



Lucić, Nataša¹
Guštin, Matko²
Filipović, Samanta³

WHAT HAS THE COVID-19 PANDEMIC TAUGHT US ABOUT THE (IN)EFFECTIVENESS OF LEGAL PROTECTION AGAINST DOMESTIC VIOLENCE?

Abstract:

Combating domestic violence requires an interdisciplinary approach to solving this serious social problem, with law, legal practice and science playing a very important role. Theoretically, it appears as physical, psychological, sexual and economic violence, while the victims are mostly weaker social groups - women, children and the elderly. Numerous international documents, as well as national regulations in the field of family, criminal and misdemeanor law, provide protection against domestic violence, but statistical indicators do not

... speak in favor of sufficient effectiveness in their application in practice. The COVID-19 pandemic has in a way further intensified the existing ones, but also created new challenges in the fight against domestic violence. Measures of social isolation, unavailability of competent institutions and general uncertainty are just some of the causes that have contributed to the increase in the number of cases of domestic violence, and the possibility of protecting victims of such treatment.

Keywords:

domestic violence; victim; legal protection; efficiency; pandemic COVID-19

Author's data:

¹Nataša Lucić, PhD, Associate Professor, Josip Juraj Strossmayer University of Osijek, Faculty of Law Osijek, Stjepana Radića 13, 31 000 Osijek, Croatia, nlucic@pravos.hr

²Matko Guštin, Master of Laws, Assistant, Josip Juraj Strossmayer University of Osijek, Faculty of Law Osijek, Stjepana Radića 13, 31 000 Osijek, Croatia, mgustin@pravos.hr

³Samanta Filipović, Master of Laws, samantafilipovic1@gmail.com

This paper is product of work that has been fully supported by the Faculty of Law Osijek Josip Juraj Strossmayer University of Osijek under the project nr. IP-PRAVOS-2 „Legal protection of family and vulnerable groups of society“.

Introduction

Domestic violence, which destroys family relations and tears families apart, leaves their members with various consequences, from emotional and health to economic ones. Despite the fact that numerous international and national legal sources, as well as various measures taken by the competent authorities attempt to take preventive measures to prevent domestic violence and sanction perpetrators in the event of violent acts, domestic violence is still a very serious social problem. As a result of COVID-19 social isolation measures, domestic violence became “invisible”, and the impossibility for a victim to contact the relevant institutions made the situation more difficult. The factors that can be highlighted as contributing to the increased rate of violence during the pandemic include problems related to job loss, uncertainty resulting from the duration of the pandemic, and the lack of social relationships. The fight against domestic violence and the protection of victims' rights that are guaranteed by international and national regulations should not be jeopardized by such exceptional circumstances as a pandemic, yet this has nevertheless been the case. This paper seeks to answer the question to what extent the pandemic has led to an increase in cases of domestic violence in Croatia compared to some other countries, and what these exceptional circumstances may have taught us about the (in)effectiveness of legal protection against domestic violence for the future. With this in mind, the objective of this paper is to define the term “domestic violence” and its forms of

manifestation, and then provide a brief overview of international and national sources of legal protection against such forms of treatment. It will analyze relevant statistical data on the number of cases of domestic violence in Croatia and other countries, measures for the protection of victims and will provide certain recommendations for the future in conclusion.

Domestic violence - definition and manifestations

Domestic violence can occur in many different forms, and most often certain forms of violence occur simultaneously rather than alone. Psychological abuse is any non-physical abuse that impairs the dignity or well-being of a victim.[51] Psychological abuse involves emotional abuse in which the perpetrator's goal is to exert power and control over a victim. This usually includes various prohibitions that are not appropriate for the age of a victim, for example, forbidding them to socialize with friends, prohibiting them from finding a job, threats to the victim or their relatives, insults and humiliation, public ridicule, constant control, stalking, exclusion from social networks, etc. Such behavior towards the victim significantly affects the victim's mental health, self-image, self-esteem, and personality.[2] Physical violence means any violence that refers to any form of intentional physical abuse, such as pushing, choking, pulling hair, pressure, hitting (with hands, feet or objects), inflicting injuries and burns, locking a victim out of a house, locking a victim in a room, etc.[2] [68]

Sexual violence is defined as any unwanted sexual behavior by another person that results in humiliation and compromising the dignity and safety of the victim.[2] The World Health Organization defines sexual violence as any sexual act or an attempt to obtain a sexual act, unwanted sexual comments or advances, directed against a person or a person's sexuality.[72] Economic violence involves restricting access to and seizing of the victim's financial resources, preventing the victim from disposing of their property, manipulating and forcing the victim to give up property for the benefit of a violent family member, etc.[62]

Anyone can be a victim of domestic violence, regardless of gender, age, social status, education, sexual orientation, or financial situation. However, women, children, and the elderly and infirm tend to be the most common victims. [2] In modern society, particular emphasis is placed on economic violence against women, in which case they have no or limited access to financial resources.[41] Child abuse manifests itself in physical, sexual, and emotional abuse and neglect.[9] Physical violence is characterized by physical injury to a child, regardless of whether such injury was intentional or the result of carelessness.[9] Sexual abuse refers to any sexual act with a child, while psychological violence refers to any threats to the child, disproportionate discipline, and other.[9] In contrast to abuse, child neglect is any failure by parents or guardians to act in a manner that may have harmful consequences for the child.[9] Thus, in the aforementioned forms of violence against children, the fundamental

difference lies in their perpetration or omission. Violence against the elderly and infirm is also manifested as physical, psychological, sexual, or financial abuse and neglect,[75] so the difference in approach is based on the act or its omission.

Legal framework for protection against domestic violence

International legal framework

Several international legal sources prohibit violent behavior and guarantee the protection of victims. What follows is a brief analysis of some of the key international global and regional documents that are relevant to this issue.

