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PREVENTING AND COMBATTING GENDER-BASED VIOLENCE IN CZECHIA – A SUCCESS STORY?*

Abstract

Domestic violence and other forms of gender-based violence remain a serious problem of Czech society. In Czechia, there is no definition of violence against women or gender-based violence against women, nor ‘gender’ enshrined in law or established in judicial practice. Similarly, no legislation, nor jurisprudence, acknowledges gender-based violence as a form of discrimination or violation of the principle of equality.

The paper focuses on gender-based violence in the Czech Republic. It aims at mapping the current situation, identifying weaknesses in legislation as well as in practice and proposing some effective steps for the future. This paper aims at providing a broader view on the state of affairs in the field of gender based violence in order to keep the debate on this very important but neglected topic, alive.

This paper draws a conclusion that in Czechia, a structural change is needed. Not only solid and robust legislation aimed at better protection of victims of gender-based violence should be adopted but also a change of mindset in the legal practice and judiciary should occur.

EU law with some proposed changes could help a lot to make the abovementioned changes possible.

* The article was submitted in December 2021.

KEYWORDS

gender-based violence, legal instruments, prevention, EU law

SŁOWA KLUCZOWE

przemoc ze względu na płeć, instrumenty prawne, prewencja, prawo Unii Europejskiej

INTRODUCTION

In 2009, the United Nations started a strong campaign to combat violence against women. Lately deceased Desmond Tutu declared in this respect that he would fight until the end of his life in order to protect any woman from the fear of violence. Since then, several legal instruments on international as well as national level have been adopted. ILO adopted the Convention on Harassment, the Council of Europe adopted the Istanbul Convention, EU included combatting gender-based violence in its several directives. It seems that we have enough legal sources to combat a phenomenon that is unacceptable for the developed democratic societies, but which is unfortunately still widespread, especially in families. The recent Covid 19 pandemic showed, that even in Europe, we are still facing quite high numbers of cases of violence against women, while reactions (legal and political) to this phenomenon are not always decisive and consistent enough.¹

This paper focuses on the situation in this field in the Czech Republic. It aims at mapping the current situation, identifying weaknesses in legislation as well as in practice and proposing some effective steps for the future. This paper also tries to provide a broader view on the state of affairs in the field of gender-based violence in order to keep the debate on this very important but neglected topic alive.

GENDER-BASED VIOLENCE – SITUATION IN CZECHIA

Domestic violence and other forms of gender-based violence remain a serious problem of Czech society. As one of the most common forms of violence it has major negative impacts on the lives of victims and society as a whole.

¹ Criminalisation of gender-based violence against women in European States, including ICT-facilitated violence (1,97 MB).

In Czechia, the topic of gender-based violence and violence against women is still hard to face through societal debate but also through legal approaches. It has been somewhat a taboo topic for many years, as the Czech society is still quite a stereotypical one. A huge, mainly very critical debate, on the Istanbul Convention has been raised in Czechia. Conservative Christians are strongly against it and they have succeeded in spreading disinformation among several circles of society. That is why including any hint on VAW or GBVAW in the legislation is currently a very sensitive issue. The Istanbul Convention has not been ratified in Czechia yet and the ratification process will not be started before the general political election next October. The new government should be able to consider this issue in summer 2022.²

According to a survey enacted in 2018, more than half of the adult population (58%) continues to believe that in certain cases or situations, a woman is, at least partially, co-responsible for being raped (she behaved flirtatiously, she was defiantly dressed, she was drunk, etc.). However, over 70% of the respondents also think that the current situation in the field of violence against women in the Czech Republic is a problem. 84% of all the respondents call for a greater focus of the Czech Republic on the prevention of violence against women.³

According to statistical data, approximately every third woman has experienced various forms of domestic violence during her lifetime. In more than half of the cases, domestic and partner violence is witnessed by children. Approximately 5-10% of Czech women have experienced rape, while the vast majority of them never seek help and turn to the police. Sexual harassment, dangerous harassment, or gender-based cyber violence also have a high rate of latency.⁴

Approximately 600 rapes are reported to the police each year, and the police deal with an average of two cases of abuse of a person living in the same household on a daily basis. Every year, children witness approximately 500 cases of domestic violence in the families where they grow up. On top of that, each year 80 cases of sexual coercion and 17 cases of trafficking are reported to the police.⁵ Nevertheless, the phenomenon of gender-based violence is not faced in a systematic way, even if many important steps forward have been enacted lately.

