

Júlia Spronz – Judit Wirth

# Integrated client service for victims of violence against women

The results of a pilot programme  
Policy recommendations for successful prevention and  
treatment of domestic violence





Fire-place booklets

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**NANE Women's Rights Association  
Habeas Corpus Working Group**

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# Introduction

Under the auspices of the European Commission's Daphne II. Programme, and within the framework of the pilot project to provide integrated client services for survivors, and a multisector approach to domestic violence, NANE Women's Rights Association (NANE) and the Habeas Corpus Working Group (HCWG) introduced a series of interdisciplinary training and networking events and, in 2005, started a special support service for victims of domestic violence and, on a broader scale, for victims of violence against women. The purpose of this service was to take into account the clients' complex and interrelated needs for legal, psychological and social help. This publication summarises the lessons learned from this pilot programme by presenting the cases of the clients who participated in what we termed 'integrated client service', and the conclusions drawn from the training events, workshops and seminars as well as the cases themselves regarding general and specific policy recommendations for professionals, legislators and law implementation authorities.

The training sessions, seminars and workshops run under this pilot programme were attended by 98 persons in all: practitioners from diverse fields, such as legal, law enforcement, psycho-social, medical, child-protection, pedagogy and more, both from public and civil institutions (NGOs). Out of these, 28 have completed a series of multi-professional three-days training course whose aim was to provide practitioners with knowledge and skills on how to treat survivors on the one hand, and to provide a basis for inter-professional networking and long term cooperation. The project was originally meant to be a two-year-

long program, but was reduced by the Commission to one year. Therefore, whether long-term networks and cooperations will result from these events is a question for the future which we will not be able to monitor very closely. However, all meetings and training sessions were characterized by participants expressing a strong need and a determined will to keep in contact and continue working together. Examples presented by our international partners have been received with much interest and an openness to implement procedures and programs similar to those presented in partner countries. Informal cooperation is said to be sprung among a few participants, though they may be vulnerable without further organizational support.

We are grateful to our clients for participating in the programme and for honouring us with their trust. We also thank our clients for consenting to the use of their cases, which we analysed in accordance with data protection standards and the requirement of protecting their personal safety.

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NANE – HCWG  
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# Case studies

## *1. A.B.C. (Southern Hungary)*

A.B.C. came to our attention through NANE's helpline for battered women and children. Both she and the professionals working in the integrated service project were interested in her inclusion in the pilot programme. We followed her progress in regaining her psychological and emotional stability as well as the development of her legal case for almost one year. This client read all the literature available in Hungarian which we recommended and, in our opinion, she was the client who benefitted the most from the assistance offered by the integrated services. She contacted the social worker and the legal professional every week to give an account of her emotional state and her case.

A.B.C.'s case shows special characteristics in comparison with general domestic violence cases in that unusually frequent visitations take place between her 3 years old child and the father, and a labour-law case is also connected to the case. A.B.C. divorced her third husband on 26 April 2005. They agreed on the custody, child support and visitation of their child with a settlement within the divorce suit. Our client had reservations concerning the contents of the settlement already during the lawsuit, which she indicated in part at the time. What led directly to the divorce was that her ex-husband choked and shouted at her in the presence of the child. This circumstance was not examined during the lawsuit, despite the fact that our client mentioned it. The physical-emotional violence, which was characteristic of the relationship had a strong impact on our client's behaviour in court. During the court proceedings she believed herself and her child to be in actual danger of physical

harm, and she exhibited symptoms of post-traumatic stress disorder. Under these circumstances and under the pressure from her legal representative, she accepted the ex-husband's offer for a settlement. Under the settlement, her ex-husband is entitled to see and take the child for the purpose of visitation from 5 to 8 p.m. every Tuesday and Thursday, and 8 a.m. to 3 p.m. every Sunday, and he may call the child on the phone on other days of the week. It became obvious during the exercise of the visitation rights, that the divorce would not bring the calmness and safety she hoped for. As a result of the settlement on visitation, the man remained an everyday part of their lives; he uses the visitation and phoning rights to hold A.B.C. under psychic terror, to harass her, to create a tense atmosphere, to manipulate the child emotionally and to insult A.B.C. verbally in the presence of the child. We filed a claim to the City Court of U. in February 2006, in which we requested a limitation on visitation rights so that it would take place in the form of a right to take the child away from 8 a.m. to 3 p.m. every other Sunday. With this request we are also interested in finding out how the court will react to the reasoning that the settlement on visitation was not based on real consent but was created because the woman was afraid of her abusive partner at the time of the decision. It is characteristic of the rulings of the court that, whatever the decision, the interest of the child is cited. Therefore we stressed in our claim that it is not in the child's interest to be with another parent every other day, get used to him or her and then be separated, since this makes it impossible to create a stable emotional environment. A.B.C.'s case is a good example of the general tendency that abuse does not stop with getting a divorce, it continues in the form of stalking. Because of the frequent visitation, the woman and her child cannot freely organise their daily lives, and this leads in the end to the woman's being unable to form a new relationship. In addition to the physical difficulty of carrying out the visitation, it is a bigger problem that the man uses these visitation occasions to further abuse the woman, which means that meetings lead to

the re-traumatisation of the woman. Not only verbal and emotional violence occurs at these times; the ex-husband often uses physical violence at the time of the visitation. He jams the door with his foot or stands on the threshold so that the woman is unable to shut the door and he can finish his talk humiliating our client in the presence of the child. It is part of the ex-husband's abuse strategy to try to spread slander not just in front of the child but also among others. One way he does this is that he regularly appears at events where A.B.C. and her child go, and uses a remarkably friendly tone to get closer to A.B.C. again, as if nothing had happened. A.B.C. wards off these attempts at which the man takes on the role of victim for the sake of the outsiders and so tries to win others' empathy and sympathy. He has gradually won the woman's friends over to his side, who cut off their relationships with A.B.C. This process resulted in the woman's isolation. Economic violence can also be discerned in A.B.C.'s case. An example is when the husband visited her workplace, a religious school, and related the fact to the director that A.B.C., who works as a Bible teacher in the school, is about to get her third divorce. The employer dismissed A.B.C. as a result of the man's intervention, which resulted in a severe existential crisis for the woman. We intensively supported our client in attacking the employer's unlawful measure in court. A.B.C. started a lawsuit against the school with the help of an attorney, which was one of the first examples in Hungary to quote discrimination based on family status as described in Act CXXV of 2003 on equal treatment and the promotion of equal opportunities. During the lawsuit, A.B.C. came to a conflict of interest with her attorney several times, who on the one hand, did not know the Act thoroughly, and on the other hand tried to influence our client towards avoiding conflict and accepting a quick resolution. Our intensive psychological and legal support was necessary for A.B.C. to be able to represent her interests even against her attorney. She won the case with a final decision, and the procedure was closed with a more favourable result both

economically and morally, than the result of the settlement would have been had she followed the advice of her attorney.

**It has often been noted that attorneys expressly discourage abused women to talk about the abuse during the procedure. Instead they channel the real problem into “neutral”, gender blind legal categories, which disregard the fact and dynamics of abuse. In addition, it is in the attorney’s interest to finish the case as soon as possible, while the abused woman’s interest lies in revealing the whole picture, which is a time consuming activity. Attorneys who treat the client as an equal partner are rare, they typically force their ideas about the course of the case on the clients. As a result, the fact of partner and child abuse does not surface during the first few trials, and later the court and other authorities will refuse to listen to the woman’s account of violence. They think that if the woman did not mention the violence earlier, then now she is only using it out of vengeance and tactics. A provision of the Act on Family Law poses a further problem of asserting rights for women victims of domestic violence. Section 18 (3) of Act IV of 1952 (hereafter: AFL) provides: “Even if other legal preconditions are met, within two years after the settlement providing for the parties’ sustained legal relationship is approved by the court the parties may only request the court to change the settlement if the change serves the interest of underage child or where the settlement has come to severely violate a party’s interest due to changes in circumstances.” Clearly, this poses the problem that if women wish to change a settlement which was detrimental to them and their child in the first place, they can not refer to “change of circumstances”, while at the time of concluding the settlement they were in a situation when free expression of their will was circumscribed by being threatened or by having suffered from posttraumatic stress disorder.**

## *2. D.E. (Budapest)*

A case based on Section 29 of Government Decree 149/1997 on the Guardianship Authority and the child protection and custody procedure, which was initiated before the Guardianship Authority by the paternal grandparents in order to regulate visitation of their 8 and 4 years old grandchildren. The relationship between our client and the grandparents has always been cold, her husband, the children's father revealed the fact that he was abused as a child at the hands of the now grandparents. Abuse continued into his early adulthood, a number of his social relations were severed because of his parents' harassing and indecent behaviour. Finally, he ran away from home, but his parents had him put on the wanted list of the police and harassed him in his home regularly. Earlier, a property case also existed between D.E.'s husband and his parents. The visitations have been occasional and rare; now the grandmother wants to make them regular. The relationship between the grandparents and the children is superficial, the grandmother uses the visitation occasions to satisfy her own needs and not in accordance with the children's will. According to our client, her mother-in-law abuses both her husband and the children emotionally and verbally, which has harmful effects both on their relationship and the children's healthy development. The grandmother still regularly reminds her son of the food and other care he received as a child. She questions the children about the family's daily life, and insults their mother verbally. Our client also complained about the fact that the grandmother talked to the little girl about death in a way which led to the child crying for long hours and being worried for several days. She forces intensive bodily contact on the children; she caresses and hugs them against their will. D.E. complained that the grandparents' home is not healthy and safe for the children because they keep numerous domestic and wild animals

in unhygienic circumstances. At public events, the grandmother has appeared in unsuitable attire, has behaved with others in an impolite way, made insulting remarks on D.E. and her husband. The grandmother has a roomful of a collection of toys, which the grandchildren may not touch, and she does not allow the children play with the toys on request either. According to our client's account, the grandmother's current attempt at increased visitation is not without precedence; when one of the children was one day old, she appeared at the maternity ward shouting and complaining that D.E. was denying her grandchild from her. It has happened several times that the grandparents were lurking around the family home but did not ring the doorbell. When they call, they shout and threaten on the phone.