Any form of violence, including domestic violence, was prohibited already in the 1948 Universal Declaration of Human Rights,[65] which provides in Art. 5 that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Similarly, Art. 7 of the International Covenant on Civil and Political Rights of 1966 [38] also stipulates that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment, which in the broadest sense would include the prohibition of domestic violence. Domestic violence results in a violation of the principle of equality. Art. 3 of the International Covenant on Economic, Social and Cultural Rights[39] requires the States Parties to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights. The commitment to protect these rights also illustrates the complexity of the issue of domestic violence and its ubiquity. The Convention on the

Elimination of All Forms of Discrimination against Women [18] does not explicitly refer to the concept of domestic violence towards women in any of its provisions, but it does call for the strengthening of their equality in the family and the prohibition on any form of discrimination. [56] Subsequently, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women [52] was adopted, which established the Committee on the Elimination of Discrimination against Women, an action that can be interpreted as an effort to provide women with protection against domestic violence. In 1993, the Declaration on the Elimination of Violence against Women [63] was adopted, which, for the first time ever, addressed violence against women, types of violence, and women's rights (exercised equally with men). It also established the responsibilities of States regarding the prevention of domestic violence. Multiple international instruments protect children from violence. [69] [9] In accordance with Art. 19 of the 1989 Convention on the Rights of the Child [63], the Signatory States shall take appropriate measures (legislative, administrative, social and educational) to protect children from all forms of violence. In addition to indicating the general obligations of a State to prevent violence against children, the Convention emphasized the additional obligation contained in Art. 39 - Social (re)integration of children following any violence perpetrated against them, which should be interpreted in accordance with the child's best interests and the fact that violence against children has long-term consequences. [24]

While the Council of Europe's main document, the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter: ECHR) [26] does not explicitly provide protection against domestic violence, the relevant ECHR provisions on protection against domestic violence are certainly those guaranteeing the right to life (Art. 2), the prohibition of torture (Art. 3), the right to respect for private and family life (Art. 8) and the prohibition of discrimination (Art. 14). According to the case law of the European Court of Human Rights (hereinafter: ECtHR), domestic violence violates the physical integrity and the right to protection of private life of the victim of abuse. Meanwhile, Member States have an obligation to protect family members from violence by establishing an adequate legal framework. [28] States have a positive obligation to ensure adequate protection for victims, while taking into account that often even minor forms of violence result in more serious consequences. [60] In a number of cases, the ECtHR has handled domestic violence or matters relating directly to it. Recent Croatian cases before the ECtHR include: Branko Tomašić and others v. Croatia, [12] A. v. Croatia, [11] Ž.B. v. Croatia, [15] Galović v. Croatia [13] and Maresti v. Croatia. [14] By analyzing the recent case law of the ECtHR in cases against Croatia related to domestic violence, it is apparent that in Croatia, the problem with sanctioning domestic violence lies not in the normative approach, but in the institutional approach. In general, the competent authorities fail to act quickly enough, even though such situations require urgent action. This challenges the very attempt to sanction, as well as to prevent

domestic violence as a social problem. It is critical to detect any potential domestic violence, especially psychological violence that manifests itself through verbal threats, as the lack of response by the competent state authorities when this occurs, will lead to the repeated occurrence of domestic violence.

Since 2018, the Istanbul Convention [19] has been incorporated into the Croatian legal system, the importance of which is reflected in the fact that it provides a definition of violence against women and domestic violence, while advocating total equality between women and men (Art. 1-3 of the Istanbul Convention). [74] [53] [55] [35] The Istanbul Convention offers a comprehensive approach to the issue of domestic violence by establishing preventive mechanisms, providing adequate support to victims, and strengthening the criminal justice system to punish perpetrators of domestic violence. The Istanbul Convention, like other international instruments, sets up the obligations of States aimed at preventing domestic violence (Art. 4 of the Istanbul Convention).

In addition, there are instruments of the European Union, such as the Charter of Fundamental Rights of the European Union (hereinafter: CFR) [16], that guarantee protection against domestic violence. Some of the CFR provisions include the inviolability of human dignity (Art. 1), the right to life (Art. 2), the prohibition of torture and inhuman treatment (Art. 4), non-discrimination (Art. 21), and the promotion of equality between women and men (Art. 23). The CFR in its many provisions generally follows other international legal instruments with respect to protection from domestic violence. [1]

The Directive on establishing minimum standards on the rights, support and protection of victims of crime (hereinafter: Directive) [23] [6] defines gender-based violence, as well as violence in close relationships (paras. 17 and 19 of the Directive), which aims to provide victims with support in a manner that ensures they have adequate information, assistance, and protection with the possibility to participate in criminal proceedings (Art. 1 of the Directive). It is thus evident that the European Union, through this Directive, has sought to work towards ensuring equal rights of victims of domestic violence, something that has been recognized as a serious social problem in its Member States. More specifically, it establishes minimum standards regarding the protection of victims of crime, [57] which in this case includes domestic violence.

National legal framework

Within the national context, protection against domestic violence is regulated by criminal law, misdemeanor law, but also family law. Article 179a of the Criminal Code [20] (hereinafter: CC) regulates the crime involving domestic violence. In accordance with this Article, whoever seriously violates the provisions on protection against domestic violence, thereby causing a family member or a close relative to fear for their safety or the safety of their close persons, or putting them in a humiliating or degrading position, without committing other serious criminal offense, shall be punished by a term of imprisonment of between one to three years. The scientific literature points out that there is still the problem of the vagueness

concerning the “gross violation of legislation.” Problematic is primarily whether it is the frequency of misdemeanor violations or the severity of the offense. The case law considers that the term “gross violation” refers to the frequency of violations, that is, to the repeated violation.[56] [44] It follows that the criminal act of domestic violence regulates acts of psychological and physical violence. According to some authors, psychological violence under Art. 179a of the CC exists in cases involving repeated and severe psychological bullying and harassment involving serious threats, which are not harmless, and in which the perpetrators have committed serious criminal acts against life and body after making the threat.[45] If psychological violence is considered from the aspect of misdemeanor, it involves serious abusive speech, shouting, insults, belittling.[43] In the case of physical assault, there shall be no injury, because in that case the assault would be considered a criminal act in accordance with the CC. Within the meaning of Art. 179a of the CC, there is physical violence where there is continuity, intensity and reckless violent behavior. [68] [44] [59]

