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ПРАВНИ ФАКУЛТЕТ У НОВОМ САДУ



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ÁLLAM- ÉS JOGTUDOMÁNYI KAR

**Хармонизација српског и мађарског права са правом
Европске уније**

**A szerb és a magyar jog harmonizációja az
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**Harmonisation of Serbian and Hungarian Law
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COVID-19 PANDEMIC AND DOMESTIC VIOLENCE

Abstract: *Domestic violence was a real issue in Hungary also before the pandemic. The Government realised it and responded to it, even if Hungary hasn't ratified the Istanbul Convention yet. The newly established Victim Support Centres mean a real help for those parents and children who suffer at home because of a family member. In the last one year a lot of things have changed around us and we had to get used to them, but it is not that easy for those who cannot get away because of the lockdown and have to stay in a poisonous relationship. According to the statistics the number of victims increased not only in Hungary but in the whole European Union. The biggest problem is that there are plenty of victims who don't show up in statistics and don't dare to turn to the police or ask for help, they just suffer mutely. In my presentation I would like to present the psychological reasons behind the facts and try to offer some solutions to their situation. Because we cannot help them if we don't see their motives.*

Keywords: *domestic violence, abuse, COVID-19 pandemic, shelters, psychological features of victims, features of perpetrators.*

Introduction

Home is not always a safe place to live. The COVID-19 pandemic has created a paradox as regards staying safe at home. Globally 243 million women and girls (aged 15-49) have been subjected to sexual and/or physical violence perpetrated by an intimate partner in 2019. In 2020 in order to curb the spread of COVID-19 quarantines, social isolation, travel restrictions and stay-at-home orders have been adopted. Although these measures can be effective to control the spread of the disease, they have a profound impact on society leading to social, financial and psychological repercussions. Isolation may impose or worsen vulnerabilities due to a lack of established social support systems.¹ The number of reported domestic

¹ Brad Boserup, Mark Mckenney, Adel Elkbuli: „Alarming trends in US domestic violence during COVID 19 pandemic.” *American Journal of Emergency Medicine*. 2020. 04. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7195322/> (21.10.2021.)

violence cases has increased as security, health and money worries heighten tension and strains are accentuated by cramped and confined living conditions. As stay-at-home orders expand to contain the spread of the virus, victims with violent partners increasingly find themselves isolated from the people and resources that can help them.² Currently there are limited reliable data on domestic violence during the pandemic. We can only estimate the severity of this problem with uncertain data. Only one thing is sure, we need to act immediately and properly to protect the victims to avoid the further, long-term consequences.

1. The definition of domestic violence

Domestic violence is a rather complex phenomenon, manifested in different forms. Its basis can be the violent behaviour (which might cause physical, psychological, or sexual damages) and that the victim and the aggressor know each other well (relatives, distant family members, current or ex partners in cohabitation). The motive of the violent behaviour is to gain and have the power and control over the other party, become the dominant one. This aggressive behaviour is a vicious circle, it repeats itself and gets more and more severe. Women are disproportionately affected by domestic violence. However, abuse happens to men and occurs within same-sex relationships as well.

2. The features of domestic violence

Duress, assault, abuse, revolving physical and psychical torture are included in domestic violence.³ The likelihood of violent cases is increasing due to certain socio-cultural traditions (there are ancient, but somewhere still living Hungarian sayings like a “child learns only if being hit”, or “the woman is better beaten”), alcoholism, drug addiction, violence in former life that is violent vulnerabilities “inherited” after being brought up in such circumstances, watching action movies full of cruel scenes on a regular basis, and authoritarian personality.

3. Forms of domestic violence

Concerning domestic violence there are always an aggressor and one or more victims. The aggressor is mainly the father/husband but also the mother/wife happen to be occasionally. The victims are the children, the elderly, the sick, the women, thus, always the weaker ones.

As for the relationship between the victim and the aggressor we can distinguish partnership violence, violence against children or the elderly, or sick family members.

² United Nations for Women <https://www.unwomen.org/en/digital-library/publications/2020/04/issue-brief-covid-19-and-ending-violence-against-women-and-girls> (20.10.2021.)

