

## DOMESTIC VIOLENCE DURING THE COVID-19 PANDEMIC – ANALYSIS OF LEGAL SOLUTIONS ADOPTED BY SELECTED EUROPEAN COUNTRIES

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**Abstract** Domestic violence imposes a serious threat to the safety of both individuals and society in general. Experiencing domestic violence adversely affects the lives and health of victims in a particularly severe way. Reports provided by states and organisations demonstrate that domestic violence has increased during the COVID-19 pandemic. Governmental restrictions aimed at stopping the spread of the SARS-CoV-2 virus have had a negative impact on the victims of domestic violence, limiting their ability to benefit from the institutional support guaranteed by existing laws. An analysis of the domestic violence prevention solutions implemented by selected European countries during the COVID-19 pandemic leads to the conclusion that states were not prepared for the social impact of the introduced restrictions, such as an increase in domestic violence cases. Their measures mainly consist of establishing instructions for the functioning of certain institutions or guaranteeing the possibility of using the forms of assistance provided. The legal solutions that many European legislators have enacted are insufficient. No comprehensive strategies have been introduced to prevent this problem during the pandemic.

**Keywords**

pandemic,  
protection of  
life and  
health,  
increase in  
domestic  
violence,  
legal  
counteracting,  
European  
countries

## 1 Introduction

Domestic violence is a threat that cannot be ignored. Hundreds of millions of people around the world experience it every year. The high rate of domestic violence negatively impacts not only the lives of individuals but also the functioning of the state as a whole. Domestic violence causes numerous adverse consequences such as dehumanisation of interpersonal relations, pathologisation of bonds between people, breakdown of families, social maladjustment, homelessness and unemployment (Dąbrowska, 2012: 22–24). The behaviour of the perpetrator of violence is usually treated as a crime; therefore, domestic violence must be considered a serious threat to public safety. Most importantly, domestic violence contributes to the loss of health and even the lives of many people around the world who have experienced it over many years. Consequently, domestic violence constitutes a significant public health threat.

The global spread of the SARS-CoV-2 virus has led countries to impose restrictions on their citizens. These restrictions have resulted in domestic isolation, loss of mobility, and suspension of the usual government operations. All these factors have a negative impact on preventing social pathologies, including domestic violence. After all, the magnitude of this problem has rapidly increased during the COVID-19 pandemic. Therefore, individual states should implement solutions to protect the victims of domestic violence that help limit the increase in cases of violence during the global epidemic crisis. However, the remedies introduced should not be limited to purely practical measures but should be primarily legislative in nature.

The research aims to evaluate legal solutions to help prevent domestic violence enacted by selected European countries during the COVID-19 pandemic. It also analyses issues related to the understanding of domestic violence based on the legislation of European countries, the impact of family violence on the lives and health of victims, as well as the increase in domestic violence during the pandemic. The research used the formal dogmatic method, a critical analysis of literature, and the comparative law method. In addition, the research was performed on the basis of an analysis of the available statistical data.

## **2 The understanding of the term 'domestic violence'**

The definition of 'domestic violence' differs depending on the assumptions made by a particular country or organisation. Domestic violence is often treated as synonymous with intimate partner violence. The term 'intimate partner violence' refers to physical, sexual or psychological violence perpetrated by a spouse or partner (current or former), regardless of the gender or orientation of the individuals involved (Rutherford, Zwi, Grove & Butchart, 2007: 677). The term 'domestic violence' is often employed only in cases involving violence against women and many cross-national definitions focus solely on this particular aspect. In 1993, the United Nations defined the term 'violence against women' and indicated that it means any act of gender-based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to women. This term also includes threats of such an act, coercion or arbitrary deprivation of liberty, whether it occurs in public or private life (UN, 1993).

A review paper by the United Nations Children's Fund (UNICEF) attempted to define the term 'domestic violence' from the perspective of the harm experienced by women and girls. The definition proposed describes this as violence perpetrated by intimate partners and other family members, manifested by physical abuse such as hitting, slapping, arm twisting, stabbing, choking, burning, strangling, kicking, sexual abuse; psychological abuse, which includes threats of abandonment or abuse, confinement to the home, surveillance, threats to take away custody of the children, destruction of objects, isolation, verbal aggression and constant humiliation; economic abuse, which includes acts such as the denial of funds, refusal to contribute financially, denial of food and basic needs (UNICEF, 2000: 2). In 2002, the Council of Europe Recommendation of the Committee of Ministers to member states on the protection of women against violence suggested a definition of 'violence against women' that refers explicitly to domestic violence (Council of Europe, 2002).<sup>1</sup> The United Nations has recommended that national definitions of

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<sup>1</sup> "[...] the term 'violence against women' is to be understood as any act of gender-based violence, which results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or private life. This includes, but is not limited to, the following: a. violence occurring in the family or domestic unit, including, inter alia, physical, and mental aggression, emotional and psychological abuse, rape and sexual abuse, incest, rape between spouses, regular or occasional partners and cohabitants, crimes committed in the name of honour, female genital and sexual mutilation and other traditional practices harmful to women, such as forced marriages".

‘domestic violence’ should comprehensively refer to all forms of violence, including physical, psychological, sexual and economic violence (UN, 2010: 24).

