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**“Breaking the silence – united against domestic violence”**

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**Report presented by**

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Domestic violence is deeply ingrained in European society and because it occurs in the private domain it is difficult to recognise and register it in comparison to other public forms of violence. Expert services are often faced with different forms of ‘behind four walls’ violence only after the violence has been present between individuals for a longer period of time and is manifested in cruel, sometimes even fatal consequences. The Republic of Slovenia is not an exception in this regard. The *Criminal Code* that was in force until 30 October 2008 treated domestic violence within the criminal offence of violent conduct, classified in the chapter ‘Criminal Offences against Public Order and Peace’. However, Europe has changed its views on domestic violence and people are increasingly aware that it is a negative social factor. Family violence is classified as a criminal offence in most legal systems. The amended *Criminal Code* (KZ-1), which came into force on 1 November 2008, followed this trend and classified domestic violence as an independent criminal offence within the chapter ‘Criminal Offences against Marriage, Family and Youth’. In recent years, there were also a number of campaigns and initiatives against family violence. The Republic of Slovenia followed this trend and in 2008 adopted the *Family Violence Prevention Act* which is based on the following information:

### **1. OFFICIAL STATISTICS**

The authority which manages the official statistics on domestic violence in Slovenia is the Police. Since 1999, the Police have also identified the relationship between a perpetrator and the victim of violence upon every suspicion of a criminal offence. In 2000, the Police were thereby able to detect 3084 criminal offences of domestic violence, in 2001 – 3844, in 2002 –

4441, in 2003 – 5224 and in 2004 – 5066. The majority of these offences were committed at home. The percentage of cases where the perpetrators of criminal offences with elements of domestic violence were men was 88 % and women was 12 % (of which most cases of women were as the perpetrators of violence against children). These numbers included all criminal offences committed against a person in a close relationship. Criminal offences of violent conduct under Article 299 of the *Criminal Code*, applicable also to domestic violence since 1999, are also included in the statistics stated above. The Police recorded the following numbers of reported criminal offences under Article 299 of the *Criminal Code*: in 2001 – 359, in 2002 – 520, in 2003 – 820, in 2004 – 687, in 2005 – 563 and in 2006 – 729.

If minor offences (in 2004 there were 4,443 such cases) are added to the registered cases of criminal offences of domestic violence we find that in recent years, the number of cases of domestic violence detected by the Police has increased to 73 %. This information should not lead to the conclusion that domestic violence is increasing in Slovenia as there could be a number of different reasons for an increase in the number of recorded cases - the most important among these reasons is greater sensitivity of experts and the lay public in the recognition of violence and; consequently, greater willingness of victims to report violence to a law enforcement authority. At the same time, it is necessary to emphasize that this is the data from the Police for detecting a suspicion of criminal and minor offences before the procedure is passed on to the State Prosecutor's Office and then to a court.

## **2. STATISTICS OF NON-GOVERNMENTAL ORGANISATIONS**

The non-governmental organisation *Association SOS telephone for women and children – victims of violence* has been functioning since 1989 and receives an average of 13 calls per day. In 2000, they received 5179 calls, in 2001 – 6291, in 2002 – 4876, in 2003 – 4867, in 2004 – 6372, in 2005 – 5055 and in 2006 – 4885. The phone line is open for 10 hours during working days and 4 hours on Saturdays, Sundays and holidays.

## **3. RESEARCH**

Research in the area of domestic violence is marked with isolated research on certain types of violence or with research limited geographically, or by time, content or discipline. The only extensive empirical research on domestic violence was carried out in 2005 on the basis of an order from the Ministry of Labour, Family and Social Affairs by the Scientific-Research Centre of Koper at the University of Primorska within the framework of the project 'Analysis

of Domestic Violence in Slovenia – Proposal, Prevention and Measures’ (*Analiza družinskega nasilja v Sloveniji – predlogi preventive in ukrepov*) and public opinion research 'Domestic violence' (*Nasilje v družinah*) on a representative sample of adult inhabitants of the Republic of Slovenia. The size of the final poll sample was 1006.