³ Jenő Ranschburg: „A meghitt erőszak” Saxum Kiadó, Budapest 2006. 32.p

These types rarely occur separately. The appearance of violence can be physical (beat, hit, kick, wound by a weapon), psychical (humiliation, criticism, emotional blackmail, abuse of pet and objects), sexual (to express power), or economic and it can be simply negligence. Common tools of abuse in addition to physical violence include isolation from friends, family members and co-workers, constant surveillance, strict, detailed rules for behaviour and restrictions on access to such basic needs as food, clothing and sanitary products. Home isolation, however vital to the fight against the pandemic, unintentionally gives more power to the abuser.⁴

Unfortunately, this kind of behaviour, is still accepted and sometimes supported by the society. We read in newspapers that child abuse because of pedagogic reasons is inevitable, we see in the television that woman and man are not equal is a relationship, and the newsreader says that killing because of jealousy is OK, it must have been love. It happens more often in a male dominant environment.

4. Features of the perpetrator

A perpetrator can be a man or a woman but based on the physical strength usually women are the victims of physical aggression. Psychical terror happens more often if the aggressor is a female. The aggressor is usually kind and polite for the first time, it is very easy to fall in love with him, so it can be an answer to the question: why did she get married to a man like him. Green eyed behaviour develops gradually, but later they can be extremely jealous, because of uncertainty. They have problems with self-assessment, they are usually ego centric and prejudiced, and have low stress tolerance.

5. Features of the victim

The question pops up easily: why do they suffer mutely? Why don't they run away and ask for help? It is very important to know the features of the victim because we cannot help them unless we can see their motives. Probably a victim had grown up in an abusive family, has a very bad experience of the childhood, and maybe thinks that this is how a normal man-woman relationship looks like. They may feel co-dependence and really think that it is impossible to live without the spouse. Many of them would like to leave but are afraid to do so. Their intimate terrorist often convinced them they are useless and unable to fend for themselves. Maybe they have learned that they cannot count on the help of the society, this phenomenon is what psychology calls learned helplessness. Other reasons can be devotion, lack of self-esteem and the lack of capability to live on his/her own. Available

⁴ Amanda Taub: „A new COVID-19 crisis: Domestic abuse rises worldwide”. *The New York Times* 2020.04.06. <https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html> (21.10.2021.)

data show that less than 40% of the victims who experience violence seek help of any sort. Among those who do, most turn to family and friends. Less than 10% of those victims seeking help seek help from the police.⁵

The victims because of the constant abuse are at increased risk of experiencing difficulties of activities of daily living, gastrointestinal symptoms, chronic pain, memory loss, dizziness, headaches, emotional distress, depression, post-traumatic stress disorder, and suicidal thoughts and attempts. Those children who had to grow up in an abusive family – even if they were not abused personally, just had to witness the aggression of the parent against the other parent – are more likely to have problems with drug and alcohol use, violence, sexual risk taking, mental illness, smoking, cancer, cardiac and respiratory disease.⁶

6. The frequency of domestic violence

Contrary to public belief women, sometimes men and children are at a much higher risk within the walls of their homes than out on the street. According to statistics, it is more likely to become a victim of violence at home, and the aggressors in the great majority are relatives or family members. The 43% of homicides, and 30% of assault are committed in the family.

The “Élet Érték”⁷ Foundation compiled a statistic database, which says that in Hungary one in five women is involved in physical violence. The number of those women, who live in a relationship under psychical or economic terror, is hard to estimate, but approximately 200.000 women are currently affected by domestic violence, and 52 women die in connection with aggression at home. Unfortunately, we do not have statistics of the number of male victims.

7. The international antecedents of sanctioning domestic violence

The phenomenon of domestic violence was first researched in the United States of America.⁸ The Duluth model was accomplished as the result of the research, which is now applicable America-wide. Its purpose is to broaden the control of society, back up and strengthen the victim, restraint, punish and cure the aggressor. According to prevention there are school programs, and civil organisations also take a significant part in prevention and rehabilitation.

⁵ United Nations for Women <https://www.unwomen.org/en/digital-library/publications/2020/04/issue-brief-covid-19-and-ending-violence-against-women-and-girls> (20.10.2021.)

