

Working session 15: Tolerance and non-discrimination II (continued), including ensuring equal opportunity for women and men in all spheres of life, including through the implementation of the OSCE Action Plan for the Promotion of Gender Equality, prevention of violence against women.

Gender ideology and the destruction of family and the rule of law

Good evening,

As early as in 1999 at the OSCE Istanbul summit, the OSCE proclaimed the full and equal exercise of human rights by women and assumed a commitment to ensure equality between men and women as an integral part of its policy. The OSCE adopted action plans in support of gender equality in 2000 and 2004. These provisions later became enshrined in the Istanbul Convention of 2011. After the goals were adopted, many OSCE countries immediately embarked on their implementation. 18 years have now passed, and it is now appropriate to consider the results of the gender policy in a serious and critical manner and to summarize certain preliminary outcomes in order to assess the consequences of the this plan being implemented.

The purpose of the report is to illustrate the implementation of gender policy using the example of gender violence legislation. In this area, we observe the same mechanisms that are used in the implementation of the forced foster care system, i.e. the transfer of judicial functions to administrative authorities, social services, and NGOs in the framework of interagency coordination. This violates the rights of both the persons being “rescued” and those who are defined extrajudicially as “criminals.”

I would like to note that all the international documents qualify women and men as though they were two separate species, as if there was nothing in common between them. Moreover, they are being juxtaposed, and it is stated that the woman is the victim by definition and the man is the oppressor.

Many women’s organizations raise their voices against the approach that victimizes the woman, as they find it humiliating and destructive for women themselves. Women have also repeatedly complained that the imposed “model” for the woman often conflicts with actual women’s interests, and that no one cares for those women who consider family and maternity to be the core of their self-actualization, rather than a career.

It is becoming apparent that the main goal of implementing the gender and forced foster care approaches, rather than helping women or children, is to destroy the institution of the family and state legal institutions. A structure parallel to the judicial system is being created, which is outside of control by the national government. And we are left to ask: then who controls it?

The family is the basic social unit and the foundation of state stability. The most efficient way to destroy the institution of the family is to launch a campaign to protect the rights of certain family members against others. It is now the family that faces an unprecedented onslaught under the aegis of combating domestic and gender violence.

I will show you how this is being done using the example of Spain, simply because the law on domestic violence was adopted there as early as in 2003, and the law on gender violence was adopted in 2004, and some results can already be observed.

According to the Law 1/2004 of 28 December “Integrated Protection Measures against Gender Violence”, “gender violence is not a problem that affects the private sphere.”

However, the law regulates relations between people who maintain close ties. In other words, it is made clear from the start that family affairs are not a private issue, and that various services may interfere in them by supporting one family member against another, instead of harmonizing family relations through cultural policy. It further says, “It is violence directed against women for the mere fact of being women; considered, by their aggressors, as lacking the most basic rights of freedom, respect and power of decision.” This makes the man a rapist just because he is a man. Consequently, when evidence is lacking in a case, being a man is used as an aggravating circumstance.

As not all courts are yet ready to adopt this perspective; the judicial system has been called “patriarchal”, and decision-making was handed over to bureaucrats. Decisions can be made even against the will of the woman herself, because her statement or consent to testify are not required according to the Istanbul Convention. Of course, we should be responsive to any cases of possible violence, and we should protect vulnerable persons to the fullest possible extent, reacting quickly, professionally, and with caution. But using this approach ideologically by saying that the whole of society is infected with gender violence to some extent, and that women need to be rescued even when they do not want it themselves is a completely different matter. Such an approach goes much too far.

From the very beginning, an unprecedented information campaign developed around gender violence was launched. With generous funding from the Ministry of Equality (formerly the Women’s Institute), the EU, and the national budget, the campaign to raise gender violence awareness was readily supported by mainstream media, creating an atmosphere of genuine gender hysteria in the society. The whole country was discussing individual cases of violence, which are certainly intolerable, but they can not be generalised and projected upon the whole of society. They are broadcasted by the media like a TV series; street billboards, subway advertising, magazines, and films depict the man as an abuser and offender; women and children are encouraged to file reports to the police and to the courts. This cannot help but create certain stereotypes and become internalized into people’s unconscious through continuous repetition. People are thereby programmed, and alienation emerges at an early stage between children and their parents, as well as between wives and husbands.

