convicted for domestic violence. In one case there were as many as three convictions for domestic violence (the suspended sentence was pronounced each time) and in two cases the perpetrators had two previous convictions for domestic violence (Chart 7).



Based on the court files, it is not possible to establish with certainty whether persons with refugee status or returnees from the war are among domestic violence perpetrators. During the examination of the defendants, the court did not determine these circumstances, due to which it is not possible to establish the extent to which they may have influenced the perpetration of domestic violence.

Family and personal history of perpetrators

The court files contain scarce information about family circumstances, personality traits and behaviour of domestic violence perpetrators until the moment of perpetration. This shows that the facts relating to perpetrators' family life and behaviour before the perpetration of criminal offence and their personality traits are very rarely established in the court procedure, unless a psychological or psychiatric evaluation is requested.

A large part of the sample lacks information on the completeness of the perpetrator's primary family (64%) and family relations in the primary family (86%). Only in a small number of cases - 13 (26%), it was established that the perpetrator's primary family was complete, that the family relations were poor - in 4 cases (8%) or good - in 3 cases (6%). There is neither sufficient information on suicide attempts - in 41 cases (82%), self-injury - in 45 cases (90%), early abuse - in 6 cases (92%), running away from home - in 48 cases (96%), school absenteeism - in 48 cases (96%), juvenile offences - in 45 cases (90%). We believe that it is necessary to collect this information during the procedure, because only then will it be possible to fully understand the influence of various external factors on the perpetration of domestic violence.

Alcohol and drug abuse

The excessive use of alcohol by the perpetrators before committing the crime was recorded in a large number of cases - 42%. In only 18% of cases, the perpetrators did not consume alcohol before the criminal offence. However, it should be noted that in 40% of cases there was no data about the previous use of alcohol. Some perpetrators stated in the process of psychological and psychiatric evaluation that they had been drinking since early childhood and for many years. The use of drugs before the perpetration and drug addiction were not examined in all cases either; more precisely, this information remained unknown in 42% of cases.

At the time of domestic violence perpetration, 46% of perpetrators were under the influence of alcohol (light, medium and heavy intoxication). This circumstance is very significant given that a number of perpetrators find justification for committing the criminal offence of domestic violence in the fact that they were under the influence of alcohol and that in such a state they were not able to understand the significance of their actions or do not remember what they did. Even a certain number of victims state that the defendants are completely different persons when they are sober and that they are not at all aggressive. However, the excessive use of alcohol must be seen as a criminogenic factor that significantly contributes to the perpetration of the criminal offence of domestic violence. 6% of perpetrators were under the influence of drugs at the time of criminal offence perpetration, while 68% of them were not. However, these data should

be interpreted carefully because in 26% of cases it remains unknown whether the perpetrators were under the influence of drugs at the time of perpetration.

Psychopathic personality structure and mental illness in perpetrators

The psychiatric and psychological evaluation was conducted in a number of cases to determine the degree of perpetrator's guilt and mental competence. According to the reports of court-appointed experts, psychopathic personality structure was found in only 6% of cases, which certainly does not correspond to the actual percentage of violent crime perpetrators with psychopathic structure. In a large percentage of cases (54%), it was not determined by court-appointed experts or courts during the procedure whether the defendant's personality structure was psychopathic, which shows that this circumstance was not the subject of court's interest.

In the majority of cases, the domestic violence perpetrators from the examined sample do not suffer from mental illness (psychosis), according to the findings of court-appointed experts/ neuropsychiatrists. Some form of mental illness was established only in a few cases, as follows: temporary mental illness - stage of psychotic decompensation, paranoid personality disorder, delusional disorder - paranoid psychosis, epilepsy, paranoid psychosis (persistent delusional disorder). Other personality disorders, such as emotional instability, tendency to aggressive behaviour and outbursts, delusional jealousy, prolonged stress response, are the consequence of prolonged alcohol or drug abuse (cocaine, heroin).

Perpetrator's attitude towards the criminal offence

The perpetrator's attitude towards the committed criminal offence is extremely important because the court takes it into account in sentencing. Pursuant to Article 54 of the Criminal Code (general rules on sentencing), one of the circumstances influencing the sentencing is the perpetrator's behaviour after the committed crime, and in particular his or her attitude towards the victim.

In the previous research, the case files did not contain sufficient information on the perpetrator's attitude towards the committed offence (19.23% of cases did not contain such information) or whether the perpetrator admitted the committed offence and expresses repentance. The present research had access to this kind of information. As in the previous research studies, the highest percentage of perpetrators (46%) do not admit the perpetration of offence, 22% of them do not repent and consider their action to be appropriate, 10% are undefined, while 18% express repentance only verbally and only 4% truly repent (Table 6).

Table 6		
	Number	Percentage
Yes, genuine remorse and repentance	2	4
Undefined	5	10
Repentance expressed only verbally	9	18
No repentance/consider their action to be appropriate	11	22
Denial of offence	23	46
Total	50	100.0

Most perpetrators (40%) do not feel responsible for the event and even deny any connection with the event; 26% of perpetrators have or give no explanation; 18% of perpetrators think that the victim is guilty for what happened; 4% of them do not blame either themselves or victim, but believe the event to be a result of unfortunate circumstances; 2% of perpetrators justify their behaviour with the hopelessness of the situation; and only 10% generally accept their responsibility (Table 7). It is interesting to mention that the attitude of a certain number of perpetrators towards the committed criminal offences and their acceptance of responsibility for the event are conditioned by the procedural possibility to conclude a plea agreement with the public prosecutor (Article 313 of the Criminal Procedure Code) or to hold a hearing for the imposition of a criminal sanction so that it is not necessary to hold a main hearing (Article 512 of the Criminal Procedure Code).

Table 7

	Number	Percentage
Mainly blame the victim	9	18.0
Do not blame either victim or themselves	2	4.0
Justify their behaviour with the hopelessness of the situation ("there was no choice")	1	2.0
Do not give or have any explanation	13	26.0
Mainly accept their own responsibility	5	10.0
Do not admit the criminal offence and deny any connection with it	20	40.0
Total	50	100.0

Relations between the perpetrator and the victim prior to the perpetration of criminal offence

In all cases from the examined sample, the relations between the perpetrator and the victim prior to the perpetration of criminal offence were poor. These poor and disturbed relations manifested in various ways through physical and psychological violence. In cases of partner violence, disturbed relations often started immediately after the beginning of living together and lasted over a longer period of time:

- ⇒ The injured party and the defendant were married for 40 years; violence has existed since the beginning of marriage, but in recent years it has culminated and "life turned to hell";
- ⇒ The defendant has an extremely difficult character, especially when drinking, constantly causes troubles and threatens to kill the injured party that he considers his property;
- ⇒ Always when the defendant drinks, he becomes aggressive, insults, threatens, hits;

- ⇒ Physical and psychological violence existed throughout the marriage and continued after the divorce;
- ⇒ Violence lasted fifteen years;
- ⇒ Throughout the marriage, the injured party suffered physical violence; the defendant broke her arm and was convicted for the criminal offence of serious bodily injury;
- ⇒ Persistent quarrels and physical injuries lasted throughout the cohabitation, that is - for six years;
- ⇒ The intensity of the son's violence against his parents was increasing due to excessive consumption of alcohol and drugs;
- ⇒ Psychological violence has continued on a daily basis between the son, who has been a heroin addict for fifteen years, and his parents;
- ⇒ Psychological violence existed since the beginning of their relationship, and later turned into physical violence due to which the injured party left the marriage;
- ⇒ Despite a long period of physical and psychological violence, the injured party wants to reconcile with the defendant.

Degree of perpetrator's mental competence

Data on the perpetrator's mental competence at the time of criminal offence perpetration show that the highest percentage of perpetrators were of sound mind at the time of the commission of the criminal offence - 54%. Diminished mental competence, although not substantially, was established in 22% of perpetrators; 12% of perpetrators had a substantially diminished mental competence, while 4% of perpetrators were mentally incompetent.

Motives for criminal offence perpetration

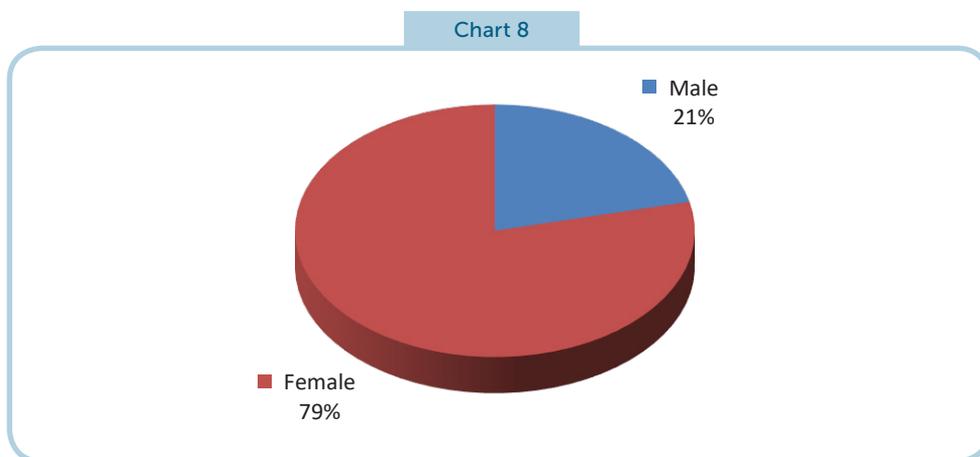
The direct motive for committing the criminal offence of domestic violence in the examined sample cannot be established with certainty because this circumstance is not considered in court proceedings. We can make conclusions about the motives for criminal offence perpetration indirectly, based on the defendant's defence and the hearing of the injured party as witness and other witnesses. According to the available data, the motives for domestic violence perpetration are the following: jealousy; needing money to buy drugs or alcohol; debt payment; vengeance for leaving the marriage; anger because of bad grades in school and so on.

2.4. Profile of victims

Structure of victims by sex

The total number of victims in the examined sample is higher than the number of perpetrators, because in some cases the crime was committed against more than one person (Table 8). Thus, the total number of victims is 61. As in the previous research³⁰, a higher number of victims are women. The total percentage of female victims is 78.7% (compared to 80.42% in the previous research), while the percentage of male victims is 21.3% (compared to 19.57% in the previous research) (Chart 8).

	Number of cases	Percentage
One	41	67.2
Two	7	22.9
Three	2	9.8
Total	61	100.0



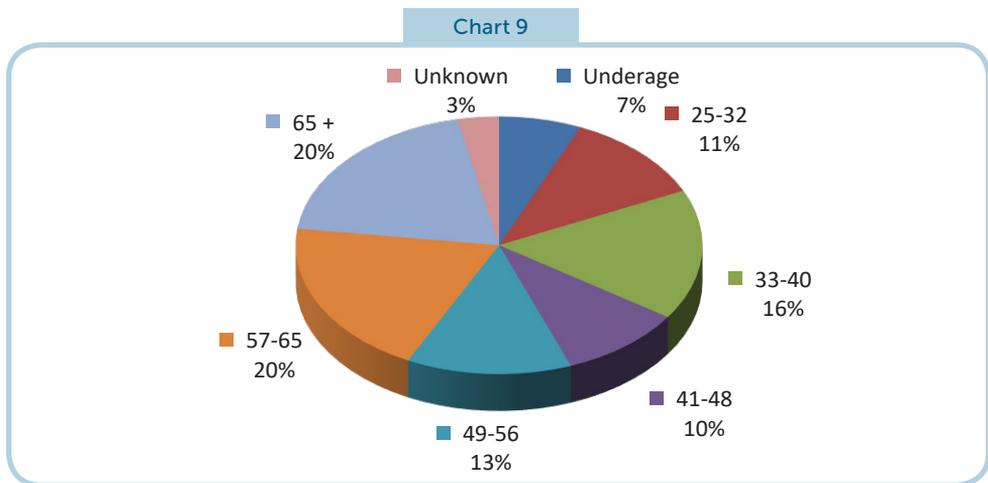
³⁰ The term “victim” was used in the meaning of “injured party”, which is defined as a person whose certain personal or property right has been violated or endangered by the criminal offence (Article 2, paragraph 11 of the Criminal Code Procedure - “Definition of Terms”).

Place of residence and birth

The largest part of the victims of domestic violence reside in cities - 86.9%, while 8.2% and 4.9% of victims reside in suburban settlements and villages, respectively. Most victims were also born in cities - 67.2%. 16.4% of victims were born in villages and 6.6% in suburban settlements. There is no information about the place of birth for other victims.

Age of victims

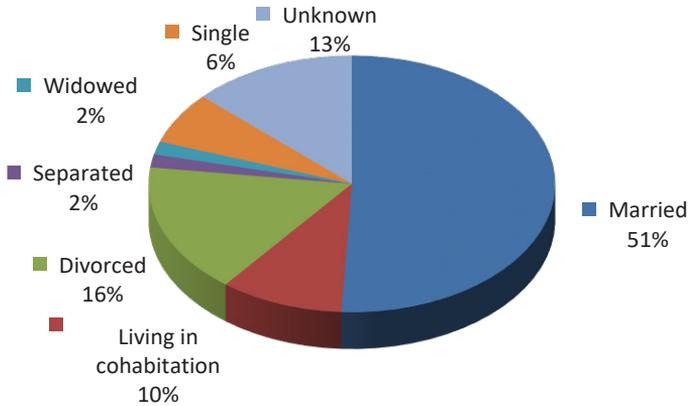
According to the information from the examined court files, victims are of different ages. 6.6% of victims are underage. Adult victims belong to the following age groups: 25-32 years - 11.5%; 33-40 years – 16.4%; 41-48 years – 9.8%; 49-56 years – 13.1%, 57-65 years - 19.7%, 65+ - 19.7% and there is no information for 2 victims (3.3%) (Chart 9). In the previous research, the prevailing age groups of victims were 41-48 years (15.62%) and 49-56 years (15.67%), while in the present sample, the largest age group is from 57 to 65+ in the total percentage of 39.4%.



Marital status of victims

Given that intimate partner violence makes up a large part of domestic violence, it is understandable that at the time of the commission of the criminal offence, the highest percentage of victims were married (50.8%) (Chart 10). This finding is similar to the results of earlier research where most victims were also married at the time of criminal offence commission (35.13%). 16.4% are divorced, which shows that partner violence continues even after the termination of marriage. A significantly lower percentage of victims were separated (1.6%) or widowed (1.6%) at the time of criminal offence commission.

Chart 10



Number of children

Regarding the number of children, the smallest percentage of victims are without children - 11.5%, and the largest percentage of them have one child (42.6%) or two and more children (39.3%). (Table 9)

Table 9

	Number	Percentage
No children	7	11.5
One child	26	42.6
Two or more	24	39.3
Unknown	4	6.6
Total	61	100.0

Education of victims

In a large number of court cases (57.4%), there is no information on the education of victims. The same happened in the previous research where there was no information on education for 36.88% of victims. This finding shows that very little information about the injured party is gathered in court procedures, so that the information about education and other elements related to victims is deduced from the victim's testimony in the capacity of witness, when the victim herself/himself communicates this information or

from the court-appointed expert's findings, if the psychological evaluation of the injured party was conducted.

According to the available data, most victims, like perpetrators, have secondary education - 21.3%, followed by a smaller number of victims with junior college or faculty - 6.6% and primary school education - 4.9%.

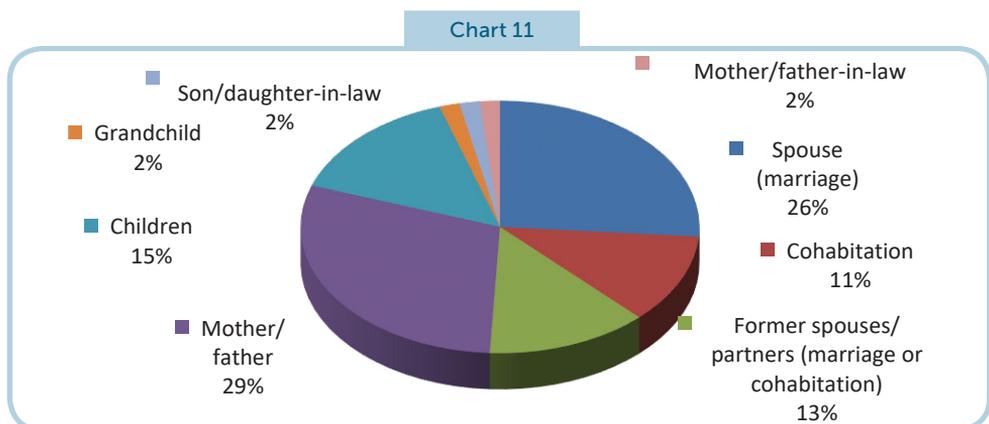
Employment status of victims

Information about the employment of victims is usually not included in the examined case files - 37.7%. Interestingly, a large percentage of victims are pensioners - 26.2%, 19.7% of them are employed, 4.9% are unemployed, 6.6% are housekeepers and 4.9% are pupils. These results differ from the previous research studies, where as many as 34.12% of victims were employed and 11.8% were pensioners.

Information about the employment of victims was also rarely included in the case files. Therefore, it cannot be said with certainty that the economic dependence of victims from the examined sample had a decisive role in the aetiology of domestic violence.

Nature of relationship between perpetrators and victims

The present research has confirmed the findings of the previous research where intimate partner violence was established to be the dominant form of domestic violence: violence against spouse happened in 48.90% of cases and against cohabiting partner in 18.20% of cases. (Chart 11). Partner violence happens in marriage - 26.2%, between former spouses and cohabiting partners - 13.1% and between cohabiting partners - 11.5%, which is a total of 50.8% of cases. A high percentage of cases involve parents and children. Parents are victims and children are perpetrators in 29.5% of cases. Children are victims and parents are perpetrators in 14.8% of cases. A much smaller percentage of other family members are victims: grandchild - 1%, son/daughter-in-law - 1%, mother/father-in-law - 1%.



Weapons held by victims and influence of alcohol at the time of perpetration

Unlike the perpetrators, who in most cases held or used weapons in committing the criminal offence of domestic violence referred to in Article 194, paragraph 2, victims neither had weapons - 96.7% of victims nor use them - 93.4% of victims. Also, unlike the perpetrators, who in most cases were under the influence of alcohol at the time of perpetration, victims were not under the influence of alcohol at the time of crime in 86.9% of cases.

Relations between the perpetrator and the victim prior to the criminal complaint and response to previous violence

As already stated, according to the data from the analysed cases, violence against family members occurred over a longer period of time. The allegations in criminal complaints and the statements of the victims who did not refuse to testify and who were heard as witnesses at the main hearing reveal that the majority of victims had been abused before the critical event on a continuous or occasional basis over a longer period of time. In many cases, the victims testify that they were exposed to physical and psychological violence from the very beginning of marriage or cohabitation. Based on these data, it can be concluded that acts of domestic violence are not isolated incidents, but the indicators of the pattern of abuse that happened over a longer period of time. Nevertheless, it should be noted that in the course of procedure a number of victims, seeking to protect the defendant, changed their statements denying the allegations from the criminal complaint and the statements given immediately after the critical event.

Like the previous research studies, this one has also shown that most victims did not seek help from institutions, although they had been exposed to violence over a long period of time. As many as 91.8% of victims did not seek help from the social welfare centre or other institutions dealing with the protection of victims. Only 8.1% or only 5 victims informed the social welfare centre, including one victim who was placed in a shelter where she spent four months with her child. In one case, the opinion of the Autonomous Women's Center, which is included in the case files, was requested. The victims did not address the institutions even in the cases where the perpetrators were treated in psychiatric institutions on several occasions. This means that despite numerous campaigns of zero tolerance of violence and better media coverage of violence, victims still lack courage and confidence to seek help.

The situation is similar when it comes to reporting violence to the police: in 78.6% of cases there was no previous reporting of violence to the police, in 21.4% of cases the victims have already reported previous violence, and in some cases a criminal or misdemeanour procedure was conducted. Compared to the data from the previous research, the number of domestic violence cases reported to the police decreased (previous research: 39.7% of reports), which means that the victims remain undecided and in fear

of the perpetrator’s reaction. In one case of violence, the police were informed twice and came at the invitation of the injured party, but in the further stage of the procedure, the injured party gave up criminal prosecution because the defendant promised that he would “not do it again”. One victim stated that she was ashamed to report, while another considered that the abuser would change and that violence would not be repeated. When violence is directed toward parents, they often do not want to report it because they have a special emotional attitude towards the perpetrator. However, one of the most common reasons why the victims remained to live with the perpetrator is fear of and threats from the perpetrator. Many victims justified the failure to report violence by fearing that the defendant would prevent them from seeing their children, and all of them considered the defendants capable of fulfilling such a threat. The examined court cases did not include detailed data on the police officers’ attitude towards the victim at the time of reporting domestic violence. The response of the police officers cannot be concluded either on the basis of the testimonies of the victims heard as witnesses. However, there is no doubt that in cases of domestic violence, the professional attitude of the staff in the institutions addressed by the victims seeking assistance is extremely important; if they do not encounter trust and support at the time of first reporting of violence, it is very unlikely that they will seek help again.

2.5. Criminal proceedings - substance, course and duration

In most cases from the sample, criminal procedure was conducted against the perpetrators of the criminal offence of domestic violence referred to in Article 194, paragraph 1 - 64; then against the perpetrators of the criminal offence of domestic violence referred to in Article 194, paragraph 2 - 22%, Article 194, paragraph 3 - 12% and Article 194, paragraph 5 - 2%.

The data provided by the courts in Belgrade, responding to the freedom of information requests, show that the prosecuted cases of domestic violence were qualified mainly as basic forms of criminal offence - Article 194, paragraph 1 of the Criminal Code (Tables 10, 11 and 12).

Type of offence	Article 194 paragraph 1 of the Criminal Code	Article 194 paragraph 2 of the Criminal Code	Article 194 paragraph 3 of the Criminal Code	Article 194 paragraph 4 of the Criminal Code	Article 194 paragraph 5 of the Criminal Code	Total
2014	32	7	5	/	2	
2015	80	30	8	/	6	

Table 11
Second Basic Court in Belgrade

Type of offence	Article 194 paragraph 1 of the Criminal Code	Article 194 paragraph 2 of the Criminal Code	Article 194 paragraph 3 of the Criminal Code	Article 194 paragraph 4 of the Criminal Code	Article 194 paragraph 5 of the Criminal Code
2014	140	36	33	1	6
2015	56	12	11	/	2

Table 12
Third Basic Court in Belgrade

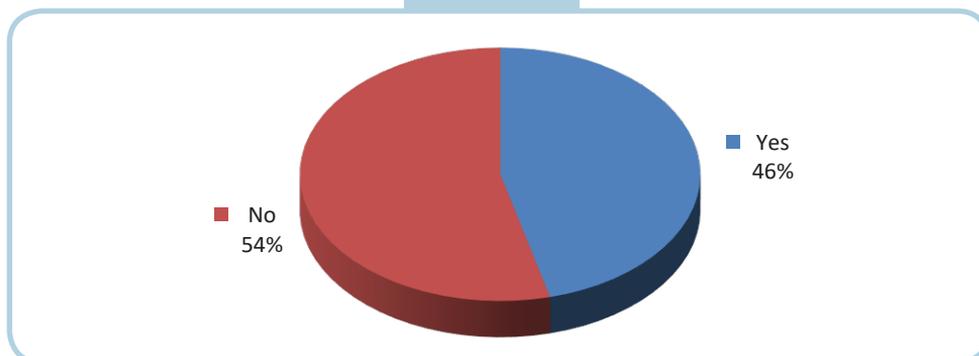
Type of offence	Article 194 paragraph 1 of the Criminal Code	Article 194 paragraph 2 of the Criminal Code	Article 194 paragraph 3 of the Criminal Code	Article 194 paragraph 4 of the Criminal Code	Article 194 paragraph 5 of the Criminal Code
2014	13	2	3	/	1
2015	26	4	3	/	1

2.5.1. Detention

In contrast to previous research whose results show that detention was ordered very rarely - only in 12.9% of cases, the present research indicates that detention of domestic violence perpetrators was ordered much more frequently, in as many as 46% of cases (Chart 12).

More frequent detention of perpetrators on legal grounds, including the risk that the defendant will repeat the criminal offence or carry out a threat, shows that the courts approach the problem of domestic violence in a more responsible manner.

Chart 12



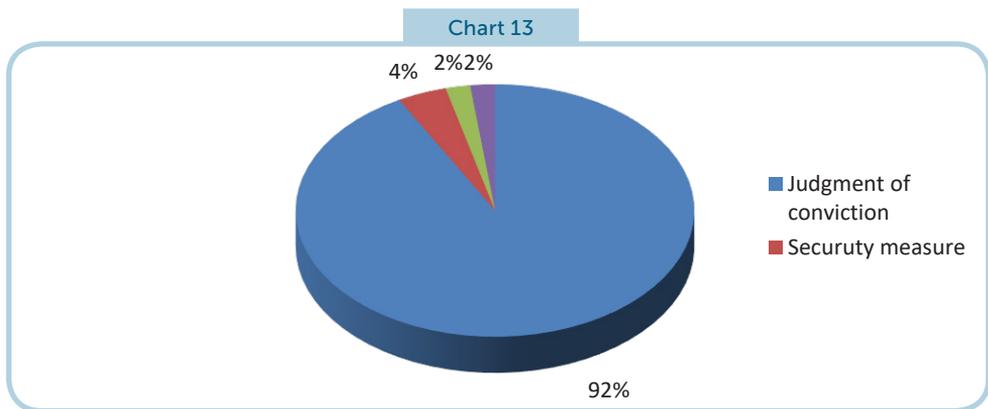
Ordering detention because of the possible influence on witnesses, which is one of the legal grounds for detention, was much less frequent. However, the research has shown that perpetrators of violence have a significant influence on witnesses, especially victims, as evidenced by a large number of victims who later refuse to testify at the main hearing and state that they do not join the criminal prosecution.

2.5.2. Evidence

In the examined sample, the most frequent evidence was: examination of medical documents, forensic medical evaluation and evaluations of neuropsychiatrist and psychologist, examination of defendants, hearing of witnesses, hearing of victims as witnesses, hearing of professionals from the social welfare centre.

2.5.3. Outcome of procedure

In the cases with final court decisions, 92% of them were convictions. In one case, the acquittal was issued in the second-instance procedure due to the lack of evidence, and in one case the procedure was suspended due to the public prosecutor's withdrawal (the injured party did not continue the criminal prosecution) (Chart 13).



Although in practice domestic violence, as a rule, happens continuously and regularly over a longer period of time, an individual act of violence against a family member constitutes *per se* a sufficient legal basis for punishing the abuser. Any failure by the court to punish the perpetrator of domestic violence, even when it is the mildest form of violence, is very dangerous because it can send a signal to the perpetrators that the use of violence is legal and legitimate, which can lead to a more drastic form of violence and cause more serious consequences. The explanations of court decisions in the examined sample lead to the conclusion that there have been some positive developments in understanding the phenomenon of domestic violence and the need to punish its perpetrators at “early stages”, which is confirmed also by the fact that continuity of violence is generally not considered an essential element of the offence.

2.5.4. Appeal

As regards appeals, it should be noted that in a large number of cases from the examined sample no appeals has been filed against the first-instance decision - in 76% of cases. The appeal was filed against the first-instance decision in 12 cases (24%). A plea agreement was concluded in one case.

According to the data from the court cases, an appeal was filed for all possible statutory reasons: substantial violation of the provisions of the criminal procedure; violation of the criminal code; erroneously or incompletely established factual situation and decision on criminal sanctions. Erroneously or incompletely established factual situation is one of the most common grounds for appeals filed by the defendants or their defence lawyers, whereby the material inaccuracy of the judgment was explained by the fact that the judgment was based only on the testimony of the injured person, which, according to the allegations, was contradictory, illogical and incomplete. Also, the decision on punishment was also challenged on the grounds that it was wrongly determined.

2.5.5. Duration of procedure

One of the important factors of the effectiveness of criminal justice protection against domestic violence is the efficiency of acting in the prosecution of domestic violence cases. The requirement for promptness and effectiveness of procedure stems also from the right to a trial within a reasonable time, as one of the basic procedural human rights guaranteed by Article 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, ratified by our country.³¹ The right to a trial within a reasonable time, based on the ideas of natural (fundamental) justice, is an integral part of the right to a fair trial, as a separate and autonomous human right³², the realisation of which

31 Law on the Ratification of the European Convention for the Protection of Human Rights and Fundamental Freedoms, amended in accordance with Protocol No. 11, Protocol to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No. 4 to the Convention for the Protection of Human Rights and Fundamental Freedoms, securing certain rights and freedoms other than those already included in the Convention and in the first Protocol thereto, Protocol No. 6 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the Abolition of the Death Penalty, Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms and Protocol No. 13 to the Convention for the Protection of Human Rights and Fundamental Freedoms concerning the abolition of the death penalty in all circumstances, *Official Gazette of SaM - International Treaties*, no. 9/2003 of 26 December 2003.