⁶ Jeremy Gibson: „Domestic violence during COVID 19”. *British Journal of General Practice* 2020.04.28. <https://bjgp.org/content/70/696/340> (19.10.2021.)

⁷ Means: life is precious.

⁸ Erzsébet Tamási: “A családon belüli erőszak vizsgálatának története”. *Családi iszonyok*, KJK Kerszöv, Budapest, 2005. 32-36.p.

In Europe the Austrian model had a great impact, because it – similar to the Duluth model – approaches the problem from different aspects (victim-protection, cure and punish the offender, family-therapy, mediation) emphasises to research the topic, alter the public opinion and providing them with information. The system lays on four main pillar's effective cooperation, which are the police, civil organisations, family courts, and criminal jurisdiction.⁹

Among International Organisations the United Nations has started the fight against violence against women and children at the beginning of the 80's. In 1996 the Human Rights Committee of the UN Economic and Social Council introduced a jurisdiction model for treating domestic violence, whose main sanction was to keep the offender away from the victim.¹⁰

The European Council has handled the struggle against domestic violence as an issue of great importance. Concerning this fight had been passed Recommendation 4/1985 by the Ministerial Committee, whose purpose was to raise society's attention, emphasise the significance of this phenomenon, and draft particular action plans. The next step was Recommendation 2/1990 on social provisions against domestic violence. Recommendation 1450 was passed in 2000 by the General Assembly, which urged to stand out against violence against women. The Ministerial Committee's Recommendation 5/2002 drafted similar purposes.

Recommendation 1582/2002 of the General Assembly of the European Council outlined the possible forms of domestic violence, and advised the member states to provide the victims with free legal counselling, psychological and financial support, effective protection, support the organisations which treat them, and the education of appropriate experts.¹¹ In the European Council's point of view in favour of human rights' protection, the most effective solution – in case of committing domestic violence – is to keep the aggressor away from the victim, that's why the European Council advises to enforce it in every affected state.¹²

The European Union also tries to stand out against violence against children. Their Program called "Daphne" provides support for every organisation which fights against violence against children, youngsters, and women.¹³

⁹ Zsuzsanna Szeremi: "Még ma is elfogadott? A családon belüli erőszak" *Rendészeti Szemle* 56. évfolyam, 2008. 2. szám 84.p.

¹⁰ Ágnes Dóra Alföldi: "A családon belüli erőszak megelőzésének és kezelésének nemzetközi és európai uniós eszközeiről". *Európai Jog* 2012/3. szám. 32.p.

¹¹ Erika Katonáné Pehr: "A gyermekbántalmazás nemzetközi megítélése – avagy hogyan fegyvelmezzük gyermekeinket" *Családi Jog*, III. évfolyam 2. szám 2005. június 18.p.

¹² Furthermore: Recommendation 2/1990 against domestic violence and 2/1993 about prevention of violence against children and neglect.

¹³ Furthermore: 1530/2007 and 1778/2007 Recommendations about destroying violence, exploitation and bourgeois treatment.

8. Sanctioning of domestic violence in the Hungarian law

In my view, the statutory approach to harassment, passed in 2008, was a very promising step. The restraining order aims to provide the family with temporary tranquillity by keeping the aggressor out for a while. During this period, they can think the case over, and take the necessary steps, ask for and get help. The main purpose is to treat the problem before tragedy happens. This system has been operating for a longer time in the United States and for a shorter in Europe.

Although restraining order is a very promising solution in case of domestic violence, it is not suitable to help the victim in a long run. If the aggressor temporarily – in Hungary for 72 hours – leaves the common home it means that he/she in three days inevitably comes back, and what's next? During that very short period nothing that can guarantee the victim's safety happens. That's why victims rarely move for the restraining order, as they know that it is only a provisional detente and when it is over, a much more furious aggressor will come back.

