

Legal Protection against Domestic Violence in Greece

Critical observations

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ABSTRACT: Domestic violence is one of the most persistent and troubling problems in the Greek and international community. The latter has taken many initiatives to confront it legally. Greek legislation has adopted a similar stance by enacting the law 3500/2006 which, although it cannot be considered as a panacea, constitutes, however, a very important step towards the improvement of family relations. This article presents the most important provisions of the law, pointing out its positive as well as the negative aspects.

KEY - WORDS: Violence, family, domestic violence, law, Greek law

DOMESTIC VIOLENCE- THE PHENOMENON AND ITS PROPORTIONS

Domestic violence is a phenomenon whose proportions have escaped for years due to mainly two reasons: first, because it was confined to the field of marriage and family, and second, because the area of feelings has always been considered a field where the exercise of any power is inconceivable.¹ Social movements of the twentieth century, especially feminism, contested this point of view and led to the sweeping legal reform of family relations throughout Europe. Formal equality between men and women however did not abolish social inequality between spouses; consequently, domestic violence persists and constitutes one of the most important issues that both Greek and international society has to deal with. As we have al-

ready mentioned, this type of violence, even nowadays constitutes an intimate family matter, a taboo issue, which is not easily reported to either social or judicial authorities since it is not perceived as a crime in the public eye. This conception led to the erroneous belief that the problem is rather limited and affects a relatively small percentage of the population.

Research results however, even sporadic ones, are shocking: domestic violence constitutes the primary cause of disability and death for European women between 16 and 44 years of age, surmounting even road accidents and cancer.² One out of two women murdered in Europe is murdered by her husband, companion or ex-husband.³ Depending on the country, the percentage of women who are victims of domestic violence ranges from 15% to 50%. In Great Britain, 15% of severely punished crimes are committed within the family whereas the percentage of abused companions and spouses ranges to 74% for women and 26% for men.⁴ In Scotland,⁵ attacks on spouses (women) constitute the second most common violent offence (26%):⁶ in a total of 1051 domestic violence cases, 76.8% refer to the battering of women by their spouses.

In the USA, domestic physical violence against women ranges between 1,800,000 and 4,000,000 cases annually.⁷ Numerous studies have led to the conclusion that at least

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45% of those women have also been sexually attacked by their husband. Pregnant women are also abused by their husband: in a total of 290 pregnant women, 15% reported an occasional abuse prior to the present pregnancy, whereas 8.3% reported that the abuse took place during their present pregnancy. In general, it is estimated that in the USA, 40% to 60% of the abused women had been pregnant when they were abused.⁸ Still in the same country, between 1980–1984, 52% of the female victims of homicide were murdered by their own husband.⁹

In Greece, where research data is scant,¹⁰ according to a study conducted by the Research Centre on Issues of Equality, 56% of the women admit that they sustain verbal or psychological violence,¹¹ 3.6% mention that they sustain physical violence by their husband or companion, whereas even the women who have not sustained any form of domestic violence are familiar with the phenomenon: a percentage of 23.6% mentions that there is at least one woman in their social environment who has sustained or is still sustaining violence by her husband.¹²

Considering that the cases of domestic violence are in fact far more than those actually reported by reluctant victims,¹³ in combination with its devastating consequences to both their mental¹⁴ and occasionally physical health, it is obvious that legal measures for the confrontation of the issue in Greece may not be a panacea but they certainly constitute an important step towards the improvement of family relations – a step which was also rendered essential due to the adoption of relative measures on an international level.

