

Advocating for the Rights of Domestic Abuse Victims

Final Report, 2009 to 2010

A project supported by the Open Society Institute Budapest



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Introduction

The project *Advocating for the Rights of Domestic Abuse Victims* implemented by NANE Women's Rights Association in partnership with Patent Association, is based on a four-year strategic plan to bring about policy changes regarding domestic violence (DV) in Hungary. The activities described in this report are those performed during the second and third years of the strategy in the two-year project period from 1 January 2009 to 31 December 2010.

The strategy follows a model in which we first collected reliable data on the workings of the justice system in domestic violence cases and we started to build a coalition primarily among practitioners in the DV field (1st year of OSI's funding). In the following years (years 2 and 3, the current project) we continued to build the coalition of professionals by raising their awareness of victims' perspectives in DV cases and by actively involving them as stakeholders in the initiation of changes in policy and legislation. Training seminars complemented this process of involving professionals, also providing opportunities to disseminate findings of the first year's data collection and the draft protocols planned to be finalized by the end of the four-year program. We carried out a strategic litigation program that aimed to influence legal practice by providing precedents and good practices in DV cases. We conducted consciousness raising campaigns with a target group of the general public. The coalition of the various professionals and the media presence were envisioned to support the advocacy activities that directly target decision makers both in the professional and in the legislative field.

Strategic litigation

The strategic nature of our cases

Strategic litigation is a core element of the project and of the strategic plan. Our objective for the first three years of the strategy was to identify typical problem areas by looking at all possible kinds of legal cases (in the fields of criminal, civil, family and administrative law) that come up in DV cases and to find out the possibilities and limits of what litigation can provide in these cases. This part of the strategy has been completed, as we have had a look at all the major types of cases in this field.

Our original hypothesis was that DV is invisible for the service providers and for authorities because of a range of reasons: the lack of unbiased and detailed data on the nature of DV in general, the lack of detail in the documents of specific cases (because of counterproductive legal advice on the part of lawyers our clients previously employed or because of other factors discouraging victims to provide thorough reports of their experiences), the lack of specific training of legal actors that would make them capable of recognizing signs of abuse, etc. We therefore supposed that if we can make DV visible for the various officials in these cases, they will be able to see it and actually handle it better. Methods we employed to make up for the lacking knowledge in the different fields included the provision of *amicus curie* to courts, contesting court-ordered forensic expert opinions in front of courts, performing as "expert witnesses" before court, taking measures against forensic experts performing very poorly from a professional point of view in front of ethical committees or initiating criminal procedures against them for false testimony, providing detailed case descriptions and very detailed documentation of abuse to police, equipping clients with the necessary knowledge in order to file complaints against poor police/prosecution performance and carrying on with such complaint procedures ourselves, etc. All these methods

were intended to a) prove or disprove the original hypothesis that the element missing from proper treatment of DV victims on the part of authorities was mostly knowledge-based, and b) that the existing laws were “good enough” to reach much better results with these cases if the missing knowledge was filled in.

We had a wide range of cases covering all the typical problem areas: child custody, visitation rights, stalking, emotional, physical and sexual violence both against adult women and against children, both criminal and civil restraining orders, in all four legal fields (criminal, civil, family and administrative law), dealing with police, child guardianship authorities, prosecution, courts, forensic experts and other related public institutions. In most of these cases victims kept being punished for being victims in various forms and by various methods by the social-service providers and by the authorities.

Experience accumulated throughout the three years of our strategic litigation program proves that our original hypothesis was not correct: even if DV was made obvious, the legal system and the authorities were usually not responsive. At best, the system failed to treat these cases. At worst, reporting about, and evidence of, DV was mostly used against the victims. These findings may lead us to several conclusions as to what, then, is the core of the problem: a) lack of accountability of the actors in the system, b) the missing element is not knowledge-based, but attitude-based, c) no matter how clear the evidence is in a case, legal professionals will always find it possible to dismiss it without proper training, d) less than “good enough” laws are simply incapable to ensure the necessary protection to victims, or e) a combination of all these factors. Each of these we have examined and we have built the lessons into our fourth year-plan of the strategic program.

In conclusion, as the majority of cases have been lost (or won due to circumstances that had more to do with procedural than with content elements), we have turned our attention to suing or otherwise calling to account the authorities that fail to protect victims and call perpetrators to account even where this is possible under the current law.

Cases

One example is a case we described in our earlier report, in which our client filed a substitute private prosecution for endangering of a minor because the father broke and threw the window frame out of its place and broke a cell phone over the woman’s head while she was holding the child, who was traumatized. The court found, that this was not an instance of endangering a minor. We could finally win the case only by reclassifying our charge as disturbance of public order, as the woman fled into the hallway and to one of the neighbours, and the neighbours were afraid. This case clearly illustrates how the same act qualifies as a crime if it is committed between strangers, while remains unpunished within family relations.

In another divorce case the court failed to take into account the violence perpetrated by the man. Although there was evidence of the violence, the court saw this as part of an interpersonal conflict, not violence on the part of the man.

Even in cases where we won, the reasoning of the courts disregarded violence; courts do not adopt our reasoning even if the decision that we requested is taken. For instance in one case we reasoned that a man’s parental rights should be denied, as he committed economic violence against his partner by going to her workplace and making scenes until she quit, and committed incest against their child. There was ample evidence. The court did withdraw the father’s parental rights but not because of the violence but because the man resigned from those rights when he saw the negative developments. We appealed the reasoning of the decision, as the violence was practically proven before the court, and if the father stops having parental rights only because he resigned from them, he may request them later.

One more way in which the system re-victimizes victims is that cases take so long that women go bankrupt while this lasts. It is common that abusive men deny the payment of a loan that the couple took together but is under the woman's name. Before finances are dealt with in court, the woman has to pay the instalments, or she may face eviction. It seems that the economic crisis has worsened this situation; several of our clients are on the bar list. Although we applied for urgency in these cases, this was to no avail. We have complained about this to the ministry, but they turned down our complaint saying that DV cases are already dealt with urgently. This is not the case. In one case we turned to the European Court of Human Rights complaining about the lengthy procedure and also for not taking into account domestic violence when ruling the division of common property. While we are waiting for the decision of the Strasbourg court, the auction of our client's flat is on its way and the authorities have refused to take the international procedure into account.