Considering that states have a duty to protect its citizens from domestic violence to the greatest extent possible, this term should broadly extend to all cases of physical, psychological, sexual and economic violence experienced by family members, persons close to the family and other persons living with the family. According to D.M. Lawson, domestic violence is a subtype of interpersonal violence that includes violence between intimate partners, family members, and people known to the family, often perceived as friends, or people who are very close to the family, regardless of whether they can be considered actual family members or are part of the family by birth, marriage, or adoption (Lawson, 2013: 3). This definition is preferable as it comprehensively covers all possible cases of domestic violence.

Definitions of domestic violence across European countries tend to be similar, i.e. they include not only typical family members, but also other groups of people who may be closely related, living together and sharing a household, or in an intimate relationship. The legal definition of domestic violence in Poland is found in Article 2, point 2 of the Act on Counteracting Violence in the Family.<sup>2</sup> According to this provision, domestic violence is understood as a single or repeated intentional act or omission that violates the rights or personal interests of family members, in particular exposes these persons to the risk of loss of life or health, violates their dignity, physical integrity, freedom, including sexual freedom, causes damage to their physical or mental health, as well as causes suffering and moral harm to the persons affected by the violence. According to Article 2, point 1 of the DVA, the term ‘family member’ includes the next of kin (within the meaning of Article 115 § 11 of the Polish Penal Code – spouses, relatives in the ascending or descending line, siblings, relatives by marriage in the same line or degree, persons in an adoptive relationship and their spouses, and also persons actually living in cohabitation<sup>3</sup>) and any other persons living or managing together.

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<sup>2</sup> Polish Act of 29 July 2005 on Counteracting Violence in the Family, consolidated text in Journal of Law of 2020, item 218, hereinafter referred to as: “DVA”.

<sup>3</sup> Polish Act of 6 June 1997 – Penal Code, consolidated text in Journal of Laws of 2020, item 1444 as amended, hereinafter referred to as: “the Penal Code”.

Article 3 of the Slovenian Domestic Violence Prevention Act (ZPND)<sup>4</sup> explicitly states that any form of physical, sexual, psychological or economic violence inflicted by a family member on another family member, or neglect or stalking of the victim, regardless of the age, gender or other personal circumstances of the victim or the perpetrator of violence, as well as corporal punishment of children, is considered an act of domestic violence. Article 3 also explains the particular acts that are subsumed within the definition. According to Article 2 of the ZPND, family members also include persons living in a civil partnership, whether or not they live in the same household.

The legislation in Spain deals with domestic violence differently. Article 1 of Constitutional Law 1/2004 on Integrated Protection Measures against Gender Violence<sup>5</sup> legislates cases involving violence perpetrated – as an expression of discrimination, inequality and the man’s position of power over the woman – against the woman by those who are (or were) her spouses or who are or were linked to her by similar emotional relationships, even if they do not live together. This law establishes protective measures aimed at preventing or eliminating acts of violence against women and their minor children. Violence within the meaning of this law includes any act of physical or psychological violence, including attacks on sexual freedom, threats, coercion or arbitrary deprivation of liberty. This definition is, therefore, not only limited in content, but also does not cover all possible forms of domestic violence. The limited scope of the law therefore fails to protect too many victims of domestic violence and to punish their aggressors.

This analysis leads to the conclusion that ‘domestic violence’ must be defined in legislation as broadly as possible so as to provide legal protection against every possible case of violence, i.e. physical, psychological, sexual, economic and neglect, regardless of the gender of the victim and the perpetrator. Its definition should not be limited by subject or object. The law should protect female and male victims of violence equally. The definition in the ZPND is exemplary in this respect. It identifies specific forms of violence, which are further explained in the law.

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<sup>4</sup> Domestic Violence Prevention Act (ZPND), Official Gazette of the Republic of Slovenia, No. 16/08 , 68/16 and 54/17 – ZSV-H, hereinafter referred to as: “ZPND”.

<sup>5</sup> Spanish Constitutional Act 1/2004 of 28 December, on Integrated Protection Measures against Gender Violence, BOE-A-2004-21760.

Moreover, the ZPND contains a catalogue of family members adapted to modern times, which also takes into account persons in non-marital cohabitation.

### **3 Domestic violence as a threat to the life and health of individuals**

Domestic violence is a societal problem, and is not confined only to families that are considered pathological. Violence may be related to poverty or alcoholism and affects wealthy and respectable families, not just the marginalized (Holyst, 2015: 74). Nevertheless, it is not possible to provide exact statistics on the extent of domestic violence. However, statistics published both by supranational organisations and individual countries can be used for estimation. The World Health Organisation estimates that one in three women/girls aged 15 to 49 experience physical or sexual violence at the hands of their husband or partner (WHO, 2016: 6). Data from the OECD show that in 2019, 22 percent of women living in that organisation's member countries reported experiencing physical or sexual violence by their partner during their lifetime (OECD, 2019: 126). Based on specific research studies, UNICEF indicates that 275 million children worldwide are at risk of experiencing domestic violence. UNICEF emphasises that these figures are based on research findings only and cautions that the actual extent of the problem may be much larger (UNICEF, 2006: 5).

