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COUNCIL OF EUROPE CONVENTION ON PREVENTING AND COMBATING VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE IN SLOVENIA

ABSTRACT The Istanbul Convention entered into force in June 2015 in the Republic of Slovenia. From the point of view of policy analysis and NGO activism, the processes of signing and ratification were exciting. We were confronted with stereotypical personal standings and ignorance of some ministers and bureaucrats but also with a high level of understanding of the problem of violence against women, commitment to human rights, instruments for their implementation, and even activism of other ministers, bureaucrats, parliamentarians, city administration bureaucrats. They cooperated with (women's) NGOs and mobilized the general public – from athletes, singers, and actors to “ordinary” people. In the end, public pressure and expertise were decisive for the Convention to be ratified.

With the adoption of the Domestic Violence Prevention Act in 2008, Slovenia began to build a system where we observe development towards a proactive approach with active intervention and exchange of information among institutions. Though it has made significant progress in the last few years, Slovenia still has a long way to go. From solving the problem of domestic violence staying underreported to victims' trust in institutions, knowledge and lack of training of professionals at institutions, non-establishment of multidisciplinary teams, treating ‘less severe’ forms of violence as a misdemeanour, etc. Violence against women is fused with domestic violence and is part of this system. Understanding and naming violence against women as a cause and consequence of gender inequality, therefore, remains silenced.

Keywords: Slovenia, Istanbul Convention, GREVIO, violence against women, domestic violence, gender inequality, social service, multidisciplinary teams, multi-agency cooperation, police

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INTRODUCTION

The convention on preventing and combating violence against women and domestic violence (Istanbul Convention) adopted by the Council of Europe Committee of Ministers in 2011 was prepared on a good normative and executive international and regional basis – from state parties’ obligatory instruments to numerous recommendations, declarations, strategies, analysis, etc. of different international and regional organizations and bodies, Council of Europe among them. The first state parties’ obligatory regional instrument in the field of violence against women was adopted almost thirty years ago. This was the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women – Convention Belém do Pará, adopted in 1994. In 2003, African Union adopted the Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa. Moreover, although not mentioning violence against women *per se* (though mentioning trafficking and exploitation of prostitution) at the global human rights level, foundations for understanding violence against women as, among others, a violation of basic human rights, a violation of equality and gender-based discrimination directed against a woman because of being a woman were set by the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) or, more precisely, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) through its work.

Violence against women as a concept has significantly evolved during the work of the CEDAW Committee. Today, the CEDAW Committee deals with it in a complex, competent and consistent manner and has set high standards for state parties. Compared to the past, it issues demanding recommendations for them and specifies their obligation to prevent, investigate, and prosecute violence against women. Moreover, it requires state parties to adopt comprehensive measures/strategies to prevent and eliminate all forms of violence against women (Veselić 2016). The CEDAW Committee clearly and consistently defends the thesis that only by implementing comprehensive measures can countries successfully prevent and eliminate violence against women (Veselić 2016, 115).

On the other hand, state parties are facing difficulties in implementing CEDAW Committee recommendations that deal with violence against

women. My analysis² has shown that states have made progress in accepting single measures to prevent violence against women – 74% of state parties considered by the CEDAW Committee have passed a law or a national strategy or have criminalized some form(s) of violence against women; 50% of them have established a special state body for work in the field of violence against women; 50% of them have ensured some services or programs for victims of violence. However, we cannot speak about a comprehensive set of state measures that would help decrease violence against women and achieve substantive equality (*ibid.*, 115–116).

The Republic of Slovenia became a state party to the CEDAW as a legal successor to the ratification of the CEDAW by the former Socialist Federal Republic of Yugoslavia. Since 2003 the CEDAW Committee has expressed concern about the incidence of violence against women in Slovenia, including domestic violence and the failure to prohibit all forms of violence against women in both the public and private spheres comprehensively. Although legal and other measures were taken by Slovenia to eliminate violence against women, the CEDAW Committee remains concerned because of the continuing prevalence of violence against women and girls; the number of women murdered by their intimate partners and lack of effective measures to protect women from this particular type of violence; the limited effectiveness of the protection afforded to victims of domestic violence, including the lack of enforcement of restraining orders issued against alleged perpetrators; the absence of a comprehensive national strategy and programme to combat all forms of violence against women and girls; lenient sentences imposed by courts on perpetrators of acts of domestic violence; non-accessibility of free counselling, assistance and accommodation to all women, victims of violence, particularly Roma women, migrant women, women with disabilities and older women; the lack of comprehensive disaggregated data and limited access to existing data; etc. (United Nations 2003, points 206–207; United Nations 2008, points 23–24; United Nations 2015, points 19–20; United Nations 2019, point 36).

2 In my MA thesis I have analysed parts of CEDAW Committee concluding comments that addressed violence against women caused by private individuals in any way. I have analysed 539 concluding comments prepared for 183 CEDAW states parties from 1983 to 2015.

Also, Human Rights Committee and the Committee on Economic, Social and Cultural Rights were concerned about the high prevalence of domestic violence in Slovenia and the limited effectiveness of mechanisms to protect victims of domestic violence, including the non-enforcement of restraining orders issued against alleged perpetrators (United Nations 2019, point 18). The Human Rights Committee recommended that Slovenia strengthen measures to prevent and combat violence against women, including domestic violence and sexual abuse (ibid., point 65). In its 2021 Baseline evaluation report on Slovenia, the Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), established for monitoring the implementation of the Istanbul convention, expressed very similar concerns and recommendations to the Republic of Slovenia.

