**Domestic violence in the Norwegian society, - an overview focusing on how to combat it.**

***By: Judge Jan Atle Hansen, The District court of Arendal.***

Dear colleagues in "the Chain of Justice".

First of all I want to thank a lot for the invitation to come to Riga and have the opportunity to participate at this conference. It is a great honour to be asked to give this speech, and I appreciate a lot the possibility to meet all of you.

My professional background is 25 years of prosecution work and 10 years work as a judge in a district court, dealing with all sorts of cases. I have also stayed at couple of years in Afghganistan and Iraq, training prosecutors and judges.

I have – as you understand, been working in "the Chain of Justice" since I finished my law studies at the University in Oslo in 1980. In my work as a judge I deal with all sorts of cases, - both criminal and civil matters. It is a distinctive mark connected with a Norwegian judge that she or he is a generalist, hopefully having the ability to have a wider view on the cases than what is possible for a specialized one.

I have therefore through many years and among many different types of cases also treated a lot of domestic violence cases, both as a prosecutor and as a judge. My different functions have enabled me to follow during more than three decades the development and improvement of methods used in the Police- and court-system in Norway when treating domestic violence cases. My intention to-day is therefore to give you a brief summary of this development, with a main focus on the current tools available in Norway, - so to say the "best practice" - when dealing with domestic violence cases.

I want to emphasize that it is not my intention to tell you that our methods used in Norway necessarily are the optimal way of doing it, and therefore should be adopted by your system. As far as I know, you may even have better methods within this area in Latvia than we have in Norway.

Let me take as a starting point the situation when I in the early 1980-ies started my work as a prosecutor within the Norwegian police. As early as at that point of time victims of domestic violence occasionally called the police for help, or neighbours did the same based on screaming and noise from on-going violence in their neighborhood, or family-members who witnessed domestic violence called for help. The attitude within the police-organization at that time – and in the Norwegian society as a whole – was that domestic violence was "an internal matter" that should be solved within the family without involving neither the police nor the court system. Even if a police emergency- sqad went to the crime scene where they found the victim – normally the wife – beaten and bruised, an investigation was not started. A warning finger was raised against the perpetrator, and a brief summary was recorded in the internal police journal, informing that the case had been solved "o.t.s", which means "on the spot". No further measures were taken from the police-side that brought any consequences on the head of the perpetrator. This was the situation, unless the victim reported what had happened to the police and applied for an investigation and a public prosecution. In that case the police was obliged to consider whether an investigation should be started, - but this was the situation just in a very low amount of cases. The reason for this was of course that the victim – normally the woman in the family, by pressure from the perpetrator or other family-members, was persuaded to not apply for a public prosecution, or to withdraw such an application if it already had been asked for. It was possible for the victim to withdraw such an application until the court -hearing had started. If the victim did so, the prosecutor was unable to proceed with the case. This was often the situation: The victim did not want to apply for a public prosecution and refused therefore to participate at an investigative interview. Instead the apparent life together with the perpetrator continued, and the victim hoped that it would be a better life in the future. The victim was very often disappointed, because the violence continued since it did not have any consequences for the perpetrator at the first time to be violent.

At this point of time – which means still in the 1980-ies, there was not established any official overview giving an account of the volume of domestic violence in the Norwegian society. During the years of 1981, 1983 and 1984 an amount of 435 domestic violence cases were registered by the police in Oslo. At the same time – in 1986 - the Directorate of Health and Care Services informed that an amount of 10 000 women had called on health service because of mistreat in general. In 1985 the Ministry of Health and Social Affairs informed that 12 268 telephone calls had been received from mainly women by people working at crisis- centers and emergency hotlines, most of them in connection with mistreat of women. These figures underline that domestic violence during the 1980-ies and the beginning of the 90-ies more or less was a hidden crime-area in Norway.

As an attempt to repair on this situation it was decided in 1983 that women who had been mistreated as a result of domestic violence, should have the right to a lawyer appointed by - and paid for - by the court to assist the victim during the investigation and the court process. This arrangement was extended in 1987, but the effect on the mentioned situation was very limited.

On 26th of February 1988 the Norwegian Parliament passed an important legislative amendment in the General Civil Penal Code for the purpose to strengthen the rights of the victims of domestic violence cases. It was decided that all cases of domestic violence should be investigated by the police and prosecuted by the public prosecution- authority without the need of the victim's application for public prosecution. Practically speaking, this meant that it was no longer necessary for the police to wait for the victims' application for prosecution in order to start an investigation on a domestic violence case. This was a very important measure – and to my opinion perhaps the most important step that has ever been taken in my country - in order to strengthen the treatment of this sort of crime. This legislative amendment was also a way to give a very important and significant signal to the society, saying that domestic violence is not any longer just an internal family matter. It is also a serious social problem for the Norwegian society, putting the responsibility to fight against it on the shoulders of the police, the prosecution- service and the court system. To-day Norwegian law forbids all use of violence. Society cannot accept any forms for violence, including violence in the family or violence from other close relations. This rule applies no matter what the reason for the violence.

