

# Some Measures to Prevent Domestic Violence

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**ABSTRACT:** The Romanian Constitution guarantees the equality of citizens before the law and public authorities without privileges or discrimination, as well as the rights and freedoms of all persons. It also provides that no person shall be subjected to torture or to any other degrading or inhuman or degrading treatment or punishment. Following the legislative changes in 2004, the National Authority for the Protection of the Family and the Rights of the Child was born in Romania, which was established by taking over the attributions of the National Authority for the Protection of the Rights of the Child, the Pilot Center for Assistance and Protection of Victims of Domestic Violence of Information and Consultancy for the Family and of the National Agency for Family Protection, based on the provisions of the Government Decision no. 1384/2009.

**KEYWORDS:** domestic violence, protection, prevention, measures, victim

## **Introduction**

The concept of “domestic violence” is broad and includes domestic violence (understood as violence that occurs between partners, whether spouses or cohabitants), but also violence against children, the elderly or other relatives. Regarding domestic violence, it is a repeated series of coercive behaviors and physical, sexual and mental attacks that a person manifests towards his partner, in order to control and dominate him, using force and/or taking advantage of the inability to defend victim, which occurs in a couple relationship (Toma and Constantin 2010, 6).

The phenomenon of domestic violence is present in our daily reality, closer or further away from our home, our values, our habits of resolving conflicts and those of self-control over impulses. The range of forms of violence is wide, covering all aspects of personality (Munteanu 2000, 8).

Domestic violence has long been considered a common manifestation in disorganized families and socially disadvantaged marginalized groups, but similar behaviors have been observed in families with a higher social status, who are not willing to recognize them, bringing a false, lower image of the magnitude of this phenomenon.

Maria Roth-Szamoskozi states that violence is universally present, but also condemned, as it affects human life both interpersonally and socially. At the interpersonal level through: acts of delinquency, acts of crime, physical, emotional and psychological violence between persons (family members or outside it); and at the social level through: wars, social inequality, inter-community and inter-national conflicts (Szamoskozi 2005, 12).

In the sense of Law no. 217 of May 22, 2003 for the prevention and combating of domestic violence, republished in the Official Gazette no. 948 of October 15, 2020, domestic violence means any inaction or intentional action of physical, sexual, psychological, economic, social, spiritual or cyber violence, which occurs in the family or domestic environment or between spouses or ex-spouses, as well as between current or former partners, regardless of whether the aggressor lives or has lived with the victim. Domestic violence also prevents a woman from exercising her fundamental rights and freedoms.

According to the same law, in art. 4 para. (1) provides that domestic violence manifests itself in the following forms: verbal violence, psychological violence, physical violence, sexual violence, economic violence, social violence, spiritual violence and cyber violence.

### **Legal tools for the prevention of domestic violence**

Family violence prevention programs, depending on the target group, can be of three types (Naum and Jurcă 2005, 166-169):

1) *Primary prevention* is part of the general effort to reduce the incidence of violence before violence occurs. Primary prevention refers to actions, programs, campaigns addressed to larger populations (country, county, and city), in order to raise their awareness and reduce tolerance to violence. Primary prevention is combined with political efforts to create laws and specialized services within communities;

2) *Secondary prevention* is included in the activity of the services and has as objective the identification of the persons who are at risk or the identification of the risk factors in the production of violence. Secondary prevention is addressed to groups at high risk of manifesting a certain behavior or to groups at risk of victimization. The selected risk groups can be children and adolescents living in families with violence, unemployed or low-income women who are unemployed and dependent on the unemployed, etc. Secondary prevention is established in the identified cases and aims at an intervention as fast and adequate as possible;

3) *Tertiary prevention* aims to reduce the conditions for violence in couples who face violence. This last form is more directed towards intervention. Tertiary prevention refers to actions on groups already affected by domestic violence: women victims, aggressors, abused children. Tertiary prevention is not the prevention of behaviors that are at risk of occurring for the first time, but the prevention of relapses, sanctioning and/or recovery of aggressors, safety of victims, recovery or treatment of effects and consequences (post-traumatic therapy, psychotherapy, treatment of emotional disorders and medical, victim empowerment, protection measures, knowledge of rights, etc.). Tertiary prevention is achieved through the intervention of organizations and bodies empowered to develop specialized services.

Violence prevention is a responsibility of both community services and community members:

- *The police* has an important role in stopping the social mechanisms for perpetuating violence. Police officers can identify various risk situations and can inform the social worker; police officers can also facilitate early intervention in the production of violence and can report situations with a high risk of violence;

- *Community doctors and nurses* - during office consultations or home visits can identify the various problems facing their families and children. They can provide information to families, guiding them where they can go, when they need support or to prevent violence;

- *Teachers* are also a good source in preventing violence and providing information to families facing problems;

- *The priest* can provide help to families in the community and can disseminate information on the occurrence and consequences of violence. Priests can also inform social workers about the existence of risk factors that can contribute to the development of domestic violence. Priests have an important role to play in preventing violence against the elderly or pregnant women. Given his special influence on the community, the priest has the opportunity to multiply information, to provide resources on risk behaviors and support services for children and adults.

Community members can support initiatives proposed by various professionals and can inform social workers about the existence of risk factors in the production of violence. Prevention programs are carried out according to the age of the target group, the cultural aspects involved and the way the information is transmitted.

### **Temporary/permanent measures to prevent and combat domestic violence**

*The security measures* aim to eliminate the state of public danger and prevent crime in general. The provisions of the Criminal Code and the Criminal Procedure Code as well as those of the Law on preventing and combating domestic violence are incidents in this field.