In the majority of cases we are called into the process at a stage when procedures have already started and the victim sees that she has difficulties enforcing her rights. This has long presented a problem, as we have felt that it is more difficult to influence the outcomes of an already ongoing case. In one of our cases (a case involving child sexual abuse and stalking of the ex-wife) we now have the opportunity to see if the case ends differently if Patent's legal aid deals with it from the beginning to the end. We are working on several aspects of the case simultaneously: we submitted the original report to the police, we filed a psychologist opinion, we talked to the psychologist expert appointed by the police, two of the colleagues working for Patent's legal aid were questioned by the police, and both a colleague from NANE and Patent keep a constant contact with the client to deal with any emotional, legal and strategic emergency, while a colleague of Patent keeps working with the child. This case is important in that it can inform our strategy for the future, whether we should deal with cases from the very beginning. We consider it already a success story that, in contrast to the usual procedure, the visitation right of the father has been suspended during investigation.

As we have said above, we have seen what can be achieved in all the types of legal cases that can arise when domestic violence is perpetrated. One exception is visitation cases where the child is over the age of 14. This is an important age, because that is when a child becomes a young person under Hungarian law. Although a young person is still a minor, and as such, for example s/he may not vote, he or she has the right to make some legal statements, whereas before 14, only the parents can legally make statements for their children. We are involved in a case where a 14-year-old has repeatedly stated that she does not want to meet the father, nevertheless the Child Guardianship Authority is trying to force the child to see the father, and keeps fining the mother for not ensuring visitation (fines can go up to millions of HUF, and may even lead to the imprisonment of the parent "not ensuring visitation" based on the Hungarian Criminal Code). All this is in blatant violation of the law, under which the child's will should be taken into account, while clearly not in violation of the prevailing professional and legal opinion holding that a child should be prepared by the parent with whom s/he lives to "want to see" even an abusive parent living apart. With this one case, we are probably finishing the phase of basic strategic litigation where we were trying to create precedents for the various case-types.

We have also been involved in another case, where a woman was taken into prison following a DV incident. As it seems, she inflicted some minor harm on her husband in self-defense. However, it took repeated requests on the part of our lawyer to have her medical report, taken by the prison doctor and testifying to bodily injuries suffered by the client in the same incident, to be taken into consideration by the prosecutor before she (the prosecutor) stopped requesting repeated extensions of the pre-trial detention. The children, both minors, stayed at home with the apparently abusive husband/father while the woman was in custody and later, while she was released to house-arrest at her parents'. In this case the authority we targeted was the law-enforcement (both police and prosecution) to see if there is any differential treatment between women versus men thought to be

perpetrators of domestic violence. As it turns out (and other cases also support this finding), the system is much more eager to respond if it is the woman who is thought to be violent – a further indication that it may not be the ability to recognize violence that stands in the way to efficiently respond to DV on the part of authorities. It bears noting that the leadership of the prison has been very open to cooperation and has contacted us with several similar victims within the same prison. It may be the beginning of a fruitful cooperation.

Recently enacted legal instruments: substitute private prosecution, harassment and restraining orders

Substitute private prosecution (a procedural possibility to take prosecution over by the client if the state prosecution drops the case) and harassment (a relatively new crime in the Criminal Code), , both having a strong relevance to DV, were also subjects of our “experimental” litigation program in this phase. The former, to the best of our knowledge, was never utilized in any DV case prior to this project, the latter was only introduced to the Criminal Code in January 2008.

The relevance of these sections cannot be overstated. Private prosecution potentially has the power to put the leadership of the case into the hands of the victim to the maximum extent possible depending on the judge, thus providing the opportunity to investigate the very limits of possibilities within our judiciary system and approach.

The new harassment section, on the other hand, theoretically fills a gap that has long made DV victim's cases extremely difficult to pursue: the harasser (stalker) of the DV victim often successfully intimidates the victim into s to the best of our knowledge, was never utilized in any DV case prior to this project, the latter was only introduced to the Criminal Code in January 2008.

The relevance of these sections cannot be overstated. Private prosecution potentially has the power to put the leadership of the case into the hands of the victim to the maximum extent possible depending on the judge ilence. This, theoretically, could be stopped with the help of the new section. However, according to our previous experiences, law-enforcement have a habit of coming up with strange and fully unfounded excuses (and even peculiar legal-interpretations) to refuse using it against stalkers in DV cases. Therefore, we have had a special interest in testing the utility of these existing legal tools for DV victims.

The legal instrument of the so-called preventive restraining order entered into force on 1st October 2009. We put special emphasis on monitoring this new legal tool right from the beginning. We brought the first case before court just a few days after the law had entered into effect. It is still too early to draw consequences, but we already can state that there are many gaps in using the law and the lack of training for law enforcement officers bans the act to fulfill its already rather limited goals.

Substitute private prosecution

Substitute private prosecution is an option for victims of criminal acts where state should represent the prosecution under the law, but the case is dropped. In these situations, the victim, acting as a private plaintiff (private prosecutor), has the right to have the case reopened. Since prosecutors are not particularly sensitive to the reality of DV cases, these cases are often dropped and so private prosecution can play an important role for those DV victims who are willing to pursue a case on their own account. A recent study has shown that the majority of the private prosecution cases do not get to the point of being reopened at all but are turned down by the courts before the first hearing. So it seems to have a strategic importance to pursue such cases.

Our results with our private prosecution case related in our previous report was that the we managed to write a convincing appeal to have the case tried in court, however our motion was

turned down. Since then, we have appealed that decision and the Supreme Court obliged the court of first instance to carry out a new procedure, which we are waiting for now.

In another case, the court dropped the case despite the fact that the criminal procedure had established it as a fact that the father had caressed his son's genitals. A psychologist expert claimed that he had no sexual intentions; this is only a "form of communication" for the father. We filed a private prosecution which awaits decision by the court. It bears mentioning that the first communication took place over a year ago and we are still waiting for the first hearing. Apparently substitute private prosecution cases stay at the bottom of the courts' priority lists, as the law does not specify the timeframe to settle these actions.

To sum up, substitute private prosecution seems as problematic as any other legal procedure in the field of DV. We need further case-experience to work with some cases to be able to pinpoint all of specific problems in this area and provide suggestions for solutions, but it is already visible that one of the major obstacles is embedded in the criminal procedure: the substitute private prosecutor has much weaker procedural privileges than the state prosecutor, further weakened by judges' likely bias against private persons in the position of prosecution. As it is fully within the discretion of the judge to allow or disallow a motion (hearing a witness, or allowing the employment of further forensic experts, for example), such "professional-procedural" bias, on top of the apparent bias against DV victims, makes this legal tool difficult to exploit in favor of the victims, although it can be the only remaining possibility.

