

## **Penal-legal reaction to the phenomenon of domestic violence in the context of systemic solutions.**

This doctoral dissertation is devoted to the issue of counteracting domestic violence. The main research issue of this doctoral dissertation is the analysis of the penal-material and penal-process institutions adopted in the Polish legal order, as well as legal institutions (non-penal and non-penal processes) related to them in the context of counteracting and combating domestic violence.

The consequence of this will be the identification and diagnosis of problems related to the practical aspects of the analysed issue. The purpose of my dissertation is therefore to examine the complementarity of the solutions adopted by the legislator, to indicate the gaps and deficiencies that have been found, and to identify possible ways of eliminating them, as well as to improve activities related to counteracting domestic violence.

As a research method, a formal-dogmatic method enhanced with comparative elements has been adopted.

An important element of the work is empirical research done on the files of particular cases in which legal means and institutions related to combating domestic violence (District Prosecutor's Office Bydgoszcz - South in Bydgoszcz and District Court in Bydgoszcz) are used at the stage of either preparatory or jurisdictional proceedings.

Chapter I of the dissertation discusses issues related to the terminology of domestic violence, the types and definitions of the concept in the source literature and the international legal works. The definition of domestic violence found in the Act on Counteracting Domestic Violence is also analysed, along with reference to the definition of the closest person included in the penal code. As indicated below, most cases of domestic violence are classified as criminal offenses stipulated in art 207 of the penal code. Therefore an analysis of art 207 of the penal code is necessary for the coherence of this dissertation and the complete analysis of the discussed issue. In order to show the scale of the phenomenon of domestic violence in Poland, Chapter I contains a statistical summary, including data collected by police and the Ministry of Justice. For the purpose of this dissertation, data on Bydgoszcz is highlighted (which is related to the study).

Dominik Mrozowski

The statistical data resulting from research conducted by TNS OBOP regarding the size and nature of domestic violence in Poland is also referenced.

The Council of Europe Convention on preventing and combating violence against women and domestic violence (also known as the Istanbul Convention), together with the GREVIO controlling mechanism, has also been presented.

Chapter II of this dissertation presents and discusses the non-penal institutions of Polish legislation serving to counter the phenomenon of domestic violence. In this chapter, the legislative process accompanying the introduction of the 2005 Act on Counteracting Domestic Violence and its amendment of 2010 has been approximated, with particular emphasis on the introduction and evolution of legal mechanisms to isolate the perpetrator from the victim of domestic violence. The tasks and duties of administrative bodies concerning the aspects covered by the subject of this work is discussed, and the institution of interdisciplinary teams and working groups as well as the "Blue Card" procedure is presented and discussed. In the context of non-penal protection of domestic violence victims, the removal of a child from a violent family and the ban on corporal punishment for children is discussed. Moreover, the so-called procedure of a civil order to leave the accommodation, with particular emphasis on the role of the prosecutor in this regard is discussed.

Chapter III of the dissertation is devoted to penal-material legal instruments serving to prevent and counteract domestic violence. In the first place, penal measures under art 39 point 2b and 2e of the penal code, such as a ban on residing in specific environments or places, contacting certain persons, approaching certain persons or leaving a particular place of residence without the consent of the court as well as an order to temporarily leave the premises occupied jointly with the aggrieved party have been discussed. Subsequently, probation measures related to the subject of this work are also discussed. These measures are described in art 67 § 3 of the penal code and concern the obligations imposed on the perpetrator of domestic violence in the event of conditional discontinuance of criminal proceedings against him. Subsequently, obligatory and optional duties indicated in art 72 § 1, 1a and 1b of the penal code, imposed by the court on the perpetrator of domestic violence in the event of conditional suspension of the sentence imposed on him, as well as imposing a criminal measure have been presented.

A separate subsection is devoted to the Convention on the Rights of the Child and the ban on corporal punishment introduced in 2010, including the impact of this prohibition on the provision of juvenile upbringing in Polish non-statutory law.

In Chapter IV, penal-legal instruments related to counteracting domestic violence is presented. The indications for the application of preventive measures of an isolating and non-isolation type are described and discussed in the context of the subject of this paper. Provisional detention, police supervision, and an order to periodically vacate the dwelling occupied jointly with the aggrieved party are evaluated as an instrument used in the fight against domestic violence.

Chapter V presents the results of the research carried out for the purpose of this work. The case files, in which examples of family violence were recorded for the whole of 2016, registered in the District Prosecutor's Office Bydgoszcz - South in Bydgoszcz, are subjected to examination. 247 such cases were registered, 80 of which ended with legally binding verdicts and the remaining ones were discontinued at the stage of preparatory proceedings.

The summary of the analysis carried out in the thesis contains comments and final conclusions, containing *de lege ferenda* postulates, aimed at making the Polish system counteract domestic violence more efficiently and effectively.