When looking at domestic violence from the perspective of misdemeanor law, the Family Violence Protection Act [30] (hereinafter: FVPA) is applied as a *lex specialis*, whereas in proceedings arising from domestic violence under the FVPA, the provisions of the Misdemeanor Law [49] (hereinafter: ML), the Criminal Procedure Code [21] (hereinafter: CPC) and the Law on Juvenile Courts [42] (hereinafter: LJC) have been applied subsidiarily. In conclusion, the FVPA represents a

basic regulation for protection against domestic violence, as it establishes the fundamental rights of victims of domestic violence, defines a “family member” and provides for sanctions on perpetrators of domestic violence. The underlying procedural features of the FVPA state that the authorities dealing with domestic violence should proceed expeditiously (Art. 4 of the FVPA) and, with respect to the victim, specifically the child, protect the dignity of the incapacitated person and the elderly person (Art. 5 of the FVPA). Some of the rights of victims of domestic violence include the right of access to special services, the right to psychological care, the right to protection from intimidation or retaliation, the right to a representative, the right to confidentiality, the right to temporary housing, the right to police protection, and many more (Art. 6 of the FVPA). It is therefore obligatory for the competent authorities, when taking the first step to protect the victim of violence, to inform them of their rights and to ensure that they understand those rights (Art. 6, paras. 2 and 3 of the FVPA). In the case of a child victim of violence, a special guardian shall be appointed if his or her interests would conflict with those of the parents (Art. 6, para. 5 of the FVPA).[36] With its comprehensive approach, the FVPA aims to prevent domestic violence and thus requires health professionals, employees of social institutions, employees of educational institutions, professionals in religious or humanitarian institutions, civil society organizations, and all other professionals who come into contact with the victims of violence to report it to the police or the public prosecutor in the

event they learn of domestic violence in the course of their work (Art. 7, para. 1 of the FVPA). In addition, the competent authorities dealing with reports of domestic violence shall inform the Social Welfare Center, which shall then take appropriate measures within the scope of its competence (Art. 7, para. 2 of the FVPA). There are six forms of domestic violence under the FVPA. This includes the use of physical violence that has not resulted in physical injury; physical punishment or other forms of humiliating treatment of children; psychological violence that causes anxiety or injury to dignity of the victims; sexual harassment; economic violence as an act of prohibition or disabling of the use of a joint or personal property; inability to dispose of personal income or property acquired through personal means or through inheritance, disabling the opportunity to be employed; deprivation of resources for maintaining a common household and child care; neglecting the needs of a person with a disability or an elderly person that causes them anxiety or insults to their dignity and thereby causes bodily or mental suffering (Art. 10 of the FVPA). [70] With respect to application, FVPA applies to current and former spouses and domestic partners, life partners and informal life partners, to the children that the aforementioned persons have in common (and the children each of them has) and, in general, to those who have children together, persons living in collective households, direct blood relatives, collateral relatives within the third degree, step-relatives within the second degree, and adoptive parents and adoptees. In terms of legal sanctions for protection against domestic violence, the FVPA

provides for protective measures, fines, imprisonment, and other legal sanctions prescribed by the misdemeanor law. The purpose of these sanctions is to protect family members exposed to violence, to respect the legal system and to prevent the recurrence of domestic violence by adequately punishing the perpetrators (Art. 11 of the FVPA). In addition to the protective measures prescribed by the ML, a court may impose the following protective measures on a perpetrator of domestic violence: compulsory psychosocial treatment, restraining order, prohibition of harassing or stalking a victim of domestic violence, removal from the joint household, and compulsory treatment for addiction. The purpose of the protective measures is to prevent domestic violence, ensure the protection of the health and safety of victims of domestic violence, and eliminate any circumstances that may encourage or inspire committing a new offense, and are imposed for the purpose of eliminating the vulnerability of victims of domestic violence. Protective measures may be imposed independently and without the imposition of a penalty. They may be imposed *ex officio*, at the proposal of an authorized prosecutor, the victim or the social welfare center (Art. 12 of the FVPA).

Family law legislation has protected victims of domestic violence since 1998. [56] Broadly speaking, the principles of the Family Act [29] (hereinafter: FA) serve as a compass for the protection against domestic violence. The most important principle is equality between the sexes, according to which both women and men have equal rights and obligations in family matters

(especially with regard to the exercise of the right to parental care), prohibiting all forms of discrimination and violence (Art. 2. of the FA). It also emphasizes the principle of solidarity, mutual respect and assistance among all members of the family, stating, among other things, that domestic violence is a particularly serious violation of this principle and indicating that the issues of prevention, suppression and sanctioning of domestic violence are regulated by a specific act (Art. 4, para. 2 of the FA). In addition to the aforementioned principles of the FA pertaining to domestic violence, there are a number of other provisions that govern this issue, particularly with respect to children. Therefore, everyone is bound to inform a welfare center about any form of violence against a child. It also establishes the mandatory mutual cooperation of the competent authorities (Art. 132 of the FA). An act of violence against a child will also result in the possibility of imposing some of the measures to protect the child's personal rights and duties, [36] whereby one of the strictest measures is the deprivation from parental rights (Art. 171 of the FA). There is also an additional protection of the child from domestic violence provided for through the implementation of mandatory counseling in the case of divorce. In fact, following the mandatory counseling procedure, in the event that experts conducting the mandatory counseling suspect domestic violence or endangerment of children's rights, a social welfare center shall implement other adequate procedures - it is possible to impose certain measures for the protection of the personal rights and best interests of the child and/or to institute

other adequate procedure for the protection of the rights and interests of the child on an expedited basis (Art. 328 of the FA). Apropos alternative methods of resolving family disputes - mediation is not conducted in cases where, due to domestic violence, equal participation of spouses or other family members is impossible (Art. 332 of the FA). Besides children, domestic violence also negatively impacts spouses. When there is domestic violence against a spouse, it constitutes a violation of personal rights and obligations of the spouses, especially their equality, solidarity, and mutual understanding (Art. 31 of the FA). Consequently, the marriage breaks down, thus meeting the requirement for divorce (serious breakdown of marriage). [36] [34]

The aforementioned regulation of domestic violence - within the framework of criminal, misdemeanor and family law - undoubtedly reflects the legislature's efforts to adequately sanction perpetrators of domestic violence and protect victims of violence. It is, however, open to question whether the desired positive effects will be achieved in this manner, or whether such regulation will lead to complexity regarding the conduct of the competent national authorities. Regardless of the number of legislative solutions, however, their effectiveness depends on public awareness of the problem of domestic violence and their timely reaction to it.