The initiatives of the international community against domestic violence¹⁵

The initiatives of the international community against domestic violence are numerous. Typical examples include the 7th UN Congress relating to Crime Prevention and Criminals Treatment (Milan 1985), which stated a special Conclusion concerning domestic violence (No 6: Domestic Violence), and has led to Resolution 40/36 of the General Assembly of the UN. Moreover, the 8th UN Congress concerning the same issue, which took place in Havana in 1990 and adopted the relative Conclusion about domestic violence,¹⁶ as well as the UN Declaration for the abolishment of violence against women adopted by the Vienna International Conference in 1993. It should also be noticed here that some Member States and their governments strongly questioned the UN's competence to discuss and decide issues concerning violence against women and children. These States claimed that institutional measures relating to women can not be considered as an international issue. Thus, issues such as burning of wives after their husband's death, girls' genitals mutila-

tion, forced marriages, crimes of honour and so on can not be regulated on an international level.¹⁷

The Action Plan of the 4th International Women's Conference in Beijing in 1995 considers violence against women an international issue of human rights, which touches upon the very essence of human dignity. The same conclusion was drawn by the Recommendation of the Council of Europe Nr R (85) 4, "violence within the family" which was adopted by the Committee of Ministers of the Council of Europe on March 26th 1985.¹⁸ Among the preventative measures mentioned in that Recommendation is the need to create administrative structures or multidisciplinary committees whose task will be to care for the victims of domestic violence. In the third part of the Recommendation there is a special reference to the necessity for state intervention in cases of domestic violence such as: (a) the offering of measures for children protection against all kinds of domestic violence, (b) the revision of Member States' legislation to confine or even prohibit children's physical punishment, (c) the assignment of domestic violence cases to specialised staff of police and inquiry authorities, (d) the initiation of the penal procedure upon the victim's request or when is necessary for reasons of public interest, (e) the adoption of measures to protect members of the family who witness in domestic violence trials against any external pressures, and (f) the need to establish special forms of penal liability for crimes committed within the family.

We should also mention the 1996 DAPHNE Programme of the European Union which funded actions and initiatives aiming at the effacement of domestic violence phenomena as well as the protection of wives' and children's rights who usually constitute the weakest members of the family.¹⁹ Finally, a far more significant initiative is the 58/147 U.N. The General Assembly Resolution of February 19, 2004 entitled "effacement of domestic violence against women. The above mentioned Resolution invites all Member States to adopt, reinforce and apply a piece of legislation which will prohibit domestic violence, describe retributive measures, establish proper legal protection against domestic violence and assess compensatory measures as well as measures for the treatment of victims and the reeducation of offenders.

As it will be shown further on, the Greek State has conformed to the international directions concerning the confrontation of domestic violence with the enactment of law 3500/2006. Before we proceed to its analysis and assessment it would be interesting to examine the attitude of the Greek courts towards incidents of domestic violence within the framework of divorce trials up to that point.

Greek justice and domestic violence: jurisprudence data up to the enactment of Law 3500/2006

Both past and recent jurisprudence dealing with divorces by non-mutual consent is rich in cases of battering, insults and extortion between spouses.²⁰ Wife's assault and battery often to the point of fainting constitutes a severe shock to the marital relationship that often leads to divorce.²¹ The husband abuses his wife not only when she fails to fulfil a marital obligation, but also when she protests about his extra marital affairs²² or simply for no reason at all.²³

It is quite interesting to mention that the Greek judge only adopts an absolutely negative attitude towards wife's battery only if she is pregnant and battery could lead or has led to miscarriage or premature labour.²⁴ Quite often battering is considered justified due to the wife's extra marital affairs,²⁵ or even due to the suspicion of an affair that the husband might invoke in court. In all fairness however, there have also been cases where the wife attacked her husband with a fork, her nails or a wooden slipper for much the same reasons. It is quite obvious therefore, that in the past, Greek justice made a distinction between a justified and a non-justified battering; the point being whether battery can be socially tolerated in case one of the spouses has an extra marital affair and thus battering by the 'cheated' party is a consequence of the affair.