Harassment

We have been involved in a few harassment cases. It is becoming more and more obvious that the authorities have a difficulty applying this law. We discern a pattern that if there is any kind of relationship between the perpetrator and the victim (they have children together, joint property, they are ex-partners) the harassment will not be established. For instance it is typical that abusive men use the visitations or the custody rights as a pretext to harass their ex-partners. Authorities fail to see these instances as harassment saying that issues concerning the children must be settled—even if this entails counts of calls to the mother using harassing language. Harassment in the family remains basically unpunished.

To support these impressions, we have been asking the Justice Ministry for actual statistics on this legal instrument and hope to receive some in the near future. We also initiated a substitute private prosecution action to reach the court with a harassment case.

Restraining orders

During a previous project funded by OSI, we published a study on the first two-year experience of the use of criminal restraining order. We concluded that this instrument is slow, inefficient and not able to protect victims of domestic violence. We drafted many proposals in order to improve both the legal regulation and its application. We achieved some results, now the judge can issue the order for a maximum of 60 days, not only for 30 days as earlier. As mentioned before, the act on the so-called preventive restraining order also came into force as of 1st October 2009. We managed to play an active role in the preparation of the police to apply the law properly, unfortunately the judges do not receive training at all on the subject of DV. We are collaborating with the Hungarian branch of the Association of Women Judges in studying the judicial enforcement of the law. In advance, we already can state that the usual biased, victim-blaming, unprofessional attitude can be observed on the judges' side.

Innovative tools

One more strategic area was the use of amici curiae, which has varied results. The reactions of the courts range from completely disregarding them or refusing to take them into account, through taking them into account, to threatening to sue Patent for filing an amicus curiae. We contacted various human rights NGOs to sign on our petition we prepared to submit to the president of the Supreme Court, Dr. András Baka. Apparently other NGOs face the same problem when trying to apply the instrument of amicus brief.

We have been experimenting with the use of recording equipment to evidence DV cases. We have made the best use of voice recorders and have used the recording in a few cases. Notably, our psychologist analyzed the recordings in one case and established that the father was using the visitation to undermine the mother-child relationship, and used verbal violence, including threats of physical violence, against the child. In this experimentation a recent statement by the Supreme Court has helped us. Originally recordings made without the consent of an accused party could only be used in penal cases. However, since last year, they can be used in civil cases. This is an important step, as many of our clients are involved in divorce and/or custody procedures and not in criminal law cases. We have used video recording in one case, admonishing the abusive man of the consequences of the recording in case he behaves violently, which has changed the man's behaviour in the short term.

Innovation in the operation of the legal aid

We extended the existing integrated services to include fact finding and directly talking to authorities in specific cases: in one case, while the lawyer working on the case in the framework of the strategic litigation program took the legal measures, another colleague went on a fact finding mission and collected valuable evidence. She also visited the prison, where our client was held in custody for protecting herself from her abusive husband and causing injury to him in the process in order to ensure the client is informed of the steps taken in the case. The fact that she was released is likely the result of our very active work using a varied approach.

Dealing with the clients in an integrated system has gained a new dimension as our psychologists have come to provide expert opinions in increasing numbers. Not just on the clients but expert opinions on earlier forensic expert opinions. Thus psychologists not only support clients psychologically, but point out problem areas, missing elements, unprofessional approaches and at times, biased opinions in other experts' practice, thus – in a subtle way – educating courts, police and child guardianship authorities of what they need to look out for in experts' contributions in the field of DV.

One more novelty has been our capacity to work pro-actively with cases that were widely publicized in the media. Because of our larger capacity, we were able to offer help in two such cases. Before, the workload of the legal aid has been so big that we could not concentrate on anything else. Now, with one more lawyer, and the inclusion of a trainee lawyer who works as a volunteer, we were able to use these highly publicized cases to put forward a message. We offered our professional assistance to the family of a woman who had been killed by her former husband at the scene of the visitation of their common daughter. A few months later we contacted the ex-fiancée of an actor who had been beaten up and raped by the celebrity.

Conclusions on strategic litigation

We have arrived at small victories, such as when a public administration authority condemned a child welfare service and a family support centre for not treating DV adequately and recommended that they train their staff. However these victories do little to change the system, because DV is

rarely recognized or acknowledged as serious in most of the cases, therefore they cannot become precedents.

All of the above led us to the conclusion that the next step is taking on cases where we can sue a state actor or the state for failing to perform their obligations with the hope that this will result in pressure and finally a change in legal practice and/or legislation will ensue.

From a theoretical point of view, we have to strike a balance between several somewhat contradictory possibilities and goals. As the overall goal of the program is to elicit policy and, if necessary, legislative changes, we need to select cases very carefully. This may at times present the problem that we can actually not know in advance which cases may turn out to be strategic in the long term, especially because cases that seem absolutely straightforward to us in the beginning may turn into scandalous at the hands of authorities. Yet, of course, we can not include all of the cases that we are approached with in the strategic program. Another problem is posed by the fact that Hungary is not a case-law country, therefore, in order to make precedent cases influential in any way, we will have to turn to alternative ways of making them visible. These are the main reasons behind the conclusion that now that we have mapped typical gaps, in the future we need to start focusing our attention on cases that raise the issue of the accountability of state and public actors for failing to provide protection to victims and to act with due diligence. The major challenge we foresee here is not a shortage of cases, or a lack of opportunities to link these cases with the typical gaps we identified earlier, but the delicate issue of victims who are willing to undertake the publicity that ideally will go with these trials.

Coalition building

Working group with professionals

The working group met fifteen times during the project period and produced the methodological guide for the professions dealing with DV. A professional cooperation evolved between participants, and also provided input for the journal articles that were written by the organisations' teams during the project period.

Methodological guide on DV

The guide includes general recommendations for all professions, and sections on police, health personnel, judges, lawyers, psychologists and custody evaluators. The major source of recommendations was the working group. We conducted a SWOT analysis of the institutional system dealing with DV, created a definition of DV (a good part of which was adopted by the Act on the Preventive Restraining Order enacted in 2009), and we reviewed how the restraining order is applied by the different professions. Later, the working group has served as a forum to discuss specific cases and to share ideas when any of the members came across a difficult case. After the case was discussed, participants made generalizations about what the problem was, where the system failed, and came up with recommendations for the guide.