² Office of the Government issued a press release in which it states that it has been proven that the Istanbul convention was only positive for countries which ratified it. Available at <https://www.vlada.cz/cz/ppov/rovne-prilezitosti-zen-a-muzu/aktuality/desate-vyroci-istanbulske-umluvy--obavy-z-ni-se-v-evrope-nepotvrzují-188304/>.

³ See Amnesty International, *Problematika násilí na ženách optikou české populace (Violence against women from a point of view of Czech population)*, 2018. Available at https://www.amnesty.cz/data/file/5068-vyzkum_2018.pdf?version=1605458424.

⁴ L. Čírtková, *Domácí násilí: Nebezpečné rodinné vztahy ve 21. Století (Domestic violence: Dangerous family relationships in 21st century)*, Plzeň 2020.

⁵ Police of the Czech Republic, *Data and statistics of criminality*, Praha 2021. Available at: <https://www.policie.cz/clanek/statisticke-prehledy-kriminality-za-rok-2018.aspx>.

ABSENCE OF BASIC LEGAL CONCEPTS AND DEFINITIONS

In Czechia, unfortunately, there is no definition of violence against women (VAW) or gender-based violence against women (GBVAW), nor ‘gender’ enshrined in law or established in judicial practice. Similarly, no legislation, nor jurisprudence, acknowledges VAW/GBVAW as a form of discrimination or violation of the principle of equality.

The only Czech official document that operates with “GBVAW” is the “*Action Plan of Prevention of Domestic Violence and Gender-Based Violence 2019-2022*”.⁶ This document contains a legally non-binding definition of GBVAW stating that “*GBVAW is any act of physical, sexual, psychological, economic, and other violence aimed at women based on the fact that they are women, or aimed at men based on the fact that they are men; or any act of such violence which affects disproportionately women or men*”.⁷ Among the examples of such violence, it mentions intimate partner and domestic violence, sexual violence, rape, sexual harassment, or stalking.

Furthermore, there is no official body specifically meant to solve complaints from the survivors of VAW/GBVAW. This is also due to the fact that the National Human Rights Institution still has not been established. The only Czech Equality Body is the Public Defender of Rights who can deal with individual complaints in matters of the right to equal treatment and protection against discrimination.⁸ However, as VAW/GBVAW is not legally recognised as a form of discrimination, the competences of the Equality Body in this regard are almost none.

Finally, the Czech legal order criminalises practically all crimes except for sex-based harassment. However, all crimes in the Criminal Code⁹ are gender-neutral, therefore the gender aspect of violence against women is not acknowledged and there is no gender-specific support for women.

NATIONAL LEGISLATION – A WEAK REACTION TO GENDER-BASED VIOLENCE?

The biggest recent step in facing the violence against women and domestic violence was the approval of Act No. 45/2013 Coll., on Victims of Crimes which

⁶ Office of the Government, *Akční plán prevence domácího a genderově podmíněného násilí na léta 2019-2022 (Action Plan of prevention of DV and GBVAW 2019-2022)*, Praha 2019. Available at: <https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/AP-DN---grafikaFINAL.pdf>.

⁷ *Ibid.*, p. 6.

⁸ According to Section 1/5 of Act No. 349/1999 Coll., on Public Defender of Rights.

⁹ Act No. 40/2009 Coll., the Criminal Code.

came into effect on 1 August 2013. That Act was a decisive step forward in providing instruments of protection of crime victims, including victims of crimes against dignity in the sexual sphere. There is, however, no legal definition of violence against women. Still, the fact that the Act on Victims of Crimes was adopted and is quite well applied represents a milestone in the history of Czech legislation in the field of rights of crime victims, including victims of gender-based violence.