Slovenia still has a long way to go, although it has made significant progress in the last years in preventing and combating violence against women and domestic violence. In this paper, I focus on some essential starting points that need to be evaluated if we want to improve action on violence against women and domestic violence, prevent it and be successful on the road to zero tolerance towards it. Understanding violence against women and domestic violence as a cause and consequence of gender inequality is one starting point I deal with practically throughout this paper. The whole system of work in the field of violence against women and domestic violence in Slovenia is namely based on gender-blind laws and regulations. The next one reports violence against women since it remains underreported no matter which forms of violence we are looking at. However, the precondition for reporting is trusting institutions and professionals at institutions. My discussion goes towards the claim that professionals have good instruments (laws, regulations, etc.), but their knowledge, lack of training, and workload are something else. So the implementation of instruments remains an issue to be evaluated in Slovenia, and problems are seen through the non-establishment of multidisciplinary teams; through treating 'less severe' forms of violence in intimate partner relationships as a misdemeanour which implies that professionals do not understand essential characteristics and interpersonal dynamic in intimate partner relationship where violence is present; implementation of restraining orders, etc. All this also leads to victims not trusting institutions and professionals, and I deal with these issues in the second part of the paper.

1. ISTANBUL CONVENTION AND THE REPUBLIC OF SLOVENIA

The Republic of Slovenia signed the Convention in September 2011 and ratified it in February 2015. It entered into force in June 2015. Neither the signing nor the ratification went smoothly. We could observe an interesting situation of public disagreements among ministries of the same government but also disagreements among previous and then ministers of justice. Furthermore, we could observe how a focused (international) campaign of NGOs³ can influence policy-makers, policy-takers, and the general public.

In Slovenia, not only the ratification but also the text of the Convention were a political question *per se* – a matter of political will, political consensus and public pressure, importantly influenced by personal standings of ministers, bureaucrats at ministries, parliamentarians, and, of course, (women's) NGOs.

As Slana⁴ (2016, 53) writes, the Republic of Slovenia actively participated in the negotiations and preparation of the Convention and its Explanatory Report. Throughout the process, Slovenian NGOs from the field were active since they knew that an announced document could mean historical progress in preventing violence against women and protecting women's human rights in Council of Europe member states and beyond. They prepared quite a few suggestions and protests. Some developments of the Convention's text and negotiating process were interesting and dangerous to some point. The second draft of the Convention left the impression that the conservative approach is being more and more in focus. We could, for instance, see terminology like 'discrimination between women and men' and concepts which led us to conclude that support for victims of violence is focused pri-

3 This particular campaign was one of the activities in the project Coordinated efforts – Toward new European standards in protection of women from gender-based violence. It was a four-year project (2012–2016) led by Autonomous Women's Centre Belgrade, Serbia. The framework for the project activities was the Istanbul Convention and partners were mainly NGOs from the countries formed in the territory of the former Socialist Federal Republic of Yugoslavia.

4 Mag. Sara Slana was a Slovenian representative in the Ad-hoc Committee on Preventing and Combating Violence against Women and Domestic Violence (CAHVIO), a body responsible for the preparation of the Istanbul Convention.

marily on restoring or managing their relationships instead of, first of all, ensuring their safety and protection. Slovenian NGOs active in this field strongly opposed such concepts since they knew that they dangerously lead to victims damaging the harmonization of the families and shifting all the responsibility for all relationships to victims. Such approaches mostly lead to secondary victimization of victims.⁵

In May 2011, the Parliamentary Committee for Foreign Affairs gave the Minister of foreign affairs a mandate to sign the Convention in Istanbul. However, the Minister did not sign the Convention due to a strong protest from the Ministry of Justice. Later, objections from the Ministry of Justice were withdrawn, and the Convention was signed in September 2011 (Slana 2016, 53).

The Ministry of Justice continued protesting against the Convention while preparing for the ratification. They issued many arbitrary, even bizarre opinions,⁶ whereas the Ministry of Foreign Affairs and the Ministry of Labour, Family, Social Affairs and Equal Opportunities opposed their opinions, stating that they have no objections to ratification; both ministers publicly supported ratification in their appearances. Aside from ministries' "table tennis", parliamentarians posed numerous questions to the government on the ratification process, mainly in support of it, and NGOs activated the general public (Veselič and Matko 2014, 22).

Anyhow, the Convention was ratified, and with the instrument of the ratification, the Republic of Slovenia deposited reservation following Article

5 See more discussion on that in Veselič and Matko 2014, 13–15.

6 The Ministry of Justice was convinced that "the wording of Article 38 is appropriate for third world countries where the problem of female genital mutilation persists and where there are problems with the criminalization of this harmful practice. In Slovenia and other Council of Europe member states, where the practice does not occur, this type of wording in the Criminal Code is not necessary..." (Pličanič, Ban, Ministry of Justice 2013 in Veselič and Matko 2014, 114). The Ministry of Justice roughly estimated that the ratification would require the amendment of more than 150 articles of different laws in Slovenia (*ibid.*, 18); they claimed that the ratification would not ensure more effective prosecution of crime but disrupt the systematics of the Criminal Code and consequently reduce legal certainty; and they also, for instance, claimed that the ratification could indeed cause harm to the Republic of Slovenia and create a situation of international tort (Vidmar, the Ministry of Justice 2013 in Veselič and Matko 2014, 20).