The same issue also arises in penal justice whereby judges often wonder whether battering should be charged to the offender or (whether) the offender should be given a smaller punishment than the one set by law due to the wife's behaviour (extra marital affair) that led to battering.²⁶

Another issue related to battery as an act that insults the victim's personality,²⁷ is whether the victim is entitled to compensation on material damages (injury, possible hospitalisation, dental restoration, damage to clothing or jewellery) and financial satisfaction on the grounds of moral prejudice.²⁸

To begin with, there are no published cases of a spouse being awarded compensation or/and financial satisfaction on account of battering. There is however sufficient jurisprudence cases that award a financial compensation to the husband due to moral prejudice since he has been dishonoured by his wife's extra marital affair.²⁹ In other words, Greek society considers or at least used to consider that an insult upon someone's honour is far more significant than an insult upon someone's body through battering. Consequently, the latter is or used to be an indirectly tolerable insult provided that marital faith was offended by either one of the spouses.

The 3500/2006 law relating to the effacement of domestic violence: critical assessment

a. Introductory observations

According to the preamble of the Law, its purpose is to deal with the phenomenon of domestic violence based on the principles of the freedom of self-determination and dignity, which aim at reinforcing the harmonious cohabitation among the members of a family. The author of the preamble of the Law has realized that this phenomenon is primarily manifested against women. Therefore there is a direct violation of the principle of equality between the two sexes as recognized by the Greek Constitution (Article 4, par. 1 of the Constitution). The law aims at the protection of not only women, but of any vulnerable individual in cases of domestic violence, such as children, the elderly, the incapacitated etc, avoiding nonetheless to interfere with the family members' private life (however, we will later on prove that this intervention cannot be avoided). At the same time it is accepted that domestic violence is not a private case, but rather a serious social pathogenesis that violates individual freedoms. The law— quite rightly— chooses to punish only the most severe and atrocious acts of domestic violence. For minor incidents of domestic violence, such as verbal assault or for minor physical injury, the common provisions of penal law (articles 361 and 308 of Penal Code) are applied.³⁰ On the other hand, new, special and stricter provisions are enacted to deal with behaviours manifested within the family which insult the health and physical integrity of its members, their personal freedom, as well as their sexual freedom and dignity.

b. The notion of family in law 3500/2006

The term "domestic violence" is used by the law (Article 1) to define the commission of a series of punishable acts against a family member or members. These are the penal offences of domestic injury, domestic illegal violence and threat, domestic insult of sexual dignity, rape and indecent assault.

The term "family" defines the community that consists of spouses or parents, and by blood or in law relatives of the first and second degree, as well as their offspring by adoption. The family also includes any relatives up to the fourth degree who cohabit with the above mentioned persons, as well as any individuals whose guardian, tutor or foster parent has been defined as a member of the family along with any child under 18 years who cohabits with the family. It should be noted that these provisions are also applied to permanent companions and their offspring, as well as to ex-spouses. As far as children under 18 years (minors) are concerned, they are treated as victims of domestic violence even when the punishable acts we men-

tioned before are not directly aimed at them, but are nonetheless committed in their presence (article 1, par. 2c).

According to the preamble of the Law, the notion of "family" was defined by the closeness of the relation or relationship that binds the various individuals. Therefore, the first group of members protected by law is the spouses and descendants and ascendants of the first degree, regardless of whether there is cohabitation, since these persons in any case share a very close relationship. At the same time, the notion of family also includes the persons connected with a more distant relationship, as well as those whose guardian or tutor or foster parent is a member of the family, provided they cohabit. It is obvious, in other words, that the legislator attempts to extend the groups which can be regarded as victims of domestic violence through the criterion of cohabitation.

The notion of "family" also includes minors who cohabit with the family, under any relation, for any reason and for any period of time. Consequently, any act of violence committed by an individual who does not belong to the family is punished according to the common provisions of penal law and not, as we will see later on, with the stricter punishment applied in case the act of violence is committed within the family environment itself.

Victims of domestic violence are not only the above mentioned persons, but also the persons within whose family a homicide or mortal injury was committed, as well as the minor in the presence of whom one of these crimes is committed.

