FEMICIDE – THE ANALYSIS OF A SOCIAL PHENOMENON

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Abstract: Gender-based violence is a serious social phenomenon which endangers the basis of a democratic state. It represents a threat to the fundamental values which are at the basis of the European Union. The most serious form of gender-based violence is femicide. Over time, the institutions which regulate human rights have passed a series of stipulations meant to fight this phenomenon. However, this phenomenon is persistent, and it endangers the fundamental human right of all women: the right to life. This article contains a study of femicide from the perspective of gender equality, by analyzing the dimension of the phenomenon and the factors which favor femicide.

Key words: equality, gender-based violence, women, femicide.

1. Gender-based Violence – A Form of Infringing Equality

A meditation on the origin of man and society will lead to the conclusion that the origin and evolution of human rights coincides with the origin and evolution of law, as often state is the common denominator (Brac, 2001, p. 15). Human rights represent a series of basic rights which belong to all people and have turned into civil rights once they were regulated by the constitution. The first document which acknowledged certain rights for the protection of citizens was Magna Carta, signed in 1215. Furthermore, the American Declaration of Independence of 1776 regulated the fact that life, freedom and the pursuit of happiness are fundamental rights of all humans. However, the efforts of promoting fundamental rights became more specific after the end of the second world war, because of the genocide of Germany's nazi regime or the Japanese one when, in 1948, the United Nations passed the Universal Declaration of Human Rights. The purpose was to point out specific standards for the fundamental rights which would be acknowledged and respected universally. These standards were subsequently regulated as principles in European law and national laws. Thus, in 1950, the European Council signed the European Convention on Human Rights. 50 years later, the Parliament, Council and Commission passed, in Nice, the EU Charter of Fundamental Rights.

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Equality is a fundamental right and value which is the basis of the European Union; it reflects who we are (Gender equality strategy 2020-2025). Equality entails the lack of any type of discrimination based on the reasons stated in article 21 first alignment of the Charter, such as sex, race, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership to a national minority, property, birth, disability, age or sexual orientation. A serious form of infringing equality is gender-based violence. A lot of women suffer from different types of violence simply because they are women. The first official figures regarding the extent of gender violence date back to 2012 in the European Union, Thus, the official website of the European Institute for Gender Equality shows that the index of gender based violence was 27,2 in the European Union in 2012; among member states, the highest score for gender-based violence was registered in Bulgaria, i.e. 44,2, while the lowest index was registered in Poland, 22,1. Romania ranked below the European Union average with a score of 25. Although states in northern Europe have a very good index, above the European Union average, the violence index is quite high. For example, in Sweden, the violence index was of 29,7 in 2012, whereas the gender equality index was above the European average, at a level of 82,6. The situation was called by doctrine "the northern paradox" (Gracia and Merlo, 2016, p. 27-30). Several explanations of the phenomenon were suggested. One opinion claimed that, in these states, women are much more aware of their rights and it is easier for them to acknowledge cases of violence (European Union Agency for Fundamental Rights, 2012); some authors claim that, in these states, gender violence is higher because of different drinking patterns (Gracia and Merlo, 2016, p. 29) whereas others appreciate that it represents a new form of male hegemony where violence against women is used as a new form of male oppression in societies where equality is a fundamental value, a much more complex pattern of gender hierarchy. (Connell and Messerschmidt, 2005, p. 829)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted by the UN General Assembly by Resolution 34/180 of December18th, 1979 and which came into force on September 3rd, 1981, is the first international tool which approached the phenomenon of violence against women seen from the perspective of gender equality.

Acknowledging that gender equality is a key element in preventing violence against women, the Council of Europe passed, on May 11th, 2011, the Convention on preventing and combating violence against women and domestic violence, also known as the Istanbul Convention. For the first time, gender was defined in article 3 letter c of this Convention as "the socially constructed roles, behaviors, activities and attributes that a given society considers appropriate for women and men". Gender violence is also defined in article 3 letter d as "all violence directed against a woman because she is a woman or that affects women disproportionately".

For the first time, an international instrument distinguished between violence against women and gender violence, the relation between the two is that between a general matter and a specific matter, namely the first one represents genus and the second one, the species. The declared purpose of the Istanbul Convention is protecting women against all acts of gender-based violence which infringes upon fundamental rights. The

EU, by the agency of the Commission and of the presidency of the Council, signed the Convention in 2017, but the process was finalized in 2023. All member states signed the Convention, but six of them did not ratify it, believing it promotes gender ideology; these states are: Hungary, Bulgaria, Czech Republic, Slovakia, Latvia and Lithuania. Romania signed the Istanbul Convention in June 2014 and ratified it by Law no 30/2016.