Domestic violence during the COVID-19 pandemic - what do the statistical analyses show us?

The emergence of the COVID-19 pandemic resulted in a dual pandemic - the one involving the public health, and the other involving the domestic violence. Domestic violence increased significantly in pandemic conditions all over the world, particularly manifesting itself as sexual or physical violence. [5] During the pandemic, Google, a global service, recorded up to 75% more searches on domestic violence. [33] [34] During the pandemic, the rise in domestic violence was so significant that even the UN Secretary General expressed concern and called for a “truce in a family.” [4] This part of the paper will analyze the available statistical data on the number of domestic violence cases in 2020, the time when confinement measures were in effect in Croatia and many other countries.

Based on the data published by the Ministry of the Interior of the Republic of Croatia, there were 7,895 reported offenses against children and families in 2020, which is an increase of 15.1% compared to the year before. Out of that figure, there were 1,578 reported domestic violence offenses, an increase of 39.2% compared to 2019. [45] In addition, of the total number of reported domestic violence offenses against children aged 14-18, there were 27 reported domestic violence offenses, which is an increase of 58.8%. On the other hand, 30 cases of domestic violence against children aged 14 years and younger were reported, which is an increase of 7.1% compared to the previous year. In 2020, women made up the vast majority of victims of domestic violence during the pandemic, with 1,330 female victims and 248 male victims. [45] The Ombudswoman for Gender Equality noted in her

2020 activity report that, according to the Ministry of the Interior, 8,539 people were reported as having committed domestic violence offenses, which is a decrease of 11.3% compared to the year before. [54] In 2020, a total of 1,848 repeated offenders were registered. Domestic violence offenses that were perpetrated, harmed 9,888 people, which is 7.4% less than in 2019. On the other hand, in 2020, there were 5,747 cases of aggressive behavior perpetrated against close relatives, which represents an increase of 28.8% compared to 2019. Unfortunately, as noted earlier, the most significant rise was in the number of cases of domestic violence. [54]

During the COVID-19 pandemic, no specific regulations in Croatia were adopted to provide adequate protection to victims of violence, and no amendments were made to existing regulations, as examples of good practice from Poland, Spain and France are worth highlighting in this case. [71] In the initial phase of the pandemic, the issue of domestic violence was merely “discussed” in Croatia, [37] and it was not until November 2020 that the SOS hotline for all victims of domestic violence was established, accessible 24 hours a day, seven days a week (and not only at certain times). [67] [61] During the pandemic, the shelters for victims of violence were also poorly occupied, only 45% compared to over 70% under “normal conditions.” [61] Post-pandemic research shows that inequality between women and men increased significantly, contributing to, among other things, an increase in verbal and emotional abuse, as well as a type of “health related” violence during the pandemic, when partners abused women and

children by forbidding them to comply with the measures or by spreading the infection. [3]

The Ombudswoman for Gender Equality highlights the long-term downward trend in the number of reported perpetrators of domestic violence, while noting an increase in the number of crimes between close relatives, which expanded in 2020. According to the Ombudswoman for Gender Equality, this is due to the fact that perpetrators are only reported when their violent behavior in the family leads to more severe consequences for the victims, i.e., after committing serious criminal offenses. [54]

Even when looking at the relevant statistical indicators in other countries, there is a trend of an increase in the number of cases of domestic violence during the pandemic period, as in Croatia. As an example, based on the report on the work of the Slovenian police [46], a total of 1,336 cases of domestic violence were recorded in 2019. On the other hand, there were 1,477 cases of domestic violence registered in 2020, an increase of 141 cases, or 10.5%. [46]

A report by the French Ministry of the Interior (le ministère de l'Intérieur) found that 119,800 cases of domestic violence were registered in 2019, compared to 131,200 cases in 2020, which is an increase of 11,400 or 9.5%. [47] [48] Drawing inspiration from the Spanish approach to more effectively combat domestic violence during the pandemic, the French authorities told victims who were afraid to contact the police or to come forward openly that they were the victims of domestic violence to report domestic violence by coming to a pharmacy and using the code word "mask19." [27]

The German Criminal Code (Strafgesetzbuch; hereinafter: StGB) does not provide for a separate criminal offense of domestic violence, however, domestic violence is sanctioned through other criminal offenses provided for in the StGB. According to a report by the Federal Office of Criminal Investigation [31], the number of offenses of bodily harm in partnerships increased (Körperverletzung, Art. 223-227, 229, 231 of the StGB) by 5.8% (in 2019, 156,374 offenses of bodily harm were committed in a family, while in 2020, a total of 165,495 offenses of bodily harm were committed), the cases of forced marriage (Zwangsheirat, Art. 237 of the StGB) increased by 11.5% in 2020 compared to 2019 (61 case in 2019 and 68 cases of forced marriage in 2020), stalking as a criminal offense (Nachstellung, Art. 238 of the StGB) increased by 2.6% (9,743 offenses were committed in 2019, and 10000 in 2020), cases of illegal restraint (Freiheitsberaubung, Art. 239 of the StGB) increased by 6.8% (there were 2,294 cases of illegal restraint in 2019, and 2,451 cases in 2020), coercion (Nötigung, Art. 240 of the StGB) offenses increased by 6.2% (there were 6,987 coercion offenses in 2019, and 7,421 cases of coercion in a family in 2020) and there was an increase of threats (Bedrohung, Art. 241 of the StGB) by 1.9% (30,521 offenses were committed in 2019, and 31,111 in 2020). [31]

Similarly to Germany, domestic violence in Switzerland is not sanctioned as a separate criminal offense, but rather under other criminal offenses such as bodily harm, threats, coercion, sexual offenses, etc. Based on a report by the Swiss Federal Statistical Office [10], the number of severe physical injuries under Article 122 of the Swiss