32 The expression "right to a fair trial" is translated in different ways in Serbian: "pravo na pravično suđenje", "pravo na pošteno suđenje", "pravo na pravično dodeljivanje pravde", "pravo na pravedan prosek", "pravo na pravično i zakonito suđenje", etc. The right to a fair trial is also envisaged in the previously adopted UN human rights documents. See Article 10 of the Universal Declaration of Human Rights and Article 14, paragraph 1 of the International Covenant on Civil and Political Rights, which reads: "All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law."

is essential for the development of democracy and the rule of law. The establishment of the right to a fair trial in the national legal system, as well as its standardisation and internationalisation, are an expression of the need to ensure adequate protection of the integrity of the individual, as well as providing quality, effective and expeditious legal protection through appropriate procedural guarantees.³³

In order to see the efficiency of court procedure, it has been observed in five phases: from submitting a criminal complaint to filing a charging document; from filing a charging document to rendering a first-instance decision; from submitting a criminal complaint to rendering a second-instance decision; from submitting a criminal complaint to the finality of judgment; from rendering a first-instance decision to rendering a second-instance decision (Table 13)

	Criminal complaint/ charging document	Charging document/ first-instance decision	Criminal complaint/ second-instance decision	Criminal complaint/ finality of judgment	First-instance decision/ second-instance decision
Up to 1 month	19 (38%)	7 (14%)	0	1 (2%)	0
1 - 3 months	1 (2%)	18 (36%)	0	6 (12%)	5 (10%)
3 - 5 months	6 (12%)	9 (18%)	3 (6%)	5 (10%)	3 (6%)
5 - 7 months	1 (2%)	6 (12%)	1 (2%)	4 (8%)	1 (2%)
7 - 10 months	7 (14%)	5 (10%)	0	7 (14%)	1 (2%)
10 - 12 months	1 (2%)	0	2 (4%)	6 (12%)	1 (2%)
1 - 2 years	10 (20%)	3 (6%)	1 (2%)	10 (20%)	1 (2%)
2 - 4 years	5 (10%)	1 (2%)	3 (6%)	7 (14%)	0
4 - 5 years	0	0	1 (2%)	2 (4%)	0
Over 5 years	0	1 (2%)	1 (2%)	2 (4%)	0
TOTAL	50	50	12	50	12

³³ See more details about the right to a trial within a reasonable time and its protection before the European Court of Human Rights: Van Dijk, Van Hoof, 1998; Mole, Harby, 2006: 26-27; Petrušić, 2005: 199-221).

According to the data presented in the table, a fairly long period of time has elapsed from the submission of criminal complaint to the finality. Compared to the data from the previous research, the efficiency of procedure has not been significantly improved.

If the procedure is observed by phase, it can be seen that the shortest phase is the first one: the period from submitting a criminal complaint to filing a charging document. The average time for checking the allegations contained in the criminal complaint and filing a charging document is up to a month (in 38% of cases), which is indeed a remarkable efficiency. However, in a certain number of cases (10 cases or 20%), this phase of the procedure lasted for one to two years, while in others (5 cases or 10%) it took two to four years, which is indeed an unacceptably long period for determining the decisive facts for the initiation of criminal procedure in cases of domestic violence.

According to the data from the examined sample, the phase from filing a charging document to rendering a first-instance decision in most cases (18 cases or 36%) lasts from one to three months and in 9 cases (18%) from three to five months, which is a relatively short period given that this phase is the most significant part of the criminal procedure. In 3 (6%) out of 12 cases in which an appeal against the first-instance decision was filed and a second-instance decision was rendered, the period from submitting a criminal complaint to rendering a second-instance decision was as long as two to four years. The efficiency of the procedure is best seen by monitoring the period from submitting a criminal complaint to the finality of the first-instance decision. In one case, this phase was extremely short, only 23 days. The maximum duration of the procedure from submitting a criminal complaint to the finality was recorded in ten cases (20%) that lasted from one to two years and in seven cases (14%) whose duration was from two to four years. A smaller number of cases (2 cases or 4%) were completed in the period of four to five years or over five years. In one case, the father committed the criminal offence of domestic violence against his ten-year-old son and the criminal procedure was initiated for the criminal offence of domestic violence (Article 194, paragraph 3, when the victim is a minor) committed in 2006, but it lasted for a very long time, so that the injured party/son became an adult in the meantime (the judgment was final in 2016). The period from rendering a first-instance decision to rendering a second-instance decision is much shorter. This part of the procedure usually lasts 1-3 months (in 10% of cases) and 3-5 months (in 6% of cases).

2.6. Type and level of pronounced criminal sanctions

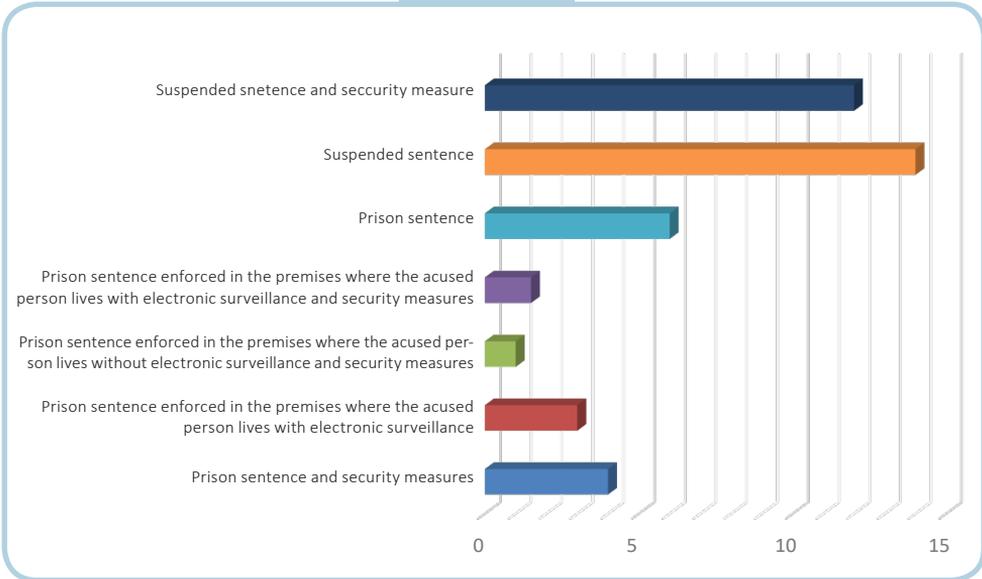
By examining the final court decisions from the examined sample, we have established that the following criminal sanctions were imposed on the perpetrators: prison sentence, prison sentence with electronic surveillance, prison sentence served in the premises where the convicted person lives without the use of electronic surveillance, prison

sentence with the use of electronic surveillance and security measures, prison sentence with security measure, suspended sentence, suspended sentence with security measure, suspended sentence with protective surveillance, security measure, fine and suspended sentence. Suspended sentence was pronounced in most cases - 29 or 63.04%, which coincides with the previous research studies where suspended sentence was a dominant form of criminal sanction. Prison sentence (all forms) was pronounced in 36.95% of cases. In the smallest number of cases only security measures were pronounced (2 or 4% - security measures were pronounced mostly with prison sentence or suspended sentence). (Table 14, Chart 14).

Table 14

	Number	Percentage
Prison sentence	5	10.86
Prison sentence enforced in the premises where the accused person lives with electronic surveillance	4	8.69
Prison sentence enforced in the premises where the accused person lives without electronic surveillance and security measures	1	2.17
Prison sentence enforced in the premises where the accused person lives with electronic surveillance and security measures	1	2.17
Prison sentence and security measure	6	13.04
Suspended sentence	15	32.60
Suspended sentence and security measure	12	26.08
Suspended sentence with protective surveillance	1	2.17
Suspended sentence and fine	1	2.17
Total number of convictions	46	92
Security measure	2	4
Suspended procedure	1	2
Judgment of acquittal	1	2
Total	50	100.0

Chart 14



The total number of security measures imposed as the only penalty and in combination with prison sentence and suspended sentence is 22. The pronounced security measures were compulsory drug addiction treatment in the Special Hospital for Addiction Diseases in Belgrade, compulsory alcohol addiction treatment in an institution, compulsory alcohol addiction treatment at liberty, compulsory psychiatric treatment and confinement in a medical institution. Given that a large number of criminal offences were committed due to excessive use of alcohol, and that a large number of perpetrators consumed alcohol excessively before committing the crime, the security measure of compulsory treatment of alcohol abusers was pronounced most frequently. The measure of no approaching or communicating was pronounced in four cases.

Regarding the duration of prison sentences, the minimum prison sentence of 48 days was pronounced in one case, while the maximum prison sentences of 6 months and 1 year were pronounced in 29.4% of cases. (Table 15).

Table 15

	Number	Percentage
48 days	1	5.9
6 months	5	29.4
8 months	2	11.8
1 year	5	29.4
1 year and 4 months	1	5.9
1 year and 6 months	1	5.9
2 years	1	5.9
3 years and 4 months	1	5.9
Total	17	100.0

The analysis of the type and level of sentences for committed criminal offences of domestic violence shows that the sentences are rather mild, bearing in mind the social risks, the method of perpetration and the fact that the majority of perpetrators had already behaved violently. The contribution to this kind of criminal policy certainly lies in the fact that in some cases the period from the commission of the criminal offence to the rendering of judgment and decision on punishment was rather long and that during that time family relations changed significantly. In addition, in some cases where the defendant admitted the perpetration, legal requirements were met for concluding a plea agreement with the public prosecutor, which was accepted by the court, or a hearing for the imposition of a criminal sanction was held, which certainly influenced the court in pronouncing less severe sanctions.

In assessing the type and level of sentence, it is very important which circumstances are considered relevant by the court and how their impact is assessed. In almost all cases where the first-instance decisions were rendered and where the decisions were explained (there were no explanations in 28 decisions), it was possible to examine which circumstances were taken into account by the court in sentencing, what reasons were identified for mitigating the sentence, pronouncing the suspended sentence, and whether and which security measure should be pronounced, in line with the court's duty stipulated in Article 54 of the Criminal Procedure Code. These are the mitigating circumstances from the analysed first-instance decisions: the defendant partly or fully admitted the commission of criminal offence; he repented; he is the father of three children, two of

whom are in his custody; he was not convicted; he is a young man; he behaved properly in court; age; repentance for the crime committed; a strong self-initiative for treatment; the defendant was in a state of substantially diminished mental competence; university education - master's degree; personal and family circumstances; elapsed time since the last criminal offence; the defendant has no property; the injured party did not join the prosecution; the injured party did not claim indemnification because the defendant has changed and treats her well; health status; the defendant's awareness of wrongdoing.

Like in the previous research, we can conclude that while mitigating circumstances are usually mentioned in court decisions, aggravating circumstances are mentioned in a much smaller number of cases. In a relatively large number of cases, the court did not specify any aggravating circumstances. In cases where the court established aggravating circumstances, the most common ones were: previous conviction for other criminal offences; previous conviction for the same criminal offence of domestic violence; conviction for violent criminal offences; the fact that the previously imposed sentences did not correct the defendant's behaviour; previous misdemeanour punishment; the enhanced degree of guilt; the severity of risk or damage to the protected goods.

The data from the explanations of court decisions lead to a conclusion that in many cases the court has stated different circumstances in general terms without further analysis of their actual effect. Moreover, we have noticed automatism in determining mitigating and aggravating circumstances. In fact, legal provisions were quoted, without taking account of the fact that domestic violence brings a higher degree of danger than other forms of violent behaviour.

3. Judicial practice in Niš

3.1. General information about court cases

A total of 25 court cases handled by the Basic Court in Niš were examined.

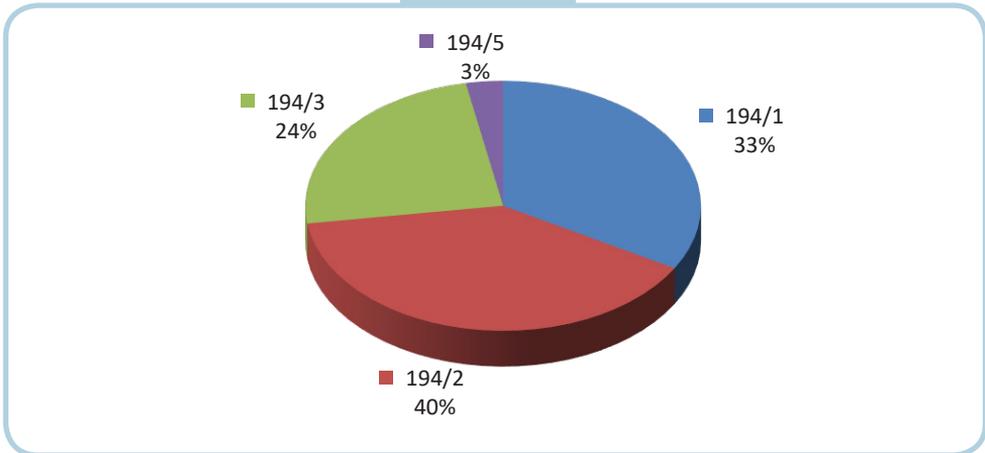
3.2. Phenomenology of the criminal offence of domestic violence

Form of perpetration

The examined sample included 25 court cases where 25 perpetrators committed 33 criminal offences of domestic violence (Chart 15). The highest percentage of criminal offences (63.6%) are serious forms of domestic violence as follows: 39.4% of them have characteristics of the second form of the criminal offence of domestic violence referred to in Article 194, paragraph 2, while the third form referred to in Article 194, paragraph 3 occurred in 24.2% of cases. There was a smaller percentage of the criminal offences

of domestic violence referred to in Article 194, paragraph 1 (33.3%), which differs significantly from the sample consisting of Belgrade and Novi Sad cases where less severe forms of domestic violence referred to in Article 194, paragraph 1 prevail (64% in Belgrade and 96.6% in Novi Sad). The criminal offence of domestic violence referred to in Article 194, paragraph 5 was committed in one case (3.03%).

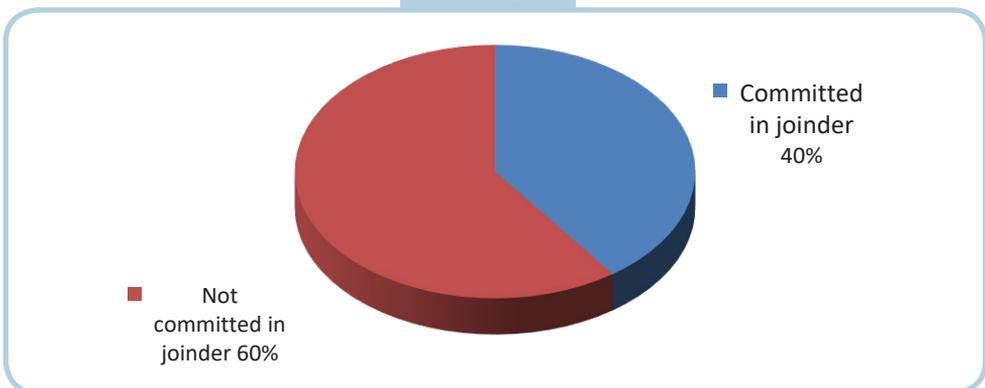
Chart 15



Joinder of offences

Similarly to the sample of Belgrade and Novi Sad cases, the highest percentage of criminal offences was not committed in joinder - 60% (Chart 16). However, 40% of criminal offences were committed in joinder, which is a significantly higher percentage than in Belgrade (16%) and Novi Sad (7.7%).

Chart 16

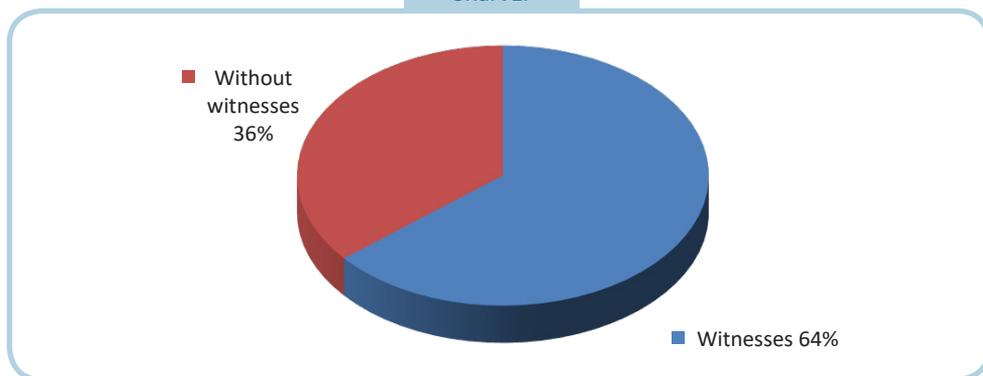


Complicity

There was not any form of complicity in the examined sample. The perpetrators committed the criminal offence of domestic violence alone. The same results were obtained for Belgrade cases.

It is interesting that there were witnesses in 64% of domestic violence cases. These were mostly children and other family members, but also neighbours, who were heard as witnesses in criminal procedures (Chart 17).

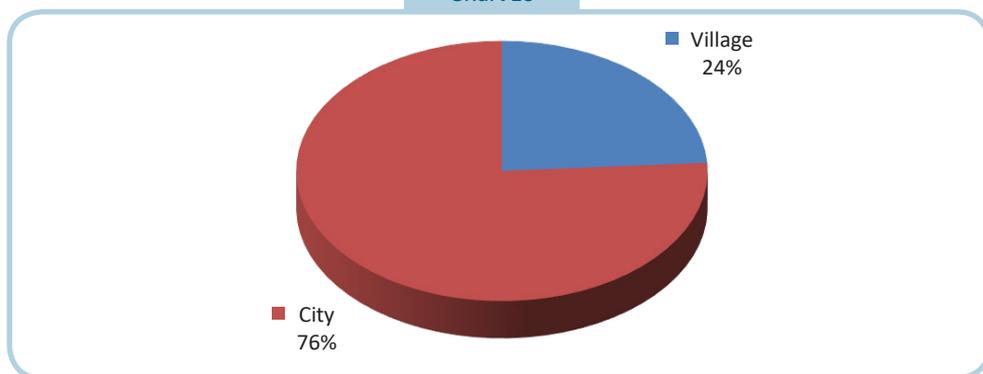
Chart 17



Place of perpetration

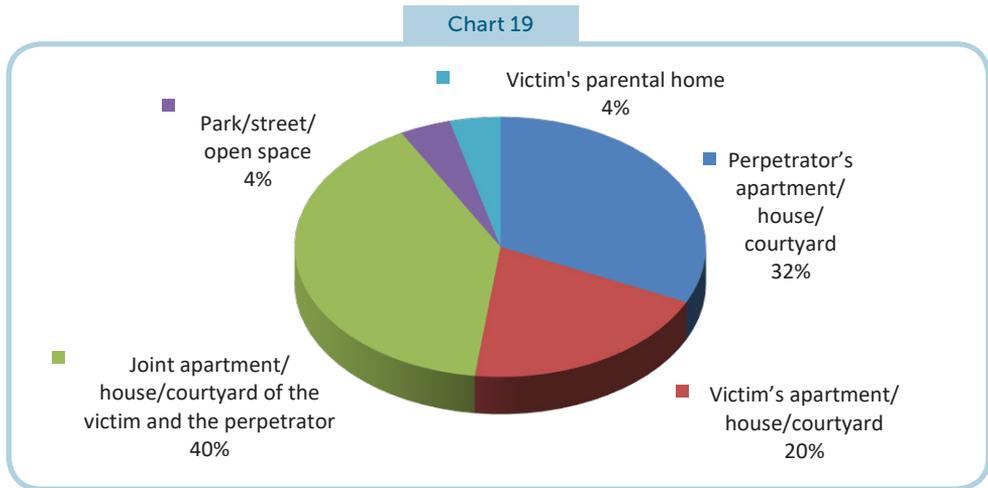
In a higher percentage of cases (76%), the place of domestic violence perpetration is a city, while 24% of examined cases were perpetrated in a village. In all cases, the place of perpetration is also the place of residence of both perpetrator and victim (Chart 18).

Chart 18



The location (space) of perpetration is usually the joint apartment/house/courtyard of the victim and the perpetrator - 40%, the apartment/ house/courtyard of the perpetrator - 32%

and the apartment/house/courtyard of the victim - 20%. The smallest number of criminal offences were committed in the open space or in the victim's parental home - 4% (Chart 19).



Time of perpetration

The majority of domestic violence offences from the sample were perpetrated in autumn - 28%, equal percentage of offences were committed in spring and summer - 20%, while 16% of offences were committed in winter and in the longer period. These data do not differ much from those related to the offences of domestic violence committed in Belgrade, where most of them were committed in summer (30%) and autumn (28%). There is a difference in relation to Novi Sad where most offences of domestic violence were committed in spring - 32%. Observed in relation to the time when domestic violence was committed, in most cases where the time of the crime was recorded (19), the crime was committed in the afternoon or evening - 14 (56%). We can conclude that the data on the time of domestic violence perpetration may have the value for the phenomenological analysis of this phenomenon, but they are not relevant to the aetiology of this crime.

Means of perpetration

The means of domestic violence perpetration in the examined sample are various objects, including the body parts (hands, arms, fists, legs), various items (belt, log, pole, metal tube, baseball bat, wooden table leg) and cold weapons (knife, axe, meat chopper). In contrast to the cases from Belgrade and Novi Sad where physical violence without the use of implements or weapons was most frequent, the largest percentage of domestic violence cases from the examined sample in Niš involve the use of implements, weapons or other means suitable to inflict serious injury to body or seriously impair health - 48%, while physical violence without the use of implements or weapons happened in 40% of

cases. Psychological violence occurred only in one case (4%), while the combination of physical and psychological violence happened in two cases (8%).

Methods of perpetration

The methods of perpetration depended on the type of violence (physical, psychological), but also on the means of perpetration.

Physical violence was perpetrated in different ways including: hitting with a wooden armchair backrest; grabbing and squeezing the neck with hands; hitting with an open hand on the face; punching on the head; hitting with the belt on the back; throwing a log; hitting with a wooden pole; kicking; hair pulling; hitting with a metal rod, etc.

Psychological violence consisted of cursing, insulting by name-calling (“whore”, “peasant”, “worthless”, etc.), threats of murder, etc.

The analysis of the description of committed criminal offences shows that violence is very brutal in terms of method of perpetration and consequences, that the perpetrators use a very wide range of violence and that the consequences of violence are very serious, as illustrated by the following examples:

- ⇒ The defendant hit his wife with a wooden armchair backrest causing her an injury in the form of a cut, when she entered the room where he was with another woman and asked for a cigarette. The other woman lived with them for six months; after this event the injured party continued to live with them and stayed in another room with the children and the defendant’s mother. The defendant again attacked her and broke her arm. She was placed in a safe house, and the children were placed in a foster family by the decision of the social welfare centre. After the divorce, the children remained in the foster family and a procedure was initiated to deprive both parents of the parental rights.
- ⇒ Having arrived home, the defendant, under the influence of alcohol, hit his minor daughter with the back of his hand on her forehead, due to which she fainted and hit the table, which caused her injuries in the form of upper lip contusion (light bodily injury), and when his wife approached to help her daughter, he grabbed her neck and squeezed, causing her light bodily injuries in the form of skin contusion on both sides of her neck.
- ⇒ The defendant threatened his father to slaughter him and then punched him on the nose due to which the injured party fell to the floor and the defendant continued punching and kicking him on the head and body as a result of which the injured party sustained serious bodily injuries.
- ⇒ The defendant doubted the injured party’s faithfulness and wanted to take her mobile phone to see the messages. In an evidently drunken state, after a brief quarrel, he insulted the injured party by saying that she was “a whore from Svrlijig”, that he would show her who

he was, that she was an irresponsible mother, pushed her with the hands, threatened to kill her, hit her with an open hand on the face, which resulted in a light bodily injury.

- ⇒ In a drunken state, the defendant demanded from the injured party (his grandfather) to bring him a drink, and when the injured party refused to do so, the defendant repeatedly insulted him and his mother, threw the mobile phone, broke the TV remote controller, turned over the chair, and when the injured party approached to prevent him from breaking more things, the defendant first hit him with the head on the nose and then repeatedly punched him on the face and head, causing him light bodily injuries in the form of bruising beneath the eyes.
- ⇒ The first event: The defendant kicked the injured party/his former wife in the right thigh, and when she started to run, he rushed after her and reached her in front of the house, punching and kicking her on the back and abdomen and several times on the shoulders and head, which caused her light bodily injuries. The second event: After the injured party refused to enter the defendant's car, the defendant pulled her into the car, drove to Vrežina, and when the injured party got out of the car, he punched her on the head, due to which she fell down; then he insulted and punched her repeatedly on the head and shoulders. The third event: The defendant came to the front door of the house where his underage daughter lived with her mother and started kicking the door and when his daughter asked him why he was doing it and what he wanted, he swore, insulted and threatened to kill her when he saw her in the street.
- ⇒ The defendant hit with a table leg the injured party/his sister with whom he lived in the same household, having previously turned the table and chairs and broken two table legs. He hit the injured party in the right lower leg and then punched her with both fists on the face, so that the injured party suffered light bodily injuries.
- ⇒ The defendant entered the house of the injured party's (cohabiting partner's) father with a kitchen knife and an axe, threatening the injured party to slaughter and pierce her through while waiving a knife about 15cm long. The injured party ran away with her child to another room; the defendant followed her and when her father entered the room, he threatened to kill him with the automatic rifle, which he had brought from the battlefield, saying that they did not deserve to live, that he would throw a bomb, break their legs, and when the injured party approached to help her father, he bit her hand thus causing her a light bodily injury.
- ⇒ The defendant demanded from his wife to enter his car to discuss the reasons for the divorce, opened the car door, slid the front seat and pushed her to the back seat. He drove to the excursion site Čegar, pulled her out of the car, threw her on the ground, repeatedly hit her on the head and body with his hands, due to which she sustained a serious bodily injury, in the form of a complete fracture of the right elbow bone, cutaneous and subcutaneous haematoma in the area of subscapularis muscle and bilateral contusions to the soft-tissue; then drove to the village of Jelašnica and repeatedly hit her on the abdomen.

- ⇒ The first event: The defendant was drunk when he entered the kitchen where his mother was and started a discussion about documentation, threatened to kill, slaughter her and serve his prison sentence for that; then he repeated all that to his father, took a chair, raised it above his head and hit him on the head with the seat. He took another chair to hit his father again, but his mother grabbed the chair from his hand. He went to the room, began to break things around the room and then approached his father again, grabbed the lapel of his father's shirt and repeatedly punched him with both fists on his chest and threatened to kill him, while pushing him out of the apartment. The second event: In the evening, he began to swear and shout, first at his mother, hitting her on the left shoulder, and when his father and sister entered, he continued to swear and threaten, he slapped his sister, took from the kitchen a meat chopper with the 20 cm long blade and holding it in his right hand waved in the direction of all injured parties.
- ⇒ The first event: Irritated by the fact that the underage injured party/the defendant's child could not learn geography, the defendant hit the child with the hand on the back of his head and slapped him several times. He hit with a belt his other underage child (the second minor) on the leg, arm and shoulder several times, for no reason, while in bed, causing him more light bodily injuries in the form of haematoma. All that time he was shouting at the children, threw down and broke a mobile phone, and he also broke two cabinet drawers. The second event: When the defendant's underage son told him that he received the grade three in physics, he repeatedly hit him with his hands, ordered him not to move, so that the underage injured party, being afraid, stood quietly in the corner of the room between 2 p.m. that day and 7 a.m. the next day. During that night, he forced him to tear up all his textbooks and notebooks, which the injured party did, then he hit him with a belt and punched him on different parts of his body, threw at him a remote controller and a yoghurt bottle, set the mathematics book on fire with a lighter and threw it in a garbage can. He threatened the underage injured party that he would take him to the woods and leave him there, that he would withdraw him from school, demanded from him to enter the car wash facility and ask for a job, threatening to hit him and stick him to the ground if he failed to do so. The third event: In the second semester of the school year, he was angry because the underage injured party received the grade 4/5 in geography and made him stand in the corner of his room without moving for 6 hours continuously. The fourth event: Annoyed by the fact that his other son/underage injured party was not able to understand mathematics, he ordered him to stretch out his arms and hit him several times with a belt, injuring the inside part of his arms, which were completely blue up to the forearms, and then, for no reason at all, he began to shout at his other son/underage injured party who was sitting in the same room studying chemistry and hit him on the back with a belt several times. The fifth event: He approached his underage son persuading him to change the statement, together with his brother, to prevent the defendant's ending up in prison, although on the basis of the final and enforceable judgment of the Basic Court in Niš, it was prohibited to

him to approach his ex-wife and underage children/injured parties, at a distance of 100 meters, so that he violated the measure of protection against domestic violence.