Even if the act on victims of crimes is a very important piece of law, in its whole text, there is only one relevant reference to the GBVAW. The Act states that victims of crimes in the sexual sphere or of violent crimes who face the danger of secondary victimisation are considered to be *especially vulnerable victims*.¹⁰

Having this status, they may exercise the following specific rights (Section 5 of the Act): free professional assistance; the right to prevent contact with a person whom has been identified as the offender who is suspected of committing a criminal offense or against whom criminal proceedings are being conducted, before and after the commencement of the act; the right to be heard in the preparatory proceedings by a person of the same or opposite sex; the right to be heard by a trained person and in premises adapted for this purpose; the right to a full hearing so that it does not have to be repeated later and, in the case of a further hearing by the same authority, to a hearing by the same person; the right to prevent direct visual contact with a person suspected of having committed a criminal offense or with a person against whom criminal proceedings are being conducted.

This provision is invoked mostly by women, however, it is a general provision available for any victim. No specific needs of women are considered in the legislation. The Czech legislation automatically provides all children with the abovementioned status of a vulnerable victim,¹¹ thus they may exercise certain specific rights. Moreover, children are specifically protected also through Act No. 359/1999 Coll., on social-legal protection of children. This act implements especially the UN Convention on rights of the child. Section 16(2) states: "If the child is exposed to physical or mental violence by a parent or other person living with the child in the same household, the municipal authority of the municipality with extended powers may apply to the court on behalf of the child." The same act provides for the obligations of public child protection authorities to immediately inform the police and other authorities acting in penal proceedings if there is any suspicion of violence against a child or violence witnessed by a child in the family (Section 51 of the Act). No specific protection for girls is included.

Regarding the topic of violence against women, there is an amendment to Act No. 250/2016 Coll., on liability for and conduct of offence. Its Section 52 (6) defines restrictive measures consisting in the obligation to submit to an appropriate program for the management of aggression or violent behaviour. These may

¹⁰ Section 2/4/d of the Act on Victims of Crimes.

¹¹ Section 2/4/a of the Act on Victims of Crimes.

be imposed on a natural person who has committed an offense showing signs of the use of domestic violence or partnership violence. The administrative authority shall request a written report from the provider of an appropriate program to manage aggression or violent behaviour containing information on the offender's compliance with the conditions of the imposed restrictive measure.

Rape is an extreme form of gender-based violence. The Criminal Code includes quite a wide definition of rape. Rape is defined as an act in which the perpetrator forces the victim by violence or threat of violence or threat of other serious harm to have sexual intercourse or takes advantage of the victim's defencelessness to commit such an act.¹² Several NGOs and activists argue that this definition is not broad enough and recommend to include also 'sex without consent'.¹³

SEX-BASED HARASSMENT – NOT CRIMINALISED, THE MORE VISIBLE AND DISCUSSED, THE BETTER

As opposed to rape, harassment is a phenomenon that is well defined in the Czech legislation but cannot be penalized. Antidiscrimination act defines harassment and sexual harassment according to EU directives in a gender-neutral way.¹⁴ In Czechia, harassment can be tackled only through civil procedure, within a discrimination procedure. There is no possibility of penal procedure.

The general atmosphere in the society is not very favorable regarding women openly speaking about their experience with sexual harassment. Some media tend to portray these women as co-responsible for such acts and completely trivialise this issue. Sexual harassment is not a priority for any public stakeholder.¹⁵

On the other hand, at the end of May 2021, there was a big political scandal involving a young, very successful politician (member of the Parliament), who was accused by several women of sexual harassment and, in at least one case, of rape.¹⁶ This politician had to resign from all public functions within few days

¹² Sec. 185 of the Criminal Code.

¹³ See for instance <https://www.amnesty.cz/pripad/ceska-republika-zmena-pravni-definice-znasilneni>.

¹⁴ Section 4, Act No. 198/2009 Coll., Anti-Discrimination Act.

¹⁵ A. Křížková, H. Maříková, Z. Uhde, M. Čermáková, R. Dudová, B. Havelková, *Sexualizovaná realita pracovních vztahů. Analýza sexuálního obtěžování v České republice (Sexualized reality of labour relations. Analysis of sexual harassment in the Czech Republic)*, Praha 2006. Available at https://www.soc.cas.cz/sites/default/files/publikace/sexualizovana_realita_pracovnich_vztahu_web.pdf. More recently on sexual harassment, its unacceptability in an article published online <https://a2larm.cz/2019/11/tolerovat-sexualni-obtezovani-znamena-vytvaret-podhoubi-pro-sexualni-nasili/>.