Another source for the methodological guide was the available literature on what constitutes good practice for the various professions. We reviewed recommendations made by similar working groups, such as the findings of fatality reviews (reviews of cases where DV ended in death of the victim to find out where the system went wrong) from across the USA, the recommendations of the U.S. Prosecutor General on handling cases involving strangling in DV, recommendations by the British Home Office, police protocols from various countries, and extensive training guides for health care and legal professionals from international projects. We also utilized the few existing protocols in Hungarian, for example, reviewing and adopting relevant sections from police guidelines on DV, and following the work of a similar working group on youth protection.

A third source is individual professionals in the working group. The recommendations for the judges were drafted by judges (criminal and civil law fields), while two police officers provided police protocols and reviewed the recommendations for the police.

The recommendations were included in the publication of the project and have been published on the project website (<http://www.nokjoga.hu>).

Professional cooperation

Another result of the Working Group was the professional cooperation between members. The leader of The National Victim Support Service participating in the working group referred a client to our legal aid service. In another case we involved several of the cooperating partners (a children's rights representative, a child-protection expert and a lawyer) from the working group in a case-conference targeting a solution in a specific situation. We also had professional support from the working group regarding a child in one of our cases where the school was putting extra pressure on both the child and the mother disregarding the psychological indications that the child only needs to be left in peace and not pressured.

Professional journal articles

Originally the idea to write professional articles was to involve working group members as authors of the articles and to create information materials for professionals. We have been very active in trying to include the working group members and indeed, working group members provided valuable ideas and reviewed the articles. One working group member worked on getting the articles published. However, working group members (participating on a professional-volunteer basis), were too busy to take on the task of writing the articles, and finally two of the professional articles were written by our team members, and one was written by a judge occasionally participating in our discussions.

During 2009 we researched the literature on mediation in DV cases, and produced the background material on this issue, which was also published as an article in the journal for prosecutors.

In the first half of 2010, the police officer, who is a member of the working group, involved us in working out a questionnaire for a country-wide research on police procedures in DV cases. Unfortunately, the research institution that was entrusted with the research finally did not provide us with the data coming from the research, so we could not write the research article that we envisioned.

The two articles that were written are:

- Kuszting Gábor: Milyen érvek szólnak a mediáció alkalmazása ellen párkapcsolaton belüli erőszak esetén? *Ügyészek Lapja*. 2009, Országos Kriminológiai Intézet, Budapest. 33-55. This article is the background material that we developed on the application of mediation in DV cases.
- Spronz Júlia “Alibi-jogalkotás, látszatintézkedés” *Nagyítás*. 2010. “Nagyítás” is a social-political-cultural journal, and the article generated a debate on DV in the journal.
- Szepesházi Péter: Bírói jogi eszközök a családon belüli erőszak ellen a távoltartáson túl. *Magyar Jog*. In press.

Awareness raising

Apart from the professional articles mentioned in the above section, the following awareness raising activities took place.

Media events

International Women's Day, March 2009

The organisations organised a demonstration at Blaha Lujza tér on March 8th. Other organisations, such as Amnesty International, participated. For pictures of the demonstration please visit: <http://irgum.hu/marcius8/>

AVON-Zséda campaign, April 2009

The two organisations were involved with AVON and singer Adrienn Zsédényi, Zséda in a campaign in April 2009, to call attention to domestic violence through TV interviews, and to raise funds for NANE's hotline. The campaign went on for approximately one week and ended in an event at Vajdahunyad Vár with several celebrities, including Zséda, appearing and speaking out and staging performances against domestic violence.

Street action on police duties, October 2009

The aim of this media event was to create images and sounds that the media could use to call attention to the responsibilities of citizens and the police when there is DV in a neighborhood or block of flats. We timed this action at the time when the Act on the temporary preventive restraining order, which police officers issue on the spot of DV, entered into force. This event took place in Zugló (an average district of Budapest) on 11.10.2009. We walked down a street speaking into a megaphone saying: if you hear or see domestic violence in your neighborhood you should call the police, the police have a duty to answer calls and appear at the site of DV. Our volunteers put leaflets into the mailboxes of the neighborhood. In addition to our own speakers, we invited a police officer member of the working group, who gave interviews to the media about the fact that, under the law, the police must come to the site and deal with the perpetrator.

16 Days of Activism Against Violence Against Women, November 2009

Both NANE and Patent took a leading role in organizing these events. We were especially active in the events of the now traditional demonstration, which took place on 28.11.2009. We held speeches at Merlin Theatre, then the demonstration with the silent witnesses proceeded to Oktogon, where we lit candles in memory of the victims murdered by their partners or ex-partners in 2009. For details of the programs of the 16 Action Days please visit: <http://16akcionap.org/esemenyek2009>.

International Women's Day, March 2010

In addition to the now traditional demonstration on Blaha Lujza tér on March 8, NANE organised the International Women's Day Festival on March 7 at Gödör Klub, where a series of workshops and panel discussions were held, women artists performed and exhibited, and women's organisations and organisations with a women's rights mandate exhibited their information materials on tables and were available for discussion.

16 Days of Activism Against Violence Against Women, November 2010

Several panel discussions, numerous film shows, a flash mob and the traditional demonstration, a conference and two workshops took place in 2010. The 16 Days had a special focus on birth violence. NANE was organising the general logistics of the series of events and two training sessions, while Patent was organising the events on birth violence. For further details, please visit: <http://16akcionap.org/esemenyek2010>.

Press appearances and press releases

For the list of press appearances and press releases, please see the Appendix.

Web page

With the possibility to create a resource web page on violence against women we believe that we have gained a very valuable tool both for victims/survivors of different forms of VAW and for lay and professional support persons. We also wanted to make sure the web page can be used as a resource for decision makers and for press-workers. Thus, after a careful process of identifying our target groups, the web page will be called nokjoga.hu (“women's rights.hu”), and contains the following main entries:

- Basic information on VAW (background, types of VAW, myths and realities pages, why does she stay, why does she go back, why does he do it, prevention, statistics)
- For those affected by VAW (creating safety, where can you turn for help, healing readings, useful links)
- Types of cases and sample documents (divorce, visitation, child custody, property protection, child protection, criminal procedures, restraining, victims as accused, health procedures, how to get legal help)
- For support persons and decision makers (how to talk with victims, what to do, what not to do, why is your role important, your safety, if you feel you can not help any more, legislative and policy recommendations, professional protocols, amicus letters, international precedents, Hungarian precedents, available training courses, further readings)
- Publications, further resources
- From our cases
- Links to Hungarian and international documents and resources dealing with VAW
- Readers’ stories (optional).

