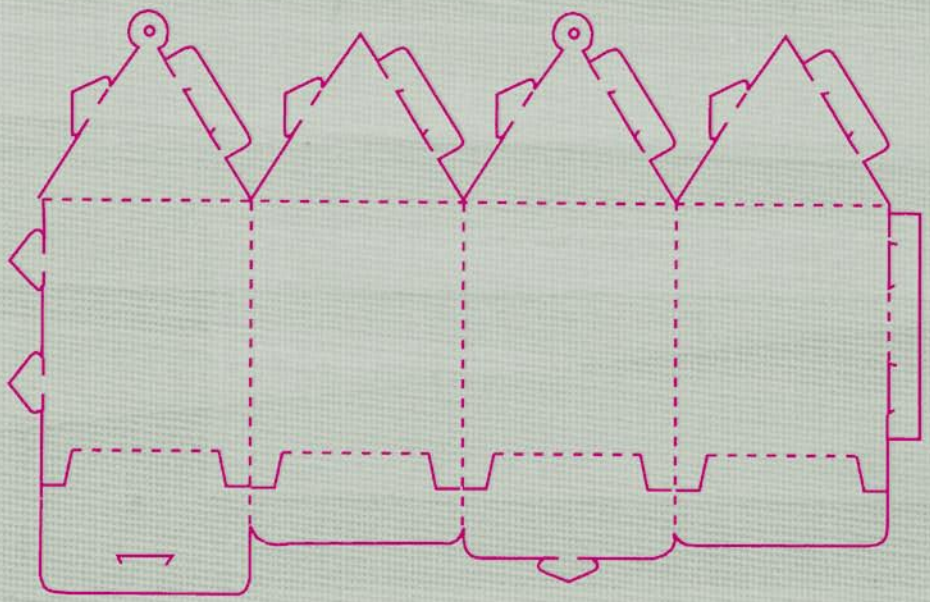
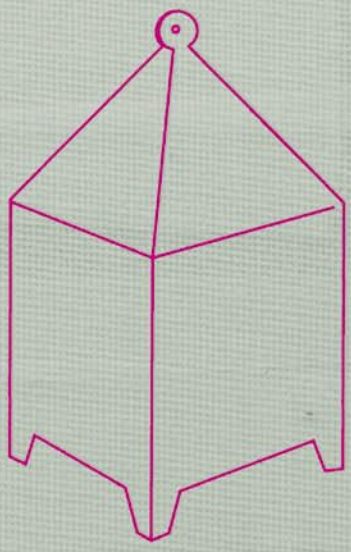
Relatório Pandora Report
Sobre Violência Doméstica
no Centro da Europa
on Domestic Violence
in Central Europe





PROJECTO pandora

violência doméstica na europa central

co-financiado pela Comissão Europeia
Programa DAPHNE

Partner Organisations involved in the PANDORA Project Domestic Violence in Central Europe

CZECH REPUBLIC
BILY KRUH BEZPECI

Bily kruh bezpeci (BKB) is a civic association covering, with its activities, the entire Czech Republic. BKB provides crime victims and witnesses with professional, free of charge, confidential support including moral and emotional support. Services are provided in six counselling centres where there work voluntarily workers, psychologists and social workers. The counsellors provide especially legal information, practical advice and psychological support.

SLOVAKIA
POMOC OBETIAM NASILIA

Pomoc obetiam nasilia (PON) provides free of charge counselling and services for victims and witnesses of crime, domestic violence, traffic accidents, disasters and unfortunate accidents. In the year 2004, there were 8 victim support centres in the victim support network active in each regional capital in Slovakia. In addition, there was the centre for domestic violence victims PON – Krídla (the Wings) active in Presov (operated in cooperation with the National Association of Women Judges).

HUNGRIA
INSTITUTE FOR LEGAL STUDIES OF THE HUNGARIAN ACADEMY OF SCIENCES

The main concern of the Institute is to promote legal sciences in Hungary; in addition it assists in various form the legislation, legal practice and legal education. The main research topics of the Institute are the following: European law and the Hungarian legal system; current issues of business law and private law; environmental law; rule of law and the Hungarian legal order; the European system of protection of fundamental and human rights and general questions of the theory of the legal system.

PORTUGAL
ASSOCIAÇÃO PORTUGUESA DE APOIO À VÍTIMA

The Portuguese Association for Victim Support (APAV) is a non-profit making and a charitable organisation. Its objective and primary statutory activity is to provide confidential and free services to victims of crime, namely information, counselling and emotional, legal, psychological and social support, at a national level. For this reason, APAV has a national network of 14 local victim support schemes throughout Portugal, as well as a Support Unit for the Immigrant Victim of Racial and Ethnic Discrimination (UAVIDRE). APAV is in membership of the European Forum for Victim Support, European Forum for Restorative Justice and the World Society of Victimology.Restaurativa e da Sociedade Mundial de Vitimologia.

ESPANHA
COMISIÓN PARA LA INVESTIGACIÓN DE MALOS TRATOS A MUJERES

Women's non governmental organisation which undertakes its activities in the field of domestic violence, trafficking for sexual exploitation, equal opportunities and sexual violence. Undertakes numerous studies and training at a national and international level, also providing support to women victims of domestic violence.

PANDORA

PROJECT ON DOMESTIC VIOLENCE IN CENTRAL EUROPE

Team of the PANDORA Project
Domestic Violence in Central Europe

1 REPORTERS

PETRA VITOUSOVA AND ALICE BEZOUSKOVA
CZECH REPUBLIC - BILY KRUH BEZPECI

Petra Vitousová is the prezident of Bílý kruh bezpecí - civic association for victim support - in the Czech republic.
She studied journalism and therefore has 20-year practice in media and TV. Since 1991 when Bílý kruh bezpecí was established she has been in charge of the organization, she has 15 years experience with victims of crime. Petra Vitousová was a Member of the Executive Committee of the European Forum for Victim Services and is a founder of the Alliance against Domestic Violence which started operation in the Czech republic in 2002. Petra Vitousová is a lifetime member of the Ashoka Fellowship - Innovators for the Public, she became member in 1996. And in 2002 she was recognized Social Enterpreneur by the Schwab Foundation. Her special interests are training of volunteers, police, judges and big topic of domestic violence. Petra Vitousová is among other also volunteer in Bily kruh bezpeci, she provides psychological counselling.

Alice Bezouskova is a project manager in Bily kruh bezpeci, Czech republic.
She studied philology, psychology and social works, social policy. She has 8 years experience with working with homeless mothers and children. She was working as a the director of a shelter for mothers and children for 5 years.
Since 2004 she has been responsible for coordination and realization of the projects of Bily kruh bezpeci, at the same time she is responsible for trainings provided by Bily kruh bezpeci. Alice Bezouskova is working as a consultant on the DONA help line which provides nonstop services for victims of domestic violence in the Czech republic.

JANA SIPOSOVA AND PETER KOCVAR
SLOVAKIA – POMOC OBETIAM NASILIA

Graduated in Psychology and working in the field of psychological counselling and developmental psychology as practitioner, researcher and top manager. Managed the first project of help to victims of crime in the Slovak Republic (1996-8), establishing a new independent ngo: Pomoc obetiam nasilia - Victim Support Slovakia, where working as an executive director up to now.

Peter Kocvár has a degree in Law and Psychology by the Commenius University. Working for Pomoc obetiam násilia - Victim Support Slovakia as Consultant for Crime Victims and Methodologist.

LENKE FEHER AND KATALIN LIGETI
HUNGARY – INSTITUTE FOR LEGAL SCIENCES

Professor at the Legal Faculty of the University of Miskolc as well as scientific adviser at the Institute for Legal Sciences of the Hungarian of Hungarian Sciences and Senior Scientific researcher of the National Institute of Criminology. She develops research in the field of crimes against family, youth and sexual liberty; legal situation of victims of crimes; victim protection and support; criminality and victimization of women; problems of prostitution and trafficking of persons. She is president of the Hungarian Section of Victimology; Director Board Member of the Hungarian Society of Victimology and member of Feher Gyuru - Victim Support Hungary.

2 CONSULTANT

ALBIN DEARING
AUSTRIA - MINISTRY OF INTERIOR

Dr. Albin Dearing entered the Austrian Ministry of Interior in 1989. Inhis capacity as head of the legal department he was involved in draftingthe Austrian Act on Protection of Violence (Gewaltschutzgesetz), whichentered into force on May 1st, 1997. In February 1997 he was appointed tochair the Austrian Crime Prevention Council, which was then founded and incharge of implementing the new legislation on domestic violence. Since2003 Albin Dearing works as a project coordinator and human rightsconsultant in projects funded by the European Union

3 EXECUTIVE SECRETARIAT

JOSÉ FÉLIX DA SILVA
PORTUGAL – ASSOCIAÇÃO PORTUGUESA DE APOIO À VÍTIMA

Technical Manager of the PANDORA Project

FAYE FARR
PORTUGAL – ASSOCIAÇÃO PORTUGUESA DE APOIO À VÍTIMA

International Liaison Officer

3 EVALUATOR

SARA VICENTE COLLADO
ESPANHA – COMISIÓN PARA LA INVESTIGACIÓN DE MALOS TRATOS A MUJERES

She is a jurist and has been the coordinator for the Comisión para la Investigación de Malos Tratos a Mujeres since 1996. She is also a trainer on fundamental notions and those pertaining to violence not only in Spain but also at international level. She has been conceiving, devising and carrying out training actions and programmes on fundamental violence notions, together with the carrying out of reports on fundamental violence notions, having taken part on the carrying out of the report on Trafficking of Women and the Prostitution within the Community of Madrid.

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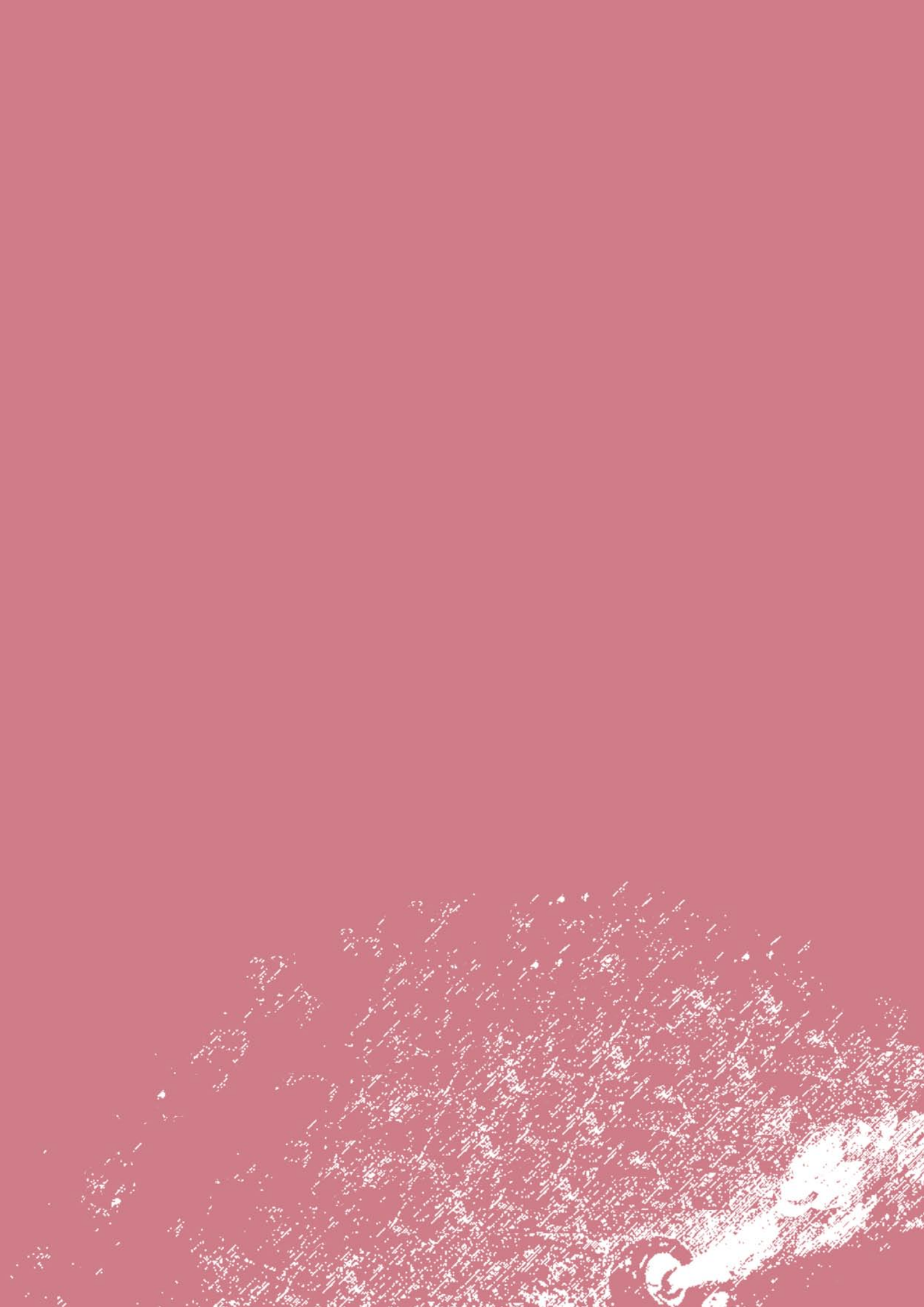

INTRODUCTION

THE PANDORA PROJECT

– Domestic Violence in Central – Europe was undertaken by the Portuguese Association for Victim Support (APAV), charitable organisation envisaging supporting and protecting victims of crime. This project was developed with the support of the European Commission under the DAPHNE Programme – To Combat Violence against Children, Young People and Women, between April 2005 and March 2006. .

The aim of the PANDORA Project was to draw up a report on the situation of domestic violence in three countries of Central Europe – Czech Republic, Slovakia and Hungary -, attempting to work out in both quantitative and qualitative terms the intensity, duration and personal consequences concerning the domestic violence in each of these countries; as well as to outline the profile of the intervening action which has been developed in each country at governmental and non-governmental levels, namely as far as, the assistance provided to the victims, the specific on the ground activity projects, the public information and awareness, the policy and legislative measures, the training of professionals, adjacent philosophies and the planning and systematizing of the projects, are concerned. It has also attempted to work out the legislation and procedural steps regarding the victims in each of the involved countries; to work out the prospects taking into account the work which had been developed and bearing in mind the necessity to contextualize the policies and the intervening actions within the European framework.

The PANDORA Project should be framed as a continuity of the PENELOPE Project – On Domestic Violence in Southern Europe, previously developed by APAV, under the DAPHNE programme (2002-2003), which lead to the PENELOPE report being written with the participation of experts in Portugal, Spain, Italy, France and Greece. The same report structure, as well as the working methodology were used by the three experts currently involved in the Project, resulting in the PANDORA report, now published.

In what concerns the Czech Republic, Slovakia and Hungary, it is clear that there is insufficient centralized information on the social problems connected with the domestic violence, as well as the situation profiles and the intervention carried out at the various levels – political, legal, and social, etc. This insufficient information leads to an inadequate acknowledgement of the phenomenon, which in turn does not allow an exact and efficient intervention to be put in perspective. It also makes it difficult to carry out conjunctive efforts, the coordination of the social and police policy approaches and the legal system to adequately respond to the profile of the situations – at either national level, or namely at the level of the European Union.

These countries in central Europe still desplay quite an underdevelopment in what concerns the understanding mechanisms, the intervening actions and the control of the social problems connected with the domestic violence, which puts them further away from the level of response given to these problems by the northern countries. These latter have historical and

cultural contexts which seem more favourable in what concerns the actual facing of these problems. By having had representatives of the various countries involved, who could convey their information and perspectives, PANDORA Project aimed at gathering this data in the current report which will be made available with its inherent perspectives so as to be used by the decision taking Authorities at the proper time, as well as all by all of those who study and/or work on these issues.

The involvement of national groups (institutions, universities, researchers, non-governmental organizations, etc) in each country, as far as the representatives were concerned, made their access to this relevant information easier, aiming at the defined objectives for this project. Each representative has presented interspersed reports and has discussed the amount of varied information on the problematic issue of domestic violence in his/her own countries, which were then used by a main representative so as to write down this report. They agreed that they would focus on the reality of domestic violence, restricting it to the concept which seemed to be domineering in what concerned the ongoing legal reality in each of their countries. Having discussed these issues they ended up agreeing that although not disregarding the broadest concept of domestic violence – which implies a wide variety of potential victims and aggressors: wife, husband, parents, children, grandparents, etc - as suggested by the Portuguese representative from the previous PENELOPE report, should only focus on a restricted concept and which was common to the other representatives: the one in which the woman stands out as a victim and her husband or companion as the aggressor. Having a restricted concept oriented report could lead to a higher degree of consistency in what concerned the gathered information and material, which was desirable so as to have a short text associated to the concept of this Project.

Each representative gathered and/or personally contacted those people and institutions within their countries, which they thought to be the pertinent ones in regard to the gathering of information on domestic violence in their countries. Having been in permanent contact with the Executive Secretariat for the Project in Lisbon, each of the representatives made interspersed reports in accordance with a general structuring, which had been agreed upon during the international meeting.

The PANDORA Report is divided into three distinct areas, which correspond to the general structuring as agreed upon by the representatives during the international meeting.

In the first area (Substantial Matter I), entitled On the concept of domestic violence and the respective ruling and administrative legislation provisions in the Central Europes, and according to the general structuring there has been an effort to include information, per country, on the concept of domestic violence, which each representative felt as being the domineering one in his/her own country, as well as a detailed list of the ruling and administrative legislation provisions in each of the countries involved, so as to work out the connection between the behaviours/behavioural attitudes and the texts which apply to them, together with the respective publication references, aiming at defining it. We have also endeavoured to list the incriminations, (with particular incidence on specific incriminations); the indication of the type of Entity/Organization which might influence the characterization of the behavioural attitudes within the framework of domestic violence in each of the countries involved; as well as the indication of the anticipated sanctions for the listed incriminations; the indication of the Entities/Organizations which hold the decision taking so as to enforce these sanctions. It also includes the intent element (indicating whether the intent inference of the presumed perpetrator is a necessary element to substantiate the legal infraction or simply the fact that the criminal offence has been effectively carried out for the presumed perpetrator to be reproached); as well as the facts and the procedural acts; as far as the attempt is concerned (indicating the conditions under which the effective action might be considered an inevitable involvement of its perpetrator in terms of the feasibility of the result), and its repression (indicating whether the attempt has been repressed, and if it has, in which way has it been done). We have also tried to present some indication as to the complicity (indicating the known ways of complicity, as well as whether it might be necessary to have a text, which may specifically incriminate the accomplice or simply have the moral wrongdoer be held as the perpetrator or the accomplice); the indication of the personal responsibility (referring the personal responsibility of the main perpetrator, and the ones of the accomplice and of the co-perpetrator, describing the mechanisms regarding the presumption of guilt or the responsibility); as well as

the responsibility of a third party (indicating in which ways it has been envisaged: as subject to punishment or as a full responsibility which will end up in a personal condemnation, referring whether there is a simple or full responsibility presumption in regard to the carrying out of an act perpetrated by a third party).

We have also tried to present some indications in what concerns the undertaking of the burden of proof/ evidence, referring whether the public authority in charge of the legal process should define the guilt of the presumed perpetrator, or whether it should be up to the presumed perpetrator to prove his trustworthiness and/ or his innocence or if there is an effective presumption against the presumed perpetrator, who may be unable to revert it, prior to the setting up of the effectiveness of his behaviour.

We have also considered the attenuating and aggravation causes (indicating whether they are mandatory), the classification of the penalties (having it described and indicating its legal effects), and the accumulation of penalties (indicating the accumulation and not the penalties, including the ones of a different nature), as well as the penalties aggressors are subject to in accordance with the jurisprudence (pointing out the eventual case differences should the aggressors be recidivists or not), and the enforcement of the penalties (indicating the percentage of the penalties which were enforced or partly enforced, stating the reasons as to why they were not fully enforced. We have also focused on whether there is an official record of the aggressors in the above mentioned countries. There has been an attempt to indicate the decision taking the administrative/police or penal authorities have and the relation there is between them as far as that decision taking is concerned; the partaking of entities in regard to the mediation/restoration at local and national levels, as well as the roles the authorities/services involved play in the ruling processing (indicating who takes the final decision); factors, which may influence the decision on mediation (detailing the national criteria, which are applied so as to determine whether mediation should or not be proposed). We have also attempted to present information on the legal enquiries (criminal proceedings) and the procedures which are to initiate them (referring in which way a case may go through a legal processing stage), the entities, which are to be involved in every different stage, as well as the roles they are to play in such a process; and the courts, which may be more adequate so as to handle cases on domestic violence.

We have also tried to include information on the field of territorial application, in what concerns the sanctioning carried out in each of the countries, regarding the infraction committed within the territory by an aggressor who happens to be a non-native of that same territory; or the sanctioning of an infraction in which the victimized person happens to be a native of that country, irrespective of the nationality of the one who has committed the infraction (active personality principle), the sanctioning of blameworthy actions, once the detention of the perpetrator of the infraction has taken place within that territory (passive personality principle); the imparting information on the universal competence system (pointing out eventual agreements); the handing out of the processes; the bilateral and multilateral conventions agreed upon by the Member States (stating whether they have been ratified or if any has already been called forth, specifying the actions which are covered by the referred conventions: the carrying out of a commission / letter rogatory, the access to the evidence/proof and the remettitur of criminal records amongst others).

To finish with and in what concerns the statute of limitation we have tried to include information concerning the limitation period regarding the public action (taking into account the type of infraction and its process declaration time limit); the acts and the facts which discontinue it (the finding of facts or the prosecution, the inquest, death, amnesty); suspensive acts and facts, together with what each country has as far as the protection and restoration procedures, as well as their developing process are concerned (comprising its repairing or protective measures, specifying its voluntary or forced nature, as well as the annexed sanctioning process – naming and annexing the applicable texts); information on the national organizations, which are competent to deal with these processes (describing the role and responsibilities which are played and carried out by these entities); the existence of any intervention process throughout the penal or civil processing together with the eventual intervention of non-governmental victim support organizations throughout the non-penal process.

In the second area (substantial Matter II), entitled the domestic violence situation in each of the Southern European countries; quantitative and qualitative data concerning the victims and the aggressors' profiles; and the type of support they have been provided with, we have attempted to include relevant information on the victim in quantitative and qualitative terms (stating the gender, the age, civil status, familiar situation, nationality, level of education, his/her situation concerning the economic activity, the main livelihood earnings/ profession, the place of residence, the number of people depending on him/her; information on the aggressor (stating his/her relationship with the victim, the gender, the age, the main livelihood earnings/profession, the criminal record, the number of people depending on him/her , the type of perpetrated victimization, the perpetrated actions – the type of perpetrated crimes, the place where the crimes were committed, the existence of a formal complaint – where it was formally made, the number of complaints included in the process together with information on where the process stands); the type of support which has been provided to the victims of domestic violence (including the overall support/ the referral and the specialized support which has been provided – legal, psychological, social and economic). As far as qualitative terms are concerned, the main consequences endured by the victims namely at personal, professional and social levels.

In the third area (Substantial Matter III), entitled Aspects concerning the prevention and intervention outline, at governmental and non-governmental levels, regarding the domestic violence in the countries of Central Europe, we have tried to produce information on the assistance provided to the victims of domestic violence (with particular incidence on the existence of a national network of victim support cabinets in each of the considered countries, the national network of shelter homes, the national service which provides information/support to the victims of domestic violence, etc.); the absence of governmental and non-governmental intervention and prevention measures, information to the public and public awareness campaigns (stating the nature of those campaigns as well as the geographical coverage, highlighting the source and the main essence of the transmitted messages, the funding source and the role which was played by the social media); the existence of political and legislative measures anticipating an immediate future outcome (stating the existing national/regional fighting measures against domestic violence and which priorities have been determined); as well as the specific intervention and prevention projects concerning domestic violence, at national, regional and/or local levels.

Lastly, in the fourth and final área (Substancial Matter IV), entitled Vision for the Future on Domestic Violence in Central Europe, the PANDORA report compiled a summary of the main activities undertaken in this field in each member state; as well as presented the main decision made in each of them regarding national policies in the frame of the recent European policies and guidelines; adding also the recommendations of the experts themselves in what concerns their own countries as well as the European Union.

The PANDORA Report does not seem to show consistency, mainly because of the different realities of each of the countries involved, particularly in what concerns every aspect which should be focused in every of the main areas, there being significant differences or even inexistence in regard to the overall substantial matters. It does convey a number of pertinent pieces of information, liable to give a minimum acknowledgement of what the central Europe reality is about in what concerns these social problematic issues, which in northern European countries are approached in a much more structured intervening way, under the light of national policies defined accordingly; though the search for long term positive outcomes, as far as prevention is concerned, continues to be a goal.

At the end of the PANDORA report, and after carefully analysing the information sent by the participating experts, APAV presents conclusions and some brief but relevant perspectives for the future.

1.

CONCEPT OF DOMESTIC VIOLENCE: SCOPE, UNDERSTANDING AND DEFINITION - LEGISLATIVE AND ADMINISTRATIVE MEASURES IN CENTRAL EUROPE

CZECH REPUBLIC

PETRA VITOUSOVA AND ALICE BEZOUSKOVA

1. List the ruling and both administrative and legislative decrees of the member States which enable the identification of behaviours / attitudes comprised within the concept of domestic violence

The current legal regulations of domestic violence as for the offered means and possibilities of protection from domestic violence seem to be totally inefficient in the Czech republic.

Domestic violence is according to the Czech legal order sanctionable only in its very developed phase; this is to say only when the victim is hurt so much that it becomes a crime. The experience shows that the repressive bodies react in these cases to serious bodily harm or murder.

The current legal regulations enable the victims and the endangered individuals to protect themselves by means of the relevant articles of the law on Police, the law on offence and the penal code.

The law 283/1991, about the police of the Czech republic:

It is the obligation of the police to ensure the victim's safety, to prosecute the perpetrator (eventually to pass him over to the relevant procedures). The police must document the case history (including the procedures and steps taken).

The practise confirms that particular articles of law about police are not used in the context of domestic violence because of the following reasons:

- failure of human factor (the police just like the bulk of both lay and professional public are influenced by the prevalent attitude that domestic violence is of private character, it is a conflict within a relationship which must be solved by those involved; often they are convinced the law does not give them proper tools for adequate reaction);
- the system of the mandatory guidelines, which would obligate the police to proceeding in those demanding and frequent situations, is missing (detection of domestic violence, intervention report, protection of the endangered person, record of all the interventions, method of interrogation and safeguard of a proof, evaluation of the risk of real threat, interdisciplinary cooperation with follow up services etc.);
- the system of the full area training in domestic violence for police is missing

The Police of the Czech republic perceive domestic violence as a serious problem and is interested in making their procedure more effective in the current legal order. Recently (10.9.2004) a guideline of the director of the Office for criminal police and investigators was launched. The guideline regulates the procedure of the police in cases of reporting and investigating domestic violence.

A good example of motivation of the police can be seen in Ostrava where the police got involved in the interdisciplinary solution of the domestic violence cases.

Law 140/1961, penal code

The penal code has not contained the factum of domestic violence until recently. The law 91/2004 of the digest only launched it.

Behaviour which fulfils the features of domestic violence does not have to be punishable according to different facta depending on the caused harm (bodily harm, violence against a group of people and against an individual, individual freedom restraint, chantage etc.), but according to the new factum the maltreatment of a person living in the commonly used flat or house will be published.

This factum expresses the special feature of this crime, which is that the perpetrators who abuse other people do so on the close people and other people living in the same house, so that a special from of dependency is created because they usually have more difficult position and it is usually not easy to leave the place for

living. The abuse relates not only to close people but also to the individuals living in the same house.

The new factum of „abuse of a person sharing the same flat or house according to §215a of the penal code, with the force of legislation as from 1.6.2004, can be understood as a criminating approach, which does not constructively solve domestic violence in its complexity and sensitivity. The regulation reacts to the violence already committed, which is repressed but does not offer the endangered person any concrete efficient protection of professional help for future. Any prevention is limited to only threat of sanction.

The law 141/1961 of the digest, about the criminal proceedings

As for the proposed law the most problematic seems to be the institute of the victims approval of the prosecution according to §163 of the penal code which says that the prosecution can only be started or continued with the approval of the victim when it is about the following crimes § 197a, 206, 207a, 208, 209, 221, 223, 224, 226, 231 article.1 a 2, 235 article. 1, 238 article 1 a 2, 247, 248, 249, 249 a, 250, 251, 252, 253, 254, 255, 256, 257, 241 article 1 and 2, 201. Victim can provide the approval in written form or orally into the protocol. They can also take it back until the court decides. One withheld approval cannot be bestowed again.

The victim approves of the prosecution when the hardship is unbearable, the consequences of the violence are striking and the health of the children is at stake or in cases when the victim can leave for a shelter, parents place or to the adult children.

Law 200/1990 digest, about offences

In the current practise domestic violent is being viewed as single separated attacks and more as a minor offence than a crime. The practise does not take account of the fundamental signs of domestic violence, which are repetition and escalation.

Minor offences are acts, which are typical for their lower degree of danger for society. As a punishment only an admonition or fine can be inflicted. But both can never be inflicted. According to § 49 the behaviour of the violent person within domestic violence is classified as a minor offence.

Domestic violence viewed as a minor offence belongs to so called draft offence for which the fine up to 1000 CZK can be inflicted. The minor offence will only be dealt which on condition that the victim submits the petition within 3 months from the day she learned about the offence or about the submission of the case to the institutions active in criminal proceedings. The offences for which a fine up to 3000 CZK can be inflicted, committed between close people can also be dealt which only when there is a petition. This means that it is the victim who manages the right to start the minor offence trial. In case the victim decides to submit the draft the real risk of threat of domestic violence escalation increases. This means that by approval the victim him or herself raise their own jeopardy. The sanction as can be seen from the amount is minimal. The solution of domestic violence cases misses its basic sense, which is to stop the violence and protect the victim.

Law 99/1963, digest, civil procedure code

The Czech legal order offers the person endangered with domestic violence that decides to solve their situation a certain procedure (crime code solves the situation only in cases when the perpetrator is prosecuted in custody and then sentenced to unconditioned imprisonment by which contacting the victim becomes impossible and the risk of further attacks is eliminated). When using the civil procedure act the victim finds himself or herself in a difficult situation because they bear the burden of proof (they must prove their statement).

Law 40/1964, civil code

The focus of the problems of the person endangered by domestic violence from the civil point of view lies in solving the housing problem. When they want to stop the violence, which is committed upon them, and solve their situation, they often do not have another solution but must run away from the house they share with the perpetrator. Usually they have nowhere to go. Most commonly they run away with their children to their parents where they live in cramped conditions while the perpetrator enjoys their house. With the respect to

the victims of domestic violence the housing situation is not solved in the Czech republic. There is no legal possibility how to restrain the using of the house for the violent person. Even in the Czech republic most violence is committed between married couples, it is typical that even after divorce they are forced to share s house. In such cases divorce does not solve domestic violence and does not eliminate the risk of further attacks.

2. Match the behaviours /attitudes with applicable texts and the respective publication references with the purpose of defining the following:

2.1. Type of texts and publication references as well as the incriminations involved

(have the referred texts included in an annex)

2.1.1. List the incriminations

∫	71/1,3	Obstructing an officer
∫	174	False accusation
∫	175	False testimony
∫	185	Unlawful arming
∫	197a	Violence against a group of people and against an individual
∫	202	Disorderly contact
∫	205	Endangering morality
∫	206	Slander
∫	213	Desertion
∫	215	Maltreatent of the person given to keep
∫	215a	Maltreatment of the person sharing the same house or flat
∫	216	Kidnapping
∫	217	Endangering moral education of the youth
∫	218	Alcohol administration to the youth
∫	219	Murder
∫	221 - 222	Bodily harm
∫	225	Fight
∫	230	Complicity in suicide
∫	231	Restraining individual freedom
∫	232	Detention
∫	235	Extortion
∫	238	Breaking the house freedom
∫	241	Rape
∫	242	Statutory rape
∫	245	Incest
∫	247	Theft
∫	249	Unauthorized use of property of another
∫	249	Unauthorized interference with the right on the house, flat or non-residential space
∫	257	Waste of property of another

2.1.2. The nature of the incriminations

From the given survey it is clear that the relevant manifestation of domestic violence will fulfil the factum of the crimes of V. chapter of a special part of the penal code – crimes disturbing civic cohabitation, VII chapter – crimes against life and health and VIII. chapter - crimes against freedom and dignity.

Basic human rights among which there is also right to life and health protection are anchored in the Constitution of the Czech republic and the Declaration of basic rights and freedoms, they are guaranteed by the regulations of the highest legal power.

Article 6 of the Declaration of basic rights and freedoms ensure the right of everyone to life, the article 31 guarantees health protection. The article 7 of the declaration guarantees personal immunity and prohibits inhuman and humiliating treating.

In the article 10 the Declaration ensures the right to human dignity, personal respect, good reputation and name protection.

The Constitution of the Czech republic, article 4 guarantees protection of basic rights and freedom by the judicial power.

The notion „violence“ is not defined in the Czech penal code. § 89, article 6 of the penal code says „crime is committed in a violent way when it is committed on a person who the perpetrator led into the state of defencelessness by ruse“.

