

Based on Article IV.B.7 a)(IV) of the Constitution of the Federation of Bosnia and Herzegovina I
hereby declare

A DECREE
**ON THE PROCLAMATION OF THE LAW ON PROTECTION FROM DOMESTIC
VIOLENCE**

The Law on Protection from Domestic Violence enacted by the Parliament of the Federation of Bosnia and Herzegovina in the session of the House of Representatives held February 9th, 2005 and the session of the House of Peoples held March 3rd, 2005 is hereby declared.

Number 01-109/05

March 29th, 2005 President
Sarajevo Niko Lozančić (signed)

LAW
ON PROTECTION FROM DOMESTIC VIOLENCE

I – GENERAL PROVISIONS

Article 1

Scope of the Law

This Law regulates: protection from domestic violence, the notion of domestic violence, individuals who are considered family members in terms of this Law, ways of protecting family members, and the types and purposes of misdemeanor sanctions against the abusers.

Article 2

Procedure for Protection

The general principles and rules set forth in this Law and other acts which regulate the area of domestic violence shall ensure the prevention and suppression of this kind of violence; shall ensure efficient measures to persuade the perpetrators of violence and others not to commit violence; and remove the consequences of the violence committed by prescribing protective measures.

The procedures for protection shall be exercised in accordance with the provisions of the Misdemeanor Law unless this Law states otherwise.

The relevant misdemeanor court shall deliver the decision on the given protective measure immediately or in no later than eight days.

Article 3

Urgency of Ruling

It shall be the responsibility of the police, the agency in charge of custody and the misdemeanor court to offer protection from violent behavior in terms of this Law.

The bodies in charge of protection from domestic violence and the courts shall ensure urgent rulings in these types of cases.

Article 4

Access to a Misdemeanor Court

This Law shall ensure free and clear access to a misdemeanor court to all objects of protection; full and synchronized correlation of protection shall be ensured.

II – THE NOTION OF FAMILY AND DOMESTIC VIOLENCE

Article 5

Definition of Family

In terms of this Law, family shall be:

- 1) married and common-law spouses,
- 2) live-in relatives; blood relatives and relatives joined by full adoption in direct kinship (*linea recta*) regardless of the degree of kinship and in the *linea colateralis* up to the fourth degree of kinship; adoptive parent and adopted child in the case of partial adoption; in-laws up to the second degree of kinship;
- 3) guardian and protégé; foster parent and foster child;
- 4) formerly married and unmarried spouses.

Relationships between family members shall be based on humane principles which include mutual respect, support, and devotion, maintaining harmonious relationships while developing and demonstrating their best traits with particular emphasis on child protection, gender equality and voluntary entry into marriage or common-law marriage.

In their relationships, family members shall respect the rights, freedoms and safety/security of other family members in a manner that shall not be restrictive, set limits or prevent the exercise of the rights and freedoms guaranteed to family members in accordance with the existing laws.

Family members shall refrain from harming the physical or psychological integrity of another family member; injury and discrimination on the basis of one's gender or age; and subordination on any basis.

Article 6

Definition of Domestic Violence

Domestic violence shall be any act of inflicting physical, psychological, sexual or economic harm or suffering, as well as threats as regards the aforementioned, and lack of due care and attention which may seriously impede family members from enjoying their rights and freedoms in all areas of public and private life which are based on equality.

Acts of domestic violence, in terms of paragraph 1 above, shall include:

- 1) The use of physical force or psychological coercion to the physical or psychological integrity of a family member;
- 2) The behavior of a family member which may result in the physical, psychological, or financial damage;
- 3) Intimidation, threats or the violation of the dignity of a family member by blackmail or another form of coercion;
- 4) Physical attack of a family member by another family member, irrespective of the fact of whether there was physical injury or not;
- 5) Verbal attack, insult, profanity, name calling and other violent harassment of one family member by another;

- 6) Sexual harassment and harassment of a family member as defined in the Gender Equality Act of Bosnia and Herzegovina (Official Gazette of Bosnia and Herzegovina no. 16/03);
- 7) Stocking and other related forms of harassment of a family member;
- 8) Damaging and destroying joint property and possessions or attempts thereof;
- 9) Lack of due care for a family member or failure to assist and protect a family member when bound to do so by law and morality and when such inaction may result in the physical, psychological or socioeconomic endangerment of that family member.

