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## **FAMILY VIOLENCE LEGISLATION IN THE FEDERATION OF BOSNIA AND HERZEGOVINA**

### ***Summary***

*This paper provides an outline of family violence legislation in the Federation of Bosnia and Herzegovina as defined by the Law on Protection from Family Violence, Family Law and Federal Criminal Law, together with the definition of violence and its forms. Prohibition of violence on the basis of sexual orientation in “private” and “public” life, as defined by the Law on Gender Equality in Bosnia and Herzegovina, passed at the state level, thus in force in both entities, is also partially discussed.*

*Critical analysis of legislative acts has clearly shown a discrepancy between the above-mentioned laws, both in the sense of determining mechanisms and in the sense of ways of protection against family violence. For example, the Law on Protection against Family Violence defines family violence as a criminal act, under the jurisdiction of the regular courts, and, at the same time, it determines security measures issued by courts for criminal offenses. Apart from lack of experience at courts for criminal offenses, which almost sporadically issue the sanctions, difficulties in implementation of security measures determined by the Law are also present in implementation of the measures issued, which is followed by a number of other difficulties. Inexistence of institutions for protection and help to the victims of family violence, as well as institutions for obligatory recovery and treatments of abusers, inexistence of alimony funds for temporary help to the victims of family violence, are only some of the indicators which show not only the lack of long-term solutions, but also the lack of complementarity between the legal acts and their*

*implementation possibilities, as well as the insufficient engagement of the state in solving the problems related to family violence.*

**Key words:** *violence, family, victim, abuser, law, protection, sanction, help, prevention.*

## 1. Definition and Forms of Family Violence

Family violence, a problem probably as old as human society, became subject-matter of scientific research and a part of social concerns as late as the second half of the 20<sup>th</sup> century. Constant disintegration of the once dominant, traditional nuclear family in the majority of contemporary societies and the increasingly present awareness on human rights, especially concerning the rights of separate groups, for example, children, women and the elderly, who are, at the same time, members of the so-called nuclear, that is, expanded family<sup>1</sup>, slowly lead to a change in understanding of the generally-accepted myth that “the family is a paradise in the merciless world” (Milić, 2007: 39).

Various contemporary studies (Unicef, 1999: 80-83; Nowakowska, 1999) have shown that the family, apart from providing emotional, social and material safety to its members, may also be a setting in which one or more of its members are exposed to different kinds of violence and abuse from closest relatives.

Several definitions of family violence have been provided in literature. One common characteristic of all the definitions is that the very act of violence is marked by the behavior of the abuser, through a display of power and control over the victim, as well as through the use of force, intimidation and manipulation, which create a feeling of fear, insecurity and dependence on the part of the victim and always include the infliction of physical or psychological pain and suffering on the victim.

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<sup>1</sup> Nuclear family is a family group consisting of a mother, a father (or one of the two) and children supported by their parents.

Extended family is a group consisting of close relatives, not only a married couple and their children, who live in one household or in a close and uninterrupted relation (Gidens, 2003: 714, 716)

At the international level, Recommendation REC (2002) 5 of the European Committee of Ministers to Member States on the protection of Women against Violence (2002: 5) defines family violence as “violence which occurs in the family or domestic unit, including physical or mental aggression, emotional or psychological abuse, incest, rape between spouses, regular or occasional partners or cohabitants, crimes committed in the name of honor, female genital or sexual mutilation and other traditional practice harmful for women such as forced marriages.”

In naming different kinds of family violence, that is, violence among “cohabitants” (physical, psychological, emotional, sexual, etc.), this definition does not particularly emphasize the segment of financial and labor exploitation, as an extremely complex form of violence which can, in the broadest sense, be subsumed under the term of physical, that is, psychological violence, since the majority of forms of family violence are entwined. This said, it is possible to distinguish even sometimes very subtle nuances of certain forms of family violence against women, children and elderly persons, groups which most frequently fall victims to family violence.<sup>2</sup>

Trust which a victim feels towards the abuser, prior to the very act of violence, is a common characteristic of family violence, alongside tolerance of violence which is related to social norms and values, as well as stereotypes about family life, especially against children and the elderly.