Based on the above, we requested the Guardianship Authority not to provide for a more intensive visitation and that grandparents should meet their grandchildren under the supervision of the parents at the time of important festivals, birthdays, name-days, weddings and other family occasions. During the autumn of 2005 the Guardianship Authority required the Contact Foundation (Kapsolat Alapítvány) to help build contact but the Foundation notified the parents only two days before the meeting, who therefore were unable to appear at the meeting, and the Foundation did not seek to contact them any more. The Guardianship Authority took its first order decision in March 2006, providing for the usual extent of grandparental visitation, that is once a month. Taking into account the numerous arguments voiced in opposition of the grandparents, which would make increased protection of the children necessary, we consider the Authority's decision exaggerated and we believe it disregards the special phenomena of the case. We appealed against the decision; the procedure is taking place now.

**Although cases related to visitation are rather frequent among our cases, we rarely encounter the problem of grandparental visitation. This case is a prime example of the**

**fact that abuse does not end with the child's becoming an adult, founding their own family or moving away. In cases of visitation rights, it is a usual attitude of the authority applying the law without taking account of the fact of abuse. This is especially true where violence is not physical. The legal background for visitation is primarily Government Decree 149/1997 (IX. 10) on the Guardianship Authority and the child protection and custody procedure. Section 30 (1) provides that "*The Guardianship Authority and the court arranges visitation primarily through creating a settlement during the hearings...*" Based on this provision, the law implementation authorities force a settlement on the parties also in cases where the parent(s) raising the child want to limit or stop visitation in order to protect the child from physical, emotional or moral harm.**

### *3. F.G. (Northern Hungary)*

We became acquainted with F.G.'s case by virtue of a preliminary injunction in a divorce case in process. Under the injunction the kindergarten-aged child was placed with the abusing father until the decision. The father took the child arbitrarily from the mother by force after she filed the divorce claim, and he denied any visitation for long weeks. The mother requested a preliminary injunction arguing that placement with the father has a harmful effect on the child. The Municipal Court of Y. based its decision of June 2005 on the fact that our client failed to prove the existence of any circumstances that would endanger the child's wellbeing, health or development. However, reference has been made to the father's aggressive behaviour, the violence that was at first psychological and verbal and then developed into physical violence, which he exhibited both against his wife and child. A journal entry from the year 2003, filed by the father, from which F.G.'s intention to commit

suicide could be inferred, was a decisive factor in taking the preliminary injunction and placing the child under the care of the father. Our client told us that she developed depression as a result of the abuse, from which she managed to recover with medical help. While the child was living in the father's household, marks of beatings could be seen over his body several times. At the child's farewell party at the kindergarten, the man attacked F.G. and called her a "chained whore". He also beat up his own mother. In addition to the above, in the appeal against the preliminary injunction we referred to the fact that three criminal procedures are in process against the father because of traffic offences and attacking the child. The little boy developed permanent herpes after his place of residence was arbitrarily changed, which, according to the doctor is of psychosomatic origin. The father neglected the regular medical control necessary because of the child's atopic dermatitis; as a result the child continuously scratches himself. The fact that only one room is heated in the house during the winter adds to the inadequacy of the environment where the child is placed. The grandmother living with them has a tumor, and while she was looking after the little boy at an earlier occasion, the child took several pills and he had to be taken to hospital because of poisoning. We stressed in our submission that the father has an aggressive, abusive personality. We referred to the fact that when a father continuously insults the mother verbally in the presence of the child, calls her a whore, and beats her up, that is obviously detrimental to the child's development. In an absurd move, as a justification for placing the child with the father the court quoted the fact that removing the child from his usual environment does not serve the little boy's interest. However, the child got into this environment through the father's arbitrarily abducting him from what had been his usual environment, and entirely locked him away from his mother, who had been taking care of him before. At the personal hearing preceding the decision of the court of first instance, the father was stressing not



his own ability but the mother's inability to raise the child. The court's decision accepted the father's accusations and doubtful documents as evidence, as opposed to the mother's testimony, which was based on facts. We also deplore the preliminary regulation of visitation. The mother was with the child continuously during the first three years following the child's birth; she was responsible for his care and education on her own before May 2005, when the father abducted him. All this was disregarded by the court when it established maternal visitation at 2 hours every two weeks. In addition, the father was impeding even this visitation and was turning the child against the mother. In July 2005, at the time of an exceptional visit, the child remained with the mother, following which the father did not come for the child, and when he called, the child stated that he would rather live with his mother. From this time on, the mother's home in Y. became the child's place of residence and he was enrolled to a primary school in Y., which is the mother's workplace. He has contact with the father on the phone, and rarely in person. The court of second instance accepted our appeal and based on the psychologist's opinion, which was issued in the meantime, placed the child with the mother preliminarily.

**We have seen in several cases that women become psychologically unstable as a result of the abuse, and become depressive, alcoholic or dependent on drugs. Law implementation authorities have held this against them in all the cases without examining the precipitating cause or the prehistory. In the practice of criminal judges, the behaviour of an abuser when he abuses not the child, but the child is a regular witness of violence against the person he or she loves (usually the mother), is usually qualified as the criminal act of endangering a minor. However, this fact never gains any legal relevance in civil cases on questions of parental custody, placement and visitation. Neither is it unique that the father**

**becomes interested in the child only after the intention to get a divorce is stated by his wife. In deciding about the placement of the children, the court does not examine the parents' participation in taking care of the child during their cohabitation. The court often quotes the stability of the child's environment as a positive factor, even in cases where the mother is forced to leave her home because of the father's brutality.**

#### *4. H.I. (Budapest)*

This case was selected for the integrated client service because several of its aspects go contrary to public opinion about domestic violence. It is a middle class family, the abuser has several degrees, there is extraordinary wealth. It was interesting from a legal viewpoint because the civil lawsuit had finished and we could have a glimpse of how a woman can enforce a decision which is in her favour.

At the age of 16 our client met her husband who was significantly older than her. They have two children, aged 16 and 18. The woman stayed at home as a home maker after the wedding, and reared the children for over 10 years at home after their birth. The problems started after this role no longer satisfied her; she wanted to work outside the home and study and felt it more and more unbearable to subject her whole life to her husband's will. In the autumn of 1998 our client stated to her husband that she entered into a love relationship with another man, upon which her husband ordered her to leave the common property, but at the same time he prohibited taking the children with her. From 1999 to April 2000, husband and wife lived separated in the same house. In April 2000, the man changed the locks of the common property and in his wife's absence, carried her personal belongings outside the house and employed a guard service to prevent H.I. from continuing the use of her property.

Since the woman was unable to enter her earlier place of residence, she initiated a procedure with the notary to take the property into use. The notary established that she had the right to use the house and obliged the husband to discontinue the illegal state of affairs. He appealed against the public administration decision in court, and lost the lawsuit both at first and second instance. The Court of the Capital City stated in its final decision that the husband committed the crime of trespassing by blocking his wife from the lawful use of the property. The husband alleged in his defence that his wife left the common property without the intention to return but the court did not accept this reasoning in absence of evidence. In the divorce case, the court settled the use of the house in a preliminary injunction under which it assigned the use of the first floor of the house to the husband, and that of the second floor to the wife, and the remaining rooms to common use. The partial decision of the Central Court of Buda taken in October 2002 decided over the divided use of the house in accordance with the preliminary injunction, and placed the girls with the mother despite the fact that the father submitted a statement from his then 14-year-old daughter, in which she requested placement with the father. The court established in its reasoning that the father placed her under such psychic pressure and emotional manipulation that the testimony gained from her cannot be considered independent opinion therefore it did not use it as evidence when taking the decision. With its decision of September 2003 the Court of the Capital City changed that decision and placed the children with the father, and settled the use of the house in a way that the woman uses the basement and the father and the children use the second floor exclusively, and relegated the first floor to common use. The fact that the girls had been living in the father's household for the previous three years and were distanced from their mother had a significant role in the decision on the children.

The man did not comply with the court decision on the division of the house voluntarily, therefore his ex-wife initiated

an enforcement procedure in may 2004. The man refused voluntary fulfilment in the enforcement phase as well, therefore the court fined him HUF 500 000 altogether. Because the imposition of a fine did not bring the expected result, the act of enforcement finally took place on 20 September 2005. The enforcement was, however, carried out only in part because the man used physical violence to prevent both the NGO activists, who were present as witnesses, and the locksmith called by the woman from entering the home in spite of the repeated warning from his wife and the enforcement officer. This could take place because the enforcement officers arrived without police support, despite their earlier notice, and apparently their aim was not the success of the enforcement but the protection of their bodily integrity. The enforcement officers stated the fact of the enforcement in a report, however this took place only seemingly as the man placed the key in the lock of the door leading to the part of the house assigned to the woman from the inside, and continued to hold it there. We complained to the court about the enforcement and requested it to be repeated, this time with police assistance.

The father holds the girls, who in the meantime have become 18 and 16, in such psychological terror that they only dare to call their mother in secret, let alone leaving with her. The Guardianship Authority refused the children's request for an action on the grounds of lack of authority because of their age.