In order to estimate the magnitude of domestic violence in individual countries, it is necessary to refer to the information published by supranational organisations or to data resulting from social surveys. Using statistical data from a survey conducted by the Polish Public Opinion Centre allows for the approximation of the extent of domestic violence in Poland (CBOS, 2019: 4–12). This data shows that more than one in five respondents, either personally or through experience, know women who have been beaten by their husbands or partners 12 percent of women and 8 percent of men who participated in the study declared having experienced beatings by their partner. One in eight respondents in a stable relationship admitted that his or her partner uses name-calling and insults. One in eleven respondents experienced humiliation and ridicule from their partner and two percent of respondents reported being a victim of sexual violence in a relationship. After analysing the responses of all survey participants, 24 percent of the respondents admitted having experienced at least one form of violence at the hands of their spouse or partner.

The UK Domestic Violence Survey, conducted by Crime Survey for England and Wales (CSEW) for the year ending 31 March 2018, shows that 24.9 percent of women and ten percent of men aged 16–59 have experienced violence against a partner at least once (Oliver, Alexander, Roe & Wlasny, 2019: 7). Based on OSCE data, the United Nations Entity for Gender Equality and the Empowerment of Women estimates that 17 percent of women aged 18 to 74 in Serbia have experienced physical or sexual violence by a partner at least once in their lives.<sup>6</sup> However, the statistics presented refer only to particular groups of people who participated in specific surveys and, therefore, can only be an auxiliary source to estimate the actual level of violence in a given country, region or the world. On this limited basis, however, domestic violence clearly is experienced by hundreds of millions of adults and children around the world. This global problem must be addressed by the legislation of individual countries.

The problem of domestic violence can be viewed from many different perspectives. Its destructive nature causes families to break apart, with family members losing a sense of security because of the actions of the perpetrator. The specific violent behaviour exhibited by the perpetrator of violence usually corresponds to the characteristics of the types of offences specified in the relevant legal acts regulating criminal responsibility.

Many European countries have legislatively introduced a specific criminal offence for domestic violence. An example is Article 194 of the Serbian Criminal Code, which states that the use of violence, threats of attack on life or body, as well as outrageous behaviour that endangers the peace, physical integrity or mental state of a family member is punishable by imprisonment from three months to three years.<sup>7</sup> A similar provision relating to domestic violence is found in Article 191 of the Slovenian Criminal Code, which provides that the perpetrator convicted for committing a crime involving domestic violence may be punished with a term of imprisonment of up to five years.<sup>8</sup>

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<sup>6</sup> See: UN Global Database on Violence against Women. Retrieved from <https://evaw-global-database.unwomen.org/en/countries/europe/serbia> (4 January 2021).

<sup>7</sup> Criminal Code of the Republic of Serbia, Official Gazette of RS, No. 85/2005, 88/2005-51 (corr.), 107/2005-171 (corr.), 72/2009-53, 111/2009-36, 121/2012-3, 104/2013-3, 108/2014-3, 94/2016-7, 35/2019-3.

<sup>8</sup> Criminal Code of the Republic of Slovenia, Official Gazette of RS, Nos. 50/12 – official consolidated text, 6/16 – corr., 54/15, 38/16, 27/17, 23/20 and 91/20.

Some states have refrained from introducing a specific type of domestic violence offence into their legal system, believing that such violence can be prosecuted on the basis of already existing laws. The offences mentioned in the Polish Penal Code, the descriptions of which correspond to the behaviours classified by researchers as domestic violence, include murder (Article 148 of the Penal Code), causing grievous bodily harm, bodily injury or damage to health (Articles 156 and 157 of the Penal Code), criminal threat (Article 190 of the Penal Code), coercing another person to behave in a certain way or to resist or submit to a certain act (Article 191 of the Penal Code), rape (Article 197 of the Penal Code), sexual abuse of a minor (Article 200 § 1 of the Penal Code), mistreatment (Article 207 of the Penal Code), insult (Article 216 of the Penal Code) or violation of personal inviolability (Article 217 of the Penal Code). A specific criminal offence called “domestic violence” does not exist in the UK legal system. However, as in Poland, in the UK the behaviour of the perpetrator of violence may constitute a criminal offence listed in existing legal regulations. Such acts are murder, rape, threat, sexual assault, cruelty to children, and child abduction (Matczak, Hatzidimitriadou & Lindsay, 2011: 10–12). Therefore, criminalised behaviour of the perpetrator of domestic violence directly threatens the legal rights and interests such as life and health (both physical and psychological).

Domestic violence has numerous deleterious effects on the lives and health of victims. While it is not possible to list all the negative consequences associated with domestic violence, its victims exhibit a number of symptoms that are indicative of the psychological effects of short- or long-term violence. These include, but are not limited to, despair, fear, shame, feelings of rejection, threat, distress, suffering, chronic stress, sleep and eating disorders, depression, post-traumatic stress disorder, anxiety disorders, panic attacks, loss of dignity, loss of sense of security, loss of hope, and loss of self-esteem (see more: Helios & Jedlecka, 2017: 34; Filipek, 2017: 231, Shipway, 2004: 28–29; Łukowska, 2019).