In literature (Ajduković, Pavleković, 2002: 12), causes of family violence, which can be related to the increase of the rate violence in the

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<sup>2</sup> The Beijing Platform (1995) defines violence against women as any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

One of the most frequently-cited definitions of (especially physical) abuse of children in the family (Gil, 1973: 115) is: Physical abuse of children is a deliberate use of physical force or deliberate omission by parents or caretakers to perform certain actions in interaction with the child during its upbringing, which aims at hurting, injuring or destructing the child.

World Health Organization (2002) defines abuse of the elderly as individual or recurring act, or lack of certain activities, which occur in any form of relationship of expectations or trust and which cause damage, pain, troubles and/or affliction to an elderly person.

society, are most frequently explained through interactive effects of several factors, most important of which are:

Subjective-psychological characteristics, of both the victim and the abuser, that is of a member or members of the family who suffer the violence (structure and characteristics of a personality, problems in emotional maturing and development, adopted values and convictions, etc.).

Socio-cultural characteristics in which family plays a key role, together with economic relations and situation (economic insecurity, unemployment), characteristics and norms of the local community, laws and their implementation.

Family characteristics (dynamics, roles and patterns of behavior between family members and in relations between partners) are, to a greater or lesser extent, reflected on children.

In the family, a child will develop the sense of trust or mistrust towards the environment, depending on whether his/her basic needs, emotional and physical, are satisfied. For example, a child which is abused during the early years of life will show, besides insecure devotion to parents, difficulties in the establishment of trust towards other people. By growing up, that child will slowly develop a negative image of the world and of him/herself and will understand the world in accordance with what he/she has experienced at home (Killen 2001:75) That is why violence experienced in childhood often results in violent behavior in adulthood. Data on incidence of inter-generational transfer of violence, as a model of upbringing and behavior towards children, are varied indeed. Estimates on victimization in childhood among the population of parents range between 7 to an incredible 70 per cent (according to Ajduković, Pećnik, 2000: 69, Spatz-Widom, 1989).

Different studies (Nikolić-Ristanović, 2008; Petrović, Meško, 2008) have shown that family violence is a criminal act which in most cases is not reported because of the following reasons: aggressive behavior in the family is considered to be a private problem, the act of reporting such an act is seen as violation of dignity and a disgrace, fear of revenge, etc.

## **2. Legal Protection from Family Violence in the Federation of BiH**

The constitutional structure of Bosnia and Herzegovina – two entities (Federation BiH and RS) and Brčko District – has imposed a separate institutional legal frame, so that the entities and the District are able to

develop their own separate policies and pass laws, which need to be harmonized with higher legal acts and with the Constitution.

According to the obligatory adjustment of BiH legislation to different international documents on human rights, which are mentioned in the Annex I of the Constitution, including the UN Convention on Elimination of All Forms of Discrimination against Women, Bosnia and Herzegovina adopted the Law on Gender Equality in BiH<sup>3</sup> in 2003.

The Agency for Gender Equality, popularly called “the state gender mechanism”, has been formed in accordance with this Law and for the purpose of monitoring its implementation (Act 22). Apart from the Agency, the Federation BiH and the RS gender centers also monitor and supervise the implementation of the Law (Act 24).

Act 17 of the Law on Gender Equality in BiH states: “Any form of violence in private and public life on the basis of gender is forbidden. Relevant authorities will take appropriate measures to eliminate and prevent gender-based violence public and private spheres of life, as well as provide protection instruments, help and compensation to the victims.”

This legal act placed gender-based violence in both “private” and “public” life in the focus of social interest for the first time, obliging the state to take appropriate measures and activities on providing protection to the victim, in most cases a woman.