**This case is a clear example of the fact that the Hungarian legal system is powerless when the enforcement of a final court decision is not fulfilled voluntarily. The first attempt to enforce the decision of September 2003 took place two years later, in September 2005, and to no avail. The illegal situation has existed since April 2000. The fact that the court repeatedly imposes a fine on the party denying the enforcement does not bring a solution, since the man continues to deny the fulfilment in addition to not paying the**

**fine. It is a further problem in the act of enforcement that even where an enforcement action brings results, as soon as the police and the enforcement officers leave, the perpetrator restores the illegal situation. We see endless delays not only in the case of objects, movable an immovable property, but also when it is about children. And in their case the time elapsed causes grave and irreparable physical and emotional harm.**

5. *J.K.L. (Central Hungary)*

J.K.L.'s husband is a family doctor of African origin, who severely abused her and her three children during their marriage. The divorce came after almost thirty years of marriage when all the boys were already attending higher education. In the divorce case, the court provided for the divided use of their 200-square-metre joint property despite the fact that the husband had exclusive ownership of a flat and had property in Budapest, the capital city as well. The joint property contained the husband's office, with a separate entrance. The woman stated during the procedure that she is willing to use the property in a divided manner only if her husband's exclusive use will cover the part of the house where his office is. The court established in its decision of June 2005 that the flat is suitable for divided use from an objective viewpoint, and the woman did not substantiate any subjective factor that would exclude the husband's right to use. The court noted in the decision that the fact that the man bought real estate in Budapest does not mean that he wants to live there. The court listed it as an argument for the divided use of the home that joint use would promote the parties' putting aside old grievances and getting closer to one-another (!). Under the decision of the judge, our client is forced to share her bedroom with one of her three adult sons, and four people have to use one bathroom together while the father is the sole owner

of the other bathroom. It is part of the prehistory that the man left his family in 1999 and stopped all relationship with them. During the procedure the woman referred to her husband's alcoholism, aggressive nature, the violence threatening them for years, his humiliating behaviour and the verbal and psychological abuse characteristic of the home's atmosphere. The woman gave an account of the fact that her husband stated near the end of their marriage that an African always needs to use a young woman, an old one is worth nothing and did not conceal his relationships outside the home. Our client also supported her account with evidence, thus she requested the consideration of a report of the Police of the City of X, which attests that the man was arrested for attacking the mother and her children years before. Our client submitted several of the psychiatrist's medical opinions on the obsessive disorders of her two sons. The doctor's opinion made a clear connection between the severe anxiety and the father's violence.

The father did not object to paying the adult-aged children child support. With regard to this, the court stressed that the boys had not only rights in relation to the father but also obligations, therefore they are obliged to maintain a good relationship with their father. As the ruling of the court of 29 June 2005 states, an adult-aged child who does not thank his father living elsewhere the regular financial support and does not inform his father about his development in school and the events of his life will be unworthy of child support. The court established HUF twenty-thousand of wife support for our client. The court based this amount on the fact that the woman helped the husband with administration during their marriage, therefore she never entered official employment and she was diagnosed with a 50% decrease in her ability to work.

The decision was appealed against, and Statement 2/2003 of the UN Commission for the Elimination of All Forms of Discrimination Against Women (CEDAW) of 26 January 2005 on A.T. versus Hungary, which found the state to be at fault, was

submitted. That decision stresses the need to respect women's life, bodily and psychological integrity, safety and dignity, which fundamental rights enjoy primacy over, among others, the right to property. The CEDAW Commission considers the shared use of the home unacceptable in cases where one family member abuses the other. The appeal has not been considered as yet.

**Section 31/B (4) of the Act on Family Law provides that “The court shall divide the use of the apartment in the joint ownership or lease of the spouses if the area, arrangement and number of rooms allow this. The use of the apartment shall not be divided where joint use, as shown by the spouse's earlier behaviour, results in the severe violation of the interests of the other spouse or the underage child.” One party's systematic abusive behaviour against the partner or family members is an obvious reason for the exclusion of shared use. However, references to domestic violence are rare in court decisions as a basis for the refusal of dividing property. The main reason for this is that court practice does not consider abuse mentioned after the separation as a reason to establish the subjective indivisibility of the property; this may only be brought about by examining the spouses' earlier behaviour. But, most often, battered women can rarely provide evidence of such behaviour from the time of the marriage. Therefore, sentences similar to the following are delivered with respect to subjective indivisibility:**

**“...and although the defendant's behaviour is sometimes aggressive and querulous under the influence of alcohol, this does not reach the level where the division of the jointly used home should be excluded.” “A unified practice of the courts exists in that only those behaviours are considered seriously injurious which make further cohabitation impossible.” “In itself, the alcoholic behaviour of the defendant, which gave rise to the divorce, and a sole violent act during the mutual debates surrounding the break-up of the marriage after the cohabitation had ceased does not**

**constitute such an ‘added fact’ which would make it impossible to live with him.” (BH 2002.313) “The plaintiff only claimed but did not prove that behaviours of the defendant giving rise to the divorce constituted such ‘added fact’ which would warrant the consideration that the shared use of the flat would cause a serious violation of the plaintiff’s interest or the interest of their underage child ” (BH 2001.478)**



## *6. M.N. (Budapest)*

M.N. turned to us with her visitation case. She first indicated to the Guardianship Authority of District C. in February 2001 that the visitation between her children and the father does not work. By this time the couple had separated: the woman filed the divorce claim in November 2000. The man neglected the care of the children during the separation, neither did he support them financially. The father never respected the visitation times, which were defined based on his own request: he either did not utilise the visitation at all or not within the time frame previously agreed on. The Guardianship Authority refused the mother's request for an intervention on grounds of the court's (instead of its own) competence, however it did initiate a procedure when the father made a report two months later. A preliminary injunction regulating visitation became effective by the 12 July 2001 decision of the Court of the Capital City. The problem, however, was not solved; the father continued to disregard the contents of the court decision, continued with his verbal insults, threatening and violent behaviour and denied meeting the children regularly. Our client sought help from the Guardianship Authority innumerable times between 2002 and 2004. She received no relevant reply at any of these occasions. Not even following her account of the increasing psychosomatic symptoms exhibited by the children (gritting teeth, constant migraine, bed-wetting). Since 2001 the Guardianship Authority had been aware of the fact that the father does not observe the provisions of the court sentence, and endangers the physical and psychological development of the underage children. Our client sought the help from the Guardianship Authority and the Child Welfare Service in a letter on 19 March 2004, in which she described the fact that the children had been telling her lately about their father having kicked them several times during the visits. The social worker reacted to the mother's complaint that

the above behaviour of the father does not exceed his domestic disciplinary rights, therefore it is not to be condemned. When finally she managed to make the custody authority hear the parents, instead of calling the father to account, the mother was warned to treat the difficulties arising during visitation more flexibly. On one occasion following this, the mother waited up to 30 minutes for the father after the time set down for visitation in the sentence, and considered it an occasion when the father did not use his right of visitation. As a result, the Guardianship Authority, in its decision of 31 March 2004, and later the Guardianship Authority of the Public Administration Authority of Budapest requested her to stop the unlawful behaviour. Her ex-husband then started to file a series of submissions to the authority in which he complained that the mother would not allow him to exercise his visitation rights. Our client was fined, HUF 10.000 first, and HUF 25.000 later. The Guardianship Authority decided against the mother and imposed a fine on her even in a case when the father was one hour and 15 minutes late, yet, the mother waited for him and tried to hand the children over to him. The father did not take over the children; rather, he started to quarrel and fight, which is documented in the report of the police officers who dealt with the case. In its decision of July 2004, the Guardianship Authority of the Capital City fined the mother HUF 50.000 for an earlier failed visit. The authority founded its decision on a statement that the father brought from the school, according to which the grandmother took the older child from the school before him. However, that was a false statement: at the time, the child was staying on the ground floor of the school, where he met his father and told him that he would not go with him. The father replied that then he would go to see the director and request a statement that the child was taken from him. He did so. The director did not ascertain if the child was really there but provided the statement based on the father's claim.

Although the mother turned to the Guardianship Authority herself in 2001 to protect her children, not a single warning was issued against the father or was he called to account or fined. As a result of the passivity of the public administration authority the mother was forced to request that the father's parental custodial rights be ceased, or his visitation rights be withdrawn, or that his visitation rights be limited. This lawsuit is currently in process. At the moment, referring to the fact that the lawsuit is under process, the Guardianship Authority still does offer protection to the children from the violence they are exposed to. Rather, it limits its activities to fining the mother based on the 2001 decision still in effect, and this state can continue for years before the procedure is finished with a final decision.

While all this was happening, the father initiated several proceedings against his wife. Thus, among other things, he made regular reports to the authority about the faulty performance of visitation, initiated the children's being taken under protection, and further reported the mother as committing the crimes of "slander" and "endangering a minor".

**Act XXXI of 1997 on the child protection and custody administration (Child Protection Act - CPA) and Act IV of 1952 on marriage, family and custody (Family Law Act - FLA) both consider it a fundamental principle to primarily observe the rights and interests of the underage child in decisions on matters relating to them. This principle is applied in practice when the custody authority or the court deems it the child's interest to have a relationship with both parents, and to maintain an intensive relationship with the father after placement with the mother. This interpretation results in our cases in the fact that the authorities continue to leave the child at the mercy of the abusing father and are unwilling to admit that in certain circumstances it better serves the interests of the child if he or she does not meet the father or meets him only under controlled circumstances.**

**The legal institution of visitation, as used in today's Hungarian legal practice, makes women and children victims of domestic violence more defenceless after their separation from the abuser, since visitation serves as a legal basis for the father for further harassment and for maintaining his power over the victims. Government Decree 149/1997. (IX.10.) on derogations from a decision prescribing visitation provides a single legal possibility: if the derogation occurs not as a result of the failure of the parent rearing the child. Our position is that the mother would be in breach of her parental obligations exactly if she allowed the children to be exposed to abuse under the pretext of visitation. Since the children's opposition against their father comes from their own experiences, its sole reason is the father's violence. Neither the mother nor the authorities protecting the children have the right to force them into a prolonged visitation which has a long-term detrimental effect on their psychological development.**

**Under the amendment of the Penal Code in effect since 1 September 2005, section 195 (4) states: "A person, who, following the imposition of a fine to enforce the visitation, continues to impede the creation or maintenance of a visit between a minor placed with him under a decision by a court or an authority on the one hand, and a person entitled to visitation with the minor on the other hand, perpetrates a misdemeanour, and shall be punishable with imprisonment of up to one year, work of public interest or a fine." This provision severely affects those mothers who impede visitation because of the father's abusive behaviour. Because neither the court nor the custody authority examines whether domestic violence takes place, women are forced to protect their children's physical and psychological health by taking the law in their own hands. We attacked the problematic clause before the Constitutional Court. It is a further problem that the authorities and courts enforcing the**

**law do not consider emotional-verbal violence and physical violence that does not exceed the (arbitrary) limits of domestic disciplinary rights a behaviour that fulfil the basic criteria for the crime of endangering a minor, thus no criminal action can be taken against the father. This also precludes the possibility of requesting a restraining order against him.<sup>1</sup> Another problem is that, although there is a legal precedent to exclude it, court practice is still uncertain in deciding whether a person describing the events of abuse in a public administration or court procedure which is in process can perpetrate the crime of slander. Thus victims are uncertain about whether they may expose their real circumstances: they are at the mercy of how the given court interprets the law, and are defenceless against the fact that the courts are usually reluctant to examine the abuse, while they consider it their task to protect the “personality rights” of the apparently abusive person.**

### *7. O.P. (Eastern Hungary)*

O.P. had been a client of NANE and HCWG earlier. HCWG turned to the European Court of Human Rights in her case in November 2003. She entered the integrated client service when the Strasbourg court refused to try her case.