Children who are victims of domestic violence exhibit psychological and social difficulties such as aggressiveness towards others, the tendency to engage in criminal behaviour, disobedience, withdrawal from social life, social disorientation, suppression of his/her own feelings and emotions, suicidal tendencies, permanent anxiety and fear, low self-esteem, lower social skills and poor school performance (see more: Carlson, 1990: 285–299; David, Steele, Forehand & Armistead, 1996: 81–



91; Holden & Ritchie, 1991: 311–327, Młyński, 2012: 148–149; Bozzay, Joy & Verona, 2020: 5726–5728).

Physical signs such as abrasions, swelling and bruises on the body, open wounds, scars, burns, head injuries that often lead to neurological complications, problems with moving or sitting, and broken bones are some typical characteristics of victims of physical and sexual violence (see more: Zboina & Wieczorek, 2013: 331–332; Łukowska, 2019). Victims also frequently complain of chronic ailments, which may include migraines, headaches, neck and back pain, cardiovascular problems, chronic fatigue, insomnia, gynaecological problems, allergies, abdominal pain, diarrhoea or ulcers (see more: Zboina & Wieczorek, 2013: 332; Łukowska 2019).

Domestic violence is, therefore, a problem that directly threatens people's lives and health. They result in a wide array of difficulties negatively impacting both the personal and social life of the victim as well as the victim's ability to perform certain roles required by society. Nevertheless, violence is not just an internal family problem but also has negative consequences on the functioning of society as a whole. For example, treating victims' mental and physical problems stemming from domestic violence and providing therapy for addicts or co-addicts require significant financial outlays from the state (more on the costs of counteracting violence in Chan & Cho, 2010: 129–143). Therefore, the indicated societal problem has a significant impact on the functioning of the entire state.

#### **4 The impact of the COVID-19 pandemic on the magnitude of domestic violence**

People throughout the world have suffered social isolation as a result of the COVID-19 pandemic. Restrictions and limitations imposed by individual states to decrease the spread of the SARS-CoV-2 virus have had a negative impact on victims of domestic violence. Many countries have taken (and continue to take) protective measures including forced isolation at home, social distancing, suspension of schools, universities, and selected institutions, imposition of travel restrictions or temporary suspension of the operation of businesses. These attempts to contain the COVID-19 pandemic have, therefore, directly contributed to the intensification of another insidious threat to the lives and health of individuals, namely, domestic violence.

An increase in domestic violence cases during the COVID-19 pandemic has been linked to several factors. Living in the same home with the perpetrator of violence because of social isolation is one cause, but the problem has also been exacerbated by other consequences stemming from the restrictions placed on the functioning of society. These restrictions, for example, have made it more difficult for victims of domestic violence to gain access to institutions where they can seek help, and have led to an increase in stress related especially to the loss of work during the pandemic, loss of earnings, inability to pay bills, and an increase in alcohol and consumption and related abuses (see more: Xue, Chen, Hu & Zhu, 2020; Colbert, Wilkinson, Thornton & Richmond, 2020: 435–440; Ertan, El-Hage, Thierrée, Javelot & Hingray, 2020: 2–3).

Reports published in different parts of the world show a dynamic rise in the number of domestic violence cases during the COVID-19 pandemic. As the United Nations mentions, the first data made available by countries at the time of the pandemic highlighted the impact of the introduction of various restrictions on the scale of domestic violence. In Singapore, the number of calls to helplines have increased by more than 30 percent. In Australia, 40 percent of workers dealing with domestic violence have reported an increase in cases of domestic violence.<sup>9</sup> Statistics relating to the increase in cases of domestic violence in Latin American countries, which were based on surveys conducted in March and April 2020 show that in Colombia the number of calls to helplines increased by more than 130 percent in the first 18 days after the introduction of quarantine; the number of domestic violence cases reported to police units increased in March 2020 by 45 percent in Brazil and by 25 percent in Mexico (compared to the same period in 2019).<sup>10</sup> The United States also has witnessed a marked increase in domestic violence cases: 27 percent in Jefferson, AL; by 22 percent in Portland, OR; by 18 percent in San Antonio, TX; and by 10 percent in New York, NY.<sup>11</sup>

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<sup>9</sup> See: UN article UN supporting ‘trapped’ domestic violence victims during COVID-19 pandemic. <https://www.un.org/en/coronavirus/un-supporting-‘trapped’-domestic-violence-victims-during-covid-19-pandemic> (4 January 2021).

<sup>10</sup> See: Growth of domestic violence and sexual abuse reports during the COVID-19 lockdown in selected Latin American countries as of April 2020. <https://www.statista.com/statistics/1113975/gender-violence-growth-coronavirus-latin-america/> (4 January 2021).

<sup>11</sup> See: News article Domestic Violence and COVID-19: When It’s Dangerous to Be Stuck at Home. <https://news.ucdenver.edu/domestic-violence-and-covid-19-when-its-dangerous-to-be-stuck-at-home/> (4 January 2021).