- ⇒ The defendant insulted and cursed the injured party/his daughter who was pregnant, and then took an axe and threatened to kill her if she did not leave their home.
- ⇒ In the family house, the defendant cursed and insulted the injured party/his mother, and then punched her once on the face, causing her a light bodily injury.
- ⇒ For a long period of time (February - December 2016), the defendant physically and mentally abused his cohabiting partner by slapping her on the face and jaw, ordering her to pull down her trousers and poked the tip of the knife into her back; hitting her with his hands on the face and kidneys and with a metal rod on the head; at night, he locked the room door, punched her on the face and kidneys, threatened with a knife, ordered her to take off her underwear, stabbed her in the area of ovary, left groin and buttocks, cut her hair with scissors, took an axe and hit her head with the blunt part, after which she fainted and when she regained consciousness, he punched her again causing her light bodily injuries.
- ⇒ The defendant threw the injured party/his wife out of the house and then threw a log at her but did not hit her. In the evening, he returned to the house where the injured party lived with her parents, shouted and shook the gate, demanding from them to open it and threatening to kill and slaughter them, yelling "where have you hidden my children." When the injured party/the defendant's father-in-law came out, the defendant hit his head with his own head, and then also punched him, causing him a light bodily injury on the forehead and supraorbital artery.
- ⇒ The defendant waved a wooden pole 30-40cm long and 3cm thick to hit the injured party/his wife on the head, she raised her right arm to protect herself, after which the defendant hit her causing her a serious bodily injury in the form of a fracture of the right elbow bone.
- ⇒ While the injured party/defendant's wife was sitting on the quay, he kicked her on the left side of the body without any reason. She went to the flat where she lived with the defendant, and while she was sitting on the bed, he grabbed her hair with one hand and dragged her around the room, while repeatedly punching her with the other hand on the head and body, calling her a whore. The injured party sustained serious life-threatening injuries consisting of split spleen with massive bleeding in the abdominal cavity, skin contusion and superficial crush injury in the area of chest and spinal column. The injured party's spleen was removed because it was halved, 1.2 l of blood was extracted from the abdominal cavity, while 1.5 l is a fatality limit. When the neighbours found her, she did not want to say that the defendant had injured her, but she said that she got injured in a traffic accident.
- ⇒ Under the influence of alcohol, without any reason, the defendant threatened the injured party with the words "you can leave with the children, but if you ever have another man,

I will hang you and him on a monument to be an example.” He threatened, via mobile phone, to kill anyone who supported her. The children went with the injured party to her parents’ apartment where he came and tried to get into the apartment.

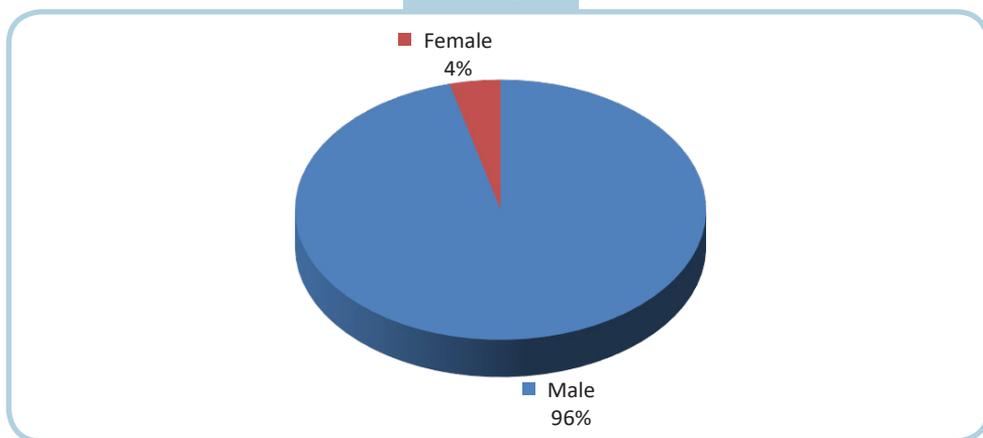
- ⇒ The defendant hit his son with a pole on the back and arm, and then with a metal rod several times on the spine and right hand, causing him light bodily injuries consisting of the contusion of skin and subcutaneous tissues of the left frontal area, the back part of the chest and the right hand.
- ⇒ The defendant repeatedly hit the injured party/his father with a wooden bat (baseball bat) on the body and once on the head, and then left the house.
- ⇒ The defendant threatened his former cohabiting partner with whom he had a child to slaughter and pierce her through, while holding 15 cm long kitchen knives, one in each hand, while an axe with the 8 cm long blade was under his belt. He waved his left hand holding a knife in the direction of the injured party, but she managed to escape with the child to the courtyard. When he stayed in the room, he turned the wood stove and the TV set upside down and broke a small table.
- ⇒ The defendant insulted his wife with the words: “you are worthless; you don’t have a university education, which means you are not intelligent”, grabbed her right upper arm causing her an injury in the form of haematoma, then kicked her in the thigh causing her an injury in the form of right thigh haematoma. He threatened the injured party/his son to kill him with a knife. He held firearms (a rifle) in the house.
- ⇒ Under the influence of alcohol, the defendant first began to shout at the injured party/his mother, then he hit her on the head, which knocked her down, then punched her on the lip and while she was lying on the floor he kicked her on the back and abdomen. He went to the kitchen, took a kitchen knife, put the tip of the kitchen knife on the injured party’s neck, threatening to slaughter her. He pressed a knife on her neck, while the injured party was begging to let her go, and on that occasion she sustained a light bodily injury consisting of a contusion on the back of the neck, lower lip, chest and abdomen.
- ⇒ The defendant entered the room where the injured party/his wife was and hit her repeatedly on the head, causing her a light bodily injury.
- ⇒ In the house courtyard, the defendant slapped the injured party/her then husband, pushed him so that he fell down and threatened to kill him. When the injured party stood up and entered the room, she kicked him with both legs in the crotch and abdomen causing him light bodily injuries, then took a baseball bat with an intention to hit him, but the injured party’s father stopped her.

3.3. Profile of perpetrators

Structure of perpetrators by sex

The review of court cases confirmed the findings from the previous research studies and from the Belgrade and Novi Sad components of the present research: significantly more perpetrators of domestic violence are men than women (Chart 20). In the examined sample, 24 perpetrators (96%) were men and only one was a woman (4%).

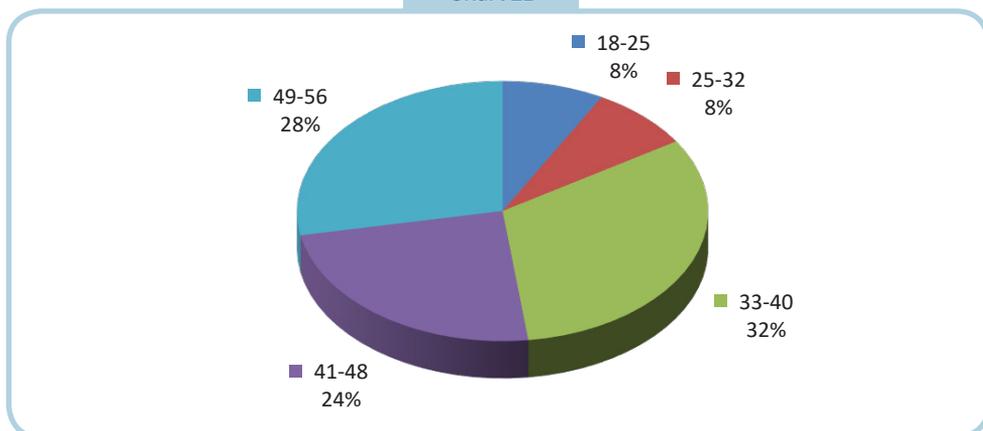
Chart 20



Age of perpetrators

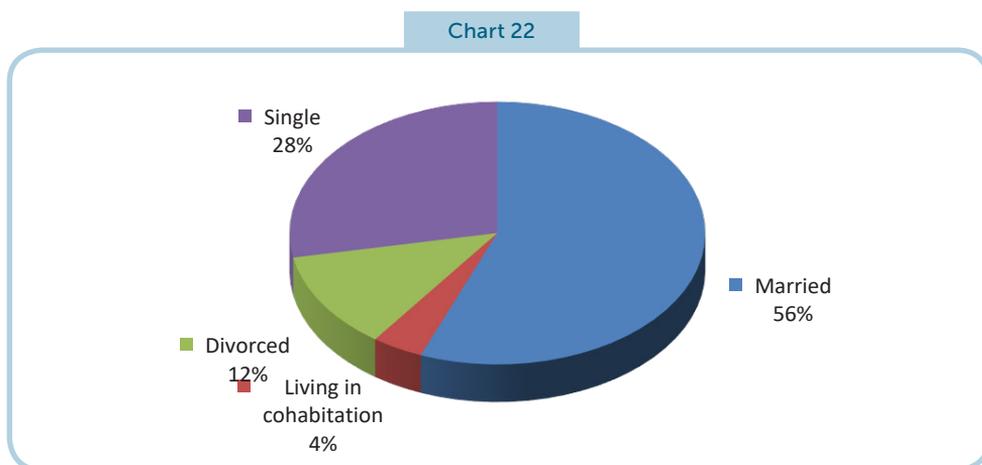
The age structure of domestic violence perpetrators is the following: Most perpetrators (32%) belong to the age group 33-40, 28% of them are 49-56 years old and 24% of perpetrators are in the age group 41-48 years. Two perpetrators (8%) were 18-25 and 25-32 years old. It is interesting that there were no perpetrators older than 56, in contrast to Belgrade, where 6% of perpetrators were in the age group 57-65 years and 12% of them were over 65 years old (Chart 21).

Chart 21



Marital status of perpetrators

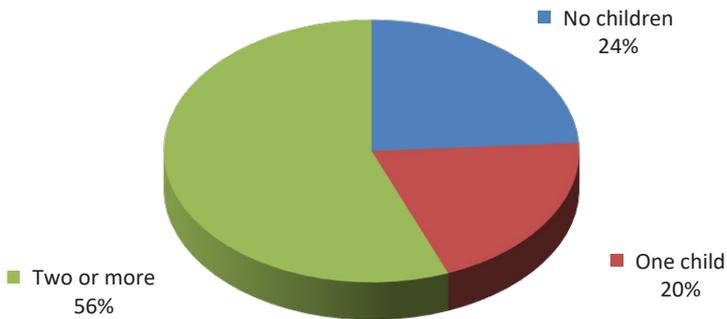
Most perpetrators of domestic violence in this sample were also married (56%), while the percentages of divorcees and those living in cohabitation were much smaller: 12% and 4% respectively. Seven (7) or 28% of perpetrators were single. Comparison with the data collected in the previous research shows that the percentage of domestic violence perpetrators in cohabitation with the victim of violence, which was 11.85%, has decreased significantly. The marital status of the perpetrators was observed at the time of criminal offence perpetration, since both the present and earlier research studies show that in many cases the marital status of perpetrators and victims has changed after the commission of the criminal offence (Chart 22).



Number of children

In the examined sample of 25 cases, most perpetrators are parents (78%), while 24% of them are without children. The highest percentage of perpetrators (56%) have two or more children, while 20% of perpetrators have one child. In contrast to previous research, where the information on the number of perpetrators' children was missing in a large number of cases and therefore had to be deduced from the circumstances that influenced the sentencing, i.e. when parenthood was taken as a mitigating circumstance, all cases covered by the present research contained data on the perpetrators' parenthood (Chart 23).

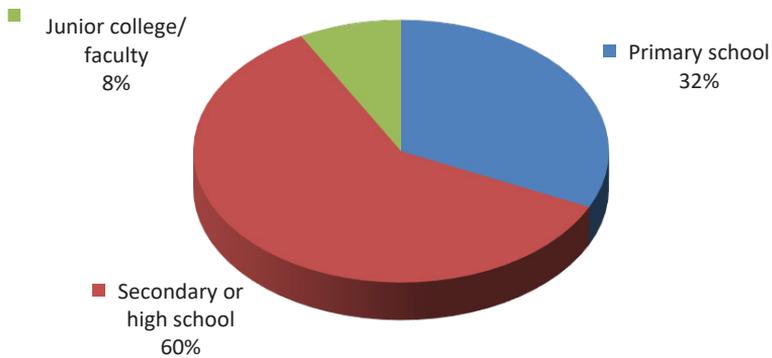
Chart 23



Education of perpetrators

As regards education, as in previous research studies, most perpetrators completed secondary or high school (60%). Only 8% of perpetrators completed junior college or faculty, 32% of them have only primary education, which indicates the satisfactory educational level of perpetrators (Chart 24).

Chart 24

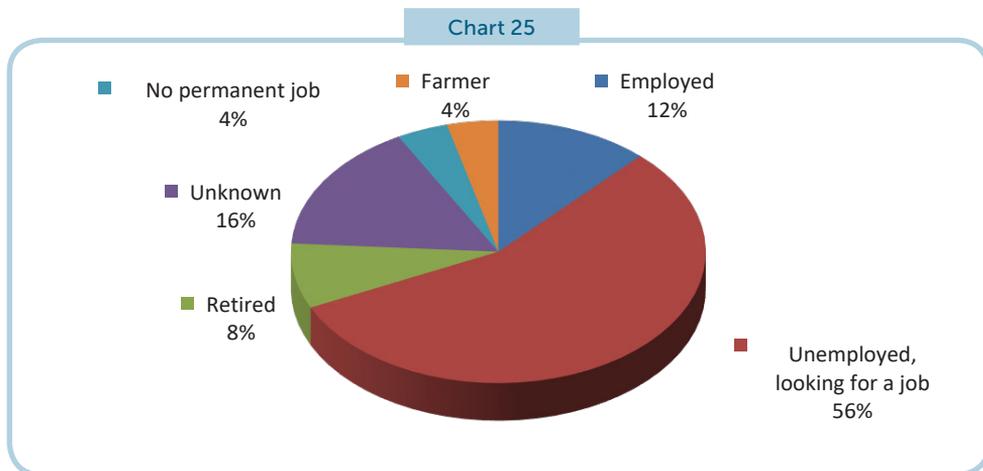


Occupation of perpetrators

A small number of perpetrators from the sample (20%) have no occupation, while most of them (80%) have a certain occupation. Their occupations are various and include: worker, milling machine operator, welder, tourist guide, electrician, driver, engine fitter, traffic technician, baker, medical technician, sales specialist, lawyer, retired major, etc.

Employment status of perpetrators

The previous research studies, as well as the present research in Belgrade and Niš, confirm the prevalence of unemployed persons among the perpetrators (40% in Belgrade and 56% in Niš). A high percentage of unemployed perpetrators confirms that the men's unfavourable socio-economic situation and/or the instability of their social status, which is primarily related to their labour status, is one of the important factors that influence the occurrence of domestic violence (Chart 25).



Perpetrators' place of birth and residence

The place of birth and residence of perpetrators is a city in most cases (city is the place of birth in 88% of cases and the place of residence in 68% cases). Only three perpetrators were born in a village (12%), seven reside in a village (28%), only one perpetrator (4%) resides in a suburban area (Charts 26 and 27).

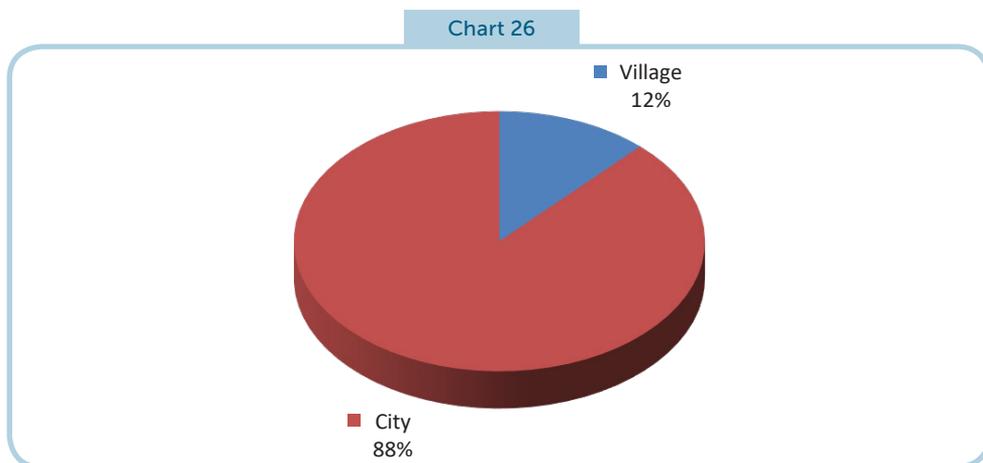
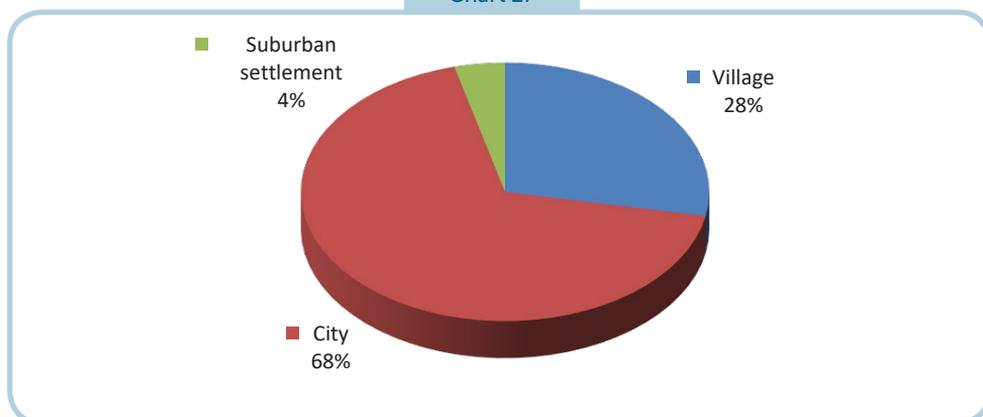


Chart 27



Previous convictions of perpetrators

Based on the data on the perpetrators' previous convictions, it can be concluded that a large percentage of perpetrators from the sample have an inclination towards criminal behaviour. In fact, 18 or 72% perpetrators were previously convicted, all of them were convicted more than once, usually twice, for various criminal offences, including the following: illegal production and sale of drugs, endangering with dangerous implements in fighting and quarrelling, theft, violent behaviour, defamation, domestic violence, destruction and damage of other person's thing, aggravated larceny, attack on an official, etc. In these earlier proceedings, the court usually pronounced the prison sentence or suspended sentence; only one perpetrator was fined and punished with the security measure of confiscation for one of committed criminal offences. In addition, a number of perpetrators were previously punished for the misdemeanour of violating public peace and order. It should be noted that in one case the previous conviction of the perpetrator was not considered an aggravating circumstance because a long time had passed since the previous conviction, although it was also for domestic violence.

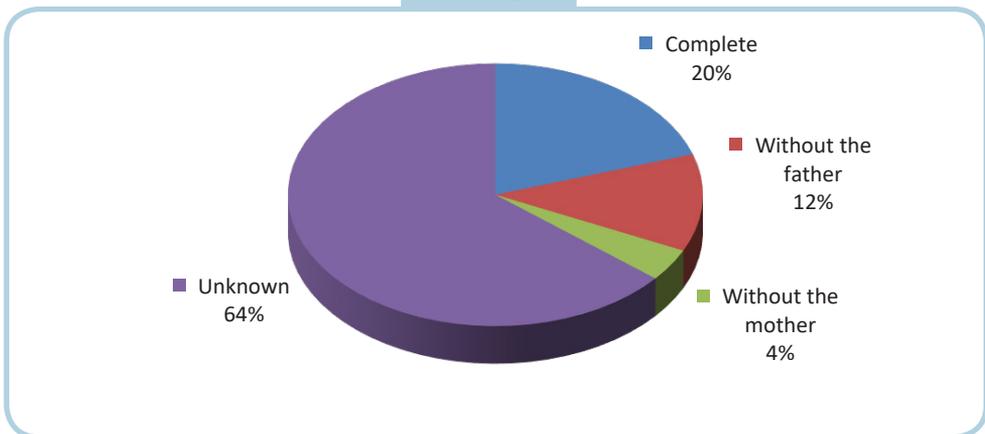
One of the pieces of information important for understanding the causes of domestic violence is related to specific life circumstances of perpetrators: their status of refugee or internally displaced person and their participation in the wars in the former SFRY. Most perpetrators from the sample do not have a refugee status (92%), while this information is unknown for two perpetrators (8%). Two perpetrators stated that they were returnees from the war.

Family and personal history of perpetrators

The examined court cases contain very scarce data that allow the insight into the personality of perpetrators and valid conclusions about their lifestyle. According to the scarce data found in the files (in 64% of cases there are no data on the primary family

completeness), 5 perpetrators (20%) lived in the complete family, 3 perpetrators (12%) grew up without a father and one grew up without a mother (Chart 28). Also, there is a large percentage of unknown relations in the primary family (76%); only 2 perpetrators stated that the relations in their primary family were “good”, while 4 perpetrators described them as “bad”. There is no information that any of the perpetrators attempted suicide or self-injury. Also, the court files show that most perpetrators did not express deviant or criminal behaviour in their youth. However, based on this, it cannot be concluded that domestic violence perpetrators did not commit juvenile offences or behaved in a deviant manner because the court did not examine the circumstances that existed prior to the commission of the criminal offence, and which related to the personality of perpetrators. Besides, there are no data on the family history of the defendants and relations in their primary family. Only in the cases where psychiatric evaluation was conducted there is more information on the perpetrator’s family of origin, whether their parents were alcoholics, whether they committed criminal offences, what kind of relations they had with their parents, etc.

Chart 28



Alcohol and drug abuse

A large percentage of domestic violence perpetrators are chronic alcoholics - 44%. However, it should be noted that the information on alcohol abuse is missing in 12 cases (48%) and therefore, it is possible that more perpetrators used alcohol excessively. The fact that 48% of perpetrators were under the influence of alcohol at the time of the commission of criminal offence is particularly disconcerting: light intoxication was recorded in two cases, medium intoxication in three cases and heavy intoxication in seven cases. Alcoholism at the time of the commission of criminal offence influenced the degree of the perpetrators’ mental competence and certainly contributed significantly to their aggressive and violent behaviour.

Drug abuse cannot be established with certainty given that this information remained unknown in a large percentage of cases - 52%. Drug abuse was established only in two cases. The examined sample includes only two cases where it was found that the defendants used drugs. However, most perpetrators were not under the influence of opiates at the time of perpetration.

Psychopathic personality structure and mental illness in perpetrators

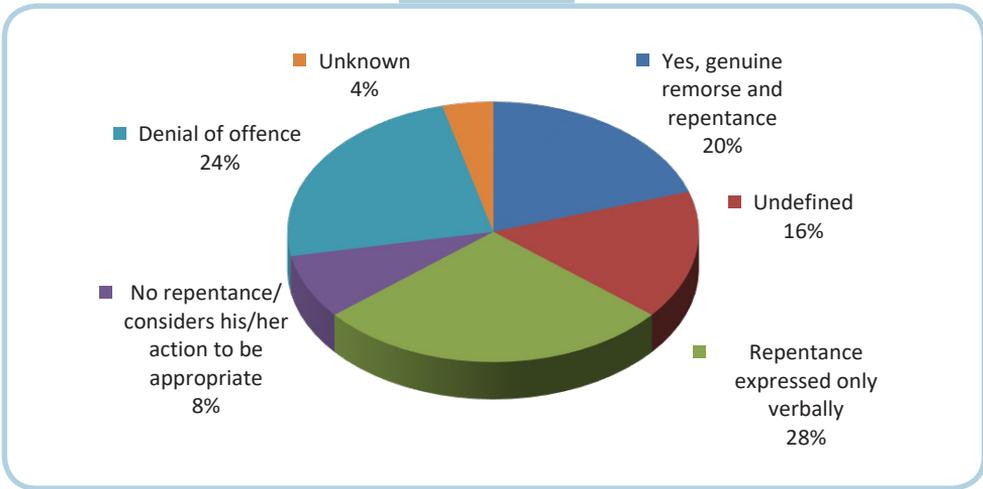
The examined cases contain very little data on the psychopathic personality structure of perpetrators so that this information remained unknown in 56% of cases. The reason for scarce data on the mental state of the perpetrators certainly lies in the fact that only in a few cases the psychiatric and psychological evaluation of the perpetrators was conducted. Psychopathic personality structure was found in eight perpetrators, although most perpetrators excessively consumed alcohol for a long period of time and were chronic alcohol abusers. In one case it was noted that the abuse of alcohol had led to the personality disorder and emotional instability.

Perpetrator's attitude towards and responsibility for the criminal offence

According to the data from the case files, the highest percentage of perpetrators express repentance for the committed criminal offence only verbally - 28%, 24% of perpetrators do not admit the criminal offence, 20% repents genuinely, 16% of perpetrators have an undefined attitude towards the committed criminal offence, while 8% of perpetrators do not repent and considers their action to be appropriate. Comparison of these data with the previous research shows that the number of perpetrators who do not admit the perpetration has increased (from 15.21% to 24%).

Regarding the perpetrator's attitude towards responsibility for the event, the majority of perpetrators do not give or do not have an explanation - 20%, 16% of perpetrators do not admit the perpetration of criminal offence, denies their connection with the event, while 16% of perpetrators blame the victim. Only one perpetrator blames both himself and the victim, and seven perpetrators or 28% mainly accept their own responsibility. The attitude of other perpetrators could not be determined because there was no relevant information in the case files (Chart 29). Compared to the data from the previous research studies, there is a relatively large increase in the percentage of those who blame the victim for the committed criminal offence (from 11.90% to 16%), while the percentage of those who blame both themselves and the victim has decreased (from 16.92% to 4%).

Chart 29



Regarding the perpetrator’s attitude towards responsibility for the event, the majority of perpetrators do not give or do not have an explanation - 20%, 16% of perpetrators do not admit the perpetration of criminal offence and deny their connection with the event, while 16% of perpetrators blame the victim. Only one perpetrator blames both himself and the victim, and seven perpetrators or 28% mainly accept their own responsibility. The attitude of other perpetrators could not be determined because there was no relevant information in the case files. Compared to the data from the previous research, there is a relatively large increase in the percentage of those who blame the victim for the committed criminal offence (from 11.90% to 16%), while the percentage of those who blame both themselves and the victim has decreased (from 16.92% to 4%) (Table 16).

Table 16

	Number	Percentage
Mainly blame the victim	4	16
Blame both themselves and the victim	1	4
Do not blame either victim or themselves/consider the event to be the result of unfortunate circumstances	2	8
Do not give or have any explanation	5	20
Mainly accept their own responsibility	7	28

Do not admit the criminal offence and deny any connection with it	4	16
Unknown	2	8
Total	25	100.0

Relations between the perpetrator and the victim prior to the perpetration of criminal offence

Bad and disturbed relations between the perpetrator and the victim existed before the commission of the criminal offence in almost all cases from the examined sample. The forms of previous violence are various, but its characteristic is continuity over a longer period of time. These are some typical cases:

The defendant insulted the injured person calling her names in the presence of the children, he lost his job, he began to consume alcohol, and quarrels happened every day.

When he gets drunk, the defendant psychologically and physically abuses all family members who live in the same household.

Due to constant psychological abuse, the defendant and the injured party went to family therapy.

The victim abandoned the cohabitation with the defendant on several occasions, but returned in hope that the defendant would change.

In order to get money for drugs and alcohol, the defendant physically and mentally abused his parents.

After the divorce, the children were given to the defendant for care and upbringing, but he abused them psychologically and physically over a long period of time.