At a first glance, the legislator's attempt to include as many persons as possible in the notion of family in order to protect them seems reasonable. The application however of these provisions can lead to intolerable solutions. Thus, if for instance a 60 year old father assaults and causes a minor injury to his 35 year old son, who is a financially independent family man, then this father will not be punished according to the Penal Code provisions relating to minor injuries (which cannot exceed three years) but with the stricter punishment that law 3500/2006 provides, that is one to five years of imprisonment since the specific penal offence took place among relatives – hence it is considered as a domestic offence. Similarly, if a student, enraged by the behaviour of his autarchic father who pushes him to study insults the latter "with extremely offensive language referring to his sexual life" (see below, chapter c), he is usually considered to be insulting. Insult, according to Penal Code, can be punished with imprisonment of up to one year. The very same offence however, conceived as domestic, can be punished with imprisonment of up to two years, as we will see later on. In the case of this example nonetheless, one may wonder as to who is the weak member of the family in need of legal protection since the

law on domestic violence primarily aims at protecting the weakest members of a family.³¹

c. Punishable acts of domestic violence and their legal consequences according to law 3500/2006

The law (Article 2) clearly stipulates that the exercise of any kind of violence among the members of a family is prohibited and proceeds to the enumeration of a series of punishable acts whose commission, as it has already been mentioned, draws a stricter punishment than usual when they are committed within the family environment.

These actions include infliction of injury, compulsion to an action, omission or tolerance by use of violence or threat causing an important and direct danger, rape, insult of sexual dignity and indecent assault. Similarly, obstruction of justice in relevant cases also constitutes a punishable act.

As far as the domestic injury is concerned, the legislator is particularly severe when it comes to the offender's punishment, especially in the case of a pregnant woman or another member of the family who, for any reason, is unable to defend himself. A minimum of two years imprisonment is provided. The offender is punished by a stricter punishment than this provided in Penal Code even in case the action took place in the presence of a minor member of the family. A minimum of one year imprisonment is provided.

If the injury constitutes a deliberate infliction of severe physical pain or (physical) exhaustion dangerous for health, or mental pain which can cause a severe psychological damage, especially due to the victim's prolonged isolation, then the incarceration is imperative. In case the victim of such behaviour is a minor then the incarceration can be at least ten years.

Finally, it should be noted that the relevant provision provides protection of both physical integrity and mental health of all individuals who reside in social care and protection structures, regardless of the legal status under which they operate.

As far as the crime of domestic illegal violence and threat is concerned, the legislator, quite realistically, chooses to perceive the domestic threat as punishable only in case it causes a severe and direct danger and not a mere threat of physical violence or any other illegal action or omission. Punishable domestic threat receives at least six months of imprisonment.

The legislator becomes quite innovative towards the penal offences of rape and indecent assault. For the first time in Greek legislation he recognizes that both marital rape and marital abuse are punishable acts, which should be treated as felonies. This initiative is extremely important since prior to law 3500/2006 it was a common belief that

within a marriage intercourse is obligatory in case one of the spouses expressed the wish for it—usually that is the male spouse.

The penal offence of domestic insult against sexual dignity is also differentiated by the insult against sexual dignity (article 336 of Penal Code) in this point: the severity of the assault against sexual dignity does no longer refer to the brutality of the assault itself, but to the brutality of the way in which the assault took place, that is through an extremely demeaning act or word. Thus, 'the member of the family who insults the dignity of another member in an extremely demeaning act or word that refers to the latter's sexual life, is punished by a maximum of two years imprisonment. In case the penal offence is committed against a minor, punishment can vary between six months and three years.

It is extremely important to note that the legislator has also anticipated the obstruction of justice to be considered a misdemeanour punishable by imprisonment going from three months to three years, for anyone who threatens a witness or a member of his family or exercises violence against him or even attempts to bribe him in order to obstruct justice in a case of domestic violence.