Solving the problem meets difficulties that the insulted woman usually doesn't leave the aggressor or returns to him. They almost never report the crime, or if they desperately go to the police asking for help, in a few days regret it and withdraw the complaint. In such cases, authorities are powerless. In those cases when the man commits a severe crime, and the victim's private motion and accusation are not necessary for the criminal procedure, the woman doesn't get away, even though she could. She waits for her man, but why? Because she is horrified of his revenge. She is isolated to such extent by the man by now that she has nowhere to go. She has no connection with friends or her family. She is economically dependent, has no wealth, job, education nor experiences. It is impossible for her to bring her children up alone, she doesn't want to leave them, so she suffers in silence. She has negative experiences about society's readiness to help. She feels that authorities don't understand her problem. It can be true, that for a person who has never had to suffer in a similar situation it is incomprehensible why she even married a man like that, why she gave birth to his children, and why she didn't leave him after the first slap. It can also happen that the criminal procedure can't be started or – if started – go on, because the aggressor threatens and terrifies the victim, and the commitment of the crime is improvable.

First of all, we need to understand the roots of the problem to be able to help the victims. The majority of abused women, almost with no exception, also had to live under suffering and being threatened in their childhood. Living under unpredictable circumstances and stress has set their self-esteem at a very low level. They really feel that they are unable to live without a man, that's why they can't break out of this vicious circle without a helping hand. They are involving in never-ending games¹⁴ just to feel again those painful and miserable torments which they had got

¹⁴ It is a strategy planned with purpose, but the motives are unconscious

used to in their childhood. They need it all the time to prove themselves their own defencelessness and nonentity. It doesn't mean that they marry an aggressor because they want to suffer for their whole life. Just on the contrary. What they really would like is only to run away from their parents' house hoping that the man will change and behave normally, as they give him love and care.¹⁵ So, first of all we need to understand what is going on in these women's mind and offer them a helping hand afterwards.

9. The Covid-19 pandemic

The Covid-19 pandemic broke out in the spring of 2020 in Hungary, and it quickly generated a social crisis. The Hungarian Government introduced emergency measures and issued a stay-at-home order from 17th of March 2020. As the community have gone into lockdown to stop the spread of coronavirus, the effort to save lives have put victims in abusive relationships more at risk. Unintentionally governmental measures granted people who abuse greater freedom to act without scrutiny or consequence.

It is well known that in times of pandemic, war or a natural catastrophe stress, frustration, and tension increases. Until recently the Ebola pandemic demonstrated that multiple forms of violence are exacerbated within crisis contexts, including trafficking, child marriage, sexual exploitation, and abuse. Something similar happened almost everywhere around the world during the COVID-19 pandemic. For example, in Spain the government claimed that calls to its helpline had risen by 20% in the first few days in the confinement period. In Cyprus calls to a similar hotline rose 30% at the first week after having the first coronavirus case at the island. In the UK it was reported that calls to the UK Domestic Violence Helpline increased by 25% in the seven days following the announcement of obligatory social distancing and other restrictive measures by the government. During the same period, there was a 150% increase in visits to the Refuge website.¹⁶ Homicide based on domestic violence doubled in the UK last March. But on the other hand, in Italy Telefona Rosa reported 55% decrease in calls to domestic violence helpline during the first two weeks of March 2020. Similarly in Norway a decrease in domestic violence calls and in the number of people contacting the police were reported. It seems to be a contradiction. The main reason for this decrease is the fear of disturbing medical doctors during the pandemic and of course the lack of opportunity to seek help.¹⁷

As far as Hungary is concerned, it is quite hard to find any reliable statistics, but we can say that in 2019 there were 392 reported domestic violence cases, in

¹⁵ Jenő Ranschburg: "A meghitt erőszak", Saxum Kiadó, Budapest 2006. 79.p.

¹⁶ Caroline Bradbury-Jones, Louise Isham: "The pandemic paradox: The consequences of COVID-19 on domestic violence". *Journal of Clinical Nursing*. 2020/1-3. 1.p.

¹⁷ Deniz Ertan et al.: „COVID-19: urgency for distancing from domestic violence". *European Journal of Psychotraumatology*. (2020.) 11:1. <https://www.tandfonline.com/doi/full/10.1080/20008198.2020.1800245> (15.10.2021.)