Our client turned to us because of sexual harassment at her workplace. She started to work as a case manager on 2 January 2001 at the Military Prosecutor’s Office at Q. Soon after her entry into employment, she experienced that her immediate superior was continuously staring at her breasts, which behaviour was very disturbing for her. It also turned out soon

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<sup>1</sup> According to the modification of the Code on Penal Procedures effective as of 1st July 2006 which introduced the restraining order into the Hungarian legal system, the prerequisite to apply for a restraining order at the court is the existence of a penal procedure against the perpetrator.

that her female colleagues know about this habit of the male superior and they reassured her that the prosecutor does not go further than that; harassment stops at staring at female colleagues' breasts.

Since this situation became unbearable to our client, she indicated it to the deputy prosecutor in chief – exercising employer's responsibilities at the time – in a personal hearing. He showed to be helpful, but primarily suggested that they try to settle the case among one another. As a result of this unsuccessful conversation the woman returned to her place of work, where her superior showed remarkably refusing behaviour. He said that none of the prosecutors wanted to work with our client because they were afraid she would report them under some accusation that she makes up. The deputy prosecutor in chief asked her whom he should believe: someone who had been there for 3 weeks or someone who had been there for 13 years. He remarked that the woman could be oversensitive and suggested that she turn to a psychologist. The deputy prosecutor in chief ordered the initiation of a disciplinary procedure against the secretary on 26 February 2001, quoting denial of work. Apart from hearing the two parties, other case managers, office managers and other prosecutors were heard within the disciplinary procedure. The female colleagues, who exhibited solidarity with our client earlier, did not acknowledge during the witness testimonies that they experienced similar behaviour on the part of the prosecutor as complained against. The outcome of the internal procedure was the most severe punishment possible in such a procedure: the woman was dismissed from her job in a resolution in April 2001. She turned to a labour court in order for the disciplinary resolution to be repealed. In her claim she explained that she considered the disciplinary resolution unlawful because no denial of work took place on her part, she only requested not having to work with the superior harassing her. The court of first instance refused the claim, found the disciplinary punishment imposed by the prosecutor's office

proportionate to the disciplinary offence and saw no basis to reduce it. The argument of the court rests on the idea that it can be established on the basis of the facts of the case that the alleged harassment does not exhaust the fact of severe cause preventing cooperation as defined by law. The court found the woman unwilling to cooperate, while it saw the actions of the employer as a proof of an attempt at mutual agreement, therefore concluded that no unpurposeful use of law can be discerned on the part of the employer. The court of second instance partially changed the sentence of the court of first instance, and eased the disciplinary punishment to censure. The appeal court upheld the facts established by the labour court. After considering all the circumstances of the case, the court decided that dismissal was an exaggerated sanction for the denial of work. In her appeal for a review, the former employee requested the intermediate sentence of second instance to be repealed and the sentence of first instance to be upheld, which the Supreme Court entirely fulfilled in its decision of 13 November 2002. The Supreme Court upheld the facts established and accepted by the first and second instance courts according to which our client denied working with the given prosecutor without any well-founded reason and so was at fault when she violated her official duty.

We lodged a complaint with the European Court of Human Rights maintaining that the Hungarian state did not fulfil the provisions of the Treaty of Rome on the protection of fundamental human rights and freedoms. Thus the rights related to privacy and effective legal remedy have been violated in the Hungarian procedure.

**We stressed in the submission that no legal regulation or other legal source of whatever level exists in the Hungarian legal system that deals *expressis verbis* with workplace sexual harassment. This means that neither the legal concept of workplace sexual harassment is defined, nor has a system of sanctions been worked out. As the material legal source is**

completely absent, its special procedural rights are also nonexistent. The “investigation” of the workplace sexual harassment took place solely in the disciplinary procedure conducted *against* the party suffering from the harassment. The European Court of Human Rights notified the complainant in January 2006 that the case will not be tried on its merits because it does not fall under the subject matter of the Treaty of Rome. After the refusal, we decided to turn to the CEDAW Committee of the UN. The main reason for this is that Hungary fails to have a regulation that would expressly name sexual harassment. Even Act CXXV of 2003 on ensuring equal treatment and equal opportunities failed to address this situation. Although section 10 of that Act defines the concept of harassment, it does not define sexual harassment separately. Even if a flexible interpretation of the Act can be used to extend the definition to mean sexual harassment as a form of creating a hostile environment at the workplace, the extremely frequent phenomenon of sexual blackmail, in other words *quid pro quo* sexual harassment, will not be covered. Thus, employers are absolutely free to decide whether or not they implement protective measures against sexual harassment, while they can very easily shift attention from a report on sexual harassment to the apparent bad performance of the complaining employee – just as it happened in this case.

#### 8. R.S. (Budapest)

This case regarded a wealthy middle class family, living in a prestigious area of Budapest at the time of their cohabitation. The man exercised typical and extreme forms of emotional and economic abuse against his wife and child during the marriage; in our client’s words her husband kept her in a gilded cage. The woman and the child were almost entirely cut off from the



outside world, the little boy was never allowed to go to the playground, could not see other children, the mother could not maintain her relationship with her family members and friends, and her husband opposed to her return to her workplace after parental leave. R.S. got out of this environment by means of a thoroughly organised escape manoeuvre. Since then, she and her child have been living with her mother and grandmother. At the time of moving away from the father, the then 4-year-old child was at the level of socialisation of a 2-year-old according to a psychological examination. R.S. and her husband agreed on the placement of the child with the mother and also agreed on visitation with a settlement within their divorce case. They did not mention domestic violence during the divorce procedure. The woman left a large part of their properties with the husband in exchange for freedom. Following the divorce procedure, the woman was exposed to her ex-husband's stalking, which centred around the visitation of the child. Because the mother sensed that visitation with the father had a negative effect on her child, she has not provided the child for the purpose of paternal visitation from September 1997. Our client explained that the father used visitation to make derogatory comments about the mother and the grandmother and scared the child with the promise of sending the mother to prison, after which the child would have to live with him (the father). The Guardianship Authority did not accept the mother's reasons for refusing the visitation and, beginning from September 1998, it continually imposed fines whose sum reached HUF 2 million by 2005. Until his death in 2005, the father made a report to the custody authority every time the visitation failed, upon which they regularly imposed the most severe fine under the current laws, HUF 100 000 per occasion, and also condemned the woman to pay the travel costs. We initiated a court review of one of the effective public administration decisions which imposes a fine; however our claim was turned down by the court without issuing a subpoena. The decision argued that section 72 (4) b) of Act IV of 1957 in

force at the time excluded from court review any public administration decision that serve the enforcement of a legally binding court decision. The court stated that the decision of the custody authority imposing the fine is of an enforcing nature (i.e. enforcing the earlier court-sanctioned agreement on visitation between the parties in the divorce case), and it contains no significant decision. Our position is that it severely violates the principle of legal safety if a public administration authority may impose a fine of several million forints without the possibility of appealing against that decision, therefore we appealed against the latter decision.

The court modified the rules of visitation in a case initiated by the father in order to change the placement of the child in a way that the father may see his child at the premises of Contact Foundation (Kapcsolat Alapítvány) between 1 July 2000 and 31 December 2000, following which he may gradually take the little boy with him. Since the workers at the Foundation established that the child becomes tense from the hostile atmosphere between his parents they deemed it a precondition of the smooth management of the visitation to facilitate “the easing of tension between the parents and starting socially acceptable communication between them.” After this objective of the Foundation was not successful, and the leader of the Foundation was the subject of one of the father’s tantrums, the professionals of the Foundation stopped working with the family and referred them to the Paediatric Hospital of Buda. Here several psychologists stated that they do not recommend visitation by the father in the child’s interest. The competent child welfare service issued a similar opinion of the child’s state, also in writing.

Based on the above two opinions, the mother requested the withdrawal of the father’s visitation rights in a lawsuit. The court of first instance refused the claim arguing that the fact that the father endangers the child’s physical, mental and moral development during visitation cannot be established. In its

sentence, the court stressed the mother's responsibility for the failure of the visitation, naming her "uncontrollable hostile emotions against the other parent" as the main reason for this problem. The court of second instance ordered a visitation among controlled circumstances by changing the sentence in February 2004. Changing the visitation conditions set out in the original settlement, the decision ordered that the father only take the child with him under the supervision of his partner, who is a lawyer, for 3 hours in a fortnight for a temporary period of one year. Following this period, the original visitation order would be gradually introduced. Later it turned out to be a failure of this decision that it failed to expressly regulate exceptional visitation. The father interpreted this to mean that he continues to be entitled to exceptional visitation in the same form as was settled in the original agreement, and the Guardianship Authority supported this interpretation. Following the principle of *a minori ad maius* in interpreting law, we argued that because the court introduced a stricter set of criteria in the case of regular visitation, it would not be in accordance with the spirit of the decision if this stricter set of criteria did not also apply to exceptional visitation requests which put more stress on the child anyway.

The man charged his ex-wife once with the offence of dangerous threat. He based his charge on the fact that R.S. said at one of the negotiations at the custody office "you won't get away with this." The authority of minor offences ceased the procedure because it deemed the statement to be unfit to cause serious threat.