78, paragraph 2 of the Istanbul Convention. In February 2020, it informed the Secretary General of its intention to wholly uphold its reservation for five years, according to Article 79 of the Istanbul Convention (Council of Europe Treaty Office 2022). The Republic of Slovenia declared that it reserved the right not to apply the provisions laid down in Article 30, paragraph 2 (state compensation); Article 44, paragraphs 1.e, 3, and 4 (jurisdiction); Article 55, paragraph 1 (*ex parte* and *ex officio* proceedings) in respect to Article 35 (physical violence) regarding minor offences; Article 58 (statute of limitation) in respect of Articles 37 (forced marriage), 38 (female genital mutilation) and 39 (forced abortion and forced sterilization), and Article 59 (residence status) (*ibid.*). Nevertheless, as GREVIO pointed out in its Baseline Evaluation Report on Slovenia (GREVIO 2021, 9), Slovenia did not provide “any explanation on the grounds justifying its continuance as required by Article 79, paragraph 3, of the convention.”

First baseline report of the Republic of Slovenia was received by GREVIO on October 2019. In June 2021, GREVIO issued a baseline evaluation report, and the Committee of the Parties issued the recommendations in December 2021.

2. CONSIDERATION OF VIOLENCE AGAINST WOMEN AND DOMESTIC VIOLENCE IN SLOVENIA

Violence against women and domestic violence in Slovenia are regulated by various laws, the most important of which are the Domestic Violence Prevention Act (DVPA), Criminal Code, Police Tasks and Powers Act and Protection of Public Order Act.⁷ Already a quick review of them, but also rules, policies, strategies, etc., and their implementation shows that the context of gender (in)equality and structural (in)equality is mainly overlooked.

The Slovenian legal and policy framework on domestic violence fits into the Degendered Domestic Violence Frame, which treats domestic violence mainly as a human rights and criminal justice issue but avoids the structural gender inequality causes of violence (Krizšan et al. in Danaj and Veselič 2018, 13–14). While the treatment of domestic violence in Slovenia as a

⁷ In the text I'm using English titles of legal texts and names of articles as used at Legal Information System of the Republic of Slovenia.

criminal justice issue is completely the case, the treatment of it as a human rights issue is not so much the case, whereby this statement would need further discussion and analysis.

Domestic violence is widely treated as a social care issue in Slovenia. This is connected with the competencies of social work centres. These are central professional state institutions in the field of social care/work in Slovenia, and with DVPA, they gained large competence: from counselling, support and safety planning for victims of violence; support to children and work in their best interest; work with perpetrators of violence; to establishing multi-disciplinary teams of all important institutions and NGOs for individual cases and their coordination, etc.⁸

A comprehensive and holistic approach towards violence against women and domestic violence are two of the main challenges in tackling violence against women (also) in Slovenia. In the language of the Istanbul Convention, integrated policies, prevention of all forms of violence, protection of victims from further violence and prosecution of perpetrators taken together aim to take a comprehensive and holistic approach to the problem of violence against women (Directorate General for Internal Policies 2017, 10). Slovenian DVPA provides a comprehensive, proactive, multi-agency approach to addressing violence. The Criminal Code criminalizes more or less all forms of violence against women and/or domestic violence. The Police Tasks and Powers Act gives competence to the police to intervene, issue a restraining order, etc. However, it is also crucial that the legislation is implemented correctly.

When discussing different forms of violence, GREVIO (2021, 10, point 6) points out that Slovenia has reached some points of comprehensive treatment in the area of protection of victims of domestic violence. Other forms of violence – rape, forced marriage and stalking – have yet to reach the same level of comprehensive treatment.

8 Social work centres actually exercised many of these competences already in the past – DVPA only structured them and framed them as support and competence in the field of domestic violence. But with DVPA social work centres also gained additional competences with huge additional workload without additional training and new staff. From 2008 until now this is observed as complete irresponsibility of policy makers, policy takers and the competent ministry.

Comprehensive treatment of victims of domestic violence may be the case on a conceptual level, but it needs to be pointed out that the professionals from more or less all state institutions are focused on physical violence. For them, physical violence shows a sufficient level of severity and threat and is also a starting point for treatment, support, and protection of victims of violence. The NGOs from the field often point out that

“various types and forms of violence against women are addressed unequally. Verbal, psychological and sexual violence are considered less serious. Only physical violence is a sign for institutions that actual violence has occurred, as is shown throughout the pre-trial and trial criminal proceedings. The victims report that they often feel powerless and that the response from the institutions, that they cannot act until something concrete happens, puts them in great distress” (Association for Non-violent Communication and Association SOS Help-line for Women and Children – Victims of Violence 2019, 9).

To that, they add

“in practice, convictions of a person who “only” committed psychological violence against a woman are rare. The police, state prosecutors and courts are less likely to recognize psychological violence and consider it a crime. If the victim calls the authorities for psychological violence and threats, both the perpetrator and the victim are often fined for a misdemeanour against public order and peace because the police assume that there was a quarrel and indecent behaviour of both parties. In the case of domestic violence, the perpetrator often transfers the payment of the fine for the offence to the victim, which further complicates the victim’s situation” (ibid., 76).