The website was created and uploaded with material during the second half of 2010. The selection of the vast material accumulated by the two organizations throughout the years, particularly during the project periods under OSI funding, was governed by three principles: a) not to reciprocate homepages that already exist, b) yet, to provide the most comprehensive information on the issue of violence against women (and only that), and c) to be as practical in the provision of information as possible so that the page is useful for our multiple target groups. Our goal was to create an information center where victims, professionals and decision makers, as well as laypersons can find all the important information on DV in Hungarian. New material is still added to the website on a daily basis.

Publication

As at the end of each project, we publish the results in a booklet. Based on the success and good reception of our previous publications both among professionals and those affected by DV, we have tried to raise funds for the hard-copy publication of the planned booklet in this reporting period. Unfortunately, we failed. Nevertheless, we will create the publication to be available online, and will produce a number of printed copies for the launching event to hand out.

The booklet contains the following:

- Extensive recommendations (protocols) for the various professionals based on the work of the working group,

- Lessons learned from the strategic litigation,
- Journal articles.

As this booklet will contain the recommendations (suggested protocols) and important articles that have a long-term bearing (such as on the dangers of mediation in DV cases, for example), we will continue to try to raise funding for the hard-copy publication after the initial publication as well.

Training and accreditation

Police training

Working with future dispatch officers

A three-hour workshop with NANE's training coordinator as an instructor is part of the curriculum of the two-three week further training of police dispatch officers (since September 2008). During 2010 four dispatch officer trainings were organised by the national police headquarters at their training facility in Dunakeszi. These training events provide an opportunity for the trainer to raise awareness among police and educate police staff on DV in general, and on the results and recommendations formed within the framework of the present project in particular, especially on the good practice in relation to first police response.

2-day training to Budapest police officers with a mandate to issue restraining orders

On June 1-2, 2010 a two-day training for police officers from the different districts of Budapest was held with the cooperation of the Crime Prevention Unit of the Budapest Police HQ. Participants were chosen from among those officers who are responsible for issuing temporary preventive restraining orders (which is available since October 2009). All of the participants worked with victims and perpetrators of domestic violence. The structure and topics of the two day training were based on the experiences of the present Advocacy Project and the lessons learned especially from the strategic litigation element of the project up to now, as well as NANE's long years of experience in training of professionals in general and police officers in particular.

In order to ensure direct transfer of experiences, Julia Spronz, head of the strategic litigation program was invited as guest speaker to the training for a Q&A and "troubleshooting" session, where officers could bring up their legal questions and Dr. Spronz shared our clients' experiences regarding police (in)action in cases of domestic violence and stalking. Due to its shortness, the training made use of some shorter frontal presentations as well, but most of the time was spent using cooperative methods in order to facilitate the exchange of ideas, emotions, thoughts in the most intensive manner. During the training role-plays, simulation exercises and other group activities were used in order to ensure that the training did not only enhance participants' level of information, but also developed skills and shaped their attitudes in relation to working with domestic violence.

Series of workshops held to police officers with a mandate to issue restraining orders (organised by the national police headquarters, ORFK)

The Hungarian police has successfully applied for EU funding to organise nationwide educational events in relation to general victim support and best practice in responding to domestic violence. NANE's training coordinator followed the development of this projekt from the start, and participated in an international kick-off meeting in on July 5-6, 2010, where she has presented the experiences of NANE regarding police response to domestic violence as well as police training. She also commented (both during the meeting and afterwards) on a translated police manual on how to respond to domestic violence. A further, smaller preparatory meeting with representatives of different police branches as well as a Budapest prosecutor for offenses related to minors was

held on October 11, 2010, where the training coordinator also participated, contributed with both, methodology- and content-related comments. As a result of this meeting, NANE's training coordinator wrote a handout to future participants, that contained a narrative form of the presentations during the county-level trainings. On October 29, 2010 she and another NANE staff member participated in the national police training for county-level training organisers, where they run 90-minute workshops on the basics of domestic violence and post-traumatic stress (and how it influences police work with victims with severe experiences of violence, as well as on good practice on police response to domestic violence. After the national training, county police headquarters organised similar trainings on their own level, with the participation of (mainly) police officers with a mandate to issue restraining orders. Altogether NANE participated in 8 of the county level and special forces level trainings that were part of this project, 2 more Budapest-level trainings are to be held in February 2011.

Judicial training

As far as the judicial training is concerned, the first half of 2010 was mainly spent with organizing the trainings, which went fairly slowly, apparently due to the slow pace of public administration at the court and the court cancelled the dates several times. Finally, the training sessions were held on September 20 and 27, two full working days. This was a very successful training measured by the number of participants and their feedback. As a result of this training, the Budapest Court is considering to add an extra training day on domestic violence to the further training of future judges (clerks), as this is the point where the court has still the possibility to prescribe mandatory trainings, whereas acting judges have full discretion as to what educational events they attend or not. The tentative date for this training day is in June. Further talks are necessary to discuss financing as well as logistics and content. The judicial training was a good test, which has shown the decision-makers at the Budapest court that NANE is a worthy and reliable partner with a sound professional background in both contents and methodology required for training the judiciary. This good relationship contributes to the sustainability of the training activities for judges.

Social worker training

A three-day training for social workers on general help in relation to domestic violence as well as transferring the particular know-how on running support groups was held on November 22 to 24 2010 in Pécs in cooperation with the Esélyek Háza (House of Equal Opportunities) of Baranya county. This training also strongly built on the developments in the working group (the discussions and the recommendations) and on the experiences of the strategic litigation element.

Capacity building with a women's NGO of regional scope

In October and November, under the guidance of our training coordinator, NANE trainers run 28-hour capacity building training for a women's NGO working with small-town and rural women. The goal for the training was to share methodology for successful advocacy methods on how to work with professionals in the field of education on the issue of prevention of violence against girls and intimate partnership violence in schools, and passing on concrete training methodology.

