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DOMESTIC VIOLENCE AND ABUSE OF WOMEN AS ONE OF THE MAJOR PROBLEMS OF THE SOCIAL POLICY OF THE EUROPEAN UNION

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Abstract

The paper points to the issue of both the legalization and comprehensive legislation on domestic violence in the various countries of the European Union. With the legalization of this component of social policy there is a need to rely on international conventions and documents, since in the current system of family policy, each country stems out from its own legal regulation. The overall comparison of the selected countries of the European Union and their view of the issue creates another part of this paper. Possible modifications of laws or amendments or the establishment of changes governed by the European institutions represent one of the most effective forms of how to innovate and deal more with this issue that affects a high percentage of the population of every country in the world.

Keywords: legislation and legal regulation, European institutions, social and family policies, issue of the victims of domestic violence, the rights of citizens.

Introduction

Despite the fact that violence against members of families has been there from the beginning of mankind, only since 1997 the European Union began pointing out more at this issue and now seeks to define it systematically and commenced to implement the measures in the areas of combating this form of violence. Until now, however, the Union has not fully elaborated in detail the issue of such abuse in the area of legislation and refers to documents and conventions of the Council of Europe and the United Nations.

In the current legislation of the European Union, there are several documents dealing with legislation of abused persons or with domestic violence in general as well as with the subsequent punishment for people who cause this violence to their loved ones.

A very important legal regulation of the protection of fundamental rights and freedoms is the Convention on the Protection of Human Rights and Fundamental Freedoms, which was signed by the Council of Europe in Rome in 1950 and entered into force three years later. The convention deals with the Universal Declaration of Human Rights and the European Court of Human Rights.

At present, human rights and social policy aims at the Lisbon Treaty, which entered into force in 2007, as it enshrined in the Charter of Fundamental Rights of the European Union? Despite that basic law and regulations which are binding for every Member State of the Union, in each country there is a big difference in protecting abused persons and punishing bullies. Some countries that are increasingly engaged in social policy have elaborated this area in detail and have all governed by the laws while other states even today take this issue more benevolently and solve it pretty marginally in their jurisdictions.

Law on domestic violence and violence against women in the European Union

The legislation focusing on domestic violence in the European Union is enshrined in several documents and international conventions. Regarding individual Members of the Union, there is no great progress that would lead to the improvements and would optimize the situation. Although measures have been adopted in the form of hot lines for victims, still not much has been done in the field of legal and social assistance. In practice we see that there is violence committed in the domestic environment, where the offender is not punished, because the sanctions to him are not provided by the law.

According to Mesochoritsová (2011) if you want to define one of the first steps of the implementation of the legislation concerning the issue of the violence against women, you can follow a protocol to the Convention on the Elimination of All Forms of Discrimination against Women of 1999. In the event of a breach of this convention in a country that has signed this document, there is outlined a possible intervention of each citizen to the competent body of the European Union.

If we talk about domestic violence, it is to a large extent performed by men against women, however about 15% of domestic violence is performed by women on men. Caban (2007) describes that, in general, domestic violence against women can be defined as an unfair abuse of physical, psychological, social, or economic power of a man (a partner) to the wife (a partner) who is unable to protect herself because she is not equal in terms of physical, mental, economic or social power.

The Open Society Foundation (2011) points out the fact from the UK, where the violence that women experience in marriage, cost employers up to 2 billion euros a year, cost to state is worth more than 4 billion euros but from a sociological and psychological perspective the price for human and emotional suffering that arises to the victims is around 25 billion euros per year.

Buskotte (2008) claims that among the biggest myths we include the assumption that the men are usually not to be blamed for the violence because they are too overworked and that it is the alcohol to be deemed responsible for the violence. And a completely misguided assumption is that a woman is to be accused for the whole situation because she had provoked a man to the use of violence and did not take steps to settle the conflict.

