



MASARYK UNIVERSITY
FACULTY OF LAW

CZECH FAMILY LAW

VI.

LAW AGAINST DOMESTIC VIOLENCE

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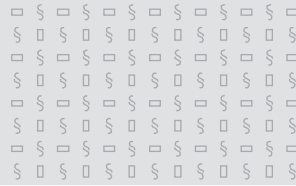
Domestic Violence

- The legal questions of domestic violence are relatively new, but it is impossible to think that domestic violence is only problem of last tens of years.
- There are a lot of non-legal definitions.
- There is not any legal definition in the Czech Republic



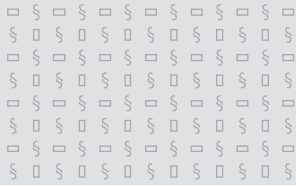
Definition of domestic violence

- US Office on Violence against Women:
 - DV is abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner and should be perceived as physical, mental, sexual, emotional, psychical and economical abuse of person
- Czech association “Bily kruh bezpeci”:
 - DV includes all kinds of physical, sexual and psychological violence within all kinds of intimate relationships



Abuse

- Physical abuse is defined as *“hitting, slapping, shoving, grabbing, pinching, biting, hair-pulling, biting, etc., it also includes denying a partner medical care or forcing alcohol and drug use.”*
- Sexual abuse means *“coercing or attempting to coerce any sexual contact or behavior without consent.”* Sexual abuse *“includes, but is certainly not limited to marital rape, attacks on sexual parts of the body, forcing sex after physical violence has occurred, or treating one in a sexually demeaning manner.”*
- Emotional abuse is defined as *“undermining an individual's sense of self-worth or self-esteem.”*
- Economic abuse is *“making or attempting to make an individual financially dependent by maintaining total control over financial resources, withholding one's access to money, or forbidding one's attendance at school or employment.”*
- Last but not least is the psychological abuse that includes *“causing fear by intimidation, threatening physical harm to self, partner, children, or partner's family or friends, destruction of pets and property; and forcing isolation from family, friends, or school and work.”*



Definition

- City of Seattle Human Services Department's Domestic and Sexual Violence Prevention Office:
 - DV is when one person tries to take control over another by using acts of intimidation, threats, sexual assault, stalking, controlling money or bank accounts, and other violent behaviors. It can be dangerous when one person tries to control others this way (irrespective of marital status)



Common Features

- The common features of the definitions are
 - domestic violence is abusive behavior of more powerful person irrespective of its essence
 - the violated person may be anyone regardless of his relation to the violator
 - it may be husband, boyfriend or girlfriend, parent, child, sibling etc
 - it is also problem of all social classes or communities.



Protection in the Czech Republic

- Act on Special Court Proceedings
- Police Act
- Criminal Code



Protection in the Police Act

- We have to respect that the main aim of police service is to protect the whole society, in the view of the public law
- The interests protected by police are not as same as the rights and interests protected by private law
- The Police provides the public interest in protection of society against any kinds of violence like crimes and trespasses
- The Police sets up the legal relation between state and the violator with the right of state to prosecute the violator and the duty of violator to obey the law.



- If police finds out that the assault is real and its repeat is imminent, the violator may be banish from the common dwelling for the period of ten days (no approval acquired)
- In these cases the violator is only entitled to take his own items for personal use
- In the next ten days the violator is not eligible to enter the common dwelling or contact violated person (the violator has to commit his keys to police)
- The banishment by police is conceived as a final decision



Protection in the Act on Special Court Proceedings

- The main aim of Czech civil procedure law is to protect rights and interests statutory regulated in the Civil, Commercial, Family and Labor Codes
- It also regulates the relations between subject of law, but only in the sphere of procedural law
- The relations within the sphere of substantive law are based on the autonomy of will, but the conflicts may be solved only on trials (by the civil courts)



- The courts in the Czech Republic are competent to deliver a preliminary ruling
- The preliminary ruling is regulated by Czech Civil Procedure Code that sets rules for its application: “*if it is necessary to regulate provisionally the relationships of the participants or if there is a danger that the enforcement of a judicial decision could be jeopardized*“



- A preliminary measure (in general) may command that the violator is obliged not to enter the common dwelling and not to contact the violated person, irrespective the form of this contact
- But the court is also entitled to set other legal duties
- Once the violator is banished form the common dwelling, he is not entitled to enter the dwelling and contact the violated person for the period of one month
- This period may be connected with other proceedings that may begin by the action or another petition of the violated person
- By this connection the period may be prolonged up to six months.



Protection in the Criminal Code

- Czech Criminal Code defines a lot of crimes that are connected with the problem of domestic violence
- In relation to preliminary rulings and banishment by the police the Criminal Code sets the regulation of crimes of obstructing of authoritative decision
- In relation to protection of subjective interests of the violated person it defines crimes of violation against individuals or community, maltreatment, bodily harm, subjugation or duress
- The violator should be sentenced for these crimes to imprisonment for in duration up to six years



Conclusion

- The domestic violence is a world-wide problem which covers all spheres of people's life
- Its main problem is that *“it not only affects those who are abused, but also has a substantial effect on family members, friends, co-workers, other witnesses, and the community at large. Children, who grow up witnessing domestic violence, are among those seriously affected by this crime. Frequent exposure to violence in the home not only predisposes children to numerous social and physical problems, but also teaches them that violence is a normal way of life - therefore, increasing their risk of becoming society's next generation of victims and abusers.”*
- With regards to these negative affections the law is one of many instruments that are able to remove these obstacles
- But, we have to respect the fact that the law is instrument solving only actual cases of domestic violence. Its preventive function cannot affect the thinking of violators. Because of that the law has to regulate the disturbed relations between relatives only in cooperation with theories of other social sciences.