In 1994 the Norwegian Parliament passed a legislative amendment in the Criminal Procedure Act, giving the authority to the Prosecution Service to impose a ban on visits, if there is reason to believe that a person will otherwise commit a criminal act against another person, pursue another person, or in any other way disturb another person's peace. The ban on visits may entail that the person who is to be subject to the ban is prohibited from being present at a specific place, or pursuing, visiting or in any other way contacting another person. The person who is to be subject to the ban may even be banned from staying in his or her own home. The ban on visits shall apply for a specific period of time, not exceeding one year. A ban on visits to one's own home may not endure for more than three months, but the period can be repeated. The Prosecution Service shall as soon as possible, and not later than five days, if it is claimed by the parties of the decision, bring it before the court. It will then be the task of the court to decide whether the ban shall be confirmed or not. Such bans on visits are often used during the investigative period of domestic violence cases in order to protect a victim being afraid of the perpetrator.

If such a ban on visits is broken by the person who is subject to the ban, this is a criminal act. An example from the Appeal court (Borgarting lagmannsrett ) on 19th of January 2016 says that a man was sentenced to 120 days in prison because he two times had broken such a ban on visits.

When a ban on visits is imposed, the victim will in many cases be given what is called "a mobile violence alarm". Norway has since 2004 had a nationwide system of such alarms with the purpose to protect victims of domestic violence. The police organization has been given the authority to decide upon whether a victim shall be equipped with such an alarm or not. The system is based on modern mobile-telephone technology, which means that the victim can just push a button on the alarm and get immediate contact with the police operational central. It is very easy for the police to find the alarm when it has been made operative. The system is based on use of Global Positioning System (GPS) and it is functioning more or less everywhere in the country. When the alarm user has pushed the alarm button, the police is obliged to give priority to find the user as soon as possible. The costs connected to the use of the alarm is covered by the police and there is no costs for the user of it.

In 2008 the Norwegian Parliament introduced another important law amendment in the Criminal Procedure Act, showing to be of central importance for the treatment of domestic violence cases. It was decided that the victim of domestic violence has the right to receive assistance of a lawyer from the starting point of the investigation until the case has been finally decided upon by the court, if he or she so desires. The cost of such assistance will be paid for by the court, which means by the Norwegian society. The main task for this counsel (or lawyer) will be to give support to the victim during the investigation phase and the court process, and to present the claim for compensation on behalf of the victim to the court. The councel has the right to receive all case files and to be present during all court hearings. The counsel has also the right to examine both the perpetrator and the witnesses. This arrangement is very important for the victim and means that he or she is not standing alone during the process of the case.

Children are often victims of domestic violence. Children can also be central witnesses in such cases. According to the Norwegian Criminal Procedure Act everyone is obliged to give testimony to the court in a criminal case. However, there is an exception if the perpetrator is a spouse, a partner or a close relative of the witness. But this is not the case for a child being under 15 years of age. Such a child is obliged to witness even if the suspect is the father or the mother or another close relative of the child. In other words: The child is regardless of such a close relationship obliged to witness. But children who have not yet reached the age of 16 are not obliged to meet in court and give their testimony. Their statement will be taken during the investigation by special police experts trained specifically for interviewing children. The interview will be recorded on a video cassette, and the interview will later on been presented to the court as an evidence during the court hearing. The prosecutor, the defense counsel and the counsel for the victim will be present during the interview in a neighbour-room, where they can follow the interview directly on a TV-screen. There will be pauses during the interview where they can bring their questions to the expert, who can present their questions to the child afterwards. This is a method that fulfills the claims of the"fair trial-principle" in the European Convention on Human Rights Article 6 point 1. The advantage of this method is of course that is it avoided that a young witness must appear in the court hearing. The circumstances of the interview is protective to the child and makes it sufficient in most of the cases to make one interview.

Such interviews will normally be arranged in what we in Norway call "Children's Houses". 11 of them were established between 2007-2011 by the Ministry of Justice, and they have a regional function for facilitating interviews of this sort. Doctors, dentists and psychologist – all of them specialized on children's welfare – are closely connected to these houses. Their task is to secure technical evidences in cases where children are victims of domestic violence, and to offer these children health service if needed. Everything is paid for by the government.