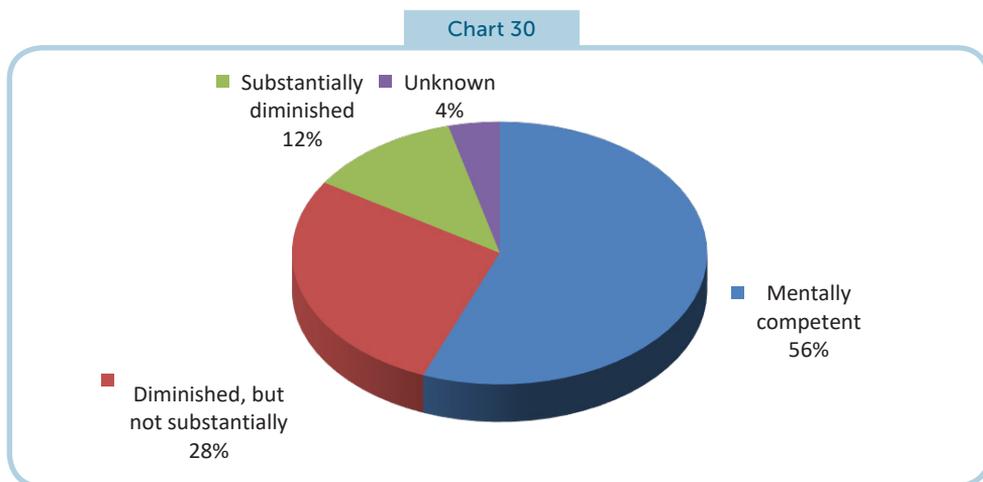
Relations between the defendant and the injured party were so disturbed that they could not take proper care of the children due to which they were placed in the foster family.

The defendants and the injured party were married for fifteen years, while physical and psychological violence has lasted four years.

The defendants and the injured party were married for eighteen years. Psychological violence started immediately at the beginning of marriage, while physical violence started five years ago.

Degree of perpetrator's mental competence

Regarding the degree of perpetrator's mental competence, the court did not establish mental incompetence at the time of the commission of criminal offence in any of the cases, and in fact established the mental competence of 56% of perpetrators. The mental competence was diminished but not substantially in seven perpetrators (28%), while the mental competence of three perpetrators (12%) was substantially diminished. (Chart 30).



Motives for criminal offence perpetration

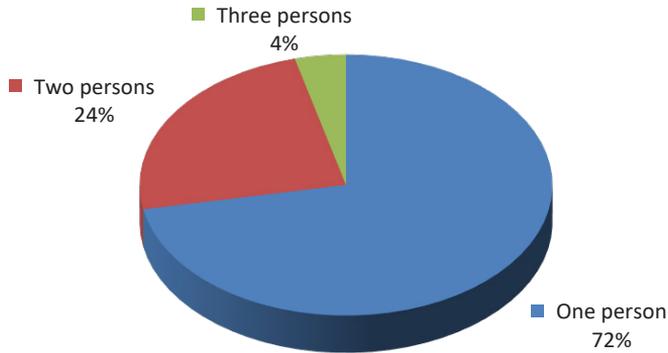
In the entire research sample, including the sample of court cases from Niš, it was not possible to establish with certainty and in all cases the motive for criminal offence perpetration, because this psychological factor is almost never considered by the court in determining the facts in a particular case. However, it can be deduced that the perpetrators committed criminal offences usually because of jealousy, long-term intolerance towards the victim, belief that the use of physical force is the best way to educate children, revenge for being prevented from seeing the child, quarrels about money, discussions about the division of marital property, etc.

3.4 Profile of victims

Structure of victims by sex

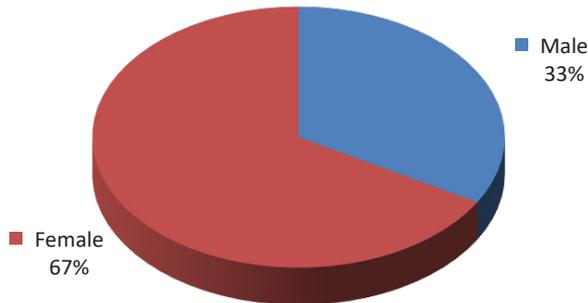
According to the reviewed court cases, the number of victims (33) is greater than the number of perpetrators (25), which indicates that more family members were injured or endangered during the perpetration of domestic violence (Chart 31).

Chart 31



The results of the present research confirm the fact that most victims of domestic violence are women (Chart 32). In the examined sample, women were victims in 66.7% of cases, while men were victims in 33% of cases. It should be noted that a much bigger number of the victims of intimate partner violence are women than men. Only one man was a victim of partner violence in the examined sample.

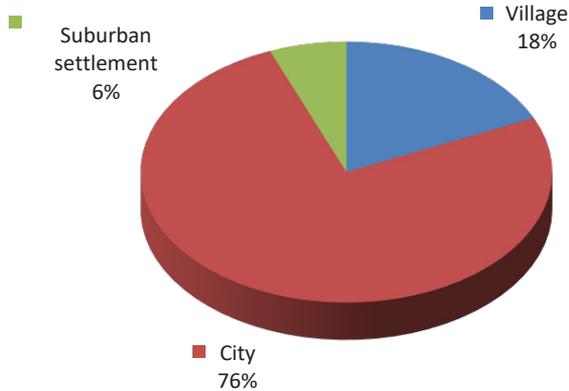
Chart 32



Place of residence and birth

Most victims reside in a city (75.80%), a fewer number of them live in a village (18.20%), while a suburban settlement is mentioned as the place of residence in only 6.10% of cases. A city is the place of birth of 78.80% of victims, 15.20% of them were born in a village and 3% in a suburban settlement. The place of birth of one victim is unknown (Chart 33). These data do not differ significantly from the previous research results.

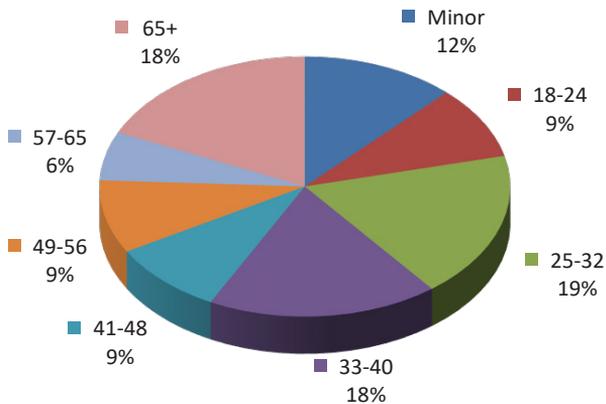
Chart 33



Age of victims

Underage children are also among the victims - 4 (12.1%), while the number of adults is 29 (87.8%). Most adult victims belong to the age groups 25-32 - 18.2%, 33-40 - 18.2% and over 65 years - 18.2% (Chart 34).

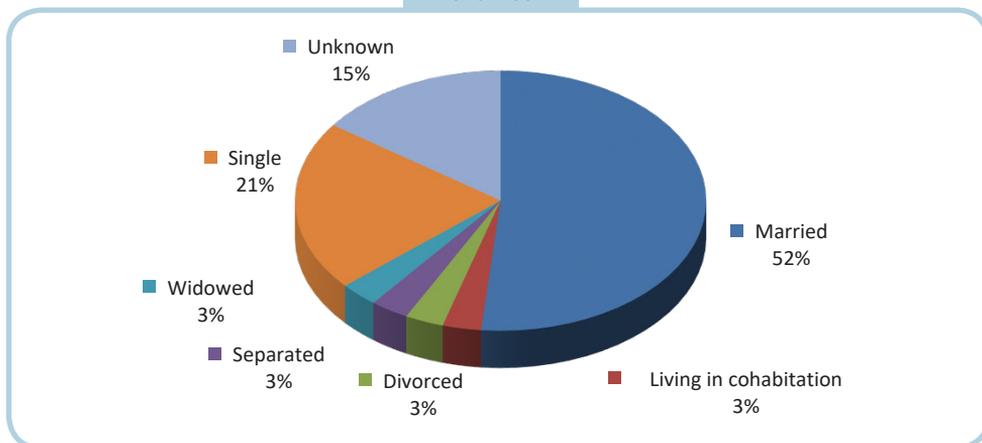
Chart 34



Marital status of victims

At the time of the criminal offence perpetration, the largest number of victims, like the perpetrators, were married (51.5%); 21.2% of them were single, while one victim lived in cohabitation, one was divorced, one was separated and one was widowed. There is no data on marital status for 5 victims in the case files (Chart 35).

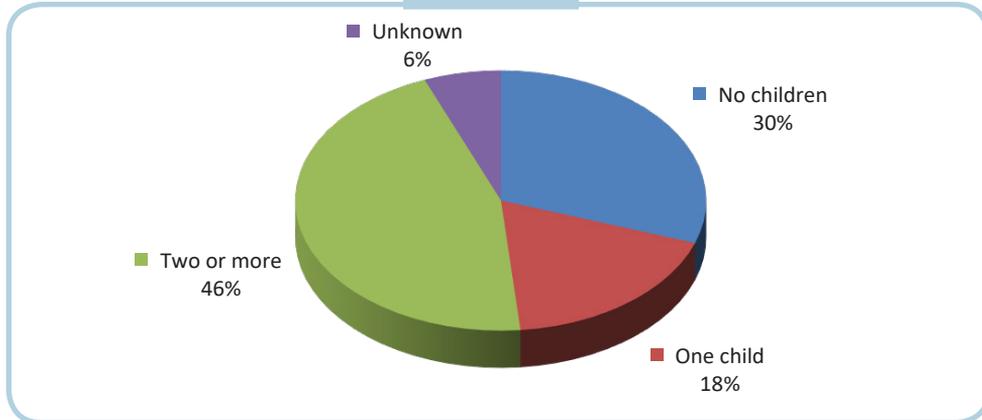
Chart 35



Number of children

In the examined sample, 30.30% of victims do not have children, 45.50% of them have two or more children, while 18.20% of victims have one child. There are no data on the number of children for other victims (Chart 36).

Chart 36

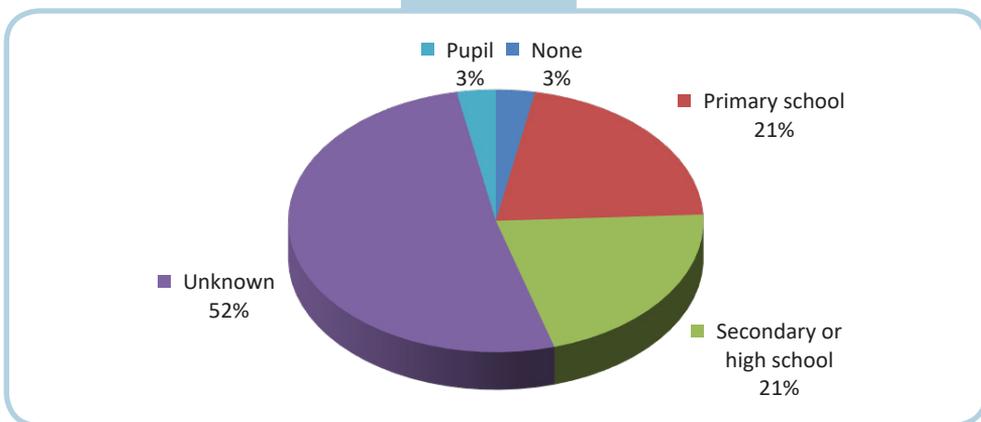


Education, occupation and employment status of victims

The case files contain very scarce data on education, occupation and employment of victims. The court rarely determines and considers these circumstances at the main hearing. These data can be found only in criminal complaints or records of the hearing of the injured party. Data on the education of victims are missing in 51.5% of cases, data on the employment are missing in 30.3% of cases, while the occupation is not mentioned in any of the cases from the sample.

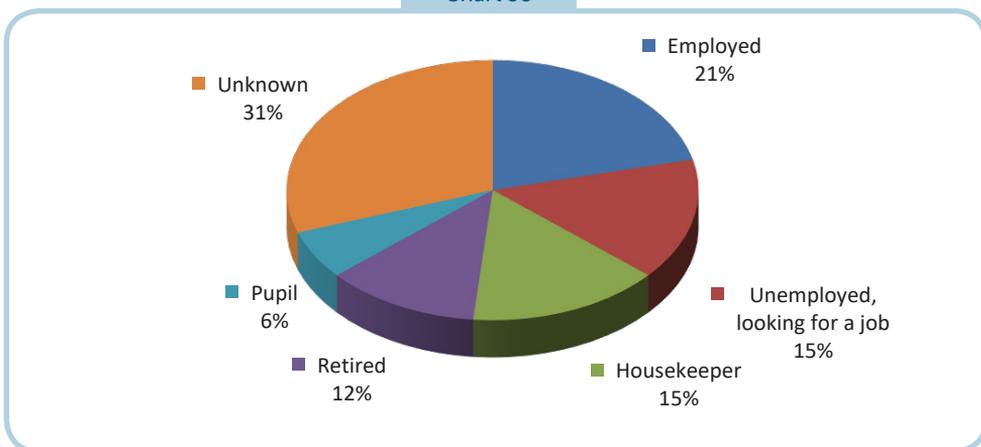
According to the available data, the victims have completed different levels of education: The same percentage of victims completed secondary and primary education - 21.2%. Only one victim has no education (Chart 37).

Chart 37



For understanding the reasons why victims, especially in case of intimate partner violence, continue living for a long time with the violent spouse/partner, it is very important to take into account the victim's economic and financial independence. Hence, it is important to find out whether the victims are employed and thus economically independent. Seven victims from the examined sample (21.2%) are employed, while 16 victims are unemployed: unemployed - 5 (15.2%), housekeepers - 5 (15.2%), pensioners - 4 (12.1%), pupils - 2 (6.1%) (Chart 38).

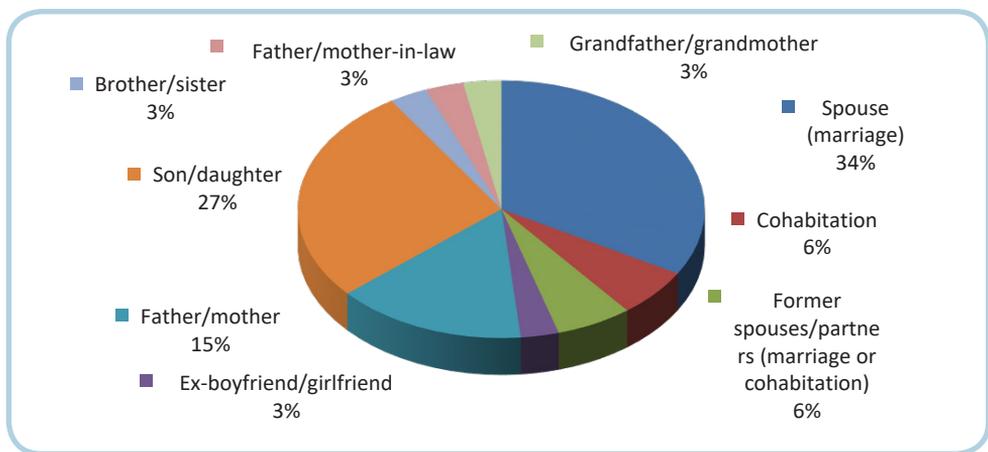
Chart 38



Nature of relationship between perpetrators and victims

In most cases (48.5%) the perpetrator and the victim were married to each other - 33.30%. and in 6.10% of cases they were cohabiting partners or former spouses or ex-boyfriend and ex-girlfriend, which means that the prevailing form of domestic violence continues to be intimate partner violence. Compared to previous research, the number of the criminal offences of domestic violence committed against other family members has increased: children (son, daughter) were victims in 27.3% of cases, parents (father, mother) were victims in 15.2% of cases, in 3.0% of cases the victims were siblings, in 3.0% of cases the victims were father/mother-in-law, while grandparents were victims in 3% of cases (Chart 39).

Chart 39



Weapons held by victims and influence of alcohol at the time of perpetration

At the time of the commission of the criminal offence of domestic violence, the victims did not carry any weapons or implements. Unlike the perpetrators, who in 48% of cases were under the influence of alcohol at the time of the criminal offence commission, only one victim was under the influence of alcohol.

Relations between the perpetrator and the victim prior to the criminal complaint and response to previous violence

In the case files from the examined sample, there are very little data that would allow a conclusion about the personal relationship between the perpetrator and the victim before the criminal offence of domestic violence. In addition, the court paid little attention to the examination of the circumstances related to the so-called cycles of violence, and consequently the case files do not include data on whether the victim has experienced the cycles of violence and if yes, which ones and how long they lasted. However,

based on the available data, it can be concluded that almost all victims were exposed to physical and psychological violence for a long time before the criminal offence was committed. Relations between family members in most cases were seriously disturbed because the perpetrators abused alcohol. However, a small number of victims contacted other institutions to seek help before the commission of the criminal offence: only three victims were placed in a safe house, and only one addressed the social welfare centre. As many as 57.6% of victims did not request the police intervention for the previously suffered violence. In one case, the injured party/defendant's wife stated that she had lived with the defendant first in cohabitation and then in marriage for fifteen years, that the defendant had repeatedly committed violence against her, that she had once submitted a criminal complaint, but later withdrew it because she felt sorry for the defendant who had been subjected to heart surgery. She further stated that the defendant was a good man when he did not drink, that he abused her only under the influence of alcohol and that she did not want to join the criminal prosecution, but she wanted to get divorced as soon as possible and never see him again.

3.5. Criminal proceedings - substance, course and duration

Criminal procedures were conducted against the domestic violence perpetrators (25) who committed a total of 33 criminal offences, as follows: from Article 194, paragraph 2 - 39.4%, Article 194, paragraph 1 - 33.3%, Article 194, paragraph 3 - 24.2% and Article 194, paragraph 5 - 3.03%.

3.5.1. Detention

Due to the gravity of the committed criminal offences and previous convictions, and in accordance with the legal grounds for detention, the defendants were kept in detention in 12 cases (48%), which is somewhat more than in the Belgrade sample (46%) and significantly more than in the Novi Sad sample (23.1%).

3.5.2. Evidence

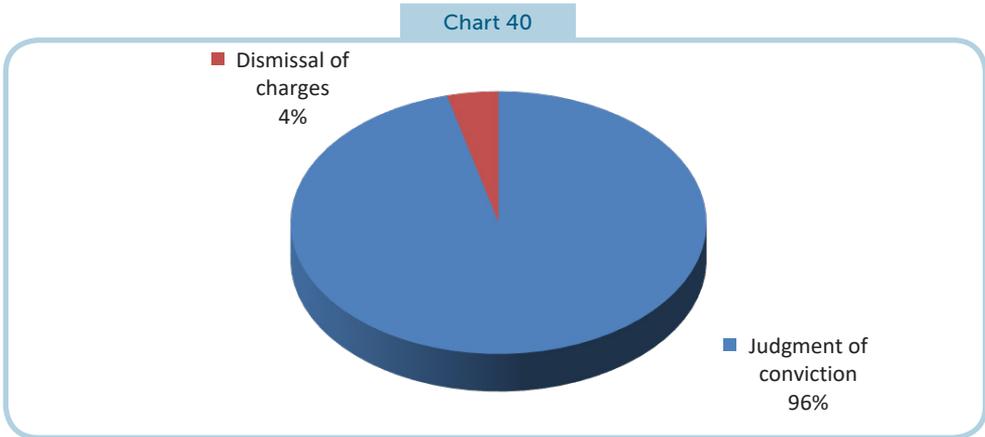
In the examined sample, the most frequent evidence was: examination of defendants, examination of witnesses, examination of injured parties as witnesses, review of medical documentation, forensic medical evaluation and evaluations of neuropsychiatrist and psychologist, analysis of the findings of mobile operators about the communication with a mobile phone, reading of the expert findings of the social welfare centre.

3.5.3. Outcome of procedure

Most final court decisions, 24 out of 25 (96%), were convictions. In only one case, a judgment of conviction was pronounced for a criminal offence of domestic violence and a judgment of acquittal for another criminal offence referred to in Article 194, paragraph

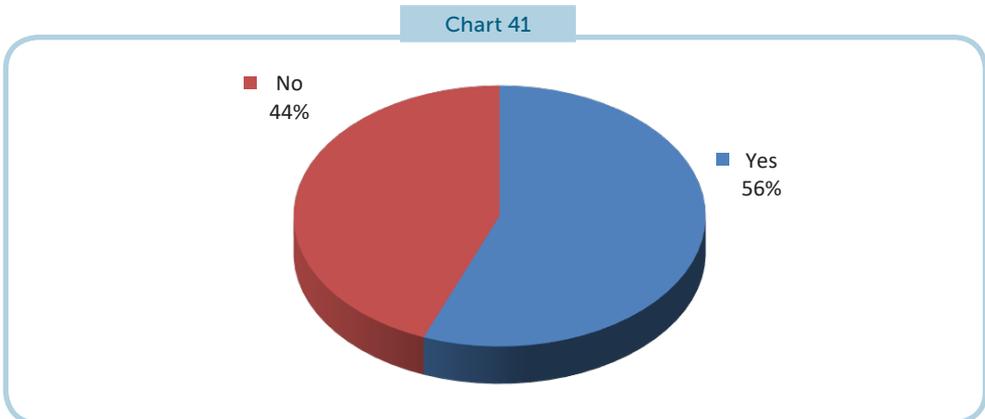
2 due to the lack of evidence. This judgment is presented as conviction in the Chart. In another case, the charges were dismissed. (Chart 40).

The plea agreement was concluded in three cases and a hearing for the imposition of a criminal sanction was held.



3.5.4. Appeal

An appeal against the first-instance decision was filed in 14 cases, while there was no appeal in 11 cases, including 2 cases where the plea agreement was concluded and 2 cases where a hearing for the imposition of a criminal sanction was held (Chart 41). In a number of cases, the parties stated at the main hearing that they would not appeal.



3.5.5. Duration of procedure

In order to see the efficiency of the court procedure, it has been observed in five phases: from submitting a criminal complaint to filing a charging document; from filing a charging document to rendering a first-instance decision; from submitting a criminal

complaint to rendering a second-instance decision; from submitting a criminal complaint to the finality of judgment; from rendering a first-instance decision to rendering a second-instance decision (Table 17).

	Criminal complaint/ charging document	Charging document/ first-instance decision	Criminal complaint/ second-instance decision	Criminal complaint/ finality of judgment	First-instance decision/ second-instance decision
Up to 1 month	8 (32%)	4 (16%)	0	0	0
1 - 3 months	1 (4%)	5 (20%)	0	3 (12%)	3 (21.4%)
3 - 5 months	2 (8%)	1 (4%)	2 (14.2%)	4 (16%)	8 (57.1%)
5 - 7 months	1 (4%)	2 (8%)	1 (7.1%)	1 (4%)	0
7 - 10 months	3 (12%)	0	0	0	%
10 - 12 months	5 (20%)	3 (12%)	1 (7.1%)	2 (8%)	1 (7.1%)
1 - 2 years	4 (16%)	7 (28%)	2 (14.2%)	7 (28%)	1 (7.1%)
2 - 4 years	1 (4%)	3 (12%)	7 (50%)	6 (24%)	1 (7.1%)
4 - 5 years	0	0	1 (7.1%)	2 (8%)	0
Over 5 years	0	0	0	0	0
TOTAL	25	25	14	25	14

According to the data from the table, the period from the submission of criminal complaint to the finality is very long, from one to two years in the highest percentage of cases (28%) and from two to four years in 24% of cases. If the procedure is observed by phase, it can be seen that the shortest phase is the first one: the period from submitting a criminal complaint to filing a charging document. The average time for checking the allegations contained in the criminal complaint and filing a charging document is up to a month (in 32% of cases), but there are also cases (5 cases or 20%) where this phase lasted 10-12 months, which is indeed a long period of time for this type of criminal offence.

According to the data from the examined sample, the period from filing a charging document to rendering a first-instance decision in most cases (7 cases or 28%) lasts from one to two years, which is rather long. In 50% of cases out of 14 cases in which an appeal against the first-instance decision was filed and the second-instance decision was rendered, the period from submitting a criminal complaint to rendering a second-instance decision was two to four years. The duration of the procedure from rendering a first-instance decision to rendering a second-instance decision in the largest number of cases was from 3-5 months (in 8 cases) and 1-3 months (in 3 cases). The length of the procedure, especially from filing a charging document to rendering a first-instance decision, certainly depended on the meeting of procedural requirements for holding the main hearing. In a number of cases, the main hearings were often postponed due to the defendant's or the injured party's failure to appear, the impossibility to deliver the summons because of the inaccurate address, the witnesses' failure to appear, etc.

3.6. Type and level of pronounced criminal sanctions

In 96% of cases, criminal sanctions were pronounced to domestic violence perpetrators. In only one case, the judgment on the dismissal of charges was rendered due to the withdrawal by the public prosecutor. A judgment of acquittal was rendered to one perpetrator for an offence in joinder, but he was convicted for another criminal offence in the same case. In contrast to previous research, suspended sentences were rare in the sample of Niš cases. Six (6) perpetrators were convicted and punished with suspended sentence (24%), but in one case this sentence was accompanied with the security measure of compulsory alcohol addiction treatment at liberty (Table 18 and Chart 42). Considering that the number of imposed suspended sentences is smaller than the number of prison sentences, it could be concluded that the penal policy in cases of domestic violence has been made harsher. However, it should be kept in mind that the examined cases are more serious forms of the criminal offence of domestic violence and that the perpetrators have been previously convicted for the same or other criminal offence.

Table 18

	Number	Percentage
Prison sentence	7	28
Prison sentence and security measure	7	28
Prison sentence enforced in the premises where the accused person lives without electronic surveillance	1	4

Prison sentence, fine and security measure of no approaching or communicating	1	4
Prison sentence and fine	1	4
Community service and security measure of compulsory alcohol addiction treatment at liberty	1	4
Suspended sentence	5	20
Suspended sentence and security measure of compulsory alcohol addiction treatment at liberty	1	4
Charges dismissed	1	4
Total	25	100.0

Duration of imprisonment pronounced along with security measures and fine is shown in Table 19.

Table 19

	Number	Percentage
6 months	4	23.5
7 months	1	5.9
8 months	2	47.0
10 months	2	47.0
1 year	3	17.6
2 years	3	17.6
2 years and 6 months	1	5.9
3 years and 8 months	1	5.9
Total	17	100.0

Security measures were pronounced along with prison sentences, fines and suspended sentences. The security measures pronounced in eight cases consisted of compulsory

alcohol addiction treatment at liberty or in a medical or specialised institution, while in one case the security measure of no approaching or communicating with the injured party, as referred to in Article 89a of the Criminal Code, was imposed.

On the basis of the allegations in the judgments with an explanation, it can be concluded that in sentencing, the court took into account the following circumstances as mitigating:

- ⇒ personal, family and financial circumstances
- ⇒ poor financial situation without the possession of immovable property
- ⇒ behaviour at the main hearing
- ⇒ married
- ⇒ single
- ⇒ father of two/three/six minor children
- ⇒ the injured party does not join the criminal prosecution and does not claim indemnification
- ⇒ absence of previous convictions
- ⇒ behaviour after the perpetration of offence
- ⇒ the defendant stopped using alcohol and attended family therapy
- ⇒ the defendant admitted the criminal offence in whole or in part
- ⇒ unemployment
- ⇒ the degree of guilt, since the defendant's mental competence was almost substantially diminished due to his alcohol addiction
- ⇒ he committed the criminal offence in a state of diminished mental competence as a result of alcohol abuse
- ⇒ the defendant and the injured party do not live together and the defendant is not in a position to have another conflict with the injured party and repeat the criminal offence
- ⇒ the defendant is a young person
- ⇒ the defendant is a pensioner, an elderly person who has lived a non-problematic life
- ⇒ the defendant expresses repentance

- ⇒ the defendant promised not to repeat it
- ⇒ behaviour after the perpetration of offence
- ⇒ the defendant's previous lifestyle
- ⇒ legal rehabilitation
- ⇒ after the critical event, for a long period of time he was not in contact with his ex-wife
- ⇒ a judgment was rendered after holding a hearing for the imposition of a criminal sanction where the defendant admitted the criminal offence, stated that she had repented and agreed that the court found her guilty.

The question arises as to whether all of these circumstances can be considered mitigating, especially personal and property situation, the fact that the defendant and the injured party do not live together any more, the defendant's promise not to repeat the offence (especially if we know that this type of violence has its cycles and escalation: the phase of apologising to the victim and asking for forgiveness is followed by even more brutal violence), the fact that the defendant is a young man or that he is retired, that the injured party refuses to join the criminal prosecution (the victim's defensive behaviour should not have an impact on sentencing the defendant).