Article 7

Reporting Domestic Violence

Healthcare providers and social workers, educators, medical institutions, educational institutions, other institutions and bodies, as well as nongovernmental organizations that, during the course of carrying out their duties, learn of occurrences of domestic violence shall have the responsibility to immediately report such cases to the police.

Family member or any individual who learns of occurrences of domestic violence shall have the same responsibility to report it as set forth in paragraph 1 of this Article, particularly if a minor is a victim of domestic violence.

An individual in paragraphs 1 and 2 above shall be the authorized applicant for the initiation of imposition of Protective Measures

Failure to report domestic violence shall constitute an offence.

III – SANCTIONS FOR PROTECTION FROM DOMESTIC VIOLENCE

Article 8

Types and Purposes of Misdemeanor Sanctions

Protective measures shall constitute misdemeanor sanctions for the protection from domestic violence.

The purpose of stipulating, pronouncing and enforcing misdemeanor sanctions shall be to provide personal protection to a family and its members – victims of violence, to ensure a healthy and harmonious family life, and compliance with the legal system.

IV – PROTECTIVE MEASURES

Article 9

Types of Protective Measures

The following protective measures shall be taken against an abusive person:

- 1) Removal from the apartment, house or other dwelling and being barred from returning to that apartment, house or other dwelling;
- 2) A restraining order;
- 3) The protection of the victim of domestic violence;
- 4) Prohibition from harassment and stocking;
- 5) Mandatory psycho-social treatment;

6) Mandatory rehabilitation.

Article 10

Purpose of Protective Measures

The purpose of protective measures shall be to prevent and repress domestic violence, to reverse the consequences of abuse and to undertake efficient measures to rehabilitate abusers and eliminate the circumstances that are favorable and encourage new acts of domestic violence.

Article 11

Removal from the Apartment, House or Other Dwelling of an Abusive Person and Barring their Return to That Apartment, House or Other Dwelling

The protective measure of removing from the apartment, house or other dwelling and barring a person from returning to that apartment, house or dwelling may be ordered for a person who has abused a family member with whom he/she resides in an apartment, house or other dwelling if the misdemeanor court finds that there is a risk that the abusive person might repeat an act of violence if this measure is not employed.

A person for whom the measure described in paragraph 1 of this Article has been prescribed shall immediately vacate the apartment, house or other dwelling, in the presence of a police officer, when necessary. The measure set forth in paragraph 1 of this Article shall be prescribed for a period of time of no less than one month and not longer than six months in duration.

Regulation for the implementation of the measure in paragraph 1 of this Article shall be enacted by the Minister of Internal Affairs of the Federation within 60 days from the day of entry into force of this Law.

Article 12

Restraining Order

A person who has committed an act of domestic violence may be put under a restraining order if there is a risk that he/she might repeat the abuse.

In its ruling on the restraining order, the court shall define places and areas and the distance which an abusive person must not come near a victim of domestic violence.

The measure set forth in paragraph 1 of this Article shall be prescribed for a period of time of no less than one month and not longer than one year in duration.

The regulation of the implementation of the measure in paragraph 1 of this Article shall be enacted by the Minister of Internal Affairs of the Federation within 60 days from the day of entry into force of this Law.

Article 13

Ensuring the Protection of a Person Exposed to Violence

A person who is exposed to violence and whose life is in jeopardy shall be granted the protective measure of ensuring the protection of the person exposed to violence, with the view of physical protection and ensuring that he/she may exercise his/her rights and interests without any fear and jeopardy to his/her own life.

The protective measure in paragraph 1 of this Article shall provide a person who is exposed to violence with:

- 1) Temporary shelter in social centers or safe houses, with other families or other appropriate places;
- 2) The right to temporary financial support from the alimony fund.

At the time this measure is prescribed, the misdemeanor court shall issue an order to a relevant institution or center to admit a victim of domestic violence for shelter and care until the enforcement of the measure in Article 12 of this Law.

Article 14

Prohibition of Harassment and Stalking

The prohibition of harassment and stalking as a protective measure shall be placed upon a person who harasses or stalks another person, if there is risk that he/she might repeatedly harass or stalk a person in Article 5, paragraph 1 of this Law.