Accreditation

After researching the relevant legislation and looking into successfully accredited materials to learn what is usually accepted by the different accreditation boards, the training coordinator submitted two courses for adult education accreditation as foreseen for the third year of the strategic plan. One of these is a training course for social-services professionals, the other one is for teachers and others in pedagogy. Both submissions were accepted by the relevant committees. The accreditation process was longer than expected (partly due to changes in the guidelines that took effect in the

middle of the project period) The training workshop for social workers has been awarded 30 credit points (the maximum for a 30-hour training), with a licence to organise trainings until the end of 2013. The 30-hour teacher training course received a licence until the end of 2015. Apart from the mainstreaming effect and a higher motivation for attending that result from accreditation, both social workers and teachers (or their employers) are ready to pay for courses that fulfil their mandatory participation at accredited trainings. Thus, an accredited training contributes greatly towards the sustainability of the training activities of NANE.

Other short training workshops

The following training workshops took place at the following events during the third year of the program (2010).

- NANE's International Women's Day Festival on March 7 at Gödör Klub: a workshop for teachers and youth workers on the prevention of teen dating violence with innovative pedagogical tools; a workshop for social workers and other helpers on running support groups for women victims of domestic violence.
- Day of Non-Formal Learning on April 19, where NANE's training coordinator met with professionals working with young people to share with them educational tools on the prevention of domestic violence among young people.
- Equality Bazaar program on May 12 at the Budapest Esélyek Háza, where NANE staff met professionals working with children and young people for one afternoon. The next day during another workshop NANE staff ran a workshop for social workers and other helpers interested in running support groups for women victims of domestic violence.
- On November 11 the advocacy coordinator was invited to run a workshop for students at ELTE Department of Media Studies on women's human rights, methods of advocacy and activism.

Advocacy with decision makers

The original plan with advocacy was to pressure decision makers on the national level for changes in policy and legislation on DV, after a coalition of professionals agrees that such changes are necessary, and after enough attention has been directed at this through our awareness raising efforts.

There have been two influences that changed this original plan. Working with the working group, we have become aware that the individual professions have a key role in the response to domestic violence and are open to dealing with the issue before (or even without) legislative changes take place. The protocols coming from the professions and not political decision makers may work well in several fields, such as with psychologists and social workers, however in more hierarchical professions like police and custody authority new regulations, legislations and official guidelines are more effective. (This is not to say that the police are not open to our ideas.) In addition there is some indication that the new government may be less open to our suggestions because of its "family values" orientation, under which even abusive relationships can be seen as something to be preserved. Indeed we sent an open letter to the Minister of Public Administration and Justice to inquire about the government's intentions on DV, and the ministry replied that they have no plans of re-regulating DV. Therefore influencing professionals and decision makers within professions will be a priority in our future advocacy efforts.

Below is a summary of the various advocacy activities that took place during the project period.

Discussion at the Justice Ministry, Bill on registered partnership (10.02.2009)

We took part in this discussion on behalf of the project partners. In addition to communicating the position of Patent on the part of the act regulating same sex couples, we communicated our position on parts of the act affecting women.

The Act on registered partnership created two new legal institutions. Before there had been only the unregistered or factual partnership, which is constituted by the fact of two adults living together, not by registration or a ceremony before a public registrar. The Act created two more institutions: a lower-level registration of the factual partnership by a public notary open for same-sex and different-sex couples, and the higher-level registered partnership created by the act of a public registrar open for same-sex couples only.

According to the act, this lower-level registration is open for persons 14 years old or older. Our position is that early marriage and similar institutions such as partnership, commonly used because it makes teenage pregnancy more acceptable for communities, often deprives women of the possibility of education. This is less likely if marriage and pregnancy come at a later age. Also, teenagers need a period of free trial with their peers to develop their own standards of sexuality and relationships. The CEDAW Commission has also recommended that Hungary should set the age limit of marriage at 18 years. The representatives of the Justice Ministry were divided on this issue and took note of our position. Finally, the Act contained the original suggestion of 14 years.

We also contested the Ministry's idea that the partner of a woman, who is a partner registered at the lower level, should automatically be considered as the father of a child that is conceived during the partnership of the woman and the man.

Codification of the new Civil Code in 2009

Lobbying the socialist fraction

We lobbied members of the socialist fraction in the Parliament dealing with the codification of the new Civil Code not to make it compulsory to mediate in cases of DV. We provided them with our position paper on the issue.

Conference on the Civil Code (20 to 21.01.2009)

We participated at the conference held for stakeholders on the codification of the new Civil Code. Our position was that joint custody of children should not be a mandatory part of custody cases as this would increase DV victims' exposure to a violent partner and/or father.

Closing Conference on the Civil Code (19.04.2009)

We participated at this event, and made the following points:

1. We repeated our position on the age of marriage and called attention to the recommendation of the CEDAW Commission that it should be 18.
2. The solution proposed in the Bill on the new Civil Code that parents should always have joint custodial rights over children was going to make battered women defenceless against harassment by the batterer. We suggested an exception from this rule in the case of DV.
3. The Bill also made it mandatory for parents to attend mediation when they are unable to agree on visitation and custody rights. We suggested an exception for DV cases, and handed/sent the ministries our position paper on mediation in DV cases.

Our recommendations were not included in the final version of the Civil Code. However, the enactment of the new Civil Code itself was halted by the general elections; therefore these amendments were not passed by Parliament.

Working group at the Ministry of Social Affairs and Labour (2008-2009)

The Ministry of Social Affairs and Labour has long endorsed the idea for putting forward some effective legislation on DV, though not much has been done on the issue. Several working group meetings for professionals were organized during the first three years of our four-year strategy period, partly to map out the common ground for such legislation. (This is not to be confused with our working group that works on protocols). These working groups included primarily actors from the social services area that deal with DV victims. The advocacy staff of NANE and Patent tried to ensure that the discussion included the possibility and necessity of a separate legislation on domestic violence – especially because much of the difficulties in the services came from the lack of specific legislation –, and looked at best practices from the USA and Austria. Representatives of the Ministry of Justice and Law Enforcement were present at some of the meetings and opposed the idea of separate legislation while the Ministry of Social Affairs and Labour supported this idea and wanted to go forward with it even without the support of the Justice Ministry. This working group lost its momentum with the new socialist government (of Mr. Bajnai, from April 2009 to May 2010) and the suggested legislation was not drafted under the umbrella of this Working Group.