Believing that eradicating gender violence is a mandatory condition for achieving gender equality, the UN passed the UN Strategy of gender equality 2020-2025 which contains UN measures for the prevention and sanction of all forms of violence against women. "It aims at achieving a gender equal Europe where gender-based violence, sex discrimination and structural inequality between women and men are a thing of the past. A Europe where women and men, girls and boys, in all their diversity, are equal. Where they are free to pursue their chosen path in life, where they have equal opportunities to thrive, and where they can equally participate in and lead our European society." (Bârsan et al., 2023, p. 161-168; Gender equality strategy 2020-2025, p. 2)

In May 2024, the European Parliament and the Council passed UN directive 2024/1385 of May 14, 2024, on combating violence against women and domestic violence. As it is expressly stated in article 1 of the directive, it states minimal regulations regarding the definition of criminal offences and penalties in the areas of sexual exploitation of women and children and computer crime; the rights of victims of all forms of violence against women or domestic violence before, during and for an appropriate time after criminal proceedings; protection and support for victims, prevention and early intervention. Based on article 288 of the Treaty on the Functioning of the European Union (TFEU), the directive is mandatory for all member states in obtaining the desired results, by allowing some freedom for national authorities regarding choosing the forms and means used to this end. The term of passing the Directive is June 14th, 2027. By June 14th, 2029, all member states need to elaborate a national strategy for the prevention and combating of gender violence.

To adopt the directive in national law, in December 2022, Romania passed the Decision for the approval of the National Strategy for promoting equality of chances and treatment between men and women and the prevention and combating of domestic violence for the time period 2022—2027. Romania does not have a law which expressly fights gender-based violence. Law no 217/2033 for the prevention of family violence is the judicial background which ensures the sanction of assailants for any acts of violence within families. Law no 146/2020 for the electronic monitoring of some judicial and criminal proceedings, Law no 211/2004 for some measures for the protection of victims of crimes or Law no 1551/2016 regarding the European protection order, as well as for the change and completion of other laws.

2. Forms of Gender Violence

Gender violence is a serious and widely spread phenomenon which does not pertain to social statutes. It comes from the unequal structural dynamic of power between men and women, an issue with deep roots in cultural, traditional and social rules (Women against violence Europe, 2024). "Gender is the basic dimension by which individuals see

the social world and their place in it" (Stavila, 2019, p. 177) and gender relations are exclusively seen as power relations between men and women. Gender violence can be psychological, physical or sexual.

Psychological violence entails any abusive behavior which affects psychological and emotional integrity. Forms of psychological behavior are controlling behavior, abusive behavior, economic violence, blackmail with/abuse of children. The means by which psychological violence is inflicted is often under the form of threats. Threat is a general characteristic of women's lives; it resides in the power of language to cause damage beyond words and anticipate a damage which is about to come (Butler, 2021, p. 7, 9). The FRA poll of 2014 shows that 43% of European women suffered one or more forms of psychological violence (FRA, 2014, p. 74). Regarding the situation of women in Romania, the same FRA poll shows that 39% of women who were interviewed were subjected to psychological violence by their partner.

Physical violence entails any type of aggression directed against the life or bodily integrity of women, whereas sexual violence entails the forcing or manipulation of women with the purpose of performing sexual acts. Regularly, physical or sexual violence is preceded by psychological violence. The FRA poll of 2014 regarding violence against women reports that 1 of every 3 European women, namely 33% of European women suffered from a form of physical violence after they turned 15 years old and 8% of women experienced a form of violence in the 12 months which preceded the poll.

Gender violence is most often seen in case of families, where the home usually turns into the most dangerous place for the abused women. There are studies which show that women are subjected to a higher risk of being physically, psychologically or sexually abused by their intimate partners that by any other person (Moreno, Jansen, Ellsberg, Heise, Watts, 2006, p. 1268). In 2020, according to the Global Gender Gab Report, 22% of women from Western Europe and 19% of women from Eastern Europe suffered one or more forms of physical or sexual violence within their family. The most frequent forms of violence were identified as shoving, slapping and hair pulling. In doctrine (Johnson, 2008, p. 2-3) three types of violence from the intimate partner were identified: intimate terrorism, violent resistance and couples' situational violence. Intimate terrorism is the classical variant of gender violence which includes all forms of "violent coercive control" regularly exercised with the purpose of obtaining control over the partner (Johnson, 2011, p. 290). Violent resistance is represented by the violent response towards the violence exercised over the victim whereas couple situational violence is represented by the spontaneous situations of violence which occur between partners.

3. Femicide – the Dimension of the Phenomenon

The right to life represents one of the basic values of democratic societies and one of the most important fundamental rights as there can't be any right or any freedom in lack thereof. Violence which resulted in the suppression of life of women is the most brutal and extreme form of manifestation of physical gender-based violence and it is called femicide.