The notion „ violence“ occurs in other 22 regulations of the penal code, which again do not define nor explain violence; it is more means to reach a certain aim.

Although it mostly goes about physical violence, the commentary to the penal code and the code of criminal procedure says at the crime maltreatment of the person given to keep that maltreatment is understood not only

as causing physical harm but also psychical. Further the practise of courts says that there do not have to be health consequences but generally it goes about such behaviour that the maltreated person perceives as hardship for its cruelty, inconsideration and hurtfulness. Neither the penal code nor the practice of courts or the literature explains hardship.

In order to judge behaviour classified as domestic violence it is not crucial whether the perpetrator and the victim permanently live in the same households; from the legal point of view it is essential whether it is going about a close person. The perpetrator of the violent behaviour whose object is a close person with who he does not permanently share household can cause comparative harm as a perpetrator sharing household with his victim. Therefore it seems more appropriate to use violence between close people, but as domestic violence is commonly adopted it will take time to take over.

Civil code defines the notion household this way: „household is made by individuals who permanently live together and pay together expenses for their needs". For our purpose it is appropriate to remind § 116 of the civil code, which designates close people. A close person is „a relative in the direct line, sibling, husband or wife; other people in family relationship are regarded close when the hardship perceived by one would be perceived as own hardship by another one". Close person is defined also in § 89, article 8 of the penal code as „relative in the direct generation, the adoptive parent, the adoptive child, sibling and husband or wife; other people in family relationship are regarded close when the hardship perceived by one would be perceived as own hardship by another one". The definitions of both legal regulations are very similar; the penal code only mentions the adoptive parent and the adoptive child.

2.1.3. Type of entities/organisations, which may influence the assessing of the behavioural attitudes in what concerns domestic violence

In the Czech republic these are mainly NGOs helping to victims of domestic violence, thus institutions in direct contact with cases of domestic violence. Above all their empirical knowledge together with the media support stirred up first professional debates about domestic violence in the Czech republic in 1995/96. These institutions initiated first representative sociological research and worked out organizational and legislative impulses for system changes in the society. They managed to change the attitude of the both society and professionals to domestic violence thanks to their erudition and consistency.

2.2. Sanctions/Penalties

2.2.1. Penalties anticipated for the incriminations referred to in 2.1.2

The system of punishments is regulated by §§ 27 and 29 of the penal code. For the crimes committed (stated in 2.1.2) court can inflict only following sanctions: confinement, community service, prohibition of activity, forfeiture of property, fine. Different punishments can be inflicted in case of a juvenile offender according to special law and according to § 78 of the penal code.

The constitutional principle governs – there is no punishment without law, only punishments embedded in law can be inflicted (e.g. in the Czech republic there does not exist punishment house arrest therefore such punishment cannot be inflicted). Punishments have the educative and protective function, when inflicting punishments prevention prevails.

2.2.2. Entities/organisations, which take the decisions as far as penalties are concerned

Only courts decide about punishments.

2.3. Intentional aspect/principle (indicate whether the prove of intention on the part of the presumably responsible author for the misbehaviour is a necessary aspect to be taken into account as a breach/offence, or is the material evidence of the action sufficient enough for its potential author to be hold responsible for it)

According to § 3 article 3 of the penal code for an act to become criminal it must be premeditated unless the law

says it is sufficient when it is caused of negligence. This may become for example in a crime desertion.

2.4. Material aspect: existence of material elements

2.4.1. Facts and constituent actions

According to § 43 article 1 of the penal code a victim is the one who was physically harmed, to who a property, moral or other harm was caused by crime. This means a consequence of crime does not always have to be only material harm. Harm is a sign of an unwanted behaviour, which the society does not tolerate.

In some cases a certain amount of harm is demanded – for example theft is above 5 000 CZK, below this amount it is a minor offence; from 5001 CZK it is a crime. Harm is an obligatory sign of a crime.

2.4.2. Action or omission

Action and forbearance relates to action, thus it can be both active and passive.

This means a crime can be committed by both active and passive action. For example by not reporting (maltreatment of a person given to keep) and not interrupting (rape). Both forms are possible. Between action and forbearance and the consequences (harm) there must always be causality.

2.4.3. Attempt: indicate the conditions under which the material factors may be considered as undisputable conditions of the involvement of its author, as far as the final results are concerned

Harm is always an obligatory sign of a crime. Whether it is a bodily harm, property or another type of harm is another matter.

2.4.4. Conditioning of the attempt: indicate whether the attempt is to be conditioned or not, and if so, in which way

We do not understand the question. An attempt can be either intentional or neglect but conditioned??

2.5. Complicity

The perpetrator is the one who commits crime. When a crime is committed by common action of two or more people, each of them is responsible as if they committed it on their own (joint tort feasors). The penal code in § 10 also knows engagement. Engagement can have three forms: organizes, leads, does not act himself, suborns – gives type but does not act himself, helper – helps getting means, removes obstructions but is not actively involved. In cases of domestic violence we can think of support, instigation, cover-up, instruction, help.

The accomplices are criminally liable just like the perpetrator. The extent of their guilt is judged, the extent of the organizer may be bigger than the perpetrator himself. There exists the obligation to report the maltreatment of a person given to keep (child, non sui juris, person dependent on the help of others).

2.6. Responsibility

2.6.1. Personal responsibility

Criminally liable is not the one who did not reach 15 years of age by the day of committing crime. Criminally liable is not the one who could not recognize the dangerousness of crime for society or control their behaviour due to their mental disorder.

From the point of view of the responsibility for the crime there must be fulfilled the condition of age, control ability and sanity.

From the point of view of the law about the responsibility of the juveniles for illegal acts and justice in the matter of the juveniles (law 218/2003, digest, § 5) a juvenile must reach such rational and moral maturity so that he is able to recognize the dangerousness of their behaviour for society.

The accomplices are criminally liable just like the perpetrator.

In the Czech republic there is a presumption of innocence (§ 2, article 2, penal code). No one against who is led criminal proceedings can be looked at as guilty until the guilt is enounced in the final judgement.

2.6.2. Responsibility upon somebody else's actions

In the Czech republic there applies the principle that the perpetrator is the one who committed the crime. In case two or more people committed a crime, each of them is responsible as if they committed it on their own (accomplices).

2.7. Administration of proves

2.7.1. Who shall be in charge of the burden of prove

According to § 2 / article 2, Code of Criminal Procedure, the seek principle applies, it is the institutions active in the criminal proceedings (police, prosecutors, courts) that care about the burden of proof. They collect proofs testifying for or against guilt. There exists reciprocal obligation, guilt must be given proof of to the accused, the accused can tell lies, keep silent, confess but even his confession does not give quietus to the institutions active in criminal proceedings and they must keep on seeking for proves and objective truth.

According to § 2 / article 6, Code of Criminal Procedure, says that the institutions active in the criminal proceedings evaluate the proofs in harmony with their conviction based on thorough consideration of all the circumstances of the case each separately and in total.

The decision about guilt or innocence is taken solely by court based on proves which were gathered and demonstrated at court.

2.8. Penalties: Causes for attenuation and aggravation, execution

2.8.1. Causes for attenuation and aggravation

The mitigating circumstances are named in §§ 33 and 34 of the penal code (i.e. strong excitement of the perpetrator during committing the crime, influence of addiction, dependence or subordination, influence of threat or constraint). It is a demonstrative enumeration of circumstances; court can extend this scale of possibilities. It always depends on the free consideration of court.

2.8.2. Classification of the penalties

The system of penalties is included in §§ 27 and 29, penal code. Court can inflict following penalties for crimes: imprisonment, community service, prohibition of activity, and forfeiture of property, fine. Different types of penalties can be inflicted on juveniles according to special law and according to § 74, penal code. Juveniles can only be inflicted provision (not penalty), educational provision, protective order and penal order.

The constitutional principle applies – there is no punishment without law, only punishments embedded in law can be inflicted (e.g. in the Czech republic there does not exist punishment house arrest therefore such punishment cannot be inflicted). Punishments have the educative and protective function, when inflicting punishments prevention prevails.

2.8.3. Cumulating of penalties

On condition the law says more penalties can be inflicted for one crime, they can be inflicted separately or more next to one another. E.g. according to § 28, penal code, for a crime the penalty of expatriation and prohibition of stay can be inflicted separately, but it is not possible to inflict fine next to forfeiture of property.

For committing more crimes the penalty, which relates to the most strictly prosecuted crime is inflicted.

2.8.4. Types of penalties, which are commonly applied to the aggressors under the light of the jurisprudence

Nowadays in the Czech republic the infliction of alternative punishments prevails, i.e. conditioned imprisonment and community service.

More detailed information about inflicted penalties is published on www.justice.cz/iksp, prison service. We are an organization for victim services and we do not monitor this problematic.

The infliction of penalty always depends on seriousness and circumstances of crime, alternative penalties are inflicted in cases of smaller importance, and the unconditioned penalty is usually inflicted in cases of repeatedly committed crimes, aggravating circumstances. It is always up to the judge.

2.8.5. The carrying out/execution of the penalties

According to § 320 and the following the decision of court becomes executable, the presiding judge sends the injunction of the execution of punishment and calls upon the convict to start the sentence.

More detailed information about inflicted penalties is published on www.justice.cz/iksp, prison service. We are an organization for victim services and we do not monitor this problematic.

2.8.6. Existence of an "offender" database

In the Czech republic there exists the Central prisoners registration where all the prisoners in custody and prison in the Czech republic are filed (this registration is at disposal for the institutions active in criminal proceedings).

Further in the Czech republic there exists rap sheet, i.e. registration of all final orders. The ministry of justice administers the rap sheet. There are two forms how information from the rap sheet is provided, extracts from the police records, which anyone can ask for, or a copy, which is provided for the institutions active in criminal proceedings where all criminal history is included cum, fixed punishments.

2.9. Decision making on the part of the administrative/police and penal authorities responsible for such cases and the relationship established among the respective Decision-making capability

The police enquire into circumstances in case of suspicion that a crime has been committed, they start criminal proceeding; gather proofs in the preparatory phase. The prosecution supervises the work of the police in the preparatory phase, prepares the criminal charge and hands it over to court together with a proposal of inflicting a punishment. The court demonstrates the proofs during the public hearing and decides about guilt and punishment. Both the prosecution and court can give the case back to police to be enquired again, the proofs or procedures to be complemented.

2.10. Participation of the mediation/restoration oriented organisations at national and local level, as well as the role they actually play within the process

2.10.1. Authorities/Services involved in the decision making process (indicate who is to take the final decision)

In the legal system in the Czech republic the mediation is anchored only in criminal proceedings and the final decision is always upon the institution active in criminal proceedings – prosecutor, judge.

2.10.2. Factors which influence the decision on mediation

The paramount factor in the decision-making about mediation is the voluntary participation of both parties. („Mediation can only be done with the express consent of the accused and the sufferer! - § 2 article 2, law 257/2000, digest, about Probation and mediation service).

2.10.3. Rules and/or practices, which determine the criteria to be applied in order to assess whether or not a mediation process should take place

Mediation can be used in any phase of the criminal proceedings – both in the preliminary and execution procedure. The criteria are interest and voluntary decision of both parties (see law on probation and mediation service).

2.11. Powers of decision-making of the authorities entrusted with the process

2.11.1. Opportunity or legality of the process (cover the existing relations between the different powers, the conduction/referral of the processes, the margin of manoeuvre/initiative, discretionary power)

In § 2, Code of Criminal Procedure regulates the basic principles of criminal proceedings in the Czech republic. The constitutional principle applies – there is no punishment without law, only punishments embedded in law can be inflicted and only crimes embedded in penal code can be punished.

According to § 2. article 1, Code of Criminal Procedure a person can only be prosecuted on basis of legal grounds and only the way that the law sets.

The police examine the facts that show to a crime committed. The prosecution supervises the work of police, represents the criminal charge before court.

The court decides about guilt and punishment on the basis of the criminal charge and the proposal of penalty by the prosecution. It has power to take decisions in the preparatory criminal proceedings, for example the court decides about custody, house search, overhear (tapping), it participates in urgent juristic acts.

In the Czech republic there sofar do not exists binding rules for domestic violence investigation. There exists directory statute, which is a guideline of the director of the Office for criminal police and investigation, Police headquarters of the Czech republic. This guideline is dated 10.9.2004. The guideline has 14 articles and explains the police the basic procedures starting by defining domestic violence. At the moment a bill on protection from domestic violence is being read in the parliament, the bill results from the Austrian model „expulsion".

2.11.2. Authorities entrusted with the application of sanctions

Only court decides in these matters. In the first instance it is regional or district court. In the second instance district or The Supreme Court.

Guilt and punishment can only be decided about through adjudication against which one can appeal. This is ordinary right of appeal.

There exists also extraordinary right of appeal. For both types there are the same procedures: extraordinary appeal, retrial or a complaint for breaching the law.

2.12. Criminal Procedures

2.12.1. Procedures used to initiate criminal procedures

Prosecutor must prosecute all crimes he learns about unless the law or an international contract does not say otherwise.

When the found and sustained facts suggest that a crime has been committed and that a certain person committed it, the police immediately decide to start prosecuting this person as the accused. The resolution statement about starting the prosecution must include the description of the act the person is accused of. A complaint against starting the prosecution is allowable

2.12.2. Authorities involved in the different stages of the criminal procedure and their roles in each stage

2.13. Courts competent to rule on cases of

domestic violence (identify those competent in cases of domestic violence and specify their range of competency)

In this direction there is no specialization in the Czech republic. It always depends how the acts are legally qualified, minor offences are tried at regional courts, serious offences at district courts (e.g. murder).

Court always decides about guilt and punishment, compensation can also be decided within criminal proceedings as well as protective orders (e.g. treatment but not about orders such as not getting near victim as is usual in some countries…).

2.14. Territorial scope – Competence of National Authorities

According to the law of the Czech republic, the culpability of an act is judged when it was committed within the territory of the Czech republic, out of the territory on the board of a plane or ship, which are registered in the Czech republic. According to the law of the Czech republic, the culpability of an act is also judged when a Czech citizen commits a crime abroad or a person without a citizenship who has permanent residency in the country (§ 17 and § 18, penal code).

Czech citizens are not extradited for prosecution neither for execution of a punishment abroad. There is one exception § 21 penal code (they can be extradited when the law or an international contract that the Czech republic has ratified, says otherwise). § 383 and the following of the code of criminal procedure regulate extradition abroad.

2.14.1. Sanction an offence committed in its territory by an offender who is not a citizen of that Member State

The penalties are according to the penal code of the Czech republic whenever a crime is committed on the Czech territory, regardless the nationality of the perpetrator. Inadmissibility of prosecution those (§ 11, article 1c, code of criminal procedure) who are immune from the authority of the institutions active in criminal proceedings (diplomatic immunity).

2.14.2. Sanction a native/citizen who commits an offence at another Member State

Czech citizens are not extradited for prosecution neither for execution of a punishment abroad. There is one exception § 21 penal code (they can be extradited when the law or an international contract that the Czech republic has ratified, says otherwise). § 383 and the following of the code of criminal procedure regulate extradition abroad.

2.14.3. Sanction an offence in which a native/citizen has been victimised, irregardless of the author's nationality

See 2.14.1

2.14.7. Bilateral and multilateral conventions of which the Member States are signatories

The international department of the ministry of justice manages this information and this information is compiled in a very large database. NGOs are not authorized to ask for such kind of information.

2.15. Overruling/Suspension

2.15.1. Period after which the public criminal procedure may be suspended/overruled

Respite – it is not going about a crime (§ 159a and 159b, Code of Criminal Proceedings).

Prosecution interruption - when the matter cannot be cleared up due to absence of the accused or when the accused cannot be brought to justice due to their disease which occurred only after the prosecution started, further in cases when the accused is not able to understand the sense of prosecution or when the prosecution was handed over abroad or the accused was extradited or expatriated (§ 173 penal code).

Arrest of prosecution – it is doubtless that the act did not happen, it was not classified as a crime and there is no reason for reference, it is not proved that the act

was committed by the accused, prosecution is inadmissible (amnesty, negative prescription, low age etc.), the accused was insane during committing the crime and therefore was not criminally liable, culpableness of the crime expired.

Adjournment, suspension of a trial – when there occurs an impediment co that the trial cannot take place or be continued (e.g. the illness of the accused, car accident during the transport of the accused to court). The court sets a date when there will be next trial (§ 291/1 penal code).

Accord and satisfaction – in proceedings concerning such a crime, the sanction of which does not exceed the upper limit of 5 years, the proceedings can be stopped when there is accord and satisfaction. The court takes this step with the approval of both the accused and the victim. The prosecutor can take this decision in the preparatory proceedings. The accused proclaims that he committed the crime and pays for the harm caused to the victim plus he consigns an amount at court addressed to a concrete recipient for sociality beneficial purpose (§ 309 a following, code of criminal proceedings).

Conditioned arrest of prosecution – prosecution of a crime the sanction for which does not exceed its upper limit of 5 years can be conditionally ceased on condition that the accused confessed to the crime, compensated the damage, this can be done with regard to the circumstances of the crime and to the personality of the accused. The trial period is usually set from 6 months to 2 years. Adequate restrictions can be inflicted and duties leading to proper life of the accused. A complaint can be filed against this decision (§ 307, code of criminal proceedings).

2.15.2. Acts and events leading to interruption or suspension of the process

See 2.15.1

2.16. Protective and restorative proceedings

There is a new trend aiming at transition from the repression to prevention, which stresses the educative function of sanction. In the Czech republic there are two types of sanction differentiated, penalty (§ 27 – 29, penal code) and protective order (§ 71, penal code).

Both penalties and protective orders are inflicted by court.

According to special law juveniles are inflicted only provisions (protective order, educational and penal order) not penalties.

2.16.1. Development of protective and restorative proceedings

See 2.16

2.16.2. National competent authorities involved in the proceedings

See 2.11.1

Next to the institutions active in criminal proceedings, it is also the minister of justice who has the competence to complain at the High Court for breaking the penal law.

2.16.3. Possibility of intervention during the criminal or civil proceedings

The rights of victims – right for information, legal help, compensation (§ 43 code of criminal proceedings). The victim can be represented by an attorney that he chooses and pays for, in case of social scarcity the attorney is appointed ex offo at the expense of the state. An attorney does not have to be a lawyer.

In civil proceedings there is the equality of both parties and dispositional principle, i.e. the victim must file a proposal for writ of summons (presentment), in which he specifies the right in action (so called petition) and who they are going to sue. The court is bound by the proposal; the obligation to make good allegations and provide proper evidence applies. The accuser must declare facts and must prove them.

In criminal proceedings there applies the seek principle; it is the institutions active in criminal proceedings who take the steps.

2.16.4. Possibility of intervention by non-governmental victim support organisations in the criminal proceedings

They can provide proper evidence (certification, acknowledgement), they can be heard as witness, work as attorney or accompany to police or court.

SLOVAKIA

JANA SIPOSOVA AND PETER KOCVAR

1. List the ruling and both administrative and legislative decrees of the member States which enable the identification of behaviours / attitudes comprised within the concept of domestic violence

The current legislation does not regulate the problem of the domestic violence / violence against women in one complex law. The definition of the domestic violence can be derived implicitly and is going to be different due to the branch of law we are talking about. Thus, the understanding of the violence against women can differ in the civil law and in the administrative and criminal law.

The right for protection of the victims of the domestic violence emerges from the general regulation of basic human rights in the Constitution, the right for the protection of life and health as the basic one. Also, there are the Laws and Regulation related to this problem.

The most important Laws are:

- Law no. 40/1964 Coll. Civil Code
- Law no. 99/1963 Coll. Civil Proceeding Code
- Law no. 140/1961 Coll. Penal Code
- Law no. 300/2005 Coll. Penal Code (entering into force from 1.1.2006)
- Law no. 141/1961 Coll. Penal Proceeding Code
- Law no. 301/2005 Coll. Penal Proceeding Code (entering into force from 1.1.2006)
- Law no. 372/1990 Coll. on the Administrative Offences
- Law no. 452/2004 Coll. on Stand-by Aliments
- Law no. 437/2004 Coll. on Compensation for Pain and Limited Social Adjustment
- Law no. 171/1993 Coll. on the Police Corps
- Law no. 311/1991 Coll. on the Register of Punishments.

From the regulations which don not have the general mandatory status, there is the National strategy for the prevention and elimination of the violence on women and in the families (referred further only as the National strategy) from the 2004. At this time, also the National action plan for the prevention and elimination of the violence on women for the years 2005-2008 is being prepared (referred further only as the National plan).

The Civil Code does not contain the explicit definition of the domestic violence and not even violence itself. It does though operate with it and allows the victims to protect themselves via the measures of civil law nature. They can protect their lives and health from the violent behaviour of the person who is their „close person. “ Close person, in the meaning of the Civil Code means the ancestors and descendents, brothers and sisters and husbands. Other people related as relatives or similarly, are considered as close persons only if the harm suffered by one of them can be perceived as related also to the other one of them. This definition of „close person“ is more narrow than the one used in the Penal Code (it does not contain the ex-husband for example).

The Civil Proceeding Code also does not specify the concept of the domestic violence, but it also allows promoting the protection of its victims. The protection can be granted via the court ordering the preliminary ruling decision, prohibiting the perpetrator to enter the house or the flat which is inhabited by his close person, to which he is suspected of violence for cause. According to the civil law the domestic violence can be defined as the violence between the close persons as defined by the Civil Code.

The definition of „close persons“ in the Penal Code, for the purpose of selected crimes, is wider than the one used by the Civil Code. It contains also the ex-husbands, spouses, ex-spouses, the other parent of the child and their close persons and the person who lives or had lived in the past in the common household with the offender of the crime. This definition is being applied for the crimes of the violence against the group of persons and against an individual, the violence against the group of persons and against an individual, the maltreatment of the close person or of the ward, the duress, the rape, the sexual violence and the sexual abuse.

According to the Slovak penal law, the domestic violence is incriminated as a selected group of the crimes which

were committed between the offender and the victim in the relation of the close persons in their broad definition. Also, at some crimes the committing of such a crime against the close person is considered as an aggravating condition.

The other mentioned laws are related to some of the aspects if the domestic violence as mentioned in the further text.

The National strategy works with this definition:

The violence committed in the family is any act of one person of the family or of the household against any other member, if this act restricts his legal rights and freedoms and causes him bodily or psychological harm and moral injury, or if it is a risk of his physical or personal development. The victims of the violence face the breach of their basic human rights and they cannot live in the safety and harmony. The concept designates any violence where the victim or the perpetrator are or had been in the past in any personal relationship. It includes the violence between the spouses (and ex-spouses), the violence of parents against their children, the violence between brothers and sisters the same as abuse and negligence of the elderly people or handicapped people by the other member of the family or of the household.

The National strategy also deals with the concept of the violence against women and it mentions the UN Declaration on the Elimination of Violence against Women (1993). It defines the 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 in private life.“ The National strategy acknowledges that „some part of the violence against women is gender based“. This is the only text, issued by the state authority in Slovak republic which does explicitly acknowledge the gender aspect. This definition is supposed to be used in the measures of the executive for the purposes of elimination of the domestic violence, further specified in the Action plans.

The Action plan for the years 2005-2008, which is being prepared, works with the definition established by the National strategy.

2.1. Type of texts and publication references as well as the incriminations involved (have the referred texts included in an annex)

The domestic violence can be considered as the administrative offence or as the crime. The administrative offences are regulated Law no. 272/1990 Coll. on the Administrative Offences, the crimes by the Law no. 140/1961 Coll. Penal Code. On 1.1.2006 there is a new Penal Code entering into the force, published under the number 300/2005 Coll.

The administrative offences are considered to be of the administrative (not criminal) nature and are tried before the administrative authorities. Due to the international conventions on the human rights, they nevertheless can be subject to the court examination, in order to ensure the right to due process of law. Thus, they can also be considered as the crimes of minor social seriousness from this point of view.

The differentia between the crimes and the administrative offences is „the degree of danger represented by such crime to society.“ If the degree of danger to society is “lower than significant”, the act is not the crime but only an administrative offence if there is such an administrative offence in the relevant Law. If the offender is in the age 15-18 years, the degree of danger to society required for committing a crime is higher – is has to be „higher than small.“ The degree of danger to society is determined by the relevance of the protected social interest, the way of committing of the crime and its consequences, the circumstances under which the crime was committed, the personality of the offender, the intentional aspects of the crime and the motive. If it is possible to evaluate the consequences by the financial amount it is supposed to be at least at the level of minimum monthly wage.

THE NEW PENAL CODE: According to the new Penal Code which enters into the force on January 1st 2006, the criterion of the degree of danger to society is not going to be used anymore. The definition of the crime is going to be strictly formal - the behaviour which is a violation of law and is defined by the Penal Code.

Except the punitive consequences of the domestic violence defined by the penal law there are also some

2. Match the behaviours /attitudes with applicable texts and the respective publication references with the purpose of defining the following:

The domestic violence can be considered as the administrative offence or as the crime. The administrative offences are regulated Law no. 272/1990 Coll. on the Administrative Offences, the crimes by the Law no. 140/1961 Coll. Penal Code. On 1.1.2006 there is a new Penal Code entering into the force, published under the number 300/2005 Coll.

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According to the new Penal Code which enters into the force on January 1st 2006, the criterion of the degree of danger to society is not going to be used anymore. The definition of the crime is going to be strictly formal - the behaviour which is a violation of law and is defined by the Penal Code.

Except the punitive consequences of the domestic violence defined by the penal law there are also some measures for the protection of the domestic violence victims in the field of the civil law. These are contained in the Civil Code and in the Civil Proceeding Code.

For example, according to § 146 article 2 of the Civil Code, the court can prohibit one of the husbands to use the house or flat which belongs to the community property of husbands. The reason for this is that because of physical or psychological violence against the other husband, or against a close person who lives in this real property, further cohabitation of these persons has become unbearable.

2.1.1. List the incriminations

I. Physical violence

- the administrative offence against the cohabitation of citizens (§49 of the Law on the Administrative Offences);
- the crime of maltreatment of the close person or of the ward (§215 of the Penal Code);
- the crime of violence against the group of persons and against an individual (§197 of the Penal Code);
- the crime of bodily harm (§221 of the Penal Code);
- the crime of murder (§219 of the Penal Code).

II. Psychological violence

- the administrative offence against the cohabitation of citizens (§49 of the Law on the Administrative Offences);
- the crime of maltreatment of the close person or of the ward (§215 of the Penal Code);
- the crime of the violence against the group of persons and against an individual (§197 of the Penal Code);
- the crime of duress (§235 of the Penal Code)
- the crime of slander (§ 206 of the Penal Code);
- the crime of kidnapping (§ 216 of the Penal Code);

- the crime of restraining of the individual freedom (§231 of the Penal Code);
- the crime of detention (§232 of the Penal Code);
- the crime of duress (§ 235 of the Penal Code);
- the crime oppression (§237 of the Penal Code);
- the crime of violating of the house freedom (§238 of the Penal Code);
- the crime of violating of the privacy of transferred messages (§239 of the Penal Code).

III. Economical violence

- the administrative offence against the property (§ 50 of the Law on the Administrative Offences);
- the crime of maltreatment of the close person or of the ward (§215 of the Penal Code);
- the crime of abandonment of a child (§212 of the Penal Code);
- the crime of not paying of alimony (§213 of the Penal Code);
- the crime of theft (§247 of the Penal Code);
- the crime of unlawful use of property of another (§ 249 of the Penal Code);
- the crime of unlawful violating of the property right to the house, flat, or
- commercial real property (§249b of the Penal Code).

IV. Sexual violence

- the crime of rape (§241 of the Penal Code);
- the crime of sexual violence (§241a of the Penal Code);
- the crime of sexual abuse (§242 of the Penal Code);
- the crime of unlawful abortion (§227 of the Penal Code).

V. Other

- the crime of obstructing an officer (§171 of the Penal Code).

2.1.2. The nature of the incriminations

I. The physical violence

The physical violence against a woman who is a close person to the perpetrator can be qualified as an administrative offence or as a crime, due to the criteria mentioned above. If the authorities decide it is only an administrative offence against the cohabitation of the citizens, the offender can be fined up to 3.000,- Sk (about 75,- Euros). This administrative offence is committed by the person who causes minor bodily harm by his negligence, or intentionally violates the cohabitation of the citizens by intimidating, false accusation of committing an administrative offence, or other deliberate behaviour contra bonos mores.

The relationship of "close persons" plays no role here (except that there is a right not to provide an evidence if it could be used against a close person). Thus, the administrative offences are dealt the same way as if they were committed against a stranger. The victim can refuse to testify if it could bring jeopardy of sanction of a close person. This can be misused by some perpetrators who can avoid the fine by intimidating of the victim and forcing her not to testify against him.

Quite often are even serious acts of violence dealt only as administrative offences by the police personnel. This does not provide either the protection to the victims nor the just punishment to the perpetrator.

There is an established praxis among the policemen that the attack is considered "danger enough" to be a crime once there have been another two similar attacks in the past. In this case they usually start the civil proceeding of the offender and do not consider it as an administrative offence anymore. However, this praxis has no legal background and is not even practised by all of the policemen. We have seen the clients with twenty decisions about the fine against the perpetrator and there was never any criminal proceeding started against him. The policemen did not let them know that there was a possibility to appeal against such a decision and ask for dealing with the attack as with a crime.

If the policemen find out that the violence is severe enough to be considered as a crime, they are obliged to start the prosecution of the offender ex offo. The physical violence against the close person can be qualified as a crime of maltreatment of the close person or of the ward, violence against a group of persons or against an individual, bodily harm or murder.

The essence of the domestic violence is best expressed in the subject-matter of the crime of maltreatment of the close person or of the ward according to §215 of the Penal Code. This incriminates also the psychological and violence against a person who is a close person to the perpetrator. The forms of physical violence include beating, kicking, hitting, causing of the wounds and burns of various kinds, or any other behaviour which endangers the psychological or physical health of the close person or endangers her safety. This paragraph inflicts also the exposure to the substances able to damage the health of the close person or denying of the food.

The policemen and the prosecutors „do not like" qualifying of the crime as the maltreatment of the close person or of the ward. Due to the personal opinion of one of them, there is little chance that the offender is going to be prosecuted for this crime, even if his behaviour was exactly as the one mentioned in the Penal Code, if he had never been prosecuted before. The authorities consider this paragraph to be „too severe, even more than the robbery."

The crime of violence against a group of persons or against an individual, according to §197 of the Penal Code, inflicts the threatening to the group of persons or to the individual with killing, causing bodily harm or causing other severe damage. This threatening can be accomplished with physical attack or without its menace. Committing of this crime against the close person is a fact which gives reason for using higher penal sanction.

The crime of bodily harm according to § 221 and following of the Penal Code, is quite a general paragraph, which does not take the relationship of close persons in the consideration. The act which causes the bodily harm to another person, is being punished by various penalties, depending of the gravity of the harm caused and the intentional aspect of the offender.

The crime of murder, according to §219 of the Penal Code, inflicts the intentional killing of other person. The murdering of a woman can be punished with a higher penal sanction, if the victim is a pregnant woman. It does thus protect more the life of the unborn child than the women's' lives in general. The same as the crime of the bodily harm, this paragraph does not take into account committing this crime against the close person.

II. The psychological violence

The psychological violence between close persons can also be qualified either as a crime or as an administrative offence.

If the activity is less severe than required to become a crime, it can be qualified as an administrative offence against the cohabitation of citizens, according to §49 of the Law on the Administrative Offences. This way, the harm to honour of other person via mockery can be punished, the same as making of the wilful acts, or behaviour which has the nature of other rude or cruel behaviour. This offence also inflicts an unlawful execution of personal rights without necessary decision of the state authority.

More serious acts of the psychological violence can fall under the subject matter of the crime of maltreatment of the close person or of the ward, the violence against the group of persons and against an individual, slander, kidnapping, restraining of the individual freedom, detention, duress, oppression, violating of the house freedom or violating of the privacy of transferred messages.

The crime of maltreatment of the close person or of the ward according to § 215 of the Penal Code, inflicts the psychological violence by which the perpetrator causes the psychological or physical suffering to his close person in a form of humiliating, scornful attitudes, constant spying, threatening, causing of fear or stress, violent isolation, emotional extortion or other behaviour which endangers the psychological or physical health of the close person or endangers her safety. According to this paragraph, also unreasoned denying of the sleep, rest or food, or denying of necessary personal care or forcing to enormous activity can be punished too.

Giving a proof of the psychological violence before the court can be a serious problem. The advocates of the accused often state that these are only the subjective impressions of the victim, which can not be proved against their client. If there are some objective consequences on the psychic of the victim (depression, post-

traumatic syndrome), the advocates often question their credibility as a witness because of the mental disorder. This can cause very hard secondary victimization of the victim.

The crime of violence against a group of persons or against an individual, according to §197 of the Penal Code, inflicts the threatening to the group of persons or to the individual with killing, causing bodily harm or causing other severe damage. Situations as described are quite a regular part of the domestic violence against the women. Committing of this crime against the close person is a fact which gives reason for using higher penal sanction. Nevertheless, the subject-matter of this crime does not express the substance and the long lasting nature of the domestic violence as expressed also in its low penal sanction. According to § 206 of the Penal Code which contains the crime of slander, the perpetrator of disseminating of untrue information which can endanger the dignity of other person can be incriminated. The relation of close person plays no role here.