It can be concluded in this context that by placing a ban on violence in “private and public life on the basis of gender” this law also addresses a special segment of family gender-based violence known as marital, that is, partner violence. In that sense, relevant authorities are obliged to take preventive measures against gender-based violence, especially in education, in order to eliminate prejudice, traditions and all other forms of discrimination based on the idea of inferiority or superiority of any gender, as well as the superior roles of men and women.

The Law on Gender Equality in BiH was passed prior to the Federation BiH Law on Protection from Family Violence and the Family Law. That Law determines sanctions related to violence, harassment and sexual harassment, defining them as criminal acts carrying a prison sentence of six months to five years (Act 27).

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<sup>3</sup> The Law on Gender Equality in BiH was published in the „Official Gazette“ No. 63/2003.

Apart from the Law on Gender Equality which is not directly related to the protection from family violence and which was passed at the state level, making it obligatory for both the entities, in the Federation of BiH, laws that are to a greater or lesser extent related to the protection from family violence are: the Law on Protection from Family Violence, the Criminal Code and the Family Law.

## **2.1. Law on Protection from Family Violence**

The Law on Protection from Family Violence<sup>4</sup> establishes a special mechanism of protection from violence which defines the term family violence, persons considered members of a family,<sup>5</sup> ways of their protection and the purpose of security measures, which are in most cases issues against the perpetrator of violent acts.

According to Article 4 of the Law, family violence is defined as “any action that causes physical, psychological, sexual or economic damage and suffering, as well as the threat of such actions or failing to take certain activities which seriously prevents family members to enjoy their rights and freedoms on the equality principle in public or private sphere.”

The same article determines activities that are characteristic of family violence: use of physical force or psychological coercion, behavior which may cause physical/psychological pain and economic damage, causing of fear or injury to the dignity of a member of the family through blackmail or some other kind of coercion, physical and verbal assault and insult, sexual harassment, stalking, causing of damage to common property, absence of attention and failure to offer attention and protection to a family member, in spite of a legal and moral obligation. This Law is specific because it

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<sup>4</sup> The Federation BiH Law on Protection from Family Violence was announced in the „Official Gazzete“ No. 22/05, with a 6-month delay in implementation from the day of its taking effect.. The Law was published on April 6, meaning that it was put in force on 6. October 2005.

<sup>5</sup> According to Article 5 of the Law on Protection from Family Violence, a family consists of: marital and common law partners; relatives living together: blood relatives and relatives through the full adoption in the first line without limitations and in the lateral line concluded with the fourth degree; adopter and adoptee from the relationship of partial adoption; in-laws concluded with the second degree; guardian and ward; nursing parent and child; former marital and common law partners.

defines family violence as a criminal act that remains under the jurisdiction of regular courts, while restraining orders are issued by magistrates' courts which are also obliged to urgently solve such cases (Article 3).

Apart from health and social workers, teachers and other educators, the following persons are also obliged to report cases of the family violence, if noticed while performing their duties: medical, educational and other institutions, as well as nongovernmental organizations, but also family members, especially in cases when the victim is a minor (Article 7).<sup>6</sup>

In passing this act, the legislator probably had in mind the previous prevailing experience when the majority of professionals used to hide behind the professional secret and limited themselves solely to providing expert assistance to the victim of family violence, without reporting the instances to the police, prosecutor's office and court, whose jurisdiction was persecution and punishment of the perpetrators, as well as protection of victims of family violence as prescribed by the law.

The legally defined obligation of reporting family violence excluded the possibility of invoking the professional code and ethical principles, that is, keeping the professional secret of the aforementioned experts, who had previously remained silent to established cases of family violence by failing to report them.

In prescribing ways to realize protection from family violence, with the aim of preventing violence, acting towards the abusers to prevent them from perpetrating violence, and eliminating consequences of the violence committed, the Law introduces security measures as forms of sanctions and protection against family violence.<sup>7</sup>

Five out of the six prescribed security measures are related exclusively to the perpetrator of violence,<sup>8</sup> and only one measure concerns ensuring

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<sup>6</sup> According to Article 20, any public service employee who fails to report instances of family violence will be fined in the amount ranging from 1.000 to 10.000 KM or will be imprisoned for at least 50 days.