Moreover, the criteria of gender violence are becoming blurred; physical violence is supplemented with psychological, economical, moral, and sexual violence (it should be stressed that this all applies to married couples).

This provoked a flurry of lawsuits from women against men with whom they had close relations, which simply paralyzed the judicial system. It became absolutely impossible to thoughtfully and carefully determine who was really a victim of abuse and who was not. This further worsened the situation of real victims, as they now faced suspicions of false testimony. Specialized gender courts began to appear. Their inefficiency is demonstrated by the fact that the amount of women killed by

their husbands or sexual partners did not decrease; instead, it even increased over a certain period of time.

The European Union used special programs to throw large amounts of money into the budget for each report against a husband, regardless of the subsequent verdict. And of course, no one has repealed the rules of the market: the more lawsuits, the more money can be made. Whether or not the reports are confirmed is unimportant. As a result, according to information from the Central Registry for the Protection of Victims of Domestic and Gender-based Violence, which is based on data from the Spanish Ministry of Justice, approximately 130 thousand lawsuits are registered every year, of which only 30 thousand actually require any measures of protection.

This disagreement by judges to consider all gender violence applications to courts as established facts led the socialist government to the decision that they should extend list of officials and organizations who can “accredit” a victim of gender violence for “aid”. On August 3 of this year, Royal Decree-Law No. 8/2018 made amendments to the 1/2004 Act “On the Measures of Complex Protection against Gender Violence”, i.e. without any discussion in the Congress or the Senate. In addition to the existing provision that the status of victim could be confirmed either by a judicial verdict and a decision that certain protective measures should be taken, or by a prosecutor’s office, it was stated that gender violence situations can also be confirmed by a report from social services, specialized services or gender violence victim support services within the state administration, or by another competent agency...

Now, just a report from social services or other competent agency will be sufficient to acknowledge someone as a victim of gender violence, and thus to appoint a “criminal”. Just listen! Because of the massive funding allocated to all of this, one can imagine what interests and abuse can arise in the entire family law system.

The Decree-Law also made changes to the Civil Code itself, particularly the second paragraph of article 156, which regulates parent’s rights over minor children; in this case, the change allows providing psychological assistance to the child upon authorization by only one parent when the other parent was convicted for violence against the child or the first parent.

But it is not about parent’s natural right to help his or her own child if the other parent poses a threat; the point is that this was already provided for by the article, but making a seemingly insignificant amendment to Civil Code simultaneously introduces vague and ambiguous formulations to identify the perpetrator. For example, “atentar contra el otro progenitor”, (i.e. an attempt to harm physically, to violate the moral integrity, the freedom of moral integrity, sexual freedom, or sexual integrity) or “iniciado un procedimiento penal” (whenever the criminal case is open). This means that a father is already restricted in his parental rights and socially branded as an “abuser” before anything has been proven against him!

These vague formulations, of course, would have been corrected by amendments had the bill been passed through a regular procedure of debates in Congress. But unfortunately, this did not happen, because it was a Decree. On September 4, at the first session after the holidays, which happened to be the last day of the 30-day approval period according to article 86.3 of the Constitution, the Congress adopted the text of the Decree-Law exactly as it was published by the government on August 6.

I would like to clarify that Royal Decree-Laws are adopted as a whole in a single act, without an option for any amendments or their partial approval. That is, it is “yes” or “no” on an “as is” basis.

This eliminates the possibility of its reflexive analysis article-by-article and for correcting any vague and ambiguous formulations or non-constitutional provisions. There is no way to correct or improve it. This compromises even the principle of separation of powers.

The Decree-Law in its preamble refers to the article 5.2. of the Istanbul Convention, which obliges the undersigned countries to adopt legislative and other measures to prevent, investigate, prosecute and compensate for acts of violence within their scope.