The United Nations points out that the police, as a judicial unit, should have greater responsibilities in the protection and creation of effective solutions for victims of violence. Several previous studies have shown that even in the actual training that addresses the issue of violence the police did not pay sufficient time to the victims of violence after having reported the case. Another very important factor that negatively affects victims of violence is that the police poorly informs and cooperates with the prosecution. Currently, there are jurisdictions where the police hesitate to break into the homes of aggressors and the privilege to enter private premises is limited by civil rights, which are anchored in a common legislation of the European Union. As a result this prevents from the entry of police into the house and as a consequence the police come to the place of domestic violence late and thus indirectly allow the aggressor to escape or the victims of violence to suffer grievous bodily harm.

Mátl (2008) claims that among the most important documents for the European System of Justice dealing with violence is the Vienna Declaration. There are various guidelines for the areas in which a State may intervene. Among its main tasks there is the development of effective legislation, supervision of its application, creation of competent programmes and documents to help the victims of violence and funding research, education, public awareness and cooperation with non-governmental organizations focusing on this issue.

The Parliamentary Assembly of the Council of Europe recommends that EU Member States include in their legislation a feature enabling to prevent from the entry of an aggressive husband to the common household and also to implement the illegality of marital rape. Another point in this document is a proposal for the implementation of the assistance centres for the victims, for a financial support and assistance from NGOs, cooperation between various ministries dealing with social policy, programmes aimed at prevention and protection and training of medical personnel.

To a large extent State legal standards doubt the issue of persecution or stalking of the victims. The majority of the EU Member States recognize the right to international protection limited to a case when the State where the victim resides, is not able to provide this individual protection against the aggressor. Regarding the law at the national level in the field of protection of that issue, all the EU Member States stem out from what has been published in the Official Journal, which is approved by the Council of the European Union, the European Parliament and the European Commission.

Already in 2010 the European Commission signed the Strategy for Equality between women and men 2010-2015. This strategy is relevant also today. Another document, which seeks to highlight the issue of abuse of women and especially their protection, is the Action Plan on the Stockholm Programme, which was in force in the years 2010 - 2014 and is currently analysed in terms of its coherence and flexibility, but also effectiveness in helping the victims of domestic violence.

Comparison of the law of the selected EU Member States

Each Member State of the European Union should focus in the context of social policy at the national level on the possibility of establishing national action plans to promote the protection of victims of domestic violence and the possibility of working more effectively with the victims of domestic violence with non-governmental organizations. Another very important factor is that the state pursues more for the establishment of such social policy that would lead to the elimination of violence and increase penalties for aggressors. Up to now, no Member State of the Union has elaborated this issue in detail, although in every country there are some differences, which are anchored in the legislation at national level.

For a greater clarity, we will describe social policy legislation focused mainly on the area of domestic violence against women in the Czech Republic, Italy, Hungary, Austria and Slovak.

Czech Republic

Until 2004, when the Czech Republic joined the European Union, it belongs to the group of countries where there was a zero tolerance for signs of domestic violence. In the past NGOs provided the assistance in resolving this issue, because this area was not allocated in the legislation of other state organizations. The original Act of 1961 was amended in 2004 and subsequently in 2006 the law on protection against domestic violence was adopted on which built both the police as well as social agencies.

Durdík (2008) explains that the purpose of this legislation is to ensure the protection of vulnerable people, providing accessible information to address their difficult situation and trying to foster them in the actual decision making.

According to the legislation a person that is suspected of the aggression should be isolated from the victim of domestic violence until the case is resolved. In practice, the courts have the opportunity to inspect the police files and even on that basis they decide on guilt and punishment. The files mainly relate to the violence originating from the divorce between the aggressor and the person abused. To address a preliminary measure a period of maximum

two days after the submission of the proposal is determined and the confirmation of the content of the interim measure takes a month at maximum. The protection of the victim from the abuser is ensured by the police. When it assesses the situation as a risky one, the police can pass the information to the misdemeanour commission and start prosecuting the aggressor.

The victim of domestic violence has the right to a lawyer and the opportunity to be represented throughout the trial. Also social, legal and psychological assistance is assigned to the victim. The assistance to victims of domestic violence are mainly provided by non-profit organizations such as the White Circle of Safety, Dona line, Koordona - A Coalition of Organizations Against Domestic Violence, Bona line and others.