2020 much more, exactly 650, which means it increased by 65%. This data was revealed by Bernadett Szél who is an oppositionist politician. She said that she had found it on the website of the Ministry of Interior and Maria Herczog the most famous expert in children's rights said the same.¹⁸ They both said that it is very hard to estimate the proper number as the latency is very high. This is shocking because it is still the tip of the iceberg, as it was much harder to report a case without being noticed, because the victims were constantly monitored closely by the perpetrator. The only data I could manage to find is the following: usually 33 domestic violent cases are reported every month in Hungary, but in the first two months of the lockdown the number increased to 50. Homicide increased by 29%, rapes by 17%.¹⁹

It is clear that in times of prolonged confinement, conflict escalates, disputes become more frequent. The situation is further aggravated by the constant fear of illness, concerns about the health of family members, lack of physical contact with family members and friends, depressing news about the number of dead, possibly financial difficulties due to job loss, existential anxiety²⁰, furthermore bleakness, insecurity, uncertainty, isolation, overcrowding, poverty. The negative psychological impacts of quarantine, such as post-traumatic stress symptoms, confusion, and anger. Substance and alcohol abuse are also associated with the perpetration of domestic violence.

Victims had to stay at home with the perpetrator who was because of the insecure circumstances flustered, more frustrated, anxious and stressful than ever. We cannot imagine how intense psychological as well as physical mistreatment can get when people are kept 24 hours a day together within a reduced space. The vicious circle got shorter as the aggressor did not have to make the whole thing up, did not have to bag for forgiveness and behave normally for a while as he/she knew that the victim is unable to go away. It was almost impossible to ask for help, as the aggressor was present and close every time.

As the victim did not meet other people, nobody could see the signs although it is one way to ask for help. For survivors, particularly those who are marginalized or underserved, the pandemic could reinforce their mistrust in formal systems and alienate them further.

Furthermore, distance learning was hard for everyone. As children had to stay at home the whole day, they became excited and irritated, as they cannot

¹⁸ Zsuzsa Sándor: „A járvány alatt drasztikusan fokozódik a családon belüli erőszak – Herczog Mária az áldozatok védelméről”. 2021.02. <https://szeretlekmagyarorszag.hu/szempont/herczog-maria-interju-csaladon-beluli-eroszak-jarvany/> (11.10.2021.)

¹⁹ Péter Bucsky: „Márfélszeresére nőtt márciusban a családon belüli erőszak, a bűnözés negyedével csökkent”. <https://g7.hu/adat/20200423/marfelszeresere-nott-marciusban-a-csaladon-beluli-eroszak-a-bunozes-negyedével-csökkent/> (23.10.2021.)

²⁰ Zoltán Nagy: „A karantén kriminogén veszélyei”. <https://ujbtk.hu/dr-nagy-zoltan-a-karanten-kriminogen-veszelyei/> (23.10.2021.)

exercise or even move enough, so they disturbed their parents while they had to work from home. This situation was also a trigger for domestic violence.

10. How can we guarantee the safety of the victims?

It is essential to find new and innovative ways to provide support to victims through multiple platforms during the pandemic. It is vital to ensure access to domestic violence shelters and temporary housing for victims. It is important to help victims to gain economic stability, secure housing and assistance services. In case of immediate need, direct help in the form of cash or food must be provided.²¹ According to the Organisation for Economic Co-operation and Development the member states shall do their best to repress the social acceptance of domestic violence.²² Education is also very important, we shall talk about the problem it should not be a tabu anymore. We have to learn that domestic violence is not a privacy, in case of abuse or any harmful situation neighbours should intervene.

A lot of different measures were introduced all over Europe. For example, in the Canary Islands women can alert pharmacies about a domestic violence situation with a code message "Mask 19". In Spain those services which provide help and support to victims of domestic violence had considered essential which means they cannot be closed even during a lockdown. Belgium and France have launched an awareness campaign to call the attention to the problem.²³ With disruptions to the criminal justice system, countries have shifted to virtual court hearings, facilitated online methods for obtaining restraining orders and communicated their intentions to continue to provide legal protection to victims.²⁴ In Italy and Belgium the government reserved empty hotel rooms to serve as makeshift shelters where victims could quarantine safely, because shelters exceed their capacity. In Italy instead of the victim having to leave the house of an abuser, prosecutors have ruled that in situations of domestic violence the perpetrator must leave the family home.²⁵ In Hungary crisis centres, victim support centres and covert shelters got more support from the government, and tried to increase their capacity, although helpline could only operate without personal contact, they worked only online.