<sup>7</sup> According to Article 9, security measures that can be issued against the perpetrator are: 1. removal from the flat or other living space and a ban on the return to the flat, house or some other living space; 2. restraint orders; 3. providing protection to the person exposed to violence; 4. ban on disturbing or stalking the person exposed to violence; 5. obligatory psychological treatment; 6. Obligatory treatment for addictions.

<sup>8</sup> A violent person who fails to act in accordance to the orders will be fined in the amount ranging from 2.000 to 10.000 KM (Article 21).



protection of the person exposed to violence. This measure, however, is issued in cases when the victim's life is threatened (Article 13). Implementation of this measure, ordered by the magistrates' court, ensures that the victim is offered temporary shelter in social-protective or other institutions (shelter homes), or in some other family, with a right to temporary support from the alimony fund.

Difficulties surrounding the implementation of this protection measure are made even more complex not only because of the non-existence of alimony funds, but also state institutions providing temporary shelter to victims of family violence who are in most cases women and children. Only centers for social care provide primarily advisory and other forms of expert and material help to the victims. That is why the implementation of this legal obligation is mostly left to the female NGOs, that is, safe houses that NGOs open and that are financed by foreign donors in the majority of cases.<sup>9</sup>

Besides the person exposed to violence, the request for imposing security measures can also be submitted by his/her attorney, police, prosecutor, guardian, governmental and nongovernmental organizations. Also, the request may be submitted in the line of duty, while the restraining order is issued in the line of duty.

In the process of issuing security measures<sup>10</sup>, the magistrates' court is obliged to provide an adequate measure, both in the sense of its purpose and efficiency. However, there is a possibility of replacing one measure with another. The magistrates' court is also obliged to control the execution

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<sup>9</sup> According to data of the Open Society Institute, in 2006, seven shelters for victims of family violence and human trafficking existed in BiH, with a capacity able to accommodate 120 persons.

An example of good cooperation between governmental and non-governmental sector is the Sarajevo Canton, where the „Local Democracy Foundation“ NGO signed the Agreement on Cooperation on Protection from Family Violence with the police and the Cantonal Social Care Center.

The second example is non-institutionalized cooperation (center for social care requests help in temporarily taking care of victims of family violence because it lacks resources), in the area of Zenica – Dobož Canton, between „Medica“ NGO, the center for social work, the police and the prosecutor's office.

<sup>10</sup> All security measures are issued for the period from one month to two years (Article 18).



of the issued protective measure, through reports submitted (at the latest within six months, or earlier, if demanded by the magistrates' court) by social centers, which also keeps records of the issued protective measures, monitor their implementation, propose termination, extension or replacement of one protective measure with another.

In cases when it becomes evident that the victim of violence should be protected, the magistrates' court may issue an appropriate protection measure as an individual minor offence sanction after questioning the perpetrator. In such cases, it is not necessary to wait for the completion of a minor offence or criminal procedure. (Article 19).

Experience in the field, in the process of implementing security measures in the Federation of BiH, in spite of criteria defined by the law and fairly good normative-legal regulation, unambiguously shows that the legal acts are not being implemented entirely, this primarily due to a lack of funds, non-existence of the necessary additional capacities, i.e. institutions for implementation of the security measures determined by the law.

## 2.2. The Family Law

In most cases the family is a social group, i.e. a community in which relations are characterized by mutuality and solidarity of the members. Mutual assistance and solidarity within a family community, that is, among its members, is most frequently entwined by love, trust and closeness, especially between parents and children and marital partners. Sadly, in certain number of families, which is by far smaller than families living in harmonized relationships, family environment for some of the members is frequently a place in which they are exposed to different kinds of violence by their nearest relatives.