The fact that the defendant was under the influence of alcohol at the time of the commission of the criminal offence should neither be considered as mitigating. Article 24, paragraph 2 of the Criminal Code explicitly stipulates that the perpetrator of a criminal offence who by consumption of alcohol induced such a state of mind where he or she could not understand the significance of his or her act or control his or her actions (the so-called self-induced incompetence), may not receive mitigated punishment on these grounds. Considering this provision, which excludes the possibility of sentence mitigation, it is clear that the degree of guilt based on the defendant's mental competence, which was almost substantially diminished due to his alcohol addiction, cannot be considered a mitigating circumstance.

These circumstances are considered to be aggravating:

- ⇒ previous convictions
- ⇒ previous convictions for the criminal offence of domestic violence
- ⇒ the defendant was under the influence of alcohol, although he knew that the use of alcohol made him aggressive
- ⇒ the offence was committed against an elderly person

- ⇒ bad relations even before this conflict
- ⇒ the severity of injury and endangering of the protected goods and the degree of guilt
- ⇒ persistence expressed in the perpetration of offence
- ⇒ the fact that he committed the offence against a member of his family - his wife with whom he has two children.

Interestingly, in one case, the first-instance court did not take the defendant's previous conviction as an aggravating circumstance because a lot of time had passed since the conviction, while the second-instance court, deciding on appeal, took the defendant's previous conviction as an aggravating circumstance. In one case, the court did not consider an earlier conviction to be an aggravating circumstance, bearing in mind the time that had passed since the conviction (10 years) and the ongoing process of legal rehabilitation, while in the second case the previous conviction was not taken into account, since the previous conviction happened 15 years before, and therefore the conditions for the expunction of the conviction were met. Also, in one case, the court noted in the judgment that the earlier conviction was not taken into account as an aggravating circumstance, since much time had elapsed since that conviction. However, the circumstance that the defendant was previously convicted for domestic violence should be taken into account in sentencing, regardless of its expunction, but not as a previous conviction, but as part of the examination of the defendant's earlier behaviour and lifestyle.

4. Judicial practice in Novi Sad

4.1. General information about court cases

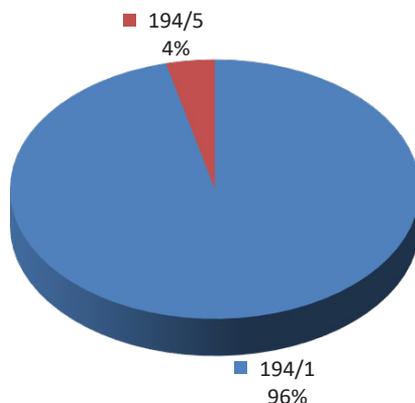
We have examined a total of 25 court cases of the criminal offences qualified as domestic violence referred to in Article 194 of the Criminal Code of the Republic of Serbia and prosecuted before the Basic Court in Novi Sad.

4.2. Phenomenology of the criminal offence of domestic violence

Form of perpetration

The examined sample included 25 cases and 26 criminal offences of domestic violence. The highest percentage of criminal offences (96.2%) have the characteristics of the first form of domestic violence referred to in Article 194, paragraph 1; only one criminal offence (3.8%) is defined in Article 194, paragraph 5 (Chart 42). No other forms of domestic violence are found in the sample, which makes it different from the cases examined in Belgrade and Niš.

Chart 42



Joinder of offences

There was only one case, in the sample of 25, where the offence was committed in joinder of offences (Table 20).

Table 20

	Number	Percentage
There is joinder	1	4
There is no joinder	24	96
Total	25	100

Complicity

Complicity was not recorded in 24 cases, while in one case the criminal offence was co-perpetrated (Table 21). In 40% of cases, there were observers, i.e. witnesses and eye-witnesses, mainly other family members (Table 22).

Table 21

	Number	Percentage
There is co-perpetration	1	4
There is no complicity	24	96
Total	25	100

Table 22		
	Number	Percentage
There are witnesses	10	40
There are no witnesses	15	60
Total	25	100

Place of perpetration

In all cases (25), the criminal offence of domestic violence was committed in a city; there were no cases of perpetration in a village. The place of perpetration is the same as the place of residence in all cases.

In the largest number of cases (76%), it was established that the criminal offence had been committed in the joint apartment/house of the victim and the perpetrator, 4% of criminal offences took place in the victim's apartment/house, while 4% of them were committed in the perpetrator's apartment/house, via SMS messages or harassment by phone (Table 23).

Table 23		
	Number	Percentage
Perpetrator's apartment/ house/courtyard	1	4.0
Victim's apartment/house/ courtyard	3	12.0
Joint apartment/house/ courtyard of the victim and the perpetrator	19	76.0
Other - harassment by phone	1	4.0
SMS messages	1	4.0
Total	25	100

Time of perpetration

Unlike in Belgrade and Niš, most criminal offences of domestic violence from the sample of Novi Sad cases were committed in spring - 34.6%, then in autumn - 26.9%, in the longer period throughout the year – 19.2%, in summer – 11.5% and the smallest percentage of these criminal offences were committed in winter – 7.6%.

Means of perpetration

The means of perpetration were various depending on the type of violence. Combined psychological and physical violence was recorded in the highest percentage of cases from the sample (38.46%) with the prevailing types of violence being verbal violence, threats and hitting with hands, punching and kicking. Physical violence without the use of weapons, dangerous implements or other means suitable to inflict serious injury to body or seriously impair health existed in 30.7% of cases, and the largest number of criminal offences were qualified as less severe forms of the criminal offence of domestic violence referred to in Article 192, paragraph 1 of the Criminal Code of the Republic of Serbia. Interestingly, in one case a wooden stick about 40 cm long was used by the defendant to hit his cohabiting partner repeatedly on the back and shoulders, resulting in the broken stick and the light bodily injury sustained by the victim, but the criminal offence was qualified as a less severe form of domestic violence referred to in Article 194, paragraph 1 of the Criminal Code of the Republic of Serbia. In this case there is no explanation of the judgment, but we can assume that the court did not consider the wooden stick about 40 cm long to be the means suitable to inflict serious injury to body or seriously impair health.

Methods of perpetration

These are some of the methods of physical and psychological violence:

- ⇒ The defendant repeatedly punched his mother on the head and body using both fists and threatened to slaughter her.
- ⇒ The defendant threatened his son that he would break his arms and kill him.
- ⇒ The defendant entered the room where his father was sleeping and began threatening to kill him, slaughter him and serve his term afterwards, and cursed him; he punched him with the right fist on the face, pushed him to the bed, threatened by saying “you’ll see what will happen to you”; the police arrived and then the defendant said to the injured party: “get out of the house, you don’t have the right to be here, it’s not yours”.
- ⇒ By using violence and threats, the defendant asked his mother to give him money for gambling and when she refused he punched her on the back, grabbed her hands clutching them, insulted her, and when his mother stopped his rummaging through documents and looking for money and prevented him from taking the TV set out of the house to sell it, he

repeatedly punched her on the back of the head, twisted her arms, squeezed her hands, threatened to kill, strangle and stab her.

- ⇒ The defendant first threatened the injured party that he would beat her up and then slapped her face several times.
- ⇒ The defendant requested money from his parents and when they did not give it to him, he attacked them while threatening and cursing until the police arrived. Several days later, he attacked them first verbally, then he physically attacked his mother, grabbed his father's neck and began choking him.
- ⇒ The defendant cursed the injured party, saying the insulting words, and threatened to slaughter her.
- ⇒ The defendant threatened his son to kill him and slaughter him with an axe, cursed his mother, and then destroyed with a hammer the drinking fountain and the well in the house courtyard.
- ⇒ The defendant insulted his wife, threatened her by saying "thank the child for staying alive", grabbed her neck, began clutching her neck with his hands, raised her from the ground due to which she fell down, and continued hitting her with his hands and legs on the head and body.
- ⇒ During the verbal conflict, the defendant told the injured party that she was a "slut", incapable of living, threw a slipper and a plate at her, twisted her arm, after which the injured person left the apartment where they had lived together.
- ⇒ The defendant insulted her daughter-in-law on a daily basis, belittled her, saying that she was a Gypsy, not worthy of her son who had a university degree; while the injured party was pregnant, she used to tell her that she was carrying a bastard, that it was not her son's child, and when the child was born she would take the child while saying to the injured party that she did not know how to treat the child and that she was a whore.
- ⇒ On several occasions, the defendant threatened the injured party/his wife that he would kill them all, referring to her and her family.
- ⇒ After a short verbal conflict, the defendant threatened the injured party to slaughter her, throw her in the Danube; he twisted her arm and scratched her.
- ⇒ The defendant first started a discussion with the injured party, then grabbed her arms, began to pull, grabbed her jacket, tore the jacket, and hit her so that she sustained a light bodily injury consisting of upper lip contusion.
- ⇒ The defendant insulted his wife, calling her an "Ustasha whore" and idiot, approached her from the back and hit her with the hand so that she lost her balance, and then gave her another blow to the back of the head.

- ⇒ After a verbal conflict, insults and accusations that the injured party cheated on him, the defendant kicked the injured party on the left arm (causing her haematoma and swelling), ordered her to enter the car and drive to S. (whom he accused of being her lover) to clarify everything. While she was driving, he punched her several times on the face and head (causing her left-eye haematoma and oedema, cut on the eyelid, haematoma on the right eyelid and nose).
- ⇒ The defendant insulted the injured party saying that she was a whore, a bitch, cursed her mother, punched her repeatedly on the head, causing her a light bodily injury on the hairy part of the head and a superficial injury of the upper arm.
- ⇒ The defendant gave several blows with her hands and legs on the injured party's head and body, causing her light bodily injuries, and in the second incident, she hit her on the head and body several times, causing her light bodily injuries consisting of the contusion with haematoma on the head and upper leg.

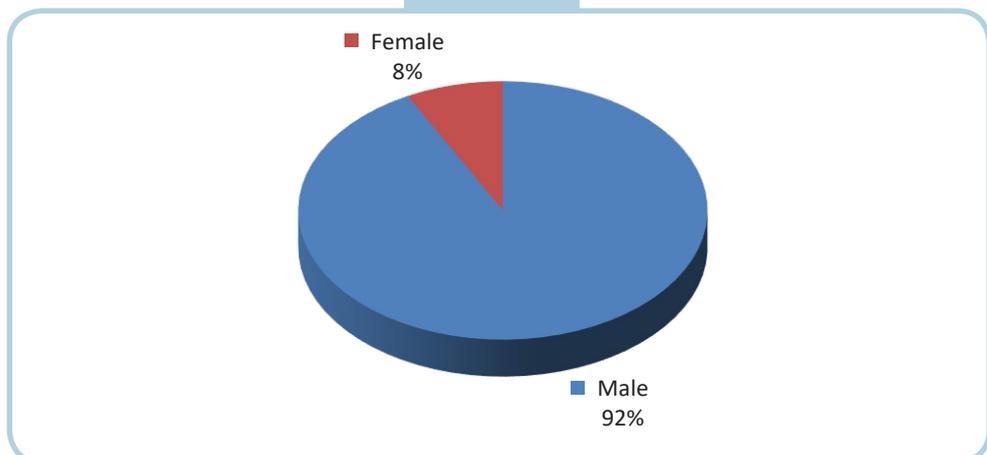
If we compare the methods of domestic violence in the sample of Belgrade and Niš cases with the sample of Novi Sad cases, we can conclude, among other things, that the methods of committing criminal offences in Novi Sad are much less brutal, which suggests that the threshold of tolerance for violence is much lower in the jurisdiction of the Basic Court in Novi Sad.

4.3. Profile of perpetrators

Structure of perpetrators by sex

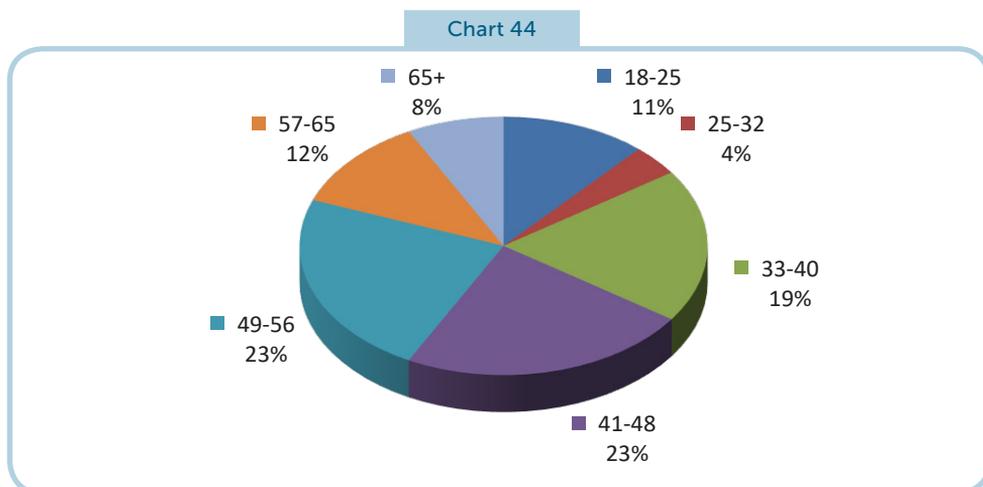
In the examined sample of 25 cases there were 26 perpetrators (there was co-perpetration in one case). Most perpetrators of domestic violence were men - 24 (92.3%). The perpetrators were women only in two cases (7.7%) (Chart 43).

Chart 43



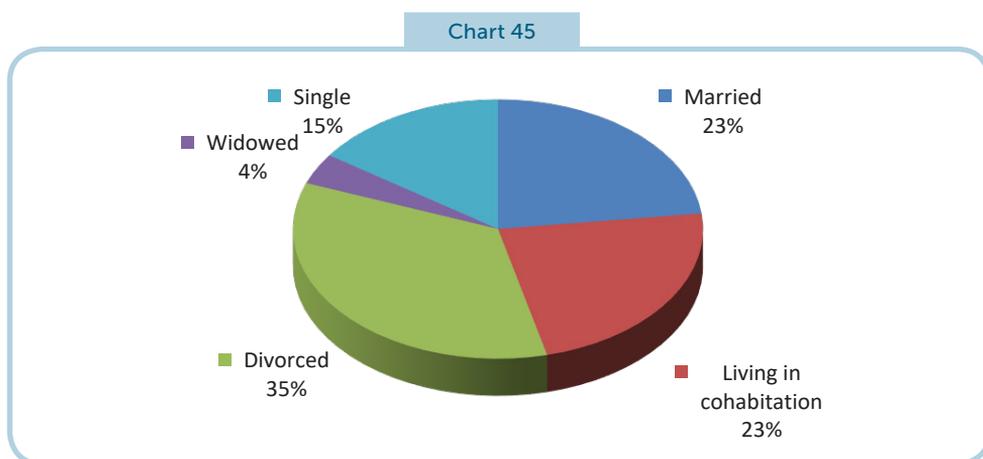
Age of perpetrators

Most perpetrators from the examined sample belong to the age groups 41-48 and 49-56 years (23.1%). Somewhat smaller number of perpetrators were 33-40 years old at the time of perpetration. The equal percentage of perpetrators belong to the age groups 18-25 and 57-65 years, while the smallest percentage of perpetrators are 65+ and 25-32 years old – 11.5% (Chart 44).



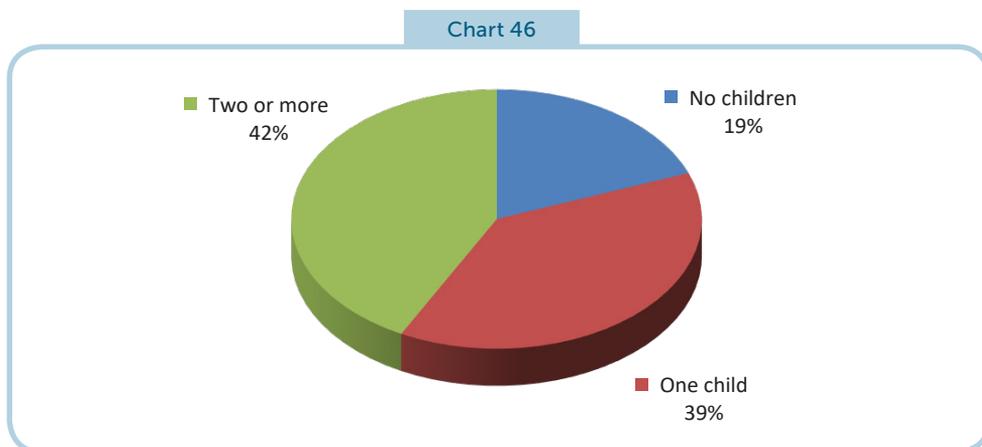
Marital status of perpetrators

In contrast to the cases from Belgrade and Niš, in the Novi Sad cases, most perpetrators of domestic violence are divorced - 34.6%. Six (23.1%) perpetrators were married or in cohabitation, while 15.4% of them were single. One perpetrator was widowed (3.8%) (Chart 45).



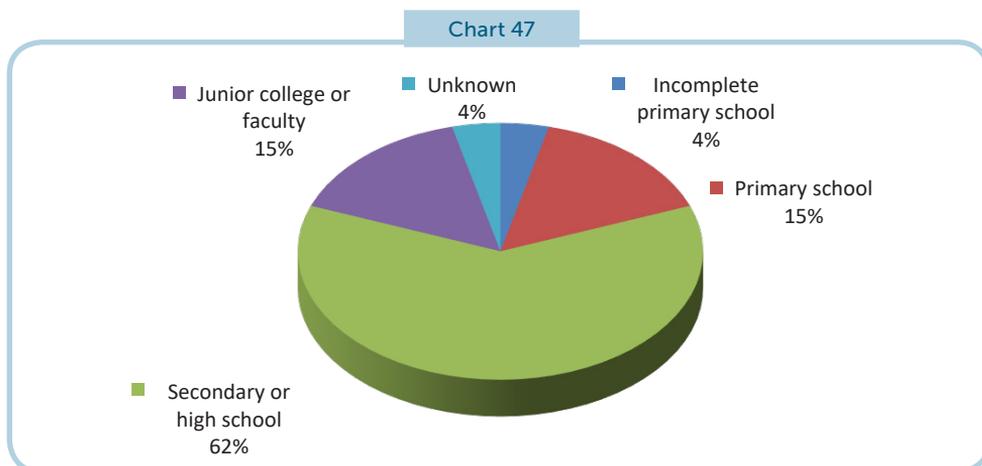
Number of children

Most perpetrators from the examined sample are parents. The largest number of them have two or more children (42.3%), 10 of them (38.5%) have one child, while only 5 perpetrators (19.2%) have no children (Chart 46).



Education of perpetrators

As regards education, most perpetrators completed secondary vocational or high school (61.5%) and the smallest number of perpetrators have no education at all (3.8%). Equal percentage of perpetrators completed junior college/faculty and primary education - 15.4% (Chart 47).



Occupation and employment status

Only a small number of perpetrators (13.5%) have no occupation, while a large majority of them (86.5%) have a certain occupation. They are various and include: journalist,

writer, traffic technician, driver, construction technician, decorator, architect, engine driver, car mechanic, carpenter, locksmith, construction site worker, engineer - master in construction science, veterinary technician, entrepreneur - shop owner, etc.

Most perpetrators are employed - 46.2%, 34.6% are unemployed, while 11.50% are retired. This is no information about the employment status for 7.70% of perpetrators (Table 24).

	Number	Percentage
Employed	12	46.2
Unemployed, looking for a job	9	34.6
Retired	3	11.5
Unknown	2	7.7
Total	26	100.0

Perpetrators' place of birth and residence

The perpetrator's place of birth and residence are the same in most cases; the largest part of perpetrators were born and reside in a city - 76.9% and 92.3% respectively. Six perpetrators were born in a village (23.1%), but no perpetrator resides in a village. Two perpetrators have residence in suburban settlements (Charts 48 and 49).

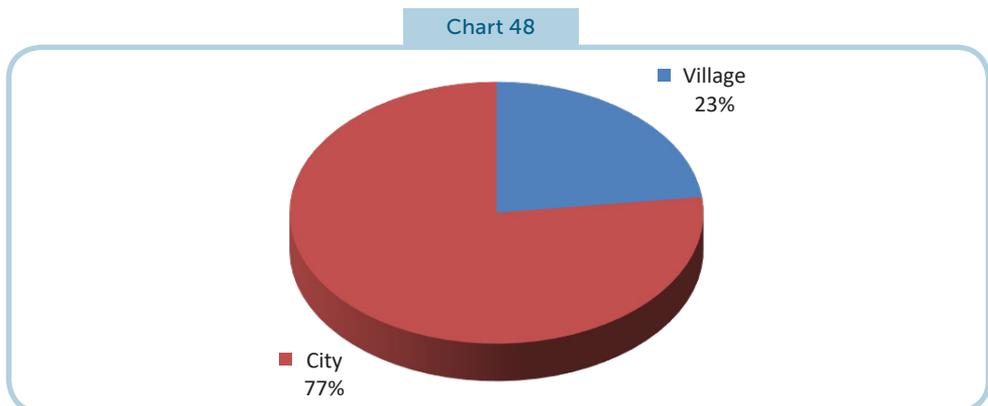
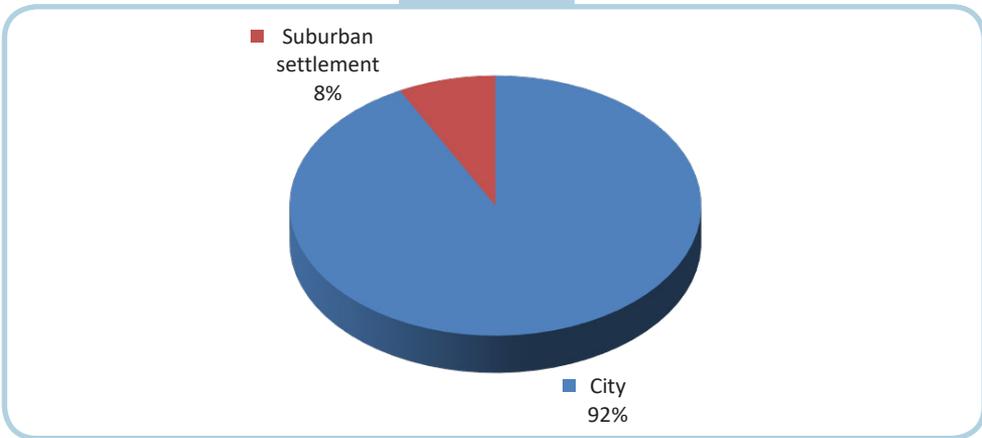


Chart 49



Previous convictions of perpetrators

The largest percentage of domestic violence perpetrators from the examined sample were not previously convicted - 61.5%. However, the percentage of those previously convicted for criminal offences (34.6%) and punished for misdemeanour offences (3.8%) (a total of 10 perpetrators or 38.4%) is not insignificant because some of them were previously convicted more than once (two or three times). One perpetrator was previously convicted two times for the criminal offence of domestic violence and was imposed a suspended sentence both times. One perpetrator was previously punished for a misdemeanour pursuant to the Law on Public Peace and Order (Table 25).

Table 25

	Number	Percentage
Previously convicted	9	34.6
No previous convictions	16	61.5
Misdemeanour convictions	1	3.8
Total	26	100

Family and personal history of perpetrators

In the examined case files, there is very little information about the kind of family in which the perpetrators grew up, whether they committed juvenile criminal offences or had deviant behaviour. Although these are important criminogenic factors, the courts usually do not examine the circumstances of perpetrators' earlier family life, their

behaviour and lifestyle in the primary family. The case files of 17 perpetrators (65.4%) do not contain data on the completeness of and relations in the primary family. Seven perpetrators lived in the complete family (26.9%), while two perpetrators were without a father (7.7%). Seven perpetrators (26.9%) lived in extremely bad family relations, while in two cases the family relationships were poor (Charts 50 and 51).

Chart 50

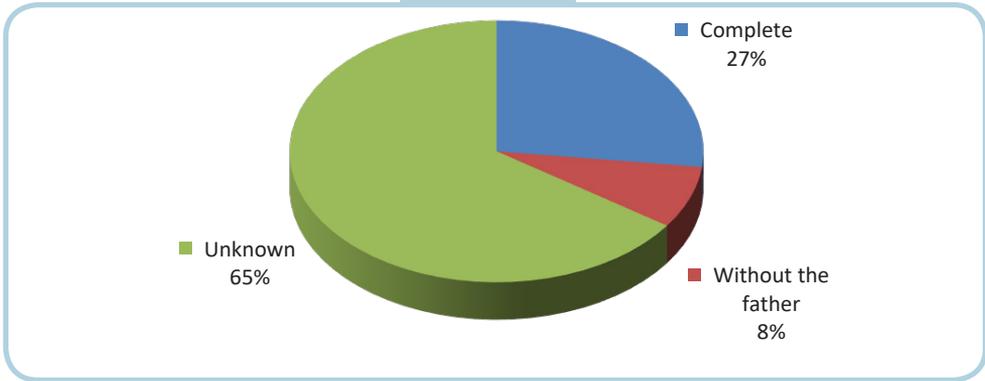
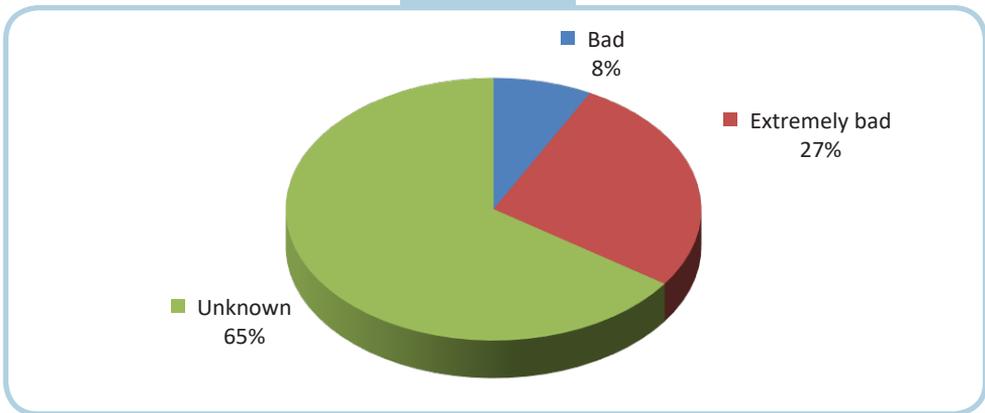


Chart 51



In most court cases, there are no data on perpetrators' suicide attempts and self-injury. Only one perpetrator said that he had considered suicide.

Alcohol and drug abuse

Four perpetrators (15.4%) abused alcohol, but based on this fact, it cannot be concluded that most perpetrators do not consume alcohol because this information remains unknown in 80.8% of cases (Chart 52). At the time of perpetration, eight perpetrators (30.7%) were under the influence of alcohol, and it can be assumed that the number of perpetrators who consumed alcohol excessively is higher than the one shown. Particularly dangerous is the fact that at the time of criminal offence perpetration, complicated

or severe intoxication by alcohol was identified in 3 perpetrators (11.5%) (Chart 53). Based on the description of the event and the family situation, in the cases where the intoxication by alcohol at the time of perpetration was established, it can be concluded that the use of alcohol significantly contributed to poor family relations and increased aggressiveness towards family members.

Chart 52

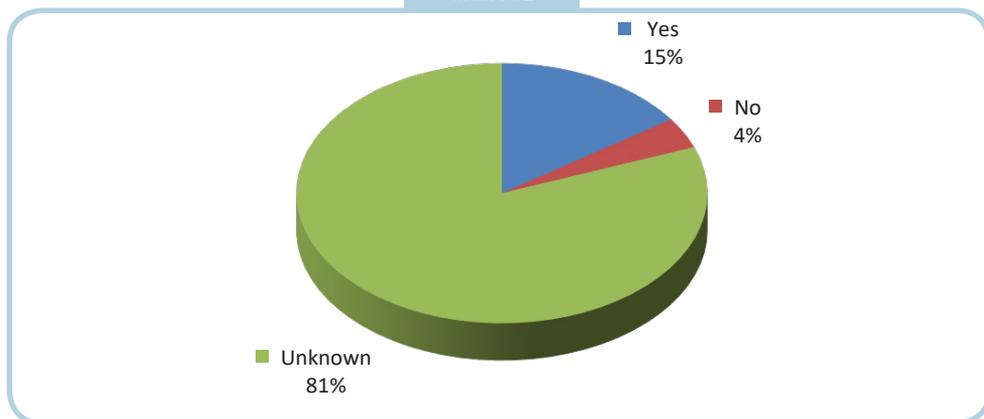
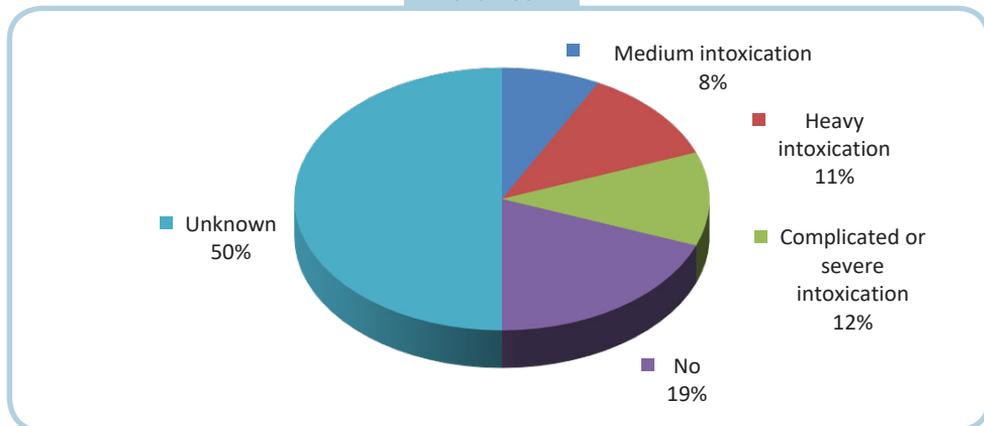


Chart 53



Drug addiction was not observed in the examined sample. In 88.5% of cases, it remains unknown whether the perpetrators used drugs before committing the criminal offence. Criminal offence perpetration under the influence of drugs was not observed either in the examined sample.