¹⁶ N. Deník, „Chování Dominika Feriho je veřejné tajemství.“ *Ženy popsaly traumatizující zkušenosti s mladým politikem (Behaviour of Dominik Feri is a public secret. Women described*

and is now being prosecuted. In connection with this situation, the society started to debate more intensely on the issue of sexual harassment and violence against women. This scandal might positively contribute to raising awareness and also to a smoother adoption of a proposed amendment to the Crime Code in order to tighten the penalty for violent behaviour against women and other potential victims and unconditional sentences for rape.¹⁷

In November of the same year, several women spoke out in a case of a medical doctor – psychiatrist – who was accused to have harassed and raped several of his former female patients. This case was made public after it had been announced that the man was about to get one of the highest state premiums.

Even though in the last years significant growth of cybercrime has been registered (when comparing 2019 with 2011, the number of denunciations increased 5 times¹⁸), there is no provision in the criminal legislation regarding the cyberspace and its specifics. The majority of such acts are qualified as other, already established, general crimes (such as fraud, incitement of hatred, etc.). The cyber aspect is not present in any of the GBVAW crimes in the Criminal Code.

The topic of gender-based online violence has been made visible through a very popular documentary film called *Caught in the net*.¹⁹ Recently, another documentary produced by the public television has been broadcasted, showing, how many difficulties women face after having been raped. It is also clear from the publicly accessible data that penalties for rape are low (often only a couple of months in prison),²⁰ whereas psychological and other health consequences for the victims last for a very long time.

ACCESS TO JUSTICE AND COMPENSATION

The question of access to justice and compensation is a never-ending problem of the Czech restorative system, especially in the field of issues connected with

traumatising experiences with a young politician) 2021, available at: <https://denikn.cz/633350/chovani-dominika-feriho-je-verejne-tajemstvi-zeny-popsaly-traumatizujici-zkusenosti-s-mladym-politikem/>.

¹⁷ Proposal of parliamentary declaration has been discussed at the 108. Assembly of Chamber of Deputies - <https://www.psp.cz/eknih/2017ps/stenprot/108schuz/s108002.htm>.

¹⁸ Police of the Czech Republic, *Kyberkriminalita (Cybercrime) – statistics*, Praha 2021. Available at: <https://www.policie.cz/clanek/kyberkriminalita.aspx>.

¹⁹ *Caught in the net* (in Czech: *V síti*) is a 2020 Czech documentary film by Vít Klusák about sexual predators on the internet. The film documents three actresses pretending to be adolescent girls on social media who are contacted by sexual predators that try to seduce them and start sending them photos of their genitalia. Sexual predators appearing in the film attracted the focus of police after the release of the film and at least one of them was convicted at the court.

²⁰ https://jaktrestame.cz/aplikace/#appka_here.

discrimination. Therefore, it is connected with gender-based violence topic. As already explained, the Act on Victims of Crime states that victims of crimes in the sexual sphere or of violent crimes who face the danger of secondary victimisation are considered to be especially vulnerable victims.²¹ The Act still does not specifically consider the special needs of women and girls as victims of violence, which can be considered as a big weakness of the whole system.

In Czechia, sanctions are generally very low and are not of real dissuasive character. For example, the sentences for rape are seriously low and approximately 50% of rapes result in a mere probation for the perpetrator.²²

A recent analysis of the national case law on rape shows that the ratio of unconditional sentences of imprisonment and custodial sentences with conditional suspension is almost 50:50 for final convictions. This ratio is also confirmed by the statistics of the Ministry of Justice. Out of 205 convictions in 2017, 97 were for unconditional imprisonment, while in 106 cases, the imprisonment was suspended in case of these persons. This data shows how important it is to put emphasis on education of judges in the area of violence against women. There have been penal cases where the perpetrator has been convicted and sentenced to prison, but no monetary compensation has been awarded to the victim.²³

It can be argued that there are no legal or formal obstacles for victims to report a case of violence. However, there are immense social and cultural difficulties, including constant trivialisation of this type of violence and lack of interest of relevant stakeholders that are making the denunciation very hard. That leads to a very low number of reported and prosecuted cases as well as those that result in punishment.

