

SUMMARY

Domestic violence - in particular, criminal and criminological aspects

The aim of my rigorous thesis is to describe the issue of domestic violence from its criminal, legal and criminological perspective as suggested by the title. The rigorous thesis consists of three chapters (introduction, main body and conclusion). The second chapter is subdivided into five chapters dealing with general theoretical knowledge of domestic violence, stalking, opportunities of criminal law and its application in situations of domestic violence, protection against domestic violence provided by other legal branches (offense law, police law and in particular law on Protection against Domestic Violence - Law No 135/2006 Coll.) and finally legal regulations of domestic violence abroad.

Domestic violence is a highly dangerous social phenomenon, gaining attention of society and in particular of the Law only in the last few years, although it has always interfered with fundamental human rights.

Generally accepted definition of domestic violence does not exist. The definition which in my opinion best captures specific features of domestic violence says that "domestic violence is a repeated, long-term, escalating violent behavior (of physical, psychological, sexual, social or economic nature) from a close person which raises fear in the person at risk and leads to a stable division of roles of a person violent and vulnerable." Such conduct occurs in all social strata, and its basic cause lies in attempt to maintain power and control over victims. Effects on victims are in some cases very serious. I also deal with stalking (particularly by ex-partners) and with the possibility of a legal solution. The largest part of my work is devoted to criminal law dealing with domestic violence. To resolve individual cases of domestic violence we should be aware that criminal law is „ultima ratio“, the ultimate solution. I deal with both substantive criminal law (crimes committed in connection with domestic violence and penalties imposed for them) and procedural law (in particular regarding the position of victims of domestic violence in criminal proceedings in which they are both victims and witnesses of the crime). In my rigorous thesis I also provide an analysis of statistical data relating to the crime of harassment of a person living in a jointly tenanted apartment or house, as according to the provisions of Section 215a of Penal Code 1961. Protection against domestic violence by a non-punishing legal means of legislation is described at chapter four, the emphasis is on adjustment of the adopted law on Protection against Domestic Violence (ban from the home). At the end of my rigorous thesis I describe foreign legal regulations of domestic violence, whereas emphasis is placed on chosen states of European union.

My findings are discussed in the last chapter. Since 2004 there has been a significant improvement of legislation on the issue of domestic violence, in particular changes introduced by the Act on Protection against Domestic Violence. The great benefit for criminal law is the introduction of separate merits of the offense of harassment of a person living in a jointly tenanted apartment or house and newly included in the Criminal Code the crime of stalking. Domestic violence is no longer considered a private matter, and state intervention is considered legitimate as in other cases of violent conduct. The precautionary approach which is globally considered to be most effective is hence promoted as a way to address domestic violence. However, despite this positive trend the situation in this respect is not satisfactory. It is necessary to legally regulate outstanding issues (in particular, victim's right of disposal, secondary victimization, and some of the institutes of civil and family law), and properly apply existing legal institutions as well as rebut common myths in the society.

Keywords:

Criminal law - trestní právo

Domestic violence - domácí násilí

Stalking - pronásledování