Psychopathic personality structure, mental illness and degree of mental competence

Psychopathic personality structure was not established in the perpetrators from the examined sample. Neuropsychiatric findings are the sources of information about a

psychopathic personality structure or mental illness in cases where psychiatric evaluation was conducted and where the case files contained the findings and opinion of neuropsychiatrist as expert witness. There were few neuropsychiatric reports on the mental health of the perpetrators from the examined sample, because most of the perpetrators were convicted for less severe forms of domestic violence, and in such cases the court does not order or very rarely orders the expert evaluation. In one case, the defendant suffered from a depressive disorder, while in two cases the perpetrators had disturbed behaviour due to excessive alcohol use.

At the time of perpetration, 50% of defendants were of sound mind, the mental competence of one perpetrator was diminished though not substantially, the mental competence of two perpetrators was substantially diminished, while this information is unknown for ten perpetrators.

Perpetrator’s attitude towards the criminal offence

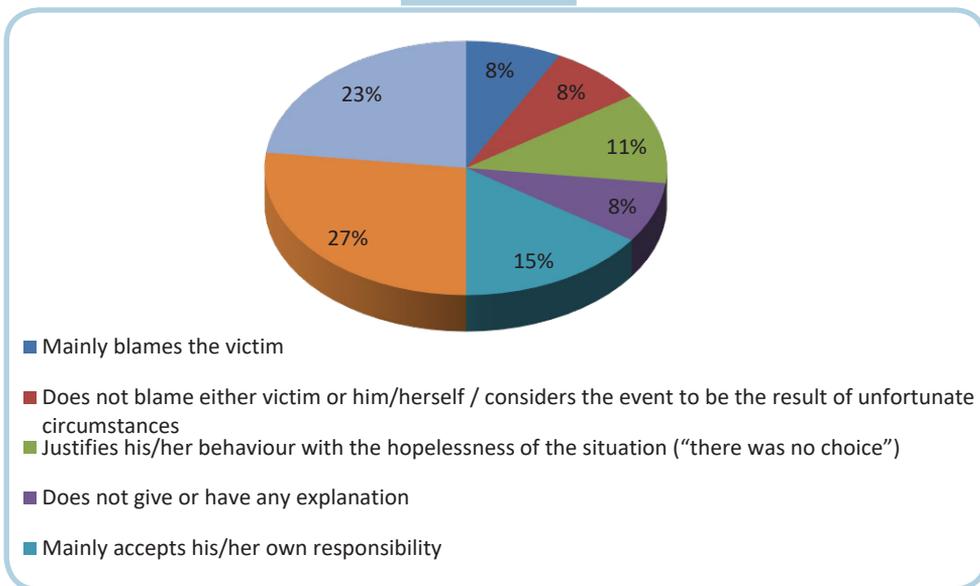
The perpetrator’s attitude towards the perpetrated criminal offence is examined in 21 cases. In five cases, it cannot be concluded what the perpetrators’ attitude was. Most perpetrators do not admit the perpetration of offence - 38.5%, four perpetrators express remorse and repentance (15.4%), the attitude of three perpetrators is unspecified (11.5%), two perpetrators expresses repentance only verbally (7.7%) and two perpetrators consider their action to be appropriate (7.7%) (Table 26).

Table 26		
	Number	Percentage
Yes, genuine remorse and regret	4	15.4
Undefined	3	11.5
Regret expressed only verbally	2	7.7
No regret/consider their action to be appropriate	2	7.7
Denial of offence	10	38.5
Unknown	5	19.2
Total	26	100.0

Regarding the perpetrator’s attitude towards own responsibility for the event, similar to the attitude towards the committed criminal offence, most perpetrators do not admit

their responsibility and deny their connection with the event - 26.9%. Also, it was not possible to determine the responsibility attitude of a large percentage of perpetrators - 23.1%. The remaining perpetrators reacted differently: four perpetrators (15.4%) generally accept their own responsibility, three perpetrators justify their behaviour - 11.5%, two perpetrators (7.7%) blame neither themselves nor the victim, and two perpetrators (7.7%) do not give or have an explanation (Chart 54).

Chart 54



Relations between the perpetrator and the victim prior to the perpetration of criminal offence

Relations between the perpetrator and the victim prior to the perpetration of criminal offence were bad. Abuse, intolerance, disagreement, insults, disparagement, threats, conflicts, physical attacks happened in almost all cases:

- ⇒ The defendant physically abused his father and mother for a long time, used force, threatened, cursed.
- ⇒ Due to the constant use of violence over a longer period of time, in the civil procedure a restraining order was imposed on the defendant, along with the measure of eviction from the apartment.
- ⇒ The defendant and the injured party divorced after two years of marriage, and after the divorce, the defendant sent offensive SMS messages.

- ⇒ Psychological abuse existed since the beginning of marriage, and then physical violence continued for many years with the defendant punching the injured party; a misdemeanour procedure was conducted.
- ⇒ Physical and psychological abuse happened on a daily basis, and lasted throughout the marriage, for sixteen years, until the divorce.
- ⇒ Continuous physical and psychological abuse began when the victim gave birth. Due to suffering everyday hitting and slapping, the injured party had to leave the apartment with the one- month-old baby. She tried to reconcile with the defendant and returned, but the abuse continued so that she had to leave the apartment again.
- ⇒ The defendant and the injured party had marital problems for several years because the defendant was very jealous and consumed alcohol excessively, so that he physically and psychologically abused the injured party, and then threw her out of the house.
- ⇒ For a long period of time, the defendant abused the injured party every day, threatening to kill, slaughter her.

Motives for criminal offence perpetration

The largest number of criminal offences were committed due to the existence of intolerance between the perpetrators and the victims, due to excessive use of alcohol, revenge, jealousy, not getting money, etc. The motives for criminal offence perpetration are deduced from the statements given by the defendants and the injured parties, as well as the testimonies of the witnesses. The court does not determine the motives for the commission of criminal offences.

4.4. Profile of victims

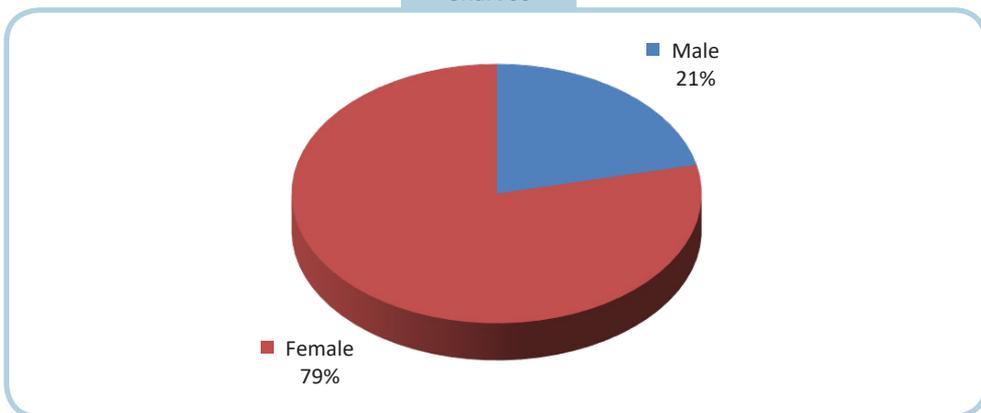
Structure of victims by sex

According to the data from the reviewed court cases, the number of victims is higher than the number of perpetrators, because in three cases there were two victims, which makes 28 victims (Table 27).

	Number of cases	Percentage
One victim	22	88.0
Two victims	3	12.0
Total	28	100.0

The research data confirm that most victims of domestic violence are women. The percentage of female victims is 78.6%, while men account for 21.4% of the total number of victims (Chart 55).

Chart 55



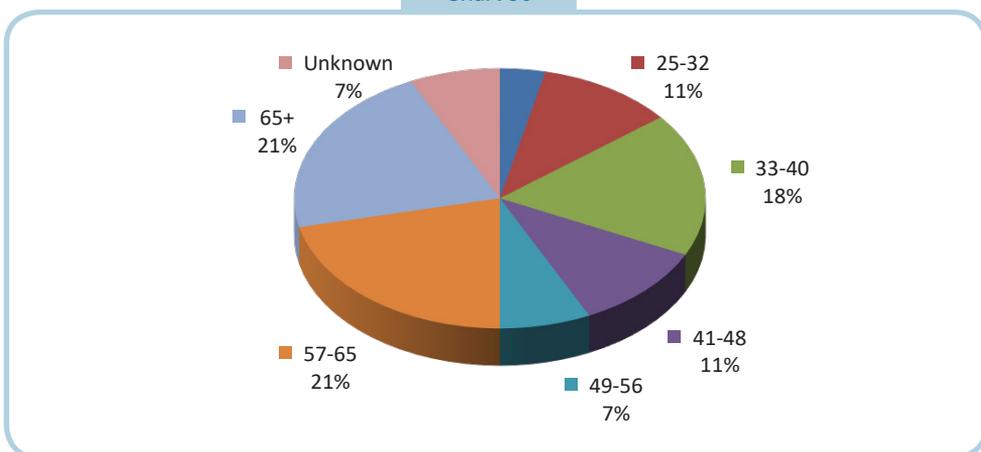
Place of residence and birth of victims

Like the perpetrators, the majority of the victims reside in a city - 92.9%, while two victims (7.1%) live in suburban settlements. A city is the place of birth of 67.90% of victims, while 32.10% of victims were born in a village.

Age of victims

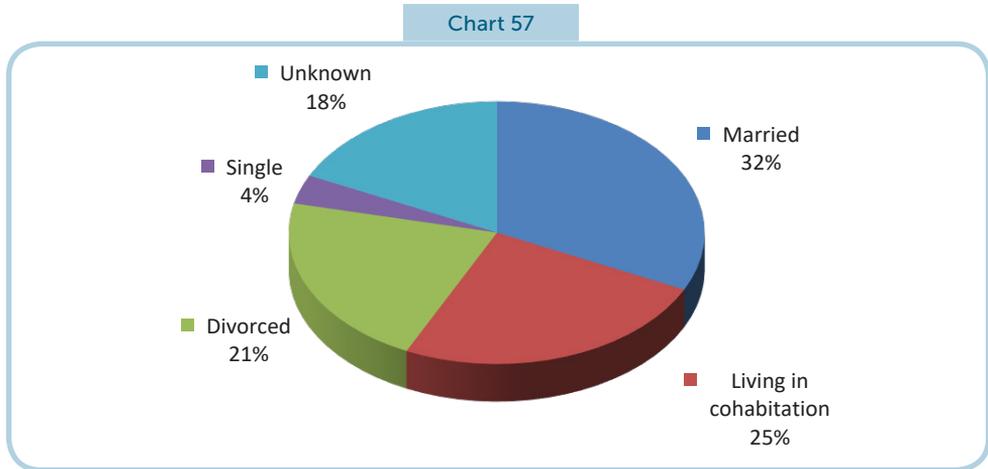
There are no minors among the victims, and the highest number of victims are elderly persons: six victims (21.4%) are 57-65 years old and six (21.4%) are 65+. Three perpetrators belong to the age group 33-40 (17.9%), three victims are in each of the age groups 25-32 years (10.7%) and 41-48 years (10.7%), two victims belong to the age group 49-56 years (7.1%) and one victim is in the age group 18-25 years (3.6%) (Chart 56).

Chart 56



Marital status of victims

The highest number of victims are married (32.10%), 25% of victims are in cohabitation, 21.40% of victims are divorced, one victim is neither married nor in cohabitation, while the marital status of the remaining 5 victims is unknown (Chart 57).



The highest number of victims are the perpetrator's former spouse or cohabiting partner - 28.60% and perpetrator's parents - 35.70%; 14.30% of victims are in cohabitation with the perpetrator, while 3 victims are the perpetrator's children, which makes 10.70% of the total number of victims. Three victims are still in the marriage with the perpetrator (10.70%).

Education of victims

The victims have completed different levels of education and have various occupations: 2 victims have incomplete primary school, 7 victims have secondary or high school education, 3 victims have completed a junior college or faculty, while education is unknown for 14 victims. The victims, like the perpetrators, have a range of occupations, which again shows that both perpetrators and victims can be educated and uneducated and that the likelihood of becoming a victim of domestic violence does not depend largely on the level of either victim's or perpetrator's education.

Employment status of victims

In examining the living conditions of the victims of domestic violence, it is important to take into account their economic circumstances, which primarily depend on their (un) employment status. Data on the employment status of victims in the examined sample show the following: most of them are retired (39.30%), 17.90% of them are employed, one is a housewife and one is unemployed. There are no data on employment status for other victims (35.70%).

Nature of relationship between perpetrators and victims

The largest percentage (35.7%) of the criminal offences of domestic violence were committed against parents (father or mother). It is followed by violence committed against the former spouse or cohabiting partner - 28.6%. In 14.3% of cases the perpetrator and the victim were in cohabitation. Three victims were the perpetrators' children (son/daughter) - 10.7% (Table 28).

	Number	Percentage
Spouse (marriage)	3	10.7
Cohabitation	4	14.3
Former spouses/partners (marriage or cohabitation)	8	28.6
Father/mother	10	35.7
Son/daughter	3	10.7
Total	28	100.0

Weapons held by victims and influence of alcohol at the time of perpetration

At the time of the commission of domestic violence, none of the victims carried or used any implements.

Unlike the perpetrators, who were under the influence of alcohol in a significantly higher number at the time of perpetration, one victim was intoxicated by alcohol at the time of criminal offence perpetration.

Relations between the perpetrator and the victim prior to the criminal complaint and response to previous violence

As already mentioned, none of the prosecuted criminal offences of domestic violence were one-off actions, but the process of physical and psychological abuse existed well before the criminal procedure and was usually continuous. Relations between the perpetrators and the victims were very bad prior to the commission of the criminal offence. According to the established facts, the victims were exposed to physical and/or psychological violence for a long period of time, while the defendants, most often under the influence of alcohol, were very aggressive, quarrelling with the injured parties, yelling, insulting, beating and slapping them. Interestingly, in one case, it was found that the

sons had abused the father to revenge for having been severely beaten by him in childhood. In only two cases there had been no conflicts prior to the commission of the criminal offence, and in one case it was not possible to deduce, based on the case file and the judgment, what kind of relations had existed between the perpetrator and the victim prior to the commission of the criminal offence.

Although violence existed even before reporting it, eleven victims (39.2%) did not address anyone seeking protection against violence. Other victims addressed the social welfare centre; two victims were placed in a safe house. In one case, the victim stated that she had a negative experience with the social welfare centre. Out of 28 victims, 10 addressed the police.

4.5. Criminal proceedings - substance, course and duration

In most cases from the sample, criminal procedure was conducted against the perpetrators of the criminal offence of domestic violence referred to in Article 194, paragraph 1 - 96.2% and Article 194, paragraph 5 - 3.8%.

According to the data provided by this Court in response to the freedom of information request, the basic form of the criminal offence of domestic violence prevail in its practice (Table 29).

Table 29
Basic Court in Novi Sad

Type of offence	Article 194 paragraph 1 of the Criminal Code	Article 194 paragraph 2 of the Criminal Code	Article 194 paragraph 3 of the Criminal Code	Article 194 paragraph 4 of the Criminal Code	Article 194 paragraph 5 of the Criminal Code
2014	65	11	13	/	1
2015	90	14	17	/	4

4.5.1. Detention

Unlike in the cases from Belgrade and Niš, where detention was imposed on domestic violence perpetrators much more often, only six perpetrators from this sample (23.10%) were detained. Detention was not imposed on the perpetrators because, according to the court's assessment, there were no legal grounds for detention (Table 30).

Table 30

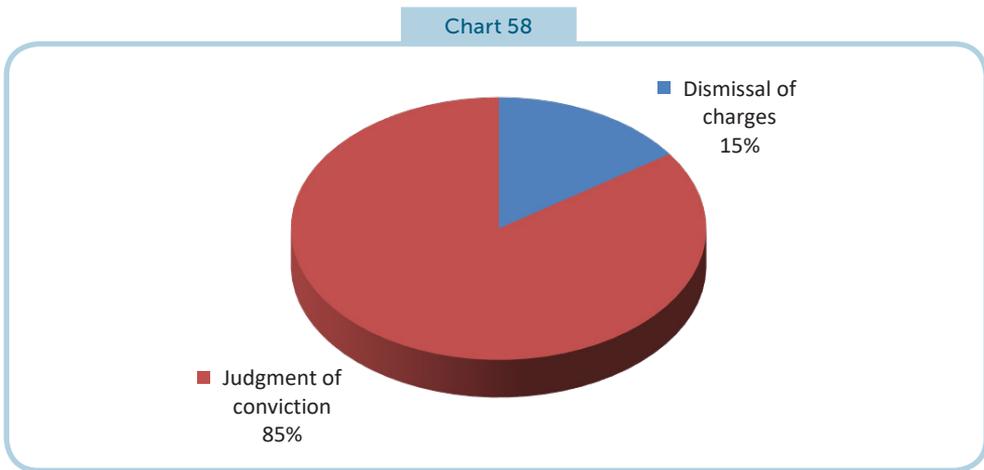
	Number	Percentage
Detention pronounced	6	23.1
Detention not pronounced	20	76.9
Total	26	100

4.5.2. Evidence

In the examined sample, the most frequent evidence was: examination of defendants, examination of witnesses, examination of injured parties as witnesses, review of medical documentation, analysis of the findings of mobile operators about the communication with a mobile phone.

4.5.3. Outcome of procedure

In the cases with final court decisions (25), the perpetrators of domestic violence (26) were mainly convicted (22 or 84.6%). Only in four cases (15.4%), the judgment dismissing the charges was rendered based on Article 422, paragraph 1, point 1 of the Criminal Procedure Code for the abandonment of charges by the prosecutor and the abandoned motion to prosecute by the injured party (Chart 58).



4.5.4. Appeal

In the highest percentage of cases (96%), an appeal was not filed against the first-instance decision. An appeal was filed only in one case because of the erroneously established factual situation, substantial violation of the provisions of the criminal procedure, violation of the criminal code and decision on criminal sanctions. In the second-instance procedure, the appeal was rejected as unfounded. A large number of first-instance decisions became final at the main hearing as the parties waived the right to appeal. For that reason, many judgments did not contain explanations. A plea agreement was concluded in one case and there was no appeal in this case either.

4.5.5. Duration of procedure

One of the basic goals of this research has been to determine whether there was any change in the efficiency of the judiciary compared to the previous period. In fact, the results of previous research show that the criminal procedures for domestic violence are

usually very lengthy and that the criminal justice protection against domestic violence is not sufficiently efficient. In the cases examined in previous research, it took an average of 2.8 months before the public prosecutor filed a charging document. In order to see the efficiency of the court procedure, it has been observed in five phases: from submitting a criminal complaint to filing a charging document; from filing a charging document to rendering a first-instance decision; from submitting a criminal complaint to rendering a second-instance decision; from submitting a criminal complaint to the finality of judgment; from rendering a first-instance decision to rendering a second-instance decision (Table 31).

Table 31

	Criminal complaint/ charging document	Charging document/ first-instance decision	Criminal complaint/ second-instance decision	Criminal complaint/ finality of judgment	First-instance decision/ second-instance decision
Up to 1 month	5 (20%)	4 (16%)	0	0	0
1 - 3 months	0	10 (40%)	0	1 (4%)	1 (4%)
3 - 5 months	1 (4%)	2 (8%)	0	2 (8%)	0
5 - 7 months	1 (4%)	4 (16%)	0	2 (8%)	0
7 - 10 months	5 (20%)	3 (12%)	0	2 (8%)	0
10 - 12 months	3 (12%)	1 (4%)	0	3 (12%)	0
1 - 2 years	6 (24%)	0	0	10 (40%)	0
2 - 4 years	3 (12%)	1 (4%)	0	2 (8%)	0
4 - 5 years	1 (4%)	0	1 (4%)	2 (8%)	0
Over 5 years	0	0	0	1 (4%)	0
TOTAL	25	25	1	25	1

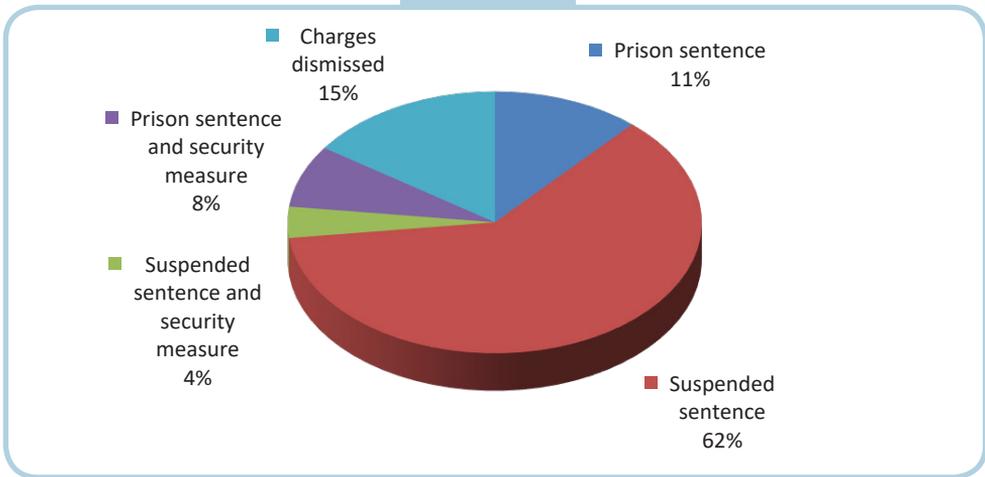
The previously conducted research has shown that the procedure before the prosecutor's office was most efficient because in the majority of cases it took 1-3 months for filing a charging document, while in a much smaller number of cases a charging document was filed after seven months or a year. In the present sample of examined cases, the period from submitting a criminal complaint to filing a charging document is longer in most cases. It took one to two years to file a charging document in six cases (24%), in five cases (20%) that period was up to one month, which is certainly very fast and efficient; however, in some cases it was from seven to ten months. In three cases (12%), this part of the procedure lasted from 10 to 12 months, in three cases from 2 to 4 years, in one case from 3 to 5 months, in one case from 5 to 7 months and in one case from 4 to 5 years. We should certainly bear in mind the complexity of cases and the time required for the collection of evidence. As regards the criminal offences of domestic violence, research shows that the most common evidence is a medical certificate and/or a statement of the injured party heard as a witness. The collection of this evidence requires a relatively short time, which significantly shortens the procedure from submitting a criminal complaint to filing a charging document. Therefore, it is unjustified that this phase of the procedure lasts more than a year.

According to the data presented in the table, the courts were more efficient than the prosecutor's office. In fact, most first-instance decisions (10 or 40%) were rendered within 1-3 months of filing a charging document. Data on the number of main hearings also indicate the efficiency of courts because in most cases one or two main hearings were held. Only in one case, twelve main hearings were held. However, it is interesting that the period from submitting a criminal complaint to the finality of judgment was fairly long; ten judgments (40%) became final in one to two years from submitting a criminal complaint. Considering that in only one case an appellate procedure was conducted, the period from submitting a criminal complaint to filing a charging document contributed to a longer duration of the overall procedure.

4.6. Type and level of pronounced criminal sanctions

In 96% of cases, criminal sanctions were pronounced to domestic violence perpetrators. Only in four cases (15.4%), the judgment on the dismissal of charges was rendered due to the withdrawal by the public prosecutor (Chart 59).

Chart 59



Prison sentence as only penalty and in combination with security measures was pronounced in 5 cases with different durations. The minimum prison sentence of three months was pronounced in one case, the prison sentence in the duration of four months was pronounced in one case, in two cases the prison sentence of six months was pronounced and in one case it was seven months. These data show that mainly short prison sentences were pronounced (Table 32).

Table 32

	Number	Percentage
3 months	1	
4 months	1	
6 months	2	
7 months	1	
Total	5	100.0

Security measures were pronounced in combination with prison sentences and suspended sentences. In total, three security measures were imposed: compulsory alcohol addiction treatment in two cases and confiscation of object used for committing the criminal offence in one case.

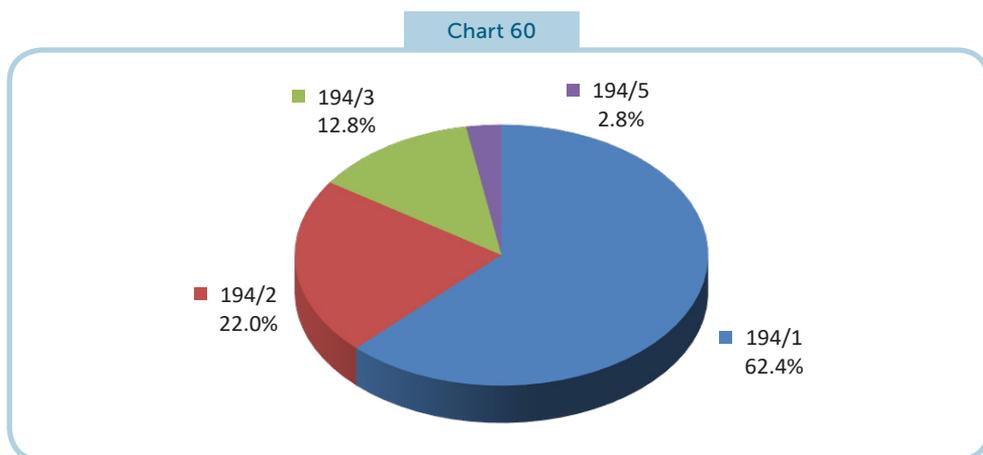
In sentencing, the court took into account mitigating and aggravating circumstances, but they were not indicated in all judgments. In 16 judgments there are no explanations

in accordance with Article 429, paragraph 1, point 1 of the Criminal Procedure Code, and consequently, there are no mitigating or aggravating circumstances. The judgments that do contain an explanation state the following mitigating circumstances: the defendant's personal circumstances, youth, behaviour after committing an offence, admission and repentance, the injured party did not claim indemnification and stated that this incident was "one and only", absence of earlier convictions, an "advanced age", the defendant is the father of a minor child, intoxication by alcohol at the time of perpetration, factual situation related to the offence, poor financial situation. Very few aggravating circumstances are stated in the judgments: recidivism, intoxication by alcohol (this is a mitigating circumstance in some judgments), social danger of committed criminal offence, violation of restraining order, violation of suspended sentence.

5. Summarised findings from the entire sample

5.1. Forms of criminal offence perpetration

In the examined sample of 100 court cases, the number of committed criminal offences of domestic violence was 109. Most cases of domestic violence consisted of the criminal offences referred to in Article 194, paragraph 1 (62.38%), and the smallest number of criminal offences were those referred to in Article 194, paragraph 5 (2.75%). A smaller number of domestic violence cases were severe forms referred to in Article 194, paragraph 2 and 194, paragraph 3 - 22.00% and 12.8% respectively. These data show that the less severe form of domestic violence prevails in the entire sample of examined court cases (Chart 60).