In this connection, GREVIO notes with concern that currently, in Slovenia, there is no comprehensive strategic document or policy framework to address all forms of violence against women.⁹

9 In fact, such the document never existed in the Republic of Slovenia. Closest to it was a Resolution of National Programme of Family Violence Prevention 2009–2014. “As of 2017, in line with the Family Violence Prevention Act, Slovenia has been preparing the adoption of a new Reso-

In Slovenia, we observe development towards a proactive approach with active intervention and exchange of information among institutions. Police, for instance, pass the information to the social work centre after intervention or issuing a restraining order. The social work centre then contacts the victim and offers assistance, even if the victim does not seek it independently. In the next step, the social work centre forms a multidisciplinary team, a structured example of active intervention, cooperation and exchange of information if appropriately implemented.

3. DOMESTIC VIOLENCE PREVENTION ACT

3.1 GENDER PERSPECTIVE

In 2008, DVPA was adopted as a systemic and non-criminal act, and it was amended in 2016. In explanation to the law, we find the data of every fifth woman being a victim of violence from her partner.¹⁰ We also find the data of Slovenian police from 2001 to 2004¹¹, which show that perpetrators of criminal

lution on a national programme on preventing and combating domestic violence and violence against women” (Danaj and Veselič 2018, 12). However, when analysing policy documents in Slovenia being focused on gender, at least in this expired document we can find emphasis on specific situation of women victims of violence – from understanding violence against women as human rights violation to NGO programs and services, changing social and cultural patterns and stereotype roles of men and women to every day real problems of women who survive violence from their partners (Resolucija o nacionalnem programu preprečevanja nasilja v družini 2009–2014 2009).

10 GREVIO importantly pointed out the problem regarding data collection in Slovenia, namely that

“Slovenia does not have an integrated system of data collection concerning all forms of violence covered by the scope of the convention. Various authorities have their own data-collection models... with the exception of data collection by the police, the data collected are not broken down by the sex and age of both the victim and the perpetrator, the relationship between them, type of violence and geographical location” (GREVIO 2021, 21, points 66–67).

11 In 2021 Slovenian police dealt with more than 62.317 breaches of public order (misdemeanours), 2.458 of them were connected with domestic violence (Republika Slovenija 2021, 19). According to the police, the proportion of domestic violence treated by the police as misdemeanour had

offences with elements of violence in the domestic sphere were men in 88% and women in 12% of cases, whereas most of these women were violent towards children (Vlada Republike Slovenije 2007). In Slovenian research from 2005, 23.7% of respondents answered that they had survived violence in the domestic sphere (Sedmak and Kralj 2006, 103). Among respondents who survived violence as adults (38.6% of those who survived violence in the domestic sphere), 71.4% were women. Sixty-six point five per cent of all survived psychological and emotional violence, 63% of them physical violence (ibid., 104). Still, the government claims it is important not to centre the definition of domestic violence on specific groups of victims but instead to impose the duty for the institutions to provide equal assistance for all victims, including the elderly, persons with different disabilities, men and all other family members (Vlada Republike Slovenije 2007, point 2.1.1.).

In 2010, another national research was carried out. It showed that every second woman (56.6%) in Slovenia had survived some form of violence from her fifteenth year of age. Most frequent were psychological (49.3%) and physical violence (23%). Perpetrators were 90.8% men (Leskošek, Urek, and Završek 2010, 20). European Union Agency for Fundamental Rights research from 2014, cited in the 2016 explanation of DVPA amendments, showed that 43% of women had experienced some form of psychological violence in the domestic sphere, and 22% have been victims of physical and/or sexual violence by a current or former partner (Vlada Republike Slovenije 2016, 3–4). According to the government, DVPA needed to be amended to protect

already been reduced some time ago (ibid., 30) in favour of treating it as criminal offence. In 2021, police dealt with 2.706 criminal offences against marriage, family and children, 1.287 of them were criminal offences of domestic violence (ibid., 23–24). Police also dealt with 55 cases of rape and 43 cases of sexual violence (ibid., 95), whereas from data in the annual report we can not find the information on the relationship of the perpetrator and the victim and whether the criminal act was committed in public or in private sphere. Criminal offences and misdemeanours are not separated by sex in the annual report. Police collect such data and publish it on their web site, but do not process it. In its evaluation report GREVIO strongly encouraged

“Slovenian authorities to ensure the comprehensive collection of disaggregated data in relation to all forms of violence covered by the Istanbul Convention, disaggregated by sex, age and type of violence as well as the relationship of the victim to the perpetrator” (GREVIO 2021, 22, point 72).

domestic violence victims better and improve the coordination, procedures and communication between all competent institutions and authorities in addressing family violence (*ibid.*, 4). Furthermore, again, the law mainly protects the most vulnerable groups in society – people with disabilities, the elderly, and children (*ibid.*, 1).