In response to a question whether a person has personally experienced domestic violence, 23.7 % of the surveyed people answered affirmatively and 76.3 % answered negatively. Among those that had personally experienced domestic violence, 73 % stated that violence occurred in the family in which they grew up and 38.6 % stated that violence occurred in the family in which they lived as an adult (some experienced violence both during childhood as well as in a relationship). Statistically typical gender differences in answering the poll show that there are significantly more women (71.4 %) than men (28.6 %) among those that experienced domestic violence as an adult.

In the past 10 years, Slovenia is striving to help victims by securing their protection and settling fundamental questions in various areas. Actions of the State, various authorities and associations are not limited to only amending individual sector-specific acts but also they extend to organising training, expert meetings, projects for a better awareness of the social occurrence of domestic violence, and efforts to define a working method for work with victims and perpetrators of violence. The majority of these endeavours are not linked and coordinated with each other. Furthermore, all the stated legislative measures would be more significant and effective if they would mutually supplement each other, and if the bodies implementing the legislation worked together in offering assistance to victims. For these reasons, it was necessary to adopt an Act that would provide a uniform approach in dealing with domestic violence.

#### **4. FAMILY VIOLENCE PREVENTION ACT**

The significant solutions brought by the *Family Violence Prevention Act* are the following:

- it provides a definition of domestic violence and its individual forms; this reduces the possibility of different interpretations of violent conduct owing to the personal value system of an individual expert;
- a victim of violence is any person that has suffered any defined form of violence irrespective of the personal circumstances of the person;
- victims who are minors enjoy special protection expressed in special, wider definitions of violence against them (taking into consideration the provisions of the Convention

on the Right of the Child on observing their benefits before the benefits of other participants in a procedure, especially the duty of institutions to implement special measures for their protection according to the Act applicable to family relationships);

- it provides for special care in the treatment and provision of help for the elderly and disabled. Experts will have to gain additional knowledge on the particularities of domestic violence against such persons and the special working methods for work with such persons will have to be developed within the framework of protocols;
- a social work centre is the responsible case authority and all other institutions and non-governmental organisations have an obligation to immediately notify a social work centre of instances of violence (if the victim of violence is a child then they must notify the Police or the State Prosecutor's Office as well). When an adult victim is expressly against the notification to a social work centre, such a notification is not given in cases of minor forms of violence (when there is no criminal offence that is prosecutable ex officio) since such a person, as an independent adult, has the right to decide on her/his way of life;
- a victim may choose an assistant to accompany her/him in all procedures relating to the violence in order to offer protection of the victim's integrity and for emotional support;
- State institutions and non-governmental organisations must protect the identity of a victim and the perpetrator of the violence as this reduces or prevents trauma experienced by a victim due to public exposure;
- authorities, organisations and non-governmental organisations are obligated to mutually coordinate their efforts and treat the victims of domestic violence preferentially and professionally. Such a method of treatment will be laid down by the ministers in detail in implementing regulations - e.g. protocols and therefore – and therefore the Act provides only the framework tasks of social work centres (even though they are the responsible case authorities) by means of an obligation to create an aid plan since the functioning of social work centres will be laid down in detail in a protocol.
- the Act establishes regional services for coordination and aid to victims and has analytical and operative tasks within the treatment of domestic violence case;
- the Act provides greater victim protection, especially through the following three measures:
  - an obligation of the Police to provide a victim protection when entering the victim's home in order to take items for the basic living needs of the victim;

- in a non-contentious procedure, a court on a victims' petition may prohibit contact by the perpetrator with the victim;
  - in a non-contentious procedure, a court may, on a victim's petition, order the perpetrator of the violence to leave the common dwelling for the victim's exclusive use.
- in judicial procedures initiated by a victim on her/his petition after the expiry of measures under this Act, the victim may obtain free legal assistance whereby the victim's living conditions arising from the acts of the perpetrator of the violence are taken into account and not the victim's financial conditions.