²¹ Deniz Ertan et al.: „COVID-19: urgency for distancing from domestic violence”. *European Journal of Psychotraumatology*. (2020.) 11:1. <https://www.tandfonline.com/doi/full/10.1080/20008198.2020.1800245>

²² Andrea Domokos: „Az erőszak megnövekedése pandémia idején”. *Glossa Iuridica* VIII. évfolyam különszám. Vírus és Etika. Budapest 2021. KRE ÁJK. 84.p.

²³ Deniz Ertan et al.: „COVID-19: urgency for distancing from domestic violence”. *European Journal of Psychotraumatology*. (2020.) 11:1. <https://www.tandfonline.com/doi/full/10.1080/20008198.2020.1800245>

²⁴ Caroline Bettinger-Lopez, Alexandra Bro: „The double pandemic: Domestic violence in the age of COVID 19.”

<https://www.cfr.org/in-brief/double-pandemic-domestic-violence-age-covid-19> (24.10.2021.)

²⁵ United Nations for Women <https://www.unwomen.org/en/digital-library/publications/2020/04/issue-brief-covid-19-and-ending-violence-against-women-and-girls> (20.10.2021.)

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Covid-19 világjárvány és családon belüli erőszak

Absztrakt: *A családon belüli erőszak már a világjárvány előtt is fontos ügy volt Magyarországon. A kormány felismerte a jelentőségét és megfelelő intézkedéseket tett, még ha az Isztambuli Egyezmény ratifikációjára nem is került sor ezidáig. A közelmúltban létrehozott Áldozatsegítő Központok valódi és komoly segítséget jelentenek azoknak a szülőknek és gyermekeknek, akik a saját otthonukban családon belüli erőszak áldozataivá válnak. Az elmúlt egy évben sok minden megváltozott körülöttünk, mely változásokhoz alkalmazkodnunk kellett, ám ez nem olyan egyszerű azok számára, akik a kijárási korlátozások és a karantén intézkedések miatt nem tudnak elmenekülni a mérgező kapcsolatukból. A statisztikai adatok tanúsága szerint az áldozatok száma növekedett ez idő alatt, nem csak Magyarországon, hanem egész Európában. A legnagyobb baj az, hogy rengeteg áldozat nem jelenik meg a statisztikai adatokban, mert nem mernek segítséget kérni, hanem hangtalanul szenvednek. Tanulmányomban szeretném bemutatni a tények mögött rejlő pszichológiai okokat, és igyekszem megoldási javaslatokat tenni, mert nem segíthetünk az áldozatoknak, ha nem ismerjük a motivációikat.*

Kulcsszavak: *családon belüli erőszak, bántalmazás, COVID-19 világjárvány, az áldozatok pszichológiai jellemzői, az elkövetők jellemzői.*

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Пандемија COVID-19 и насиље у породици

Сажетак: Насиље у породици представљао је озбиљан проблем у Мађарској и пре пандемије. Влада Мађарске је успела да прекозна и одговори на проблем, иако још увек није ратификовала Истанбулску конвенцију. Новосновани Центри за подршку жртвама пружају одговарајућу помоћ оним родитељима и деци која у кућним условима сарађују због понашања неког члана породице. Преходна година донела је многе промене на које смо морали да се навикнемо, али то није тако једноставно онима који не могу да се, због карантина, извуку и морају да остану у оксидној вези. Према статистичким подацима, број жртва је порастао не само у Мађарској, већ и у целој Европској унији. Највећи проблем је што има доста жртва које нису део статистике и које се не усуђују да се обрате полицији или израже помоћ, већ само немоће. У раду ће бити приказани психолошки разлози иза чињеница како би се понудила нека решења за њихову ситуацију. Не можемо да им помогнемо ако не прекознајемо њихове мотиве.

Кључне речи: насиље у породици, злостављање, пандемија COVID-19, сигурне куће, психолошке карактеристике/особине жртве, карактеристике/особине насилника.