This year, the Government adopted the National Action Plan for the Prevention of Domestic Violence, which is for the time being in force for the period of 2015 - 2018. The aim is to prevent sexual abuse, bullying, focusing on children as secondary victims of domestic violence and the introduction of continuous hotline to help the victims.

At present the Czech legislation is focused precisely on the area of domestic violence as one of the main priorities of its social policy.

Italy

Until 2011, it was not possible to obtain comprehensive data on violence committed at home. Several governmental organizations had disparate and fragmented information and therefore we can say that the social system in the field of domestic violence is at a very low and neglected level. Overall, domestic violence is a very marginal issue in the Italian legislation.

The most important law is the Act of 1996 on sexual violence, which after the amendment of the law was changed to a crime against morality.

Garcia Herrero (2006) says that this law is not to be understood only as a law against moral behaviour, but should be expanded and be focused on overall family violence at any level.

Analysing the state-of-play led to the innovation and increase in the number of general practitioners, police, judges and specialists in criminology. The latest document concerning the issue of domestic violence and especially the violence against women is presented as Agenda 2015. The primary goal is to improve the status of victims of domestic violence and their protection.

Overall, Italy has a very weak and little elaborated legislation on the issue of equality between men and women. Today, Italian women do not have the same economic opportunities, access to education, access to work in research and scientific projects and position in society, as their male counterparts. Not only the improvement of the position of victims of domestic violence, but also the equality between the sexes can occur only through a policy based on international cooperation and through enhancing the transcription of international law.

Hungary

The initial definition in the legal provisions concerning the topic of domestic violence were compiled from various amendments and laws of the European Union, which focused, in terms of social policy, on gender equality. Initial comprehensive law that deals with domestic violence was ratified in 2001.

The overall situation in the field of domestic violence in Hungary defined Heisece and Werner (2014) as an alarming one due to inadequate police protection and an insufficient number of asylums in the country.

The problem of the country lies in the fact that the government is trying to eliminate all forms of discrimination, and the law concentrates only on racial discrimination. The overall policy of the state is set to deal only with racial issues and minorities. Little attention is paid at the issue of domestic violence, and the issue of battered women has almost never been engaged. Another very negative element of the abuse and domestic violence represents the fact that the victim must clearly prove that the crime has been committed, which may result in delays in the overall legal action by several months, and, what's more, in a possible threat from the aggressor.

As a positive feature, one can consider the act of 2002 on equal treatment. Moreover, the Hungarian parliament ratified in 2013 the Council of Europe Convention on preventing and combating violence against women and domestic violence. The new act defines a more severe punishment for aggressors of domestic violence. Overall, the state still has many shortcomings in the area of social policies on domestic violence, but in the last five years this issue has been getting at the forefront of the law making, although very slowly. The country is trying to address it actively and to adopt effective amendments to the legislation.

Austria

The issue of domestic violence is very closely anchored in the Austrian legislation. Alongside one can say that this is the most sophisticated model among the Member States of the European Union. In many social sectors it is Austria that has become a pioneer. Austria specializes in the issues of strengthening the rights of victims in the judicial process and social and psychological assistance to the victims of crime. All the above areas are anchored in its law and regulations and therefore they are binding for the whole country. At the same time in the enactment of new regulations the legal system enjoys full support and assistance of the Ministry of Justice. The ministry not only supports new laws that both eliminate threats of aggressors to continue to commit crimes as well as improve the position of victims in society and in their personal lives, but also financially supports the organizations contracted to train the representatives of judges, police officers, doctors and others who come into contact with the partakers of domestic violence.

In 1997 came into force an act on protection against domestic violence that creates one of the basic law underlying the successive amendments. In this law there is clearly defined either a ban on entry of the aggressor into the contemporary home or the regulation of the protection and defence against violence in the family. The government spends annually considerable funds for intervention points for the victims of domestic violence and their network is very dense throughout the country.

Another very important step is that the Austrian legislation provides that the victim is to be interrogated by a person whom he trusts, and that this person will ensure comfort during the interrogation. In practice, this has a very the result as the entire course of the investigation has improved and accelerated.