**This case is a clear example of the fact that the institutional system and legal practice in Hungary today provides for a wide range of opportunities for stalking after the divorce is reached. The husband in the case repeatedly started various procedures against his wife without any pause, which either established the woman's guilt or refused the husband's**

**statement. But even in cases where the decision did not result in specific legal disadvantage, the abuser managed to wield his power over the woman and child's time and psychic state even after the separation. Stalking is not recognized as a crime in Hungary.**

**This case also mirrors a general problem, which shows that the court refuses the requests on interpreting its decisions. The parties often differ in their interpretations of the decision of the law implementation authorities. In such cases, the court as an authentic source, could solve the problem by making a statement about its original intention with the decision.**

**Our position is that the court, in the lawsuit on the question of ceasing the visitation, at least partially acknowledged the mother's claim and stated that the father has a negative effect on the child and therefore limited the visitation. It also follows from this that it was lawful for the mother to prevent the father's visitation earlier; however two million forints of fine had been imposed on her during that period. Despite this, the court did not decide in the question of the fine imposed and the Guardianship Authority maintained its measure. Under section 92 (6) of the AFL the Guardianship Authority is responsible for the enforcement of the court decision on visitation. At the same time, under the general rules of the Child Protection Act it is the legal responsibility of this authority among other bodies and persons to help ensure the rights and interests of children set out by law, to help fulfil parental obligations, and to ensure that the child's endangering is prevented and stopped. It follows from the reference to these two legal texts that the task of the Guardianship Authority cannot be limited to an automatic enforcement of the court decision but it needs to enforce the decision in an interpretative manner, by taking the child's actual life situation into consideration with a view to ensuring the child's rights and physical, psychological and**

**moral development. The execution of a court decision can in no way be a mechanical task because had the legislator had that in mind, it would not have delegated the task to a body that is capable of child protection through its worker's education and its own competence. It is also an argument against the current interpretation of the Guardianship Authority as having a simple role of executing that long years elapse after the court decision during which the circumstances of visitation naturally change with the child's growth, therefore unchanged execution is often impossible.**

**The fine imposed by the Guardianship Authority is paid to the local government under which the authority belongs. This practice is an incentive for the authority to impose fines since it can increase its own budget by doing so. Because of this financial interest, the independence of the authority is not ensured.**

#### *9. T.U. (Nigeria and Central Hungary)*

T.U., a widow of Nigerian origin and Christian faith, arrived alone in Hungary on 2 May 2003 and filed a request to be acknowledged as a refugee. The Central Transdanubia Regional Directorate of the Immigration and Citizenship Authority of the Ministry of Interior (Belügyminisztérium Bevándorlási és Állampolgársági Hivatal Közép-Dunántúli Regionális Igazgatósága) rejected T.U.'s request in its decision on 29 May 2003, and ordered her to be banished. It argued in the rejection that the woman did not substantiate that she had been persecuted for her race, religion, national origin or membership in a given social group or political opinion. The public administration authority of second instance rejected our client's appeal in September 2003 and upheld the decision of first instance. The Court of the Capital City ordered the repetition of the public administration procedure in its decision of 20 January 2004,

because in its opinion the authority failed to perform a full appreciation of the facts necessary for taking a decision on the merits of the case. The clerk did not use an interpreter in the repeated procedure because he spoke English. As it turned out later, our client and the clerk did not entirely understand one another, therefore the report of the hearing contains a number of untrue facts as if they had been stated by our client, including the allegation that T.U. killed four people in her home country. The competent directorate of the Immigration and Citizenship Authority found the statements of the Nigerian woman to be contradictory and unlikely and repeatedly denied her approval as a refugee. T.U. initiated a court review of the decision, in which case the court rejected her request again in March 2005. The judge's reasoning stated that the woman's personal account was unsuitable for establishing a refugee status because she should have applied for justice in her home land for the abuses mentioned. The court only examined any persecution based on religion out of the woman's statements, as the woman returned to the Christian faith after the death of her husband, who was a high priest of a traditional religious community. Further, the court considered it an incriminating circumstance that she denied murder in court as opposed to the records taken at the hearing. Although she indicated already at the time that a linguistic difficulty caused the misunderstanding, the court did not accept this as she had approved of the records by signing them.

Following this, our client filed a new refugee application, in which she referred to a letter as a new fact. The letter was written by her female friend, who stayed in Nigeria, warning her to stay away from her native land because her family wants her arrested. She was heard three times in this procedure. She said during the procedure that although her father is the leader of a traditional local community, her aunt enrolled her to a Catholic missionary school when she was five, where she studied until the age of nineteen. Then she was forced to marry the high priest of another village at his father's order, who was a devotee of the arusiya

religion. On her husband's side, she had a mediator role between the high priest and the women of the village. She gave birth to a son, who died at the age of four; she believes because her husband failed to keep a promise. After her husband died, she had to undergo the widow rituals customary in the local community. During these rituals she moved back to her father's house, her head was shaved, she was not allowed to clean herself for three months and was only allowed to sit on the ground, she was prohibited from talking to anyone but her family and was not allowed to leave the house. After the mourning period ended, her father obliged her to marry her deceased husband's younger brother, which she refused. Her father and the village community condemned her behaviour and first they only subjected her to psychological terror, then her father beat her up several times. Because the torture did not bring the expected results, T.U.'s father decided to sacrifice her unruly daughter. She was bound to the altar where she had to spend three days without food or water before the sacrifice. The second night she had herself released to take a pee in the bushes and so managed to escape from the village. Two excommunicated families living outside the village helped her leave the country by putting her on a ship, and after a few weeks she arrived in Hungary.

After our organisations became involved in the case in 2005, the fact the T.U. was a victim of gender based violence as a woman, and as a widow), gained recognition. At the court hearing after we joined the case, we objected that the earlier procedures examined solely the fact of religious persecution despite the fact that, in the UN's interpretation, the violation of the right to life, freedom and safety, especially torture or inhuman treatment or punishment, constitutes persecution when it is based on membership in a social group. Our position is that our client suffered the violations as a woman and, within that, as a widow. At the court trial in March 2006, which demonstrated obvious evidence of linguistic difficulties and misunderstanding even with an officially ordered interpreter, it was posed as a

problem that T.U. did not give an account of the widow rituals at the first hearing, only much later. Apart from the fact that we indicated that the hearing was a series of questions and answers, which made it impossible to give a detailed account, we mentioned the effect of trauma on the victim of the violence. It is characteristic of posttraumatic stress disorder that the victim of abuse starts talking about the experienced violence only gradually. To test this statement, the court decided to order a forensic psychiatrist expert at our suggestion, who confirmed that our client's account is in accordance with her psychological state. A decision is expected in the case in September 2006.

**Under the Geneva Convention and Act CXXXIX of 1997 on refugee status, a person may be considered a refugee if he or she is persecuted on the basis of race, religion, national identity, membership in a given social group or political opinion. Hungarian authorities seem to have adopted an approach in the interpretation of this definition which can mostly be applied to male applicants who are considered as racial, religious, ethnic or political minorities in a country and suffer from *state* persecution based on that quality. However, the interpretation of the law is not automatic for women, for whom it is characteristic to be in a disadvantaged position in the beginning, and to be subject to types of persecution different from those of men. Although the regulations could be interpreted flexibly to acknowledge the special violations characteristically suffered by women, this would entail trained legal professionals and precedents. International practice already acknowledges the concept of gender based violence, which provides a basis in the practice of many countries for the acknowledgement of refugee status. International practice also takes into account human rights violations such as domestic violence, female genital mutilation, forced marriage and other harmful traditional practices, if the applicant has reason not to expect the**



**protection of authorities of her own country. The above forms of gender based violence, whose victims are primarily women and children, is treated in many countries as a private matter and not as a human rights violation, and is not committed by the state, but by private persons. The role of the state is usually ‘reduced’ in these cases to not providing ample protection, but this fact often does not get enough attention, or is not even recognized. Female victims of these kinds of human rights violation are not uncommon refugee applicants, but are often considered falling short of persecution because of the above. Only after several rounds did the case reach human rights advocates who were aware of the nature of persecution as defined within the realm of violence against women despite the fact that the authority would have been obliged to examine her case with respect to this circumstance.**

*10. V.Z. (Southern Hungary)*

Our client divorced her husband in 2000, and they agreed on the placement, child support and visitation of their child in a settlement within the divorce case. The child was diagnosed with a mild mental disability earlier. The man filed a claim against the woman in August 2001 with the purpose of changing the placement of the child. He claimed that the mother was neglecting the child, raises him in a deprived environment, and this has resulted in the child’s retarded mental state. After the court rejected the man’s claim, the father submitted a new claim in 2004 with the purpose of changing the placement of the child. In his claim he alleged that the mother had not been exhibiting proper behaviour towards the child ever since the earlier lawsuit, and this is the reason the child was still attending kindergarten at the age of 7. This lawsuit was dissolved at the first trial because of the non-attendance of the plaintiff. The man initiated a new

procedure that same year, in which he requested the child to be placed with him and joint custody rights to be ensured. The little boy had started going to primary school but with respect to the fact that he could not cope with the requirements of the regular school, the school suggested that the child be transferred to a special school. The mother accepted the suggestion of the school, however the father refused it saying that the child could be brought up to the level of his peer group in the normal school by taking extra lessons. It can be discerned from the above that the father could not come to terms with the fact that his child is mentally handicapped, and he attributes the signs of the handicap to the mother's inability to take care of the child.

The father abducted the child still during the lawsuit, in January 2005, and continued to keep him and allowed the mother to see the child only at the weekends in the narrow time frame he defined, but soon discontinued even that. During this time, he tried to turn the child against his mother and tried to isolate them emotionally. Although the mother went to her child's school every day, she could not take the child to her home because both she and the child were afraid of the father's violence. The woman sought the help of the Guardianship Authority, however, they replied that they have no competence during the time of the court procedure, and their competence only includes fining the party who prevents visitation. Since the child was not placed with the father based on a binding court sentence the competence of the authority to enforce a decision did not cover this case. Following this, the mother turned to the police in order to address the situation. The police did not take records, instead they informed the mother verbally that this specific case does not constitute a criminal act therefore they are unable to proceed. The crime of changing a minor's placement is only established where the placement is based on an effective and enforceable decision. Meanwhile, the court ordered the man in the procedure initiated by our client to hand over the child, however, he has not complied with the sentence to this day. While the father kept his

son in his own household, he initiated the withdrawal of child care benefit from her ex-wife and requested it to be paid to him. In the end, the Hungarian State Treasury rejected the father's request.