European countries have also reported a rapid increase in cases of domestic violence during the COVID-19 pandemic. The World Health Organisation reports that the number of calls, e-mails and visits to the website of Respect (a UK-based charity working in the area of domestic violence) have increased by 97 percent, 185 percent and 581 percent, respectively. Calls to the Childline helpline from children reporting physical or emotional abuse have gone up by 36 percent and 31 percent.<sup>12</sup> In France, the number of domestic violence cases has also increased rapidly since the introduction of social restrictions. As reported by the Secretary of State for Gender Equality, in just one week the incidence of domestic violence in France increased by 32 percent and in the Paris area alone by as much as 36 percent.<sup>13</sup> The negative impact of nationally imposed restrictions on the situation of victims of domestic violence is also visible in Spain. In the first two weeks of April 2020 alone, there was a 47 percent increase in the number of calls to the domestic violence helpline there compared to the same period in 2019. Based on the data published, the number of women contacting support agencies or institutions via e-mail or social media increased by as much as 700 percent.<sup>14</sup>

These data from around the world evidencing the startling rise in cases of domestic violence during the COVID-19 pandemic confirm that the measures taken and introduced by governments to contain the spread of the SARS-CoV-2 virus have had a profoundly negative impact on victims of domestic violence. This data also supports the conclusion that many countries were not prepared for the effects of the restrictions and limitations that were introduced, which have led not only to millions of people around the world losing their jobs and regular incomes, but also to a marked increase in alcohol consumption, drug consumption, and domestic violence.

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<sup>12</sup> See: WHO article *The rise and rise of interpersonal violence – an unintended impact of the COVID-19 response on families*. <https://www.euro.who.int/en/health-topics/disease-prevention/violence-and-injuries/news/news/2020/6/the-rise-and-rise-of-interpersonal-violence-an-unintended-impact-of-the-covid-19-response-on-families> (4 January 2021).

<sup>13</sup> See: News article *Domestic violence increases in France during COVID-19 lockdown*. <https://www.euractiv.com/section/politics/news/domestic-violence-increases-in-france-during-covid-19-lockdown/> (4 January 2021).

<sup>14</sup> See: News article *Women killed in Spain as coronavirus lockdown sees rise in domestic violence*. <https://www.theguardian.com/global-development/2020/apr/28/three-women-killed-in-spain-as-coronavirus-lockdown-sees-rise-in-domestic-violence> (4 January 2021).

## 5 Legal solutions introduced by selected European countries during the COVID-19 pandemic

The COVID-19 pandemic exposed the fact that many countries were unprepared to provide life and health protection to victims of domestic violence in emergencies. Although for many years researchers have observed a correlation between an epidemic/pandemic or natural disaster crisis and an increase in domestic violence cases (see: Peterman, Potts, O'Donnell, Thompson, Shah, Oertelt-Prigione & van Gelder, 2020: 3–18), states have failed to act to find concrete solutions that would counteract these harms when they actually arise. The current pandemic, however, has forced many governments around the world to enact emergency practical and legal instruments to ensure the safety of those affected by domestic violence.

An analysis of the legislative solutions introduced by individual European countries shows that they have mainly decided to create preventive measures to protect the victims of domestic violence. For example, France established a 24-hour online platform for reporting domestic violence, a 24/7 helpline, as well as a domestic violence reporting system that allows victims of domestic violence to utilize a special (private) code when visiting a pharmacy. The UK authorities have focused on providing financial support to domestic violence agencies and maintaining a 24-hour national helpline. Spain has also introduced a system for reporting cases of domestic violence to pharmacists. In addition, Spain developed chat services with location-tracing technology used to contact the police. The Czech Republic promotes the use of an app designed for victims of domestic violence. The app enables both risk assessment and the gathering of video and photographic evidence. Furthermore, it provides information on how to seek support (see: Ertan, El-Hage, Thierrée, Javelot & Hingray, 2020; EU, 2020).

However, some European countries decided to introduce special legal measures during the COVID-19 pandemic to combat domestic violence. The various, differing solutions implemented in Poland, Spain and France will be analyzed in the next section of this contribution. Importantly, they were not limited to issuing guidelines and instructions to the services dealing with domestic violence. For example, Poland and France have introduced additional legislative solutions that may affect the safety of victims of domestic violence also during the pandemic, while Spain has enacted a more sweeping plan to combat gender-based violence.

## **5.1 Legal solutions implemented in Poland**

The Ministry of Family, Labour and Social Policy in Poland has issued instructions and recommendations for local authorities on how to support individuals who experience domestic violence. They include details on the facilities that provide shelter for victims of domestic violence as well as methods of organising interdisciplinary teams and working groups, as well as the implementation of the 'Blue Cards' procedure during the COVID-19 pandemic.<sup>15</sup>

Interdisciplinary teams and working groups operate according to the DVA and comprise extremely important constituent elements of the communal system for counteracting domestic violence in Poland. Pursuant to Article 9b of the DVA, interdisciplinary teams have been established to perform actions specified in communal programmes both for counteracting and protecting victims of domestic violence. The DVA expressly provides that each team is tasked with integrating and coordinating the activities of the entities comprising it, as well as specialists in the field of domestic violence prevention. These entities are tasked with diagnosing problems associated with domestic violence, undertaking activities in the environment threatened by domestic violence aimed at preventing this problem, initiating interventions in the environment affected by domestic violence, disseminating information regarding institutions, specialists and possibilities of providing help in the local environment, as well as undertaking activities in relation to people who use domestic violence.