In Vienna, several institutions deal with the prevention and the overall issue of domestic violence. These include specialized police officers, expert departments of municipal authorities. Several times annually is held training for social workers and psychologists. Furthermore, there are continuously introduced hotlines for the victims of domestic violence and on top of that there are built a few day centres for victims of domestic violence and an asylum.

Since 2009 has been in effect a new act that imposes higher criminal sanctions on aggressors who commit domestic violence repeatedly. This law still allows for victims of domestic violence to have an advocate for free and exemption from court charges, if they have a low

income. From this year, the state has provided also a psycho-social assistance in the course of civil judicial actions.

The Austrian legislation dealing with the issue of domestic violence is meticulous in detail and the law and amendments have experienced a positive response in practice. Moreover, the country is constantly working to streamline the whole area of social policy and support its residents living in difficult life situations.

Slovakia

In 2002, several amendments to the law on domestic violence have emerged. Those were based on the law of 1963. The amendments dealt with the issue of compensation to victims of violent crimes, assistance to the victims of domestic violence, the law on misdemeanours and offences, and other areas of social policy.

The latest amendment to the law on domestic violence provides that the aggressor cannot enter the actual place of living of their victims in effort to interrupt the ongoing violence in the stage of the incident where the victim is exposed to the greatest threat of violence.

Bútorová and Filadelfiová (2005) build on the fact that the key means of the domestic violence is an effective intervention of the police forces. The importance of the law on the police force is also highlighted by foreign laws and documents. For this reason, the act on the police force of 1993 is considered very important as it enables very effective police action against the aggressor.

As in the Czech legislation, even here the court decides on the basis of provisional measures no later than within a month. Following amendments to the Act the punishments for aggressors were tightened and the latest amendment of the Act also covers both the treatment and protection of victims. Other points addressed by the amendments to the Act, is the definition of spouse divorces where one partner becomes an aggressor, the definition of the status of former common-law husbands and wives, their children and the property. The revision of the law on human dignity broadened the issue with a rape and violence against physically weaker person.

The current legislation is based on a national action plan that focuses on prevention and elimination of violence in the home and is valid for years 2014 - 2019. The aim of this plan is to create a nationwide policy on the prevention of violence. Other partial objectives are the improvement of the status of victims of domestic violence and the support from the society.

Although Slovak legislation is moving in a very positive way in the social sector and the area of support for victims of domestic violence, there are still some older acts waiting for the amendment and supplement to address the current problems. At present, preparations began on the amendment process of a number of acts covering the issue, but the process requires a ratification of the Istanbul Convention. An example of from practice can be implementation of this prerequisite in the revision of the Family Act, which is currently largely discussed not only by professionals, but also by the general public, where it is appropriate to resolve the issue of the contact between the child the violent parent. In practice, the establishment of a continuous hotline for victims of domestic violence as well as the completion of asylums and crisis centres have to be resolved.

Conclusions

The issue of abuse in the home environment is considered as a serious social and societal problem. For this reason, the social policy of the European Union and each Member State must seek to improve and streamline the current legislation. In practice the policy should focus on the issue of the status of the victim in society, their mental and physical injury, and

effective help not only to the victim but also to other members of the household, in which the violence emerged.

Another very important element is that the victims of the violence could be shortly after the event integrated into society without any negative attention, and that they should be provided with a corresponding standard of living. On the other hand, it is very important to take a decisive action against the aggressor, and especially to increase penalties in case of the aggressor, who has repeatedly committed the crime and has already been punished for it.

All Member States are approaching the issue seriously, although some legal regulations are at a higher level and are more detailed and sophisticated while others have a lot of shortcomings. In practice, as the biggest problem we see lacking systemic approach and coordinated security within a systematic primary prevention in the field of domestic violence. Some EU Member States have more that system more sophisticated; the best ones are Austrian and Scandinavian. However, there are also very weakly elaborated systems of assistance to victims of domestic violence, the worst among them in Romania and Bulgaria.

Overall, however, we can say that the legislative treatment of domestic violence is at a high level in each Member State and thus the entire European Union has this issues within its social policy elaborated at a high level from a legal point of view. Of course, as any other economically and socially advanced region, Europe aims at modernizing, updating and improving laws and international documents.

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