Based on the decision, our client requested an enforcement action with police support. In reality, the enforcement took place with the mother taking the child from the school in the presence of a police officer and going home. The next day however, she was not escorted by a police officer therefore the father took the child. Visitation continues on an ad hoc basis, in accordance with the father's needs. As our client was informed, the father plans to enrol the boy to a normal school from next year, therefore he employs a development teacher who studies with the 9-year-old boy every afternoon and will not let him go to sports trainings. The mother also found out afterwards that the father took the child to the Paediatric Hospital of Buda for an examination without informing her and asking for her consent, where he stayed for several days and received the behaviour modifying medicine Ritalin. The mother is a medical professional, therefore she is aware of the adverse effects of the drug and is against administering it.

In the lawsuit for the placement of the child which is in process, the father is delaying the decision. Either he requests a new expert by claiming that the psychologist expert is biased or he fails to appear with the child at the examination. The court has also established the fact that the father exhibits these behaviours to willingly delay the lawsuit, counting on entirely binding the child to himself in the meanwhile and so compromising the enforcement of any unfavourable decision. With respect to this, the court relied on an earlier expert opinion in taking the decision. The court referred to Supreme Court Directive 17 in its decision. Under that directive " [a] conclusion concerning parental inadequacy can be drawn from the fact if a parent wishes to alienate the child from the other parent and wants to prevent the child from being transferred to the person

the child has been placed with on the pretext of the influenced child's emotions." The court did not consider the father's arbitrary actions as a positive change in the circumstances and therefore rejected the request for a change in the little boy's placement and for joint parental custody. However, the negative consequences of the father's behaviour were not documented, therefore the man suffered no negative legal consequences for taking the child out of his usual environment, for tearing him away from his mother and influencing him against her, for manipulating him emotionally, for not taking into account his son's special needs and therefore exposing him to repeated failure, and for making him take medication that is harmful to him.

Under section 92 of the Act on Family Law, where placement and visitation is based on a court decision (in this case, the divorce settlement in 2000), changes may be initiated in court within two years of its entry into force, and at the Guardianship Authority after that. Under that rule, the court referred to a lack of competence on its part to decide over the change of visitation rights. It noted, though, that a restriction on visitation may mean a punishment for the child as the child is strongly attached to the father.

**As long as no binding and enforceable decision exists in the question of the child's placement, the criminal act of changing the child's placement is not constituted. Thus there is an *ex lex* situation before the binding decision is taken, which is decided by a politics of power. With respect to the fact that in the majority of cases it is the father who keeps the mother and the other family members in fear, it is characteristic for him to abduct the child. The mother is helpless in that situation because every authority denies help referring to a lack of competence.**

# The model of integrated client service

The theory of the programme has been based on our own earlier field-work experiences and the results of international research in the field. All of the sources confirm that victims of domestic violence, because of the complexity of domestic violence and its multiple impacts on victims, need an equally complex treatment in order to be able to find their way out of violence. Violence between intimate partners has damaging physical, psychological, economic and medical consequences. According to survivor's accounts, psychological violence, which may often be a lot more unbearable than the physical one, is always present during the existence of the violent relationship. The goal of psychological violence is to systematically destroy the victim's self-esteem, self-confidence and faith in the possibility to find and get support. Depending on the duration of the abuse and some other factors, the perpetrator usually achieves this goal. Therefore, effective assistance seems to be impossible if only the client's practical needs, such as legal or economic needs, are attended without paying attention to help her regain self-confidence and a feeling of control over her life.

Another basic condition for an efficient client service is that practitioners be fully aware of the complexity of domestic violence. Under-qualified professionals will not safeguard the victims' interests, and may even cause further harm. Besides not being in line with the ethical requirements of different professions and the spirit of law, it also contributes to the maintenance of violence by an apparent confirmation of abusive attitudes and behaviors. Due to their lack of skills and knowledge, under-qualified professionals are more disposed to

drop cases, and to terminate the working relationship with the client before the completion of the given case. This practice often leaves victims without legal, social and/or psychological assistance, sometimes more than once in the same case and may drive the case out of the view of the helping professions and authorities, to bounce back later in an escalated form.

This leads to a special form of victim blaming very characteristic to domestic violence cases, and putting an extra burden on victims. Instead of examining the real causes, which may well be the lack of skills and knowledge on the part of the professional, authorities consider the breaking of the relation between the professional and the victim an evidence of the bad-temperedness, or even unreliability of the client. This negative judgement, of course, is a further setback for survivors of domestic violence during the course of legal procedures.

The integrated client service model attempts to resolve the above problems by securing a close cooperation amongst experts of different fields attending the case, promoting the support of both the client and the expert at the same time. Training on domestic violence is not an integral part of the curriculum used in the higher and professional education in Hungary, therefore only a few people have a special and sound education in this field. This model can be successful even if some of the experts do not possess a comprehensive knowledge on domestic violence *as long as* they respect each other's competences and are willing to make use of them during the entire course of supporting or representing the client.

Our project was run with the intensive and joint participation of a lawyer and a social worker. The concept of the integrated client care was that it should be based on the cooperation of three *equal* persons. In this model the role of the client is just as important as that of the professional. Victims having taken part in the project were more involved in the management of their own cases, became more confident to stand up to their ex-partners, and also to the secondary victimization often suffered at

the hands of authorities. They felt they could influence the outcome of the procedures, and were an integral part of the fight for their rights, instead of going with the stream. Autonomous involvement also contributed to recover women's destroyed self-esteem, enabling them to believe in their abilities and skills. This method does not work with every survivor, of course. It always depends on several factors, as in which phase of recovery the victim is, the basic attitude of the client, for how long time the procedure has been going on, how disappointed she is in legal and other professionals.

There is no attrition rate available in connection with domestic violence related cases in Hungary at present.<sup>2</sup> According to international research, victims participating in integrated legal, social and/or psychological care are more likely to complete procedures.<sup>3</sup> In our opinion this fact also has to do with what the professionals who participate in the client's case experience in this model: they are also more likely to continue these cases instead of aiming at getting rid of them due to the mutual support they receive from each other.

Unfortunately no research is available in Hungary examining the level of satisfaction of professionals in connection with their skills and possibilities in these types of cases. It is highly probable that integrated client care, together with sufficient qualification level, would be beneficial for the index of satisfaction of professionals. An expert considering him/herself more efficient and more competent could probably attend his/her duties better. This is of specially great importance in cases where, considering him/herself unsuccessful and helpless, the

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<sup>2</sup> According to a research surveying the population of North of England in 2003 34 out of 869 reported cases led to unfavorable sentence, out of which 4 perpetrators were sentenced to executory imprisonment. See: Co-ordination Action on Human Rights Violations (CAHRV) (2005): *The justice system as an arena for the protection of human rights for women and children experiencing violence and abuse*. European Commission 6th Framework Programme, sub-network 3, work-package 11. University of Warwick, UK. It would be crucial to have data on attrition rates in Hungary, as well.

<sup>3</sup> *Ibid.* Pp. 21-22.

professional tends to reassure him/herself by blaming the client, thus “escaping” successfully from the responsibility.<sup>4</sup> The cases in this report can easily confirm the existence of this phenomenon. In summary, while offering clients a complex service, receiving mutual help and support from each other also, practitioners can better contribute to the effective handling of domestic violence cases where the focus is on the safeguarding of the human rights of the victims.

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<sup>4</sup> Blaming the victim is often expressed in questions like “why didn’t you get divorced/escape?”, “why did you escape, leaving your apartment behind?”, “why didn’t you ask for help earlier?”, “why did you marry him in the first place?” etc. on the part of professionals directed to victims.



## The special rules of the integrated client service

A considerable number of the victims of domestic violence suffer from post traumatic stress disorder (PTSD), whose symptoms often make cooperation with the client more difficult for under-qualified professionals.<sup>5</sup> However, there is another group of victims of domestic violence who show great determination and confidence, which sometimes is unacceptable for the professional and puts them equally off. Some professionals have a difficulty in believing victims who do not seem to show signs of PTSD and/or have a determined vision on what they want to do, or what kind of service they are willing to accept and what they refuse. In these cases professionals often question the reliability of the victim, are incredulous towards her reports of violent acts and disregard her experiences. Nevertheless, victims showing symptoms of PTSD may find themselves in the same situation. In their case it is usually their highly emotional state, or else, their apparent indifference, their unexpected mood changes, or the misreading of other typical signs of this condition which makes professionals question their credibility or even consider the client manipulative.

Manifestations of domestic violence often show a similarly confusing picture to the untrained professional. The most important element and re-emerging goal of such violence, irrespective of the level of its severity, is any kind of behaviour

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<sup>5</sup> About Post Traumatic Stress Disorder see Judith Herman: *Trauma and Recovery: The Aftermath of Violence--from Domestic Abuse to Political Terror*. BasicBooks. 1992, 1997.

or conduct, that enables the abuser to generate, strengthen or maintain power over the victim(s). Correct analysis therefore never only examines separate acts of violence, rather, it assesses the behaviours and events according to the effects they have on the victims, and in the context of the “results” achieved by the perpetrator.<sup>6</sup> Therefore any given behavior may constitute a unique manifestation of abuse, as long as it aims at, or results in, the systematic control of the woman.

According to the fundamental principles of attending of victims of domestic violence, whether they are adults or children, professionals have to:

- be aware of the nature of partner-abuse and the influences it has on the victims
- have a thorough knowledge of the relevant literature
- be able to identify the signs indicating abuse,
- be able to distinguish between perpetrator and victim.