## **5. RESOLUTION OF NATIONAL PROGRAMME OF FAMILY VIOLENCE PROTECTION 2009-2014**

Domestic violence occurs irrespective of social-economic situation, gender, age, ethnic affiliation or other personal circumstances of family members. It is a question of social power abuse: the need of one person to prevail over and control another person. Such a behaviour pattern is the result of a disproportionate distribution of power between genders, and between parents and children. Therefore, it is necessary to provide the victims of domestic violence with a safe environment and appropriate assistance in resolving urgent problems. This can only be achieved when the State works in concerted actions in all legal areas and does not limit itself only to criminal law.

On 27 May 2009, the National Assembly of the Republic of Slovenia adopted, without a single negative vote, the *Resolution of National Programme of Family Violence Protection 2009-2014*, which is a strategic document defining the objectives, measures and key providers of policies on the prevention and reduction of domestic violence in the Republic of Slovenia in the period from 2009 to 2014. The two fundamental objectives of this document are to coordinate the measures of different ministries and to provide an effective action for the reduction of domestic violence by recognising and preventing it. The actual tasks and actions for achieving the objectives and for implementing individual measures will be laid down in detail the deadlines and implementation methods and will be prepared every two years.

The fundamental purpose of the *National Programme of Family Violence Prevention* is to direct the efforts of State institutions and civil service towards creating conditions and circumstances that will enable the inhabitants of the Republic of Slovenia to live in a safe environment, and to have a safe and functional individual and family life. The Document emphasises the importance of planned and coordinated programme implementation on reducing family violence for the benefit of victims and also the perpetrators of violence. Authorisations of individual State institutions and civil service which are functioning in a well organised way contribute to reducing domestic violence and certainly to the more frequent notification of violent conducts.

One of the important objectives of the *National Programme* is an increase in the general sensitivity on issues of violence, especially when children are exposed to it within a family context. Efforts of authorities and organisations must be supplemented with awareness that we are all co-responsible for the society in which we live and that we should give all possible help to children and adults wishing to leave a cycle of violence.

The objectives followed in the *Resolution of National Programme of Family Violence Protection* are:

1. reducing domestic violence and violence in wider society in general;
2. increasing sensitivity on issues of domestic violence;
3. ensuring the coordinated actions of responsible authorities and organisations;
4. stimulating diversity, equal access, development and quality implementation of programmes for assisting victims;
5. stimulating diversity, equal access, development and quality implementation of programmes for work with perpetrators of violence;
6. ensuring the systematic awareness of children, youth and adults of their fundamental human rights and obligations, and providing education for life in a society without violence, for intergenerational harmony and respect for all people;
7. stimulating awareness, especially of those that are exposed to domestic violence, on the possible forms of assistance and on ensuring the accessibility to assistance throughout the country;
8. providing regular sources of finance for assistance programmes.

## **6. Rules on the organization and work of multidisciplinary teams and regional services and on actions of social work centres in dealing with domestic violence**

On 21 April 2009, the *Rules on the organization and work of multidisciplinary teams and regional services and on actions of social work centres in dealing with domestic violence* came into force through which the Republic of Slovenia grew closer to providing the objectives on coordinated actions of responsible authorities and organisations. The Rules are the common denominator, namely a protocol that will be adopted by the ministers responsible for health, education and internal affairs (the Police) with an agreement of the minister responsible for labour, family and social affairs. The essence of these protocols is that the information reaches the responsible authority (for example, a social work centre) when domestic violence is detected, irrespective of where or by whom.

The Rules also lay down in detail the functioning of multidisciplinary teams for the treatment of domestic violence. The multidisciplinary approach (which at the same time means a multi-institutional approach) represents collective operations that include national and non-governmental organisations. The objective is to develop a coordinated and; therefore, an efficient approach in the treatment of domestic violence. The *Family Violence Prevention Act* and, on its basis, the adopted *Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centres in the treatment of domestic violence* provides for such a cooperation through:

- an obligation of social work centres to create multi-disciplinary teams;
- an obligation of cooperation between authorities and organisations with social work centres (for example, even in a case where a child carer in a kindergarten notices that a mother has brought a child on whom there are noticeable marks of physical violence);
- the establishment of regional services for coordination and aid to victims; and
- an obligation to disclose information to social work centres.