The measure set forth in paragraph 1 of this Article shall be prescribed for a period of time of no less than one month and not longer than one year in duration.

The regulation for the implementation of the measure in paragraph 1 of this Article shall be enacted by the Minister of Internal Affairs of the Federation within 60 days from the day of entry into force of this Law.

Article 15

Mandatory Psychosocial Treatment

Mandatory psychosocial treatment, as a protective measure, shall be granted to an abusive person in order to remove his/her abusive behavior or if there is risk that he/she might repeat the abuse.

The measure set forth in paragraph 1 of this Article shall be prescribed for the duration of time until there no longer exists a reason for which it was assigned in the first place, but it shall not exceed two years.

Regulation on the manner and venue for the implementation of the measure in paragraph 1 of this Article shall be enacted by the Minister of Labor and Social Policy of the Federation, with the consent of the Ministry of Health of the Federation of Bosnia and Herzegovina within 60 days from the day of entry into force of this Law.

Article 16

Mandatory Rehabilitation

The misdemeanor court shall impose the mandatory rehabilitation, as a protective measure, of an abusive person who has committed an act of domestic violence under the influence of alcohol or drugs or other psychotropic substances, if there is risk that the abusive person might repeat that act if violence.

The measures set forth in paragraph 1 of this Article shall be prescribed for a period of time of no less than one month and not longer than two years in duration.

The regulation of the implementation of the measure in paragraph 1 of this Article shall be enacted by the Ministry of Health of the Federation within 60 days from the day of entry into force of this Law.

Article 17

Imposing Protective Measures

Protective measures shall be imposed by a misdemeanor court based on the residence of a victim of domestic violence at the time of filing a request for imposing protective measures.

Article 18

Filing a Request for Protective Measures

Protective measures may be order at the request of an abused person or his/her authorized representative or at the request of the police, prosecutor's office, foster agency, governmental or non-governmental organizations or *ex officio*.

Protective measures in Article 12 of this Law shall be ordered *ex officio*.

Protective measure in Articles 11 to 16 of this Law shall be ordered for a period of no less than one month and not to exceed two years from the day of the ruling, unless this Law provides otherwise.

Article 19

Responsibilities of the Misdemeanor Court and Foster Agencies¹

At the time of ordering protective measures, the misdemeanor court shall take into consideration the rationale behind and the weight of the measure, its effectiveness, and if necessary, the court shall replace that measure with another protective measure.

The foster agency shall, in accordance with the Gender Equality Act of Bosnia and Herzegovina, keep records of ordered protective measures, monitor their enforcement, inform the misdemeanor court of the enforcement, and put forth proposals to stop the measure or replace it with another protective measure.

The foster agency shall submit to the court a report on the purpose of the protective measure no later than six months or sooner at the request of the court.

If it is the opinion of the court that the victim of domestic violence needs immediate protection, the misdemeanor court shall order an appropriate protective measure as an independent misdemeanor sanction after the hearing of an abusive person, without waiting for the outcome of the criminal proceedings.

The decision in paragraph 1 above may be appealed no later than three days from the day of its delivery; the appeal shall not stay enforcement.

The ruling shall define the duration of the protective measure imposed upon the abusive person which shall start on the day of the decision becoming valid; or if urgent measure was imposed this time period shall be taking into account in a new measure.

V – PENAL PROVISIONS

Article 20

Offence

An official person who fails to report to the police an act of domestic violence from Article 6 paragraph 2 of this Law shall be sentenced to a pecuniary fine in the amount of KM 1,000 to 5,000 or a prison term of no less than 50 days.

VI – LIABILITY FOR INACTION IN REGARDS TO PROTECTIVE MEASURES

Article 21

Inaction in Regards to Protective Measures

A person who commits an act of domestic violence shall be responsible to act in accordance with the prescribed protective measure.

A person who fails to act in accordance with the prescribed protective measure shall be fined KM 2,000 to 10,000.

The decision in paragraph 2 above may be appealed no later than three days from the day of its delivery; appeal shall not stay enforcement.

VII – FINAL PROVISION

Article 22

Entry into Force

This Law shall enter into force the day after it is published in the Official Gazette of the Federation of Bosnia and Herzegovina and it shall be enforced six months after its entry into force.

¹ Translator's note: This term refers primarily to Centers for Social Welfare.