*The Presidential Ordinance* is a special procedure according to which the court may order temporary measures, in urgent cases, for: maintaining a right that would be damaged by delay; prevention of imminent and irreparable damage; removing the obstacles that would arise on the occasion of an execution.

*Restriction order.* According to most legal systems, a “protection” or “restriction” order is a temporary preventive measure that seeks to temporarily protect a person against any harm, by imposing a ban on another to approach him, home or work or to contact her by any means. In case of non-compliance, severe sanctions are provided. The measure can become definitive and can be extended for a long period of time. In some jurisdictions, this is a measure that can be taken by civil courts, for minors and family, and in others it is a measure of criminal law. Although it does not cease to generate controversy related to practical efficiency, it is still appreciated that such a measure remains extremely useful in ensuring immediate protection for the victim of domestic violence.

By Law no. 187/2012, for the implementation of Law no. 286/2009 on the Criminal Code, the security measure on the prohibition to return to the family home for a certain period was introduced. The court can take this measure against a person sentenced to at least one year in prison for hitting or any other act of violence. It can be taken for up to 2 years. This measure is an absolute novelty and is an attempt of the legislator, timid as it is true, in accordance with the purpose of the precautionary measures in the Criminal Code to remove a state of danger. The legislator tried by this measure to equate the restraining order with international law, but the lack of complementary amendments to the Code of Procedure led to its total inapplicability. (Intervention guide in cases of domestic violence 2009-2014, 13).

In cases where it is necessary to separate the victim from the aggressor, there is the alternative of temporary accommodation in public shelters. According to Law no. 174/2018, the county councils, respectively the General Council of the Municipality of Bucharest, and the local councils, with the approval of the agency (art. 23) have the responsibility of establishing the assistance centers for victims of violence, as well as the assistance centers for the aggressors. Law no. 174/2018 stipulates that public shelters for victims of domestic violence must provide free social support services, in compliance with quality standards, both the victim and the children in their care, such as: protection against the aggressor, medical care, food, accommodation, psychological assistance and legal counselling, for a determined period, until the family situation is resolved.

The centers for sheltering victims of domestic violence are social assistance units, usually without legal personality, which provide protection, accommodation, care and counseling to victims of domestic violence, who have to resort to this social assistance service. The reception of the victims in the shelter is done only in case of emergency or with the written approval of the family assistant, when the isolation of the victim from the aggressor is required as a protection measure. The persons who committed the act of aggression are forbidden to access the premises where the victims are located. The isolation of the aggressors from the victims is done with the consent of them or, as the case may be, of the legal representative.

## **Conclusions**

Domestic violence is not only a social and public health problem but also a problem of human rights violations. Domestic violence is at the root of many physical and mental illnesses, consultations, hospitalizations and temporary incapacity for work, as well as high drug use.

The family is the place where the law intervenes the least and where the highest frequency of violent acts directed against more vulnerable human beings, “more physically and mentally fragile” is observed. This often insidious violence develops according to a cycle where the intensity and frequency increase over time.

The consequences of violence are very serious both physically, to the point of homicide and suicide, and psychologically, often leaving dramatic sequelae.

This violence is often disguised, with victims feeling ashamed and guilty. Traumatized children express themselves in a particular way, presenting disorders that are difficult to interpret.

The intimacy of the family cell is often the area of unexpressed violent impulses in social life, induced by antecedents, reactions against social organization (working conditions, daily living conditions), conceptions of married life (sharing obligations, responsibilities), cultural conceptions of male/female relationships, husband/wife, but also of the individual means of enduring living conditions (alcohol, drugs, sedatives, drugs).

This intimacy is a "private space", a place of diversion, far from public disgrace and the sanction of reprehensible social acts and therefore it is difficult to discern the importance and seriousness of the acts of violence committed.

An additional reason for the victim, aware of the contemptuous social representation of the situation in which he finds himself, to keep a certain reserve and to hide the events he is experiencing and which make him suffer.

## References

- Munteanu Ana. 2000. *Violența domestică și maltratarea copiilor (Domestic violence and child abuse)*. Timișoara: Eurostampa Publishing House.
- Naum Monica and Jurcă Constantin. 2005. *Violența în familie în perspectiva Uniunii Europene (Domestic violence in the perspective of the European Union)*. Constanța: Muntenia Publishing House.
- Roth-Szamoskozi Maria. 2005. *Copii și femei victime ale violenței (Children and women victims of violence)*. Cluj-Napoca: Presa Univ. Clujeană.
- Toma Cristina and Constantin Mădălina. 2010. *Stop violența în familie (Stop domestic violence)*. Iași: Fundația Șanse egale pentru femei.
- The Romanian Constitution, republished in the Official Gazette of Romania no. 767 of October 31, 2003.
- Government Decision no. 1384/2009 for the modification and completion of the own Statute of organization and functioning of the National Agency for Social Benefits, approved by the Government Decision no. 1.285/2008, as well as for establishing organizational measures.
- Law no. 217 of May 22, 2003 for the prevention and combating of domestic violence, republished in the Official Gazette no. 948 of October 15, 2020.
- Law no. 272 of June 21, 2004, on the protection and promotion of children's rights, republished in the Official Gazette no. 159 of March 5, 2014.
- Law no. 187 of October 24, 2012 for the implementation of Law no. 286/2009 on the Criminal Code, published in the Official Gazette no. 757 of November 12, 2012.