Criminal Code [58]] (Schweizerisches Strafgesetzbuch, hereinafter: SSGB) increased in 2020 compared to 2019 (schwere Körperverletzung, Art. 122 of the SSGB) by 11% (109 offenses of serious bodily harm were committed in 2019, and 121 cases in 2020), [10] cases of minor physical injuries (Einfache Körperverletzung, Art. 123 of the SSGB) increased by 3,9% (1,945 cases in 2019, 2,022 cases in 2020), [10] coercion offenses (Nötigung, Art. 181 of the SSGB) increased by 19,4% (in 2019, data showed that there was a total of 681 cases of coercion, and 813 cases in 2020) and, finally, violent behavior in which the victim was not injured (Tätlichkeiten, Art. 181 Of the SSGB) registered an increase of 3.3% in 2020 (a total of 5,876 cases were registered in 2019, and 193 more in 2020, i.e. 6,069). [10] The offense of threat (Drohung, Art. 180 of the SSGB) declined by 1.3% in 2020 compared to 2019 (in 2019, a total of 4,136 threats were registered compared to 4,084 cases in 2020, which is slightly fewer. [10]

The rise in the incidence of domestic violence during isolation measures during the pandemic is not limited to European countries. There have also been recorded cases in the USA, China, Brazil, and Australia, citing (social) isolation during the pandemic as a cause for the increase in domestic violence. [66] China, the country from which COVID-19 spread to the rest of the world, had worrying domestic violence statistics before the pandemic, and this problem continued to escalate during the pandemic, with an increase in the number of reports of domestic violence nationwide. [73] As an example, the number of domestic violence reports to the local police in the rural town of Jianli in the Hubei province near Wuhan doubled in January

2020 compared to January 2019. The province of Guangdong in southern China reported an increase in domestic violence cases during the period of strict movement restriction measures. In the Zhuhai province, a local women's rights association received 42 reports of domestic violence in January and February 2020, which was 20% more than in 2019 in the same months. [73] When house arrest measures went into effect in Australia, police reported an overall 40% drop in crime in some parts of the country, but a 5% increase in reports of domestic violence. [40]

As it is evident, the available statistical indicators published in the professional and scientific literature, on the websites of the competent national authorities and in the media worldwide indicate that the period of isolation during the pandemic resulted in a significant increase in domestic violence. While determining the underlying causes of these types of situations is a non-legal domain, prescribing effective mechanisms to protect victims of domestic violence in such extraordinary circumstances is certainly the responsibility of the legal professions. While it seems that, given the rapid spread of the epidemic, many countries were not prepared to provide conditions for the protection of victims of domestic violence, the question arises as to what have we learned from such a situation for the future.

Concluding recommendations for the future

As a lesson learned from the negative impact it had on the protection against domestic violence, it is important to understand that the COVID-19 pandemic had a two-way impact in the context of domestic violence: on the one hand, it affected perpetrators of domestic violence, and on the other hand, the victims and their access to help. Many perpetrators of domestic violence increased their alcohol consumption and were much better able to control the victim of violence because of social isolation measures. [27] As for victims of domestic violence, the pandemic was reflected in the limited medical care, the lack of support from family and friends and institutions, the increase in their anxiety, and they were prevented from leaving perpetrators of violence or partners. [27] At the level of the European Union, states have taken measures based largely on the adoption of action plans, which are implemented by governments. However, some states have also implemented laws to support victims of domestic violence, primarily by preventing them from being "stranded" with the perpetrator. [27] While the slogan "Stay at home!" was used during the COVID-19 pandemic to promote reducing social contact as a way to help combat the pandemic, the effect was counterproductive for victims of domestic violence. Whenever measures were made stricter and social relations were isolated, the incidence of acts by perpetrators of domestic violence also increased because the victims did not have access to the institutions that would provide them with adequate support. [8]

Domestic violence as a public health problem [71] also had consequences for the health of the victims, particularly mental health. [50]

Domestic violence remains a deep-rooted social issue and needs to be addressed systematically. Therefore, the measures adopted to combat domestic violence during the pandemic should be a compass guiding further efforts to combat this problem. It is generally necessary to work continuously on raising public awareness on the problem of domestic violence. Through social isolation, the pandemic has further reduced the domestic violence issue to a "private" issue, however, its severity transcends the private sphere and rightly requires a response from the entire community. There is a common problem in combating domestic violence, which is its centralization, i.e., the focus on state measures. Fighting domestic violence must also be implemented at the local level, especially through increasing the availability of civil society organizations dealing with the rights of victims of domestic violence, whose efforts may be particularly crucial in crisis situations such as a pandemic. The pandemic also pointed to the need for stronger oversight mechanisms in the implementation of laws aimed at protecting against domestic violence. The issue of domestic violence will not be solved by various documents aimed at its prevention, but by its effective implementation. Driven, among other things, by the problems of protecting victims highlighted during pandemic, the European Commission passed the European Union Strategy on Victims' Rights (2020-2025) [17] (hereinafter: Strategy). In

the conclusion of this document the Commission undertakes to focus on the full implementation and enforcement of existing EU rules on victims' rights, to promote awareness of victims' rights and work with Member States to strengthen the resilience of victim support structures, including by drawing lessons from the COVID-19 pandemic. Commission emphasizes that drawing lessons from the COVID-19 pandemic Member States should take action to ensure that victims of gender-based and domestic violence have access to support and protection that is integrated into the national pandemic emergency measures, including continuous access to shelters and helplines, and by strengthening the inclusion of civil society in victims' support and protection. [17]

Any loopholes in legal protection against domestic violence highlighted by the COVID-19 pandemic should not be overlooked. However, national plans to combat domestic violence must focus on specific situations such as the COVID-19 pandemic, it is also necessary to work on rapid separation victims from perpetrators, implement crisis communication tools, run campaigns against violence as a socially unacceptable behavior, and provide training to professionals working with victims of domestic violence. [27] Conclusions about what needs to be worked on in the future should not be seen as just a good "idea" whose realization can wait. Taking active action aimed at creating all the necessary conditions for the successful implementation of the legal framework for the prevention of domestic violence and the protection of its victims, which will also be effective in exceptional circumstances of isolation

caused by the COVID-19 pandemic, is an imperative of the competent authorities, a responsibility that knows no excuse.