In its Baseline Evaluation Report on Slovenia, GREVIO strongly encouraged “the Slovenian authorities to enhance the application of a gendered perspective in the implementation of the Istanbul Convention, including concerning law and policy on domestic violence” (GREVIO 2021, 12, point 14). It is true, as GREVIO stated (*ibid.*, 6), that DVPA brought about significant change to the response to women victims of domestic violence in Slovenia with a victim-centred approach and range of measures to support and protect victims. This is to be offered in an integrated manner and based on multi-agency cooperation among various state authorities and non-governmental organizations. But, although the gender perspective is somehow elaborated in the explanation part of the DVPA, it is completely overlooked in its text. So the question that must be asked here is what effect gender-blind laws can have or what their implementation looks like since they do not address the root of the problem, which is gender inequality.¹² As Podreka (2017, 15) writes in the context of murders of women in intimate partner relationships, structural gender inequality creates foundations for the perpetuation and reproduction of violence against women in intimate

12 As Association for non-violent communication and Association SOS Help-line for Women and Children – Victims of Violence explain in the Alternative report to GREVIO:

“We note that there is still a great deal of misunderstanding of domestic violence among professionals at social work centres and judges. They don’t see it as a consequence of the unequal distribution of power between men and women, as a consequence of the mechanisms of patriarchal society and the gender hierarchy where women are subordinated to men in private as well as public life. This means, that judges and other professionals oftentimes think the cause of violence to be the victim’s behaviour, perpetrators additional problems and circumstances (eg. addiction, unemployment, etc.), or they understand it as part of the disagreement between partners” (Association for Non-violent Communication and Association SOS Help-line for Women and Children – Victims of Violence 2019, 30).

partner relationships. Murders of women in intimate partner relationships are an extreme form of male control and exercise of their power. These are gender-specific forms of violence which are present and persistent precisely because of the position of gender in society.¹³

Podreka goes on to claim that if we want to understand violence in all its complexity, we must necessarily take into account the gender perspective (Podreka 2017, 30). She quotes Schwartz, who claims that the most important research finding of the last twenty years is that violence against women can only be understood in the context of gender inequality (ibid., 66), and Connell, who claims that policies in the field of violence against women can be ineffective or even counterproductive if we do not understand the gender dynamics involved in them (ibid., 67). Furthermore, she also quotes Yllö, who claims that violence against women in the private sphere is one of the tactics of male control. It is not gender-neutral, just as the division of labour or the institutions of the family, marriage or partnership are not gender-neutral (ibid., 72–73).

3. 2 VIOLENCE AGAINST WOMEN REMAINS UNDERREPORTED

GREVIO (2021, 7) is concerned because of the high attrition rates concerning several forms of violence against women in Slovenia, particularly domestic violence and rape, and the lack of effort made by Slovenian authorities to identify the causes thereof. National research from 2010 showed that despite the government's better responsiveness to the problem of violence against women, the number of unreported cases remains high. According to a researcher, this is primarily a result of women's low trust in public institutions, and institutional (in)ability to protect them – one-tenth of respondents believed that various services could not help them. Many women had unfavourable experiences with health institutions, social services, the police and the judiciary. They reported violence, but no action was taken; in some cases, they were even implicitly accused, for example, if they returned

13 Dr Jasna Podreka carried out a qualitative analysis of 24 criminal cases of murder and attempted murder of women in heterosexual partnerships in Slovenia in which a final judgment was reached between 2000 and 2011. In all cases, the perpetrator was male and the victim was female.

to their violent partner. Approximately one-fifth of respondents kept silent about violence because they thought the perpetrator was so influential that the responsibility would be ascribed to them. Actually, one-fifth of respondents were held responsible for violence and accused of provoking it. Less than one-tenth of respondents stated that when turning to institutions, they met with distrust; more than one-third met with indifference when discussing violence (Leskošek 2015, 62–65). Practices which further underline distrust in public institutions but also lead to secondary victimization¹⁴ of victims of violence in intimate partner relationships observed by Slovenian NGOs from the field for many years have also been forcing mothers, survivors of violence, to communicate with violent (ex) partners in upbringing children and to enable contacts with them to violent (ex) partners, whereas less responsibility is expected from the fathers; popularization and use of parental alienation syndrome; forcing mediation in solving property issues and in arranging care for children, etc. (Horvat and Zabukovec Kerin 2015).

Stigmatization of victims and institutional sexism, as described above, inevitably lead to secondary victimization. Such practices expose women survivors of violence to the additional (sometimes deadly) risk and enable perpetrators of violence to continue with violence after women leave the relationship. To prevent it, it is necessary to develop approaches that will include women who experienced violence in a decision procedure without exposing them to dangerous situations or simply transferring all the responsibility for action to them, which they cannot carry (*ibid.*). In Slovenia, victims of violence are/should be included in the decision procedure in the frame of multidisciplinary teams established for their cases. However, the practice of establishing and coordinating these teams varies significantly from one social work centre to another, so the victim does not need to be able to participate.