## **7. PROVISIONS IN OTHER ACTS**

The *Family Violence Prevention Act*, together with the implementing Rules mentioned above refer to assisting victims of domestic violence and the perpetrators of violence, and to regulating and coordinating the actions of authorities in the area of domestic violence prevention. However, it is important to note that the *Family Violence Prevention Act* connects

and supplements many other Acts having principals which in one way or another concern the prevention of domestic violence.

One of these Acts is the *Police Act*, in its amendment of 2003, introduced the possibility for the Police to order a restraining order prohibiting an approach to a place or person in cases where domestic violence is a minor offence. The Police issues a restraining order for 48 hours and an investigating judge may extend it to a total of 10 days. This measure can be used since 26 September 2009, when the *Rules on restraining order prohibiting approach to a certain location or person* came into force. Since the amendment of the *Police Act* in 2006, it is possible to issue a restraining order not only for minor offences with violent elements but also for violent criminal offences. In 2005, the Police issued 152 restraining orders prohibiting an approach to a place or person, in 2006 – 281, in 2007 – 500 and in 2008 – 553.

The other Acts that directly or indirectly concern the prevention of domestic violence are:

**a) Social Security Act:** among other measures includes help to families which, aside from services within the framework of family help at home, includes 'help in dealing with relationships between family members'. Help to people of domestic violence is also provided within the framework of the services for personal help and initial social assistance. The treatment of family violence undoubtedly falls within the framework of services for 'dealing with relationships between family members' which means that the treatment of this problem falls within social services even under the existing legislation.

On 31 March 2006, the Assembly adopted the *Resolution on the National Social Assistance Programme until 2010*. Of special importance in this *National Programme* is the definition of national objectives for social assistance and the strategy for their implementation. The National Programme does not expressly refer to the treatment of victims of domestic violence within any of its strategies; however, it does refer to work with the victims of violence which undoubtedly includes victims of domestic violence:

- the Act, within the framework strategy for achieving the first objective 'contributing to greater social inclusion of individuals and connection of Slovenian society', also refers to the special care for vulnerable population groups and in the list is victims of violence;
- within the framework of the second objective of 'improving the access to services and programmes', the National Programme exposes the need for interdisciplinary team work for coordinating expert actions in the event of the abuse or neglect of children



and emphasises that the legislation will clearly define the coordinating role of social work centres;

- within the framework of measures for the development of the public service network, counselling and organising the social assistance of individuals, including victims of violence, are determined as a public social security service and the quota of 40,000 inhabitants per 1 expert worker applies;
- public social services programmes supplement social services and includes the quantitative and organisational measure of providing ‘a network of maternity homes and shelters for women, with a total capacity of 350 places throughout all regions’;
- in the National Programme, the State undertook to stimulate and cofinance development and experimental programmes, including (1) a network of teams for telephone counselling, including to victims of violence, (2) a network of centres for psycho-social assistance to victims of violence that ensures regional coverage according to statistical regions.

**b) Housing Act:** includes an extensive article on leasing a non-profit apartment which the earlier Act did not include and the criteria for awarding such an apartment including social conditions (Article 87(6)).

The Ministry of the Environment and Spatial Planning adopted the *Rules on renting non-profit apartments* for carrying out public tenders. These Rules devote special attention to resolving the living issues of victims of domestic violence in the following ways:

- victims of domestic violence compete at a tender for non-profit apartments while in a temporary residence (otherwise the criterion is the permanent residence). The provision of Article 3(2) of the Rules provides: ‘Victims of domestic violence with temporary residence in maternity homes or refuge safe houses, shelters and centres for the assistance of victims of criminal offences may participate in the tender for renting non-profit apartments even in a place of temporary residence’;
- the Rules also expressly list the victims of domestic violence (Article 6) as a preferential category for awarding a non-profit apartment. The lessor determines preferential categories for each tender.

**c) Marriage and Family Relations Act:** does not contain express provisions that would protect an adult against domestic violence (for example, protecting one spouse against the violence of the other spouse, or parents against the violence of a child or an elderly family member). The Act does contain a number of provisions intended for the protection of children against violence of their parents. In Article 119 it provides that a social work centre has an obligation to take steps required for the care of a child and for the protection of their property. Therefore, the Act gives a social work centre the general authority to take any measures for the protection of children's interests. Other relevant measures under this Act are:

- a court or a social work centre may limit or revoke the right of parents to personal contact with a child;
- a social work centre may take a child from the parents and place him/her into care with another person or an institute;
- a court may revoke parental rights.