References

[1] Agencija Europske unije za temeljna prava (2020). Primjena Povelje Europske unije o temeljnim pravima u izradi zakonodavstva i oblikovanju politika na nacionalnoj razini - Smjernice, Ured za publikacije Europske unije, ISBN: 978-92-9474-649-8, Luksemburg.

[2] Ajduković, D.; Ajduković, M. (2010). Nasilje u obitelji: što zdravstveni djelatnici mogu učiniti. *Medicina Fluminensis*, Vol. 46, No. 3, 2010. godine, pp. 292-299, ISSN: 1847-6864.

[3] Artemis (2021). „Utjecaj pandemije koronavirusa na žrtve rodno uvjetovanog nasilja u Hrvatskoj - rezultati istraživanja Autonomne ženske kuće Zagreb“, Available at: <https://www.artemis-europa.eu/2021/09/24/utjecaj-pandemije-koronavirusa-na-zrtve-rodno-uvjetovanog-nasilja-u-hrvatskoj-rezultati-istrazivanja-autonomne-zenske-kuce-zagreb/?lang=hr>, Accessed: 2022-04-07.

[4] Barnes, P.; Bergin, A. (2020). The world after Covid-19: Health preparedness and biosecurity, In: *After Covid-19: Australia and the world rebuild* (volume 1), John, C.; Jennings, P. (Eds.), pp. 60-126, Australian Strategic Policy Institute, ISBN: 978-1-925229-59-2, Barton.

[5] Bettinger-Lopez, C.; Bro, A. (2020). A Double Pandemic: Domestic Violence in the Age of COVID-

19, Council on Foreign Relations, Available at: <http://www.jstor.org/stable/resrep29816>, Accessed: 2022-04-12.

[6] Bezić, R.; Šprem, P. (2020). Zaštita žrtava u kaznenom postupku - praktična implementacija Direktive 2012/29/EU. Hrvatski ljetopis za kaznene znanosti i praksu, Vol. 27, No. 2, pp. 603-635, ISSN: 2459-6531.

[7] Božić, V. (2017). Žrtve nasilja u obitelji kao posebno ranjive skupine podložne trgovanju ljudima. Pravni život, Vol. 66, No. 9, 2017., pp. 233-248, ISSN: 0350-0500.

[8] Brandbury-Jones, C.; Isham, L. (2020). The pandemic paradox: The consequences of COVID-19 on domestic violence, Journal of Clinical Nursing, Vol. 29, No. 13-14, pp. 2047-2049, ISSN: 1365-2702.

[9] Buljan Flander, G.; Selak Bagarić, E.; Španić, A. (2021). Zlostavljanje i zanemarivanje djece, In: Prava djece - multidisciplinarni pristup (drugo neizmijenjeno izdanje), Hrbar, D. (Ed.), pp. 281-324, Pravni fakultet Sveučilišta u Zagrebu, ISBN: 978-953-270-151-7, Zagreb.

[10] Bundesamt für Statistik (2021). Häusliche Gewalt: Geschädigte nach Alter und Geschlecht, Available at: <https://www.bfs.admin.ch/bfs/de/home/statistiken/kriminalitaet-strafrecht/polizei/haeusliche-gewalt.assetdetail.15844447.html>, Accessed: 2022-04-07.

[11] Case of A. v. Croatia, Application No. 55164/08, 14 October 2010. Available at: <https://hudoc.echr.coe.int/eng#{%22dmdocnu>

mber%22:[%22875647%22],%22itemid%22:[%22001-101152%22]}, Accessed: 2022-04-25.

[12] Case of Branko Tomašić and Others v. Croatia, Application No. 46598/06, 15 January 2009. Available at: [https://hudoc.echr.coe.int/eng#{%22appno%22:\[%2246598/06%22\],%22itemid%22:\[%22001-90625%22\]},](https://hudoc.echr.coe.int/eng#{%22appno%22:[%2246598/06%22],%22itemid%22:[%22001-90625%22]},) Accessed: 2022-04-25.

[13] Case of Galović v. Croatia, Application No. 45512/11, 31 August 2021. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-211592%22\]},](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-211592%22]},) Accessed: 2022-04-25.

[14] Case of Maresti v. Croatia, Application No. 55759/07, 25 June 2009. Available at: [https://hudoc.echr.coe.int/eng#{%22itemid%22:\[%22001-93260%22\]},](https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-93260%22]},) Accessed: 2022-04-25.

[15] Case of Ž.B. v. Croatia, Application No. 47666/13, 11 July 2017, Available at: <https://rm.coe.int/case-of-z-b-v-croatia/1680731746.>, Accessed: 2022-04-25.

[16] Charter of Fundamental Rights of the European Union, Official Journal of the European Union, C 202/389, 7 June 2016.

[17] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, EU Strategy on victims' rights (2020-2025), COM(2020) 258 final, Bruxelles, 24 June 2020.

[18] Convention on the Elimination of All Forms of Discrimination Against Women, Official Gazette of

the SFRY, No. 11/81, Official Gazette - International Agreements, No. 12/93.

[19] Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence, Official Gazette - International Agreements, No. 3/18.

[20] Criminal Code, Official Gazette, No. 125/11, 144/12, 56/15, 61/15, 101/17, 118/18, 126/19.

[21] Criminal Procedure Code, Official Gazette, No. 152/08, 76/09, 80/11, 121/11, 91/12, 143/12, 56/13, 145/13, 152/14, 70/17, 126/19, 126/19.

[22] Dimitrijević, S.; Janeš, D.; Miljuš, M. (2016). Pravna regulativa obiteljskog nasilja i neosjetljivost institucija prema ženama žrtvama nasilja. *Pravnik*, Vol. 50, No. 100, pp. 95-122, ISSN: 0352-342X.

[23] Directive 2012/29/EU of the European Parliament and the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA, Official Journal of the European Union, L 315/57, 14 November 2012.

[24] Doek, J. E., (1994). Child abuse and neglect: Article 19 CRC. *The International Journal of Children's Rights*, Vol. 2, No. 1, pp. 88-95, ISSN: 0927-5568.

[25] Đapić Roje, M.; Buljan Flander, G.; Prijatelj, K. (2020). Children Behind Closed Doors Due to COVID-19 Isolation: Abuse, Neglect and Domestic Violence. *Archives of Psychiatry Research*, Vol. 56, No. 2, pp. 181-192, ISSN: 2671-1079.