The crime of kidnapping according to §216 Of the Penal Code inflicts the psychological violence which can be used by the perpetrator via denying of the contact of woman and her children. According to this paragraph the person who takes the child from the care who is supposed to take care of it can be punished. The relationship of close persons between the offender and the victim has no relevance here.

The crime of restraining of the individual freedom according to §231 Of the Penal Code and the crime of detention according to §232 of the Penal Code both inflict the unlawful breach of the personal freedom of other person. This can take form of it restraining or of complete exemption. Committing of this crime against the close person is not being differed from committing against any other person.

The crime of duress according to § 235 of the Penal Code inflicts the offender who, with the use of violence or other severe harm, forces other person to act, omit or suffer something. If this crime is committed against a close person, higher penal sanction is being applied.

The crime of oppression, according to §237 of the Penal Code, is similar to the previous one. According to this paragraph, the offender who forces other person to act, omit or suffer something can be punished if the necessity or dependency is being misused. Although this paragraph does not mention the relationship of close persons, it can be applied in cases where any de facto dependency of the victim exists.

The violating of the house freedom, according to §238 of the Penal Code, represents the act of unlawful entering of house or flat of other person or stays there unlawfully. The conflict with law is important at this behaviour which can be fulfilled of there is for example a decision expressing the ban of entering the real property or if there is no right of the perpetrator to enter it. This paragraph does not mention the cases of committing this crime against the house freedom of the close person. If the object of this behaviour is only gaining of the proprietary benefit, the crime of unlawful violation of right to the house, flat or commercial real property (§249b of the Penal Code) is being applied.

The crime of violating of the privacy of transferred messages according to §239 and following represents the violation of the privacy rights of the person in the form of unlawful violation of the privacy of sealed letter, message transferred by the phone, telegraph or similar equipment. This conduct can be a part of the psychological violence, although this subject – matter does not take into account whether it was committed against a close person.

III. The economical violence

The economical abuse as a form of the domestic violence is quite common in a patriarch society. The law does not usually inflict its less grave forms because some kind of financial dominance of man in the family is found a natural situation. Only when a danger of such a conduct reaches some degree where the health or life is in danger, it is possible to punish it as committing a crime.

According to §50 of the Law on the Administrative Offences, an administrative offence against a property is committed when a person causes a damage to the property of another less than a minimal monthly wage. This damage can be caused for example by a fraud, theft or physical destroying of the property.

The abuse of the economical dependence and unlawful violation of the property rights between the close persons can be prosecuted and punished as a crime of maltreatment of the close person or of the ward, abandonment of a child, not paying an alimony, theft, unlawful use of property of another, unlawful violating of the property right to the house, flat, or commercial real property.

The crime of maltreatment of the close person or of the ward, according to §215 of the Penal Code, inflicts the offender who causes the suffering to the close person with unreasoned denying of the food, necessary personal care, housing or education, forcing to begging or to inadequately hard work, or unreasoned restraining from the use of the property this person has right to use.

The crime of abandonment of a child, according to §212 of the Penal Code, is committed by a person who leaves a child which he is obliged to take care of and exposes it this way to a danger of death or bodily harm. Such behaviour against a child can be used as a part of the psychological torturing of its mother.

The crime of not paying an alimony according to §213 Of the Penal Code inflicts a person who does not pay an alimony he is obliged to pay for three months. This is quite a common form of punishing the mother of the child when she decides to leave the perpetrator of the domestic violence.

The crime of theft, according to §247 Of the Penal Code, is committed by an offender who unlawfully usurps other person's property. It is necessary, the same as in the case of other property crimes, for the stolen property to be of the value at least of the minimal monthly wage and also to be the property of another person. In the case of the husbands, the thing can not be stolen by one of them if it does belong to the community property of the husbands.

The crime of unlawful use of other person's property consists of de facto use of other person's property while the offender does not intend to keep it as his property. If the illegal usurping of the property is made by the use of force, is becomes the crime of robbery. The law does not take into account whether the offender and the victim are close persons. The more important is the property right of the owner which is being protected.

The subject matter of unlawful violating of the property right to the house, flat, or

commercial real property according to §249b of the Penal Code, protects the person who has the right to use such a real property against any unlawful violation of her rights. The condition is that offender was punished for such a violation in past two years. Similar as in the case of the other property crimes, the relationship of close persons is not being taken into account here.

IV. The sexual violence

The sexual violence in the relationship of close persons can be punished according to the paragraphs on the rape, the sexual violence, the sexual abuse or the incest. The unlawful violation of the reproductive rights of the woman can be prosecuted as the unlawful abortion.

The rape is contained in the §241 of the Penal Code. According to this paragraph the person can be prosecuted for committing a rape if he forces a woman to coitus with a use of violence or with a threat of using violence, or if he abuses women's helplessness. If this crime is committed against a close person, higher penal sanction is being applied.

The crime of sexual violence according to §241a of the Penal Code, inflicts other forms of forced sexual intercourse than a coitus to which the offender forces the victim with a use of violence or threat or misuses her helplessness. If he commits such a crime against a close person, higher penal sanction is being applied.

The crime of sexual abuse, according to §242 of the Penal Code, represents having any kind of sexual intercourse with a person minor than 15 years old. If the victim is a close person the penal sanction is higher. The victims of this crime are children, but due to our experience it occurs more often in the families with the domestic violence and strong man power prevalence. Similar as kidnapping, this can be a part of the psychological violence against a woman and confirmation of offender's dominance in the family.

The paragraph 243 of the Penal Code incriminates

the offender of forced extramarital coitus with person minor than 18 years via abusing her dependency.

According to §245 of the Penal Code, which regulates the crime of incest, it is possible to prosecute the offender of incest even when there is no violence present or the victim is older than 18 years.

If somebody terminates the pregnancy of a woman without her consent or seduces her into illegal abortion, he commits a crime of unlawful abortion according to the § 228 of the Penal Code. The pregnant woman, whose pregnancy has been terminated, is not being responsible herself. This paragraph does not incriminate the person who forces the woman to terminate her pregnancy by the legal procedure.

V. Other

The institute of the preliminary ruling decision according to §76 sect. 1 of the Civil Proceeding Code is very important one in the protection of battered women. This preliminary ruling decision, edited by the civil court, can forbid the violator to enter the house or flat where his close person lives. Not respecting this decision is considered as committing the crime of obstructing an officer according to §171 of the Penal Code.

2.1.3. Type of entities/organisations, which may influence the assessing of the behavioural attitudes in what concerns domestic violence

The assessment of the "degree danger to society", which differs the crimes from the

administrative offences, is made by the authority which has received the complaint. The police usually do so. The must make this decision in limit of 30 days. If the person who advised the criminal complaint does not agree with their decision, he can file an appeal against this decision.

The police authorities do not usually inform people about this possibility, and their decisions about handling the case only as the administrative offence are thus taken as final and irreversible.

The qualification of the crime in the preparatory criminal procedure is being done by the person who receives the criminal report. This person assesses the criminal report according to its content and the prosecution is directed towards investigating basic facts about the act, as defined in the Penal Code. If the victim (or anybody else) thinks, that the accused is being prosecuted for different crime that he had committed in fact, he/she can report the facts in favour of this opinion to the prosecutor or to the police investigator.

The crime is qualified in the written formal accusation, brought by the prosecutor to the court. The court can consider the case according to different paragraph of the Penal Code, but the accused has to be noticed about this fact in advance.

He decides for committing of which crime the perpetrator will be prosecuted. If the victim thinks that the offender has committed other crime than he is being prosecuted for (for example the attempt of the murder instead of violence against a group of citizens of an individual), she can inform him about her opinion and relevant facts or file an appeal against the qualification of the crime made by the prosecutor.

The degree and seriousness of the bodily harm is basically expressed by the number of days of labour incapability. The doctor who treats the injured person evaluates and decides about this. If the case comes before the court, the expert's statements are often required from the official expert in the branch of healthcare. Special form of doctor's evidence in the case is the document named the medical review, which states the value of the financial compensation adequate to suffered pain.

The psychological violence, the personality of the offender and different aspects of intention of the offender can be subject to expert's statement by the expert in the branch of clinical psychology. The experts' statements in the branch of psychiatry are usually required if there is a doubt about mental sanity of the perpetrator at the moment of committing a crime.

Also the testimonies of the witnesses, local authorities, and the abstract from the registry of the administrative offences are summoned to be used as the evidence about the personality and the social reputation of the offender. The members of civil associations can

express their statement according the criminal case, the personality of the offender and the possibilities of his improvement.

The situation in the household, where there is a suspicion of the domestic violence, can be examined by the social curators.

Social offices are overloaded with the amount of cases to be solved, while there is a lack of social curators and especially of well educated and prepared social curators. Not all of them have the university degree from the social work and not all of them are trained to understand the domestic violence problem. This can influence the quality of their work in cases like this.

Where there is violence against the children, also the statement from their school or teacher is often being required.

The truth detector (the polygraph) is not being used as evidence in the criminal proceeding in Slovakia.

2.2. Sanctions/Penalties

2.2.1. Penalties anticipated for the incriminations referred to in 2.1.2

In the most typical cases of the domestic violence which are prosecuted as abovementioned crimes or administrative offences, there are these penalties anticipated:

The administrative offence against the cohabitation of citizens

- fine up to 10.000,- Sk;
- castigation (only alternatively with the fine);
- restrictive order (prohibition to visit some public places where the alcohol is being consumed or where the public events take place) in maximal length 1 year;

The administrative offence against the property

- fine up to 10.000,- Sk;
- castigation (only alternatively with the fine);
- forfeiture / confiscation of the property;
- restrictive order (prohibition to visit some public places where the alcohol is being consumed or where the public events take place) in maximal length 1 year;

The crime of maltreatment of the close person or of the ward

- imprisonment for 2-8 years;
- imprisonment for 3-10 years;
- imprisonment for 5-12 years;
- imprisonment for 10-15 years;
- imprisonment of maximal length 2 years, suspended on probation for 1-5 years;
- other possible sanctions (loss of title of honour; loss of military status; restricted activity; confiscation of the property; restricted residence); fine;

The crime of violence against a group of persons or against an individual

- imprisonment up to 1 year;
- imprisonment up to 2 years
- imprisonment of maximal length 2 years, suspended on probation for 1-5 years;
- fine;
- other possible sanctions (loss of title of honour; loss of military status; restricted activity; confiscation of the property; restricted residence)

The crime of bodily harm

- imprisonment for 6 months - 10 years;
- fine;
- imprisonment of maximal length 2 years, suspended on probation for 1-5 years;
- other possible sanctions (loss of title of honour; loss of military status; restricted activity; confiscation of the property; restricted residence)

The crime of murder

- imprisonment for 10 - 15 years;
- imprisonment for 15 - 25 years;
- life imprisonment;
- other possible sanctions (loss of title of honour; loss of military status; restricted activity; confiscation of the property; restricted residence)

The crime of not paying the alimony

- imprisonment up to 1 year;
- imprisonment up to 2 years;
- imprisonment for 6 months – 3 years;
- imprisonment of maximal length 2 years, suspended on probation for 1-5 years;
- fine;
- other possible sanctions (loss of title of honour; loss of military status; restricted activity; confiscation of the property; restricted residence)

The crime rape;

- imprisonment for 2-8 years;
- imprisonment for 5-12 years;
- imprisonment for 10-15 years;
- imprisonment of maximal length 2 years, suspended on probation for 1-5 years;
- other possible sanctions (loss of title of honour; loss of military status; restricted activity; confiscation of the property; restricted residence)

The crime of obstructing an officer

- imprisonment up to 1 year
- imprisonment of maximal length 2 years, suspended on probation for 1-5 years;
- fine
- other possible sanctions (loss of title of honour; loss of military status; restricted activity; confiscation of the property; restricted residence).

The court can also impose some of the adequate restrictions when imposing the sentence of restricted residence or when suspending the punishment on probation or releasing under parole. These are directed towards the improvement of the offender and they mean the order to behave properly which is in relation with the crime or the punishment. The restriction can contain the prohibition of visiting of the pubs, abnormal use of alcohol or other addictive substances, prohibition of visiting sport events, public assemblies or meeting some persons. It can also contain the obligation to work for maximum of 20 hours for the local community, to leave the illegally used flat, to replace the damage caused or to apologize to the victim.

Also the prohibition to approach to the victim to the distance less than 5 meters or the prohibition to dwell in the neighbourhood of the victim can be imposed.

OBSERVATION: The adequate restrictions as mentioned are imposed quite rarely and there are no effective measures for control of their up keeping. The parole and mediation officers have been established in the Slovakia only recently and there is not enough experience with work like this.

The offenders of the domestic violence can also be imposed following protective measures:

- protective monitoring;
- protective ordered therapy;
- protective education;
- forfeiture of the property.

According to the new Penal Code no. 300/2005 Coll., there are going to be some of the new sanctions. These include the punishment of house arrest and compulsory labour. There is also going to be the detention as a new protective measure.

In general, the penal sanctions are going to be higher. For example, the sanction for committing the crime of maltreatment of the close person or of the ward, there is going to be imprisonment for 3 years at least. This means that there is going to be no chance for probation when a person commits this crime. The penal sanctions are going to be higher also at the crimes of violence against the group of persons and against the group of persons or an individual, bodily harm, murder and other.

2.2.2. Entities/organisations, which take the decisions as far as penalties are concerned

Only the courts decide about imposing the penalties and the protective measures.

The court can only impose the penalty which is based on the Penal Code which is in force at the moment of deciding about the penalty.

2.3. Intentional aspect/principle

For the penal liability, it is always necessary to prove the subjective relation of the offender in the form of intention of in the form of negligence. The definitions of the intention and of the negligence are the same according to the Penal Code and according to the Law on the Administrative Offences.

The crime (the administrative offence) is committed via the negligence, if the offender:

a) knew that he can violate or endanger the interest of the society which is being protected by the Penal Code, but he relied, without sufficient reason, that such a situation is not going to happen (so called "conscious negligence"), or
b) he did not know that such a violation or endangering can occur, although he was supposed to know it according to his personal situation or the objective facts (so called "unconscious negligence").

The crime (the administrative offence) is committed intentionally, if the offender:

a) wanted to violate or endanger the interest of the society which is being protected by the Penal Code (so called "direct intention") or
b) knew that he can violate or endanger the interest of the society which is being protected by the Penal Code and he was identified with such a situation (so called "indirect intention").

The Law on the Administrative Offences is stricter against the offenders in the case of the subjective aspect of the act. For committing the administrative offence, only the negligence is sufficient, unless the law says that intention is necessary.

Thus, the intention is necessary to be proved if the perpetrator committed the administrative offence against the cohabitation of the citizens through threatening with causing a bodily injury, untrue accusation of committing an administrative offence, making of the wilful acts, or act which has the nature of other rude or cruel behaviour. The intention of the offender is also required for committing the administrative offence against the property.

The negligence of the perpetrator is sufficient enough to commit the administrative offence against the cohabitation of the citizens if the offender causes the harm to honour of other person via mockery, causes minor bodily injury, or unlawfully executes his personal rights without necessary decision of the state authority

On the contrary, the intention is required in general to commit a crime, unless the

Penal Code states that the negligence is sufficient. Thus, the intention of the offender has to be proved in the case of these crimes: maltreatment of the close person or of the ward, violence against the group of citizens or against an individual, the intentional bodily harm, the crime of murder, slander, kidnapping, restraining of the individual freedom, detention, duress, oppression, violating of the privacy of transferred messages, violating of the house freedom, intentional not paying of the alimony, theft, unlawful use of property of another, unlawful violating of the property right to the house, flat, or commercial real property, rape, sexual violence, sexual abuse and unlawful abortion.

It is not necessary to prove the intention of the perpetrator who is accused of the crimes of bodily harm caused by negligence with a result or grave bodily harm or death or the crime of not paying the alimony by negligence.

2.4. Material aspect: existence of material elements

2.4.1. Facts and constituent actions

The crime, according to the Slovak Penal Code, is a real act, thus a conduct that was objectively visible to other persons. Due to §89 article 1 of the Penal Code, the crime is (if the respective paragraphs do not state something else) also the preparation for committing a crime, the attempt, organising of committing a crime, help with committing a crime and the guidance of committing a crime.

The behaviour can tend to breach of the social interest protected by the Penal Code or tend only to endanger such an interest. From this view, the crimes can be

divided between the law-breaking and the law-endangering crimes.

Behaviour of the offender can also have the form of omitting to perform behaviour that he was obliged to perform. This is the way the crime of not paying the alimony is being committed. If there is no either committed act or omitted mandatory behaviour, there is no crime committed.

The crime can be committed via performing one single act, several repeated acts (this is called the continuance in committing a single crime) or up keeping the unlawful state of facts. The behaviour is considered as committing of a new crime in case that the accused had committed this act after the previous accusation would be presented to him.

2.4.2. Action or omission

The action required to commit a crime, due to §89 article 2 of the Penal Code, is also considered to be performed if the offender omitted to act a way he was obliged to act, due to his personal background and the circumstances of the situation. The omission thus is a separate form of acting, which can be applicable when additional conditions are fulfilled.

The duty which was omitted by the offender has to be a specific one, laid down by the law, not only a moral duty for example. The duty to act can result from the Law, the decision of the authority, from the contract or from other circumstances. If there can not be any positive duty derived from the personal background of the offender of from the circumstances of the situation, there can not be an omission of such a duty, and thus no penal responsibility.

The offender has to be obliged to such a behaviour „according to the circumstances and to his personal background". This duty is thus in question in every separate case. To prove the responsibility for omission is thus possible, but still more complicated than in the case of direct action.

2.4.3. Attempt: indicate the conditions under which the material factors may be considered as undisputable conditions of the involvement of its author, as far as the final results are concerned

According to §8 of the Penal Code, the behaviour which dangerous to the society and is directed towards committing of the crime and which was performed with intent to commit a crime, if the committing of the crime eventually did not happen, is considered as an attempt. The attempt to commit a crime is equal to committing a crime. The attempt of any crime is punishable.

It is necessary to prove the direct tendency towards accomplishing a crime, which was not performed only thanks to the external circumstances. If the perpetrator voluntarily decides not to commit a crime and eliminates the danger he had evoked, or if he reports his attempt at the time when this danger could have been eliminated, he is not responsible for attempt. He still can be responsible if he had committed any other crime via the behaviour already performed.

It is also necessary to prove his intention to commit a crime. If he performs the behaviour which resembles the attempt, but there is no serious intention to commit a crime, he can not be responsible for the attempt. He still can be responsible if there could have been any other crime committed by this behaviour. For example, if the offender threatens the victim with the knife, but without an intention to kill her, he is not going to be taken responsible for attempt of a murder, but for committing a crime of violence against a group of persons or an individual.

Not only the attempt, but also "the preparation of a crime" can be taken for responsibility. This can be punished, if there has been a behaviour with signs of organizing of especially serious crime, obtaining the means for committing such a crime, ganging up for it, in guidance or help to perpetrator of such a crime or any other intentional facilitating of circumstances for committing such a crime. The preparation can be punished only in case of "especially serious crimes". These are, when talking about the domestic violence, the crimes of maltreatment of the close person or of the ward, murder, duress, rape, sexual abuse and other intentional crimes with upper limit of prison sentence at eight years at least.

When deciding about the punishment for an attempt or for preparation of a crime, the court takes into the consideration also the degree to which the behaviour had advanced towards the committing a crime and why he did not eventually commit the crime.

THE NEW PENAL CODE: According to the new Of the Penal Code no. 300/2005 Coll., from 1.1.2006, only the preparation of the felony is going to be punished. The felony is defined as an intentional crime punishable with maximum of prison punishment more than 5 years. There are no changes in responsibility for committing of the attempt.

2.5. Complicity

Due to §9 of the Penal Code, the person who commits the crime is considered as a perpetrator. If the crime was committed in a cooperation of two or more persons (accomplices), each of them is responsible the same way as if he committed the crime alone. In the case of accomplices, the court considers also the degree to which the behaviour of each of them had contributed to committing the crime.

The Penal Code also works with the term "participation on committing a crime". There are general forms of participation and specific forms, which can occur only in case of some crimes.

The participation on committing a crime (in general) can exist in a form of moral authorship, incitement or help. The moral author is the person who intentionally plotted or organized committing of a crime. The inciter is the person who incited other person to committing a crime. The helper is a person who gave help with committing a crime for example via providing instrumentary support, eliminating the barriers for its committing, giving advice, supporting in decision to commit a crime or giving promise to award the perpetrator after committing a crime.

Penal responsibility of the participant is the same as the one of the perpetrator. The court also considers also the nature and the gravity of his participation.

In addition, the Penal Code defines also some of the specific forms of participation on committing a crime. These include the instigation to crime (§164 of the Penal Code), upholding of the crime (§165 of the Penal Code), siding with committing a crime (§166 of the Penal Code), not stopping from committing a crime (§167 of the Penal Code) and not reporting committing a crime (§168 of the Penal Code). These are the crimes themselves and are related to some other specific crimes. When talking about the domestic violence, for example, not reporting a crime of maltreatment of the close person or of the ward can be punished.

According to the new Penal Code no. 300/2005 Coll., there is going to be a new general form of participation on committing a crime which is called submitting of the crime. The submitter of the crime is the person who asked other person to commit a crime. His responsibility is the same as the one of the offender.

2.6. Responsibility

2.6.1. Personal responsibility

Due to §9 of the Penal Code, the person who commits the crime is considered as a perpetrator. Slovak Penal Proceeding Code works only with the criminal responsibility of the natural persons so far. There is no criminal responsibility of the legal person in the new Penal Code, although the legislation for adopting this is being prepared.

The criminal responsibility of the person comes with its 15th year of age and lasts until the death of the person. There is no criminal responsibility in the case of insanity and limited one in case of partial insanity.

2.6.2. Responsibility upon somebody else's actions

According to Slovak criminal law, every person is responsible only for its own actions. If the third party committed a crime, some other person can be responsible only as a participant of this crime.

If somebody seduced other person, who is not responsible itself, into committing a crime, he is going to be responsible the same as if he had committed the crime himself. This is similar to using an instrument for

committing a crime. Seducing a minor to committing a crime is an aggravating condition.

2.7. Administration of proves

The guilt of the accused has to be proved by any legal proves beyond the reasonable doubt. The court can decide only on the basis of proves administered before it in the public hearing. The administration of proves in the criminal proceeding is regulated by the Penal Proceeding Code, especially in its paragraphs 89 to 118. There are the prosecutor and the accused (his attorney) in the contrary position in the criminal proceeding. These parties propose and bring the evidence in favour of their statements. Also the damaged party (the victim) is the party of the criminal proceeding with its right to bring the evidence. The victim, nevertheless are not in charge of the burden of prove, because the prosecutor is obliged to get enough evidence about the material facts of the crime. Nowadays, the judge plays the most active role in executing the evidence before the court. Only after him, the witnesses can be questioned by the attorney and the prosecutor.

According to the new Penal Proceeding Code no. 301/2005 Coll., the criminal proceeding before the court is going to be directed by the parties in more extensive manner. The system of hearing before the court is going to be more adversary and the judge will question the witnesses only after the defendant and the prosecutor are done with it.

2.7.1. Who shall be in charge of the burden of prove

There is a basic rule of the presumption of innocence. Thus, no person can be considered as guilty unless the guilt was stated by the final judgement of the court. All of the authorities involved in the criminal proceeding are obliged to conduct the prosecution the way that the real state of facts can be examined. They are obliged to examine the facts in favour of the accused with the same attention as the facts against him.

Only after proper examination whether the act really occurred and it really is a crime, this crime was committed by the accused person and what reasons he had to do so, the guilt can be found and the punishment can be administered. The authorities also have to deal with the questions which influence "the danger of the crime to the society", the personal situation of the offender, the consequences of the crime and the extent of the damage caused by the crime, gained benefits and costs used for committing this crime, and other facts which could have led to the criminal activity of the offender.

Any evidence legally obtained can be used for such a purpose. The sources of the evidence are illustrated in the Penal Proceeding Code. These include for example: hearing of an accused, witnesses, expert statements, reconstruction in situ, recognition of the perpetrator, examining experiment, inspection round, inspection of the property and of the documents, and special technical means such as the wiretapping.

The evidence has to be obtained legally. The evidence is presented before the court at the public hearing where the judge plays the most active role. The judge judges every evidence separately and all of them together, in their total. The court has to explain which facts it considers proved and which fact it finds derived form which proof. It also has to explain why some of the calls for further evidence had not been complied and how the court finds the defence of the accused.

These strict rules of evidence do quite often lead to acquittal of the perpetrator because of lack of evidence. In the case of the domestic violence, which takes place in the private sphere of the offender and the victims, there are often no witnesses or no other direct evidence of the violent behaviour. The courts have problem especially with assessing of the psychological violence, which is very much based on the subjective feelings of victims. According to the rule „in dubio pro reo", the court has to decide in favour of the accused if there are any reasonable doubts or if there is only the allegation of the victim against the allegation of the accused. This can lead to feeling untouchability of the perpetrator.

All parts of the penal system are obliged to gather the facts and evidence in favour of the accused, while nobody is responsible for gathering together the facts and evidence in favour of the victims. The victim has the right to offer and bring the evidence, but quite often his / her allegations are not accepted and are considered as prejudiced or speculative. The courts quite often do

not send invitations to public hearings of the case to the victims, if they do not need their testimonies.

According to the new Penal Proceeding Code no. 301/2005 Coll., which enters into the force from 1.1.2006, the judge is going to be obliged to ask the accused and the victim, after the execution of each evidence, whether they do or do not want to comment it and their comment is going to be written down in the report from the hearing. The court will also have to notice the victim about every public hearing of the case.

2.8. Penalties: Causes for attenuation and aggravation, execution

2.8.1. Causes for attenuation and aggravation

The degree of the danger of the crime to society is expressed in the penal sanction of imprisonment for this crime. When talking about the deciding of the court about the seriousness of the penalty, it is necessary to differ between the "causes for applying the higher penal sanction" and "the causes for attenuation and aggravation."

The causes for applying higher penal sanction do differ at the respective crimes. They represent different types of such a crime, which can be of different degree of danger to society (for example murder of pregnant woman is considered more dangerous to society than the murder of not pregnant woman, but stealing money from the pocket of pregnant women is considered as being of same danger to society than stealing the same money from pocket of not pregnant woman). As a consequence of applying especially qualified subject matter to the crime, both the lower and the upper limit of the penal sanction move higher.

These causes, for example in the case of the crime of maltreatment of the close person or of the ward, include:

- if the offender violated a particular duty which results from his profession, work or position, or duty to perform he was obliged by his personal statement;
- if the offender commits such a crime although he had been previously condemned for such a crime or released from a sentence in last two years;
- if he commits such a crime against more than two persons;
- if he keeps on committing such a crime for longer period;
- if he commits such a crime in especially cruel way or if he causes severe bodily harm or death of a person.

It is necessary to distinguish "the causes for attenuation and aggravation" from the previous ones. These are applied in general and they are enumerated in §33 and §34 of the Penal Code. These influence in which part of the penal sanction the sentence is going to be imposed. If the causes for attenuation prevail, the imposed penalty will be the one from the lower half of possible penalty and if the causes for aggravation prevail, it is going to be in the upper half.

The court considers as the cause for attenuation, if the offender

a) committed the crime in strong emotional disturbance;
b) committed the crime at the age close to the age of minors;
c) committed the crime under the pressure of dependency of inferiority;
d) committed the crime under the pressure of threat or coercion;
e) committed the crime under the pressure of distressing personal or familiar conditions which he did not cause himself;
f) committed the crime when trying to turn away the attack or other danger, but not severe enough to reason the use of "the private defence" or "extreme emergency" to liberate him;
g) had led proper life before committing the crime;
h) had proved an effort to eliminate the damaging consequences of the crime or had voluntarily compensated the damage caused by the crime;
i) had sincerely regretted committing the crime;
j) reported his crime to the public authorities, or
k) had helped to the authorities with investigation of his crime or with discovering of organized criminal group or organized terrorist group.

The court can exceedingly lower the penal sanction below the minimal penal sanction in reasoned cases. It can even decide about not imposing the penalty to the offender who had committed the crime of minor social danger to the society, if he sincerely regretted committing it and shows efficient afford to improvement, if, according to his previous life and the nature of the crime committed there can be a reasonable expectation that the public hearing of the case before the court is sufficient for his improvement. It can also do so if it accepts the warranty of trustworthy person for improvement of the offender.

The court takes into account as the reason for aggravation, reasoning granting the penalty at the upper possible limit, if the offender:

a) committed the crime for especially despicable motive;
b) committed the crime very cruelly, maliciously, with extraordinary trickery or other similar way;
c) committed the crime misusing the helplessness, dependency or inferiority of other person; d) committed the crime during the natural disaster or other dangerous event;
e) violated a special duty when committing the crime;
f) caused more extensive damage;
g) committed the crime as the moral author or member of a criminal group;
h) seduced other person to committing a crime, especially if it is a minor;
i) had been committing the crime for longer period;
j) had committed several crimes, or
k) he had been previously sentenced for committing a crime, the court allowed not to take the previous condemnations into account.

With the exception of the last one, the causes for attenuation or aggravation are obligatory and the court has to consider them.

2.8.2. Classification of the penalties

The court can impose only the penalty which is based on the Law. Slovak criminal law knows these penalties:

a) imprisonment
b) loss of title of honour,
c) loss of military status,
d) restricted activity,
e) forfeiture of the property,
f) fine,
g) confiscation of the property,
h) expulsion,
i) restricted residence.

These sentences can be imposed separately or as several punishments at a time. The penalty of imprisonment is the most usual one. It can be imposed in length up to 15 years, depending on the kind of the crime, or as an extraordinary punishment up to 25 years or for life.

The penalty of loss of title of honour can be imposed if the offender is found guilty of crime and sentenced to imprisonment without probation at least for 2 years. It can be imposed also when the protection of the profession which the offender performed requires it. There are the same conditions at imposing the sentence of loss of military status.

The penalty of restricted activity can be imposed for 1-10 years if the offender had committed the crime related to this activity (driving the car is the most usual one). The forfeiture of the property of the offender can be imposed if an extraordinary punishment is being imposed for committing a crime to gain material property. It inflicts the property of the perpetrator in whole and the state becomes the owner of it. Also the common property of the husbands ends with imposing this sentence.

The fine is the second most common penalty. It can be imposed from 5.000,- Sk up to 5.000.000,- Sk (approximately 125,- to 125.000,- €), if the offender had gained or was trying to gain material benefits from committing a crime.

Confiscation of the property can be imposed if the property was used or intended to be used for committing a crime, gained by the crime or exchanged for such a property. It has to be the property of the perpetrator. The state becomes the owner of such a property.

The penalty of expulsion can be imposed only to an offender who is not Slovak citizen. It has to be reasoned by the need to ensure the safety of persons, property, or

other public interest.

The penalty of restricted residence for 1-5 years can be imposed if it is required for the protection of public order, family, health, morality or property, according to former life of the offender. The sentenced person is not allowed to dwell at certain place or district without special permit for certain period. This punishment can not be imposed fro the district which is the one of permanent residence of the perpetrator. Breach of this restriction means committing a crime.

THE NEW PENAL CODE: According to the new Penal Code no. 300/2005 Coll., from 1.1.2006, it is going to be possible to impose also the penalties of house arrest and compulsory labour. Higher volume of alternative penalties and protective orders in the future is expected.

2.8.3. Cumulating of penalties

As already mentioned, the penalties can be imposed separately, or several of them at a time if the use of them is reasonable and allowed by the law. Only the fine and the forfeiture of the property can not be imposed together.

If there were several crimes committed by the same offender, only the penalty for the most serious crime shall be imposed. Committing of several crimes is a cause for aggravation of the penalty.

2.8.4. Types of penalties, which are commonly applied to the aggressors under the light of the jurisprudence

According to statistics on the web page of Ministry of the Justice (www.justice.gov.sk), there were 26 806 persons sentenced in Slovakia in the year 2004. 70,73% of them were sentenced to imprisonment on probation, 19,48% without probation, 5,08% were sentenced to a fine, in the case of 2,64% there was no sentence imposed and in the case of 2,07% of the sentenced, other separate sentences were imposed. In the case of 2491 persons, the prosecution was ended other way than finding guilty and imposing a sentence.

There are no separate statistics about penalties in the case of the domestic violence. Some of the groups of crimes are being monitored, which include for example "the crimes against the family and juveniles". This category does partially include the domestic violence cases and it partially does exceed it (for example children trafficking). This category includes the crimes of not paying alimony, maltreatment of the close person or of the ward, or kidnapping. There were 2948 sentenced in this group. 75,8% of the offenders were sentenced to imprisonment on probation, 23,5% without probation, 0,3 % were sentenced to fine and 0,2% to other separate sentences.

The protective measures are imposed very rarely – in the year 2004 there were only 451 cases, which represents 1.68% of the offenders.

2.8.5. The carrying out/execution of the penalties

Up to the date 31.12.2004 there were 1889 of the sentenced which did not commence the execution of their penalty. Only 61 cases of these were allowed to do so because of legal reasons. The number of sentenced who are avoiding the execution of their sentence is growing. This can be slightly facilitated with free movement of persons within the EU.

Avoiding the sentence which was imposed by the court decision is committing a crime.