The most important message from different surveys is that women who do not receive respectful and responsive service will end up in a long-lasting violent relationship that will affect their lives and their children's lives in many ways (Leskošek 2015, 68). Podreka's (2017, 247) analysis of murders

14 The basic aim of violence is to subordinate, so that the victim behaves in accordance with the perpetrators' wishes (Rommelspacher in Leskošek 2015, 67). If this role is adopted by institutions, then we speak about secondary victimization (Davis in Leskošek 2015).

and attempted murders of women in Slovenia showed that some victims sought help and advice from local institutions such as social work centres, police and psychiatric institutions before the murder or attempted murder, but that those often failed to act decisively enough because they underestimated the risk. Podreka links such institutional response to the lack of professional knowledge and research on murder in intimate partner relationships. Similarly, the study results on factors that facilitate or inhibit appropriate actions by healthcare professionals point to a strong need for educational programmes specifically designed to target healthcare professionals' attitudes toward domestic violence. The study emphasized the vital role of attitudes when it comes to the action-taking of healthcare professionals in cases of domestic violence: seeing domestic violence as more acceptable relates to less appropriate action-taking, with this relationship being particularly strong for a higher frequency of encounters with victims of domestic violence (Zorjan et al. 2017, 171).

Not reporting violence is also a matter of overall social climate. In her analysis, Podreka (2017, 246) found out that people in the microenvironment and institutions at the local level were often aware of the violence perpetrated by the convicted person but rarely took action. People from the microenvironment most often took a position of non-interference and perceived the violence 'between the partners' as private and not particularly problematic. The violence of the convicted was often tolerated and condoned in the local community (ibid., 247).

Sedmak and Kralj (2006, 105) point out data from the research carried through in Slovenia in 2005, which showed that 7 to 17% of respondents do not understand threats, verbal humiliation and intimidation as violent acts. Thirty-six per cent of them think that one slap is not a violent act – it is justifiable action in justifiable circumstances. One-third of respondents think that controlling financial means and opening a partner's mail is not a problematic or violent act; 7.6% of respondents think that forcing a partner to have sex is not an act of violence. Although not wholly comparable, it is still necessary to mention the results of the Special Eurobarometer on gender-based violence from 2016 since it shows that some perceptions of people in Slovenia have changed from 2005. According to the 2016 Special Eurobarometer, people in Slovenia think that domestic violence against

women in Slovenia is very (13%) and fairly (57%) common; 87% of people in Slovenia think that it is unacceptable and should always be punishable by law. Seventy per cent of people in Slovenia tend to disagree or totally disagree that the victim often provokes violence against women, and 47% of them tend to disagree or totally disagree that domestic violence is a private matter and should be handled within the family. Seventy-eight per cent of respondents think that forcing a partner to have sex is wrong and already against the law or wrong and should be against the law; the same percentage of the same answers goes for “trying to control a partner by preventing them from seeing and contacting family and friends, denying them money or confiscating mobile phones or official documents.” Forty-nine per cent of people in Slovenia think it is wrong and already against the law or wrong and should be against the law to repeatedly criticize a partner for making them feel inferior (Eurobarometer 2016).

Sedmak and Kralj (2006, 108) importantly point out that a person experiencing domestic violence will never turn to the relevant support services if she considers certain forms of violent behaviour to be ‘normal’ and ‘acceptable’ or if she believes that it is she who is provoking the violent partner with her ‘inappropriate’ behaviour. Finally, the effectiveness of the prevention, awareness-raising, intervention and sanctioning policies depends on the extent to which these measures take into account people’s views and the extent to which the majority opinion perceives them as acceptable and ‘intrinsic’ (Pollitz, Worden, and Carlson in Sedmak and Kralj 2006).

3. 3 *MULTIDISCIPLINARY TEAMS/MULTI-AGENCY COOPERATION*

The first example of direct multi-agency cooperation was enacted in 2003 in the Police Act, which introduced a restraining order and obliged the police to inform the social work centre about imposing the measure. And then, only in 2008, with the adoption of DVPA, Slovenia began to build a systemic approach to dealing with domestic violence (Filipčič 2016, 29).

As already mentioned, one of the responsibilities of social work centres defined in DVPA is establishing and coordinating multidisciplinary teams/multi-agency cooperation for individual domestic violence cases. Multi-agency cooperation is further defined with rules passed according to

DVPA, especially Rules on the organization and work of multidisciplinary teams and regional services and on the activities of social work centres in dealing with domestic violence.¹⁵ Analysis of the work of institutions from the 2010 national research showed that social work centres still do not establish such teams often enough and do not cooperate with other services. In cases when a team was formed, it was the police that most often responded to an invitation. The least responsive were medical services (Murgel 2011, 163). In most of the reported cases, an assistance (safety) plan was not drawn, and a small percentage of victims decided to use the option of free legal aid in judicial proceedings (Leskošek 2015, 65).

“Multi-agency approaches can only be as good as the professional practice of the various agencies and institutions involved, each of which has to have a clear understanding of its own specific mandate and tasks. The police cannot do social work or psychological counselling, nor can social workers function as police investigators” (Hagemann in Leskošek 2015, 62).

With communication, cooperation and exchange of information, single practices need to complement each other. Nevertheless, the common practice of most Slovenian institutions and professionals is still ‘working alone’. Moreover, although DVPA and Rules imposed an obligation on various agencies to coordinate their actions is a big step forward, it is still not sufficient if the decision to form an inter-institutional team is arbitrary and depends on individual experts and their subjective understanding of the case.