The prevailing understanding in most countries today is that the family violence is social, not a private problem. Prosecution of especially difficult forms of family violence is becoming increasingly present in Bosnia and Herzegovina.

The Family Law of the Federation of BiH<sup>11</sup>, besides defining the family

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<sup>11</sup> The Family Law of the Federation of BiH was announced in the „Official Gazette“ No. 35/05; 41/05.

and relations within it, and defining the extra-marital community<sup>12</sup>, also clearly bans violent behavior of a marital partner or of any other family member by defining violent behavior (citing the BiH Law on Gender Equality) as any form of violation of physical and psychological integrity (Article 4).

By defining the conditions and the procedure, contraction, termination, annulment of marriage and divorce, the Family Law does not separately highlight in any of the articles family violence as a possible reason for termination of marriage, but some acts of the Law do contain some indications, for example, “annulment of a marriage contracted in fear caused by a serious threat” (Article 40, Item 1) or “divorce in cases when marital relations are heavily and permanently disturbed.” (Article 41)

The most important provisions of the Family Law that are related to child protection are presented in Item C: Rights and Duties of Parents and Children.

In this part of the Law, rights of the child are specifically listed, especially right of the child to protection from all forms of violence, abuse, maltreatment and neglect in the family (Article 128). In the provisions that determine duties and rights of parents, the provision on the obligation of parents to take care of the child, satisfy its needs and protect the child from all forms of violence, injuries, economic exploitation and sexual abuse by others, together the obligatory control of the child’s behavior, depending on its age and maturity (Article 134), is especially prominent.

Measures for the protection of children, victims of family violence, are under the jurisdiction of social care centers and courts.

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<sup>12</sup> Family is defined as “a living community of parents and children and other blood relatives, in-laws, adopters and adoptees and persons outside a marital community if they live in the same household.”

Relations in the family are determined on the following: protection of privacy of family life; equality, mutual assistance and respect between family members; obligation of parents to ensure protection of interests and wellbeing of the child and responsibility in upbringing and educating the child; obligation of the state to ensure protection of the family and child; providing foster protection to children without parental care and adults incapable of taking care of themselves, their rights, interests and property (Article 2).

Common law marriage is defined as „a community of life between a man and a woman who are not married or in a non-marital community with someone else, and which lasts at least three years or shorter, provided that a child is born in that community.“ (Article 3).

A social care center may issue the following measures: warnings concerning failures in parental care (Article 151) and appointment of supervision of parental care (Article 152).

The role of the court is to take away the exercise of parental care, in an extrajudicial procedure, in cases when parents abuse their rights or severely neglect their duties. The specifically listed reasons for the implementation of such a measure also included cases of physical and psychological abuse of the child (Article 154).

The aforementioned provision of the law shows most concretely the span of intensity of possible family violence against the child, as well as measures that can be taken to protect the child, depending on the intensity of violence. In that context, one can conclude that warning measures concerning failures in parental care, as well as supervision measures, are in essence aimed at changing the behavior of parents towards children and their education, that is, prevention of physical punishment of children.

In Article 150, the Family Law prescribes the obligation of all authorities, organizations and individuals to notify, without delay, information on violations of the rights of the child to a social care center, especially in cases of violence and abuse.

This article clearly distinguishes violence and abuse, which largely contributes to the easier sanctioning of physical punishment of the child.

Although failure to report family violence is, according to the provisions of the Law on Protection from Family Violence, a punishable act and in direct relationship with the violation of right of the child to protection from violence, data from social care canterers show that not many cases of violence are reported.

Several provisions of a special section of the Family Law (Chapter 10: Special Procedures) standardize the procedure of protection from violent behavior in families. However, since the Law on Protection from Family Violence was adopted at the same time as the Family Law, besides the mentioned marital, and extramarital partners, family members who have a right to protection from violent behavior, the responsibility of physical and legal persons to inform relevant police structures about violent behavior, as well as the obligation of the police, social care centers and magistrates' courts to provide protection to the victim of violent behavior, Article 381 standardizes only the obligation of the police to, immediately on being notified, remove and place in an appropriate institution the individual behaving in a violent way or which poses a threat of violent behavior.