5.2. Joinder of offences, complicity, place of perpetration

In a small number of cases, the criminal offence of domestic violence was perpetrated in joinder with the same or other type of offences. Only in 19 cases (19%), the joinder of offences was identified. In cases where there was a joinder of offences, the criminal offence of domestic violence was committed together with other criminal offences, such as the endangerment of safety referred to in Article 138 of the Criminal Code of the Republic of Serbia and the abduction of a minor defined in Article 191 of the Criminal Code. In one case there was a joinder of offences of domestic violence and criminal offence of attack on an official in the performance of duty from Article 323 of the Criminal Code of the Republic of Serbia.

In most cases, criminal offences were committed independently - 95%. In only one case, the criminal offence of domestic violence was committed in complicity or co-perpetration as a form of complicity.

When the criminal offence of domestic violence is being committed, other persons are often presents, family members, usually children, who can also be considered victimised. In 50% of cases from the examined sample, there were eyewitnesses, who appeared as witnesses at the main hearing in some cases.

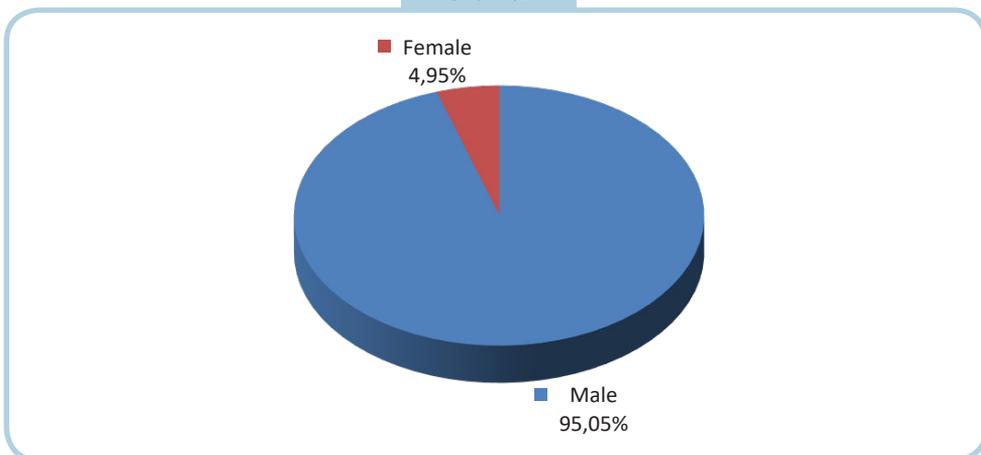
The research findings reveal that the criminal offence of domestic violence is usually perpetrated in cities. A city was the place of perpetration in 94.2% of all cases, while in only 6% it was a village. The place of perpetration coincides with the place of residence in 99.00% of cases, and only 1% of domestic violence cases happened outside of the place of residence. In most cases (65%), the criminal offence was committed in the joint apartment/house of the victim and the perpetrator, followed by the victim's apartment/house - 15% and the perpetrator's apartment/house - 13%. Other places were less frequent: the victim's parental home - 1%, park and the open space - 1%.

5.3. Profile of perpetrators

Sex

In the examined sample of 100 court cases, the criminal offences of domestic violence were committed by 101 perpetrators (in one case there were two perpetrators). The largest number of perpetrators were men - 96 (95.05), while the number of women was much smaller - 5 (4.95%) (Chart 61). Interestingly, only one woman committed the criminal offence of domestic violence against her spouse (partner violence), while other women committed criminal offence against other family members (daughter-in-law, mother, granddaughter).

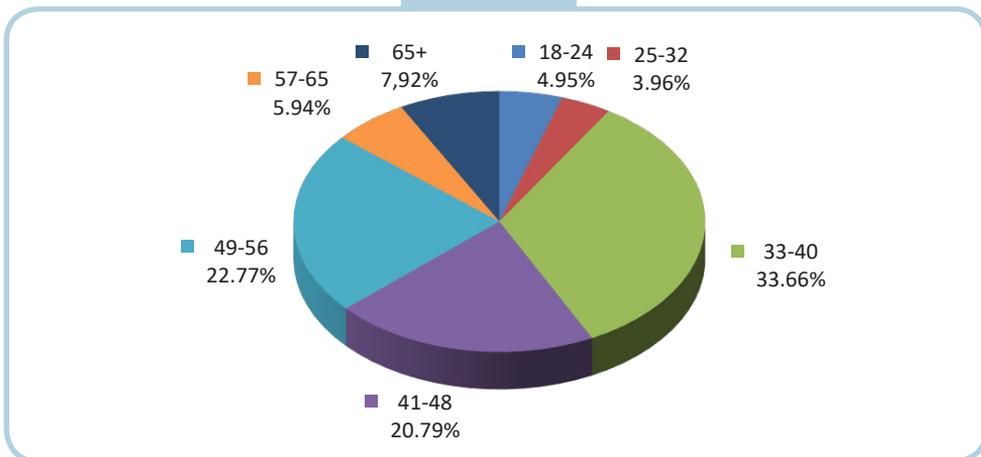
Chart 61



Age

As regards the age of the perpetrators, most of them belong to the age group 33-56 years - 77.22%. It is evident that a certain percentage of perpetrators (7.92%) are in the age group 65+. A smaller number of perpetrators are young: 4.95% of them are in the age group 18-24 years and 3.96% are in the age group 25-32 years (Chart 6).

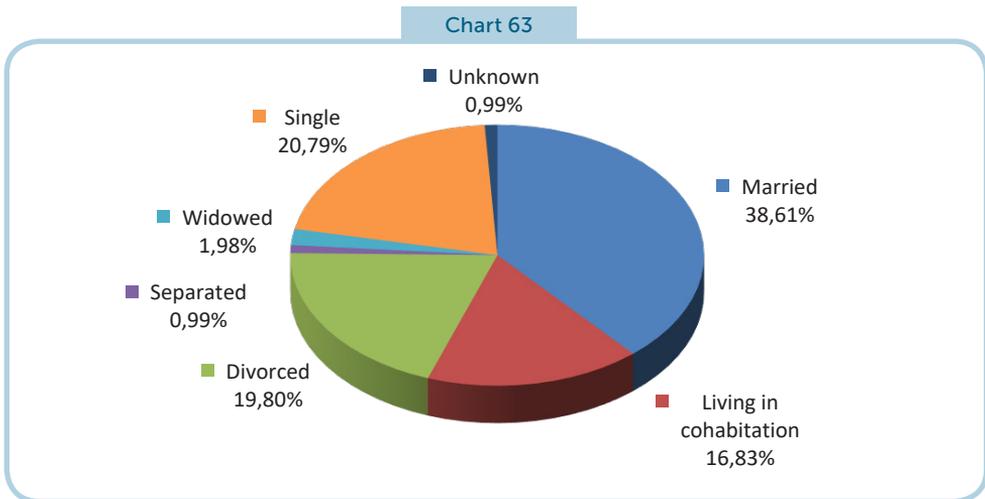
Chart 62



Marital status

The highest number of perpetrators, like the victims, are married - 38.61%. We have already pointed out that the marital status of the perpetrators was observed at the time of perpetration. Given that in most cases violence existed over a longer period of time before reporting and conducting a court procedure, the share of single and divorced

perpetrators is noticeable: 20.79% and 19.80% respectively. 17 perpetrators (16.83%) were in cohabitation. (Chart 63).



Number of children

47.52% of perpetrators had two or more children, while 28.72% of perpetrators had one child and slightly fewer perpetrators were without children - 23.76%.

Education

Data on the education of the perpetrators show that the majority of them have secondary education - 63.36%. 17.82% of perpetrators have completed primary school, 12.87% of them have junior college or faculty education, while the smallest percentage of perpetrators have incomplete primary school education - 2.97 and master's degree - 1.98%.

Employment status

Poverty is an important factor of criminal behaviour. Therefore, in identifying the causes of crime, it is necessary to find out about the economic status of perpetrators, i.e. whether they are employed and economically stable. In the examined sample, the percentage of employed perpetrators is much smaller (29.70%) than the percentage of unemployed ones (42.57%), which means that their financial situation is unsatisfactory. 13.86% of perpetrators are pensioners, but given the levels of pension, this fact does not increase the financial power of most perpetrators.

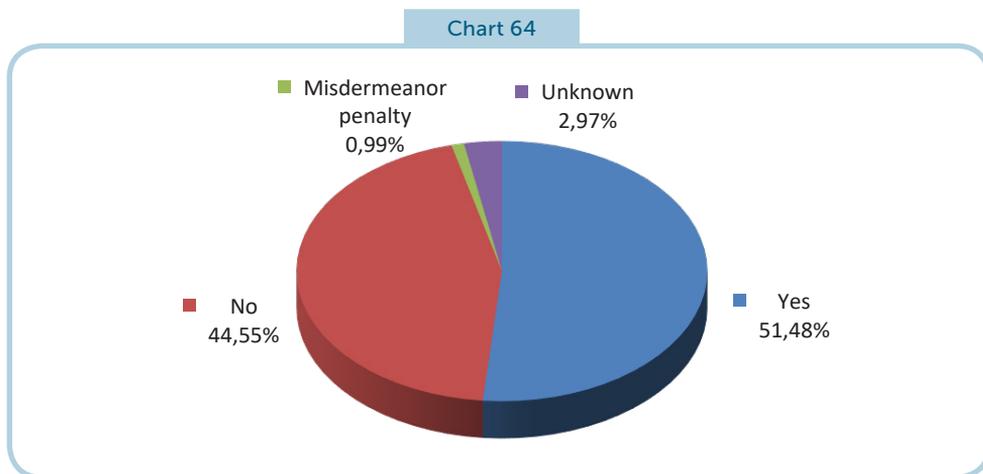
Place of birth and residence

A city is the place of birth of most perpetrators - 79.20%, while 21 perpetrators were born in a village - 20.80%. Also, a much greater number of perpetrators reside in a city - 82.18%, while only 8 perpetrators reside in a village (7.92%). These data coincide with the

place of perpetration, since the highest percentage of criminal offences were committed in cities - 94%.

Previous convictions

Data on the previous convictions of perpetrators show that the percentage of recidivists is high - 51.48%, which certainly increases their social danger, especially if they have already committed the criminal offences of domestic violence. The smaller percentage of perpetrators were not previously convicted - 44.55% (Chart 64).



Family and personal history of perpetrators

The court files usually do not contain the information about the completeness of the perpetrator's primary family and family relations in the primary family; thus, the completeness of the family is unknown for 64.35% of perpetrators, while for 78.21% of perpetrators it was not possible to determine the quality of family relations in the primary family bases on the reviewed cases. The family of 25 perpetrators (24.75%) was complete, 10 perpetrators grew up without a father (9.90%) and one without a mother. In the families of most perpetrators (10 or 9.90%), relations were bad or extremely bad (7 or 6.93%), while good relations existed in five families (4.95%).

The court files contain little data on the primary family of perpetrators; the situation is the same with respect to the data on the perpetrators' deviant behaviour in their childhood and youth, including suicide attempts, self-injury, early abuse, running away from home, school absenteeism and juvenile offences. The above data exist only in the case files that include the finding and opinion of neuropsychiatrist as expert witness.

There are no data on suicide attempts for 71 perpetrators (70.30%), 26 perpetrators (25.74%) did not have such attempts, while 4 perpetrators (3.96%) had only suicidal ideas.

In most cases (76 or 75.25%) it was not possible to find out whether there was self-injury. Self-injury did not exist in 25 perpetrators (24.75%).

Early abuse or abuse in childhood and early youth can be an indicator of later delinquent behaviour and transgenerational transmission of violent behaviour. However, in the cases examined, only for 12 perpetrators (11.88%) it was established that there had been no abuse. This information remained unknown for other perpetrators (89 or 88.12%).

It is important to have information about running away from home and school absenteeism because it shows a person's attitude towards the family and school education and the acceptance of social values and postulates. These types of deviant behaviour did not exist in the same number of perpetrators (7 or 6.93%), while in case of 94 perpetrators, it was unknown whether there was any running away from home and/or school absenteeism.

In order to get the entire picture of the perpetrators' personal history, it is important to determine whether they committed juvenile offences. In the examined sample, there were no data on the commission of juvenile offences for 86 perpetrators (85.13%). 15 perpetrators (14.85%) did not behave in such a way.

Alcohol and drug abuse

Data on the abuse of alcohol and drugs by the perpetrators was unknown in 53 (52.48%) and 57 (56.44%) cases respectively. Excessive alcohol consumption, often referred to by the victims as a decisive factor for disagreements and family violence, was found in 36 perpetrators (35.64%). Drug addiction existed in eight perpetrators (7.92%). Alcoholism and drug addiction of perpetrators led to imposing the security measure of compulsory treatment along with the punishment.

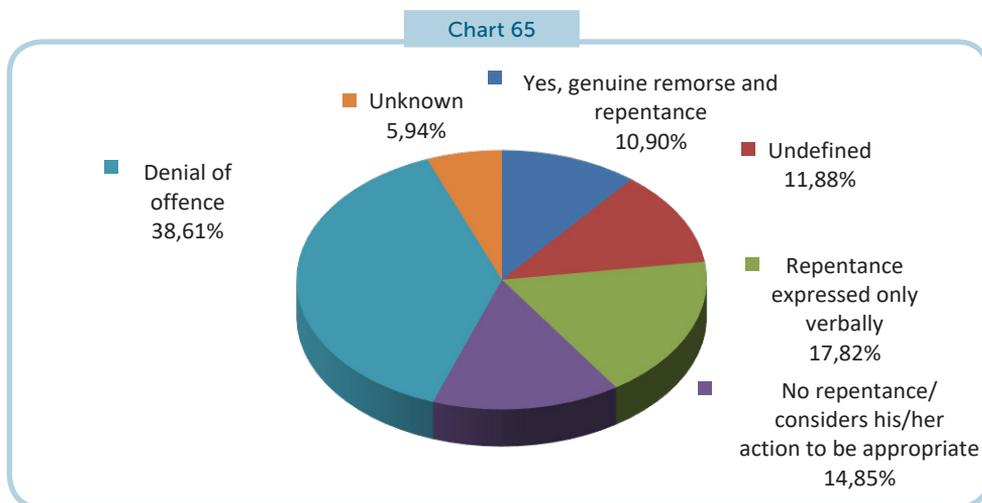
Intoxication by alcohol at the time of perpetration existed in 43 (42.57%) perpetrators in the form of light intoxication - 7 (6.93%), medium intoxication - 15 (14.85%), heavy intoxication - 15 (14.85%) and complicated intoxication - 6 (5.94%). Three perpetrators (2.97%) were under the influence of drugs at the time of the commission of the criminal offence.

Psychopathic personality structure and mental illness in perpetrators

We cannot make reliable conclusions about the existence of psychopathic structure of personality or mental illness, because in most cases there are no data - 64 (63.36%). These data could be found in the neuropsychiatric findings and opinions. Thus, 11 perpetrators (10.90%) had a psychopathic personality structure and 26 perpetrators (25.74%) did not.

Perpetrator's attitude towards the criminal offence

The domestic violence perpetrators from the examined sample most often do not admit that they committed the criminal offence they are charged with - 39 (38.61%). Eighteen perpetrators (17.82%) express repentance only verbally, fifteen perpetrators (14.85%) do not repent and consider their action to be appropriate, the attitude of twelve perpetrators (11.88%) is unspecified, only eleven perpetrators (10.90%) express genuine remorse and repentance (Chart 65).



The perpetrator's behaviour after the committed criminal offence is perceived also through the perpetrator's attitude towards the responsibility for the event. The perpetrators mainly do not assume such responsibility because in the largest number of cases (31 or 30.69%), they do not admit the commission of the criminal offence. Many perpetrators do not give or do not have an explanation - 20 (19.80%). Sixteen perpetrators (15.89%) generally assume their own responsibility, while fifteen perpetrators (14.85%) mainly blame the victim (Table 33).

	Number	Percentage
Mainly blame the victim	15	14.85
Do not blame either victim or themselves/consider the event to be the result of unfortunate circumstances	6	5.94
Justify their behaviour with the hopelessness of the situation ("there was no choice")	4	3.96

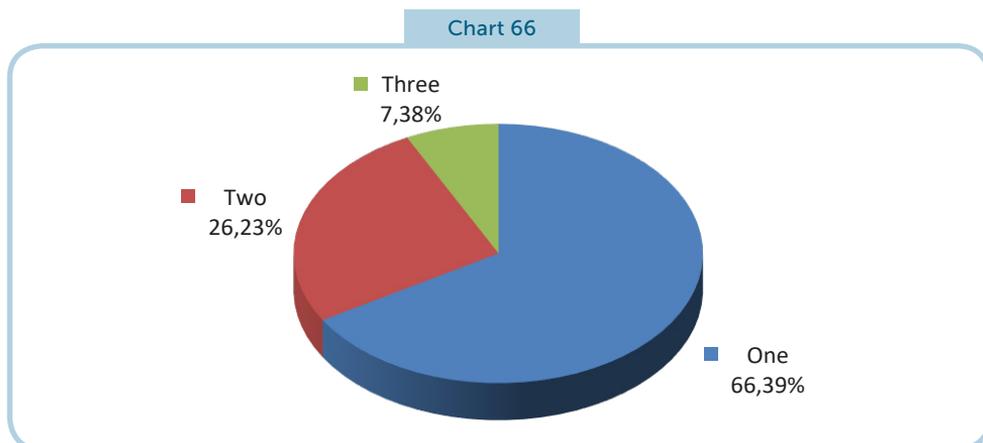
Do not give or have any explanation	20	19.80
Mainly accept their own responsibility	16	15.84
Do not admit the criminal offence and deny any connection with it	31	30.69
Blame both themselves and the victim	1	0.99
Unknown	8	7.92
Total	101	100.00

Perpetrator's mental competence at the time of criminal offence perpetration

Many perpetrators (54 or 53.47%) were of sound mind at the time of the commission of the criminal offence. Although this information is unknown with respect to fifteen perpetrators, these are certainly mentally competent perpetrators, although the court did not specifically state that fact because the explanation of the judgment was missing or a plea agreement was accepted. The mental competence was diminished in nineteen perpetrators (18.81%), though not substantially, the mental competence of eleven perpetrators (10.89%) was substantially diminished, while only two perpetrators (1.98%) were of sound mind.

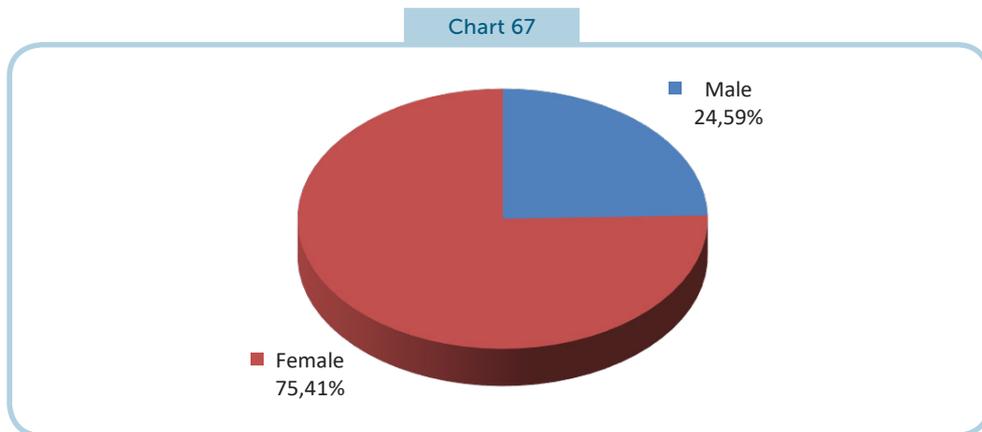
5.4. Profile of victims

The examined sample of 100 court cases included 122 victims of the criminal offences of domestic violence. There was one victim in most cases - 81 (66.39%) (Chart 66). It should be noted that in the majority of court cases there is very little information about the injured party or victim.



Structure of victims by sex

Most victims of domestic violence were women - 75.41%, while the percentage of male victims is significantly smaller - 24.59% (Chart 67).

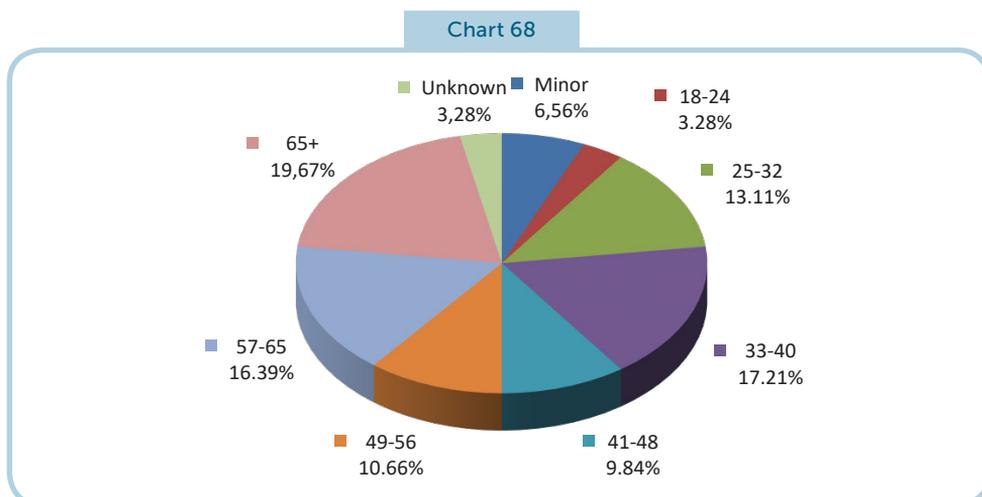


Place of residence and birth of victims

Most victims, like perpetrators, were born in a city - 85.24% and reside in a city - 70.49%. Fewer victims were born in a village - 19.67% and reside in a village - 7.38%.

Age of victims

The highest number of victims from the examined sample are old persons – 24 victims are 65+ (19.67%), 21 victims are in the age group 33 – 40 years (17.21%), 20 victims belong to the age group 57-65 years (16.39%), 16 victims are 57-65 years old (13.11%), 13 victims are 49-56 years old (10.65%), and 12 victims are 41-48 years old (9.84%). The smallest number of victims are minors – 8 (6.56%) and 18-24 years old (3.28%) (Chart 68).



Marital status of victims

According to the data on the victim's marital status, which did not exist in all cases (this information was missing in 18 cases), the victims, like the perpetrators, were mostly married - 57 (46.72%). Seventeen victims were divorced (13.93%), while fourteen victims were in cohabitation (11.48%). Twelve (9.84%) victims were single, two victims (1.64%) were separated and two victims (1.64%) were widowed (Table 34).

	Number	Percentage
Married	57	46.72
Living in cohabitation	14	11.48
Divorced	17	13.93
Separated	2	1.64
Widowed	2	1.64
Single	12	9.84
Unknown	18	14.75
Total	122	100.00

Number of children

Most victims have two or more children - 51 (41.80%), 41 (33.61%) victims have one child, while 21 victims (17.21%) do not have children.

Education and employment status of victims

The case files contain very little information on the education, employment and occupation of victims. According to the available data on the education of victims (this information is missing in 67 cases), the highest number of victims, like the perpetrators, have secondary education - 27 (22,13%), 12 victims (9.84%) have completed primary school, seven victims (5.74%) have junior college or university education, four victims (3.28%) are without education and three victims (2.46%) have incomplete primary school education.

There were no data on the employment of victims in 43 cases (35.25%). According to the available data, a significant number of victims were employed - 24 (19.67%). There are many pensioners among the victims - 31 (25.41%); there are ten (8.20%) housekeepers and five (4.10%) pupils. Nine (7.38%) victims are unemployed.

Relationship between victims and perpetrators

In contrast to previous research that found that intimate partner violence was a prevailing form of domestic violence, the present research shows a somewhat smaller percentage of intimate partner violence. In fact, most victims of domestic violence are the perpetrator’s father and mother - 33 victims (27.05%), followed by the spouse - 30 victims (24.59%). Violence against children also occurred: 21 victims (17.21%) were sons and daughters (Table 35).

	Number	Percentage
Spouse (marriage)	30	24.59
Cohabitation	13	10.66
Former spouses (marriage or cohabitation)	18	14.75
Father/mother	33	27.05
Son/daughter	21	17.21
Grandchild	1	0.82
Son/daughter-in-law	1	0.82
Father/mother-in-law	2	1.64
Grandfather/grandmother	1	0.82
Ex-boyfriend/girlfriend	1	0.82
Brother/sister	1	0.82
Total	122	100.00

Based on the known data, it can be concluded that none of the victims in the examined sample possessed weapons (97.54%) or used it (95.08%).

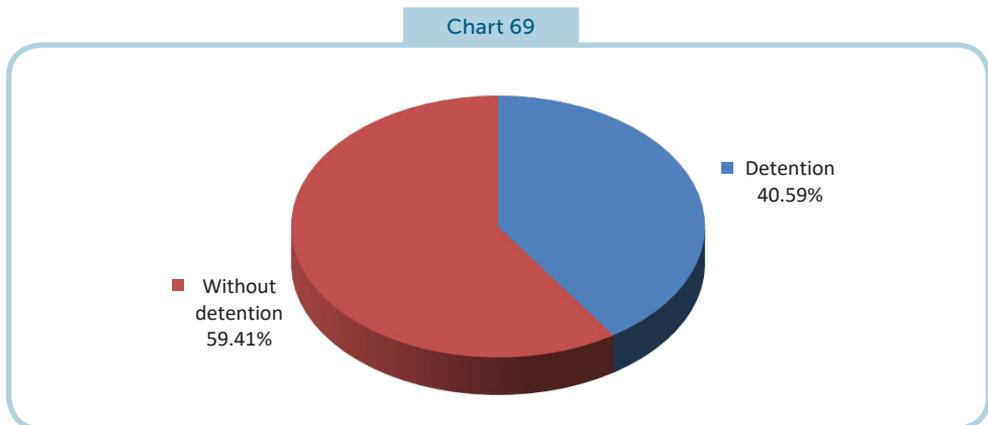
At the time of the commission of the criminal offence, 108 victims (88.52%) were not under the influence of alcohol, while seven victims were under the influence of alcohol - 7 (5.74%). For seven victims (5.74%) there was no information whether they were under the influence of alcohol at the time of the commission of the criminal offence.

5.5. Criminal proceedings - substance, course and duration

In most cases from the sample (100), the criminal procedure was conducted against the perpetrators of the criminal offence of domestic violence referred to in Article 194, paragraph 1 - 62.38%; then against the perpetrators of the criminal offence of domestic violence referred to in Article 194, paragraph 2 - 22.00%, Article 194, paragraph 3 - 12.84% and Article 194, paragraph 5 - 2.75%. Detention was not imposed on the majority of perpetrators - 60 (59.41%).

5.5.1. Detention

Detention was imposed on 41 perpetrators (40.59%) (Chart 69).



5.5.2. Evidence

In the examined sample, the most frequent evidence was: examination of defendants, examination of witnesses, examination of injured parties as witnesses, review of medical documentation, forensic medical evaluation and evaluations of neuropsychiatrist and psychologist, analysis of the findings of mobile operators about the communication with a mobile phone, reading of the expert findings of the social welfare centre.

5.5.3. Outcome of procedure

The judgment of conviction was the outcome of the highest number of procedures (92). Security measures were pronounced independently in two cases (1.98%). Other outcomes were: dismissal of charges - 5 (4.95%), acquittal - 1 (0.99%), suspended procedure - 1 (0.99%) (Table 36).

	Number	Percentage
Acquittal	1	0.99
Suspended procedure	1	0.99
Conviction	92	91.09
Pronounced security measure	2	1.98
Dismissal of charges	5	4.95
Total	101	100.00

Plea agreements were concluded in five cases: one in Belgrade, one in Novi Sad and three in Niš. Three hearings for the imposition of a criminal sanction were held in Niš.

5.5.4. Appeal

An appeal was not filed in 73 cases; 27 appeals were filed against first-instance decisions.

5.5.5. Duration of procedure

In order to see the efficiency of the court procedure, it has been observed in five phases: from submitting a criminal complaint to filing a charging document; from filing a charging document to rendering a first-instance decision; from submitting a criminal complaint to rendering a second-instance decision; from submitting a criminal complaint to the finality of judgment; from rendering a first-instance decision to rendering a second-instance decision (Table 37).