Based on the assessment of the situation in Slovenia (legal and policy documents; Council of Europe fact-finding mission in Ljubljana in June 2018), Danaj and Veselič (2018, 15–16) concluded that inter-agency cooperation in single cases is to some extent left to good or bad practice and even good or bad personal contacts between individual professionals. It varies across the country, remains insufficiently effective and systematic and needs

15 There are four rules altogether – beside the ones cited above, these are Rules on cooperation between the police and other authorities in the detection and prevention of domestic violence; Rules on procedures for dealing with domestic violence in the implementation of health activities; Rules on the Treatment of Domestic Violence for Educational Institutions.

further operationalization across the country. GREVIO “urges the Slovenian authorities to set up institutionalized structures for coordination and cooperation... /and/ to ensure multi-agency cooperation tailored to the specific needs of victims of all forms of violence against women..., in particular rape and sexual violence, forced marriage, stalking, and sexual harassment. Where such institutionalized structures are already in existence, notably in the form of Multidisciplinary Teams set up under the DVPA, GREVIO strongly encourages the application of a gendered perspective in responding to domestic violence, with a clear focus on the human rights and safety of victims, as well as on their empowerment and economic independence” (GREVIO 2021, 35, point 155).

As Leskošek (2015, 63) points out, the lack of cooperation among different institutions and organizations is, in fact, one of the biggest obstacles to the efficient protection of victims. It makes it easier for the perpetrators to avoid responsibility, and even public services themselves more readily decide not to take action because they believe that nothing can be done to change the situation.

4. CRIMINAL CODE, POLICE TASKS AND POWERS ACT AND PROTECTION OF PUBLIC ORDER ACT

In Slovenia, all forms of domestic violence have been criminalized since 1977, including marital rape. Given the various objects of criminal law protection, until 2008, individual criminalization was scattered across several articles in several chapters of the Criminal Code (Rihtaršič 2011, 59). From 1999, domestic violence was part of the criminal offence of violent conduct, and in 2008 it was introduced as a special criminal offence of domestic violence. In 2015 criminal offences of stalking and forced marriage were introduced to Criminal Code.

‘Less severe’ forms of domestic violence are treated as a misdemeanour in the frame of the Protection of Public Order Act from 2006. The distinction between them is unclear, though case law has established some distinction criteria. If we summarize and simplify, Filipčič (Filipčič et al. 2021, 37) points out that domestic violence is treated as a crime if violent acts are repeatedly

performed and the perpetrator places the victim in a subordinate position with these acts. At the same time, one-time violent behaviour constitutes a misdemeanour in accordance with the Protection of Public Order Act. The distinction is important since it affects the process of treating the perpetrator of violence and, therefore, also the sanctions that can be imposed on the perpetrator (*ibid.*). However, if we think beyond legal frames, this distinction is also important from the point of view of the victim's safety, her interaction with institutions and trust in them, qualifications of the professionals from the institutions to estimate the situation – whether physical violence really happened for the first time/one time or victim simply did not report it until now, etc. Anyhow, suppose an act of physical violence really occurred for the first time. In that case, trained professionals could almost certainly find evidence of a history of psychological violence against a victim: threats, insults, and various restrictions that almost certainly placed the victim to a subordinate position in the relationship and caused her to feel endangered and insecure. In other words, treating violence against women in intimate partner relationships as a misdemeanour is wrong, does not contribute to the prevention of violence and does not ensure safety for victims. If a victim asks for help from the police or any other state institution, the possibility that she has not been enduring repeated violence for a longer period and that she is not in a subordinate position is very small.

In June 2021, Article 170 (Rape), Article 171 (Sexual violence) and Article 172 (Sexual abuse of a vulnerable person) were amended with provisions of affirmative consent.¹⁶ The consent is given if the person consented to sexual intercourse or equivalent sexual behaviour or sexual act according to her/his outwardly perceptible, unequivocal and free will and was capable of making such a decision (Uradni list Republike Slovenije 2021).

16 In the first instance Ministry of Justice decided to change Criminal Code according to the 'NO means NO' model (Ministrstvo za pravosodje Republike Slovenije 2020), called a veto model. It means that a victim of rape or sexual assault has to oppose the act actively with saying no. The NGOs did not agree and insisted that the model of affirmative consent or 'YES means YES' model needs to be accepted. Later on also broader social consensus was reached that led to political consensus on changes according to the model of affirmative consent (Vlada Republike Slovenije 2021).

The reaction of the Ministry of Justice to start working on changes to the Criminal Code in line with affirmative consent was not accidental, and what is also worth mentioning is that both the Minister that started to work on changes and the Minister that finished the process were women. As Mihelj Plesničar explained (2019, 23) at the beginning of January 2019, the Slovenian public was outraged by the media coverage of the case of rape, which was considered by the Koper High Court. In its ruling, the High Court wrote that when the perpetrator uses force only after the sexual intercourse has already taken place, or he has completed sexual intercourse, then the criminal act of rape has not been committed. The case was later considered by the Supreme Court, which did not really deal with the content of the ruling but requested a re-decision due to procedural violations. In a slightly changed composition, the Koper High Court adopted a new ruling that clearly changed its view. It wrote that the criminal act of rape might also be committed during sexual intercourse itself. For instance, the victim has consented to sexual intercourse but then changed her mind for various reasons, such as violence, and the perpetrator would force the completion of sexual intercourse by using force or a severe threat. It could also happen when the perpetrator had sexual intercourse with a person who could not resist due to sleep and intoxication, but when she woke up and objected to sexual intercourse, the perpetrator would crush her resistance with force and complete the sexual intercourse. The media did not widely report on the changed position. However, the first ruling triggered a fierce reaction in public, to which even policy-makers and policy-takers had to respond (*ibid.*).