2.8.6. Existence of an "offender" database

There is official Register of Punishments in the Slovak Republic where all imposed and executed punishments are registered. After certain period, the record is time bared and the person is considered as never sentenced.

There are two kinds of personal outcomes from the Register of Punishments: the extract and the transcription. The extract can be issued at the request of the person whom it concerns and it does not contain time barred sentences. It is most often used for purposes of employment.

When there is a criminal accusation of the person, the judge receives the transcription of the records of the

accused. This does contain the time barred records and these can be taken into account when deciding about the punishment.

If the accused was not found guilty, although in fact he did perform the violent conduct (for example there was a lack of evidence against him), there is no record made about this criminal proceeding. Therefore next time he will be assessed as never having any conflict with the law.

2.9. Decision making on the part of the administrative/police and penal authorities responsible for such cases and the relationship established among the respective Decision-making capability

The police officers and the prosecutors are obliged to receive the reports about the crimes and to continue the criminal proceeding ex offo. The prosecutors give instructions to the police investigators to investigate the reports. Within 30 days, the authorities are due to decide whether the reported act has happened, whether it is a crime or an administrative offence and if it is a crime, they issue an order about the starting of the prosecution.

If the prosecutor gathers enough evidence about the circumstances of the crime and about its perpetrator, he brings written formal accusations to the court. After proves were executed before the court, the court decides about the guilt and the sentence. Forms of ending the prosecution other way than deciding about the guilt and the sentence, are explained in the chapter 2.15.2.

Even quite simple cases are usually decided before the court not earlier than one year after the crime was committed. This is due to critique at the public.

2.10. Participation of the mediation/restoration oriented organisations at national and local level, as well as the role they actually play within the process

Mediation was introduced to Slovak criminal law quite recently with the Law on probation and mediation officers. It was after good experience with a mediation project of Ministry of Justice in the years 2002-2003. It is intent of Ministry of Justice to raise the number of criminal cases solved via the mediation and alternative penalties in the future.

The mediators are the court employees. Nevertheless is still possible to arrange the settlement between the offender and the victim outside the court and thus without the court paid mediator if the parties are interested in it.

The court mediators have passed the basic training but it depends on their personal involvement how successful they are and in how many cases do they get involved into. There are no clear rules for their activity at the moment and thus the specifics of the cases of the domestic violence (power imbalance and the risk of pressure against the victim).

2.10.1. Authorities/Services involved in the decision making process

The final decision in the case is usually brought out by the court. If the mediation was successful, the prosecutor can postpone the prosecution on condition, before bringing the formal accusation to the court. It is subject to the condition that the offender accepted the guilt and agreed on the agreement about the restitution of the damage with the victim.

Other possible endings of the criminal proceeding are explained in the part 2.15.2

According to the new Penal Proceeding Code no. 301/2005 Coll., from 1.1.2006, there is going to be a new agreement in the criminal proceeding – the agreement on the guilt and the punishment (plea bargaining) between the prosecutor and the victim.

2.10.2. Factors which influence the decision on mediation

Consent of both of the victim and of the perpetrator is considered as the condition of application of the mediation in the criminal proceeding. The mediation officer is supposed to play active role in gaining this consent. No other criteria exist in this case.

The court and the prosecutor are not bound by the result of the mediation and they can continue the prosecution if reasoned by the circumstances of the case and the personality of the offender. In this case, the acknowledgment of the guilt of the offender can not be used as prove before the court.

2.10.3. Rules and/or practices, which determine the criteria to be applied in order to assess whether or not a mediation process should take place

There is no hearing about whether the mediation is going to take place, the same as no rules about this do exist. The parties can express their disapproval with the mediation at any time what makes the mediation process inadmissible.

2.10.4. The decision making power of the organisations entrusted to verify the offence and to set the penalties/sanctions

The court, the prosecutor and the police officers are among the public authorities involved in the criminal proceeding.

If the police officers discover that the criminal report does not report the crime but the administrative offence, they refer it to the relevant administrative authorities. They are also authorized to decide about the arrest of the person caught when committing a crime and to start the criminal proceeding against this person. In other cases, the police officers do not have the decision making powers in the criminal proceeding. The do perform mostly the factual operations such as body execution of the person, according to the instructions of the court or of the prosecutor.

The public investigators (police officers of the criminal and justice offices) do investigate the necessary circumstances of the crime in the preparatory criminal proceeding, according to the instructions of the prosecutor. These facts are used as a source of information for the prosecutor when bringing the written formal accusations to the court. The can also commence the prosecution of the person when they get enough information that a crime was committed.

The prosecutor controls the legality of the work of the police officers, gives them the instructions and brings the written formal accusations to the court.

The court has the authority to decide about the guilt and the penalty, on the basis of the evidence executed before it.

2.11. Powers of decision-making of the authorities entrusted with the process

2.11.1. Opportunity or legality of the process

According to the article 50 of the Slovak Constitution, only the court can decide about the guilt and the penalty for the crime. It is possible to appeal against this decision to the court of the higher instance.

The Constitution enacts also the principle of the presumption of innocence, the right to attorney, the right to refuse the testimony, the principle of double jeopardy, and the restriction of ex post facto law.

The article 49 of the Slovak Constitution enacts that only the Law can enact which behaviour is a crime and what penalty can be imposed for it. The accused has the right to appointed attorney, if he can not afford one. If the accused odes not understand Slovak language, he has the right to interpreter.

Also the separation of the powers is a part of these guaranties of legality of the criminal process. The courts are objective and independent and the management of the courts is being separated from the execution of the judicial power. The courts also have their autonomous bodies, which deal with the disciplinary delicts of the judges.

If there is enough information for the conclusion that the reported act is not a crime but an administrative offence, the authorities refer it to the relevant administrative authorities. These are not bound by the legal opinion of the authorities which have reported the case and they can report it back as a crime.

2.11.2. Authorities entrusted with the application of

sanctions (include the existence of appeals, as well as their nature)

The penalties of imprisonment are being executed in the state prisons. As soon as the decision about the penalty of imprisonment entered into force, the court summons the convicted person to commence the execution of the penalty. The court can also issue an arrest order and order the transport of the convicted to the state prison.

The person who was convicted by the first instance court can appeal to the court of higher instance. The appeal has the suspensive effect to the execution of the penalty. If the appeal was dismissed, the decision of the first instance court enters into the force.

There are also the extraordinary legal remedies which can be applied against the decision which has already entered into force. These include the co called "complaint for the breach of Law" and the "renewal of the proceeding." The complaint for the breach of Law can be brought by the Attorney General or by the Minister of Justice. These cases are really extraordinary.

The renewal of the proceeding can be allowed if there are new facts or evidence which was not disposable before the court which decided about the crime.

The convicted can apply for the delay of the execution of the penalty, if the execution could endanger his life or health, if the convicted is pregnant or mother of a newborn child, or if the convicted was summoned to his compulsory military service.

2.12. Criminal Procedures

2.12.1. Procedures used to initiate criminal procedures

The public authorities involved in the criminal proceeding are obliged to receive the criminal reports form anybody who wants to report a crime. Anybody can report any crime he/she has knowledge about. In some cases, not reporting a crime becomes a crime itself. The prosecutors are obliged to prosecute all crimes they get to know about, even when there has not been any report.

OBSERVATION:: The criminal proceedings started without any criminal report are very rare in fact.

The criminal proceeding also starts with the restraint of the person caught when committing a crime, if there is a serious concern that this person would try to escape, to obstruct the investigation or to continue committing the crime.

2.12.2. Authorities involved in the different stages of the criminal procedure and their roles in each stage

The police authorities receive the criminal reports and perform the factual operations related usually to body execution of the accused person. They can also issue an act concerning the start of the prosecution of the crime or starting a prosecution of a person who is suspected to be a perpetrator. They can also refer the case to other authorities if they are not relevant to deal it.

The police investigators can also receive the criminal reports and they investigate relevant facts of the act which was reported as a crime. They can also issue an act concerning the start of the prosecution of the crime or starting a prosecution of a person who is suspected to be a perpetrator. They can also refer the case to other authorities if they are not relevant to deal it.

The prosecutor gives instructions to the investigators concerning the course of investigation. He can also start the prosecution if the crime was reported to him. The prosecutor can bring the petition for issuing a warrant order to the court. The prosecutor brings the written formal accusations to the court.

When the written formal accusation was brought to the court, the proceeding before the court starts. All further decisions, including the final decision in the case, will be made by the court.

2.13. Courts competent to rule on cases of domestic violence

There is a unified system of courts in the Slovak republic. All cases are being heard before the District Courts (courts of first instance in most cases) and the Regional

Courts (courts of first instance in more serious cases and courts of second instance). The Supreme Court decides about the appeals against the decisions of the Regional Courts (when deciding as the first instance courts) and about the extraordinary legal remedies.

There are panels at the courts which decide different cases – there are the civil panels, the criminal panels etc. If there are the cases of the domestic violence, prosecuted as the crimes, they are ruled by the criminal panels. Victims of the domestic violence can also seek for help before the civil panels – they can apply for the divorce, ask for the ban to enter the flat etc. In these cases the civil panel decides.

2.14. Territorial scope – Competence of National Authorities

2.14.1. Sanction an offence committed in its territory by an offender who is not a citizen of that Member State

The administrative offences committed on the territory of the Slovak republic by an offender who is not a Slovak citizen are subject to Slovak law. The exception includes the cases where the offender is a person with diplomatic immunity.

All crimes committed on Slovak territory are subject to Slovak law, with the same exception as previous. These crimes and administrative offences fall under the territorial scope of Slovak authorities.

2.14.2. Sanction a native/citizen who commits an offence at another Member State

The administrative offences against the cohabitation of citizens and against the property, committed by a Slovak citizen at another Member State are subject to Slovak administrative law, if these were not previously decided by the authorities of another Member State.

The crimes committed by a Slovak citizen at another Member State are subject to Slovak Penal Code, if these were not previously decided by the authorities of another Member State.

2.14.3. Sanction an offence in which a native/citizen has been victimised, irregardless of the author's nationality

Slovak Penal Code works only with "the place where the crime was committed", irregardless for the nationality of the victim as the marginal territorial indicator. The same approach is being used by the Law on the Administrative Offences.

2.14.4. Sanction censurable acts if the detention of author was made in the territory of that Member States

The perpetrators of the crime who had committed an act which is a crime, according to Slovak law, will be subject Slovak criminal procedure if the act is considered a crime also in the Member State where it was performed and the perpetrator was not extradited to that Member State.

2.14.5. System of universal competence

No combination with different system of criminal law is possible in Slovakia. It is not possible also according to Slovak Constitution which states that only the Law (and that means the Law passed by the Slovak Parliament) can enact which behaviour can be considered as a crime.

2.14.6. Transmission/referral of the processes

Slovak citizen can be extradited for criminal procedure to another state, only if it is required by an international treaty ratified by Slovak Parliament. The penalties executed in outland do count in the penalties imposed due to Slovak law.

2.14.7. Bilateral and multilateral conventions of which the Member States are signatories

Rome Statute of the International Criminal Court was ratified on April 3rd 2002. This takes precedence over the Slovak Laws.

We do not have further information about bilateral or multilateral conventions of which Slovakia is signatory as this is not a topic of our activity.

2.15. Overruling/Suspension

The decision of the court of first instance in a criminal case can be overruled by an ordinary legal remedy which is called the appeal. There is a legal time limit to bring an appeal otherwise the decision enters into the force. There are also the extraordinary legal remedies – the complaint for the breach of law and the renewal of the proceeding.

The convicted person can be set free via an amnesty of Slovak President. President asks the Minister of Justice to bring him the documents necessary to decide about a plea for amnesty. There is no legal title for amnesty and no time limit to apply for it.

2.15.1. Period after which the public criminal procedure may be suspended/overruled

As already mentioned, only the appeal is time limited. It is necessary to bring it within eight days from receiving the decision. An appeal brought after this period will be rejected.

2.15.2. Acts and events leading to interruption or suspension of the process

We can differ three phases of criminal proceedings: the phase before starting criminal prosecution, the criminal prosecution and the hearing before criminal court. Some acts and events can occur in each of these phases, leading to interruption or suspension of the process. As a consequence, the criminal proceeding will be terminated other way than by court decision about the guilt and the punishment.

Proceeding before start of the criminal prosecution is initiated when the police investigator, the prosecutor or any police officer receives the criminal report. If the criminal prosecution is inadmissible (there are personal reasons in the person of offender) or if the punishability of the crime is abolished (the period of limitation has expired), the prosecutor, the interrogator or the police shall shelve the case by issuing an order.

If the criminal prosecution might not be appropriate (there might be a block of double jeopardy, or the penalty for this crime would be unimportant when compared to other penalty menacing to the perpetrator), the prosecutor, interrogator or police authority may (facultative) shelve the case by issuing an order.

If the act is not a crime, but an administrative offence and thus there is no purpose for the criminal prosecution the prosecutor, the interrogator, or the police officer refer the case to relevant authority. If there is none such an administrative offence, the prosecution can be stopped by issuing an order.

If there is enough information that there was a crime committed by specific person, the prosecution of this person can be started. It means that the authorities issue an order about starting the prosecution of this person and they start gathering the information about the act which can be used for the purposes of bringing written formal accusations to the court.

After the prosecution of specific person was started, the prosecution can be stopped if there is clear evidence that the act did not happen or it did happen but it was not a crime, or there is not enough evidence of that the act was performed by accused person, or the criminal prosecution is inadmissible, or that the accused person was insane at the time of committing the crime or if the punishability of crime has terminated. The criminal prosecution can be stopped by interrogator or prosecutor when they issue an order about it. The prosecution goes on, if the prosecuted person asks for it, or if the block for which the criminal prosecution had been stopped has ended.

The criminal prosecution can also be temporarily suspended. This can be done by issuing an order when the case can not be investigated properly because of absence of the accused or the damaged person (the victim), the accused is not capable to understand the meaning of the prosecution because of temporarily mental disorder, the accused was extradited abroad or if the Constitutional Court temporarily suspends the legislative force of Law. If there is no reason for suspension, the prosecution continues.

If all of the conditions are fulfilled, the prosecutor can suspend the prosecution on condition. These conditions are: the accused plead guilty, restored the damages he had caused, the maximum penalty of imprisonment for this crime is not higher than 5 years, the prosecuted person agrees with it and according to the circumstances of the case, this can be found sufficient way of solving the case. When suspending the prosecution on condition, the prosecutor specifies the period, during which the person is obliged to lead a proper life. If he commits any offence during this period, the prosecution can continue.

The criminal prosecution can also be stopped by issuing an order after the mediation was successful (more about this topic in the section about the mediation).

After the written formal accusations were brought before the court, the criminal proceeding before the court starts. The court can also refer the case to other relevant authority or to another relevant court, or stop the proceeding. It can also return the case to the prosecutor and order him to further investigate some aspects of the act if these were not investigated sufficiently in the preparatory proceeding. The court can also suspend the criminal proceeding on condition or approve the settlement between the victim and the offender, based upon the mediation.

2.16. Protective and restorative proceedings

Promoting the protection to the endangered victim in the criminal proceeding can be enabled via issuing a warrant order or via using the paragraphs about the confidential witness. The preliminary ruling decision, prohibiting the perpetrator to enter the house of the victim can be issued only in civil cases.

When there is a decision in the case, and the perpetrator is found guilty, there are several measures which can enable the protection of the victim and restoration of the damages. Together with imposing a sentence to the perpetrator, also the protective measures can be imposed, such as ban to approach to the victim do the distance less than 5 meters, or to order him compulsory clinical therapy. Also the penalty of restricted residence can be imposed if there is a reason for it.

The judges impose alternative penalties quite rarely. The control mechanisms for controlling of their execution are not sufficient.

Protective measure – compulsory clinical therapy of perpetrators of the domestic violence is not being realised at all. There are no such programs where the perpetrator could be sent. There are only programs dealing with treatment of alcohol and drug addiction, where the perpetrators are being sent if committed a crime intoxicated. Not every such perpetrator is really an addict and these programs do not go to the core problem, which is the violent behaviour, not the alcohol.

The offender can be obliged to restore the damages caused by the crime, if the damaged person applied for it. The paragraphs dealing with suspension of the criminal prosecution on condition after the damages were repaired and about the mediation in the preparatory criminal procedure are also supposed to motivate the offender to restore the damages.

Quite low efficacy and long lasting procedures of proving the committing of a crime leave a lot of hope to the offenders that they could avoid being found guilty and sentenced by the court, even when not restoring any damages to the victim. Thus, there is usually no will at the side of the offenders to use these paragraphs.

The court can impose the convicted person the obligation to restore the damages to the victim. The damage must be the material one, proved in the criminal proceeding and in direct causal connection to the crime. Otherwise the damaged person shall be referred to apply for the restoration of the damage before the civil court.

Deciding about the compensation of the damages to the victim is not considered to be a primary goal of the criminal procedure. Thus, the judges do not pay enough attention to this and almost never grant full requirement. Also, only the material damages are being compensated, while the personal injury and the psychological harm can be more severe in the cases of domestic violence and violence on women.

It the convicted does not have enough money to pay for the damages caused by the crime, there is a right to

apply for compensation from the state. According to current legislature there is no legal entitlement for the compensation and the decision can not be revised by the court.

New Law on Compensation is being prepared at this time, which contains the legal entitlement for the compensation from the state.

2.16.1. Development of protective and restorative proceedings

The protective and restorative measures have mainly been introduced into the Slovak law only recently. Use of these is, due to our information, still quite low which is supported also by the statistics in part 2.8.4.

2.16.2. National competent authorities involved in the proceedings

All of the measures named in the part 2.16 are decided by the court, with the exception of the compensation from the state if it is not possible to get it from the offender. This compensation can be granted by the Ministry of Justice, on the basis of written application for it.

The address is: Ministerstvo spravodlivosti Slovenskej republiky, Župné námestie 13, 813 11 Bratislava.

Phone number: +421 2 59353 274; fax no.: +421 2 59353 607; e-mail address: tlacove@justice.sk.

2.16.3. Possibility of intervention during the criminal or civil proceedings

The hearings before the court are usually public. The public can be excluded only in special occasions. It means that everybody has the right to be present at the hearing. The right to intervene into the hearing is granted by the Law only to some persons.

In the civil cases, the prosecutor can have the right to intervene. These are mostly the non – dispute cases, concerning the minors.

In the criminal cases, co called communities of interest (the NGO's, registered churches, sport clubs etc.) can intervene in the criminal procedure with the approval of the court. They can offer the warranty for the reparation of the convicted person. If the court accepts it, it can suspend the execution of the penalty under probation, or impose other penalty than inprisonment, or decide about not imposing any penalty at all. These organisations can also offer the warranty after the execution of the penalty was started and guarantee the finishing of the reparation of the convicted person and thus ask for release under parole. They can also apply for amnesty.

2.16.4. Possibility of intervention by non-governmental victim support organisations in the criminal proceedings (which may or may not become a public proceeding)

Non-governmental victim support organisations can take place at the hearings as any other member of the public, or they can intervene as the mandatary of the damaged person or as communities of interest. They can also provide their testimony or their statement of opinion, which can be used as prove.

The mandatary of the damaged person has the right to perform any legal act in the procedure, which has the damaged person himself, except for giving evidence as a witness. The representative of the non-governmental organisation can be heard as a witness if he has knowledge about any facts that can be relevant for the decision of the court.

As a community of interest, the NGO can, with the approval of the court, give its opinion to the case at issue, to the personality of the offender and to the possibilities of his reparation.

In addition, the NGO's provide consulting services to the victims before and after the hearing before the court, they help them with formulation of the petitions and provide them the moral, psychological, but also some material help and support. In the field of domestic violence in Slovakia, there are several organisations which provide such services. Some of them are based on more feministic approach (Fenestra, Pro Familia etc.), while others keep to the more gender neutral approach (Pomoc obetiam violence – Victim Support Slovakia).

HUNGRIA

LENKE FEHER AND KATALIN LIGETI

This Report is based on Hungarian legislation relevant in the field of domestic violence and on the practice of Hungarian criminal courts. Besides consulting the applicable laws the authors also studied the criminological literature concerning victim protection and child care. The authors interviewed several NGOs working in the field of victim protection, child protection and child victims. As regards Part II of the Report, criminal-statistical databases, and criminal courts' statistics have been used to establish the requested data.

1. List the ruling and both administrative and legislative decrees of the member States which enable the identification of behaviours / attitudes comprised within the concept of domestic violence

The concept of domestic violence is not a legal concept in Hungarian law. It is rather a criminological term comprising several behaviours falling under different provisions of the Hungarian Criminal Code. As a result, the protection offered by the Hungarian legal system against domestic violence is not specifically directed to counter those behaviour falling within the scope of domestic violence. The applicable legal provisions offer a general protection against bodily harm, sexual assault, etc.

Police Act (Act No. 34 of 1994)

The Police Act contains the general rules and principles of the operation of the police. These provisions enable the police to prosecute the perpetrator – even by the use of force – and oblige it to ensure the victim's safety. In order to enhance the effectiveness of the police in domestic violence cases the Chief Police Office issued a Decree (Decree no. 13 of 2003) setting out guidelines how to proceed in such cases. According to this Decree police measure in domestic violence cases should be done in a proactive way which accords full protection to the victim. Domestic violence cases should be dealt with high priority in order to ensure a speedy procedure.

Hungarian Criminal Code (Act No. 4 of 1978)

As stated above, Hungarian criminal law does not know the concept of domestic violence. Behaviours comprised by this concept may be punishable under different provisions of the Criminal Code (see Part 2.1. of this report). Therefore, the mere maltreatment of a person living in the commonly used premises (flat or house) is not punishable, per se. The Criminal Code is only then applicable if bodily harm or other injury or e.g. restriction of free movement occurs.

Hungarian Criminal Procedure Act (Act No. 19 of 1998)

The prosecution service in Hungary is an independent body subordinated to the Prosecutor General. Prosecution in Hungary follows the "principle of legality." Out of court agreements or so-called para-judicial settlements are provided for by Sections 222-227 of the Criminal Procedure Act. In general, diversion to assistance may only take place for crimes punishable with imprisonment up to three years. If the offender is a juvenile, possibility of diversion is extended to crimes punishable with imprisonment up to five years. Since the Criminal Procedure Act entered into force on 1 July 2003 there is not much practice sofar of diversion, assistance or para-judicial settlements.

It is important to mention, that among the crimes against family, youth and sexual morals there are some, which may only be prosecuted upon motion of prosecution.1 Such motion to prosecute shall be expressed either by the victim or – in case the victim is a minor – by its close relative entitled by law. If once filed, a motion to prosecute cannot be withdrawn.

In order to ensure the effective treatment of domestic violence cases by the prosecution service the Prosecutor General issued a Decree (Decree N. 14 of 2003) setting up a signal system. Latter specifies the duties of the public prosecution to inform the family, the school, the child care agencies, etc. if they encounter a case of domestic violence where the victim is a minor.

Child Protection Act (Act. No. 30 of 1997)

The Child Protection Act sets out the rights of children. It provides in its Art. 6 that children have the right of human dignity and the right to be protected against physical, psychical or sexual abuse. Based on this right

Hungarian Civil Code

The Hungarian Civil Code does not contain any provision applicable for domestic violence cases. This means

that according to Hungarian civil law there is no way to restrict the use of common premises (flat or house) even if domestic violence occurs. In such cases it is the victim who is forced to leave the jointly used premises (flat or house) and to flee to a relative, a friend or a shelter.

Act on Legal Aid (Act No. 53 of 2003)

The Act on Legal Aid aims at providing legal assistance to those who are unable to afford a lawyer by themselves. The Act defines its scope of application by stipulating a certain margin of maximum income. Those whose income does not exceed that margin may benefit from free legal assistance provided by the state. The Act on Legal Aid came into force as of 1 April 2003 but it is applicable for trial assistance (civil or criminal) only since 1 January this year. Victims of domestic violence who leave under a certain margin of income may benefit from free legal assistance on the basis of this Act.

Victim Support and Compensation Act (Act No. 135 of 2005)

This piece of legislation transforms two EU instruments into Hungarian legal system: the Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings and the Directive of 29 April 2004 relating to compensation to crime victims.

National Crime Prevention Strategy (Parlamentary Decree No. 45 of 2003)

The National Crime Prevention Strategy aims at reducing those circumstances which generate crime. A part of this national strategy is directed to combat domestic violence. The strategy sets out those measures that the government and institutions dealing with domestic violence (e.g. public prosecution, police, child care institutions) must adopt in order to have a coherent national strategy for reducing domestic violence. In the framework of those measures the Government elaborated a Bill on restraining order. Latter aimed at restraining the contact between the offender and the victim by forbidding the offender to enter certain premises, or to stalk the victim otherwise. This Bill has, however, not yet been adopted.

2. Match the behaviours /attitudes with applicable texts and the respective publication references with the purpose of defining the following:

2.1. Type of texts and publication references as well as the incriminations involved

2.1.1. List the incriminations

∫	166	Homicide
∫	167	Homicide committed within physiological affection
∫	168	Complicity in Suicide
∫	169	Abortion
∫	170	Bodily harm
∫	172	Failure to provide help
∫	173	Failure to provide care
∫	174	Constraint
∫	175	Violation of personal freedom
∫	175A	Kidnapping
∫	175B	Trafficking in human beings
∫	176	Trespassing
∫	177	Violation of privacy
∫	178	Violation of secrecy of correspondence
∫	179	Defamation
∫	180	Slander
∫	195	Endangering of a minor
∫	195A	Pornography
∫	196	Omission of support
∫	197	Rape
∫	198	Assault Against Decency
∫	201-202	Seduction
∫	203	Incest
∫	205	Promotion of prostitution
∫	207	Pandering

2.1.2. The nature of the incriminations

The above cited provisions of the Hungarian Criminal Code are contained in Chapter XII (Title I on crimes against life, physical integrity and health, Title II on crimes against freedom and human dignity), Chapter XIII (Title I on crimes against family and youth, Title II on crimes against sexual morals). The rights protected by these chapters of the Criminal Code are constitutionally enshrined individuals rights in accordance with international human rights law. Hungary has ratified both the International Covenant on Civil and Political Rights and the European Convention on Human Rights. According to Hungarian constitutional law theory the right to life and human dignity constitutes one right which is the "mother right" of other fundamental rights. Latter means that all individual rights protected by the Constitution are derived from the right to life and human dignity.

Almost all offences cited above are violent offences. According to Art. 137 of the Hungarian Criminal Code threat is xxx. It is clear from the definition that it applies only to psychological coercion and does not refer to physical coercion. On the basis of this provision Hungarian criminal la theory distinguishes between vis absoluta and vis compulsiva. The first one describes a force or threat which is capable of breaking the will of the inflicted person. Vis absoluta is provided when the force or threat is directed immediately against the life or physical integrity of the inflicted person (it may be either the victim or a third person). In opposite to that vis compulsiva only influences the inflicted person's will, it does not, however, break his/her resistance. Both vis absoluta and vis compulsiva may be exercised either by the physical use of force or by psychological threat.

It is usually an aggravating circumstance of the offence if the victim is under the education, supervision, care or medical treatment of the perpetrator. Thereby the Criminal Code intends to afford special protection against abuse done by a person exercising certain power over the victim. The mere fact that the perpetrator is a relative of the victim will not fulfil this criteria (e.g. if the perpetrator is a parent whose parental rights were terminated or restricted will not qualify as a person exercising supervisory, educational or other power). It is, however, in practice usually the close relative who will commit this aggravated form of the offence.

2.1.3. Type of entities/organisations, which may influence the assessing of the behavioural attitudes in what concerns domestic violence

In the course of developing a national crime prevention strategy the finding of effective means to fight domestic violence received a lot of attention. Due to the vehement support of NGOs working in the field of domestic violence, child protection and family support the Hungarian media started to pay more attention to cases involving domestic violence. As a result the National Crime Prevention Strategy finally explicitly states that a national awareness raising campaign must be carried our in order to make the public learn the means and forms of support available in domestic violence cases. The media campaign took pale in December 2003 and March - April 2004. It advertised, inter alia, the phone number of support telephone lines and phone number of NGOs which may be dialled free of charge. Parallel to the campaign two expert studies have been commissioned by the Ministry of Health and Social Affairs and the Ministry of Family Affairs. The studies gave a thorough analysis of the phenomenon of child abuse and domestic violence. Those studies provided the bases for developing a national policy against domestic violence. As a part of this policy Bill on restraining order was prepared.

2.2. Sanctions/Penalties

2.2.1. Penalties anticipated for the incriminations referred to in 2.1.2

Hungarian criminal law applies the system of relatively defined sanctions. Latter means that the special part of the Criminal Code describes only the minimum and maximum period of imprisonment of a certain offence and alternatively allows for community service or fine. It is then the job of the judge to inflict the exact period of imprisonment within the frame of period set forth by law.

Hungarian criminal law distinguishes between principal punishments, secondary punishments and criminal law measures. The principal punishments are imprisonment, community service and fine. The secondary punishments contain, inter alia, banishment. Confiscation and forfeiture of property are among the criminal law measures.

The offences contained above are all sanctioned by imprisonment. According to the rule of mitigation, it is, however, always possible for the judge to lessen the minimum period of imprisonment, or to change imprisonment into community service, a fine or a secondary punishment.

2.2.2. Entities/organisations, which take the decisions as far as penalties are concerned

According to the constitutional principle of division of powers it is the exclusionary right of the courts to adjudicate, i.e. to inflict penal sanctions. There is only one exception to this rule. Reprimand – which is a criminal law measure - may also be applied by the public prosecutor. The crimes concerned here are, however, of such gravity that reprimand cannot come into question.

2.3. Intentional aspect/principle

Hungarian criminal law incriminates as a principle intentional behaviour. Negligent behaviour is incriminated only if the Special Part of the Criminal Code contains the negligent form of the given offence. The offences which fall within the scope of domestic violence are usually intentional offences. The negligent form is punishable only of homicide and bodily harm.

2.4. Material aspect: existence of material elements

2.4.1. Facts and constituent actions

Since the entry into force of the Victim Support and Compensation Act there are two concepts of a victim in the Hungarian legal system. According to Art. 51 of the Criminal Procedure Act victim (sértett) is a natural or legal person whose interests are hurt or endangered by the offence. Differently from this procedural definition the Victim Support and Compensation Act employs a broader concept of victim (áldozat) based on a criminological approach. According to the Victim Support and Compensation Act a victim is a natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts or omissions that are in violation of the criminal

law of a Member State.

As a result of this duplicate definition only those who fulfil the criteria set force by the Criminal Procedure Act may enjoy procedural rights. Other victims who fall within the scope of the Victim Support and Compensation Act may receive support as defined by this Act but cannot participate in the criminal trial as a victim (they may, however, act as a witness, a private party or otherwise).

2.4.2. Action or omission

In general a criminal offence may be committed both via action and omission. The offences falling within the scope of domestic violence usually require active contribution of the perpetrator. There are, however, some offences in this field which may be committed only by omission. Such offences are § 172 Failure to provide help, § 173 Failure to provide care and §196 Omission to support. Homicide and bodily harm may be committed either by action or by omission.

2.4.4. Conditioning of the attempt

2.5. Complicity

The perpetrator may commit the crime alone or with the help of others. Hungarian criminal law distinguishes between co-perpetrators and accomplices. Co-perpetrators commit the offence jointly in awareness of each other's activities. The difference between co-perpetrators and accomplices is that co-perpetrators realise a part of the mens rea whereas the activity of accomplices falls outside the offence description.

There are two forms of accomplicity: aiding and abetting. Abettor is a person who intentionally persuades another person to perpetrate a crime. It is necessary that the abettor triggers the decisive motive in the perpetrator to commit the crime. In this sense the abettor is the moral author of the offence. Accessory is who intentionally grants assistance for the perpetration of a crime. This assistance may be either physical or psychical. For example if one parent simply passively tolerates as a bystander that the other parent abuses the child he/she will be qualified as psychical accessory.

According to Hungarian criminal law the period of punishment applicable for the perpetrators also applies for the accomplices.

2.6. Responsibility

2.6.1. Personal responsibility

The age of both offender and victim is particularly significant in respect of criminal liability and culpability. Art. 22 of the Criminal Code stipulates that punishability shall be precluded by infancy and adds in Art. 23 that any person younger than fourteen years of age when committing a crime shall not be punishable. Therefore criminal liability starts in Hungary at 14 years of age.

The age group of juveniles is defined in Subsection (1) of Art. 107 of the Criminal Code, stipulating that juvenile is the person who is between his/her fourteenth and eighteenth year of age when committing a crime. Juveniles are criminally liable for the crimes they commit, the punishment inflicted upon them follows special rules.

The concept of culpability is, however, narrower than the concept of criminal liability. Culpability requires in addition that the person is not insane, i.e. he/she is capable of fully recognising the consequences of his/her action, and there are no circumstances which may prevent him/her to act according to his/her will (threat or coercion).

As far as victims are concerned – as they are aimed at in this paper in the first place – the age group of minors has to be further subdivided. Children younger than twelve constitute a special category of minors. According to Art. 183/A and 210 of the Criminal Code in case of certain violent crimes against life, bodily health and personal freedom and in case of violent sexual crimes any person younger than twelve shall be deemed incapable of defence.

2.6.2. Responsibility upon somebody else's actions

Hungarian criminal law employs the strict culpa principle. Accordingly, criminal sanctions may be applied only if the individual guilt of the given person is proven. Therefore criminal liability is individual liability.