National Action Plan (NAP) on Gender Equality

Both the CEDAW Commission and the EU Roadmap for Equality between Women and Men oblige its member countries to have an action plan on gender equality. The previous government undertook the drafting of the Action Plan in 2009, and entrusted a working group of gender experts coming from various fields to write the action plan; among them two of the experts of the present project (Judit Wirth and Julia Spronz), who wrote the chapter on violence against women. The work went on from 2009 to 2010.

Right before the 2010 general elections, the government finalized the draft for the Government Order on the National Strategy on Equality between Women and Men. The final proposal was an unfaithful reflection of the material that the expert working group adopted with regards to the chapter on violence. The Strategy passed by the government in January 2010 deteriorated even further from the original aims in this field.

Therefore, in our lobbying efforts we focused on calling attention to this fact, and to try to influence the upcoming Implementation Order so that it better fits with the original goals of the strategy as defined by the experts. However, the Implementation Order that was issued in April 2010 (one month before the general elections) fell way behind the expectations. Not only was it meaningless because of the timing, the government did not involve any of the members of the original expert working group in its drafting which is clearly reflected in the weak measures contained in the document. We have, of course, called attention to this in our lobbying efforts.

Legislation on DV

The process of drafting the Action Plan as well as the Ministry Working Group mentioned above provided us with an opportunity to discuss DV with representatives of the Justice Ministry. The Justice Ministry opposed DV as a separate crime in the Penal Code, however they were open to regulating DV in a way that violence against a family member would be an aggravating circumstance for the already regulated criminal acts. During 2009 the two experts working on the chapter on violence against women for the NAP were also asked to draft a concrete law proposal on DV by MEPs of one of the governing coalition parties (SZDSZ). While providing the ministry with

alternatives in case they wanted to strengthen the protection of victims by adding aggravating sections to the relevant paragraphs of the Criminal Code, we also drafted the specific text of a proposed act on the restraining order, based on international best practices. The proposal was taken up by the governing coalition, and finally became Act LXXII of 2009 on the restraining order in cases of violence among relatives. However, we were not satisfied, as the final law displays a range of regulations weakening the protection and position of the victims as an outcome of negotiations between the coalition partners (mostly the Ministry of Justice originally opposing the law and the proposing party). Thus, again, though a success of sorts, this law still falls short of what international good practice recommends.

Another element that can be viewed as success is the modification of the earlier law on the restraining order (Code on Criminal Procedure, sections 138/A-139) so that the court now can ban the perpetrator of domestic violence from contacting the victims for 60, instead of the earlier 30 days at most. This change most likely came about because of the research conducted within the framework of this program in 2008-2009 and the ensuing professional consensus we succeeded to build and communicate to the media and to decision-makers with regard to the ineffectiveness of the short period of restraining batterers.

2010

From January to June 2010 the general elections in Hungary took place. This set both the framework and the limits of meaningful activities as far as political decision makers were concerned, as they were busy with their campaigns and paid a lower than average attention to topical issues. At the same time, this allowed us to call attention to the importance of the issue of DV right upon the taking of office of the new government.

In January the last meeting of the Council of Equality between Women and Men under the previous government was convened, in which a representative of NANE participated as member of the Council.

In June we issued a press release together with the Hungarian Women's Lobby on the occasion of the June 4 Luxembourg Meeting of the EU Justice and Home Affairs Council calling attention to the obligations that Hungary has as a Member State in the field of violence against women, and especially DV.

The new government issued a "National Strategy for the Advancement of Gender Equality" soon after its formation. This was commented on by the Hungarian Women's Lobby, to which we (NANE and Patent) contributed regarding issues on violence against women, and specifically regarding the question of necessary improvements to the legislation on restraining. The answers are still pending.

Because of the above, we have concentrated our efforts during this period on lobbying professional groups (as we have explained above in the section of training and the working group), and on the drafting of the professional recommendations that will then be a basis for advocacy among both professional and political decision makers (along with the strategic precedent cases).

Evaluation

Qualitative indicators

Monitoring and strategic litigation

1. **Legal remedies in strategically important cases:** As has been mentioned, we have had a look at all the major types of legal cases that arise in DV cases, and where the procedures

have reached their end, have exhausted all legal remedies. We have identified the gaps both in the legal system and in procedures. Therefore we consider this indicator to have been fulfilled.

2. **Data-collection on the application of law in DV cases:** As has been mentioned above, we have exhausted these types of cases as sources of data on how the system works and in what ways litigation is possible, as new cases provide no further insights. Therefore this indicator has been reached.
3. **Data on the application of the restraining order:** Our own cases have provided some insights into the application of the (non-criminal) restraining order, and the working group members provided continuous feedback on the application and the use of the restraining order in their cases. We were informed of good practices concerning the “serving” of the restraining order on the defendant, and built that into our recommendations. The working group was unanimous in saying that the legal institution, while useful in some cases and better than nothing, is insufficient in its current form. We consider this indicator to have been fulfilled, while organization of and conclusions from the quantitative analysis of the new (2009) restraining order law will be finished as a next step.
4. **Data on the practices and attitudes of social workers in DV cases:** We did not carry out the full fledged research on the practices of social workers as envisioned in our original proposal as we had little funding other than that coming from OSI, and therefore we cut this research. Therefore we could not meet this indicator. However, we did get valuable insights into the practices and attitudes of the social professions both in our training and in our litigation activities which informs our further litigation strategies and our advocacy plans.

Awareness raising

1. **No major event related to domestic violence remains unanswered by the participating organizations:** We consider this indicator to have been accomplished.
2. **The press, the general public and the professional community will have a better understanding on the challenges and possibilities involved in law related to domestic violence:** Though this indicator is somewhat difficult to measure, our experience with journalists tends to reinforce that we have successfully oriented at least a part of the media (even one of the tabloids) to approach the issue from the victim's perspective. Some papers have regular authors seeking our expert opinions in highly publicized cases and render our views to the readers without alteration and with a deeper understanding of the underlying human rights focus than before. As far as the electronic media goes, some radios became powerful allies during the project period, while television remains a controversial forum. In any case, several times we succeeded to force different political actors to take a stand or to share plans regarding legislative or policy measures on violence against women through the help of the media. Therefore, we believe we have accomplished this indicator as much as it can be measured.
3. **The findings of the research in the previous OSI-funded project/year 1 of the strategy are widely publicized and debated among professionals:** Working group members, trainings, conferences and public events served as dissemination possibilities for the publication of the previous project entitled System Failure. Some 200 copies were distributed, and feedback is very good.
4. **Professionals are provided information on concrete tools to more effectively support victims and gain a deeper understanding of their possibilities and obligations related to domestic violence:** This indicator was realized by the various training events and to a lesser degree, the working group also served as a forum to enhance professional competencies.