Finally, we should also mention that all punishable acts of domestic violence, except for rape and indecent assault, are prosecuted *ex officio* (article 17, par. 1); a provision which at first sight seems opportune, but could lead to excessive and intolerable state interventions in the private life of a family. Actually, according to the criterion of relation, even those members who do not seem to be unable to take care of and defend themselves are also under protection. Thus, in the case of the domestic dispute between the 60 year old father and his 35 year old son that was mentioned earlier,³² a nosy or eccentric neighbour's report could be sufficient for the intervention of public authorities in a case that does not imply an oppression of a weak person.³³ We guess that such an intervention is not among the legislator's intentions at all.

d. The civil consequences of domestic violence

According to article 3 of law 3500/2006, domestic violence equates with adultery, bigamy and the attempt on someone's life and thus, constitutes a presumption for the shaking of marriage. In other words, if the victim of domestic violence wishes to end the marriage due to an extreme shock he/she does not need to present any other incident to obtain the solution of the marriage. It is obvious moreover that there is no need for the spouse against whom this invocation is set to be condemned by a previous penal sentence.³⁴

Furthermore, in case a minor falls victim of physical abuse as a means of correction which is part of his up-

bringing, the law (article 4) provides for an analogous application of the Civil Code (article 1532) when the minor's parents misuse parental care on their child. In this case, if there is a demand by the other parent, a close relative of the child, the Public Prosecutor or even *ex officio*, then the court can order any proper means to avert the exercise of any form of violence on the child. These means include the removal of parental care from one parent in total or partly, the allocation of the child's care to a third party, or the appointment of a guardian.

Finally, one of the civil consequences is the legislator's provision (article 5) for a damages award because of moral prejudice against the victim of domestic violence which cannot be less than 1000 euros, unless the victim itself asks for a lower sum; a regulation which seems rather unnecessary since the Civil Code general provisions provide for the payment of financial compensation in every case of moral prejudice or mental distress. However, the legislator of law 3500/2006 considered that it would be necessary to repeat this provision probably because, as we have already seen, the existing jurisprudence³⁵ kept a rather tolerant stance towards violence between spouses considering that some cases of battery might be justified.

e. The judicial guarantees for the protection of victims of domestic violence

The law (article 15) provides that in cases of domestic violence, the court can order, indicatively, the offender's removal from the family residence or his change of residence. The court can also prohibit him to approach the residence or working area of the person who asks for these measures to be taken. The offender can also be forbidden, upon this person's request, to approach the residences of his close relatives or even the children's schools.

A commentator of the law, quite rightfully, believes³⁶ that in order for the temporary protection measures to be complete, the court should be able to order the victim's relocation to his/her family residence in case he/she was forced to abandon it in order to avoid any further dispute.³⁷ Besides, in order for the prohibition of the offender to approach the residence of the victim to be safeguarded, the court should provide for a fine in case its order is violated.³⁸

Another issue concerns the minor victim's inability to file a report on time. This inability can lead to the prescription of domestic violence crimes. Thus, the law 3500/2006 (article 16) includes a regulation according to which, if the victim is minor, the prescription of crimes of injury, violence and threat, as well as assault against sexual dignity begins upon his/her coming of age. This regulation should also include cases of rape. In fact, the transfer of date for the prescription of a crime against a minor's physical integrity or dignity is quite justified. We

wonder why the same status is not applicable in case of a rape committed within the family.

The provision to apply the *in flagrante delicto* procedure in such cases is considered a positive step, which will prohibit any transaction or attempt to get the victim influenced by the offender in order for the latter to avoid punishment. In fact, in case the hearing is adjourned, the offender remains in custody unless the procedure of penal mediation (see chapter f) is applied. This ensures the fast administering of justice and averts perpetuation of tension in the relationship between family members.