The term femicide was first used by the feminist Diana Russel in 1976 at the

International Tribunal on Crimes against Women. Subsequently, she conceptualized the term along with Jill Radford in their work called "Femicidio: una perspectiva global" (Russell and Harmes, 2006, p. 76), defining it as the killing of a woman by a man simply because she is female.

The feminist Marcela Lagarde y de los Rios, who translated Russel's work in Spanish, suggested the use of the term feminicide. She stated that these two terms can't be confused as the first one pertains to the individual killing of a woman simply because she is female, while the second pertains to a social phenomenon neighboring genocide, based on gender criteria (Lagarde de los Ríos, 2006, p. 218, 223). In present days, both terms are used with the same meaning.

The UN Vienna declaration of 2012 is the first international instrument which uses the notion of femicide, defined as "the killing of women and girls because of their gender". It acknowledges 11 types of femicide: the murder of women as a result of intimate partner violence; the torture and misogynist slaying of women; killing of women and girls in the name of "honor"; targeted killing of women and girls in the context of armed conflict; dowry-related killings of women; killing of women and girls because of their sexual orientation and gender identity; the killing of aboriginal and indigenous women and girls because of their gender; female infanticide and gender-based sex selection feticide; genital mutilation related deaths; accusations of witchcraft; and, other femicides connected with gangs, organized crime, drug dealers, human trafficking and the proliferation of small arms. The most frequent form of femicide is the one committed by the intimate partner, namely husbands, common law husbands, exhusbands, friends, and boyfriends, aged 16 and over. In this case, we are dealing with intimate femicide, defined by Karen Stout in 1992 (Stout, 1992, p. 29 and following).

However, not every deed which resulted in the death of a female represents femicide. Femicide is differentiated from manslaughter by the fact that this usually occurs within a family and is the terrible outcome of the systematic abuse of the victim. A 2019 study of the United Nations Office on Drugs and Crime (UNODC) shows, that, in 2017, 87.000 women were killed throughout the world. Of these, 50.000 were killed by a family member or a partner (UNODC, 2019, p. 14). Another 2023 study of the United Nations Office on Drugs and Crime (UNODC) shows that, in 2022 throughout the world, 88.900 women were killed. Of these, 48.800 were killed by a family member or partner. Maybe these figures are not so impressive but, when performing a simple calculus, we will see that every hour more than 5 women were killed by a member of the family. (UNODC, 2023, p. 8.) Regarding Europe, the same study showed that, in 2022, there were over 2200 femicides. This figure does not reflect the true extent of this phenomenon as it only considers the cases which were reported; however, there are numerous Eastern-European states which did not communicate any official data regarding femicide. Regarding Romania, during the time period 2011-2015, 184 cases of intimate femicide were reported. (Balica, 2018, p. 17). EIGE collected data on manslaughter and homicide committed by the intimate partner during the time period 2014-2018; however, Romania did not report the EIGE index regarding femicide. From the data provided by criminal investigation authorities, during the time period 2020-2023 in Romania 413 women were killed. Out of these, 166 were reported as having been committed by the intimate partner (Crişan & Voicu, 2024).

Femicide is also different from manslaughter on account of the fact that it is preceded by other acts of violence as well of as the fact that it is characterized by a disproportionate relation of strength and resources as compared to that of the male partner (Cheianu-Andrei, 2023, p. 231).

Studies show that the main factor of risk for femicide is physical abuse, along with: isolation, possession of weapons, unemployment of the assailant, a highly controlling abuser, death threats, threats of using a weapon, the actual use of a weapon, forced intercourse, violence during pregnancy, attempted strangulation, a step child in the home (her biological child, not this child), an assailant who avoids arrest for domestic violence.(Campbell, Glass, Sharps, Laughon and Bloom, 2007, p. 264)

4. Factors which Influence Femicide

The main factors which influence femicide are the cultural ones. Cultural factors pertain to attitudes of accepting violence and gender roles, deeply rooted gender prejudice and gender stereotypes. "A gender stereotype is a generalized view or preconception about attributes, or characteristics that are or ought to be possessed by women and men or the roles that are or should be performed by men and women." (OHCHR, 2014). Gender stereotypes are those which lead us to believe that men and women are different. "They not only describe typical differences between men and women, but also prescribe what men and women should be and how they should behave in different life domains (Ellemers, 2018, p. 276). A 2000 study (Coker, Smith, McKeown & King, 2000, p. 559) has shown that women who grew up in families where the mother was abused by the father develop a higher risk of being abused themselves, as this type of behavior became part of their lifestyle. Furthermore, an interesting poll was performed in 2022 regarding domestic violence against women in Romania (Băluță & Tufiş, 2022, p. 73-74). For this poll, a questionnaire approached the issue of patriarchal values. 62% of respondents agreed that the man is the head of the family, 81% believed that women need the protection of a man, 42% believed that women should obey their husband/partner and be submissive to him, 19% agreed that it is better to remain in an unsuccessful marriage than to not marry at all and only 6% believed that it is better to remain in a violent relationship for the sake of the children. By separating answers depending on the gender, it was concluded that the percentage of women who agreed with these statements is 10% lower than the percentage of men. However, the general degree of acceptance of these values in worrisome. These values are not only those of the elder population (over 45 years old), but also of the younger generation (18-29 years old), the difference being that of 8-10% between generation. This poll confirms the fact that mentalities can't change as they are deeply rooted in the collective conscience. After 15 years from Coker's poll, collective mentality did not change. Why? Because stereotype determines a certain vision of gender seen as a measure of individual value. It generally forms a powerful filter through which we process objective information about men and women, and it is resistant to change.