By identifying the procedure of protection from violent behavior as urgent, the Family Law (Article 322) states that it will be regulated by a special law of the Federation of BiH (Article 382).

### 2.3. Criminal Code

Criminal Code of the Federation of Bosnia and Herzegovina<sup>13</sup>, which had taken effect before the adoption of the Law on Protection from Family Violence, established certain sanctions related to acts of violence in the family, which are in most cases defined by Article 6 of the Law on Protection from Family Violence, determining them as a criminal act.

Criminal Code of the Federation of Bosnia and Herzegovina determines by its provisions (Chapter 20: Criminal Acts against Marriage, Family and Youth) also criminal acts against the family, which include, among other, family violence as well (Article 222).

For the purpose of respecting the requirement of describing the nature of a criminal act, the Criminal Code also defines the notion of family, i.e.o its members (Article 2, Item 20).<sup>14</sup>

Article 222 stipulates that the criminal act of family violence, of which the perpetrator and passive subject may only be a family member, contains, apart from the basic, five other acts of violence, classified as serious.

According to Item 1, the basic form of such an act is the case when a perpetrator threatens peace, physical integrity or psychological wellbeing of the family members by violence and rude behavior.

The abovementioned item relates to different forms of physical, psychological, emotional and spiritual violence, which lead to a threat to peace, physical integrity or spiritual wellbeing of the passive subject (victim).

<sup>13</sup> Criminal Code of the Federation of Bosnia and Herzegovina was announced in the „Official Gazette“ No. 36/03.

<sup>14</sup> This law states that members of the family are: marital and extramarital partners, blood relatives in the first line, adopter and adoptee, relatives in lateral line concluded with the third degree and in-laws concluded with the second degree.

Broadening of the notion of family, beyond the circle prescribed by the Family Law (Article 2), has been conditioned by the specific nature of this incrimination.

Sexual violence is often present in cases of such violence, but cannot be made a part of this incrimination because it has been incriminated in criminal acts from the group against sexual freedom and moral.

A violent act is determined alternatively as: violence; rude and ruthless behavior.

Violence is most often displayed by the use of physical force, for example, hitting, pushing, slapping, tearing hair by roots, inflicting minor physical injuries. Apart from this, a violent act, which never represents an isolated act that is, form of violence, also implies performing psychological, emotional or spiritual violence which disrupts the peace, physical integrity or social health of the family members. "Violence exists not only when it is aimed towards people, but also towards things in a way that the violent acts are seen by the passive subject, i.e. family member, as coercion and evil" (Tomić, 2007: 140).

Rude or ruthless behavior implies any kind of behavior which largely stands out from the usual behavior in family relations, for example, insults, threats, intolerance, humiliation and other harsh, frequently intolerant forms of behavior that are inappropriate in normal communication and respect of normal values of life in the family. A fine or a one-year sentence is prescribed for the basic form of violence in the family

Item 2 defines the first, more serious, form of criminal act of violence in the family which exists if the criminal act is committed in relation to a member of the family who shares the household the perpetrator. By committing this act in relation to the most immediate family member – spouse or extramarital partner, children or parents, the perpetrator also undermines the existence and integrity of the family as a social group.

A fine or a three-year sentence is prescribed for this, more serious, form of family violence.

Item 3 defines the second serious form of family violence, which exists when a perpetrator uses a weapon, a dangerous instrument or other item capable of inflicting bodily injuries or serious disturbance of health.

In this Item, weapons are defined as different firearms and cold weapons, and the term "dangerous instruments" refers to objects that are used for different purposes but may also serve to inflict serious bodily injuries or death. Such weapons are, for example, axe, hay-fork, spade, shovel, hammer, etc. The term "other items" capable of inflicting bodily injuries or serious disturbance of health are refers to, for example, stone, glass bottle, baseball or golf club, etc.