The examination of witnesses in cases of domestic violence is not conducted under oath, provided they are family members. Moreover, in order to protect the mental health of minor victims of domestic violence and avert their additional distress, the law provides (article 19) that minors are not summoned as witnesses in court, but instead their deposition is read. They appear before the Court only if the latter considers that their presence is necessary. Police authorities conducting the preliminary investigation are strictly forbidden to publish the names of either the victim or the accused, their address as well as any other information regarding their identity. Any offenders of this provision are punished with a maximum of two years imprisonment.

f. Penal mediation (articles 11–14, law 3500/2006)

One of the primary arguments against penal regulation of domestic violence is related to the need to protect the institution of family³⁹ which is undoubtedly in major danger during a penal procedure. It is exactly these negative consequences that the legislator attempts to prevail through the institution of penal mediation, which refers to the misdemeanours and not the felonies of domestic violence. It is a procedure whereby victims are facilitated into asking for help from the State, avoiding to get directly involved into the usual procedure of penal courts.

Penal mediation is ordered by the Public Prosecutor prior to common penal prosecution under three conditions regarding the offender: (a) his promise that he will not commit any other act of domestic violence in the future (word of honour), (b) his acceptance to attend a special counselling program dealing with domestic violence, and (c) his commitment to the *in natura* restitution of the consequences of his actions.

In fact, penal mediation temporarily suspends the offender's penal prosecution. It also suspends legal possibility of the victim to ask for the offender's removal from the family residence, working areas etc. In this case, it may help in the restoration of the offender's cohabitation with the victim, as well as the rest of the family members "without the consent of the abused spouse".⁴⁰ In other words,

the legislator attempts to restore the co-existence between spouses without however in any case safeguarding the (abused) spouse's right to suspend the cohabitation with the violent spouse. Another disadvantage relating to penal mediation is that its duration can last up to three years (article 13, par. 2), which means that during this time the family may undergo a rather tense situation whereas a counselling, therapeutic procedure can, according to experts, bring results within four to five months maximum. Thus, it would be preferable that the therapeutic procedure duration could not exceed six months. That is the provision adopted by the German legislation, too.⁴¹

However, the most positive point of this procedure is that penal mediation does not prevent the victim to go further with the divorce procedure.

g. The extrajudicial aid to victims

According to the law, victims of domestic violence are entitled to a moral support, as well as the necessary material assistance by organisations and committees that operate especially for this purpose under the surveillance of the Health and Social Aid Ministry and by the social services of communities. Police authorities, when involved in domestic violence cases, have to inform the victims about all the above mentioned possibilities for the victims to be supported in a material, as well as emotional way.

Besides, it is quite probable that, during a family crisis, victims may be temporarily unable to deal with financial difficulties that occur (cohabitation, temporary alimony, care of minor children etc.). Thus, the legislator administers to the victims the so-called "benefit of poverty" provided by the article 194 of Code of Civil Procedure, so that they can overcome temporary financial difficulties due to their involvement to trials and judicial expenses.

Furthermore (article 23), when public and private school teachers, as well as preschool units staff, find out that there is an incident of domestic violence against a pupil, they have to inform the Headmaster of the school. The latter one has to report the punishable act to the Public Prosecutor or to police authorities.

Global assessment of the law 3500/2006

The law on domestic violence, despite its weaknesses, which have already been noted, should be considered as a significant step towards the confrontation of this phenomenon, which unfortunately seems to prosper in our country. In terms of the guarantees for the safeguarding of the victims of domestic violence, special attention should be drawn to: (a) the way in which the legislator deals with the witnesses and minors during the hearing of domestic violence cases, as well as the infliction of the obligation of secret as far as the names of the accused and the victims

are concerned, (b) the aversion of the witnesses intimidation or bribery aiming at the obstruction of justice in cases of domestic violence, (c) despite the various objections which were mentioned earlier, the institutional provision for the effective confrontation of crimes of domestic violence with the ex officio infliction of their penal prosecution, (d) the regulation for the prescription of domestic violence crimes against minors, (e) the in flagrante delicto prosecution against the offender and (f) the alternative of an indirect recourse to penal justice by means of the institution of penal mediation.