[26] European Convention for the Protection of Human Rights and Fundamental Freedoms, Official Gazette - International Agreements, No. 18/97, 6/99, 14/02, 03/03, 9/05, 1/06, 2/10.

[27] European Institute for Gender Equality (2021). The Covid-19 pandemic and intimate partner violence against women in the EU, Publications Office of the European Union, ISBN: 978-92-9482-707-4, Luxembourg.

[28] Europski sud za ljudska prava (2020). Vodič kroz 8. članak Europske konvencije o ljudskim pravima - pravo na poštovanje privatnog i obiteljskog života, doma i dopisivanja (2020). Available at: https://www.echr.coe.int/Documents/Guide_Art_8_HRV.pdf, Accessed: 2022-04-20.

[29] Family Act, Official Gazette, No. 103/15, 98/19.

[30] Family Violence Protection Act, Official Gazette, No. 70/17, 126/19.

[31] Federal Criminal Bureau report for 2019 and 2020, Table T92, Available at: <https://www.bka.de/DE/AktuelleInformationen/StaetistikenLagebilder/PolizeilicheKriminalstatistik/PKS2019/PKSTabellen/BundOpfertabellen/bundopfertabellen.html> (2019), <https://www.bka.de/DE/AktuelleInformationen/StaetistikenLagebilder/PolizeilicheKriminalstatistik/PKS2020/PKSTabellen/BundOpfertabellen/bundopfertabellen.html> (2020), Accessed: 2022-04-07.

[32] Gama, A. et al. (2020). Domestic Violence during the COVID-19 Pandemic in Portugal.

Portuguese Journal of Public Health, Vol. 38, No. 1, pp. 32-40, ISSN: 2504-3137.

[33] Guidorzi, B.; Cannon, C. (2020). The „Shadow Pandemic“: Addressing Gender-based Violence (GBV) During COVID-19, In: Carmody, P. et al. (Eds.), COVID-19 in the Global South, 2020., pp. 117-126, Bristol University Press, ISBN: 978-1-5292-1588-5, Bristol.

[34] Herring, J. (2018). The Severity of Domestic Abuse. National Law School of India Review, Vol. 30, No. 1, pp. 37-50, ISSN: 09744894.

[35] Hrabar, D. (2019). Posredni utjecaj Vijeća Europe na Europsku uniju u svjetlu obiteljskopравnih vrijednosti. Godišnjak Akademije pravniх znanosti Hrvatske, Vol. 10, No. 1, pp. 133-162, ISSN: 1847-7615.

[36] Hrabar, D. et al., Obiteljsko pravo, Narodne novine, Zagreb, ISBN: 978-953-234-307-6, Zagreb.

[37] Hrvatski sabor (2020). „Održana sjednica Odbora za ravnopravnost spolova o porastu nasilja u obitelji u vrijeme korona-krize“, Available at: <https://www.sabor.hr/hr/press/priopcenja/odrzanajednica-odbora-za-ravnopravnost-spolova-o-porastu-nasilja-u-obitelji-u>, Accessed: 2022-04-07.

[38] International Covenant on Civil and Political Rights (1966), Official Gazette of the SFRY, No. 7/71, Official Gazette - International Agreement, No. 12/93.

[39] International Covenant on Economic, Social and Cultural Rights, Official Gazette of the SFRY,

No. 7/71, Official Gazette - International Agreements, No. 12/93.

[40] Kagi, J. (2020). Crime rate in WA plunges amid coronavirus social distancing lockdown measures, Available at: <https://www.abc.net.au/news/2020-04-08/coronavirus-shutdown-sees-crime-rate-drop-in-wa/12132410>, Accessed: 2022-04-08.

[41] Klasnić, K. (2011). Ekonomsko nasilje nad ženama u intimnim vezama u hrvatskom društvu - konceptualne pretpostavke. Socijalna ekologija, Vol. 20, No. 3, pp. 335-356, ISSN: 1330-0113.

[42] Law on Juvenile Courts, Official Gazette, No. 84/11, 143/12, 148/13, 56/15, 126/19.

[43] Mamula, M.; Dijanić Plašč, I. (2014). Tipična žrtva obiteljskog nasilja u RH - sociodemografski profil. Život i škola, Vol. 60, No. 32, pp. 111-127, ISSN: 0044-4855.

[44] Martinjak, D.; Filipović, H. (2019). Prekršajna ili kaznena odgovornost u slučaju nasilja u obitelji. Hrvatski ljetopis za kaznene znanosti i praksu, Vol. 26, No. 2, pp. 621-653, ISSN: 2459-6531.

[45] Ministarstvo unutarnjih poslova, (2021). Statistički pregled temeljnih sigurnosnih pokazatelja i rezultata rada u 2020. godini, Available at: https://mup.gov.hr/UserDocsImages/statistika/2021/Statisticki_pregled_2020_web.pdf, Accessed: 2022-04-02.

[46] Ministarstvo za notranje zadeve, Letno poročilo o delu policije 2020, Available at:

<https://www.policija.si/o-slovenski-policiji/statistika>, Accessed: 2022-04-07.

[47] Ministère de L'Intérieur (2020). „Etude nationale relative aux morts violentes au sein du couple en 2019“, Available at: <https://www.interieur.gouv.fr/Archives/Archives-des-communiqués-de-presse/2020-communiqués/Etude-nationale-relative-aux-morts-violentes-au-sein-du-couple-en-2019>, Accessed: 2022-04-06.

[48] Ministère de L'Intérieur (2021). „Insécurité et délinquance en 2020 : une première photographie - Interstats Analyse N°32“, Available at: <https://www.interieur.gouv.fr/Interstats/Actualites/Insecurite-et-delinquance-en-2020-une-premiere-photographie-Interstats-Analyse-N-32>, Accessed: 2022-04-05.

[49] Misdemeanor Law, Official Gazette, No. 107/07, 39/13, 157/13, 110/15, 70/17, 118/18.

[50] Newnham, E. A. et al. (2022). The Mental Health Implications of Domestic Violence During COVID-19, *International Journal of Public Health*, Vol. 66, special issue, Available at: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8813757/>, Accessed: 2022-04-08.