There is no official body specifically meant to solve complaints from the victims of VAW/GBVAW, nor a body with special competence in the field of preventing gender-based violence. The Ministry of Justice and the Ministry of Interior partly deal with the issue. There is a Committee on Domestic Violence and Violence against Women. This committee, established by the Council for Equality of Women and Men, proposes Action Plans, monitors the issue and publishes own reports,²⁴ but does not have real powers and own budget.

The only Czech Equality Body is the Public Defender of Rights, which can deal with individual complaints in matters of the right to equal treatment and protection against discrimination and issue opinions. However, it cannot represent

²¹ Section 2/4/d of the Act on Victims of Crimes.

²² Seznam Zprávy, *Za znásilnění často jen podmínka: Trauma není pro soudce to, co bodnutí do nohy (Probation period for rape: Judges do not consider trauma to be the same injury as stabbing)*, 2020 – news article, available at: <https://www.seznamzpravy.cz/clanek/tresty-za-znasilneni-jsou-absurdne-nizke-pulka-pachatelu-odchazi-s-podminkou-108918>.

²³ Case 3T5/2018, regional court of Plzeň. Quoted by Ministry of Interior, *Report on human trafficking in the Czech Republic in 2019*, Praha 2020. Available at <https://www.mvcr.cz/soubor/osl-zprava-2019-001-pdf.aspx>.

²⁴ <https://www.vlada.cz/en/ppov/gcfcge/government-council-for-gender-equality-185373/>.

victims of discrimination before the court.²⁵ This is also the case of gender-based harassment and sexual harassment, covered by the Anti-Discrimination Act and a few other acts. As explained by a study of the Public Defender of Rights, victims of discrimination usually do not report the case and do not bring the discriminator to the court (only 11% of people who feel they have been discriminated report that).²⁶ As VAW/GBVAW is not legally recognised as a form of discrimination, the competences of the Equality Body in this regard are almost none. Thus, there is technically no coordinated state support and this role is placed mostly on specialised NGOs.

Victims of any crime are entitled to receive financial aid from the state as a way of helping to endure the period directly after the crime has been committed.²⁷ Apart from that, victims may claim pecuniary and non-pecuniary damages during the criminal or civil procedure. Compensation may be granted in both, civil and criminal procedure. Usually, the victim would claim the pecuniary and non-pecuniary damages during the criminal procedure in the so-called ‘adhesion proceedings’. Subsequently, the criminal court may (i) grant the damages fully, (ii) partly grant the damages, partly refer the victim to the civil proceedings and (iii) refer the victim fully to the civil proceedings. If the second or the third option occurs, the victim has to initiate a new, separate procedure before the civil court.

Furthermore, a victim of any crime is entitled to financial state aid.²⁸ This applies also to victims of serious bodily injuries. This money is not meant to compensate the victim, but rather to make the period after the crime easier for him/her. In the case of impairment of health, such aid may add up to EUR 7,600 (CZK 200,000).²⁹

Compensations for victims are, in general, quite low and Czech courts do not tend to increase them. As already mentioned above, there are even penal cases when the perpetrator has been convicted and sentenced to prison, but no monetary compensation has been awarded to the victim.³⁰

²⁵ According to Section 1/5 of Act No. 349/1999 Coll., on Public Defender of Rights.

²⁶ A. Šabatová, P. Polák, J. Šamánek, M. Urbaníková, Z. Dytrt, J. Nepala, M. Pomikálková, M. Stejskalová, M. Zaplatílek, *Diskriminace v ČR: Oběť diskriminace a její překážky v přístupu ke spravedlnosti (Discrimination in the Czech Republic: The victim of discrimination and its obstacles in access to justice)*, Public Defender’s of Rights Office, Brno 2015.

²⁷ Section 23 of the Act on Victims of Crimes.

²⁸ Section 23 of the Act on Victims of Crimes.

²⁹ Section 28 of the Act on Victims of Crimes.

³⁰ Case 3T5/2018, regional court of Plzeň. Quoted by Ministry of Interior, *Report on human trafficking in the Czech Republic in 2019*, Praha 2020. Available at <https://www.mvcr.cz/soubor/osl-zprava-2019-001-pdf.aspx>.