The economic factors also contribute to the spread of domestic violence and femicide.

The lack of financial resources, low income, career stress or unemployment make women vulnerable to gender violence, as poverty is a community and society factor of risk in the increase of cases of violence (Matjasko, Niolon & Valle, 2013, p. 122).

Studies have shown that the rate of domestic violence against women is higher in poor neighborhoods. Also, the lack of a steady job and the financial pressure contribute to the increase of violence (Benson, Fox, DeMaris & Van Wyk, 2003, p. 228- 229). Another factor which contributed to the increase of cases of violence against women is the lack of housing which prevents women from leaving a violent partner. Control of financial resources of the women by her partner is also an increasing factor for gender violence and femicide.

The extent of femicide is determined by political factors which, even though they do not openly promote this phenomenon, tacitly tolerate and accept gender inequality. All this is owed to an inequality between the number of women and men in position of political leadership. Studies have shown that men are less interested in gender identity issues (Höhmann, 2024, p. 21).

Given that the number of women in European parliaments or national parliaments is below that of men, it is obvious that gender policies can't change. Thus, according to the Gender Equality Index 2023 elaborated by the European Institute for Gender Equality, the index for gender equality in the political sector in Romania is the lowest of all UN, namely 56,1 as opposed to the average EU index of 71,6.

The lack of unified European laws also contributes to the spread of gender violence. It is noticed that femicide is not regulated by any European instruments. Furthermore, national law does not display consensus regarding the incrimination of femicide. Thus, the first European state which incriminated femicide was Malta, in 2022. Its example was followed by Cyprus, Northern Macedonia, Belgium, Croatia and most recently, the Moldavian Republic. Romania does not have a judicial definition of femicide. Romanian law contains provisions regarding domestic violence, which show that, in the vision of the Romanian lawmaker, family is a social value superior to that of a woman's life. However, the author of manslaughter whose victim is a woman can be prosecuted for manslaughter, 1st degree murder, aggravated assault, rape followed by the death of the victim.

Judicial factors heavily influence the extent of the phenomenon. The difficult legal proceedings, lack of trained specialists and lack of faith in the judicial system favors the continuation of the phenomenon (Trăsnitu, 2023).

5. Conclusions

The fight for gender equality must continue as equality is a democratic issue, an issue of state of law. In its speech in the 2019 UN General Assembly, President Emmanuel Macron stated that "this fight for gender equality is essential. It is essential as it was not won by our societies, because femicide continues in France, much like other states. We must grant legal statute to this issue and build efficient actions in order to eradicate this phenomenon even more than we did until now as we are witnessing, in so many states, a decrease in gender equality between men and women by questioning women's right to decide on their own body and the achievements of past centuries, as whenever there

is inequality between men and women, there is a decline in civilization, growing obscurantism, increasing terrorism and a decline of education."

To ensure a violence-free climate, more decisive measures are needed, the first of which is setting up efficient programs of prevention. An important role in prevention is played by education. States in general and Romania in particular, must use education programs to change the collective thinking. Only a healthy education in the spirit of the European values can lead to a violence free world.

Legislative change, by passing common criminal policies in all European states regarding the incrimination of femicide and the seriousness of sanctions of assailants would be a good place to start. This would be possible by promoting women in political offices, as it is a well-known fact that men are less interested in gender identity issues. Thus, even though the European Parliament suggested the mandatory use of gender quota, it was rejected by the Council, largely formed of men, which shows the lack of any real will to change and the lack of consensus between the governing bodies of the UN on the issue of gender identity.

Monitoring the phenomenon of gender violence is extremely important as it provides information about the extent of the phenomenon and the measures which are required. In Romania, there is no official information regarding crimes of gender violence or the number of femicides; there is only one unofficial institution which collects data for the identification of femicide, namely the Romanian Observatory for the Analysis and Prevention of Manslaughter founded in 2018.

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