In case of joint-perpetratorship, however, the acts of one perpetrator are accounted to the other co-perpetrator. This means in practice that if A and B rape the victim together whereby A holds victim and B performs the sexual act both A and B are liable for rape.

2.7. Administration of proves

2.7.1. Who shall be in charge of the burden of prove

The Criminal Procedure Act stipulates the principle of the separation of duties. Latter means that the division of functions must be enforced in the criminal procedure. The duties of the police, of the prosecution and of the judiciary will be clearly demarcated. It derives from this principle that criminal liability is established during the trial with due regard to the principle of directness.

As it has been stated earlier Hungarian criminal procedure follows the "principle of legality." Once the prosecution service becomes aware of an offence it is obliged to prosecute. It is important to mention, that among the crimes against family, youth and sexual morals there are some, which may only be prosecuted upon motion of prosecution. Such motion to prosecute shall be expressed either by the victim or – in case the victim is a minor – by its close relative entitled by law. If once filed, a motion to prosecute cannot be withdrawn.

According to the Criminal Procedure Act the prosecutor is obliged to take into account all aggravating and mitigating circumstances when establishing the charge.

2.8. Penalties: Causes for attenuation and aggravation, execution

2.8.1. Causes for attenuation and aggravation

It is the judge who defines the punishment of the offender. The freedom of the judge is restricted only by the sanction foreseen in the Special Part of the Criminal Code for the given offence. The judge may not inflict a more severe penalty than stipulated in the Criminal Code. The judge may, however, mitigate the penalty if mitigating circumstances are given. The Criminal Code only refers to mitigating circumstances without defining or enumerating them. There is a Criminal Court Ruling (Ruling No. 154) which provides an explicative enumeration of the mitigating circumstances.

2.8.2. Classification of the penalties (to describe them and further indicate their juridical effects.)

See 2.2.1.

2.8.3. Cumulating of penalties

In case the behaviour of the offender qualifies as more than one offence and these offences are tried in one procedure the judge shall inflict a cumulative penalty. According to Art. 85 of the Criminal Code the basis for a cumulative penalty is the gravest penalty foreseen for the given offences. If the longest imprisonment foreseen for the given offences does not seem to be severe enough to punish the offender and at least two of the crimes involved is punishable with imprisonment, the maximum of the gravest imprisonment may be raised by one half.

2.8.4. Types of penalties, which are commonly applied to the aggressors under the light of the jurisprudence

According to statistical data the most commonly used sanction in Hungary is fine. In domestic violence cases, however, since these crimes are usually violent crimes imprisonment or conditioned imprisonment is employed.

2.8.5. The carrying out/execution of the penalties

2.8.6. Existence of an "offender" database

There are two major forms of criminal data registration in Hungary. The first one is the Uniform Criminal Register of Police and Prosecution (Uniform Register), the second one is the Prosecutorial Statistics of Charges (Statistics of Charges). The Uniform Register is opened upon detection of a crime and every stage of the process – such as start and completion of investigation, charges brought by prosecution, judgements rendered both by courts of first instance and of last resort, detention, surveillance, etc. – are recorded within. The Uniform Register contains data on both the offender and the victim. The form, place, aim and intention of perpetration are also included in the Uniform Register.

Differently from the Uniform Register the Statistics of Charges commences when the prosecutor files the charge and a separate data-sheet is kept for each offender. Statistics of Charges contains only data of prosecutorial actions relating to charges, such as punishment and/or measure under the Criminal Code proposed by the prosecutor and personal data of the offender. Identification of authorities involved in the process – police, prosecution and court – and of the alledged crime(s) are contained in both the Uniform Register and the Statistics of Charges. Since 1991, both Uniform Register and Statistics of Charges are recorded electronically.

Data collection is strongly decentralised in Hungary. The Uniform Register is opened by the police and finished by the prosecution, Statistics of Charges fall within the jurisdiction of the prosecution. Criminal courts have a separate form of registration, to be included in the Statistics of Charges upon final decision of the case. There is no so-called centre for criminal statistics in Hungary, data collection remains within the responsibility of each investigating and prosecuting body involved in the process. Within the Ministry of Justice there has been a department for court statistics at present being supervised by the National Justice Committee. However this department has never been in charge of the whole data collection system, it simply gathered and stored different forms of registers. In practice, it is the prosecution service that does the job of data collection and recording. There are no field workers or other bodies/entities involved in collection of criminal data.

2.9. Decision making on the part of the administrative/police and penal authorities responsible for such cases and the relationship established among the respective Decision-making capability

As it has been mentioned above the Criminal Procedure Act stipulates the principle of the separation of duties. Latter means that the division of functions must be enforced in the criminal procedure. The duties of the police, of the prosecution and of the judiciary are clearly demarcated. The investigation of a crime is usually done by the police unless it is a crime which falls within the exclusionary investigative competence of the public prosecution. The crimes falling within the scope of domestic violence are, however, not such crimes. The prosecution supervises the work of the police at all stages of the criminal process. Once a sufficient degree of suspicion has been established by the police, the case is passed over the public prosecutor who will then decide whether or not to bring charges. On the bases of the charge the court establishes the guilt of the accused and finally passes the sentence or acquits the trial.

2.10. Participation of the mediation/restoration oriented organisations at national and local level, as well as the role they actually play within the process

2.10.1. Authorities/Services involved in the decision making process

The EU Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings requires that mediation in criminal procedure is provided by the national laws of the EU Member States. As a result of implementing the Framework Decision into Hungarian Law, the Criminal Procedure Act has been supplemented by provisions on mediation in criminal procedure.

2.10.2. Factors which influence the decision on mediation

The paramount factor in the decision-making about mediation is the voluntary participation of both

parties.

2.10.3. Rules and/or practices, which determine the criteria to be applied in order to assess whether or not a mediation process should take place

Mediation can be used in any phase of the criminal proceedings – both in the preliminary and execution procedure. The criteria are interest and voluntary decision of both parties.

2.11. Powers of decision-making of the authorities entrusted with the process

2.11.1. Opportunity or legality of the process (cover the existing relations between the different powers, the conduction/referral of the processes, the margin of manoeuvre/initiative, discretionary power)

See 2.7.1. and 2.9.

It is important to mention that in order to enhance the effectiveness of the police in domestic violence cases the Chief Police Office issued a Decree (Decree no. 13 of 2003) setting out guidelines how to proceed in such cases. According to this Decree police measures in domestic violence cases should be done in a proactive way which accords full protection to the victim. Domestic violence cases should be dealt with high priority in order to ensure a speedy procedure. In the same sense the Prosecutor General issued a Decree (Decree N. 14 of 2003) setting up a signal system. Latter specifies the duties of the public prosecution to inform the family, the school, the child care agencies, etc. if they encounter a case of domestic violence where the victim is a minor.

2.11.2. Authorities entrusted with the application of sanctions

As stated under 2.2.2 it is the exclusionary right of the courts to adjudicate, i.e. to inflict penal sanctions. There is only one stage of appeal provided by the Criminal Procedure Act.

2.12. Criminal Procedures

2.12.1. Procedures used to initiate criminal procedures

According to the Criminal Procedure Act any statement that the suspect ought to be prosecuted qualifies as an official report to the police of an offence. The latter is necessary in order to initiate criminal proceedings. The Criminal Procedure Act sets an absolute deadline for the completion of the investigation. So far as the investigation is conducted against a specific person, its term may be at most two years following the commencement of the criminal procedure, subsequently the procedure shall be terminated.

2.13. Courts competent to rule on cases of domestic violence

There are no specialised courts for domestic violence cases.

2.14. Territorial scope – Competence of National Authorities

According to the Criminal Code Hungarian law shall be applied to acts committed in the territory of the Republic of Hungary as well as to acts committed by Hungarian citizens abroad, which are deemed as crimes under Hungarian law. On the basis of territorial jurisdiction Hungarian authorities are competent to proceed against any Hungarian or foreigner who commits a crime in Hungary. Besides that it follows from the cited provision that double criminality is not a condition for prosecuting a Hungarian citizen for domestic violence committed outside Hungary. However, such extra-territorial jurisdiction of Hungarian criminal law rarely results in proceedings, as normally crimes committed in a foreign country are prosecuted and adjudicated by the foreign country's authorities and courts, regardless the offender's citizenship.

If the Hungarian citizen had already been prosecuted

and his case has been decided at the place of perpetration, new proceedings may take place in Hungary for the very same crime. The ne bis in idem principle is applied in interstate situations only with certain restrictions. According to Section 6 of the Criminal Code a judgement delivered by a foreign court shall have the same effect as a judgement delivered by a Hungarian court, if (i) the foreign court proceeded on the basis of charges filed by the Hungarian authorities or upon transfer of the criminal proceeding, (ii) the foreign court proceeded against the perpetrator for an act that is punishable under both Hungarian law and the law of the foreign state, and the proceeding conducted abroad and the sentence imposed or the measure employed is in conformity with Hungarian law.

2.14.1. Sanction an offence committed in its territory by an offender who is not a citizen of that Member State

See 2.14.

2.14.2. Sanction a native/citizen who commits an offence at another Member State

See 2.14.

2.14.3. Sanction an offence in which a native/citizen has been victimised, irregardless of the author's nationality

The Hungarian Criminal Code does not employ the passive personality principle. Therefore Hungarian criminal law does not afford any special protection to Hungarian victims who experienced a crime abroad.

2.14.5. System of universal competence

Hungarian Criminal Code employs universal jurisdiction only for violation of international humanitarian law. Since domestic violence cases do not fall within this category of offences, no universal jurisdiction may be evoked.

2.14.6. Transmission/referral of the processes

2.14.7. Bilateral and multilateral conventions of which the Member States are signatories (mention if they have already been ratified and applied, clarify which acts are contemplated in those conventions)

International cooperation in criminal matters is governed by two bodies of law: one applicable to EU Member States the other applicable to third countries. In case of another EU Member State involved the harmonised EU instruments are to be referred to under the conditions provided in those instruments (e.g. European Arrest Warrant, European Evidence Warrant, Transfer of proceedings and Sentenced Persons). In case of non-member state European third countries the instruments of international cooperation in penal matters developed by the Council of Europe are used. In the remaining cases bilateral instruments, if any, apply.

Cases requiring international assistance are dealt with by the Department of International Cooperation of the Hungarian Ministry of Justice.

2.15. Overruling/Suspension

2.15.1. Period after which the public criminal procedure may be suspended/overruled

2.15.2. Acts and events leading to interruption or suspension of the process

See 2.15.1

As regards both 2.15.1 and 2.15.2, there are no specific rules concerning suspension or interruption of the very criminal process launched against the perpetrator of domestic violence of whatsoever kind. As a result, general rules of suspension or interruption apply to cases of domestic violence. First of all, it has to be underlined, that suspension is the exclusive way or form of interruption of a criminal process, i. e., if once started, the criminal process has got to be accomplished either

by way of dismissal, or by pressing charges, going into court and rendering a judgement. It is only suspension that may prevent either of the aforementioned endings of a criminal file already opened.

Suspension may take place either during the police investigation or in court. Reasons are – except for one – are just the same: incapability to identify the perpetrator, suspect of the perpetrator going insane and thus becoming inculpable, need for preliminary decisions falling within the scope of a different judicial or administrative body, last but not least proceedings to be carried out by the International Criminal Court of Justice or by any other court of justice being instituted upon the decision or resolution of the UN Security Council. The one reason of suspension to occur only in court – as mentioned above – is the case when it turns out in court, that conditions of diversion to assistance – a procedural measure to be taken into account by the prosecutor when pondering, whether pressing charges or not – are assembled. However, this very reason again does not depend on the type of crime being trialled; it refers only to rules of diversion to assistance, as already précised in point 1. under Hungarian Criminal Procedure Act.

To sum up, the one and only reason to interrupt – suspend – a criminal procedure started in a domestic violence case shall be that the court recognizes that requirements of diversion to assistance are met. As in court – after pressing charges – diversion would be irrational, in such a case the judge may suspend the process for the period of one year, and later, if those conditions set out for diversion to assistance are fulfilled may dismiss the case.

1 Crimes against sexual morals to be prosecuted upon a motion to prosecute are rape under Subsection (1) of Section 197 and Assault against decency under Subsection (1) of Section 198 of the Criminal Code.

2.16. Protective and restorative proceedings

2.16.1. Development of protective and restorative proceedings

Penal Code

The sanction system in the Penal Code consists of alternative penal sanctions too, among others the community work or the probation accompanied by certain behavioural rules, which has restorative character.

Procedural measures

The new Act on Criminal Procedure (the Law No. XIX./1999, modified by the Law LXXV and CX./1999; the Law No. I. 2002; the Law No. XXII./2002 as well as the Law No. II./2003.), entered into force in the 1st of July, 2003.This Law, somewhat more than before, taking into the consideration the procedural rights of the victim. The right for information is much larger, than before and the rights for legal remedy are increased, indeed. Among the most important changes should be mentioned the possibility of the victim for subsidiary private prosecution, in some of the cases, when the prosecutor has dropped the case. The victim has right for subsidiary private prosecution, when the prosecutor dropped the case, as from the report is clear, that it is not a crime, or there is reason for imputability. /§.174. a.)-c.)/ The victim as subsidiary private prosecutor, should have a legal representative. The subsidiary private prosecutor is practicing the rights of the prosecutor, including the initiation of the compulsory measures limiting or restricting the personal liberty of the accused. He does not initiate however the elimination of the practicing the parental rights of the offenders in the respect of practicing control over their children.

In accordance of the §. 223. of the Criminal Procedural Law, the prosecutor has right to postpone the accusation with his decision, from 1 to 2 years, if the crime is sanctioned less than 3 years imprisonment and it is expected, that this fact will have a favourable effect on the future behaviour of the suspected person. The §.§. 224 and 225.of the Law are containing provisions on the hearing and on the behavioural rules of the suspected, in case of postponement the accusation. According to these provisions, if besides the postponement of the accusation the prosecutor is describing certain behavioural rules for the suspected, or certain obligations should be fulfilled, the prosecutor may ask the opinion of the probation officer and after that, the suspected. In the hearing it should be clarified, whether the suspected can keep the behavioural rules and fulfil

the obligations.

The prosecutor can order the next obligations:

a) to compensate fully or partly the harm caused to the victim
b) to provide in other way to the restoration (wiedergutmachung)
c) to fulfil material donation for a certain aim or to work for the community (wiedergutmachung for the community)
d) to undergo psychiatric treatment or treatment of alcohol dependency.

The obligation described in point a.) and b.) can be ordered, if the victim agrees on and the point c.) and d.) when the suspected agrees on. If the victim does not agree, it is not obstacle to apply the postponement of accusation without the obligations prescribed in a.) and b.) points.

The decision of the prosecutor on the postponement of accusation should be sent also to the victim, who can appeal against it.

The prosecutor can prescribe more of these obligations, or different other obligations, which are not enlisted in the law.

Draft laws

Among the protective measures there is a great importance of the interim measures, like restraining orders aimed at protecting the victims, the banning of a perpetrator from contacting, communicating with or approaching the victim, residing in or entering certain defined areas. There is a Draft Law in this respect, aiming to modify the Criminal Procedural Law.

The above mentioned concept of the law was very much criticised by the NGOs, as it does not provide an immediate intervention for the protection of victim from further violence. The concept of the NGOs and the Drafting Committee is different. The concept has been changed several times. According to the last version, the legislator does not wish to give the definition of domestic violence in the criminal law. The draft does not reflect the symbolic message of necessity of protection of victim of domestic violence, the holistic approach and treatment of domestic violence, the importance of cooperation of sectors (health, social, education, juridical) involved. These question are discussed in the Parliamentary decision 115/2003 (28.X.) and the National Crime Prevention Strategy. In the background of the philosophy of the decision of legislator stands, that the fight against domestic violence and prevention of victimisation can be reached primarily by the application of the existing laws and instead of creating new laws, the efforts should be focused on the efficiency of law enforcement .New law is only necessary to provide the protection of the victim of domestic violence from further attack of the offender. This can be solved by the restraining order, which is limiting such important rights of the offender, like the freedom of movement, the freedom of choosing the place of residence and the right to property. In the consequence of the above mentioned reasons, according to the draft law, the restraining order is a compelling measure, for this reason its application should be based on the decision of the investigation judge.[1]

The Draft Law was on the agenda of the Parliamentary debate in December 2005, but in the consequence of several new suggestions of the MPs for modification, it is not yet adopted.

There is a continuous effort to promote pro-active victim protection services which take the initiative to contact the victim as soon as a report is made to the police;

From the restorative proceedings it should be mentioned, that at present, mediation in civil proceedings exists in Hungary and regulated by the Law LV. /2002. There is not mediation in criminal matters, however the concept and the Draft Law on mediation in criminal matters already exist and it is at present on social debate.

2.16.2. National competent authorities involved in the proceedings

See 2. 11. 1.

2.16.3. Possibility of intervention during the criminal or civil proceedings

In accordance with the modification of the Criminal Procedural Law, the following rights of injured parties, (which appear in a diffuse way in the different chapters of the Act) should be mentioned:

- the injured party has the right to report the crime, or – if he or she suffered particular crimes – to submit private motion thereby initiating the criminal procedure ;
- in case of private complaint offences (simple battery, slander, defamation, illicit possession of private information, violation of the secrecy of correspondence, impiety) the injured party may act as a private prosecutor;
- the injured party may claim damages that resulted from the crime in the criminal proceeding as a so-called civil party;
- under conditions determined by law the injured party may overtake the tasks of the public prosecutor, as a subsidiary private prosecutor;
- the injured party may make initiatives, remarks in the criminal proceeding;
- the injured party may be present at certain procedural acts and may have access to the documents concerning him or her;
- the injured party may ask for information about his or her rights from the representative of the authority, and he or she has the right to receive these pieces of information;
- the injured party has the right to remedy in cases determined by law;
- the injured party has the right to use his or her mother tongue, and also to initiate disqualification against persons in the proceeding indicated by law;
- the injured party has the right to exercise his or her right through representative;
- if the injured party does not have a representative, or is unable to enforce his or her rights for any reason, he or she has the right to have the court make a legal aid council available;
- the injured party has the right to protection, and under certain conditions, to witness protection.

It is worth to mention that the compensation of the injured party by state financial means, is ensured in most of EU Member States. In Hungary there is a possibility of alleviation of damages from state financial funds for the injured parties of certain violent crimes since 1999. This law was modified recently by the Law CXXXV. 2005. on Assistance and state compensation to the victims of crimes.

The expansion and enforcement of the injured party's rights is continuously on the agenda of criminal policy in Hungary since the political changes. Since the 1990ies with the spreading of organized crime a number of relevant notions appeared in the Criminal Code. Moreover, the issue of witness protection as a guarantee of the safety of injured parties as witnesses has also come to the forefront.

The National Strategy on Social Crime Prevention. has urged and encouraged the improvement of victims' assistance and help. The preparation of the conception of the law has begun in 2004 and passed on the Parliament in 2005, as Act CXXXV: on Assistance and state compensation to the victims of crimes.

2.16.4. Possibility of intervention by non-governmental victim support organisations in the criminal proceedings

According to the new Act on Criminal Procedure (consolidated version, Act No. XIX of 1998) the injured party has a relatively wide spectrum of rights in the criminal proceeding. The possibility of victim for subsidiary private prosecution is an old legal institution, which has returned again.

It is to be emphasized, that on behalf of the victim, the classical role of civil victim support organizations was extended to the representation of victims in criminal proceedings, determined by Article 58 Section 3: "any non-profit organization falling under the scope of the Act on Non-profit Organizations, and established for the representation of the interest of injured parties or some groups of injured parties, may act as a representative."

This means, that according to the modification of the Criminal Procedural Law, NGOs, namely, public benefit associations, dealing with victim support, victims' assistance, can represent the interests of the victims in the criminal procedure (Article 58).

1 See the further details: Szilvia Gyurkó, p. 112-136. In: Family horrors. Criminological study on family violence. Edited by György Virág, Published by OKRI (National Institute of Criminology) – KJK-KERSZÖV, Budapest, 2005

2 Como regra geral, o processo tem que ser iniciado ex officio independentemente da moção efectuada pela parte lesada, no entanto nos casos mencionados

2.

SITUATION OF DOMESTIC VIOLENCE IN EACH COUNTRY: QUANTITATIVE AND QUALITATIVE PROFILE OF VICTIM AND OFFENDER AS WELL RECEIVED SUPPORT

Walter Crane, *Pandora wonders at the box*, 1893

CZECH REPUBLIC

PETRA VITOUSOVA AND ALICE BEZOUSKOVA

The sources of the given information are following:

- Nationwide reprezentative sociological research, 1 720 respondents older than 15 years of age, the research was aimed at the awarness, attitudes and direct experience of Czech population with domestic violence, STEM agency.
- Questionnaire survey among domestic violence victims, 182 respondents, 1999 – 2001, Bily kruh bezpeci.
- Statistical outputs from DONA help line, 2001 – 2005, 13 370 callings of people seeking help, 33 criteria watched, Bily kruh bezpeci.

In the Czech republic it is prevailingly NGOs sector that is the source of information about domestic violence , its victims and perpetartors.

1. From a quantitative point of view

1.1. Profile of the victim

Gender

At least 16 % of population in the Czech republic are afflicted with domestic violence as victims. From the point of view of gender the majority of women varies between 87 – 94 %- The experts judge that in the Czech republic there is high doubled latency of men as victims of domestic violence. They cover their situation due to the prejudice before both the public and the experts. This hypothesis is being confirmed by cases of abused men, which time from time filter out and had been dissimulated for a long time.

Age

The most numerous group of victims of domestic violence are people in the age 25 – 40 (56 %).

Status

The prevailing relationship is husband / wife (61 %). With a big following distance it is unmarried husband / unmarried wife (9 %) and transgeneration violence.

Nationality

This phenomenon is not being watched from the point of view of nationality. Czech respondents were included in the repersentative research. The criterion nationality is not being watched in the counselling centres nor at the DONA help line. There are cases filed with the immigrants arrival for example among Vietnamese and Ukrainians. Their situation is manifold more risk and worse solvable (unfamiliarity with the language, legal norms,economic dependency on the violent person, illegal stay). Consequently there is higher tendency to hide domestic violence. The situation inside the numerous gipsy group is also going through change, both intimate and transgenerazion violence is occuring. But the willingness of the endangered people to seek help in crises centres is still very small.

Education

More than 80 % victims finished their high school (GSE examination „A“ levels, graduation). Among the victims who looked for help in the counselling centres there were 4 % with university degree. These people are more knowledgeable about the risk of escalation of domestic violence and seek help in time, it means in the early stage, resp. immediately after first attack.

Economical conditions

Domestic violence in the Czech republic goes through all demographical indicators. In so-called high society higher tendency to hide domestic violence before children abd wider family found out.

Profession

Woman – victim of domestic violence, employed (45 %), maternity leave (15 %), retired (13 %), invalid

pension (7,5 %).

Man – victim of domestic violence, employed (34 %), retired (24,4 %), invalid pension (14 %), family leave (0,6 %).

Most victims in the Czech republic both men and women are employed. This data is necessary to see in the context of the type of job of the whole population in the Czech republic, therefore it is not surprising. With women we identify two risk factors which are conected with the type of job: maternity leave and woman – enterpriser.

With both sexes the risk factor for the escalation of domestic violence is retirement.

Housing

Victim and the perpetrator share their flat or house. Divorce, after which they are usually forced to stay together because of the impossibility to „separate" due to lack of flats, the actors of domestic violence are dependent on common living, and therefore does not solve the situation of these people and does not stop domestic violence. Many cases end up tragically. 2/3 of murders which are comitted every year happen between close people and usually they are preceeded by long-time violence.

Adictions

There is no information, not watched.

1.2. Profile of the offender

Relationship to the victim

The most dominating image of dometic violence is the maltreatment of the husbadn / wife (60,6 %) or partner (9,1 %).

Gender

Domestic violence in the Czech republic directly inflicts at least 16 % of the population in the role of victims. As for gender the prevalence of men perpetrators varies between 87 and 94 %.

Age

The expressive growth of the number of perpetrators happens in the age group 26 – 40 years (43,6 %). Their number continuously falls, in the sixth decenium the number of the violent people still stays at the relatively high level (9 %).

Nationality

The criterion is not watched. See the mark in the chapter on the profie of victims.

Profession

The culmination point with violent men is represented on the scale of lower level high school education (38 %), with women it is high school education (49 %). University education has been caught with 21,5 violent men and 19,6 women – perpetrators of domestic violence.

The prevailing type of the men´s – perpetrator´s job is employment (49 %), enterpriser (20 %), enemployed (17 %) and retired (7 %).

Woman – violent person, employed (46 %), retired (17,5 %).

Criminal records

It is not possible to find this out in connection with doestic violence the Czech republic because criminal records cannot be extracted from the point of view of domestic violence. The documentation of domestic violenceand the evidence are only in the phase of preparations of their introdction into practise. The above mentioned sources did not watch this criterion.

Housing

See the marks in the chapter on te profile of victims.

Addictions

On the scene of domestic violence there expressively appears alcoholism (violent person man – 24 %, woman – 10%. Drug addiction together with gambling, workoholism and sectaniarism has been registered in a deep sifting.

Comitted crimes

Crime report existence

Their number and result

It is not possible to find this out in connection with doestic violence the Czech republic because criminal records cannot be extracted from the point of view of domestic violence. The documentation of domestic violenceand the evidence are only in the phase of preparations of their introdction into practise. The above mentioned sources did not watch this criterion.

1.3. Profile of services provided to victim

Services for victims of crime are provided:

- on the state level by The Probation and Mediation Services and the Department of Compensation of the Minstery of Justice (mediation, information and financial compensation),
- on the level of the regions, districts and cities these services should be managed on the basic level by social departments of relevant offices (information, social help and support),
- on the level of NGOs there are specialized national organizations (Bily kruh bezpeci and its nonstop help line), regional (e.g.counselling centre in Liberec) and specialized (e.g. counselling centre for the victims of car accidents, civil counselling centres, help to abused women, hotlines, shelters, centres of crises intervention).

The last type of organizations provides qualified, discrete and free of charge help. Their services are often not only standard but also superstandard and in severe cases nonstandard (help across borders, visiting clients in their homes etc.).

2. From a qualitative point of view

2.1. Profile of the victim, the offender and of the type of victimisation

Profile of victim

The prevailing type of victim is a woman in the age 25 – 40 years living in a marriage, in which in only 10 % there are no children (childless relationship or children are adult and live in their own place). Out of 90 % of children living in the scene of domestic violence 12 % become victims (most often they try to protect the matreated adult). We regard the information about the high number of children living in the Czech families where there is domestic violence alarming. The presence of children on the scene of domestic violence penetrates into their behaviour towards their contemporaries (bullying, dating violence) and in their relationship with their partner.

The victim of domestic violence is employed, tries to hide the violence because of her fear from social stigmatization, in case in the first contact with authority they meet depreciation of their situation and irrelevant reaction, they keep on hiding and covering the problem. Because of missing of the primary prevention of domestic violence victims have often the tendency to confuse attacks against human dignity and love expressions. After the first physical attack in 20 % they have usually no reasonable defensive strategy and do nothing. These people usually have lower selfconfidence, high ability to adapt, wilingness and tendency to minimize the negative things that happen.

Profile of perpetrator

The prevailing type of perpetrator of domestic violence is a man between 26 and 40 years of age, in 2/3 of cases they have so called two faces. Correct, decent and kind in the public places, reckless and ruthless in privacy. They have the tendency to start the physical violence quite quickly and shorten the first (testing) phase of domestic violence aimed at the human dignity. They are not willing to accept responsibility for their actions, they often had the same pattern in their father or they grew up in a divorced family without sufficient nurture for tolerance and responsibility. Often they are immature individualities, pathologically jealous and common tendency to alcoholism.

Type of victimization

Domestic violence develops in three stages in the Czech republic, starting in attackst at human dignity, going through attacks against health and last against life. It often has the image of dangerous threats, chronically committed demenaours, restrictions, blackmailing, stalking. In the second stage there are slapping, smacking, kicking, hitting with fist or things. Victimization is longterm, repeated and escalating. Combination of physical and psychical violence is typical. Isolated sexual violence is solitary.

2.2. Personal, professional and social consequences for the victims

Victims show indications of longterm traumatization. Disturbance of the feeling of safety in family – independently on physical suffering – causes very serious and longterm psychical harms leading to neurotical and psychosomatic disorders, phobias, suicidal tendencies, disability to trust others and develop close relationships. Victims end up in social isolation in their place of living, in their work and in wider family, they have lowered selfconfidence. Their only strategy for surviving is the ability to adapt to actual moods and needs of the violent person. These changes penetrate into their professional life in which they are not able to concentrate on achievement and their quality, they loose motivation and healthy ambitions.

SLOVAKIA

JANA SIPOSOVA AND PETER KOCVAR

1. From a quantitative point of view

There were several partial surveys on the topic of the domestic violence in Slovakia. The Centre for Work and Family Studies realised the first representative survey of the domestic violence in Slovakia in 2002. The results of these surveys are resumed in the publication „Violence against women as the problem of public policies" issued in 2005 by the Public Issues Institute. Most of statistic data comes from this publication. The criminal statistics are taken from the statistics of the Ministry of Justice and of the Attorney Generalship.

1.1. Profile of the victim

Women are the most often victims of the domestic violence. When compared to male victims, they make as much ach 96%. In 40% of violence against woman also the children of the victim or other relatives are also suffering from the violence.

Due to the representative survey, as much as 24% of women have ever experienced some of seven described acts of violence from their contemporary partner and 20% of women have been experiencing it repeatedly (this fact was also used as a motive of the media campaign named „the fifth woman" – every fifth woman in Slovakia is battered woman). The described acts were varying from spanking and beating to the threat with a knife or gun. If the question was asked about their previous partner, the acts were experienced by 48% of women and 43% had been experiencing it repeatedly.

There are women of every age group among the domestic violence victims, but most of them are between 35 to 54 years. 80 % of them are married women in their first marriage. There are relatively less single or widowed women and more women living in cohabitation without marriage or divorced women this group when compared to population means.

Most of the women victims have at least one child living together with the victim. The average is 1,6 child per victim. Only 15% of victims have no child.

Violence on women takes place in every region of Slovakia and there are no differences according to the nationality of victims or perpetrators. Due to some statements of Roma women activists we can presume higher occurrence of violence against women in this minority. Roma minority is rather isolated from the majority and is more ruled by traditional patriarchal rules. Thus the victims can face more differences when trying to stop the violence than women from majority.

According to the degree of education, there are slightly more battered women with lower (basic) degree of education when compared to the majority. Women with lower education also experience more extreme forms of violence. On the contrary, women with university degree, who also experience the domestic violence, are more often exposed to less extreme forms of violence.

The unemployed women (19%) and women on the maternity leave (17%) are quite often exposed to the violence. More than 60% of women victims of domestic violence are economically active women. We do not have information on typical professions of battered women but there are some professions which are markedly feminized (lower medical personnel, educational system).

Usually both partners are economically active in the partnerships of battered women (47%). If one of them is without income, it is more often the woman (22%) than the man (14%). There were both partners economically inactive in 14% of cases, what is also the approximate unemployment level in Slovakia at the time of collecting the data.

The problem of the domestic violence is not concentrated in specific regions of Slovakia. The difference between the regions can exist in the accessibility of the victim services.

1.2. Profile of the offender

The most typical perpetrator of the domestic violence is the male partner (husband or partner in cohabitation) of the victim. This situation is in 85% of the cases of the domestic violence. Other offenders are: „other persons" in 7% of the cases (including ex-husband and boyfriend of the victim as the most common ones but also brothers and sisters, brothers in law or grandpa-

rents of the victim), children of the victim in 4% of the cases and the female partner of the victim in 4% of the cases. Usually there is only one offender, sometimes accompanied with children or parents of the victim.

The offenders of the domestic violence have similar demographic characteristics as the victims. Man with lower education make as much as 60% of the perpetrators. This is also the standard of education in the population. There are more perpetrators with university diploma than victims with university education. The structure of the age is the same with population standard.

We have no information about the nationality of the perpetrators. We can presume slightly higher number of the perpetrators in the Roma minority (due to cultural specifics, strong patriarchal traditions and isolation from the majority, which also make the access to the help for the victims more difficult). Roma woman activists themselves do put emphasis on the combination of gender and racial difficulties they have to face.

The quarter of the perpetrators is men without economical activity. 44% of them are manual workers, 11% of the perpetrators have vocational education. Almost 20% perpetrators of the extreme forms of violence and 13% of the less extreme forms are the entrepreneurs.

There were 26806 convicted persons in Slovakia in total in 2004. There were 2970 recidivists among them, what makes 11,1%. This has been the approximate level of recidivism among the convicted for several years.

The available criminal statistics do not mention the category of the domestic violence (see the section on the legislature) the same as they do not mention the crimes against the close person. The important categories of the crimes for the purpose of the domestic violence analyse are: the crimes roughly disturbing the cohabitation of the citizens, the crimes against the family and youth, the crimes against the human life and health and the crimes against freedom and human dignity

There were 10,9 % of the recidivists among the sentenced in the category of „the crimes roughly disturbing the cohabitation of the citizens" in 2004. In the category „the crimes against the family and youth" there were 12,4% of recidivists, in the category „the crimes against the human life and health" there were 7,7% of them and in the category „the crimes against freedom and human dignity" there were 12,2% of them. The average of these four categories makes 10,8% of the recidivists convicted for the domestic violence cases. This number is very close to the national average of representation of recidivists among the convicted persons for all types of crimes. We have no information on the type and place of previous criminal acts of these persons.