A final observation: it should not escape our attention that domestic violence constitutes a complex social phenomenon for which prevention is the best solution. When the penal legislator intervenes, usually family faces a serious crisis. Regarding family relations, therefore, the role of education, media, church and family services seems to be of critical importance in preventing similar phenomena.

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12. The victims do not report the relevant incidents due to fear or shame but also due to a rather misguided conception of the importance of the institution of family. Other reasons for the concealment of domestic violence incidents is the wife's financial dependence on their husband, the lack of information about their rights, the wife's wish to avoid the negative consequences of publicity, the hope that their relationship with the offender will be restored (Vlachou, op.cit., Penal Justice 2006:474, Geller Gloria, Justice for women and survivors of abuse, Working paper series No. 8, Social Administration Unit, Regina Saskatchewan 1991:17), but also the bureaucratic way that the system of administering justice is organised and operates - this element moreover makes the recourse to justice an extremely time-consuming and discouraging procedure, especially for certain categories of victims (Dobash RE, Dobash RP. Women, violence and social charge, Routledge 1992:218). Finally, as far as domestic violence against children is concerned, it should be mentioned that in certain countries, such as Greece for instance, physical punishment used to be and still is an acceptable means of upbringing and correction, and thus does not constitute a case of domestic violence (Gelles R, Cornell C. The youngest victims: Violence towards children in Gelles R. and Cornell C. Intimate Violence in family, Second Edition, Family Studies, Text series 2, Sage pp. 43-44). Especially for the issue of children's sexual abuse in the family environment cf. HPD. Jones and MJ Mc Graw, Reliable and Fictitious Accounts of sexual Abuse to Children, Journal of Interpersonal Violence 1987: 27 ff. Morgan J. Children as Victims in Mike Maguire and John Pointing, Victims of Crime. A New Deal? Open University Press, Milton Keynes, Philadelphia 1988:74 ff., Milner SJ, Wimberly CR. Prediction and explanation of child abuse, Journal of clinical psychology 1980 pp. 875-884