In 1999, the amendment to the Criminal Procedure Act came into force, introducing three new security measures as alternatives to detention, one of them being a ban on approaching a particular place or a person (Filipčič in Šprah et al. 2003, 127). In 2013, Police Tasks and Powers Act was passed, which supplemented police powers concerning the already existing competence of issuing restraining orders. The police issue a restraining order independently for a concrete case to ensure the victim's safety and prevent further violence. And according to DVPA, the court may prohibit the perpetrator of violence from entering the apartment and staying in the vicinity of the apartment where the victim lives; stopping and approaching

the places where the victim usually stays; making contact with her; etc. The court may also decide that the perpetrator hands over the shared apartment to the victim.

In practice, NGOs see many problems in implementing restraining orders: it is only imposed if severe psychological or physical violence occurs; it is rarely imposed solely on the grounds of stalking; the restraining order will most probably not be extended if violence has not occurred in the last six months or if the violence was considered less intense by the court (Association for Non-violent Communication and Association SOS Help-line for Women and Children – Victims of Violence 2019, 68).

The conclusion is therefore offered by itself: if we want criminal justice response to be efficient, we need, first of all, highly trained professionals with a clear position on the unacceptability of any form of violence. The normative frame is important, but how good and efficient it is, depends on how well it is implemented.

CONCLUSION

If victims are convinced that they cannot trust institutions, that no one can help them to resolve their situation and ensure their safety, if they had bad experiences in the past, if no one heard them, if they are ashamed and scared, if they are convinced that violence they face is deserved or normal, then they will not speak up. Most women in Slovenia are exposed to violence from their intimate partners for many years before they speak up. When they do, they do not necessarily find the right person/institution/organization to support them and help them. Health care providers, police and social work centres are likely to be the first professional contacts for survivors of violence in intimate partner relationships and in cases of rape, sexual assault and other forms of violence against women. A correct and professional approach to them is critical since, as Leskošek (2015, 62) points out, this could increase victims' trust, leading to a higher rate of violence reporting. But of course, if violence reporting is not accompanied by the correct conclusion of the procedure (with the prosecution, trial, and sentence), then not much has been done. And if professionals are not continuously trained, they can simply not fulfil all the victim's needs and the criminal procedure.

According to GREVIO (2021, 7), the criminal justice response to all forms of violence against women in Slovenia needs to be stronger. Filipčič (Šprah et al. 2003, 116) elaborates few conditions that must be fulfilled if the tasks of the institutions are to be carried out efficiently: police officers should define intimate violence as a criminal offence and not as a private matter; social workers, doctors, teachers and neighbours should learn to recognize the symptoms of domestic violence and report it to the police; and most importantly, victims should believe that the criminal procedure and punishment would be effective, would stop the violence. Because of that belief, they will not only report the violence but will be prepared to take an active role in criminal procedure.

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Konvencija Saveta Evrope o sprečavanju i borbi protiv nasilja nad ženama i nasilja u porodici u Sloveniji

Špela VESELIČ

Nezavisna ekspertkinja

Sažetak: Istanbulska konvencija je stupila na snagu u junu 2015. godine u Republici Sloveniji. Sa stanovišta analize javnih politika i aktivizma nevladinog sektora, procesi potpisivanja i ratifikovanja konvencije su bili izuzetno zanimljivi. U tim procesima su se mogli videti neznanje i stereotipi kod nekih ministara i birokrata, ali i visok nivo razumevanja problema nasilja prema ženama, posvećenost ljudskim pravima i instrumentima za njihovo implementiranje, pa čak i aktivizam, kod drugih ministara, birokrata, parlamentaraca, predstavnika i predstavnica gradske vlade. Oni su sarađivali sa (ženskim) nevladinim organizacijama i mobilisali javnost: od sportista i sportistkinja, pevača i pevačica, do „običnih” ljudi. Na kraju, javni pritisak i ekspertiza su bili odlučujući za ratifikaciju Konvencije.

Sa usvajanjem Zakona o sprečavanju nasilja u porodici 2008. godine, Slovenija je počela sa razvojem sistema u kojem možemo videti proaktivni pristup koji podrazumeva aktivnu intervenciju i razmenu informacija između različitih institucija. Iako je poslednjih godina došlo do značajnog napretka, još uvek je dug put pred Slovenijom u borbi protiv nasilja protiv žena. U tekstu se ukazuje na neophodnost rešenja sledećih problema: problema neprijavlivanja nasilja u porodici, zatim problema nepoverenja žrtava u institucije, pitanja (ne)znanja i nedostatka obuke profesionalaca u institucijama, problema neformiranja multidisciplinarnih timova, problema tretiranja ‘lakših’ oblika nasilja kao prekršaja, itd. Tekst naglašava da je nasilje prema ženama povezano sa nasiljem u porodici i deo je ovog sistema. Razumevanje i imenovanje nasilja prema ženama kao uzroka i posledice rodne neravnopravnosti i dalje ostaje učutkano.

Ključne reči: Slovenija, Istanbulska konvencija, GREVIO, nasilje prema ženama, nasilje u porodici, rodna naravnopravnost, multidisciplinarni timovi, multisektorska saradnja, policija