[51] O'Hagan, K. (1993). *Emotional and Psychological Abuse of Children*, University of Toronto, ISBN: 0802029965, Toronto according to: Ždero, V. (2005). Psihičko zlostavljanje i zanemarivanje djece u obitelji. *Ljetopis socijalnog rada*, Vol. 12, No. 1, pp. 145-172, ISSN: 1846-5412.

[52] Optional protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, *Official Gazette - International Agreements*, No. 3/01, 4/01.

[53] Petković, K. (2019). Analiza diskursa Istanbulske konvencije. *Anali Hrvatskog politološkog društva*. Vol. 16, No. 1, pp. 119-154, ISSN: 1845-6707.

[54] Pravobraniteljica za ravnopravnost spolova (2021). Izvješće o radu pravobraniteljice za ravnopravnost spolova za 2020. godinu, Available at: <https://www.prs.hr/cms/post/392>, Accessed: 2022-04-01.

[55] Radelj, P. M. (2017). Protiv nasilja nad naravi, ženom i obitelji - očitovanje u javnu raspravu o potvrđivanju Istanbulske konvencije. *Obnova*, Vol. 9, No. 1, pp. 98-112, ISSN: 1849-0697.

[56] Radić, I.; Radina, A. (2014). Zaštita od nasilja u obitelji: obiteljskopравни, prekršajnopравни i kaznenopравни aspekt. *Zbornik radova Pravnog fakulteta u Splitu*, Vol. 51, No. 3, pp. 272-754, ISSN: 0584-9063.

[57] Rašić, M.; Veber, S. (2013). Usporedba hrvatskog zakonodavstva o zaštiti žrtava i svjedoka kaznenih djela s Direktivom 2012/29/EU o uspostavi minimalnih standarda, prava, podrške i zaštite žrtava zločina. *Policija i sigurnost*, Vol. 22, No. 3, pp. 353-362, ISSN: 1330-0229.

[58] *Schweizerisches Strafgesetzbuch*, Available at: https://www.fedlex.admin.ch/eli/cc/54/757_781_799/de, Accessed: 2022-04-02.

[59] Škavić, J.; Zečević, D.; Strinović, D.; Kubat, M.; Petrovečki, V.; Čadež, J.; Gusić, S.; Mayer, D. (2003). Vještačenje težine tjelesnih ozljeda u kaznenom postupku. *Medix*, Vol. 29, No. 51, pp. 80-82.

[60] Škorić, M. (2018). Obiteljsko nasilje u praksi Europskog suda za ljudska prava s posebnim osvrtom na presude protiv Republike Hrvatske. *Hrvatski ljetopis za kaznene znanosti i praksu*, Vol. 25, No. 2, pp. 387-415, ISSN: 2459-6531.

[61] Šlosar, I. (2021). A Pandemic in a Pandemic: Domestic Violence in Croatia, *Visio*, No. 6, pp. 34-44, ISSN: 2536-1481.

[62] Turković, M. (2015). Ekonomsko nasilje, Available at: <https://www.iusinfo.hr/aktualno/u-sredistu/20862>, Accessed: 2022-04-25.

[63] UN Convention on the rights of the child, Official Gazette of the SFRY, No. 15/90, Official Gazette - International Agreements, No. 12/93, 20/97, 4/98, 13/98.

[64] United Nations General Assembly Resolution 48/104, 20 December 1993.

[65] Universal Declaration of Human Rights, Official Gazette - International Agreements, No 12/09.

[66] Usher, K.; Bhullar, N.; Durkin, J.; Gyamfi, N.; Jackson, D. (2020). Family violence and COVID-19: Increased vulnerability and reduced options for support. *International Journal of Mental Health Nursing*, Vol. 29, No. 4, pp. 549-552, ISSN: 1447-0349.

[67] Vlada Republike Hrvatske (2021). „Od danas otvorena nacionalna SOS linija za žrtve nasilja u obitelji 24 sata dnevno, sedam dana u tjednu“,

Available at: <https://vlada.gov.hr/vijesti/od-danas-otvorena-nacionalna-sos-linija-za-zrtve-nasilja-u-obitelji-24-sata-dnevno-sedam-dana-u-tjednu/30895>, Accessed: 2022-04-07.

[68] Vlada Republike Hrvatske, Ministarstvo pravosuđa (2015). Prijedlog Zakona o zaštiti od nasilja u obitelji, Available at: <https://vlada.gov.hr/UserDocsImages//2016/Sjednice/2015/237%20sjednica%20Vlade//237%20-%201.pdf>, Accessed: 2022-04-02.

[69] Vučković Šahović, N.; Petrušić, N. (2016). Prava deteta, Pravni fakultet Univerziteta u Nišu, ISBN: 978-86-7148-211-0, Niš.

[70] Walby, S. et al. (2017). Different Forms of Violence (1st edition), In: The concept and measurment of violence, Walby, S. et al. (Eds.), pp. 57-102, Bristol University Press, ISBN: 978-1447332633, Bristol.

[71] Wilanowska, M. (2021). Domestic Violence During the COVID-19 Pandemic - Analysis of Legal Solutions Adopted by Selected European Countries, *Medicine, Law & Society*, Vol. 14, No. 1, pp. 95-118, ISSN: 2463-7955.

[72] World Health Organisation & Pan American Health Organization (2012). Understanding and addressing violence against woman: intimate partner violence, Available at: <https://apps.who.int/iris/handle/10665/77432>, Accessed: 2022-04-15.

[73] Zhang, H. (2020). The Influence of the Ongoing COVID-19 Pandemic on Family Violence in China, *Journal of Family Violence*, Available at:

<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7473410/>, Accessed: 2022-04-02.

[74] Željko, D. (2021). Procjena prvih deset godina Konvencije Vijeća Europe o sprječavanju i borbi protiv nasilja nad ženama i nasilja u obitelji. Hrvatski ljetopis za kaznene znanosti i praksu, Vol. 28, No. 2, 2021., pp. 381-404, ISSN: 2459-6531.

[75] Žilić, M.; Janković, J. (2016). Nasilje. Socijalne teme, Vol. 1, No. 3, pp. 67-87, ISSN: 2303-6877.