Imprisonment for a period of three months to three years is prescribed for this criminal act.

Item 4 determines a grave form of family violence which exists if a family member sustains injuries as described in items 1 to 3, or his/her health is severely threatened, as well as in cases when the previous three acts of violence are committed against a child or a minor.

With this form of criminal act, the criminal responsibility of the perpetrator for the consequences, especially when the victim is a child or a minor, as such violence may jeopardize their psychological and physical development with negative consequences for their further proper development and socialization, is dealt with in accordance with the rules on responsibility for grave consequences.

Perpetrators of such acts will be punished with one to five years in prison.

According to Item 5, the criminal act of family violence exists if death of a family member is caused by the perpetration of one of the criminal acts mentioned in items 1 to 4. In this case, it is irrelevant whether death came as a consequence of the perpetrator's activities, or because of the victim's activities. For example, this form of criminal act exists in cases when a victim commits suicide in a desperate attempt to protect himself/herself from violence.

Imprisonment of two to fifteen years is prescribed for this form of family violence.

The most severe form of criminal family violence is described in Item 6 and it is committed when the perpetrator murders a family member whom he/she had previously molested. This, most severe, form of family violence is also characterized as a form of grave murder, which, due to specific position of the perpetrator and the victim and their relationship is covered by this incrimination. The victim is a family member, previously molested by the perpetrator, which should include all the activities presented in the basic form of this act.

This, most severe form of family violence, carries a sentence of imprisonment for ten years or long term imprisonment, just like in cases of other forms of grave homicide.

### 3. Conclusion

The prevailing attitude in the world today is that the family violence represents a breach of human rights. That is why every individual member of the family has a right not only to protection from different forms of violence in the society, but also to protection from family violence.

In the Federation of Bosnia and Herzegovina, protection from family violence has been prescribed by special legislation. First concrete activities on administering institutionalized protection from family violence were taken when the Law on Protection from Family Violence was passed, and when several other provisions were added to the Family Law of the Federation of Bosnia and Herzegovina, with the purpose of enabling protection from violence. The Criminal Code of the Federation of Bosnia and Herzegovina also defines family violence as a criminal act which in most cases carries a prison sentence.

In a broader sense, according to the classification of violence based on gender and the equal approach to protection from violence in “private” and “public” life, the Law on Gender Equality, which has been passed at the state level, can also be related to a segment of family violence which is most frequently called spousal, i.e. partner violence.

Normative regulation of protection against violence in the Federation of Bosnia and Herzegovina, which explicitly proscribes that the family violence is a criminal act, has proven problematic in practice. For example, implementation of provisions of the Law on Protection from Family Violence has still not become operative, the reason being that courts rarely issue security measures, although they are aimed at providing urgent protection to the victim. This is because a consistent implementation of the issued security measures is almost impossible in practice, both due to the non-existence of necessary institutions for protection and providing assistance to the victims of violence and due to the impossibility to provide obligatory treatment to the abuser, but also due to a lack of funds for providing temporary assistance to the victims of violence.

Since the Law on Protection from Family Violence, or other provisions that have followed, fail to mention in a single article where the abuser is to be moved to, the victim of violence who is, in most cases a mother with children, is moved from home or flat, which only causes additional trauma.



Restraining orders, which are also rarely issued have proven an insufficient guarantee in practice as a form of prevention of repeated victimization, which is also one of the reasons why victims, because of their safety, are most frequently moved to shelters on secret addresses. However, even this kind of victim protection fails to fully protect the victim, for, in our conditions, the abuser frequently discovers the shelter, which results not only in additional transfers of the victim, but also puts shelter staff in harms way.

The fact that the majority of shelters in the Federation of Bosnia and Herzegovina are still financed by international organizations, and that the amount of funds they provide is smaller every day, indicates the possibility that these institutions could be closed unless the state defines a standardized way of their organization and financing.