Pursuant to Article 9b section 3 of the DVA, working groups, on the other hand, are tasked to develop and to implement assistance plans in individual cases of domestic violence, to monitor the situation of the families where violence either has been observed or where the threat of violence exists, and to document the actions taken concerning the families in which violence occurs and the effects of such actions, as stipulated under the Act. Each of these groups carry out their tasks under

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<sup>15</sup> See more: Instruction of the Polish Ministry of Family, Labour and Social Policy on how to organise shelter facilities, <https://www.rpo.gov.pl/sites/default/files/Instrukcja%20MRPiPS%20dla%20placówek%20zapewniających%20chronienie.pdf> (4 January 2021); Instruction of the Polish Ministry of Family, Labour and Social Policy on how to organise Interdisciplinary Teams and Working Groups and to implement the 'Blue Cards' procedure and for social workers to work with families who have care problems, <https://www.rpo.gov.pl/sites/default/files/Instrukcja%20MRPiPS%20ws.%20Niebieskiej%20Karty.pdf> (4 January 2021).

the ‘Blue Cards’ procedure<sup>16</sup>, which is initiated in the case domestic violence is suspected.

The activities of these institutions and the procedure itself that they work pursuant to, have not been suspended during the COVID-19 pandemic. However, importantly, according to unpublished instructions of voivodes issued to organisational units of social welfare, visits by social workers and family assistants to families affected by violence have been limited to the bare minimum, and organisational and technical restrictions have been introduced in many centres, which restrict direct contact of victims with specialists (Maczyński, 2020). The procedure itself, and the activities undertaken by domestic violence prevention workers are, therefore, subject to restrictions imposed by the need to contain the spread of the SARS-CoV-2 virus. The instruction of the Polish Ministry of Family, Labour and Social Policy on how to organise Interdisciplinary Teams and Working Groups and to implement the “Blue Cards” procedure recommends that the activities of interdisciplinary teams should be limited to performing essential tasks and then only by remote means of communication, and dealing with those reports of incidents of violence that are received and collected by telephone or electronic communication. Visits by members of a working group to the place where victims of domestic violence reside are possible assuming the required precautions are taken. However, it has to be underlined that the indicated instruction limit the possibilities of victims to benefit from institutional forms of assistance. Support provided solely through electronic communication will, for many families, be insufficient to safeguard the rights of victims – especially when isolated and constantly living in the same residence with the perpetrator of violence.

In addition to the instructions instituted during the COVID-19 pandemic, Poland also enacted the Anti-violence Act<sup>17</sup>. The AVA may provide a significantly greater level of protection for victims of domestic violence, not only during but after the pandemic. The AVA was passed by the Sejm of the Republic of Poland on 30 April and published in the Journal of Laws on 29 May 2020. The AVA became effective

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<sup>16</sup> Polish Ordinance of the Council of Ministers of 13 September 2011 on the ‘Blue Cards’ procedure and specimen forms of ‘Blue Cards’, Journal of Laws 2011 No. 209, item 1245.

<sup>17</sup> Polish Act of 30 April 2020 amending the Act – Code of Civil Procedure and certain other acts, consolidated text in Journal of Laws of 2020, item 956, hereinafter referred to as: “AVA”.

in the Polish legal system six months after its announcement, i.e. as of 30 November 2020.

The AVA introduced a new procedure in the Polish Code of Civil Procedure<sup>18</sup> that applies to cases for obliging a person who uses domestic violence to leave a jointly occupied dwelling and its immediate vicinity, thus prohibiting the person from approaching the dwelling and its immediate vicinity. According to Article 560<sup>4</sup> of the PCCP, in connection with Article 560<sup>5</sup> of the PCCP, the court shall rule on such cases within one month after a hearing. Pursuant to Article 560<sup>7</sup>, the court, in its decision obliging a person who engages in an act(s) of domestic violence to leave a jointly occupied dwelling and its immediate vicinity or prohibiting the person from approaching the dwelling and its immediate vicinity, must also rule on the area or distance from the jointly occupied dwelling which said person must stay. The court's ruling becomes effective and enforceable upon announcement. However, the court may modify or revoke its ruling if circumstances change, even if the ruling is final.

The AVA also modified the Act on Police<sup>19</sup> and the Act on Military Police and Military Order Authorities.<sup>20</sup> Since its entry into force, pursuant to Article 15aa of the Act on Police, a police officer may issue an order or prohibition described in the preceding paragraph to a perpetrator of domestic violence. The order and the prohibition can be issued simultaneously and are immediately enforceable. According to Article 15ak of Act on Police, the order or prohibition ceases to be effective after fourteen days from the date of issuance, unless the court has granted security in cases for obliging the person who uses domestic violence to leave the jointly occupied dwelling and its immediate surroundings or prohibiting the person from approaching the dwelling and its immediate surroundings, for whom the order or prohibition has been extended. The same changes have been introduced in the Act on Military Police and Military Order Authorities. As indicated by the legislator in Article 18a of the said Act, a soldier of the Military Police has the right to issue such an order or prohibition to another soldier in active military service who engages in an act(s) of domestic violence.