Professionals who can not meet these requirements will not be able to attend either victims or perpetrators of domestic violence in a proper way, because they can not identify the victim’s actual state and needs, and the abuser’s attempts to avoid being held responsible, and manipulations or “tricks” to use the system as part of the abuse.

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<sup>6</sup> About the nature of domestic violence and its influences on the victims see the handbook of the NANE Association: *Miért marad?* Feleség és gyermekbántalmazás a családban. [Why does she stay: wife and child abuse in the family.] Budapest: NANE Egyesület 1999, 2006. (<http://www.nane.hu/kiadvanyok/kezikonyvek/miertmarad/miertmarad.pdf>), and the handbook of the Habeas Corpus Munkacsoport: Péter Szil: *Miért bántalmaz? Miért bántalmazhat?* [Why does he batter? Why can he batter?]. Budapest: Habeas Corpus Munkacsoport 2006. (<http://www.stop-ferfioszak.hu/files/miert.bantalmaz.pdf>)

According to the estimations on latency of domestic violence<sup>7</sup> both in Hungary and in other countries, a great majority of these cases are not reported to authorities, or not as cases of domestic violence. Victims of domestic violence usually refer to their mistrust in the institutions as the reason of why they do not turn to authorities.<sup>8</sup> No survey has been done on the question: how many domestic violence cases actually did reach professionals, but have been averted because the professional could not recognise the phenomenon, or, in lack of knowledge and skills, could not/did not want to deal with the case. There is reason to believe that the number of such cases is very high in Hungary. If a victim has such experience, she is likely to lose trust in the institutions, and may never try to report again. It is likely that the great majority of the victims in Hungary does not get adequate support, or due legal assistance which they are entitled to as citizens. Integrated or complex client service which is based on the cooperation of several professions has the potential to enhance the number of cases reaching authorities and/or not getting dropped by them.

Integrated client service has three main areas of attention where specific rules apply:

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<sup>7</sup> Conclusions on latency are usually drawn by comparing statistical data of reported crimes to the results of national prevalence surveys. According to these sources in the case of domestic violence latency is reported to be very high. These show that victims rarely turn to authorities. However, in Hungary, it is also realtively common that the victim does try to ask for support, but the authorities suggest her not to initiate official procedure, thus “artificially” keeping the case in latency. These cases, which are, in fact, revealed but “uninvestigated”, are probably also counted as unrevealed. See more in: Tóth Olga: *Erőszak a családban* [Violence in the family] Bp. Társadalompolitikai tanulmányok. 1999. (<http://www.tarki.hu/kiadvany-h/soco/soco12.html>). The latency of rapes in Hungary is officially estimated at a 24 factors multiplier (thus only one out of 24 victims reports rape). In: Irk Ferenc (szerk.) *Áldozatok és vélemények*. Bp.: OKRI. 2004. 75.p.

<sup>8</sup> See –indirectly- in the research of Tóth Olga, where 45% of the interviewed women answered “the police do nothing against violence”. However, it is not clear enough how many women revealed their own experiences and how many gave the above answer reflecting “general beliefs”.

- a.) physical safety and integrity of the victim,
- b.) emotional safety of the victim,
- c.) physical and emotional security of the professionals partaking in the process.

All three areas are discussed in detail in an earlier handbook of NANE Women's Rights Association<sup>9</sup>, here we will only deal with issues which became apparent during the program that apply specifically in the Hungarian legal environment.

#### *A) Rules serving the physical safety and integrity of the victim*

As long as legally possible and they need it, confidentiality has to be offered and maintained for survivors. This has to be applied to every aspect of the victim's attempts to become safe: the place, the time and the fact that the victim asked for help. In case of children having been taken with the mother escaping from the abuser, authorities often give out information on the temporary residence of the child by referring to the "interests and the right of the child to keep contact with the other parent". This practice formally (and rather sardonically) is based on the Child Protection Act. However, its real roots are more likely to be found in a legal and professional approach that does not recognize partner- and, even child abuse as a form of endangering a child. We can hardly find an up to date scientific work, research or survey that would confirm this approach. To the contrary: the physical and emotional development of the child is negatively affected when one of the parents abuses the other one.<sup>10</sup> It is quite unreasonable to suggest that giving over a child to an abusive parent whom the mother had to escape would

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<sup>9</sup> *Miért Marad?* 69-91. p.

<sup>10</sup> This has been pointed out even by the Hungarian Supreme Court. See e.g. in: BH 2005.321

be in harmony with the original intention of the Act on the Protection of Children. Whether direct or indirect victims, children always show discernible signs of domestic violence. Well qualified professionals should be able to recognize these signs and not be confused by discrepancies in the legal provisions not sensitive to domestic violence.

Any information shared by the victim should be handled confidentially for as long as possible, and can only be taken out of the personal conversation with the explicit consent of the victim. According to victim's reports abusers often threaten to follow and find them wherever they should go. In a great number of cases abusers spare no efforts, money and time to fulfill these threats. Unfortunately, abusers with good connections at different authorities are not rare. Victims are usually aware if the abuser has good or better than average possibilities, and give accounts of this fact. Underestimation or dismissal of these accounts is a mistake. Stalking, which is not a crime in Hungary, is a frequently used form of abuse, which occurs after divorce or separation in order to force an ex-partner back to the relationship. Abusers can resort to the most inventive methods to achieve this, and they are usually very persistent.<sup>11</sup> These acts often do not reach the level of a crime individually, but together they cause great harm.<sup>12</sup> The nature of stalking is very similar to that of domestic violence: it also consists of a series of consecutive, bigger or smaller violent and/or non-violent acts strengthening each other's impacts. As a result of stalking the victim usually suffers emotional and physical harm similar to that in domestic violence. Stalking frequently generates self-blaming, shame, fear, shock, loss of self esteem, depression,

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<sup>11</sup> A few years ago, for example, a desperate man actually wept in a TV-show while asking for help to find his wife, about whom he was much worried. In fact, the woman escaped from him a few days earlier because of brutal physical abuse and humiliation she suffered at his hands for years.

<sup>12</sup> Stalking is a series of attempts to establish or maintain an unwanted relationship, rendering the life of the victim very difficult or unbearable. It can manifest itself in violent acts, or acts that are not considered violent per se.

emotional incapacity, isolation, sleep disorder, nightmares, phobias, weight problems, chronic headache, PTSD, etc.<sup>13</sup> Stalking sometimes ends with the murder of the victim.<sup>14</sup> Thus, it should not be considered a less dangerous crime than intimate partner violence which occurs during the existence of the relationship. It is difficult to explain the resistance of the Hungarian legislation to regulate this crime. This lack of criminalization, however, means that there are no effective remedies for the protection of its victims and the prevention of stalking, while victims of domestic violence and professionals often have to face the phenomenon. It is a fact that real life situations rarely adapt to the deficiencies in legal regulations. On the contrary, the deficiencies regarding domestic violence and stalking regulations are often very “useful” tools for abusers, who successfully exploit these legal gaps.

After the breakup of the relationship children very often serve as instruments of stalking. In our experience, where the relationship was abusive, the abuser almost always uses the child in order to maintain control over his partner. In a relationship which was not abusive, parties can usually agree in the details of the placement of children, communication, visitation rights and in most cases in the amount of child support as well. These agreements are not always totally equitable, of course, but a characteristic feature of separation from a non-abusive relationship is that the interests of the child are genuinely taken into consideration by both parties, and none of the parties find the agreement intolerable or unacceptably unfair. As opposed to this, a parent trying to escape from an abusive relationship often encounters a situation in which her abuser manages to maintain control over her through their child. These are the very cases in which thorough knowledge of domestic violence would be

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<sup>13</sup> See its influences e.g. in: <http://www.thecenter.ucla.edu/stalkmid.html>

<sup>14</sup> According to reports in the Hungarian press, between October 1, 2004 and September 30, 2005 the number of women victims of domestic violence was 33. 10 out of the 33 were killed by their intimate partners after a long period of stalking. (Press survey by NANE Association, 2005)

crucial on the part of the practitioners, and, as it became clear from the cases reviewed above, it is often lacking. Unprofessional attendance, which is unable to notice warning signs of abuse, combined with a legal environment in which legal provisions are indifferent to domestic violence, offer abusers a great possibility to carry on abusing their victims.

A thorough knowledge of available legal provisions and of recurring problems caused by the very legal provisions themselves in such imperfect legal climate is obviously crucial in order to establish and retain physical safety for victims.

Therefore it is most important for all working with the victims of domestic violence to approach the case in a proactive way and never to forget the victims' right to safety. To act accordingly might mean that it is necessary to stand against other experts. For instance, it might be necessary to attack a decision made by the police or the prosecution, to question the opinion of an expert, to urge the revision of the records of the trial, to question the professional methods of a lawyer, psychologist, and psychiatrist, or to encourage the employment of other experts.

It is only reasonable and just to disregard the victims' right to free self-determination (for example in the form of mandatory arrest policies, or restraining *ex officio*) if the institutional system for the victims' protection and support has been established.

### *B) Rules to guarantee the emotional safety of the victims*

We have discussed in details the rules aiming to provide emotional safety for the victims in our publication titled "Why Does She Stay?" However, the cases dealt with within the framework of the integrated client service and other similar cases reported in the helpline of NANE and told by the women of the Abused Women's Self-help Group, have brought a problem to light which was probably not paid enough attention to earlier. The emotional safety of the women victims of domestic violence

is especially threatened if they have children. In this case, the experts often judge the women's responsibility as mothers, but show no consideration to the fact that they are abused. The perpetrators often question the parenting skills of the abused women who look after their children and practitioners and institutions often support them.

This approach ignores completely the reality of the abused mothers, the fact that the field of their activities is severely restricted and that they themselves are often unprotected and defenceless. It is the mother who is brought to account for the protection of the child from domestic violence even if they themselves suffer from the brutality of the other parent. We know a case in which the mother was considered responsible for endangering a minor (a crime in Hungary) because the child suffered a minor injury while they were running away from the violent father. The cause of the escape – domestic violence – was not even examined by the authorities. At the same time we have heard cases on the helpline in which the mother did not run away from the brutality and was considered responsible for the same crime because she “did not protect her child” from the violence. Again, the reason why she was unable to escape (i.e. the violent behaviour of the other parent) was not given due consideration. We know of many cases in which after the woman and the child have moved away, the perpetrator snatches the child from the mother and the court approves his plea for temporary guardianship without the thorough examination of the evidence concerning domestic violence, justifying that it is not in the best interest of the child to change his/her environment frequently. These absurdities may only occur because the responsibility of the mother in protecting the child is considered disproportionately.