Table 37

	Criminal complaint/ charging document	Charging document/ first-instance decision	Criminal complaint/ second-instance decision	Criminal complaint/ finality of judgment	First-instance decision/ second-instance decision
Up to 1 month	32	15	0	1	0
1 - 3 months	2	33	0	10	9
3 - 5 months	9	12	5	11	11
5 - 7 months	3	12	2	7	1
7 - 10 months	15	8	0	9	1
10 - 12 months	9	4	3	11	2
1 - 2 years	20	10	3	27	2
2 - 4 years	9	5	10	15	1
4 - 5 years	1	0	3	6	0
Over 5 years	0	1	1	3	0
TOTAL	100	100	27	100	27

According to the data presented in the table, in the majority of cases - 32 (32%) the time from submitting a criminal complaint to filing a charging document was up to one month, which shows that the prosecutor's office was very efficient, as expected in this kind of criminal offences. However, in twenty cases (20%) one to two years passed from submitting a criminal complaint to filing a charging document, in fifteen cases (15%) it took 7-10 months, in nine cases (9%) this period was two to four years, which shows that the prosecutor's office was not equally efficient in all cases. The courts were much more efficient since in most cases (33 or 33%) it took three months from filing a charging document to rendering a first-instance decision. In ten cases (10%) this phase of the procedure lasted from one to two years, and only in five cases (5%) the court procedure lasted from two to four years and in one case more than five years. Interestingly, although there were no appeals in a large number of cases (an appeal was filed in 27 cases), which would have

certainly prolonged the procedure, in a significant number of cases (27 or 27%) between one and two years passed from submitting a criminal complaint to the finality of judgment. The appellate procedure was much shorter, in most cases (11 or 40.74%) between three and five months passed from rendering a first-instance decision to rendering a second-instance decision.

5.6. Type and level of pronounced criminal sanctions

5.6.1. Types of criminal sanctions

A total of 92 convictions were pronounced to domestic violence perpetrators. Suspended sentences were pronounced in most cases - 36 (35.64%), which confirms that suspended sentence is still the prevailing criminal sanction for domestic violence. The number of imposed prison sentences and the number of imposed prison sentences in combination with security measures is equal - 15 (14.85%), while the number of imposed suspended sentences in combination with security measures is somewhat lower - 14 (13.86%). (Table 38).

Table 38

	Number	Percentage
Prison sentence	15	14.85
Prison sentence enforced in the premises where the accused person lives with electronic surveillance	4	3.96
Prison sentence enforced in the premises where the accused person lives without electronic surveillance	1	0.99
Prison sentence enforced in the premises where the accused person lives without electronic surveillance and security measure	1	0.99
Prison sentence enforced in the premises where the accused person lives with electronic surveillance and security measure	1	0.99
Prison sentence and security measure	15	14.85
Prison sentence and fine	1	0.99

Prison sentence, fine and security measure of no approaching or communicating	1	0.99
Community service and security measure of compulsory alcohol addiction treatment at liberty	1	0.99
Suspended sentence	36	35.64
Suspended sentence and security measure	14	13.86
Suspended sentence with protective surveillance	1	0.99
Suspended sentence and fine	1	0.99
Total number of convictions	92	91.08
Security measure	2	1.98
Suspended procedure / charges denied	6	5.9
Acquittal	1	0.99
Total	101	100.00

5.6.2. Level of criminal sanctions

Prison sentences of different durations were imposed on the perpetrators of domestic violence. In total, 39 sentences were pronounced as follows: prison sentences; prison sentences with security measures; prison sentences served in the premises where the convicted person lives with the use of electronic surveillance; prison sentences served in the premises where the convicted person lives without the use of electronic surveillance; prison sentences with a fine. The minimum prison sentence lasted 48 days and the longest one was 3 years and eight months. Most prison sentences were of six months - 11 (28.20%) and one year - 8 (20.51%) (Table 39).

Table 39

	Number	Percentage
48 days	1	2.56
3 months	1	2.56
4 months	1	2.56
6 months	11	28.20
7 months	2	6.89
8 months	4	10.25
10 months	2	6.89
1 year	8	20.51
1 year and 4 months	1	2.56
1 year and 6 months	1	2.56
2 years	4	10.25
2 years and 6 months	1	2.56
3 years and 4 months	1	2.56
3 years and 8 months	1	2.56
Total	39	100.00

5.6.3. Mitigating and aggravating circumstances

In considering the type and level of punishment, the courts took into account various circumstances and assessed their impact on the perpetrator and the commission of the criminal offence. It was possible to find out about these circumstances from the explanations of the judgments. It is evident that in some judgments, the courts stated the mitigating and aggravating circumstances in general terms, without analysing their actual effects. Moreover, we have noticed automatism in determining mitigating and aggravating circumstances. In fact, individual circumstances were quoted from legal provisions, without taking account of the fact that domestic violence brings a higher degree of danger than other forms of violent behaviour.

The most common mitigating circumstances are: admission of the criminal offence commission; repentance for having committed the criminal offence; poor financial circumstances; absence of earlier convictions; the perpetrator is the father of a minor child (one or more children); the fact that the injured party does not join the prosecution and does not claim indemnification; elapsed time since the last criminal offence; the defendant stopped using alcohol and attended family therapy, etc. The non-uniform approach to the assessment of certain circumstances as mitigating factors is evident in decisions of all three courts. For example, the defendant's youth was assessed to be a mitigating circumstance in one case, while in another case the mitigating circumstance was the fact that the defendant was a retired person. In the explanation of one judgment, the defendant's personal and family circumstances were taken as a mitigating circumstance, without specifying what kind of "circumstances" and why they were considered a mitigating circumstance. Neither was it explained why the university education (master's degree) is a mitigating circumstance in case of domestic violence. The defendant's behaviour towards the injured party was taken as a mitigating circumstance, because he apologised and, according to the injured party, changed, became "good to her". In another case, the mitigating circumstance was the fact that the defendant and the injured party did not live together, and therefore the defendant was not in a position to have another conflict with the injured party and repeat the criminal offence. In doing so, the court did not take into account the cyclical nature of domestic violence, where the stages of good and bad behaviour alternate (the phase of apologising to the victim and asking for forgiveness is followed by even more brutal violence).

Unlike the mitigating circumstances, which are specified in a large numbers of the explanations of the judgments, the aggravating circumstances are mentioned much less frequently. In a relatively large number of cases, the court did not specify aggravating circumstances at all. In cases where the court established aggravating circumstances, the most common ones were: previous conviction for other criminal offences; previous conviction for the same criminal offence of domestic violence; conviction for violent criminal offences; the fact that the previously imposed sentences did not correct the defendant's behaviour; previous misdemeanour punishment; the enhanced degree of guilt; the severity of risk or damage to the protected goods; the defendant was under the influence of alcohol, although he knew that the use of alcohol made him aggressive; the offence was committed against an elderly person; persistence expressed in the perpetration of offence; violation of restraining order; violation of suspended sentence. Interestingly, intoxication by alcohol is considered both mitigating and aggravating circumstance. In the explanations of some judgments, the defendant's degree of guilt was specified as a mitigating circumstance because the defendant's mental competence was almost substantially diminished due to his alcohol addiction, while in some other case

the mitigating circumstance was the fact that the defendant had committed the criminal offence in a state of diminished mental competence due to alcohol abuse.

The defendant's earlier convictions were judged differently by the courts. In one case, the first-instance court did not take the defendant's previous conviction as an aggravating circumstance because a lot of time had passed since the conviction, while the second-instance court, deciding on appeal, took the defendant's previous conviction as an aggravating circumstance. The courts do not consider the earlier conviction to be an aggravating circumstance if a long time has passed since the previous conviction (10 or 15 years) or if the procedure of legal rehabilitation is ongoing or the conditions for the expunction of the conviction have been met, regardless of which criminal offence the defendant was previously convicted for.

Part Three

Conclusions

1. The data collected from the case files show that a less severe form of the criminal offence of domestic violence prevails in judicial practice, i.e. the criminal offences qualified as the basic form of domestic violence (62.38%). The severe forms of domestic violence are significantly less frequent (22.00%) and consist of extremely brutal acts of physical violence or the criminal offences of domestic violence committed against minors (12.8%). The cases of the violation of prohibitions imposed in civil procedures are very rare (2.75%), which leads to the conclusion that the violation of the imposed measures of prohibitions are rarely reported for the purpose of imposing criminal sanctions.
2. The most common form of violence in the examined court cases is physical violence (78%): physical violence without the use of implements or weapons (44%) and with the use of implements or weapons (34%). Psychological violence is more often perpetrated in combination with physical violence (16%), and much less frequently as an independent criminal offence (6%).
3. The methods of perpetration depend on the type of violence and the means of perpetration. Physical violence usually consists of punching on the head and face, pulling hair, kicking, slapping, putting a knife to the throat, choking, biting the hand, etc. Psychological violence usually consists of cursing, insulting by name-calling, spitting, harassing through SMS messages, threats, including threats to kill, etc. The analysis of the description of committed crimes shows that violence is often very brutal and causes great suffering to the victims.

4. The criminal offence of domestic violence is usually perpetrated independently, as a rule, without a joinder of offences, and in cases where there is a joinder of offences, domestic violence is most often perpetrated in combination with the criminal offence of endangering safety and the criminal offence of the abduction of a minor.
5. Domestic violence is often perpetrated in the presence of family members, mainly children. Most of the prosecuted criminal offences were committed in cities, in the victim's and the perpetrator's place of residence, most often in their joint apartment/house.
6. It is not possible to establish with certainty the motive for the commission of the criminal offence because the court usually does not determine this psychological factor in the process of establishing the factual situation, but based on the case files it can be deduced that the perpetrators commit the criminal offence of domestic violence most often because of jealousy, long-term intolerance towards the victim, revenge for being prevented from seeing the child they have in common, quarrels about money and division of marital property, etc.
7. The case files contain very little data that would allow a conclusion about the personal relationship between the perpetrator and the victim before the criminal offence of domestic violence. It indicates that the court pays very little attention to the examination of the circumstances related to the so-called cycles of violence: whether the victim of violence has experienced the cycles of violence and if yes, which ones and how long they lasted. However, based on the collected data, it can be concluded that almost all victims were exposed to physical and psychological violence, abuse, insults, threats and disparagement for a long time before the criminal offence was committed. In intimate partner violence, the abuse very often began immediately after the partners/spouses started to live together and usually lasted for a very long time. A relatively small number of victims have previously addressed the competent institutions seeking help, which, among other things, points to a low degree of victims' trust in the institutions of the system.
8. The perpetrators of the criminal offence of domestic violence are usually men (over 95%). Among 5% of women who appear as domestic violence perpetrators, there is only one who committed the offence of intimate partner violence, while other committed violence against other family members. These data confirm that domestic violence is gender based.
9. Most perpetrators belong to the age group 33-56 (77.22%), but a relatively large number of perpetrators belong to the age group 65+ (7.92%). The share of younger perpetrators is somewhat smaller: 4.95% in the age group 18-24 and 3.96% in the

age group 25-32. Comparison of these data with the findings of previous research shows that the age of domestic violence perpetrators has slightly increased.

10. The perpetrators are mainly married, parents of two or more children, with secondary education and unemployed. Most perpetrators were born and reside in cities. Over one half of them are recidivists, while the circumstances regarding their primary family and behaviour in youth are mainly unknown. Nearly one third of perpetrators consume alcohol excessively, while less than 10% are drug addicts. Over 40% of perpetrators were under the influence of alcohol at the time of perpetration and slightly more than 10% of perpetrators have a psychopathic personality structure. The perpetrators were mainly of sound mind at the time of perpetration: less than 2% of perpetrators committed the criminal offence of domestic violence in the state of diminished mental competence. The perpetrators most frequently do not admit the commission of the criminal offence and do not assume their own responsibility - only somewhat more than 10% express genuine remorse and repentance.
11. Most victims of domestic violence are women (over 75%), which is another clear indicator of being gender based.
12. Most victims were born and live in cities and belong to different age groups. Most victims are in the age group 25-65 years (67.21), but there is also a large number of victims who are older than 65 (19.67%). The smallest number of victims are minors (6.56%) and those in the age group 18-24 (3.28%). Compared to the previous situation, the number of elderly victims has increased.
13. The victims of domestic violence are mainly married or divorced, with two or more children. The prevailing number of victims are either married or in cohabitation with the perpetrator, and a relatively large number of them are divorced and separated, which shows that intimate partner violence continues even when the marriage/cohabitation is terminated. Data on the education of victims are usually missing and in the cases where such data exist it is most frequently secondary education. In more than one third of cases there are no data on the employment status of victims, while in the cases where such data exist, most victims are employed (19%) or retired (26%), but compared to the findings of previous research, the number of employed victims has decreased, while the number of pensioners has increased. Most victims do not possess and did not use weapons, and only somewhat less than 5% of victims were under the influence of alcohol at the time of the perpetration of the criminal offence.
14. In contrast to previous research, where intimate partner violence was prevailing (over 65%), the present research shows a much smaller percentage of this form of

domestic violence (about 50%), although it continues to be more frequent than other forms of domestic violence. Compared to previous research, the number of the criminal offences of domestic violence committed against other family members has increased: children (about 27%) and parents (about 15%). The number of the cases of domestic violence committed against in-law relatives (3%) and grandparents (3%) has increased.

15. There are certain positive changes in the prosecution of domestic violence cases compared to the previous period. First of all, detention is imposed much more often. According to the 2007 research findings, detention was imposed in only 13% of cases, most often due to the risk that the defendant would repeat the criminal offence or carry out a threat. According to the data collected in this new research, detention was imposed in 40% of cases as follows: Niš (48%), Belgrade (46%) and Novi Sad (23.1%). More frequent detention shows that the courts approach the problem of domestic violence in a much more responsible way and properly considering the risk of perpetration or repeating the perpetration of violence. However, detention is rarely imposed on domestic violence perpetrators because of their possible influence on witnesses, although the practice has shown that perpetrators of violence have a significant influence on witnesses, especially victims, as evidenced by a large number of victims who later refuse to testify at the main hearing and state that they do not join the criminal prosecution.
16. There are no differences in the evidence used for establishing the truthfulness of facts, except that the data on mobile phone communication provided by mobile operators were used as evidence more frequently than before. The following evidence was used: examination of defendants, examination of witnesses, examination of injured parties as witnesses, review of medical documentation, forensic medical evaluation and evaluations of neuropsychiatrist and psychologist, analysis of the findings of mobile operators about the communication with a mobile phone, reading of the expert findings of the social welfare centre, etc.
17. In the cases with final court decisions, most perpetrators of domestic violence were convicted (92 or 91%). There were only 5 (4.9%) judgments on the dismissal of charges and only one acquittal (0.9%).
18. The following criminal sanctions were imposed on the perpetrators: prison sentence, prison sentence with electronic surveillance, prison sentence served in the premises where the convicted person lives without the use of electronic surveillance, prison sentence with the use of electronic surveillance and security measures, prison sentence with security measure, suspended sentence, suspended

sentence with security measure, suspended sentence with protective surveillance, security measure, fine and suspended sentence.

19. Plea agreements are not common. They were concluded in only five cases, including three in Niš. In none of the cases the subject of agreement was the victim's indemnification because the victims did not file such claims. Two hearings for the imposition of a criminal sanction were held in Niš, while this possibility was not used in other cities.
20. Suspended sentences were pronounced in most judgments of conviction - 36 (35.6%), which continue to be the prevailing criminal sanction for domestic violence. However, the percentage of suspended sentences is much smaller than in the previous period. In fact, according to the 2008 research, the percentage of suspended sentences was 66.60%, which is nearly a half more than in the present research. This positive shift is an indicator of the changed attitude of judicial professionals with respect to the degree of social danger of the criminal offence of domestic violence, which is the result of the overall change in the attitude of society towards this form of crime. However, the situation is not entirely satisfactory, as in many cases suspended sentences are inappropriate for the severity and manner of criminal offence perpetration.
21. Prison sentences of different durations were imposed on the perpetrators of domestic violence. Most prison sentences were of six months - 11 (28.20%) and one year - 8 (20.51%). The minimum prison sentence lasted 48 days and the longest one was 3 years and eight months.
22. The analysis of the type and level of sentences for committed criminal offences of domestic violence shows that the sentences are rather mild, bearing in mind the social risks, the method of perpetration and the fact that the majority of perpetrators had already behaved violently. The trend of mild punishment, which was recorded also in the previous research, has not changed. The fact that in many cases it takes a long time from the event, that is, from the commission of the criminal offence to the rendering of judgment and the decision on punishment, and that during that time there are significant changes in family relations including the change in the victim's attitude towards violence, certainly contributes to such penal policy.
23. The new research, like the previous research studies, shows that mitigating circumstances, which influence the sentencing, are abundantly stated. The most common mitigating circumstances are: full or partial admission of criminal offence perpetration, perpetrator's repentance, absence of earlier convictions, parenthood, poor personal and family circumstances, health status, the defendant's consciousness

of having done the wrong thing, academic title, etc. Aggravating circumstances are mentioned much less frequently, and in some cases they are not mentioned at all. In the cases where the court did establish some aggravating circumstances, the most common ones were: previous conviction for other criminal offences; previous conviction for the same criminal offence of domestic violence; conviction for violent criminal offences; the fact that the previously imposed sentences did not correct the defendant's behaviour; previous misdemeanour punishment; the enhanced degree of guilt; the severity of risk or damage to the protected goods. On the other hand, we have noticed a certain automatism in determining mitigating and aggravating circumstances. In fact, individual circumstances were quoted from the law, without taking account of the fact that domestic violence brings a higher degree of danger than other forms of violent behaviour. In many cases the court states different circumstances in general terms without further analysis of their actual effect.

24. The explanations of court decisions in the examined sample lead to the conclusion that there have been some positive developments in understanding the phenomenon of domestic violence and the need to punish its perpetrators, which is confirmed also by the fact that continuity of violence is generally not considered an essential element of the offence, although it was a guiding idea in the initial period of criminal justice protection against domestic violence.
25. An appeal is rarely filed against first-instance decisions. Erroneously or incompletely established factual situation is one of the most common grounds for appeals filed by the defendants or their defence lawyers, whereby the material inaccuracy of the judgment is explained by the fact that the judgment is based only on the injured person's statement, which is claimed to be contradictory, illogical and incomplete. The decision on punishment is also appealed, on the grounds that it is wrongly determined.
26. The procedure has obviously shortened compared to the previous period, which is the result of more efficient work of the judicial authorities. In most cases (32%), it takes up to one month from submitting a criminal complaint to filing a charging document. However, in a large number of cases (20%) it takes from one to two years. In 15% of cases it takes 7-10 months and in 9% of cases this period is as long as 2-4 years, which shows that the efficiency of public prosecutor's offices was not the same in all cases, but also that it has not yet reached the satisfactory level, although compared to the previous period there has been some improvement concerning efficiency. The courts are much more efficient: in most cases (33%), the first-instance procedure was terminated in up to three months. In 10% percent of cases, this phase of procedure lasted 1-2 years and in 5% of cases, the first-instance procedure lasted 2-4 years, while in one case it lasted as long as over five years.

Although the procedural speed has increased compared to the previous period, the degree of efficiency was neither uniform nor did it reach the level expected for the prosecution of domestic violence cases.

Appendix:

Questionnaire for collecting data from court cases:

Researcher: _____

Date: _____

City: _____

Court: 1. Municipal 2. District

Criminal case number: _____

Criminal offence (name, article, paragraph, law) _____

Information about the perpetrator: (from the judgment)

Note: If there are more perpetrators, a separate questionnaire is filled out for each one!

1) Name and surname of the perpetrator _____

2) Sex: 1. Male 2. Female

3) Age: 1. 18-25 2. 25-32 3. 33-40 4. 41-48 5. 49-56 6. 57-65 7. 65+

- 4) Marital status:
1. Married
 2. Living in cohabitation
 3. Divorced
 4. Separated
 5. Widowed
 6. Single
 7. Divorce litigation is ongoing
 8. Unknown
- 5) Number of children: _____
- 6) Occupation: _____
- 7) Education:
1. None
 2. Incomplete primary school
 3. Primary school
 4. Secondary or high school
 5. Junior college or faculty
 6. Master or doctoral studies
- 8) Employment status:
1. Employed
 2. Unemployed, looking for a job
 3. On forced leave, redundancy
 4. Housewife (if the perpetrator is a woman)
 5. Retired
 6. Student
 7. Other (specify) _____
- 9) If unemployed, has he/she ever worked and, if yes, why and when did he/she stop working? _____
- _____
- 10) Citizenship: _____

11) Place of birth:

1. Village 2. City

12) Place of residence:

1. Village 2. City 3. Suburban settlement

13) Previous convictions:

1. Yes 2. No 3. Unknown

14) If he/she has been convicted, how many times and for which crimes (specify criminal offence, article, paragraph) _____

Perpetrator's family history:

15) Primary family is:

1. Complete
2. Without the father
3. Without the mother
4. Unknown

16) Relationships in the primary family:

1. Good 2. Bad 3. Extremely bad 4. Unknown

17) Father's occupation: _____

18) Mother's occupation: _____

19) Father's alcoholism: _____

20) Mother's alcoholism: _____

21) Father's criminal convictions (specify criminal offences if seen from the case file): _____

22) Mother's criminal convictions (specify criminal offences if seen from the case file): _____

Perpetrator's personal history:

23) Attempted suicide:

1. Yes 2. No 3. Only suicidal ideas 4. Unknown

24) Self-injury:

1. Yes 2. No 3. Unknown

25) Early abuse:

1. Yes 2. No 3. Unknown

Note: If the perpetrator experienced early abuse, specify how and who abused the perpetrator and other related information, if seen from the case file.

26) Running away from home:

1. Yes 2. No 3. Unknown

27) School absenteeism:

1. Yes 2. No 3. Unknown

28) Perpetrating juvenile offences:

1. Yes, but no educational measures or juvenile imprisonment were imposed
2. Yes, educational measures or juvenile imprisonment were imposed
3. No
4. Unknown

29) Does the perpetrator express repentance for his/her action (according to the court's assessment)?

1. Yes, genuine remorse and repentance
2. Undefined
3. Repentance expressed only verbally
4. No repentance/consider his/her action to be appropriate
5. Denial of offence
6. Unknown

30) The perpetrator's attitude towards own responsibility for the event:

1. Mainly blames the victim
2. Blames both himself/herself and the victim
3. Does not blame either victim or himself or herself/considers the event to be the result of unfortunate circumstances
4. Justifies their behaviour with the hopelessness of the situation ("there was no choice")

5. Does not give or have any explanation
6. Mainly accepts his/her own responsibility
7. Does not admit the criminal offence and denies any connection with it
8. Unknown

Psychiatric and psychological evaluation:

31) Psychopathic personality structure:

1. Yes
2. No
3. Unknown

32) Alcoholism:

1. Yes
2. No
3. Unknown

33) Drug addiction:

1. Yes
2. Used drugs, without addiction
3. No
4. Unknown

34) Existence of psychosis:

1. Suffers from _____
2. No psychosis
3. Unknown

35) Mental competence at the time of criminal offence perpetration:

1. Mentally competent
2. Diminished, but not substantially
3. Substantially diminished
4. Mentally incompetent
5. Unknown

36) Intoxication by alcohol at the time of criminal offence perpetration:

1. Light intoxication
2. Medium intoxication
3. Heavy intoxication
4. Complicated or severe intoxication
5. No
6. Unknown

37) Was the perpetrator under the influence of drugs at the time of criminal offence perpetration:

1. Yes
2. No
3. Unknown

Information about the victim: (From the record on hearing and judgment)

Note: If there are more victims, a separate sheet with this group of questions is filled out for each of them!

38) Name and surname of the victim_____

39) Number of victims:_____

40) Sex:

- 1. Male
- 2. Female

41) Place of residence:

- 1. Village
- 2. City
- 3. Suburban settlement

42) Place of birth:

- 1. Village
- 2. City
- 3. Suburban settlement

43) Citizenship:_____

44) Age:

- 1. 18-25
- 2. 25-32
- 3. 33-40
- 4. 41-48
- 5. 49-56
- 6. 57-65
- 7. 65+

45) Marital status:

- 1. Married
- 2. Living in cohabitation
- 3. Divorced
- 4. Separated
- 5. Widowed
- 6. Single
- 7. Divorce litigation is ongoing
- 8. Unknown

46) Number of children:_____

47) Occupation:_____

48) Education:

- 1. None
- 2. Incomplete primary school
- 3. Primary school
- 4. Secondary school

- 5. Junior college or faculty
- 6. Master or doctoral studies

49) Employment status:

- 1. Employed
- 2. Unemployed, looking for a job
- 3. On forced leave, redundancy
- 4. Housekeeper
- 5. Retired
- 6. Student
- 7. Other (specify) _____

50) What is the victim's relationship with the perpetrator?

- 1. Spouse (marriage)
- 2. Cohabitation
- 3. Former spouses/partners (marriage or cohabitation)
- 4. Boyfriend/girlfriend
- 5. Ex-boyfriend/girlfriend
- 6. Father/mother
- 7. Son/daughter
- 8. Brother/sister
- 9. Other (specify) _____

51) Was the victim previously abused, physically or otherwise, by the perpetrator and if yes, how?

52) If the perpetrator abused the victim earlier, did the victim address an institution (for example, social welfare centre), NGO (SOS hotline or similar) or individual (psychologist, psychiatrist, medical doctor) seeking help?

53) If the perpetrator abused the victim earlier, did the victim report it, and if yes, was a criminal procedure conducted, for which criminal offence (specify criminal offence, article, paragraph, law) and what was its outcome?

54) Weapons held by the victim:

1. Yes 2. No 3. Unknown

55) If the victim had weapons, did he/she use it?

1. Yes

2. No

3. Yes, but did not use it

4. Unknown

56) Victim's intoxication by alcohol at the time of criminal offence perpetration:

1. Yes 2. No 3. Unknown

Data on the criminal offence:

57) Legal qualification in the judgment _____

58) Place of **perpetration**:

1. Village 2. City 3. Unknown

59) Place of perpetration:

1. The same as the place of residence

2. Other than place of residence, but in the same country

3. Other than place and country of residence

4. Unknown

60) Location of perpetration:

1. Perpetrator's apartment/house/courtyard
2. Victim's apartment/house/courtyard
3. Joint apartment/house/courtyard of the victim and the perpetrator
4. Tavern/restaurant/disco club
5. Park/street/open space
6. Victim's workplace (pharmacy, post office, shop, petrol station or other)
7. Other (specify)_____
8. Unknown

61) Time of perpetration (exact date and time as indicated in the enacting terms of the court decision): _____

62) Means of perpetration:_____

63) Were there observers (witnesses, eyewitnesses)?

1. Yes
2. No
3. Unknown

64) Was it a joinder of offences?

1. Yes
2. No
3. Unknown

65) If there was a joinder of offences, specify the type of relevant offence:

66) Complicity:

1. There is co-perpetration
2. Co-perpetrators are responsible for incitement
3. Co-perpetrators are responsible for aiding and abetting
4. There is no complicity
5. Unknown

67) Motive for perpetration (if seen from the case file)

68) Detailed description of the method and means of criminal offence perpetration (according to the enacting clause and explanation of judgment and if a judgment was not rendered, provide a brief description deduced from the case file)

69) Relationship between the perpetrator and the victim prior to the perpetration of criminal offence and other preceding circumstances (explanation of judgment: victim's statement and what the court established)

Note: Pay particular attention to everything that points to the impact of war, nationalism, economic crisis, particularly the impact on their mutual relations, deterioration or other change in relations, that is, the behaviour of each of them and the like.

70) Mitigating and aggravating circumstances taken into account by the court in sentencing:

71) Criminal sanction pronounced by the first-instance court (type, amount of fine, duration of prison sentence):

72) Circumstances taken into account by the court in sentencing:

Mitigating circumstances:

Aggravating circumstances:

Criminal procedure:

73) Duration of criminal procedure (specify month and year):

1. Date of criminal offence perpetration (as specified in the criminal complaint) _____

2. Date of criminal complaint submission: _____

3. Date of submitting a request for initiating an investigation: _____

4. Date of initiating an investigation: _____

5. Date of raising an indictment: _____

6. First-instance decision rendered: _____

7. Second-instance decision rendered: _____

8. Date of finality of judgment: _____

74) Number of main hearings held: _____

75) What evidence was presented in the investigation procedure?

76) What evidence was presented at the main hearing?

77) Was the procedure for punishment applied before the main hearing?

78) Was detention imposed on the perpetrator? If yes, how long did it last?

79) Was the measure of bringing in by force imposed on the perpetrator?

80) Compare the qualification of the criminal offence in

1. criminal complaint _____
2. indictment _____
3. judgment _____

81) What was the outcome of the first-instance procedure?

1. Decision on the rejection of criminal complaint - specify reason

2. Decision on the suspension of procedure - specify reason

3. Judgment on the dismissal of charges - specify reason

4. Judgment of acquittal

5. Judgment of conviction

82) Were any legal remedies filed and if yes, which one?

83) What reasons were stated in the legal remedy?

84) What was decided with respect to the legal remedy?

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