I would like to comment on the completely unconstitutional form of the amendment's adoption. Here are the words of attorney Isabel Winkels Arce, who specializes in family law, and is currently the president of the family section at the Madrid Bar Association, and Professor at the Master's Degree program in Family Law at the Institute for Stock Exchange Studies (IEB) and in Rey Juan Carlos University: *“Never in the history of the Spanish Constitution has the Civil Code been changed by a Royal Decree-Law, especially in such a sensitive issue as family law. This conflicts with the Constitution, which only allows such changes for extreme and urgent matters. Was there any urgency in regulating psychological care when the law had already provided for it?”*

Here is the opinion of attorney and Professor of Civil Law at the UNED University, Veronica del Carpio Fiestas. *“It is a well-known practice of adopting the Royal Decree-Laws (in other areas, but never in the Civil Code) during holidays, when you have something to hide or when you don't want a decree to be thoroughly analyzed... Are we facing a corrupt use of a Royal Decree-Law because it does not stand up any serious legal discussion, or because it establishes a precedent for changing the norms of the Civil Code, which up until now has not been compromised by the scourge of lawmaking through Royal Decree-Laws? I do not know, and I do not insist it is true, but I've long stopped believing a long time ago that the adoption of Decree-Laws in the periods when no one reads them could be accidental.”*

The lawyers says, that: *“There is no such goal or subject matter which could allow either the government or legislators to violate the fundamental principles of the Constitution and the rule of law, no matter how laudable their motives are. And the fight against gender violence is no exception. The indisputable social duty of the citizens is to speak out against these violations, regardless of the ideological orientation of their government and the purpose of the changes, even if we support these goals... Having adopted this Royal Decree-Law, the government made a legal error, unless it pursued its own goals decisively affecting legal security, which is a basic element of the rule of law.”*

According to these attorneys, who undoubtedly share the idea of equality between women and men, the wording of the decree-law is so deeply unconstitutional that it compromises security. It is blatantly unconstitutional when a man is branded with a terrible social and legal stigma, with numerous consequences to follow, and when he is labeled as a serious criminal for an indefinite period of time, without any chance for defense or any judicial oversight...

Even many years afterwards, this "criminal title" can have a devastating legal effect on his parental rights, inheritance, acquisition of nationality, giving his last name to his children, and who knows in what other areas.

Conclusion:

We have already heard how children are being rescued. And now the administrative “technicians” will use the same strategy to rescue women from violence. This means that the family will be destroyed not only psychologically, but physically as well. And there will be no way to refuse such “rescue”. According to the Istanbul Convention, Chapter IV, Article 18, paragraph 4, “the provision of services shall not depend on the victim's willingness to press charges or testify against any perpetrator.”

The case of Spain leads to a conclusion that the 18-year period of gender policy implementation to combat gender violence has only led to greater chaos and to the collapse of the system. Under the cover of the gender violence ideology and noble calls to aid victims, an administrative system is being created in parallel to the existing judicial system, where the basic rights of citizens will no longer be protected, but they will be exposed to abuse by officials and regulated by certain instructions and manuals generating non-transparent reports, which can ruin the families and lives of many people.

I want to draw your attention to the extraordinary similarities in the operation of the system of forced foster care in all countries (what Ms. Garcia del Sid has just said, and which works exactly the same way in Russia and other OSCE countries) and to the similarities of the forced foster care and the gender-related methods. The law opens a “breach” which transfers the responsibility from judiciary to administrative services and NGOs (often funded from abroad), who then act in accordance with instructions and orders from the outside.

I would also like to draw your attention to the opinion expressed by many politicians and activists from around the world that no politician or party can interfere with the decisions and actions of social services or child (and now also women) protection services. Their decisions are indisputable and unaccountable. They say that these structures act as a state in the state. And if this is so, then this is a matter of state security.

And if that is true, then it is necessary to tell the people that we are done with a democratic law-governed state and the rule of law, as well as with national sovereignty. We are entering a phase of a global state where all the rules of the game are changing, and now the main principle is “the end justifies the means.” We have to say that all the existing state institutions must be destroyed, as well as the institution of family. We must say this honestly, and we must ask the people if they want it via referendums. It would be a democratic way to do this. Otherwise, it has nothing to do with democracy.