**d) Civil Procedure Act:** in Article 411 provides that a court may, during procedures on matrimonial actions and actions concerning relationships between parents and children, issue on a petition of a party or ex officio interim orders on the care and maintenance of joint children as well as interim orders pursuant to which a right to personal contact is withheld from one or both parents. In a matrimonial action a court also issues on a petition of a spouse an interim order for the petitioner's maintenance and a temporary eviction of the other spouse from the common accommodation if this is necessary for the prevention of violence. These interim orders are issued according to the provisions of the *Execution of Judgements in Civil Matters and Insurance of Claims Act*.

**e) Equal Opportunities for Women and Men Act:** does not introduce any special measures for the protection of victims of domestic violence but, as the umbrella act on ensuring equal opportunities for women and men in various areas of social life, it indirectly also deals with domestic violence against women. In the *Resolution on the National Programme for Equal Opportunities for Women and Men 2005-2013*, concrete objectives and measures are laid down for reducing violence against women in a domestic environment and partnership relationships which are adopted as the basis in the proposal of the *Family Violence Prevention Act*.

Ultimo ratio, domestic violence also concerns criminal law. Domestic violence in KZ-1 is defined as an independent criminal act in the chapter 'Criminal Offences against Marriage, Family and Youth'. The criminal offence is defined relatively broadly since it may be

committed by any one who maltreats, hits or in any other way painfully or humiliatingly treats another within the family community, or who, with a threat of a direct attack over life or body, pursues the other person to leave the common residence or limits the freedom of movement, pursues, forces to work or not to work, or in any other way with a violent restraining of equal rights puts the other person in the relationship into a subordinate position. For the primary form of the criminal offence and for this criminal offence committed in some other permanent relationship, a prison sentence of 5 years is prescribed. If the primary form of the criminal offence is committed against a person with whom the perpetrator lived in a family or other lasting relationship that has disintegrated, the perpetrator is punished with a prison sentence of up to 3 years for the offence committed in this relationship. Other forms of incrimination whose purpose is the protection of life and body, sexual integrity and reputation concerning which a close relationship between the perpetrator and the victim is not an exculpation reason since 1974, must not be neglected.

From the point of minor offences, domestic violence is also addressed in the *Protection of Public Order Act* that was adopted in 2006 and gives special attention to domestic violence since, in the minor offence of 'violent and bold behaviour' under Article 6, it includes a close relationship between the perpetrator and the injured party as the reason determining the level of penalty laid down for the primary form of the minor offence.

Issues of domestic violence are indirectly addressed by the *Criminal Procedure Act*, especially from the point of measures representing a protection of the victim of a criminal offence of domestic violence and a prevention of secondary victimisation:

- Article 65(3): for all criminal offences, an injured party who is a minor must have a representative from the time the criminal procedure is initiated onwards, who protects the rights of the minor, especially in relation to the protection of the minor's integrity during a court hearing and on the assertion of a property claim. An injured party who is a minor and does not yet have a representative is granted a representative ex officio by the court among attorneys-at-law;
- Article 236(3): A minor person who - when considering the age and mental development of the minor - cannot understand the importance of the right that he/she does not have to testify, is not permitted to be examined as a witness unless requested to do so by the defendant;