Working group with professionals

1. **Participating professionals understand that their professions need to become active in finding new ways to apply existing legislation to protect victims:** Professionals accepted the necessity and the value of the methodological guide, and actively participated in its drafting. Although most invited working group members proved to be too busy to write extensive chapters, they contributed to the outcome in brainstorming and discussion sessions of the working group, and at professional events. In all of these, NANE and Patent participants took notes and built the insights and ideas into the proposed protocols.
2. **Participating professionals understand that their profession needs to take active part in advocating for policy change and possibly even for new legislation if and where necessary:** The same as above applies here. Furthermore, participants of the working group were instrumental in advocating for the modification of the criminal code restraining order as a result of this understanding. The working group (and its dissemination effect when participating professionals take the issues discussed, and materials produced there back to their institutions) results in the fact that we have a relatively broader base of professionals backing up legislative proposals when current laws ultimately and unquestionably fail.
3. **Some participating professionals become more committed to and active in lobbying for changing practices within their professions, and in lobbying on the legislative level.** Notwithstanding the above, we are not satisfied with achievements regarding these two indicators. Although participants agreed that the restraining order needed rethinking, that specific legislation on DV would be desirable, and that mandatory procedures could bridge some of the gaps between laws and practice, with only a few exceptions, we have not been successful in mobilizing most of the members of the working group to actively lobby for these desired changes. The reasons and consequences of this fact will be analyzed in the next step of the program.

Policy change

1. **Decision makers are identified within professions and on a national level.** We managed to identify and involve some decision makers from the professions in the working group, such as the leader of crime prevention for the Budapest police, the leader of the national victim support service, a leader of a custody authority, the head of the National Crisis Helpline. We agreed on several points, notably the professional recommendations for these professions. It remains to be seen, how they will apply the recommendations. National level decision makers were identified and we had discussions with them during the previous government. With the new government they were replaced, and we still need to find who would be our contact person. Notably, the Council of Equality between Women and Men, which served as a forum for advocacy, has not been convened and it is unclear who, if anyone, will be responsible for violence against women in the new ministries. We have contacted the minister to find out, but the only minister that has been named is responsible for work-life balance according to the government program. Also, we have plans to work with the various fractions in the parliament, where we are looking for informal contacts. All in all, mostly as a result of the change of government this indicator could not be fully realized, although some advances were made in the field of professional decision makers.
2. **Some decision makers both on the professional and national level understand the need for changing certain aspects of practices, protocols, standards and legislation.** With the earlier government, we had the support of the Ministry of Social Affairs and Labour that a new legislation on DV was necessary, while the Ministry of Justice and Law Enforcement was willing to codify DV as an aggravating circumstance. However, this was not translated

into action. With the new government, we yet to find allies (if there will any, given the policy priorities of the conservative leadership).

3. **Enough professional and/or public pressure is present so that the policy changes can actually be realized.** There were signs that with the previous state leadership we had some breakthroughs in more than one policy areas (criminal law, law enforcement, victim protection), but even then we lagged behind with family law or the health-care system. However, this indicator was clearly called into question with the change of the government in April 2010.

Quantitative indicators

Monitoring and strategic litigation

NANE helpline has approximately 800 relevant calls a year on average, out of which approximately 200 are channelled into the phone service of legal counselling. This will further screen the cases and refers 10-20 cases per year to the integrated client service, out of which 5 to 7 cases will be of strategic importance. These quantitative indicators have been met, we had 12 strategic cases.

Awareness raising

1. **4 press conferences:** We did not hold any press conferences, as other means were used to access the press.
2. **8 press releases:** 7 press releases were issued.
3. **6 press appearances (articles, news, reportage, etc.), including 3 articles by working group members:** 5 press appearances took place and 3 articles were written.
4. **6 videos on domestic violence:** 3 videos were finally shot or adapted.
5. **Accreditation of 4 of NANE's courses:** two courses went through accreditation.
6. **6 trainings for various professionals, 120 participants at training events: 10 full fledged training events and a further 5 smaller training sessions took place, with approximately 120 participants.12 kinds of leaflets reprinted, plus 2 reviewed and reprinted, each in 500 copies.** Because we could not find matching funds for this activity, we only reprinted 7 leaflets in 200 copies each. Also, we reduced the number of copies because we felt that there was need for less, and because we decided that a reprint of our earlier publication and the printing of the English version of our publication from the previous project (2007 to 2008), entitled System Failure was more useful.

These indicators were only partly met, as we could not find matching funds for many of the activities in the area of awareness raising.

Working group

1. **2 recommendations/protocols for specific professions.** We produced recommendations for 5 professions.
2. **3 articles by working group members: 3 articles were published, although 2 by members of the working group who were team members from Patent.**
3. **3 to 6 working group members participate at least once in NANE's trainings.** 3 working group members participated in NANE's legal training. Participants from social and child protection professions finally could not participate in any of the training courses.
4. **2 working group members participate in strategic litigation:** Two working group members participated as advisors in certain cases.

Conclusion

The OSI funding has made it possible to extend and upscale many of our activities. With our new strategic litigation program, we accomplished our goal, to collect information on all the kinds of legal cases that are connected to DV and to try out innovative methods to use the existing legal framework. Now, as a next step, we want to turn to suing state actors to pressure them to realize victims' safety and perpetrators' accountability. Our coalition building activities need reinforcement to mobilize the professions and professionals to disseminate the recommendations that have been worked out by the working group. Our awareness raising activities have been successful as we reacted to every major event in the DV field, trained approximately 120 participants in various professional training sessions, we made our trainings more attractive by accrediting two tracks and we updated, reprinted and produced leaflets and publications that victims and helping professionals use. We were more active in direct governmental-level advocacy in the first part of the project period (2009), as the opportunities diminished as the government entered the election campaign, and afterwards with the new government. Partly due to this reason and because we see an opportunity in professions adopting recommendations within the given legal framework, we wish to concentrate our efforts on the professions, while not neglecting opportunities to lobby national level decision makers.

Annex

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