The Attorney Generalship statistics say that the participation of the recidivists on the domestic violence cases is up to 26% of the prosecuted persons. It is possible that not all of these cases end up with the conviction of the offender.

Most of the convictions for crimes in four abovementioned categories come from the Kosice, Banska Bystrica and Presov regions which are in the east and middle of Slovakia. These regions are on the top of prosecuted persons in Slovakia in general.

There was significant influence of alcohol intoxication declared in 19,4% of convictions in four abovementioned categories 2004. The national average of alcohol intoxication in the criminal convictions in all criminal cases is 10%. Due to information of the Attorney Generalship, in the cases of maltreatment of the close person or of the ward, there is an influence of alcohol intoxication in as much as 37,6% of these cases. The abuse of other substances is not that significant as the abuse of the alcohol.

As to the current situation of the cases, the Attorney Generalship data show enormous increase of the criminal reports of the crime of maltreatment of the close person or of the ward in recent few years. The reason for this is the change of the § 215 of the Penal Code which expanded the number of the acts that can be punishable. In the year 2004 there was twice that much prosecuted persons for this crime than in the 2002 in the group of crimes against the family and youth where this crime belongs. For the crime of maltreatment of the close person or of the ward the increase between the 2002 and 2004 is even 780% (!).

In 2004 there were 944 persons prosecuted in Slovakia, 66,4% of them were formally accused before the court and 41,4% were convicted.

Totally, for all violent crimes in 2004, there were 10.696 prosecuted persons, 68,9% of them were formally accused before the court and 56,5% of them were convicted. The data for the year 2004 also says that there were 35.604 criminal reports reported to prosecutors, 139.384 persons were prosecuted in total (including the reports to the police). There were 25.443 formal accusations brought before the courts, accusing 32.682 persons. There were 26806 convicted persons in total.

We can conclude, that the criminal reports to the police (approx. 80%) are more often than the reports to the prosecutors (approx. 20%).

1.3. Profile of services provided to victim

The crime victims are informed about their rights and about the victim support services when reporting the crime. Nevertheless, this information is usually rather formal and the understanding to it is not examined by the police personnel.

The victims are usually informed about their rights and their position in the criminal proceeding only during the professional consultations for the victims. These are provided mostly by the NGO's in Slovakia. The organisation Pomoc obetiam násilia - Victim Support Slovakia operates with a network of victim counselling centres and nationwide Victim Support Hotline. Moreover, there are several other organizations with local range, which are based mostly on the feminist theory and approach (e. i. Fenestra or Pro Familia). These NGO's usually provide specialised psychological, social and legal consulting services. Some of them offer also the accompaniment of the clients to public offices or to the courts, or direct legal representation of the clients

There is also a network of psychological consulting centres, operated by the Ministry of Labour, Social Affairs and the Family. These centres are oriented more general, towards the reduction of emotional difficulties of people in problem situations and the not always have enough information necessary for legal and social improvement of the situation of the domestic violence victims.

The healthcare system for the domestic violence victims is the same as for the rest of the population. The social welfare system for the domestic violence victims is not elaborate. The victims can apply for social insurance benefits if their income is not sufficient. This possibility is complicated by the fact that their income is evaluated together with the income of their husband, thus good income of the perpetrator can prevent the victim from gaining social insurance benefits. The only way to separate the assessment of the incomes if there is a court order of the alimony for the wife (husband) and for the children. After this order was issued, it is presumed that the husbands do not share their incomes more than ordered by the court decision and their incomes are assessed separately. This procedure can last for months.

The victims can apply at their local self-government authorities for a social grant, but most of these local authorities have no money in their budget for this purpose.

There are not enough emergency shelters for the domestic violence victims in Slovakia. It can be really difficult for a battered woman with reduced income to find suitable accommodation when she had to leave her home because of the direct threat of violence.

2. From a qualitative point of view

2.1. Profile of the victim, the offender and of the type of victimisation

The violence in intimate relationships where the perpetrator is the male partner of the victim is quite a common phenomenon in Slovakia. Women victims have to face a lot of difficulties when trying to stop the violence or to emancipate from such a relationship. The reason of these difficulties is partially in the psychological dynamics of violent relationships but also in not sufficient distribution of victim services.

There is higher number of divorced domestic violence victims which indicates to complicated post - divorce relationships. This is related also to accommodation problems and quite high prices of the accommodation in Slovakia. In this situation, the divorce/breaking-up the relationship very often does not mean the stopping

of the violence because the victim and the offender are forced to share the common household because of economical reasons.

Children are the victims (85% of the cases) of the domestic violence in many cases where it occurs. In 40% of the cases they even become the victims of it. The traumas and violent patterns of behaviour are transferred to next generations this way.

The victims are exposed to many different forms of psychological, physical, sexual and economical victimisation. These forms of violence are often mixed together and it is difficult to distinguish between them. Due to forms and frequency of the violent acts in the relationship, the typology of violent relationships was elaborated by Slovak authors (Bodnárová, Filadelfiová, 2002). According to this typology, there are three types of intimate relationships in Slovakia: non-violent relationships (75 % of women with their current partner), less extreme form of violent relationship (14 % of women with their current partner) and the extreme form of violent relationship (11 % of women with their current partner). The borderline between the first type and the violent relationships is repeated incidence of some acts of physical or sexual violence and frequent incidence of acts of psychological, social and economical violence.

If also the former intimate relationships were inquired, the number of women who have ever experienced some kind of violent relationship in their life is up to 29%.

In the group of extremely violent relationships there were more women victims with lower education, while in group of less extremely violent relationships there were more women with university degree. No other differences were found – violence against women can be found in every social class or group.

2.2. Personal, professional and social consequences for the victims

The consequences of the violence on the life of the victims are serious. Because the violence against women is a serious problem which affects large group of women, rather a large social group has to face serious difficulties because of it.

The consequences include the emotional disturbances, problems at the workplace and economical security, the disturbance of the social network and communication difficulties, health problems, disturbed self-confidence and learned helplessness symptoms. It also brings the threat to the well being and development of the children, including the transfer of the violent behaviour patterns to next generations. The violence prevents the victims from the full-value life and their full participation in the society.

This problem has become found serious by the majority, also thanks to media campaign „The Fifth Woman". Nevertheless there are some of the myths and prejudices going on in the minds of people. The goodwill of the community to help to particular domestic violence victims still remains at quite low level. There is still a lot of hidden and unpublished of the domestic violence cases because of this lack of public support to the victims. Nevertheless, most of the people in Slovakia accept the need of external (social) help to the domestic violence victims.

HUNGARY

LENKE FEHER AND KATALIN LIGETI

The problem of domestic violence came to the centre of attention at the end of the years of the nineties. Among the first studies, Krisztina Morvai's empirical research can be regarded as a pioneering importance. This was followed by several excellent researches, studies, books. From these we refer only to the followings.

a.) Dr Krisztina Morvai: Terror in the Family. Wife-battering and the law. Published by Kossuth, Budapest, 1988.

In this very important research[1], it was examined more than 1000 criminal court decision of the year 1995-1996, on domestic violence. The author made more than 60 in-depth interviews with battered women, their children and other relatives. It was completed with interviews of professionals (policeman, prosecutors, judges, advocates, social workers, NGOs etc). Some of the offenders were also questioned.

Among the main findings, it was identified the sex of the perpetrator and the victim, as well as the relationship between them (e.g. stranger, friend, spouse, former spouse), the causes, consequences and context of the crime, the criminal sanction applied for the offender, the situation of victim in the criminal procedure and so on. It is discussing the different form of battering (emotional, psychological abuse, sexual abuse, physical abuse), its effect on the victims, the causes of remaining in the violent atmosphere, the connection between wife abuse and child abuse, the causes of domestic violence, the possible actions against it and provides a catalogue of advices to battered women.

b.) Olga Tóth: Violence in the Family. TÁRKI Socio-Political Issues, Budapest, 1999.

The sociological survey was finished in 1999, based on 1010 questionnaires[2]. It is an interesting finding, that however 37% of the interrogated persons assumed that the assaulter and the assaulted know each other, rather less considered these acts as real crimes, as real punishable acts. This means that they consider ill-treatment in family as a tolerable movement. In the same time those who consider the phenomenon a tolerable act mostly haven't finished even the primary school (81%). This means that in this social level every fifth women think, that wife-abuse is tolerable. In sum, the younger and the more qualified persons are claiming wife-abuse as less tolerable. There's just a few (17%) who consider child-beating a tolerable method of enforcing the child to behave him-/herself. Ms. Tóth points out that 30% of those women who were beaten as a child, were sexually abused either (this rate is 7% in the group of unbeaten). Those who are the two opposite poles of employment hierarchy (bosses , skilled workers versus trained, physical workers) are the most endangered.

Those persons, who divorced, are four times more submitted to domestic violence by their partners, than others. This number draws one's attention that in the background of divorces and decreasing of marriages we can find physical assault and sexual slavery. If the assaulted revealed her (physical or mental) pain the audience was her relative or friend, but only 13% of the assaulted preferred charge.

The survey proved that because it is a social taboo only 45% of the adult women considered domestic (sexual) violence a punishable act. As a result of it, only every third violent act was reported to the police and in a small number of cases was made a charge. The main reasons of the latest are the followings:

- fear of the further results (revenge) (20%),
- hope that in the future everything would turn right (16%), they didn't want to separate their children from his father (14%),
- thinking that nobody will help (14%),
- shame of the events (9%).

More than half (55%) of the cases where the police were involved the authority (police officer) seemed helpful, however in 45% that seemed refusing. The police could offer specialized support organisation providing individual help (NGOs, self-government, children, women, and victim supporter organisations etc.) only in 31% of the reported cases. This rate is rather low why it takes only 5% of all the wife-battering cases.

c.) In 2000, the National Institute of Criminology arranged a monitoring-type of study on the perpetrators of violent crimes against person committed by women (who are sentenced now) against their husbands/partners[3]. It was studied if there is any relationship between former victimisation by the husband/partner and latter becoming a perpetrator of violent crime against the husband/partner.

1 Morvai, Krisztina: Terror a családban (Terror in the Family), Budapest, 1998. Kossuth (This book publishes the con quents and quotes in-deepth interviews based on the data of the research mentioned in subtitle No.1.)

2 Toth, Olga: Erőszak a családban (Violence in the Family), TÁRKI Socio-political Issues, Budapest, 1999.

3 The survey is titled Female Inmates. Research and total workout by Lenke Feher and Katalin Parti. The research embraced the 3 prisons for women of the country, we took interviews and in-depth interviews with 10% of the female inmates and with the staff. Our aim were to measure the special needs of sentenced women, how they can bear confinement, which are the similarities and the differences between the behaviour of the female and the male inmates, etc.

It is significant, that ¾ of the crimes against life, limbs and health was committed against relatives (9/10 of it was committed against spouse/partner), and only ¼ was against stranger. This is quite different from the statistics of the whole country, which shows that 23% of homicide and attempted homicide was against relatives, and 21% of them was against spouse/partner. This outstanding difference could be explained with the random selected little sample of the interviewed persons, as well as that we interviewed only those who were under imprisonment in 2000. Moreover, it might shows that those who commit or attempt homicide against their partners due likely to be sentenced to imprisonment, whether the homicide was from self defence whether it was intended, whether it was proceeded by wife-abuse for decades. This number lets us assume that the court more likely to examine the crime as one single act than a reason-result flow, in its context.

More than 1/3 of the offenders (the interviewed female inmates) were not only humiliated but also psychically and physically abused by their partners/husbands, out of this 42% through the former few decades (!). Only 15% of the interrogated inmates claimed strictly that they weren't abused at all. So it can be pointed out that violent crime within the family is mostly committed by those who were humiliated and abused for years/decades by their partners.

After several other important researches on child abuse, domestic violence, in the year of 2004, the National Institute of Criminology has conducted a research, based in the initiation of the General Prosecutor Office. The results of the research were published in several studies and recently in a book, too[4].

The research was based on the analysis of files, namely 1478 court cases on domestic violence, committed by the offender, against present and former spouses, partners, children, parents and other relatives. The survey in the strict meaning cannot be regarded as a representative one, it has however a great importance as it was based on a relatively high amount of cases and provided a lot of interesting data and experiences. The survey examined the domestic violence directed against women, children, man, elderly, and relatives. The big majority of violence is directed against women, both women and children and children. In accordance with the research results, great majority offenders are male (from 10 domestic violence, in 8 case, the offender is a man). This is 83% of the offenders, around 6500 persons yearly).

The great majority offenders of domestic violence are male, it is interesting however, that among the crimes of manslaughter committed in domestic settings, there are several women, too. It should be noted however, in this context, that the above mentioned researches of Krisztina Morvai as well as of Lenke Fehér - Katalin Parti (in 2002 on "Women in prison") on domestic violence, called the attention for the important fact, that most of the female offenders who were committed this type of crime, suffered long time by the violent behaviour of their spouse/partner and the crime was committed after a long victimisation procedure, in which there were totally traumatised. These women are victims and offenders at the same time, and would need special psychological help in the prison, to be able to face the situation and to treat their traumas.

Most of the domestic violence is directed against spouse and partners. The aggression is usually accompanied by the use of alcohol. The research results have shown that from 10 offenders 7 was under the influence of alcohol. The role of alcohol played a limited, but still relevant role in the life of the victims too. From 10 victims, 4 were under the influence of alcohol at the time of victimisation[5].

The authors made an effort to analyse the existing statistics and summarised the results of the empirical data.

The research made an overview on the efforts of the international organisations. (ET, EU, UN) to take actions against domestic violence. Among the main issues should be mentioned the prevention of domestic violence, criminalisation of the crime, protection of victims. The study was providing a summary on the existing European models of national legislations against domestic violence, too.

4 Virág György (editor): Családi iszonyok. (Family horrors) Criminoligical research on domestic violence. Budapest, OKRI, KJK-KERSZÖV, Budapest, 2005.

5 See the further details György Virág: Overview. p. 9.-31. In: Family horrors. Budapest, OKRI, KJK-KERSZÖV, 2005.

1. From a quantitative point of view

1.1. Profile of the victim

In the files, unfortunately cannot be found too much information on the victim, while a lot of (sometimes even unnecessary) information is provided concerning the offender. This is a problem, because more information on the victim, in most of the cases would contribute to the better understanding of the causes and consequences of the conflicts, the motives of the offenders, the circumstances of the crime itself, understanding the whole situation in its context.

The researches can obtain more data on the victims by questionnaires and interviews. There were quite a few of such kind of researches in the field of domestic violence, as it was described at the point II. The situation is better in respect of the general victimisation survey. A recent survey on "Victims and opinions" of the National Institute of Criminology as for instance based on 10.000[6] questionnaires and 10.00 interviews. This research has constituted data on sexual abuse and abuse of children as domestic violence, too.

GENDER

The great majority of violence is directed against women, both women and children and children. In accordance with the research results, great majority offenders are male (from 10 domestic violence case, in 8 case, the offender is man). This is 83% of the offenders, around 6500 persons yearly).

1. On the level of the general criminality, from every ten registered crimes, 9 are committed by man. This means 87% of the offenders, which is in numbers 130.000-140.00 men, yearly. According to the Criminal-statistics of the Police and Prosecutor Office[7] between the years 1997 – 2002 approximately 7500-7600 male offender has committed a crime against their family members, which is 5,6 % of the total number of all the offenders, yearly. (The victims were usually the former wives/partners (1500), present wives/partners (1200), children (1100), other relatives (1000).

2.In the relevant group of crimes, namely, the crimes against persons, the proportion of domestic violence is much higher, than in the level of general criminality: it is ¼ of these crimes. The rate is similar among the violent sexual crimes. It is 30%of the crimes of bodily injury, 43% of the homicide and its attempt.

In case of crimes of domestic violence, from 10 offenders, 8 persons (83% of the offenders) are man.

.3.In accordance with the data of the empirical research of the National Institute of Criminology (OKRI) on domestic violence: the victim of domestic violence is typically a woman. The victims where the followings: 40% wife, 21% minor, 11% parents, 11% other male relative, 9% husband/ male partner, 5% other female relative, 3% adult child of the offender.

From the studied sample of 1478 cases on domestic violence, 600 cases were committed against a women or both women and children, which is 41 % of the cases. From the mentioned 600 cases, 117 cases were analysed in details[8].

From the 1478 cases 137 cases (157 offenders) were studied in details from the crimes, committed against children. In the cases of endangering a minor (physical abuse, psychical abuse, or neglect), 58% of the offenders were man, 42% women. In 54 cases, the offenders were sentenced for seduction, assault against decency, rape, incest. 90% of these offenders were man[9].

AGE

a.) Criminalstatistics:

96% of the victims are adults.

b.) Research results of the National Institute of Criminology:

From the mentioned 1478 files, as sample, most of the victims, 28% of the cases examined in the empirical research, were between 26-45 years of age. (18% between 19-25, 16% between 13-18, 12% between 7-12, 10% was over 61 years of age, 9% between 1-6 years of age, 5% between 19-25, and 2% was under 1 years of age.)

6 Victims and opinions. Volumes I.(p.244)-II. (p.248)Edited by Ferenc Irk, OKRI, Budapest, 2004. (published in Hungarian and in English, too)
7 ERÜBS
8 Lenke Fehér: Empirical research of domestic violence committed against women. Pp.171-192 In : Family horrors. Criminological research of domestic violence. Edited by György Virág. Published by OKRI - KJK-KERSZÖV, Budapest, 2005.)
9 Mária Herczog: Child Abuse in the Family. pp. 220.-243 In : Family horrors. Criminological research of domestic violence. Edited by György Virág. Published by OKRI - KJK-KERSZÖV, Budapest, 2005.)

MARITAL STATUS

Research data of the National institute of Criminology:

More than half of the cases examined (51%) were committed against former or present spouse/ partner (42% against present spouse/partner and 9% against former spouse/partner).

NATIONALITY

It was not studied.

EDUCATION

There were not reliable data.

ECONOMIC CONDITION /OCCUPATION/PROFESSION

The financial and economic conditions of the victims were similar to the offender as they usually lives in the same household. The situation was not very nice, as in the consequence of the lower education of the offender, the employment possibilities of the offender were limited. Some of the female victims were the only one source of income in the family, as the husband/partner was unemployed or casual worker. In a few cases however, the women lost her job, because the husband tried to isolate her from colleagues and made her totally dependent on the violent husband. As the rate of the offenders with drinking habits was quite high, the excessive alcohol consumption also contributed to the bad economic condition of the family. The passion of the offender on playing with slot-machine also caused some problems

ADDICTION

The typical problem was the alcohol addiction, but mostly at the offenders and much less at the victim. The drug abuse however on both sides was very rare.

1.2. Profile of the offenderRELATIONSHIP WITH THE VICTIM

Between 1997-2002, around 5,6% of all the offenders has committed crime against their relatives, yearly. This rate was nearly 6% in 2002. (In numbers, this means, that from the 130-140.000 offenders, approximately 7500-7600 offenders have committed crimes against their family members.)

From the domestic violence cases (7500-7600 yearly), in average 43% of the offenders committed the crime against former or present wife/partner, 21% close relatives and 36% against parents/foster parents.

GENDER

On the level of the general criminality, from every ten crimes, 9 was committed by man (87% of the offenders, which is 110.000 - 120.000 man, yearly. The rest 13% of the offenders were women, which means only 17.000-18.000 women yearly).The rate is similar in the case of domestic violence.

In average, 5-6 % of all the male offenders (7000-7500 persons yearly) have committed the crime against their family members.

AGE

From 1997 to 2002 in average, 88% of the offenders are adults, 9% young offenders, 3% minors.

MARITAL STATUS

Research data:

Most of the offenders are married or living in partnership.

NATIONALITY

Not studied.

EDUCATION

The offenders of domestic violence can be found in every social stratum with lower or higher education. According to the research data of the National Institute of Criminology (OKRI) however, most of the offenders of domestic violence had a lower education (elementary school or elementary school and special labour education skill) and only in a smaller rate were represented the persons with higher education (11% secondary school, 3% university degree) in the studied sample.

ECONOMIC CONDITION, OCCUPATION/PROFESSION

According to the recent research of the National Institute of Criminology, among the offenders of domestic violence there are highly represented the people living in bad socio-economic conditions, unemployed or casually working and having a maximum income of 50.000 Ft (circ. 220 Euro) per month, which is more or less equivalent to the minimum living standard in Hungary.

There is a close connection between the low education, labour and income. The direct consequence of low education, that they have difficulties to find job, so there is a relatively high rate of unemployment or casual labour in this population. From this fact the income is low and the financial situation of these families is bad.

PRIOR CRIMINAL RECORD

According to the research findings of the OKRI, there was a relevant rate of offenders with former criminal record (15-40%).

Among the offenders of child abuse, the rate of offenders with prior criminal record was 15%, and in the case of sexual abuse of children committed in the family, is 22%. In the last case there were some recidivists, too.

Among the cases of wife abuse, nearly 1/3 of the offenders had former criminal record, and from these, half of them were special recidivists.

Among the crimes of domestic violence, committed against relatives, 40% had prior criminal records mostly for crimes against property, grievous bodily injury and hooliganism.

COMMITTED OFFENCES

Among the crimes against persons, the rate of crimes against family members is high. Between the years of 1996-2001 the number of homicides, committed against relatives and spouses, increased from 179 to 181.

In 2001, from the total number of 377 homicide, 47,5% was committed against family member. In the same year, every 3. offender of bodily injury have committed the crime against their spouse or relatives.

60 % of the sexual crimes were committed against a victim, who was a relative or acquaintance with the offender[10].

1.3. Profile of services provided to victim

Services are provided to victims:

a.) on State level,

by the territorial (city, county) victim support services of the Judicial Offices (from 1st of January, 2006). Services provided:

- asserting the victims interests,
- immediate financial help,
- legal counselling (see. the details in III.1.).
- providing State compensation to the victims of intentional violent crimes against persons, in the consequence their body integrity or health seriously damaged. Same compensation is provided to the certain relatives of the victim, as well as dependencies of the victims defined in the law.

b.) on the level of NGOs

- by nation-wide general victim support organisations(like White Ring)
- by specialised victim support organisations (like NANE, ESZTER etc.).

2. From a qualitative point of view

2.1. Profile of the victim, the offender and of the

10 A társadalmi bűnmegelőzés nemzeti stratégiája (National Strategy of Social Crime Prevention) In: BMK füzetek 4. Különszám, Budapest, 2003. p. 62.

type of victimisation

According to the researches, the usual victim of domestic violence is a women between 25-45 years of age, living in marriage or partnership, more than half of them having children. The domestic violence is directed against women or children, or both. In the few cases, when the children are not direct victims of family violence, the violence committed in their presence against their mother, cause serious harm to the children, indirectly victimising them and endangering their mental, moral and corporal development, negatively influencing their future behaviour and their personality.

The nature of violence is usually battering, accompanied by violation of human dignity. The procedure starts with verbal attack on human dignity, intend to isolate the victim from friends and relatives and by this way, increasing her vulnerability and dependency. The procedure ends with regular physical attacks and inhumiliation, which is seriously damaging the victims' health, self-esteem and self-determination.

2.2. Personal, professional and social consequences for the victims

There is a high proportion of hidden criminality in the field of domestic violence. There are still victims, who are regarding the wife-abuse as normal risk of marriage, which occurs sometimes. Many times, the victims feel ashamed and long time hiding, covering the events and its consequences, tolerating violence and don't seek for help. In the consequence of repeated violence and abuse, the dominance of the abuser, they frequently loose their self-confidence, feel guilty for the events, and finally they are isolated and seriously traumatised.

3.

PROFILE OF PREVENTION AND BOTH GOVERNMENTAL AND NON GOVERNMENTAL INTERVENTION IN DOMESTIC VIOLENCE IN CENTRAL EUROPE

Renè Magritte, *Pandoras Box*, 1951 (pormenor)

CZECH REPUBLIC

PETRA VITOUSOVA AND ALICE BEZOUSKOVA

1. Support provided to victims of domestic violence

In the Czech republic there is a network of victim support services that are run by BKB in 6 regions including the capital. These counselling cenres counselled among all the clients in 2004 48 % clients coming with the problem of domestic violence. Bily kruh bezpeci runs a nonstop help line which answered 13 730 callings in the years 2001 – 2005. Bily kruh bezpeci created a model of interdisciplinary cooperation for solving the cases of domestic violence on the community level. The model has been verified and launched into practise in Ostrava (300 000 inhabitants), at the moment it is being transffered to Brno and Usti nad Labem. The model emphasizes timely detection, high quality first contact and interdisciplinary cooperation when solving cases of domestic violence.

In the Czech republic there exists a network of shelters, prevailingly on the level of NGOs (c. 120 shelters), half of them is for homeless men, the rest is for women with children, including victims of domestic violence. Only a tiny number of shelters has a secret address and in all of them clients pay for their stay.

2. Intervention and Prevention measures taken by both governmental agencies and non-governmental agencies

State institutions give heed to domestic violence since 2004, when the government laid some government departments under obligation to fulfil several tasks (campaigns, preventive programs, legislation etc.). Full area and radical changes has not taken place sofar, only partial steps are succefully realized. For example a survey about the attainability of services for victims of domestic violence is going on and there were made instruction cards for doctors.

NGOs are much more creative and initiative. They have the support of donors and EU funds.

Bily kruh bezpeci owns a model in the frame of which they created cards, manuals, training cycles for different professional groups. As for the gender problematics domestic violence is also trained by some feministic organizations.

3. Information and awareness raising campaigns

In the Czech republic several campaigns that started in 2001 could be seen. A longterm project Domestic vioelnce in partnership of the social inovator (Bily kruh bezpeci) and social investor (Phillip Morris ČR) started at that time. There were three activities: launching help line for victims of domestic violence, representative survey about awarness, attitudes and experience of the population with domestic violence and a campaign. The thrird activity too 4 months (August – November) and its value reached 30 millions CZK, most billboards were provided by media partners free of charge. For example there were used 700 billboards all over the country, a significant daily, national private TV, monthly for women and multicinemas cooperated. This campaign had a an expressive graphic face and there were two keynotes: this is domestic violence and you can find immediate help and support at this number.

The feministic organizations organize since 2001 regional and after associating into KOORDONA even national short term campaigns, the keynote of which is: zero tolerance to domestic violence. In November 2005 there will be campaign of the women organizations aimed at help to victims of domestic violence and help to women – victims of trafficking.

Bily kruh bezpeci realizes permanent campaign within the project Domestic violence which is focused on different target groups every year, in 2002 it was helping professionals and the keynote was the challenge not to overlook domestic violence but to motivate its victims to solution (set of instructions how to communicate in the first contact was added), in 2003 the campaign was aimed at potentional or real victims of domestic violence and was realized via discrete places (containers with leaflets at different offices, supermarkets, multicinemas etc.), the keynote was the message for victims to look for help in time when there is a greater scale of possibilities to solve domestic violence. In 2003 Bily kruh bezpeci together with Phillip Morris CR brought a unique exhibition of photographs by Donna Ferrato into country. This exhibition too place in Ostrava and Praha, the photographs had the format 2 x 1,5 m and

were displayd at public places. The exhibitions were very successful and helped people believe what may be happening behind closed door.

In the years 2004 – 2005 Bily kruh bezpeci addressed the helping professionals, the campaign had the form of 30 meetints with professionals in different big cities in the Czech republic,in each of theme there was a 3 hour seminar for the invited professionals who are in contact with cases of domestic vioence (policmen, doctors, social workers, experts from NGOs etc.). The keynote of this campaignwas good quality practise and interdisciplinary cooperation.

In 2004 – 2005 Bily kruh bezpeci is leading a campaign to enforce new law for protection before domestic violence. Good coperation with journalists and media is the basis here. Mediamonitoring can prove how important this campaign is with bith its extent and impact for the public. The keynote of this campaign is explanantion of the need of new legislation.

The state joined to national campaigns in the years 2003 – 2004, when they lainched a campaign focused at teenagers with the keynote that violence does not belong to a relationship. The campaign had an expressive face and an attractive bearer was used: computer game, posters and advertisment on the radio. The state plans further campaigns for 2006 which are being prepared by the department of schools and health. It should be aimed at the primary prevention.

In the Czech republic there are sometimes besides the national campaigns also regional activities which are realized by regional NGOs and have a local impact. Their keynotes are usually drawing attention to a problem and places of help in the region.

4. Political and legislative measures and their main priorities

As for the political and legislative measures there still prevails high tolerance of domestic violence with partial criminalization in the Czech republic . According to the Penal code it is possible to punish up to 30 different crimes which are committed between close people. But many of them hold so-called disposal which means there is required approval of the victim with prosecuting the perpetrator – close person. Since June 2004 maltreatment of a close person sharing the same place of living is punishable. The victim does not have a disposal in this case.

Since 2002 a strong pressure is being developed at the change of legislation in the direction of flexible and combined reaction (so-called expulsion), which are applied by NGOs. In 2003 Ministery of Interior organized interdisciplinary round tables with an active participation of NGOs which worked out suggestions for the government of the Czech republic. The government accepted a resolution in 2004, which imposes tasks to different offices. The tasks are focused on interdisciplinary cooperation in solution of domestic violence cases and into primary prevention of this phenomenon.

During 2004 out of the initiative of Bily kruh bezpeci a group of experts prepared a very good quality legislative proposal of a law for protection before domestic violence. 55 MPs crosswise political parties submitted this proposal as MPs´initiative. The prposal has been supported by the government. At the moment it is being read by the MPs of the Parliament of the Czech republic. The proposal presumes the expulsion of the violent person for 10 days from the house, this will be done in administrative proceedings in which the police will decide and the help to the endangered people will be provided by intervention centres.

5. Specific intervention and primary, secondary and tertiary prevention projects in the field of domestic violence at a national, regional and local level

There does not exist a complex survey about these activities on a national level, especially on regional and local level. At the moment there is being carried out a survey about the attainability of services for victims of domestic violence on national and regional level; the survey is realized by a private agency and done for the Ministery of Labour and Social Affairs. The results will be known at the beginning of 2006.

It can be said that in the sphere of primary, secondary and terciary prevention on the national level a significant role belongs to a nonstop specialized telephone

service – DONA help line, which is run by Bily kruh bezpeci since Septmeber 2001.

On the regional level there is a tidy difference in the attainability and quality of offered services. There are regions where there do not exist such services at all and regionas where the services are good quality and cooperating. There belong especially region Ostrava and Usti nad Labem, where Bily kruh bezpeci realized projects of interdisciplinary cooperation for cases of domestic violence (cooperatin state, municipal and NGOs and institutions governed by an interdisciplinary team). This model will be disseminated into the 2. largest city in the country – Brno. The model has been described in a guideline which is being distributed into all the regions of the Czech republic for inspiration.

Sizeable role cannot be denied to feministic organizations, some local charitas and civil initiatives. Services (marrtiage counselling services, civil counselling services, crises centres, hot lines, shelters) are gradually becoming professional and of a good quality especially thanks to trainings focused at domestic violence.

Bily kruh bezpeci launched a two year project supported by the Czech government and ESF in October 2005. Within this project there will be worked out guidelines for primary, secondary and terciary prevention on the filed of domestic violence. These guidelines will be distributed via government departments and municipal offices into the whole country.

SLOVAKIA

JANA SIPOSOVA AND PETER KOCVAR

1. Support provided to victims of domestic violence

There are several different kinds of institutions providing the support to the domestic violence victims. Those include the shelters, consulting centres, crisis centres, solitary parents' centres and victim support hotlines. Besides these specialised institutions, the victims also seek for help at the healthcare institutions, psychological consulting centres, police, the courts and the prosecutors, social affairs offices, social affairs sections of local autonomy offices, advocate offices, but also at various church institutions, media, and their friends and relatives.

The most of the specialised victim support institutions is operated by the non-governmental organizations. These, after the legal requirements are fulfilled, can ask for grant according to the act on social assistance. The list of registered institutions is kept by the Ministry of Social Affairs.

The emergency shelters for the domestic violence victims provide them with temporarily emergency accommodation, normally together with their children. There is a serious problem with law number of these shelters and their capacity, which is one of the most serious problems for the victims. The legal system does not enable the authorities to prohibit the person, suspected of the domestic violence, entering the house or flat where the victims live immediately. Thus, some of the battered women are forced to live in the shelters fir the homeless persons or to risk sharing the common household with the perpetrator, in spite of direct threat of violence, just because they have nowhere else to go.

The solitary parents' centres are the separate category of social assistance institutions. They provide the accommodation to solitary parent of a minor child or to the solitary parent with a minor child whose life or health is endangered, or to solitary pregnant woman who is in social need. Thus, only some of the domestic violence victims are qualified to live here and the priority of these institutions is the well being of the child.

The crisis centres provide the care to the children whose nurture is endangered or which are abused. If it is advisable, also the parent of such a child can be accommodated here. There are also some protected houses with hidden address for the battered women in Slovakia. The addresses of these are usually known to local victim support activists.