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14. Domestic violence, despite being an old phenomenon, was nonetheless only quite recently recognised as a crime by the law. Thus, in the U.S.A. for instance it was only in 1994 that the 1989 Bill on 'Violence against Women Act' became a federal law entitled 'the Violent Crime Control and Law Enforcement Act'. The same delay on the legislative handling of domestic violence was also noticed in the European countries (cf. Adrine RB, Ruden ALM. Domestic Violence Prosecution – Initiation and Initial Case Preparation, Ohio Domestic Violence Law par. 5:25, 2005, Swanson HY, Parkinson PN, O' Toole BI, Plunkett An. M., Shrimpton S, Oates R, Kim., Juvenile Crime, Aggression and Delinquency after sexual Abuse, British Journal of Criminology 2003:729, Tuerkheimer D. Recognizing and Remediating the Harm of Battering: a Call to criminalise Domestic Violence, Journal of Criminal Law and Criminology 2004:959, Mc Alinden An M. The Use of "shame" with Sexual Offenders, British Journal of Criminology 2005:373, Hander RP. Punishing Hate, Punishing Harm, Journal of Criminal Law and Criminology 2000:1047, Rebouche R., Good Courts: the Case for Problem Solving Justice, British Journal of Criminology 2006:364)
15. Alexiadis S. Criminology, 4th ed. Sakoulas ed., Athens-Thessaloniki 2004:160 and the relevant bibliography thereby cited (in greek)
16. STasinopoulou E. Violence in the family and human rights, Minutes of the 'Break the silence' Congress, op.cit. p. 49
17. Alexiadis St., Texts on a policy against crime, volume A', Sakoulas ed., Thessaloniki 1993:210 ff.(in greek)
18. Kotzabassi, op.cit. in note 3 p. 1530
19. Skorini-Papariopoulou Z. The reasons for divorce according to the Greek jurisprudence, PhD thesis, Athens 1971:93 ff. (in greek), Behlivanis N. Violence in the family: legal and sociological approach, PhD thesis, Thessaloniki 2002:107 (in greek), Vidalis T. The constitutional dimensions of authority within the marriage, PhD thesis, Athens 1996:221 (in greek)
20. Cf. decisions of: Court of Appeal of Thessaloniki 2464/1989, Armenopoulos 1989:867, First Instance Court of Thessaloniki 1107/1988, Armenopoulos 1988:644, Supreme Court (Arios Pagos) 936/1972, Legal Tribune (Nomiko Vima)1973:464 (repetitive battering), Supreme Court 256/1975, Nomiko Vima 1975:1059 (provocation of brain concussion and uterus haemorrhage) (in greek)
21. Decision of the Court of Appeal of Thessaloniki 18/1987 cited in Kotzabassi, op.cit. p. 1526
22. Judgements of the First Instance Court of Thessaloniki 3143/1984 and First Instance Court of Thessaloniki 3994/1986 that are cited and analysed in Behlivanis, op.cit., footnote 20, p. 109
23. Decision of the Supreme Court 471/1965, Nomiko Vima 1966:351, decision of the Supreme Court 510/1968, Nomiko Vima 1969:32 (in greek)
24. Decision of the Supreme Court 333/1960, Nomiko Vima 1960:1170 "...battering of the spouse, a justified act due to the extra-marital relations of his wife..."
25. Cf. also Paraskevopoulos N. The family as an impediment to the mission of the Penal Law against Crime, Defence (Yperaspissi)1991:797 and p. 806 (in greek). A typical example is the case of a homicide criminal who strangled his wife and was sentenced to only 12 years of imprisonment due to the fact that the wife's (the victim) talking back was accepted as a mitigating circumstance (p. 810, footnote 52, also cf. Koulentianou. Particularly repugnant mitigating circumstances, Free Press (Eleftherotipia), June 22nd 1986)
26. For the notion of personality cf. Obessi Ph., The end of human life and its legal regulation, Health Science Journal (www.hsj.gr., Issue 4, 2007 pp.1 ff and the bibliography hereby cited
27. For the distinction between damages and financial satisfaction due to moral prejudice cf. OBESSI Ph., Nursing Liability Law, ed. Beta 2005:73 and ff., p. 77–78 (in greek)
28. Kotzabassi, op.cit. p. 1528
29. For the notion of minor or insignificant injury cf. OBESSI Ph., Nursing Liability Law, op.cit. p. 148–149, Bekas G., Crimes against life and health, Law and Economy, P.N. Sakoulas 2002:195–199 (in greek)
30. Cf. Simeonidou-Kastanidou E. The bill on domestic violence, Penal Justice (Piniki Dikeossini)2006:1013
31. See above, Chapter b
32. Simeonidou-Kastanidou, op.cit. p. 1013
33. Kotzabassi, op.cit. p. 1529
34. See above, notes 21, 22, 23, 24, 25
35. Kotzabassi, op.cit. p. 1531–32
36. See Tzifra P. Provisory Judicial Protection (Asfalistika Metra) p. 437–438 (in greek)
37. According to Article 947 of Code of Civil Procedure, also cf. Kotzabassi, op.cit. p. 1532
38. Vlachou V. Physical violence against women and the system of penal justice, Ed. Ellin 2005:200 (in greek), by the same author, The sociological research on domestic violence, op.cit. footnote 10:628
39. Kotzabassi, op.cit. p. 1533
40. Law of 11.12.2001, Abs. 2 S. 2, BGB BI. 2001 I 3513