SOFT LAW MEASURES TO COMBAT GENDER-BASED VIOLENCE – PREVENTION AS THE MAIN GOAL

As regards prevention, soft law measures have been introduced. “*Strategy on Gender Equality 2021-2030*”³¹ and “*Action Plan of Prevention of Domestic Violence and Gender-Based Violence 2019-2022*”³² were adopted. Both contain specific recommendations on how to tackle VAW.

The Strategy on Gender Equality (hereinafter ‘Strategy’) dedicates one out of 12 chapters to the topic of ‘Security’, discussing gender-based violence. The strategy defines gender-based violence as “all acts of physical, sexual, psychological, economic or other forms of violence that target women because they are women or men because they are men, or acts of violence that disproportionately affect women or men. Gender-based violence is also considered trafficking in human beings for the purpose of sexual exploitation”.³³

The Strategy provides a lot of valuable data on the situation in the field of violence against women and domestic violence. Thus, the Czech government is aware of the problem and also of insufficient help to potential victims of violence against women (e.g. lack of specialized homes or asylum centres for the victims of gender-based violence). The Strategy focuses on the 3 main following objectives:

- Support and streamlining of prevention of gender and domestic violence
- Improving access to the assistance system for victims of gender-based and domestic violence
- Systematic provision of solutions to gender-based and domestic violence.

Action Plan of Prevention of Domestic Violence and Gender-Based Violence (hereinafter Action Plan), similarly to the abovementioned Strategy, provides the same definition, as quoted above. It maps the situation in this field in Czechia.

The Action Plan provides for actions in the field of prevention, focusing especially on education of children in schools but also, e.g. on further specialized education of judges and police, as well as social workers. It also focuses on raising awareness within the whole society. Several specialized programs, run especially by NGOs, shall be financed according to the Action Plan. Violence against women should be considered while preparing any connected strategic documents.

A special chapter on protection from violence against women provides for the following targets:

³¹ *Governmental Strategy on Gender Equality 2021-2030*, available at: https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/Strategie_rovnosti_zen_a_muzu.pdf.

³² Office of the Government, *Akční plán prevence domácího a genderově podmíněného násilí na léta 2019-2022 (Action Plan of prevention of DV and GBVAW 2019-2022)*, Praha 2019. Available at: <https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/AP-DN---grafikaFINAL.pdf>.

³³ *Governmental Strategy on Gender Equality 2021-2030*, available at: https://www.vlada.cz/assets/ppov/rovne-prilezitosti-zen-a-muzu/Aktuality/Strategie_rovnosti_zen_a_muzu.pdf, p. 46.

- Ensuring the availability of specialized services for people at risk of domestic and gender-based violence (outpatient, residential, crisis, terrain);
- Ensuring the availability of specialized services for children – people at risk of domestic abuse and gender-based violence (outpatient, residential, crisis, terrain);
- Establishing procedures for assessing the risks and needs of victims in the framework of the action-relevant professions;
- Ensuring the continuation of uninterrupted free telephone assistance to the victims of domestic and gender-based violence;
- Ensuring sufficient attention to the needs of people facing multiple discrimination (discriminated persons with disabilities, migrants, seniors, LGBTQ people, etc.).

RAISING AWARENESS OF VIOLENCE AND TRAINING

In general, in Czechia, there is a low awareness regarding VAW, legal ways of protection and prevention. Currently, there is a great need for massive and well-thought campaigns raising awareness throughout the whole society and all stakeholders.

At the same time, topics such as gender equality, gender-based violence or harassment, or human rights in general, are not the most prioritised issues and the funding of relevant activities is usually an issue.

Gender-based violence is one of the financially neglected areas. Hence, it requires a substantial amount of funding. In the past years, there appeared several calls for grant programmes and project funding. However, the support stays on the *ad hoc* basis and it is reliant on resources such as the Norwegian Funds or the EU funds. Lack of action taken by some stakeholders (social partners, police, ministries, political representation) seems to be the main obstacle.

Following recent activities of the Department of Government Office for equal treatment of men and women, which involved raising awareness and training, can be mentioned.