The consulting centres for the battered women or for the violence victims in general provide the free of charge psychological, social and legal consulting services. The victims can, in the atmosphere of accepting and safety, consult their situation and possible steps to improve it. Such consulting centres of various NGO's with local scope exist in almost every bigger Slovak city (for example Fenestra in Kosice, the Alliance of Women of Slovakia or the Centre Hope in Bratislava and other). The civil association Pro Familia has a network of consulting centres for women, placed mostly in the region of east of Slovakia (Humenné, Bardejov, Poprad, Spišská Nová Ves, Martin). Only the NGO Pomoc obetiam nasilia – Victim Support Slovakia operates with a national scope network of interconnected consulting centres based on same approach and methods.

The psychological consulting centres for the children or for the adults are also interconnected as cooperating network of centres. Nevertheless, they do not provide the full scale of the victim – oriented consulting, mostly when the social or legal consulting is necessary or when the client asks for accompaniment to court or to some office.

There are also free of charge law centres, a network of these is operated by the Ministry of Justice. The social consulting services are also provided by the social affairs offices or by the social affairs sections of local autonomy offices. It seems that the best model is a combination and integration of specialized psychological, social and legal consulting, integrated with other services if possible. In last few years, also the victims tend to search for these services of NGOs, more than more general and non-integrated models of consulting services.

There are also some victim support hotlines for the domestic violence victims in Slovakia. Some of them are the specialized hotlines of the NGOs who provide the consulting services to the victims while others are oriented only to the psychological support of the people with problems in general.

2. Intervention and Prevention measures taken

by both governmental agencies and non-governmental agencies

Every organization which provides the support to the domestic violence victim has its own guidelines and its own materials. The reason for this could also be the difference between the idea backgrounds of these organizations – some of them are based upon the feminist ideas while the others are based on the idea of human rights in general.

The organization Pomoc obetiam násilia – Victim Support Slovakia has its own manual, prepared in partnership with the Association of Female Judges of Slovakia. This is used at regular training of its staff. The Aspekt association, together with the Pro Familia issued a translation of the manual Act against Violence against Women. This contains a lot of information that can be used for the purposes of professionals of various professions.

The non-governmental organizations (such as Pro Familia or Fenestra), based upon the feminist approach, organize their own trainings and courses on the topic of the domestic violence.

This topic is also supposed to be integrated into the education of police personnel. It already is a part of education plan of Law Faculty of Trnava University as a specialised course.

The education of judges and prosecutors who already are at active work is realised by the Judicial Academy of Slovakia. The Judicial Academy co-organized, in cooperation with Pomoc obetiam násilia – Victim Support Slovakia, the training of professionals oriented on the standing of the victims in the criminal proceeding in 2005, as a part of the Astreia project. The trainings of the professionals who come into contact with the domestic violence victims were also organised by other NGOs – for example by the Centre Hope or by the Náruč – Help for Children in Crisis, in cooperation with the Association of female judges of Slovakia.

It seems that the best approach is to organize the multiprofessional trainings, where the professionals of different professions can not only get the information on the situation of the domestic violence victims, but also inform each other about their possibilities to help such victims. It also supports sharing of the knowledge and coordination of prepared programs between the professionals involved in the problem.

3. Information and awareness raising campaigns

The problem of the domestic violence used to be intentionally ignored in the public discourse during the era of communism. It started to be discussed in public only during the 90-ties, but the first discussions were isolated, incomplete and not coordinated.

In the years 2001 – 2003 there was the first nation-wide campaign against the violence against women, named "the Fifth Woman." This campaign was realised by 7 women NGOs which joined together in the initiative "the Fifth Woman." These were: Alliance of Women of Slovakia (Aliancia žien Slovenska), Women Interest Association Aspekt, Women Interest Association Fenestra, Altera, Eset, Pro Choice (Možnosť voľby) and Pro Familia.

The campaign was realised in the form of public activities, TV and radio spots and billboards. The slogan of the campaign was simple and rather shocking: "Every fifth woman is abused. Do we care about?" The message of the campaign was: "Violence against women is not a private issue but a public one."

In spite of many contrary voices that were raised against the message of this campaign, it broke through the barrier of silence about the domestic violence problem. Many battered women started solving their situation during, or after this campaign. It is undoubtedly the most important media campaign on this topic in Slovakia.

The coverage of the campaign was the whole territory of Slovakia and it included all kinds of media, together with the direct contact with the audience. It was aimed to reach at least 2 millions of people (2/5 of population). The message was directed to the politicians, media and public – to raise the awareness of the problem the same as to the battered women themselves. The battered women got informed that they are not alone and the society is interested about their problem.

The media involved included all of the televisions with national coverage (STV, JOJ and Markíza), 6 national and 10 regional radio stations. The billboards (100 all over the Slovakia) were provided by iStep, Ispa and Cover companies. The visuals and spots were provided by the Doctors creative studio and iStep communication. There was also the information hotline about the domestic violence and the web page as a part of the campaign. In addition, dozens of articles in the newspapers and in the magazines were published, as also the other media became interested in this topic.

The campaign was financed from the donations of Open Society Institute, Heinrich Böll Stifftung, Embassy of Canada, Embassy of Switzerland, Unifem, ETP Slovakia and Slovak Telecommunications. The total budget of the campaign was 28.654,- USD.

The campaign was underlined by the tragedy that occurred at that time at the east of Slovakia in Tušice village. Here, the violent father killed his two children and the committed a suicide. The mother of these children had been suffering violence from him for years and she was unsuccessfully trying to ask the state authorities for help before the tragedy.

The organizations involved committed themselves to perform further activities for enforcing of the legislative changes, improving of the education and training of the professionals and enhancing of the services for the victims. After the conference on the domestic violence which took place in November 2005 in Bratislava, it seems that the Fifth woman platform could continue as a common initiative of Slovak NGO's oriented towards the coordinated realization, enforcement and control of the realization of the National Action Plan for the Prevention and Elimination of the Violence against Women.

4. Political and legislative measures and their main priorities

In 2005 the National Action Plan for the Prevention and Elimination of the Violence against Women was passed by the resolution of the Government (further mentioned only as the "National Action Plan"). This is the continuation of the National Strategy for the Prevention and Elimination of the Violence against Women and in Families from 2004. It is necessary to notice, that the National action plan, when compared to the National strategy, deals only with the problem of the violence against women, which is in accordance with the requirements of the women associations. It also means that the other forms of the domestic violence (for example the violence against the children or against the elderly persons) should be regulated by other action plans.

The National Action Plan targets at 4 areas:

I. The area of criminal and civil legal frame;

II. The area of providing help to women who experienced or are experiencing the violence;

III. The area of prevention;

IV. The area of research.

In the area of criminal and civil legal frame there should be reached a state of effective use of existing legislative in praxis and its completing in order to ensure sufficient protection victims and adequate sanctions of the perpetrators. In order to reach this state, there should be these reports elaborated:

- comparative survey on the legal means of protection for the women victims of the domestic violence in Slovakia and in selected Member States, on the basis of which survey there should be the new possible legal means of protection proposed;
- monitoring surveys on the practice of the law enforcement authorities and evaluation reports on the use of existing legislature;
- methodics of the investigation in order to protect the domestic violence victims from repeated traumatization and secondary victimization.

In the area of providing help to women who experienced or are experiencing the violence,

there should be quick and effective help for all women in danger provided, taking into account their possible specific needs.

Several parts of the National Action Plan mention the need to ensure the financing of such a help, although

there are no factual obligations for any subject to provide concrete amount of money for this purpose. The sources of financing of these activities are supposed to be: subventions from the Ministry of Social Affairs, ESF programs, grant programs (Ministry of Social Affairs, Ministry of Health, Home Department).

Also, the level of know-how of the professionals of all relevant professions and the quality of their cooperation is supposed to be increased, as well as the level of know-how of public.

In the area of prevention, it is necessary to prevent the rise of the violence and any situation that can contribute to the rise and to tolerating of the violence. This should be taken into account when creating the pedagogical materials for the relevant classes at the grammar and secondary schools. Also the public media shall be motivated towards playing more active role in informing the public about the violence against women, without prejudices and myths about it. Also more of the information about the possibilities of help for women in danger should be spread into the public, with special concern to the specifically endangered groups of women (migrants, Roma minority).

In the area of the research there is a need for sufficient basis of knowledge about various aspects of the violence against women. The existing system of statistic reports should be enhanced, the system of summary statistics enriched and these statistics should be published regularly. The financing of these activities is meant to be reached by engagement of Slovakia into the EU programs for the promotion of violence against women research.

The National Action Plan contains rather large amount of tasks and objectives, with their very general verbalization. The financial covering of their realization is not specified, or is only outlined. Several NGO's already expressed their doubts whether and to what degree can this plan for years 2005-2008 be realized in praxis. The organizations grouped in the initiative the Fifth Woman put forth the proposition to the other NGO's to force the state with common effort to fulfill this plan in fact.

5. Specific intervention and primary, secondary and tertiary prevention projects in the field of domestic violence at a national, regional and local level

The specific intervention, oriented to help to the victims of the domestic violence was already described in this report. The intervention projects in this area are realised mostly by the non-governmental organizations. Also several primary prevention projects were realised by some of these NGOs.

When talking about the state authorities, we have to mention the prevention officers of the Police. They realise the preventive educational programs on this topic at the grammar and secondary schools. Nevertheless, there has not been any nation scoped primary prevention program on this topic, realised by the state. Such a program should come with the new National Action Plan, which is the first action plan in Slovakia in this area ever.

HUNGARY

LENKE FEHER AND KATALIN LIGETI

1. Support provided to victims of domestic violence

1. Governmental agencies

a.)In accordance with the Law on Assistance and state compensation to the victims of crimes, entered into force on the 1st of January, 2006, the State victim support services provided to the victims of crimes in general, are the followings:

- Support in asserting the interests of the victim: the victim's assistance service of the local law enforcement office provides adequate help to the victim, according to their needs, in representing their interests, health and social insurance services, social services.
- Immediate financial help: as a financial aid, victim's assistance service of the local law enforcement office covers such expenses of the victim, like housing, clothing, feeding, travelling, health care, piety (funeral)
- Legal assistance: counselling, legal advice, legal representation is provided according to the Law LXXX. On legal assistance.

b.) In the crisis management and support, the development of the national network of family-aid services can be counted to the results. It is a further task to continue the training of specialists (working in the network) on the phenomenon of violence in the family and the improvement of co-operation between state organs and between state organs and non-governmental supporting organs by introducing co-ordinated training models.

c.) Since January, 2004 the Office for Equal Opportunities has implemented a victim-oriented project, by establishing a crisis management centre to provide special assistance and support to the abused women and children by telephone and by personal services. The experimental program started its activity with 3 persons (2 lawyers, 1 psychologist). The green telephone line was operating on week-days and during the usual office-hours.

d.) On the basis of the former experiences the Ministry for Youth, Family, Social and Equality extended the services of the centre. As the abuse was not limited to the office hours, however primarily happened at the week-ends and at nights, the services are available around the clock from the 1st of April, 2005. The staff of the hot- line has language skills, and trained in different areas of social work, to be able to provide help to people in different kinds of crisis situation, to initiate immediate intervention, and provide information in less urgent cases. The operation of the telephone service is anonym. There are eight persons at the phone, complemented by a lawyer, a psychologist and a mental hygienic specialist. There are shelters available, when it is needed.

2. Services provided by NGOs for supporting victims of domestic violence

In Hungary, a great number of NGOs exist. Among them, there are several organisations providing support to victims of crimes in general or specially to victims of violence. Among them I mention only a few of the organisations working in this field.

a) Some years ago NGOs (primarily the NANE Association) set up telephone hot line and there are NGOs which are providing emergency support and many-sided support services, like information, counselling, health care, financial aid, emergency housing, sheltering, including legal advice and support. The NANE (Women for Women together Against Violence) is working with women and children affected by violence. It is running a telephone hotline, providing information and support for victims of violence, like domestic violence or trafficking in women. The NANE had several initiatives and campaigns together with other NGOS, too.

b) The ESZTER Foundation (Foundation for the rehabilitation of victims of sexual violence) was established in 1999. Its main tasks are the followings: psychotherapeutic treatment of victims, social and legal assistance, support of crime prevention and crime control.

c) The Family, Child, Youth Public Benefit Association is active from 1993, in the field of prevention programs of domestic violence, child abuse, sexual abuse. It deals with mediation programs, provides legal assistance, organise trainings to professionals, editing training manuals, journal(in two month frequency) the

Association conduct researches, organise conferences and publish booklets, books, too.

d) The Office of the Program on the Protection of Rights of Women and Children has a classical legal consulting activity, by providing information, giving advice, represent the clients. Highly experienced professional body is supporting the work of the legal staff.

e) The White Ring Public Benefit Association - founded in 1989 as general victim support organisation - offers financial, legal emotional, psychological and other kinds of assistance to victims of crimes and their families as well as effectively lobbying before authorities to improve the legal status of victims. The White Ring ("Fehér Gyűrű") is a nation-wide organisation providing general support to victims, in its offices operating all over Hungary. In addition to legal counselling, this association provides a wide-range of various services to the victims of such crimes, including the support to foreign citizens who became victims in Hungary. The organisation has provided many-sided support to the victims of trafficking, too. This kind of support is very important, as it is including accommodation in safe places. It is clear however, that in spite of all the commitment and support it is not equivalent to a specialised service, which is provided in a shelter for the trafficked victims. (Such shelter was established last year, by an other NGO.)From 1 May 2002, the Ministry of Internal Affairs, together with several tourist agencies and other organizations, has launched a 2-year program for crime prevention and victim support aimed at preventing and eliminating crimes committed against foreign nationals, visiting Hungary. As part of this program, "Fehér Gyűrű" operates a customer service office to provide services to the foreigners who became victims. [1]These services are in harmony with the requirement of the EU framework decision on the standing of victims of crime in the criminal procedure.

The cooperation between the authorities, GOs and NGOs were not always in the necessary level, but they are step by step developing. There were already held mutual trainings on domestic violence or trafficking issues in a good atmosphere, with constructive debates, which has created a better understanding between the police and civil society. It should be necessary however to rely more frequently on the experiences of the NGOs.

2. Intervention and Prevention measures taken by both governmental agencies and non-governmental agencies

State prevention and intervention measures see 1.3. and 4.

NGOs are very active in initiating campaigns, editing leaflets, organising train the trainer courses, editing manuals. Some are very active in gender-related issues, while others in protection of children from violence.

3. Information and awareness raising campaigns

Recognising the problem, there were several campaigns on domestic violence. There was a great role and merit of some researches and books on domestic violence to put this issue to the agenda in the 90-ees.

One of the first campaigns has started on 17th October 2001, invented, supported and elaborated by NANE[2], a well-known Hungarian NGO. They made posters, organised exhibitions, and made the people aware of the problem, being acquainted with fate of victims of domestic violence, killed by their husband or partner. The NANE made several awareness raising campaigns in the media and conducted training courses for professionals.

The ESZTER Foundation had a so-called silent campaign, by posters and organised a three days seminar on domestic violence in 2004. There are several posters pasted up over the territory of Budapest, mostly in metro or railway stations. The aim is to provide information, to raise awareness, sensitise public opinion and express the view, that domestic violence is not tolerated.

In the awareness-raising the media has an important role. The problem-oriented programs can reach the target groups and provide information for them in preventing the conflicts, looking for help and support. They can forward the important message, that society should not tolerate the domestic violence.

1 Since the launch of the program, a total of 484 foreign victims have received assistance of various forms to the full value of around 11,5 Million HUF (11, 554, 132 Hungarian Forints). The WHITE RING has been able to help citizens of 30 different countries. The Budapest ambassadors of the Republic of Polandand Germany have even expressed their thanks and gratitude to WHITE RING for all the help it has granted to their citizens falling victims of crime, in Hungary.

2 NANE: (Nők a Nőkért Együtt az Erőszak Ellen) Non-Governmental Organisation named Women for Women Together Against Violence

4. Political and legislative measures and their main priorities

a.) It has a great importance, that the Government resolution No. 45. On action against domestic violence, was adopted in 2003. The resolution has acknowledge, that the domestic violence is relevantly present in the society. Recognising the deficiencies of the legal regulation in this field, the problems of legal practice, put a greater emphasis on the importance of prevention, awareness raising, victim support and assistance, for this reason the necessity of building an effective cooperation between state agencies and NGOS.

The Government Resolution condemns every form of domestic violence, including the verbal violence, too. it has stressed, that the protection of human rights has priority and the domestic violence cannot be regarded a private affair. In the interest of prevention and elimination of domestic violence, according to the Resolution, it deems necessary to develop a national strategy.

The Parliament has set a deadline (31. March, 2004) for the Government, to elaborate draft laws (on restriction order, priority of special proceedings, witness-protection) and submit to the Parliament. The Government was further requested, that concerning domestic violence, in its competence, together with the NGOS develop the followings:

- clear and unified protocols,
- enlarge and modernise the safe houses, shelters, by establishing crisis centres,
- secure the protection of the abused family member,
- make available – in the framework of state legal aid system.- the legal counselling and representation of victims of domestic violence,
- develop a complex nation-wide action plan,
- organise information and continuous training of professionals
- take the necessary measures to collect special statistical data on domestic violence.

The Resolution speaks on training of judges and priority of proceedings on domestic violence. It has stressed the necessity of awareness-raising campaigns, to make publicity of information on domestic violence and victim support services and assistance. The campaign is aiming to stress the responsibility and activate the state agencies and non-governmental organisations, as well as the media to take actions against domestic violence.

b.) The National Crime Prevention Strategy

The National Crime Prevention Strategy, issued by the 115/2003. (28. X.) Parliamentary Resolution consist the domestic violence as one of the five priorities of prevention.

- decrees of criminality of children and youth,
- increase the urban safety,
- prevention of domestic violence,
- prevention of victimisation, providing victims assistance, compensation, prevention of repeated crimes.

The national crime prevention strategy dedicates a great attention to the prevention of domestic violence. The facts and figures show that the occurrence of domestic violence is high, especially, if we take into consideration the latency. The institutional system and solution of prevention should be further improved.

Among the legislative tasks, the National Crime Prevention Strategy is stressing the necessity of temporary and longer-term (72 hours) restriction orders and in the field of family law, the effective enforcement of the sentences (special respect to the displacement of child and the termination of common property).

5. Specific intervention and primary, secondary and tertiary prevention projects in the field of domestic violence at a national, regional and local level

The above mentioned National Strategy of Social Crime Prevention dedicate a great attention to the prevention of domestic violence. It is describing

1. the tasks of the actors of the criminal justice and law enforcement system,

2. the tasks to be realised in sectoral co-operation,

3. the tasks of community crime prevention.

In respect of the police and other investigation authori-

ties the most important tasks are the followings:

- immediate and efficient intervention,
- signalisation to the child protection authorities and
- initiation of restriction order.

Among the tasks of sectoral co-operation, the health, social-and family policy, youth-and sport policy, education policy and child protection should be mentioned.

The role of local governments, civil society, churches and the media is also very important.

Finally, as the possible results, the Strategy stress the great role of awareness raising, the information on the means of effective and immediate assistance provided to the target groups.

In the recognition of domestic violence in due time the following factors has a great importance:

- effective signalisation system,
- training of professionals,
- cooperation of the institutions,
- securing appropriate support services [3](for victims and offenders).

The research has a leading role in describing the circumstances of domestic violence, the causes of victimisation, the initiation of appropriate programs for family protections and special care.

3 medical, psychological,mental help, crisis-intervention, accomodation, programs forn rehabilitation, etc.

4.

VISION OF THE FUTURE ON DOMESTIC VIOLENCE IN CENTRAL EUROPE

Odile Redon, Pandora, 1910 (detail).

CZECH REPUBLIC

PETRA VITOUSOVA AND ALICE BEZOUSKOVA

1. Work developed by each Member State

As for the reaction to domestic violence, the situation in the Czech republic at the end of 2005 can be regarded unsatisfactory and unsolved both in the filed of legislation and practice.

Summarising the main information from the report:

- The spread of domestic violence has been confirmed by a reaserch in the Czech republic in 2001.
- The main initiator of changes in this field is NGO.
- In the past 7 years there have been realized several campaigns, seminars, conferences from which there arose instigations to changes in the Czech republic.
- In 2003 there have been realized 6 round interdisciplinary tables under the gestion of the Interior; in 2004 the government passed a resolution based on the conclusions and obliged the departments to fulfil their steps.
- In the area of the Chamber of Deputies there was established the Alliance against Domestic Violence with the aim to change both practice and legislation in solving domestic violence cases. An Experts Group was set up which proposed the Bill for protection against domestic violence.
- The bill was proposed as an initiative of MPs and was passed into 3rd reading tin the Chamber of Deputies.
- Single department gradually work out guidelines for the workers of the resort on how to react to domestic violence cases. In the guidelines there are obligations, compenetces and possibilities of all the staff. There has been published the guideline for the police, at the time being a guideline for the healthcare staff is prepared.
- Domestic violence can be implicated by 30 different facta wirhin the penal code. The novel in 2004 made maltreatment of a close one or other person sharing the same place of living punishable. The Czech republic approached the countries with partial criminalization of domestic violence. Still the reaction of society remains tolerant.
- In the Czech republic the disposition still valid in cases where the perpetratir is the close one. Then the victim is repeatedly asked for approval with the prosecution. It is neither the state nor the institutions active in criminal proceedings but the victim who decides in cases of severe and intentional violence whether the police is going to investigate and prosecute the offender.
- The people endangered by domestic violence solve their situation at their own expense and from their own initiative,mainly by running away to shelters. Effective methods for protection of victims from domectis violence are still missing in the Czech republic.
- Trainings for professionals are being gradually introduced.
- A model of interdisciplinary cooperation was verified on the level of the city of Ostrava (300 000 inhabitants) – solution of domestic violence cases on the evel of comunity. The model has been publicized and is being transposed to other cities of the Czech republic.
- NGOs adpopt verified diagnostic methods (e.g. SARA), they prepare lecturers funds, prepare standards of working with endangered people etc. All this supported by the ESF. The outcomes from these projects will be spread in 2007.
- New legislation will pass and practices will be prepared, the Czech republic will belong to countries which are able to react to domestic violence in time and be flexible and stop its escalation.

2. Frame existent Member State policies within the framework of the current EU policies and orientations

The strategy of the Czech republic focuses on accepting new modern legislation. The concept of this method has been suggested. It depends very much on lawmakers and representatives of the exeutive branch where this model will be accepted and introduced into practice. The bill follows the Austrian model of the expulsion which is recommendedby the MPS of the EU.

3. Recommendations for each Member State and for the EU

- For the Czech republic new legislation is recommended. May be wished that some of the lawmakers and representatives of the executive branch who still minimize the problem of domestic violence change their attitudes. Solution

of this problme is not the priority of the Czech politics, not even before approaching elections.

- In the Czech republic and EU it is necessary to focus on primary prevention of domestic violence, further on the education for tolerance and responsibility already from the pre-school age. The task aimed at the therapeutical programmes for the perpetrators remians unsolved though it is an integral part of adequate solution.
- Another subject for consideration is frequent presence of alkohol on the scene of domestic violence. Eu could initiate campaigns against alkohol abuse and at the same time to make the alkohol producers and distributors to finance programmes and running of addicts rehabilitation centres (these companies have sofar been financing sports and culture activities).

SLOVAKIA

JANA SIPOSOVA AND PETER KOCVAR

1. Work developed by each Member State

From the initiative of the non-governmental organizations the discussion about the domestic violence was initiated in Slovakia. Also the state representatives have joined this discussion in recent several years. Several legislative changes were passed by the Parliament and the current legal situation allows providing sufficient protection to the victims if applied correctly. As a consequence of these changes there has been markedly increased number of the domestic violence cases solved by the criminal and civil legal means.

The National Action Plan was passed recently by the Government which specifies the necessary steps to be taken against the violence against women. Thus, the state acknowledged the domestic violence as a serious social problem and promised to act against it.

Thanks to the activities and support of the non-governmental organizations and thanks to consulting and legal assistance services of their workers provided to the domestic violence victims, the existing legislative is coming into the practice in quite sufficient way. Some of the financial resources on its activity come also from the state budget. There still are reserves especially in the field of providing safety residence for the domestic violence victims.

The domestic violence is starting to be perceived as a serious problem also in the public sphere. The National Action Plan is supposed to enhance and support the public discussion of this problem, especially in the public (state owned) media. Gradually also the know-how of professionals is getting improved as they learn more about this problem and their possibilities to intervene.

2. Frame existent Member State policies within the framework of the current EU policies and orientations

The domestic violence definition of the National Action Plan is taken form the UN Declaration on the Elimination of Violence against Women. The state declared its will to act against any form of gender based violence against women. This approach to the violence against women can be described as the zero tolerance principle.

There are supposed to be activities on the elimination of the violence against women towards all elements of the society – towards the battered woman (domestic violence victims help), towards their partners (therapeutic programs or efficient repressive measures), towards the public (educational activities, information campaigns) and towards the professionals (special training and educational programs for them). The activities towards these groups are supposed to be diverse and they should respect the individual needs of these groups. If the realization of the National Action Plan will be successful we can expect real improvement of the situation of the domestic violence victims in Slovakia.

3. Recommendations for each Member State and for the EU

As we have already mentioned, the National Action Plan is relatively reserved and uncertain, regarding the financing of individual activities against the domestic violence. It can be seen as possible risk – some of the scheduled activities might be threatened, as there won't be clear, who is supposed to provide the financing.

The problem of financing concerns mostly the emergency shelters and crisis centres for battered women. It is necessary to increase the density of the coverage of the Slovak territory with these services several times.

The domestic violence definition is absent in Slovak legal system, especially from the point of view of the domestic violence victims (now it is easier to identify the perpetrator than the victim). In this situation it is quite difficult to provide addressed help to the victims, as there are no clear rules to identify qualified applicants for this help. There should be appropriate definition of the domestic violence victim established, based mostly on the trust to the statement of the person who finds himself/herself to be the victim and not based on requiring objective evidence about the existence of the violence from this person.

Related to the topic of the domestic violence definition there is also the need to provide the services to the domestic violence victims based on the low threshold approach – the domestic violence definition should

not be based only on the acts which fall under subject matter of a crime. So, also the victims of „only" the psychological violence, need to be found qualified to ask for a "soft" intervention from the outside, without requirement of the criminal prosecution of their partner. According to the available knowledge about the dynamics of violent relationships, we can presume the aggravation of the situation in the partnerships where the psychological violence is present, unless effective intervention is provided. Such a help to the domestic violence victims should be mostly in the form of psychological and social services for the victims, their children and partners.

In Slovakia nowadays there exists the criminally liability of persons such as psychologists, physicians or social workers who know about the violence but do not report it to the police. Only the priests of registered churches are exempt from the duty to report the violence to the police. This approach can be contra-productive the "low threshold" principle mentioned above - the practitioner who tries to stop the domestic violence in the family other way than via criminal prosecution of the perpetrator gets into the jeopardy of criminal prosecution against himself for not reporting the violence. Because of that it might be useful to rethink the conception of the duty to report the violence and the possible cancelling of this legal duty in the case of psychologists and social workers who may help the victims to solve their situation other way. The reporting of severe cases of violence can rest upon the decisions and moral responsibility of relevant professional.

The menace of the punishment is a strong motivational factor for the perpetrators to stop their violent behaviour. Because of that the effective criminal prosecution and the condemnation of the perpetrator by the social authority should be perceived as a self evident solution of the problem where the society has no doubts about its application. There is also a need to create the possibility of taking alternative action for the perpetrators via the alternative punishments, probation and therapeutic programs. These can allow them to make a step away from the violent behaviour at any time and provide their reintegration into the society.

We also find it important to raise the public awareness about the domestic violence problem and about the possibilities of victims' services. When compared to the number of public media channels in Slovakia it is rather surprising how few qualified information there is about this topic.

Thus, it is important to support the establishment of the network of services for the domestic violence victims, their children and the perpetrators through good and transparent system of financing. These services should be based on the low threshold approach. It is also necessary to raise the awareness of the public and relevant professionals about this problem and about its possible solutions.

HUNGARY

LENKE FEHER AND KATALIN LIGETI

1. Work developed by each Member State

- The presence and spread of domestic violence and the high proportion of latency (dark figures) was confirmed by the researches and by the activity of NGOs in Hungary.
- The legal policy expressing the view of zero tolerance in the field of domestic violence.
- There are a lot of efforts, legislative steps on victim protection and assistance. According to the EU framework decision, the Law on the assistance and compensation of victims of crimes passed the Parliament and entered into force on the 1st of January (Law CXXXV. 2005).
- In the Law on Police contains provisions on the protection of people submitted to the danger or threat of crimes against life and limb, or the property (Law 1994. XXXIV. on the Police). The Police had elaborated protocols of intervention in domestic violence cases. (See:43/2002 (BK24) BM instruction on the tasks of the police to improve efficiency of the measures for protection of victims of domestic violence)
- The NGOs as main indicators of changes and State authorities are working together, cooperating in this field.
- From the harmonised platform however for now, there is a view represented by several NGOs, that special legislation is necessary, including the definition of domestic violence, its criminalisation as a special crime per se (as domestic violence) and it is necessary an immediate intervention, as a measure of urgency by applicable restraining order against the offender.
- The other view, which is represented by the legislator, that concerning the domestic violence, the existing law is covering the whole scale of crimes of domestic violence (only a few legislative changes are necessary, like restraining order) and basically the law enforcement, the legal practice should be made more efficient, as well as the preventive, victim support efforts should be developed.
- The present regulation covers all kind of domestic violence (including the rape in marriage, which is also punished)
- The present regulation of the proceeding contains basically the next problems for the victims: in some types of crimes: the initiation of the procedure, direct confrontation with the offender, witnessing several times, vulnerability to the revenge of the offender.
- the seminars, training of professionals, the campaigns (so-called load and silent campaign equally), awareness raising efforts are continuous
- the activity of NGOs is very effective, but there are difficulties in their financing.
- the shelters for mothers are existing, but their level should be developed and their number should be increased.
- further problem.-oriented research is necessary in the field of domestic violence, as well as collecting, publishing and analysing statistic on family violence.

2. Frame existent Member State policies within the framework of the current EU policies and orientations

Hungary is concerned and fully aware of its task and responsibilities of the obligation to exercise to prevent, investigate and punish acts of violence, in particular violence against women and children.

The recognition, that male violence against women is a major structural and societal problem, based on the unequal power relations between women and men, makes necessary a wide range, a whole series of social, political, legal actions aiming at combating violence against women. This includes promoting the establishment and further development of education programs and research centres, dealing with equality issues, in particular with violence against women, as well as research, data collection and networking at national and international level.

It is recognised, that all measures to be done in this field, should be coordinated, nation-wide and focused on the needs of the victims. The relevant state institutions as well as non-governmental organizations (NGOs) should be associated with the elaboration and the implementation of the necessary measures.

In Hungary, there are continuous efforts in establishing active co-operation with the NGOs, including their logistic and financial support. There are strengthened the interactions between the scientific community, the relevant NGOs, political decision-makers and legislative, health, educational, social and police bodies in

order to design co-ordinated actions against violence. These actions, co-operations however should be further improved.

All relevant institutions dealing with violence against women (police, medical and social professions) are encouraged to draw up co-ordinated action plans, which provide activities for the prevention of violence and the protection of victims. The National Crime Prevention Strategy, which is placing a great emphasis on prevention of domestic violence as one of the five priorities, is providing the framework of action plans on prevention activities.

3. Recommendations for each Member State and for the EU

- Even if the existing catalogue of crimes are mostly covering the crimes of domestic violence, special law is necessary, as it has a clear message, that domestic violence is not tolerated, and it is making easier to collect statistics.
- In the prevention there is a remarkable role of educational programs already in the elementary school, like the education of gender roles, gender equality, the education for family life, the conflict prevention and resolution without violence, etc.
- The alcohol addiction has a remarkable role in the escalation of violence, so a wide-range of measures is needed against this phenomenon.
- The presently existing therapeutical programs, methods for the offender should be further developed in the future.

5.

CONCLUSIONS

Cassini's best close-up view of the F ring shepherd moon, Pandora; this small ring moon is mantled in fine dust-sized icy material.

image: NASA/JPL/Space Science Institute

Having analysed the overall reports handed out by the parties involved in the Pandora Project, it is clear that the domestic violence approach in the countries accounted for – Check Republic, Slovakia and Hungary, lacks social perspective and is affected by the same problematic issues we have previously noticed as also being present in the southern European countries, which have been analysed in the Penelope Project: Portugal, Spain, France, Italy and Greece.

Although there may be different cultural contexts and a variety of historical and social processes involving these countries – together with the fact they have become European Union State Members at chronologically different intervals, one thing seems to be the essential common issue, the conceptual uncertainty surrounding the phenomenon of domestic violence, in spite of it being an undeniable social reality for the experts in any of the above mentioned countries.

This uncertainty, when not disparity, is reflected in the inexistence of one official definition as to what domestic violence is in each of the countries involved, therefore leading to problems of legal framing, which most commonly ends up in a variety of interpretations as to what domestic violence is about in terms of the national legislation of the involved countries. As a consequence of this, the Slovak partaking expert, for instance, considers that the existing legal regulations, as far as Slovakia is concerned, do not regulate domestic violence and the perception of such a problem may vary according to the distinct areas of Law, under which it is being analysed.