Implementation of the provisions related to protection from family violence is additionally complicated by: the lack of considerable experience and judiciary practice in implementation of provisions of the Law on Protection from Family Violence; insufficient education of participants in the implementation of regulations in this field; insufficient number of staff and funds in social care centers; insufficient media promotion of legislation which regulates the issue of family violence; insufficient prevention measures, especially in education institutions; lack of coordination between judicial institutions, the police and social care centers; non-existence of a unified statistical database, etc.

All the aforementioned facts indicate several problems and a degree of confusion caused, besides by the lack long term solutions, also by the lack of complementarity in relation to the existing laws and available capacities for their implementation. That is why, under such conditions, in which a clear state strategy is lacking, it is not realistic to expect the non-governmental sector to take over the entire process of rehabilitation and protection of victims, as well as finding permanent solutions.

Prevention of family violence requires the implementation of a specially designed education campaign, for the purpose of informing the public that family violence is a violation of basic human rights, but also in order to highlight the fact that the state has made a commitment, by signing several international documents and agreements, to act on preventing family violence. This even more so as experiences from different countries indicate that without serious state intervention and engagement, as well

as of the non-governmental sector and female organizations, satisfactory results cannot be achieved in the process of long term reduction of family violence. That is why efficient legal protection from family violence is the main precondition for both primary and secondary prevention of this social problem.

### Bibliography:

1. Ajduković, M., Pavleković, G. (Ur) (2000): *Nasilje nad ženom u porodici*, Društvo za psihološku podršku, Zagreb.
2. Četvrta svjetska konferencija o ženama (1995). *Pekinška deklaracija*, u: Međunarodna dokumenta, Gender centar FBiH, Sarajevo.
3. Gidens, E. (2003): *Sociologija*, Ekonomski fakultet, Belgrade.
4. Gil, D. (1973): *Violence against Children*, in: Hans Peter Dreitzel (ed.): *Childhood and Socialization*, Macmillan, London, pp. 111-137.
5. Killen, K. (2001): *Izdani*, Društvo za psihološku pomoć, Zagreb.
6. Milić, A. (2007): *Sociologija porodice*, Čigoja, Belgrade.
7. Nikolić – Ristović, V. (2008): *Preživjeti tranziciju*, Službeni glasnik, Belgrade.
8. Nowakowska, U. (1999): *Violence against Women: International Standards, Polish Reality*, Journal of Communists Studies and Transition Politics, 1, pp.41-63.
9. Open Society Institute (2006): *Nasilje nad ženom – Je li vlastima u BiH stalo – pregled činjenica*, Sarajevo.
10. Parlament FBiH (2003): *Krivični zakon FBiH*, „Sl. novine FBiH“, br. 36/03.
11. Parlament FBiH (2005): *Porodični zakon FBiH*, „Sl. novine FBiH“, br. 35/05.
12. Parlament FBiH (2005): *Zakon o zaštiti od nasilja u porodici*, „Sl. novine FBiH“, br. 22/05.
13. Parlamentarna skupština BiH (2003): *Zakon o ravnopravnosti spolova*, u: „Sl. glasnik BiH“, br. 16/03.
14. Petrović, B., Meško, G. (2008): *Kriminologija*, Pravni fakultet, Sarajevo.

15. Preporuke REC-a (2002): *5 Odbora ministara državama članicama o zaštiti žena od nasilja*, u: Međunarodni dokumenti, Gender centar FBiH, Sarajevo.

16. Tomić, Z. (2007): *Krivično pravo II*, Pravni fakultet, Sarajevo.

17. UN (1979): *Konvencija o ukidanju svih oblika diskriminacije žene*, u: Čitanka ljudskih prava, (2001), Centar za ljudska prava, Sarajevo.

18. Unicef (1999): *Women in Transition*, The MOONEE Project CEE/CIS/Baltics, Regional Monitoring Reports, No. 6., Florence, UNICEF Internationale Child Development Center.

19. WHO (2002): *The Toronto Declaration on the Global Prevention of Elder Abuse*. World Health Organization, Geneva.