

Criminal aspects of domestic violence

SUMMARY

Domestic violence is a serious social concern with high level of latency. The domestic violence victims protection is ensured by legal standards of Civil, Administrative and Criminal Law and other legal standards. Criminal Law is one of the important instruments for tackling of serious forms of domestic violence. However Criminal Law is an instrument „ultima ratio“ which needs claiming of subsidiarity principal of the crime repression.

The purpose of my thesis is to bring a summary of the legal standards of Criminal Substantive Law and Criminal Procedure, that are dedicated to protect the victims of domestic violence. It also provides the brief analyses of the legal standards with respect to this serious phenomenon. The emphasis is put particularly on the criminal offences maltreatment of a person living in common domestic matters, maltreatment of a person in a guardianship and stalking. From procedural point of view the thesis addresses the issue of the consent of the victim to the criminal prosecution, institute of detention and the status of victims in criminal proceedings. The thesis also makes recommendations for the legislation de lege ferenda.

Chapter one outlines theoretical and practical findings of domestic violence, defines the notion and describes the specifics of this phenomenon. Further attention is paid to the victims and offenders of the domestic violence. Chapter two provides an introduction to Criminal Law in this issue and outlines the evaluation of the legal regulation. The core of the whole thesis is chapter three and chapter four that deal with particular instruments for protection against domestic violence. Chapter three analyzes the specific institutes of the Criminal Substantive Law relating to domestic violence. It explains the reasons and circumstances of their enactment. Chapter four deal with some of the procedural institutes, their positives and negatives and contains the suggestions of legislation de lege ferenda. Chapter five is a brief view into some European jurisdictions and their addressing of domestic violence. Chapter six concentrates on suggestion of changes to be made in existing criminal legislation in the area of domestic violence and determine possible solutions de lege ferenda.

The domestic violence Criminal Law regulation is relatively new and the inspiration has been found within legal regulations of some European countries. The conclusion of the thesis shows that in spite of some imperfections the legal regulation is sufficient for protection of domestic violence victims. The Criminal Law executes both preventive function in terms of individual and general precaution and repressive function in this field.