The notion of violence, in these Member States, may depend upon the personal perspective of each of the intervening parties – and to a considerable extent. When a domestic violence case is subject to legal approach, each party strives to bring out the possible legal framing, either in an explicit or even indirect way, which would certainly be out of the question if there were to be a clear definition of what domestic violence is, in each of the above mentioned countries.

Domestic violence may therefore end up not being acknowledged as a sufficiently relevant issue, of solid, heavy and consistent corpus – which means to say as a social problem, which according to European Union organizations, the European Parliament and the European Commission, as well as several of the European Union Member states, cannot be overlooked or turned around, in order to be able to build up a conceived European space of freedom, safety and justice.

Due to the diversity of concepts as to what it is, in terms of the various legal frames, apart from being at the mercy of the several interpretations of the law, domestic violence is not acknowledged as a serious social problem, nor is it taken as an obvious and effective criminal issue. Victims of various types of crime, which may be amply committed, are therefore unjustly approached, once apart from not being clearly recognized as such, are further subject to a number of different interpretations of the law, making it difficult for them to be supported by a unanimous criteria and the carrying out of justice, as far as every case is concerned. Hungary refers that, for instance, the Hungarian Penal code system does not guarantee specific protection to victims of violence, once it does not account for behaviours, which may be legally defined as pertaining to domestic violence type of behavioural attitudes. In Slovakia, according to those, who have elaborated the report, there is no definition of domestic violence, at least under the perspective of the victims, there being more references to aggressors in the Penal Code than to those who have been victimized.

The Check Republic has also referred that this fact has led victims of domestic violence to hold onto the relevant articles of either the Penal Law and/or the Police Law, in what concerns namely offences, and not those specifically or directly connected with domestic violence. It has been further referred that the existing legislation does not contemplate the specific reiteration of behavioural attitudes in cases of domestic violence, which should not be taken as isolated acts and/or acts which have been carried out in a fragmented way, but rather as continuum events within specific contexts, in which deceit is carried out throughout the whole related and sequenced processing. This particular aspect has been referred to as an obstacle to the serious and acknowledged solid, heavy and consistent corpus, which must be perceived by the legislator as being domestic violence. In southern European countries and according to the Penelope report, this also seems to be a major obstacle to the desired assumption.

The distinct legislative, regulating and administrative provisions have been notorious as far as the Southern European countries are concerned, though this fact does not seem so evident in the Check Republic, Slovakia and Hungary.

ANNEXE
THE AUSTRIAN MODEL
ALBIN DEARING

1. Three Components of the Shift in Paradigm

The past few years have seen a fundamental and broadly based change in the response to domestic violence perpetrated by men against women. The Act on Protection against Violence (Federal Act on the Protection against Domestic Violence, Federal Law Gazette 1996/759) which entered into force on May 1, 1997, reflects this new orientation, or rather this shift in paradigm, which has led to a new understanding of the phenomenon of domestic violence and defined appropriate responses by the state to it.

The impact of this shift in paradigm is considerable: not only have public authorities and private women´s institutions changed their attitude towards domestic violence, but the general public now responds to this phenomenon in a manner that is entirely different from what it was prior to the reform. In particular, the media coverage of domestic violence mirrors the new approach. Reports on cases of violence no longer merely state the facts indifferently, but now invariably end with the question whether the authorities had been informed and whether they had taken any action to prevent the crime. Thus the public authorities have come to assume responsibility for combating domestic violence as a result of societal developments.

1.1. Domestic Violence Is a Public Concern

The change wrought by the Act on Protection against Domestic Violence is visible at a glance: acts of violence perpetrated in the domestic sphere are no longer defined and treated as a private matter or family affair, but as a cause for public concern, or to be precise, as a matter concerning the maintenance of law and order. Thus the borderline between the public and the private sphere has shifted: violence in the home is no longer considered as a matter that concerns only the family, and not the state. Although the intimacy of the private sphere must be, and has traditionally been respected by the state, this sphere has been redefined: it ends where state intervention is necessary in order to protect the physical safety of an individual.

1.2. The Response of the State with due regard for Relational Violence

Upon closer inspection, the fundamental change in the way in which the police respond to acts of domestic violence becomes obvious.

In the past, the police, when informed about acts of violence, did not remain inactive, but acted in a way which could best be described as an effort to limit the direct imminent damage resulting from such violence.

Either the police remained in the home until the situation calmed down or the victim was advised to leave the home and take temporary refuge with a friend, relatives or in a home for battered women in order to escape further threats or violence. Prior to the reform, the police intervened only in cases where acts of violence were actually perpetrated by men in a particular situation. Victims were advised to go to a safe place so as to avoid any further deterioration of the given situation. In the past, the public authorities, therefore, did not initiate a process of change going beyond pacification and conflict settlement. This type of intervention is clearly not an emergency action, but represents a restrained, minimalist approach, from which a clear signal emanates. Whilst the epi-phenomenon of the recent act of violence could not be ignored, the response did not consist in addressing the family relationships underlying the violence. Perhaps it was simply overlooked that any act of violence in a couple's relationship has a deeply rooted cause and this is why it could be assumed with some degree of probability that in a week's or month's time violence would again erupt in the life of the couple, that in the criminal proceedings the pressure exerted on the victim would build up until it became unbearable, the woman would withdraw her statement, or, if exposed to serious threats, also her authorisation for the assailant's persecution.

These experiences were legion in the everyday work of the police. The self- restraint shown by police officers especially towards the perpetrators stemmed, however, from their hesitation to interfere in private family relationships, even if these produced violence. The police shunned influencing family relationships in any way and calmed their conscience by telling themselves that every (adult) individual is responsible for the family situation in which he or she lives. Especially as regards the relationship between the perpetrator and the victim, the change in attitude has resulted in a new objective for police intervention. Whereas prior to the

reform, these relationships were considered to belong to a sphere where the state must not intervene, since the reform, the relationship between the perpetrator and the victim has been considered the actual target of the intervention. This means, however that the task of the police which is clearly defined in law and which consists in offering the threatened individual preventive protection in the face of a probably imminent criminal act (§ 22, para. 2 of the Law Enforcement Police Act), prior to the reform was not, or only inadequately, performed in cases of relational violence which gave ground for the assumption that dangerous acts would re-occur in the future.

Thus the second aspect of the shift in paradigm which is of particular practical significance, can be described more precisely: The state, and especially the police no longer consider an act of domestic violence as a non-recurring, one-time phenomenon, but regard and treat it as an epi-phenomenon of the underlying relational violence. Hence, they are fully aware of the fact that there can be no genuine prevention that would assure the safety of the victim, as long as the violent relationship persists.

1.3. The Response of the State Reinforces Legal Standards

A striking feature of the former response is its disregard for the impact of the violent acts on legal standards. Advising the victim to take refuge would appear justified if she were exposed to a wild animal attacking her and if this animal could not immediately be brought under control. Therefore, in the past, the response of the police to domestic violence was primarily focused on the victim, and not aimed at restraining the violent man. Often, although not always, criminal proceedings were initiated after acts of violence had occurred; however, such cases were prosecuted only half-hearted by as it always had to be assumed that the women who had been exposed to violence would remain biased in her violent relationship and would, therefore, not be available as a witness for the prosecution for the entire duration of the proceedings.

The third essential element of the shift in paradigm deserves special mention in that, male violence directed at spouses or live-in partners is no longer considered as a natural phenomenon but as a serious crime for which the perpetrator is responsible. The new response of the state was conceived with a view to expressing unconditional disapproval of the act of violence. This disapproval, the expression of which is the central task of criminal justice, applies to all sections of society alike. Therefore, one of the prime concerns of the reform project was the creation of an environment in which it could be assured that the administration of criminal justice would perform this function. From this perspective, the reform efforts could also be described as a criminalisation project.

In the debate on the reform, a concept of violence was used which is based on the definition set forth in criminal law and thus refers to criminal conduct aimed at dominating the victim and exercising power and control over her.

This concept of violence is not the only conceivable one, but was chosen because of its practical value; it offers the dual advantage of conveying the key points of the reform and of being compatible with police law and police action programmes, in which clear rules governing the behaviour of officers in specific situations (both in maintaining law and order, or intervening criminal cases) play a central role.

Against the background of these standards and principles, the reaction of the law enforcement officers telling the victim to seek temporary refuge (and if necessary to take her children with her) is manifestly inappropriate. The response of the police must reflect the severity of the crime and convey the message that the perpetrator is responsible for it. This signalling effect is of tremendous importance for

- bringing about a change in the perpetrator's attitude and behaviour
- helping the victim to cope with the trauma of violence
- society's approach to violence.

Therefore, the burden and inconveniencies resulting from measures taken for the protection of the victim must be borne by the violent man and not by the person threatened by violence.

1.4. Summary

These three core elements of the shift in paradigm, all of which relate to society's understanding of acts of violence, clearly outline the reform programme: The state (and especially law enforcement authorities) must assume responsibility for taking appropriate and commensurate measures for the preventive protection of

individuals experiencing relational violence, i.e. living in relationships in which they are exposed to criminal acts of violence perpetrated by another individual.

2. The Reform of Police Intervention

2.1. Definition of the Scope of the Study: Domestic Violence Directed against Women

The term "violence" as it will be used in the following, has already been defined earlier. According to this definition, the term refers to criminal conduct (liable to prosecution by court), which serves the purpose of exercising power and control over others. Physical violence, in whatever form, may prompt a "family court" to issue a prohibition order in accordance with § 382b the "Rules Governing Execution", must, however, not be regarded by law enforcement officers as one of the instruments available to them. Forms of structural violence are not covered by this study.

The present study focuses on male violence directed at women, because: first, this topic was by far the most pressing issue in the drafting of the Act on Protection against Domestic Violence and in the relevant training programmes; second, domestic violence perpetrated by men against women accounts for more than 90% of all police interventions in the domestic sphere, and third, this form of violence constitutes a very special phenomenon in our society, because it is the consequence, the manifestation and one of the causes of the imbalance of power between the genders. In line with the Act on Protection against Violence, which deals exclusively with "domestic violence", this study is also restricted to violence perpetrated in the home. In contrast to violence perpetrated in public, domestic violence has become a crucial issue, which can be ascribed to historical, social and practical causes: Historically, the house or home constituted a specific district of domination, an enclave within overarching spheres of domination. From the social perspective, the family is a place in which patriarchal structures can be brought to bear and hardly be restrained by public control. The walls surrounding our homes de facto act as an efficient mechanism for shutting out public control. The terms "domestic violence" of "violence in the home" encompass a wider field than the term "violence in the family", as the former also include violence directed at female domestic workers or au-pair girls.

2.2 The Reform Guidelines

The Austrian reform project follows five guidelines. These are:

- the fundamental assumption that domestic violence is a public concern
- precedence of the threatened person's demand for safety;

a solution had to be found in view of the fact that acts of domestic violence are not generated by specific situations, but have their root cause in

relationships;

- the need to show "zero tolerance" of violence, even if it occurs in the domestic sphere;
- emphasis on responsibility of the perpetrator; and
- the need for a holistic and multi-institutional approach.

These guidelines served as a basis for defining concepts for police intervention.

2.3. Violence in the Private Sphere as a Public Concern

The right of individuals to the protection of their physical integrity by the state, which is enshrined, in particular, in Article 8 of the European Convention on Human Rights, persists, irrespectively of whether the individual is in a public place or at home. Although the private sphere and family life, as a matter of principle, must be respected by the state pursuant to Article 8 of the ECHR, the right to the privacy of the home (relatively) undisturbed by the state, must end whenever state intervention is required to protect the safety of individuals in the domestic sphere. Hence, the police must not consider domestic violence as a private matter or family affair, but must be aware of their public mandate also when confronted with violence in the home.

This theoretically binding approach gives rise to major difficulties for law enforcement officers in their daily work. They must leave behind the shadows of a long tradition which had hammered home to them that the police had no dealings within families and could not achieve anything anyway. The demand that they should separate the father from his family instills fears and

causes insecurity in police officers. In such situations, law enforcement officers are entitled

- to get clear statutory instructions concerning their intervention
- to receive thorough training through within they become acquainted primarily with the reality of relational violence and its dynamics, and
- not to be left alone with their case, after their intervention, by other competent institutions, such as the family courts, the criminal justice system, the youth welfare offices and private institutions.

2.4. Focus on Relational Violence, not on the Actual Situation

Prior to the entry into force of the Act on Protection against Domestic Violence, police officers typically reacted to domestic violence by trying to settle the "dispute" or by advising the victim to leave the home, if necessary taking her children with her , and to go to a safe place, i.e. to her mother's or a friend's home, or to a home for battered women. As mentioned earlier, the specific characteristic of this type of intervention consisted in ignoring the root cause of the conflict, i.e. relational violence, and pretending that an act of domestic violence was a singular occurrence, resulting from the escalation of a particular situation involving two "conflicting parties" whose real relationship was not analysed and for lack of obvious characteristics was therefore generally considered as being based on a power balance. Such an interpretation of domestic violence in no way reflects the roles assigned to family members and their relationships to one another. Thus the crucial motif is eliminated from the picture: Terms such as "conflict" or "quarrel" gloss over the imbalance of power characteristic of relational violence.

The essence of relational violence consists in one individual's (i.e. the man's) overbearance resulting in the wish to control the behaviour of another individual (i.e. the woman), if necessary by resorting to physical violence. As long as police intervention took place on the assumption that the situation represented a one-off act of violence, the objectives were de-escalation, pacification, settling a family dispute, and mediating in the escalated "conflict". To restore peace within the family looked like a noble effort. Yet, this type of intervention merely sanctioned a relationship of domination, i.e. the domination of the man over "his" spouse or live-in partner. Police intervention which overlooks that individual acts of violence are not committed purely spontaneously, but are the outcome of relatively stable power and control patterns governing the interactions between the partners, reinforce these relationships and heighten the probability that the woman will again be exposed to violence in the future.

Yet it should be clear that individuals who share a home, if not a table and a bed, have a relationship which casts them in particular roles and determines the way in which they interact. If in road traffic strangers get involved in a quarrel about the right of way or the speed limit, it is normally enough to de-escalate the situation. These two strangers have no common history, which acts as a link between them. When they leave each other, it is for good, and the probability of a repetition of the quarrel is negligible. The situation is entirely different for a man and a woman who share a home and their lives. In this relationship, every action and reaction forms part of a densely interwoven network of behavioural patterns and mutual expectations, nothing comes entirely as a surprise, nothing happens out of the blue, certainly not something as serious as an act of violence. Therefore it is entirely implausible to assume that an act of violence committed within a relationship between a man and a wom+an can be ascribed to the escalation of a situation and has nothing to do with the relationship as such.

Relational violence is, in essence, instrumental by its nature. It is a demonstration of power aimed at establishing control. Relationships in which violence occurs are first and foremost relationships characterised by domination, which is, of course, illegitimate.

The tendency of police officers to overlook the underlying pattern of violence even if they intervene repeatedly in the same homes, and to content themselves with calming the situation, which, of course, does not prevent future outbreaks of violence, corresponds to the usual pattern of police interventions outside homes. Such interventions are normally aimed at de-escalating situations without major efforts and at quickly restoring "peace and order".

There is no quick fix for relational violence. Police interventions can merely be the first step. Something else has to be considered: if this first step leads to the

expulsion of the violent man from his home, he will hardly contribute to a calming of the situation in the short run. (On the other hand training has shown that police officers tend to overestimate the danger of escalation; in actual practice, perpetrators very rarely show resistance to prohibition orders.) The end result of the intervention can not be anticipated, as it depends on the co-operation of other institutions, in a certain way also on the collaboration of the individuals exposed to violence, and is therefore beyond the control of law enforcement officers. From all of this it becomes obvious that such initial interventions are diametrically opposed to the everyday logic and routine of the police.

In training courses, police officers are drilled into avoiding overreactions in their interventions. In cases of domestic violence, however, exactly the opposite is necessary: a police intervention merely focused on the particular act of violence attempting to de-escalate the situation, pacify the parties, or to tell the victim to leave the home, does not correspond to the requirements of effective prevention of violence. If the perpetrator and the victim experience that the police intervention does not radically attack the root cause, this underlying pattern of relational violence will persist and thus become part of the problem, and not offer a solution to it.

2.5. Role of Police Intervention in Enforcing Standards

Intervention that seeks to de-escalate the situation is not only entirely insufficient with regard to prevention, but also emits the wrong signal. This should be taken seriously, because not only the victim and the perpetrator, but also the witnesses will infer from the police intervention what importance the state attaches to the incident.

Therefore police intervention must convey the clear message that violence in the domestic sphere is not a pardonable slip, but a severe criminal act of injustice. Domestic violence must not be trivialised as a private conflict or a family quarrel.

In addition, the police intervention should be directed against the violent man and should not leave it to the victim to obtain protection; it should demonstrate that the state holds

violent men responsible for their acts. Zero tolerance of domestic violence as a criminal injustice must go hand in hand with holding perpetrators liable for their actions. Although male violence directed at women has deep-seated societal causes, this in no way relieves violent men of their responsibility for their conduct. The response of the police and the judicial system to male violence should clearly illustrate this approach and should avoid any behaviour that could be interpreted by perpetrators as an excuse for, or trivialisation, of their behaviour.

This demand holds especially true for programmes working with violent men. Such programmes must not be motivated by the need to offer perpetrators therapeutic support, but must build on their responsibility. It must be the goal of such programmes to prompt perpetrators to assume personal responsibility, to give up their exaggerated desire for controlling their partners and to learn to behave respectfully towards women.

Again and again it is remarkable how many justifications and excuses violent men come up with in order to explain their behaviour. Various forms of victim-blaming are extremely popular: perpetrators engage in fault-finding, regarding the victim guilty because she behaved in such a way as to provoke or deserve violence. Rejecting such excuses and firmly insisting on the responsibility of the perpetrator are absolute musts which have to start with the police intervention. Accordingly, police intervention must not create the impression that the behaviour of the woman played any role. Ipso jure it does not matter whether the person exposed to violence wants the police to intervene, and in particular, to obtain a prohibition order or not. Intervening police officers must resolutely face the perpetrator and draw his attention to his responsibility for the violent act and its consequences. Law enforcement officers must, therefore, refrain from making any statements that could be interpreted by the perpetrator as condoning his violent behaviour.

In accordance with their mandate to maintain law and order, the police are expected to avert dangers, not only in a theoretical sense, but also in practice they must take a firm and unambiguous stand to help justice prevail over injustice. In contrast to staff of the fire

protection or construction police authorities, the role of law enforcement officers is not restricted to removing dangers, but always also consists in setting standards. Disregarding this aspect means overlooking one of the crucial functions law enforcement performs for

our society. However, in an increasingly pluralistic society threatened by centrifugal forces, this function becomes at the same time ever more important and ever more difficult. Nevertheless – despite plurality – the state's right to the monopoly of power and the outlawing of violence as a means to enforce private interests constitute the indispensable system of core standards on which our society depends. In principle, this also holds true for domestic violence, although it must be admitted that this consensus on core standards is relatively new. As in Austria these core standards were, in essence, only introduced with the reform of family law in the seventies, this consensus must be energetically defended.

2.6. Women in Violent Relationships or the Crucial Question: Why do they not simply leave ?

By disregarding relational violence, police officers perceive the event in a way that does not allow them to understand the behaviour of the victim. The questions as to why the woman does not simply leave the violent man or why she keeps returning to him, which immediately spring to the mind of police officers, are both a riddle and a source of never-ending frustrations. Complaints of police officers are legion: about women who drop charges brought by the police against perpetrators, who retract their testimony, who cancel their authorisation for prosecution of the assailant (because they are exposed to threats and intimation), or to put it in a nutshell, women who torpedo their allies' efforts because they obviously do not know what they want and in the end always return to their violent partners (perhaps because they are "hooked" on violence?)

The solution to this riddle becomes obvious as soon as the very specific situation of the victim who has lived for months or even years with a violent man is understood. It cannot be reasonably expected of a person who has been exposed to violence for so long that she will immediately team up with the police against her partner the moment they arrive in the home. The forces keeping the woman in a violent relationship are far too powerful. These are:

- first of all, the paralysing fear of the perpetrator's reaction to any attempt on her part to create some leeway for herself or even to separate from the man,
- the identification with the perpetrator known as the "Stockholm Syndrome",
- the fear of economic misery,
- the fear of losing her children; the fear of the shame associated with having failed as a spouse and mother by not having been able to lead a harmonious family life,
- in general, the suspicion or experience that our society does not put the blame in the violent man, but holds the female victim liable for the violent event.

In addition, women who live in violent relationships are often incapable of realising that they are victims of violence and of allowing the rage to build up which would help them to leave. Only once the victim has succeeded in liberating herself from a violent relationship will she be able to clearly understand the degree of violence to which she has been exposed and draw the conclusion that separation from the violent man was the right solution.

Law enforcement officers who are not sufficiently well trained and hence cannot grasp the dynamism of a violent relationship, again and again are disappointed, discouraged or confused when they see that the victims for whose "salvation" and "liberation" they had intervened, do not support their efforts, but torpedo them by trivialising violent events or by telling lies. What seems illogical from outside, appears logical when penetrating to the core of this dynamism. A woman who has lived in a violent relationship for an extended period of time will first and foremost think of the way in which the perpetrator will respond to police intervention. She has justified fears that the violent man will take it out on her for "being bothered by the police". This reaction will be even stronger if the police calls into question that man's "right" to exercise control over "his" wife or girlfriend. After all her experience with her partner, the victim must assume that the violent man will make every effort to reaffirm his power through an escalation of violence.

Against this background, the question has to be raised what it means when a woman repeatedly forgives a violent man and "makes it up" with him. Frequently, the couple turns up at the police office a day after the intervention, seemingly happily reunited and unanimously demands that the prohibition order be lifted. But it must be borne in mind that genuine reconciliation is only possible outside violent relationships. As long as the woman has not been able to free herself from the shackles of relational violence, the "reconciliation" with the perpetrator remains a treacherous arrangement of highly dubious value. Only once the victim has reached a minimum distance from her assailant and acquired a sufficient degree of self-assurance and safety, will she be able to gradually comprehend how relational violence developed and can realistically assess her current situation. Reconciliation can be reached at the end of this process – after the power imbalance between the partners has been eliminated, but never at its beginning.

2.7 The Indispensable Role of the Dual-Phase Model

The reform in Austria had to respond to a very delicate situation, a real dilemma. On the one hand, its declared objective from the very beginning had been to aim at empowerment, at strengthening the position of the woman faced with violence. On the other hand, the state intervenes at a moment when the woman is in an extreme situation where she cannot realistically be expected to turn against the assailant immediately. For police intervening in the first phase this means no less than that they cannot count on the woman's support.

As a consequence, the reaction of the state has to be structured in two phases: During the first phase the intervention must not depend on the wish of the woman; in an emergency, it must even take place against her will. Any other solution would mean asking too much from a woman at risk who is under psychological pressure due to a violent relationship. However, this first, patronising phase must be strictly limited. Control over the further process of change must clearly and unconditionally pass to the woman at risk afterwards.

In accordance with this, the prohibition order is issued by law enforcement under applicable Austrian legislation regardless of the woman's wishes – originally it covered a period of seven days, which were extended to ten days under the amended Police Act of January 1, 2000 – but its continued effect after that period depends on the woman at risk, who, during that period, has to request an interim injunction from a Family Court to replace the prohibition order.

2.8 The Need for a Holistic Concept and Its Co-Operative Implementation

Police intervening against the backdrop of a violent relationship and in view of the unlawfulness of violence become aware of their limited options. A violent relationship cannot be ended by police intervention alone; such an intervention is not an appropriate sanction, it is only a first step and there is an urgent need for follow-up co-operation with other institutions – such as the family courts, the youth welfare offices, criminal courts and private institutions. If, during that first phase, police succeed in helping the woman to get a largely realistic view of her situation and to muster the courage that she should change her life, they have given an important impetus for a long-term process of change.

As established by Christa Pelikan as a result of a secondary analysis of numerous programmes to prevent violence committed by men in the home, the common point of departure for all successful prevention programmes is that no institution can be successful if it proceeds alone and that a holistic and co-operative approach is the key.

In this context, the term "holistic" should be taken to mean that what is decisive here it is not an isolated partial aspect of the phenomenon of violence and of the way violence is dealt with but the fact that all aspects contributing to the situation of violence must be considered and dealt with, e.g. an adequate reaction to the behaviour of the assailant, support to the person at risk, concern for children who might be directly or indirectly affected, the outlawing of violence by society, as well as aspects of training and organising police officers. The many institutions dealing with different aspects of the phenomenon of violence must not work in isolation because this will inevitably result in contradictions, duplication of efforts or deficiencies.

The situation prior to the reform was such that many

institutions were concerned with aspects of domestic violence but the pieces of the puzzle of how to deal with domestic violence did not form a whole. As a consequence, there were major differences in the way the phenomenon of violence was understood, and the functions of various "cogwheels in the system" were inconsistent, preconceptions about the work of other institutions were wrong, and there was even resentment against competing institutions (or institutions perceived as competitors); of course, there was also a lack of communication.

The first step is certainly the most difficult one, i.e. the gradual development of a shared understanding among policemen and policewomen, judges and the staff of women's institutions of what violence committed by men against women and a violent relationship mean. In Austria, integrating the staff of women's institutions (especially homes for battered women) in the training of law enforcement personnel has proven particularly fruitful.

The elaboration of an overall concept considering all partial aspects to be dealt with, oriented on clear-cut objectives and applied by all institutions involved – governmental and non-governmental alike - must be complemented by joint co-operative implementation. The effective implementation of the concept in day-to-day practice can only be ensured by an institutionalisation of continuous communication and by safeguarding smooth transitions from one phase to the other.

However, for such co-operation to function following prerequisites need to be fulfilled:

- the existence and continuation of shared fundamental ideas and a common "working philosophy",
- a clear assignment of roles making optimal use of the potentials of the individual institutions,
- well organised interfaces and communication,
- a sufficient degree of respect vis-à-vis the co-operating partners and their tasks as well as readiness to co-operate,
- an institutionalised means of jointly evaluating co-operation.

In Austria the Prevention Advisory Council established at the Ministry of the Interior acts as the guardian of co-operation. It consists of representatives of the governmental agencies concerned and of the non-governmental victim support institutions. Through various channels – concomitant research, internal law enforcement statistics, annual activity and observation reports of the Intervention Centres as well as events where special topics are presented and discussed – the Prevention Advisory Council evaluates the co-operation among the institutions involved in the prevention project on an ongoing basis.

The dynamism behind this process is reflected in the fact that Parliament was able to pass an important amendment of the Act on the Protection against Domestic Violence as early as two years after the law had taken effect.

2.9 The Role of the Intervention Centres

This is where the decisive importance of the role played by non-governmental counselling services becomes clear. Under the Act on Protection against Domestic Violence (§ 38a (4) of the Police Act), law enforcement officers are obliged to inform a woman at risk of suitable "centres for the protection of victims". A "suitable centre for the protection of victims" is first of all defined as an institution recognised by the Federal Ministry of the Interior as a victim protection facility and promoted pursuant to § 25 (2) of the Police Act.

Once the victim protection facility has proven valuable, the Federal Ministry of the Interior signs a contract, commissioning it to address people jeopardised by violence to offer counselling and immaterial support. As soon as they have received such a commission, the victim protection facilities are promoted to the inner circle of Intervention Centres.

This succinct regulation is actually a key element of the reform. It is based on the assumption that the state must not wait for the woman involved in a violent relationship to find her way to the counselling service but must act and address her in this respect. We have to act on the understanding that the woman is in need of counselling so that she can see the options she has to change her life and actually realise them, and that, in view of the circumstances, she is often unable to break out of the violent relationship on her own.

Experience to date has shown that without targeted support of the women at risk, many of them do not request an interim injunction, which means that things are back to what they were like before the police first intervened.

Hence it is of great importance for the overall success of the project to succeed in addressing the woman in the first phase, to explain to her in credible terms that there is an alternative to the violent relationship and to encourage her to believe in the possibility of changing her situation fundamentally. It is evident that a non-governmental institution which is clearly and credibly oriented on the interests of the woman will more easily succeed in gaining the woman's confidence than the police will.

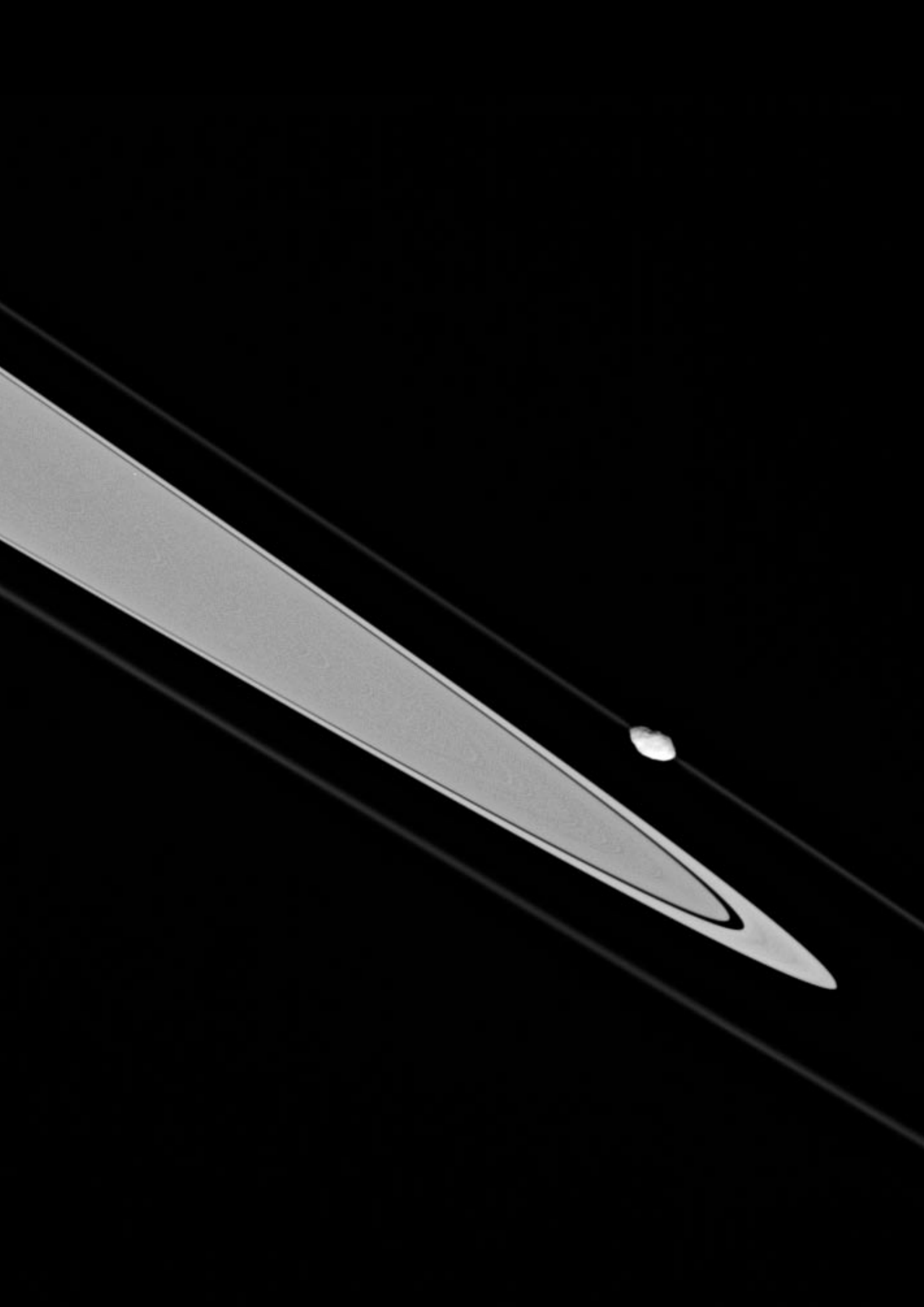
2.10. Result: The Function of Initial Police Intervention

What the police can do for women in the first phase is the following:

- it is within their remit to break the vicious circle of violence temporarily by expelling the assailant;
- they can thus give the woman at risk a relatively secure space where she can take her time so as to become aware of her situation and her options, a place where she can gather strength, and where she can be approached by other institutions which want to support a process of change without the man preventing or disturbing this; last but not least,
- the police can support such follow-up intervention by other institutions by quickly passing on accurate and comprehensive information on the situation before and after the intervention. The compilation of accurate documentation about the first intervention by law enforcement officers and the act of passing such documentation on to the institutions which are to step in afterwards.

Obviously, the expulsion of the assailant from the home of the woman at risk is not an objective or principle but one of the instruments of the project. At this point, light should be shed on how well this instrument conforms with the objectives outlined above; against the backdrop of these aims, the strong points of this measure will become clear. It is an effective means and a strong message

- supporting the safety and security of the woman as the violent relationship is interrupted and the woman is given leeway to make a change;
- manifesting that violence is criminal and unlawful;
- showing the assailant that he is responsible for his behaviour, and finally creating a basic situation that enables other institutions, in particular the Intervention Centres, Family Courts, and the Youth Welfare Office, to join in the process of intervention.



This dramatic image shows Pandora skimming along the F ring's outer edge. Pandora orbits about 1,000 kilometers exterior to the ring, but in this view is projected onto the ring.

image: NASA/JPL/Space Science Institute



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