*C) Rules to guarantee the physical and emotional safety of staff members*

We have been informed that in several cases the support person (who - due to the high proportion of women working in the social, civil, and legal professions - are women themselves) is also threatened by the perpetrator, or manipulated in other ways. In a recent case, a childcare worker was threatened so successfully that she gave evidence against the mother in court, and only in a later phase of the trial did she dare to divulge the truth explaining that during the time of her first statement she was scared of the abusive father who was her client as well. Some practitioners, like judges, or other authorities, are usually in a more powerful position so they are not threatened so frequently. However, it is their responsibility to recognise the threats and manipulations and they should always be aware that if they do not recognize them or make decisions influenced by them, they expose their clients who are even more vulnerable to the perpetrators.

In some countries, practitioners working with domestic violence cases are provided increased legal protection. Cooperation – both within their own institution and with other institutions – is also an effective way of preventing such misconducts.



# International good practice

Practical experience in the international arena leads us to conclude that there are a number of theoretical and paractical requirements without which it is impossible to effectively combat domestic violence and measure success in this field.

*The priciple of zero tolerance and the obligation of the state for immediate and unconditional intervention to protect victims*

The principle of zero tolerance means that violence is unacceptable under all circumstances. This approach considers domestic violence as a social issue and that of public safety. One of its most important results is that it decreases the prevalence of the victim-blaming legal practice by putting the responsibility for the violence on the perpetrator instead of on the victim. By taking a moral stand against violence, it focuses on the human rights of the survivor and leaves little room for the excuses of the perpetrator.

The principle of state protection of victims recognizes the state's responsibility in the protection against violence. (See in more detail in the section on NGOs.) A result of this principle has been the accountable obligation of law enforcement to take domestic violence cases most seriously, to act immediately and, in some countries, also led to mandatory arrest policies. In other countries, even if arrest is not mandatory, the requirement for a "private motion" on the part of the victim was lifted (i.e. the victim's will is not needed for starting criminal procedure.) Of course, it led to the recognition that it is not the victim who should be expected to flee violence, rather, the perpetrator should be immediately removed from the surroundings of the

victim(s) by excluding the perpetrator (restraining, protection, or barring orders).

*The principle of gradation and a holistic legal approach*

Gradation recognizes the need to offer perpetrators the chance to change their violent behaviour the first time they commit domestic violence by providing the choice of participation in perpetrator programs (while also being restrained). This approach takes into account the social need for correction other than incarceration, but also recognizes that such a method can only be effective if perpetrators are closely surveilled and if, at the same time, victims also receive the necessary legal, psychological and social support. (See below under complex support services.) The typical outcome of this approach may not be that the given relationship becomes one in which the victim can and wants to continue to live with the perpetrator, but it may enable her to leave the perpetrator safely, which is often life-saving. For the effectivity of this approach the perpetrator violating a restraining order, or any other victim-protection measure has to face grave legal consequences which are consistently enforced. Otherwise perpetrators tend to use perpetrator programs as part of their pattern of battering. The principle of gradation also presupposes good communication between different legal fields, since the parties are often involved in several different legal procedures (criminal, child custody, property disputes, etc.) and the perpetrator may use any, or all of these for further harassment of the victim. Thus, the holistic approach here means a focus on the case as a whole, rather than as involving specific and separated legal fields.

*Specialized units in law enforcement, courts and other institutions*

This principle recognizes that domestic violence is a phenomenon which needs not only special attention, but also specialized knowledge and skills, without which the above

principles cannot be realized. Specialized units at the different public bodies ensure that victims are treated by practitioners who have received special training on domestic violence and on available services (including all legal remedies). Training of these units is continuous and based on unified protocols, which, in turn, are based on the principle of the protection of the victim and on zero tolerance, applicable in the given state.

*Harmonization of laws to provide widerange protection against domestic violence*

According to this principle, every legal provision which may have a bearing on situations involving domestic violence is reviewed, and harmonized to provide a “net” whereby the perpetrator cannot avoid being held responsible and the victim(s) receive full protection. This may mean the modification of criminal, private, family, child protection and procedural laws, paying special attention to situations where a decision in one legal field should have consequences in another one. For instance, the completion of criminal proceedings against a perpetrator should automatically have consequences in child custody or visitation rights.

*Complex service provision to survivors, supporting NGOs providing services*

Recognizing the complexity of domestic violence and the complex support needed by survivors, led to the recognition that certain tasks can be carried out more effectively by NGOs than by state authorities. This means partly that NGOs are more cost-effective because of a lower level of bureaucracy and institutionalization. But it also reflects the recognition that a higher effectivity in advocacy often requires the independent criticism and monitoring of state institutions, sometimes even taking legal actions against authorities, lobbying, and similar activities that state institutions themselves can hardly be expected of carrying out towards other state institutions. The

need for higher effectivity in the protection of victims thus seems to be in contradiction with the acceptance of the principle of state responsibility for the providing this protection. The apperent contradiction is solved by state support for NGOs providing services for the survivors of domestic violence, with keeping the independence and a requirement of accountability on the part of NGOs. Needless to state, this model can only work in countries where NGOs are not considered a “threat” for the state.

*Immediate intervention based on a coordinated cooperation among all actors*

The above priciples can only be materialized if intervention in cases of domestic violence is immediate, and carried out in cooperation of all actors, thus creating a “net of services and surveillance” both around the perpetrator and the victim. Thus, in the pro-active, coordinated action model, the communication among all actors, such as law enforcement, judges, prosecutors, social workers, probation officers, batterer’s program-coordinators, victim support NGOs, child protection services or authorities and lawyers coming into contact with the case is continuous. Otherwise battering continues unnoticed by everyone else but the victim(s).

*Measuring results according to unified indicators*

Indicators here mean unified and standardized criteria used to accurately measure the implementation and effectivity of actions taken against domestic violence. Indicators cover all relevant fields, such as, for example, legislation, law-enforcement, institutional and program budgets, training and services. Without the use of indicators, implementation of good practice and improvement of insufficient measures are usually unnecessarily delayed.<sup>15</sup>

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<sup>15</sup> See e.g. The European Women’s Lobby (EWL) – Observatory of the European Policy Action Centre on Violence Against Women (2001) *Towards a Common European Framework to Monitor Progress in Combating Violence against Women*. Pp. A-D.

### *Budget*

It is recognized that effective protection against domestic violence is dependent on adequate state financial support for both state and civil organizations. This is based both on the principle of state responsibility and on the recognition that domestic violence itself has a much higher cost for states. Thus, national budgets in countries with good practice allocate both for early intervention and for prevention of domestic violence.

In no country have the above principles become everyday practice yet. But in every country where progress is made it leads towards the gradual recognition of these principles and their interrelatedness. It is surprising that in most countries even parts of the model are introduced in a deficient way, such as the restraining order in Hungary in 2005, even though it is clear that the elements build on each other and can only function together. At best, such practice can be explained by the different legal systems and legal traditions of the different countries. At worst, it means the lack of political and state will, and a lack of commitment to the protection of women's human rights. In any case, the missing elements of the "net", which, in Hungary means virtually all of the elements, result in leaving thousands of women and children unprotected from abuse and battering, and, according to estimates in Hungary, leads to the killing of about fifty to hundred women and children, and the killing of about ten to twenty batterers a year, while all these killings could be prevented.





# Policy recommendations for combating and preventing domestic violence and other forms of gender based violence

Legislation: criminalizing domestic violence as a *sui generis* crime, or making it an aggravating factor, criminalizing stalking, legal recognition of domestic violence as child abuse.

Law improvement: modifying the law on the restraining order (effective as of 1<sup>st</sup> July 2006), improving victim protection laws and procedures, recognizing lawful self-defence in cases of domestic violence, modifying the criminal code on sexual crimes, especially with regard to making consent, not force or threat the basis of judging rape. The CEDAW Committee called on Hungary to do this already in 2002.

Law harmonization: scrutinizing every legal regulation which may have a bearing on domestic violence situations in order to examine whether they provide adequate protection to victims in case of domestic violence.

Systematic and continuous training on domestic violence in the curriculum, and in further courses involving NGO trainers for legal practitioners, police, social workers, victim-support services, psychologists, teachers, judges, etc, utilizing the training of trainer courses developed by WAVE (Women against Violence, Europe).

Full implementation of Parliament Order 45/2003 on the creation of a national strategy to effectively combat and prevent

- domestic violence, especially its provisions on urgent intervention and accountable professional protocols.
- Full implementation of the Law on the Protection of Victims with regard to victims of domestic violence.<sup>16</sup>
- Introduction of an electronic registration method of cases at courts and other authorities which is accessible and researchable, making research possible according to unified rules in all institutions, and communication between authorities about cases.
- Developing trained and specialized units at law enforcement, courts and other authorities to handle domestic violence cases.
- Drawing on the experiences and results of NGOs specializing in domestic violence and other forms of gender based violence, involving them in further tasks and supporting NGOs' victim advocacy and service providing work.
- Pro-active intervention and coordinated victim-services: notifying given NGOs on intervention by authorities in a domestic violence situation (based on the Austrian model) and introducing the integrated (coordinated) client-support model.
- Starting training, educational and awareness-raising programs in a wide range of institution, including government institutions on gender-stereotypes.
- Creating a high level decision-making body for the coordination and monitoring of realization of tasks based on the above policy areas, with authority to hold the relevant institutions accountable.
- Allocation of the necessary budget for carrying out these tasks.

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<sup>16</sup> Act CXXXV of 2005 on the protection of the victims of crime and state alleviation of damages. In Hungarian, see: <http://www.im.hu/download/konceptcio.pdf/konceptcio.pdf> .