Domestic violence is not a new phenomenon. The former Norwegian Penal Act that was passed in 1902 had a specific statutory provision saying that neglecting a family member was prohibited. This provision was mainly used in cases when there was a lack of food and clothes for the child. During the 1980-ies and 90-ies new research learned that violence at the hands of people who are very close to us breaks the bonds of trust. When we no longer feel safe, the home is no longer a place where we can find strength and be happy and at peace. Instead we waste our energy on keeping an eye out for trouble and on avoiding situations that can lead to more violence. Children need to feel safe and secure to have well-being, develop in the way they should and do well in school. Children who are afraid have problems. They can have difficulty concentrating and doing their school work. They often have problems remembering things, and they often have nightmares. They also get sick more often because they live with worry and stress. Children do not have to be hit to be afraid or hurt. It is just as harmful to see others being beaten. The body has its own alarm system that is controlled from the brain. When a person is used to being on the alert, the brain is constantly sending out danger signals. The brain of a woman or a child who is often afraid will adapt to a life of fear. If this person's brain is to return to normal, he or she must live in a safe environment for a long period of time. The new lesson we have learned is therefore that the mental abuse can be just as harmful as the physical violence. A wife who – on a regular basis through years by her husband is addressed as "an idiot", "incompetent", "stupid", "ugly" and similar derogatory expressions -, will after some time and because of this psychological violence lose her self-confidence and start to live in a regime of fear and unhappiness that will reduce her life-quality a lot.

In 2004 the Norwegian Supreme Court gave a decision on a domestic violence case raising the penalty-level significantly, compared with former decisions. The perpetrator had during a period of five years beaten, pushed and kicked her wife several times. He had also beaten his fourteen years old daughter. He was sentenced to one and a half year in prison by the court in first instance. The result was the same after the appeal- hearing. The Supreme Court raised the sentence to two years and three months, saying that the sense of justice now demanded a sharpened sentencing within the field of domestic violence. According to the Supreme court the sentence would have been even four months higher if the husband had not admitted his misbehavior. The central aggravating circumstances of the case was of course the seriousness of the violence itself, but also the endurance of the abuse during five years, the psychological connection between the perpetrator and the victim, and the fact that the violence had appeared in a hidden place, - namely inside the family's home that normally shall be "a safe haven". It was also emphasized by the court that the victims' feeling of living in a regime of threats and insecurity can be more harmful than the beating and the kicking itself. The court referred to current national and international research, saying that the result for the victim of domestic violence often is depression, anxiety, sleeplessness and physical problems. Victims of domestic violence often get post-traumatic stress-syndrome, giving them night-mares and "flashbacks". This decision is also very important for the Norwegian court system, saying that children who are witnessing domestic violence – even if they are not beaten themselves, are victims to this sort of crime.

In 2005 a new Penal Code was passed by the Norwegian Parliament, - coming into force in October 2015. The statutory provision concerning domestic violence makes it illegal to threaten, to force, to deprive the liberty, to violate or "by other means" offend the rights of a family member. The prescribed penalty-limit is more than doubled by the new law from 6 to 15 years of imprisonment. This is a significant signal showing the seriousness of domestic violence as a society problem. The law protects both spouses and unmarried partners on an equal basis. In addition to that, children and parents of the perpetrator are protected as well as other members of the household.

In addition to penalty the perpetrator is normally ordered by the court to pay a compensation for "pain and suffering" of the victim. Such an amount of money, when it has been ordered, will be paid in advance by "the Office of compensation for criminal injuries". This is an office covering the whole country, that has been established some years ago by the Norwegian authorities. The office will – as soon as the money has been paid to the victim, take over the claim and try to collect it from the perpetrator.

In addition to prison-punishment the current Penal Code gives the court the possibility to give a judgment saying that the perpetrator shall be prohibited from being present in specific areas or to make contact in any ways with the victim, if the act indicates that the perpetrator's presence there may be especially dangerous or troublesome to the victim. It can even be decided that the perpetrator shall be prohibited from being present in his or her own home for a period of one year. The court can also decide that the perpetrator – if necessary - shall be electronically controlled for a period of maximum 5 years.

As you see, we have to-day in Norway a set of instruments that can be used to combat domestic violence. In every police district there is a police man or woman allocated to co-ordinate the work connected to fighting domestic violence. Public employees, for example teachers and health workers, have a legal duty to report to the child welfare services if they suspect violence in the family of a child they meet in the course of their work. The child welfare services will normally report the case to the police and an investigation will be initiated thereafter. The Government has worked out plans in order to prevent domestic violence and the Director General of Public Prosecutions gave in 2008 a circular instructing the police- and the prosecution- service to give high priority to this sort of crime.

According to the official criminal statistics there were registered by the police 35 000 cases of violence and mistreatment in Norway in 2016. 3 450 of these cases were domestic violence cases. These figures tell me that there has been an enormous increase of registered domestic violence cases during a period of 25-30 years compared with the same figures from the middle of the 1980-ies. I don't think the reason for this is that there is more domestic violence being committed to-day in the Norwegian society compared with the situation in the 1980-ies. But it is an obvious result of the efforts to bring this type of crime into the light as a social society problem, instead of considering it to be merely a family problem. In former days domestic violence was a hidden crime area, and to-day there is a huge focus on it, which is decisive for a society that wants to combat a serious society evil.

Let med conclude my speech by quoting Mahatma Gandhi, who once said: "What you win with violence, you can only keep with violence".

Thanks for your attention.