- Article 240(4): during an examination of a minor person, especially when such a person was injured by a criminal act, it is necessary to be considerate in order for the examination not to have negative effects on the mental state of the minor. If necessary, an examination of a minor may be carried out with the assistance of a pedagogue or another such expert. During an interrogation of a witness younger than 14 years of age a person whom the witness trusts may be present;
- Article 178(4): an investigating judge may order for the defendant to be removed during the examination if a witness does not wish to testify in the presence of the defendant, or the circumstances show that the witness will not speak the truth in the presence of the defendant, or in the event it will be necessary to conduct court identification after the examination of the witness. A defendant may not be present during an examination of a witness younger than 15 years of age who was a victim of a criminal offence under Article 65(3) of this Act;
- Article 327: A senate may by way of exception decide for the defendant to be temporarily removed from the court room (during the main hearing) if a co-defendant or a witness does not want to testify in the presence of the defendant or the circumstances show that in the presence of the defendant they will not speak the truth. After the defendant returns to the hearing, the confession of the co-defendant and the witness is read;
- Article 331: If a person not yet 14 years of age is being examined as a witness, a senate may decide to exclude the public during the examination. A minor person present at a main hearing as a witness or an injured party must be immediately removed from the court room after his/her presence is no longer required. An indirect examination of a person younger than 15 years who was a victim of a criminal offence under Article 65(3) ZKP is not permitted at a main hearing. In such cases, a court must order the records of previous examinations of these people to be read;
- Point 4 of Article 244a(2): An examination of a defendant or witness via videoconference may be carried out if it is not desirable or possible for the person to come for other legitimate reasons to the place of the authority carrying out the examination;
- Article 195a: If certain circumstances are present but there is a danger that a defendant would destroy the traces of a criminal offence, influence witnesses, participants or concealers, or would repeat the criminal offence, complete an attempted criminal offence or commit a threatened criminal offence, and it is possible to prevent these from occurring, a court orders a restraining order prohibiting the defendant from approaching a certain place or person.

## 8. CONCLUSION

Normative regulations on the prevention of domestic violence in the Republic of Slovenia show that in recent times the State has been increasingly active in the fight against domestic violence. A large step forward was made with the adoption of the *Family Violence Prevention Act* which defines domestic violence in detail and clearly lays down the obligations to report domestic violence, especially if it involves children. With its principals it does not infringe on other similar principles laid down in other Acts but; rather, supplements them as a result of which the authorities as well as the victims have a variety of solutions for the prevention of violence. Furthermore, the *Resolution of National Programme of Family Violence Protection 2009-2014* defines at the operative levels the priorities followed by the *Family Violence Prevention Act*. It deals with how to help the victims as well as the perpetrators of domestic violence by removing the effects of inflicted violence while at the same time the Act provides the foundations for preventative State actions. An efficient cooperation between authorities and a multidisciplinary (multi-institutional) approach is emphasised in the treatment of domestic violence which is the subject of *Rules on the organization and work of multidisciplinary teams and regional services and on actions of the social work centres in the treatment of domestic violence*.

Other Acts indirectly assist in the prevention of domestic violence since they also provide protective measures for the victims of domestic violence (the *Civil Procedure Act*, *Marriage and Family Relations Act*, the *Equal Opportunities for Women and Men Act*, the *Criminal Procedure Act*). The *Social Security Act* and the *Housing Act* provide certain types of assistance to the victims of criminal offences after the violence ceases and upon the occurrence of new economic circumstances (living without the violent partner), and the *Criminal Code* and the *Protection of Public Order Act* penalise domestic violence and they partially act preventatively while at the same time they are indicators of the values of Slovenian society.

In conclusion, we are of the opinion that the Republic of Slovenia has a well established basis for a fight against domestic violence which has to be utilised in practice as best as possible. We are also of the opinion that with State actions we provide a sufficiently high level of observance of human rights for the victims as well as for perpetrators of domestic violence.

I would like to take this opportunity to thank the Ministry of Labour, Family and Social Affairs, the Office of Equal Opportunities, the Institute Emma – Centre for helping victims of violence, the Association Against Violent Communication, the Society Ključ – Centre for the Fight Against Trafficking in Human Beings, the Association SOS telephone for women and children – victims of violence, Women's Counselling Service, Amnesty International Slovenia

and Unicef Slovenia who all contributed material for the exhibition of national campaigns on the fight against domestic violence that will take place concurrently with the conference in Norway.

The Republic of Slovenia is aware that preventative actions, raising awareness of domestic violence issues and emphasising the positive values of society at a governmental level as well as at the level of non-governmental organisations are all very important. We believe that this will contribute to limiting this deeply rooted problem in society.

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