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<sup>18</sup> Polish Act of 17 November 1964 – Code of Civil Procedure, consolidated text in Journal of Laws of 2020, item 1575 as amended, hereinafter referred to as: "PCCP".

<sup>19</sup> Polish Act of 6 April 1990 on Police, consolidated text in Journal of Laws of 2020, item 360 as amended.

<sup>20</sup> Polish Act of 24 August 2001 on Military Police and Military Order Organs, consolidated text in Journal of Laws of 2020, item 431 as amended.

The changes in the Polish legal system introduced by the AVA will, undoubtedly, contribute to more effective protection of victims of domestic violence, specifically now during the COVID-19 pandemic. In particular, the fact the authorities may take swift and definite action to immediately eject perpetrators of domestic violence from places where his victims reside, and to keep the perpetrators away at a reasonable distance, is a critically important solution to help minimize if not fully prevent the possible intensification of violence. The speed with which the court may act in such proceedings is a significant aspect of this legislation. The fact that the AVA mandates that the court must rule on such a case within one month will prevent protracted proceedings and will help provide safety and a better path forward for the victims of domestic violence. A drawback of the AVA, however, was the extended period of time for the act to come into force. This time lag obviously disadvantaged victims of domestic violence.

## **5.2 Legal solutions applied in Spain**

A contingency plan was developed in Spain to combat gender-based violence. It was introduced into the legal system by Royal Decree under Act 12/2020 of 31 March 2020 on urgent measures to protect and assist victims of gender-based violence.<sup>21</sup> The introductory portion of this legislation emphasizes that since women are victims of gender-based violence, they are a particularly vulnerable group in times of compulsory domestic isolation (as is the case of quarantines imposed due to the pandemic) since they are forced to live with their aggressor. Prefatory language to the Spanish legislation also emphasised that gender-based violence poses a threat to human rights, including life, physical and mental integrity, health, safety, and economic and social well-being of victims and society as a whole. Therefore, the Spanish legislator decided to enact this legislation in order to ensure the proper functioning of services dealing with the protection and support of victims of violence and the elimination of obstacles that may hinder or prevent victims from accessing the existing means of assistance, communication or reporting on gender-based violence. The protection measures contained in Decree 12/2020 are primarily concerned with ensuring that victims of domestic violence can continue to benefit from the institutional forms of support that already exist in Spain.

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<sup>21</sup> Royal Decree-Law 12/2020, of 31 March, on urgent measures for the protection and assistance of victims of gender violence, BOE-A-2020-4209, hereinafter referred to as the Decree 12/2020.



Section I of Decree 12/2020 consists of six articles relating to measures to guarantee the operation of assistance services and comprehensive protection to victims of gender-based violence. Article 1 clarifies that the services referred to in Articles 2 through 5 of the legislation are considered essential services with the effects defined in Royal Decree 463/2020 of 14 March declaring a state of alert for the management of health emergencies caused by COVID-19.<sup>22</sup> Article 2 concerns the need to ensure the operation of 24-hour telephone and Internet services for legal information and advice, as well as tele-assistance services and comprehensive social assistance. Article 2 also states that the competent public authorities have a duty to ensure that victims of violence have access to such assistance measures. However, if necessary, competent public authorities may adjust their normal operations in order to better satisfy the exceptional needs arising from the state of alert. Simultaneously, it was stressed that the adaptation of the provision of integral social assistance services is an alternative to telephone assistance, through means such as instant messaging for psychological support or geolocation alerts for communication with security forces in emergencies.

Article 3 of Decree 12/2020 points out the issue of the implementation of shelter services for victims of violence. Its contents indicate that public administration bodies are obliged to guarantee the normal operation of crisis centres, shelters, supervised housing and safe accommodation for victims of violence. In the event of an emergency that requires victims of violence to be isolated from the perpetrator, such centres should provide safe havens for the victims and, to this end, have been equipped with individual protection measures. Importantly, in order to guarantee the safety of victims of domestic violence, the competent public authorities may arrange for the use of tourist accommodation facilities. Article 4 indicates the need to provide a service involving the provision, installation and maintenance of telematic equipment and a monitoring system using telematic means.

Article 5 concerns the obligation of the competent authorities and companies to ensure the provision of protective equipment for workers, in particular those who – due to their activities – come into direct contact with victims of violence. In addition, according to Article 6 of this legislation, the competent public administration bodies

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<sup>22</sup> Royal Decree 463/2020, of 14 March, declaring the state of alert for the management of the health crisis situation caused by the COVID-19, BOE-A-2020-3692.

are required to prepare information campaigns to help prevent gender-based violence during the pandemic. Toward that end, the following nationwide campaign was organised: “*Estamos contigo, la violencia de género la paramos unidas*” (We are with you; together we will stop gender violence.). This message was disseminated and promoted across all media channels, social media and online<sup>23</sup>. The second section of Decree 12/2020 deals, in turn, with the sources of financing of the tasks indicated.