In 2020, the Department continued to implement the Action Plan for the Prevention of Domestic Violence. As part of this activity, a conference and a campaign *Violence against women and the effects of the Covid19 pandemic* were held to raise public awareness of the available assistance to those at risk of domestic and gender-based violence. Furthermore, the preparation of a public contract for the implementation of a sociological survey of the occurrence of sexual harassment in public transport took place.

At the same time, in March 2020, the department began implementing a project from the Norwegian Funds for *Capacity Building and Methodological Support*

in the *Prevention of Domestic and Gender-Based Violence*. The project focuses on strengthening the capacity of the system to prevent and combat domestic and gender-based violence. In 2020, the project included an international online conference and 28 online workshops at schools to prevent sexual violence among children and adolescents. A total of 539 students participated. The training of experts based on the educational film *Furious*³⁴ was also prepared.

Awareness-raising comes especially from the NGOs, media and civil society. A positive example of this case is the campaign of the newspaper Deník N focused on the topic of sexual harassment.³⁵ In 2020, among other activities, it brought testimonies of publicly active Czech women regarding their experience with harassment under the hashtag #WeSpoke. Moreover, a Czech online medium released a series of articles called *Call it femicide*.³⁶ aiming at introducing and explaining this crime as a large part of the society has never heard the term ‘femicide’.

The same newspaper, in collaboration with another – *Alarm* – worked for several months on a case of a young famous politician, who had been accused of sexually motivated violence against women.³⁷ These findings started serious social debate about the issue during the weeks when this report was being written.

Thanks to the adoption of new legislation, especially the Act on Victims of Crime, professionals shall increase their capabilities to identify and address violence against women.

At the same time, Czechia is still at the beginning of the road. For instance, a lot of women hesitate to report sexual violence they have suffered as the police usually do not act in an adequate way and policemen are not trained sufficiently to investigate cases of violence against women with enough respect.

The training provided by the State is not sufficient and only certain professionals are obliged to undertake training. Thus, the burden of organizing trainings lies on the NGOs and civil society that offer their courses to a variety of relevant stakeholders. Unfortunately, among judges or civil servants there is not much interest in these topics. It would be very useful if participating in an education program on gender-based violence and connected issues was obligatory for all judges and public servants on a regular basis.

³⁴ Available at www.zurivec.cz.

³⁵ N. Deník, *Sexuální obtěžování v Česku (Sexual harassment in Czechia)*, 2020 - website, available at: <https://denikn.cz/tag/sexualni-obtezovani-v-cesku/>.

³⁶ Seznam Zprávy, “*Říkej tomu femicida (Call it femicide!)*” 2020– news article, available at: <https://www.seznamzpravy.cz/clanek/rikej-tomu-femicida-co-to-vlastne-je-a-proc-je-potreba-omi-mluvit-133227>.

³⁷ N. Deník, „*Chování Dominika Feriho je veřejně tajemství. “ Ženy popsaly traumatizující zkušenosti s mladým politikem (Behaviour of Dominik Feri is a public secret. Women described traumatising experiences with the young politician)*, 2021 available at: <https://denikn.cz/633350/chovani-dominika-feriho-je-verejne-tajemstvi-zeny-popsaly-traumatizujici-zkusenosti-s-mladym-politikem/>.

Some of the NGOs experience rejections of their training programs by the law enforcement authorities, even though they are offered free of charge. Another phenomenon is that the trainings are usually attended by those who are already interested in the topics of gender-based or domestic violence. Hence, the courses rather serve “to train the trained” and it is very hard to reach those who would need it, but who do not show any interest.

NGO’S CRUCIAL ROLE IN COMBATING GENDER-BASED VIOLENCE

NGOs provide the victims of gender-based violence and domestic violence with complex services, including social, legal and psychological aid. They apply a gender-specific approach with respect to particular vulnerabilities of certain groups of victims.

The work of the NGOs is crucial in Czechia to effectively prevent gender-based violence. Public authorities are happy to support their activities and finance their educative and awareness-raising campaigns. In fact, the Ministry of Justice has a special fund through which free legal aid shall be provided by the NGOs. There are, however, not enough NGOs providing legal aid to fully use this fund. At the same time, there is still lack of interest for such legal aid.