### 5.3 Legal solutions implemented in France

On 16 July 2020, the National Assembly in France passed a law to protect victims of domestic violence.<sup>24</sup> This Act legislates many changes extremely relevant to the safety of victims of violence during the COVID-19 pandemic. Of particular importance are the protection measures set forth in Articles 1, 9 and 12 of this legislation. Article 1 addresses the issue of the joint use of a dwelling by both the victims and the perpetrator of violence. It provides that, except in limited situations, a perpetrator of domestic violence should not be allowed to use such a residence. On the other hand, a victim of domestic violence is guaranteed the important right to remain in her current place of residence if she must be isolated from the perpetrator of violence. Article 9 sets out the changes to criminal law relating to the offence of harassment of a spouse, partner or other cohabitants, as defined in Article 222-33-2-1 of the French Penal Code.<sup>25</sup> Committing such an offence is now punishable by imprisonment of up to 10 years and a fine of up to EUR 150,000 if the harassment has led the victim of violence to commit suicide or attempted suicide.

Another change in the criminal law, designed to protect victims of violence, was introduced through Article 12 of the PVDV. According to the current wording of Article 226–14 of the French Penal Code, physicians or other health professionals who learn - that patients’ lives are in imminent danger due to domestic violence and that the patients themselves are unable to take care of their rights due to the control exercised over them by the perpetrator will not violate medical confidentiality if they

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<sup>23</sup> More on the measures that have been taken by the public administration in Spain: Executive Summary. CONTINGENCY PLAN TO COMBAT GENDER VIOLENCE DURING THE COVID-19 CRISIS, <https://rm.coe.int/09000016809e2e41> (4 January 2021).

<sup>24</sup> French Act No. 2020-936 of 30 July 2020 aiming to protect victims of domestic violence, JORF n 0187 of 31 July 2020, hereinafter referred to as: “PVDV”.

<sup>25</sup> French Penal Code, [https://www.legifrance.gouv.fr/codes/texte\\_lc/LEGITEXT000006070719/2021-01-04/](https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070719/2021-01-04/) (4 January 2021).

choose to inform the public prosecution of such circumstances. Healthcare professionals should first try to obtain the adult victim's consent. However, if this is not possible, they must - inform the victim that they have reported the case to the public prosecution. Exempting physicians and other health professionals from medical confidentiality in such situations may be particularly important in the context of keeping victims of domestic violence safe during the COVID-19 pandemic. When restrictions such as home isolation or quarantine have been imposed on a family, physicians or other health care professionals are often the only state administration officials who have contact with the victim of violence and can effectively respond to the threats within the family.

## **6 Summary and conclusions**

The limitations and restrictions imposed in individual countries to retard the spread of the SARS-CoV-2 virus have had a negative impact on the conditions faced by victims of domestic violence. These conditions, which include, among many other negative things, having to continually live with the perpetrator of domestic violence, the stress of losing a job or source of income, and increases in alcohol and drug consumption, have led to a sharp rise in domestic violence. Attempts to reduce the risk of the COVID-19 pandemic through quarantine measures have, therefore, increased another threat to the lives and health of people around the world.

This paper's analysis of the solutions reached in the selected countries to combat domestic violence demonstrates that they have focused primarily on measures that offer what we might call practical protection. European countries have also issued instructions delineating rules on how existing institutions can better cope (practically) with domestic violence. The Spanish authorities have decided to implement a Royal Decree-Law designed to guarantee the possibility of using the aid offered before the COVID-19 pandemic, but with the necessary modifications due to the need to limit the spread of SARS-CoV-2. Other countries, such as Poland and France, have introduced solutions into their legal systems that, while not responding strictly to the pandemic, indirectly affect the situation of victims of domestic violence during this epidemic crisis.

In conclusion, there is an unfortunate lack of comprehensive strategies to counteract domestic violence during the pandemic when the normal operations of institutions that provide aid to such victims have been suspended as a result of quarantines. Merely guaranteeing that preexisting legal measures that had been in place before the current pandemic to offer legal protection against domestic violence to a limited extent, while certainly important, is insufficient to ensure the safety of the victims. The further assistance provided by phone, e-mail and through social media, in situations where the potential victim(s) and the perpetrator of domestic violence live together in constant cohabitation may also pose a threat to the victims of family violence in many cases.

Because of governmental measures forcing people to stay in their homes, because schools have been closed forcing a combination of in-home and online learning, countries' strategies for tackling domestic violence in the wake of the COVID-19 pandemic should focus primarily on strengthening the responsibilities of healthcare and education professionals. The recent changes in the French Penal Code, authorizing doctors and other health care providers to inform public prosecutors of situations involving domestic violence and immunizing them from claims that doing so constituted a breach of medical confidentiality, is a good example of such a strategy. During the pandemic, representatives of the health services, in particular family doctors, should be required to monitor the situation of families where restrictions (such as home quarantine) are introduced. Times of crisis also require greater involvement on the part of teachers, especially class teachers (in Poland 'wychowawca'). In a situation where children are forced to learn remotely for extended periods of time and, thus, where possible victims of domestic violence are forced to live permanently with the perpetrator, educators and class teachers should be required by law to exercise special supervision over their pupils and to inform services responsible for combating domestic violence of any possible suspicion of experiencing violence in the family.

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