Simultaneously, there is sometimes scepticism towards civil sector and the NGOs, often supported by some politicians. This is why establishing new NGOs is not so popular, especially in such a ‘controversial’ field like gender-based violence and its prevention. Still, in the field of gender-based violence, the already established NGOs are quite strong and heard by public authorities.³⁸

CONCLUSION

To conclude, the following main obstacles to preventing violence against women and domestic violence can be identified, based on this paper:

i. missing gender aspects throughout Czech legislation

Czech legislation tends to be gender-neutral, which is positive in general. From research conducted it is also clear that the special needs of women as victims of violence are not considered, which as well refers to legal practice.

³⁸ Main NGOs are gathered in the Czech Women’s Lobby - <https://czlobby.cz/en>, a list of NGOs acting in the field of domestic violence is available at <https://www.mvcr.cz/clanek/dokumenty-nasili-neziskove-organizace-poskytující-pomoc-obetem-domaciho-nasili.aspx>.

There have been no specific provisions or actions in relation to the specific groups of victims. Provisions acknowledging special vulnerability and the needs of particular groups are missing.

Thus, this gap is filled by the work of NGOs and the civil society through complex, intersectional services. However, there is lack of holistic action on the State level.

Having the status of a vulnerable victim included in the Act on Victims of Crime does not help. Still, it is a very important starting point.

A clear definition of harassment as a form of violence would also help to bring the topic further. It would be important to penalize sexual harassment and to extend the definition of rape as a crime.

ii. lack of awareness and education

Even if several initiatives have been already enacted in order to raise awareness and provide specialized education, there is still not enough general awareness about gender-based violence and the possibilities to prevent it. This also includes legal professions. Judges and lawyers in general (including, e.g. labour inspectors) are not enough educated in the matter of violence against women.

iii. political and social climate

The socio-cultural environment in the society, which prevents any legal or structural progress and consequently effective preventing and combatting of violence against women, remains the most important concern. The approach of many police officers, prosecutors and judges (who, in majority, are men) still reflects sexist stereotypes and victim-blaming is common.

As a consequence, penalties for violence against women are usually very low. Compensation for victims is, in general, quite low and Czech courts do not tend to increase it.

The general societal atmosphere does not support talking publicly about GBVAW. Also, the Czech Republic has not really experienced any MeToo movement. Thus, cases of women speaking up about their experiences and trauma are rather rare and still stigmatised.

COULD THE NATIONAL SITUATION BE HELPED FROM OUTSIDE?

It is quite clear that a structural change is needed in Czechia. It might be a good time to consider international and EU legal instruments and maybe they

should be used better so that the national situation could improve. Some changes at the EU level might be proposed as well.

As regards preventing gender-based violence, international law instruments seem to be more relevant and, at least, in some EU Member States (for instance those that have adopted the Istanbul Convention) more powerful than EU directives, which tackle the issue of gender-based violence in one way or another. One of the reasons for that is the fragmentation of the EU legislation, which might lead to neglecting the topic of gender-based violence compared to others when implementing the EU law. Provisions on gender-based violence are not so much reflected in the implementation of directives, which tackle other, more general topics (like migration or gender equality in employment).

One exception from the above could be the fact that the Act on Victims of Crimes was adopted and is quite well applied. This act implements one clear piece of EU legislation (Directive 2021/29) on one topic. It represents a milestone in the history of Czech legislation. EU Directives have played a key role in the process of its adoption.

EU Directives should be probably more demanding to fully oblige the Member States to change especially the position of victims of gender-based violence and effectively prevent this phenomenon. For instance, Member States shall be obliged to provide a clear legal definition of gender-based violence. As the gendered aspect is not mentioned explicitly in the body of directives tackling violence, Member States are not obliged to take it explicitly into consideration.

In this regard, the EU could have three options for the future:

it remains with the current measures already adopted – no change would be required and international law obligations would take the lead,

it adopts the Istanbul Convention,

it adopts its own instrument, which would unify all the dismantled provisions in one piece of law, with clear requirements and obligations.

The last two options would be painful and could be ‘politically costly’. The adoption process of any new piece of law would be probably very long and with no certain result, taking into account the current political climate in the EU.

Still, gender-based violence is such a destructive phenomenon that more powerful legal and non-legal instruments should be adopted and applied across the EU in order to help single countries (like Czechia) and therefore Europe as such.

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