

LAW ON PROTECTION FROM DOMESTIC VIOLENCE

I – GENERAL PROVISIONS

Article 1

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 misdemeanour sanctions against perpetrators of violent actions.

Article 2

Rules and general principles set forth in this Law and other acts which regulate the field of domestic violence shall ensure the prevention and suppression of this kind of violence by application of the efficient measures to persuade the perpetrators of violence and others not to commit violence by prescribing the ways of realization of the protective measures and punishments.

The procedures for protection and punishment shall be exercised in misdemeanor procedure by applying the provisions of the Law on Minor Offences unless this Law states otherwise.

Grammatical terms used in this Law for masculine or feminine includes both genders.

Article 3

It shall be the responsibility of the police, prosecutor's offices, the Social welfare centers and the offices for social protection and the court to provide protection from violent behavior.

Subjects of the protection referred to in the Paragraph 1 of this Article are obliged, without delay, to ensure urgent rulings in these types of cases.

The Police is obliged immediately, with no delay after receiving a report on violence or information on violence, to submit their report to the Social Welfare Centre and the offices for social protection, which shall with no delay directly provide services of social protection and psycho-social assistance to victim of violence and shall prepare a report on it. After collecting evidence, the police shall submit request for initiation of protection measure against the perpetrator to the competent court, and shall without delay inform the competent prosecutor's office.

Unofficial Translation

Subjects of protection referred to in Paragraph 1 of this Article, medical and other competent institutions shall establish a mandatory protocol of proceedings in cases of domestic violence.

Article 4

This Law shall ensure free and clear access to the court to all subjects of protection referred to in the Article 3, Paragraph 1, aiming at ensuring full and synchronized correlation of protection system.

II – THE NOTION OF FAMILY AND DOMESTIC VIOLENCE

Article 5

In terms of this Law, family is a life community between parents and children and its other members:

In terms of this Law, family shall be:

- 1) married and common-law spouses,
- 2) their children (mutual or from the previous communities)
- 3) former marital or common –law spouses and their children
- 4) adopter or adopted child
- 5) guardian and protégé, as well as other persons who are living or had lived in the family community;
- 6) parents of the present and former spouses;
- 7) step-father and step-mother.

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 member 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

Unofficial Translation

Any form of domestic violence is prohibited.

Domestic violence shall be any act of inflicting physical, psychological and sexual harm, sufferings or economic damage, as well as threats to commit the aforementioned, and lack of due care and attention which may seriously impede family members and persons who are in close social relationships, regardless if among them there is or there was life community, from enjoying their rights and freedoms on basis of gender equality principle in all areas of public and private life.

The domestic violence and especially violence against women and children within the family represents severe violation of rights of women and children.

Acts of domestic violence shall include:

- 1) Physical attack of a family member by another family member, irrespective of the fact of whether there was physical injury or not;
- 2) Each use of physical force which does not result with direct attack or use of psychological coercion on physical or psychological integrity of the family member ;
- 3) Causing of feeling of fear or feeling of personal insecurity or violation of dignity by blackmail, verbal treat or other coercive act;
- 4) Serious verbal attacks, insult, profanity, calling with insulting names and other violent harassment of one family member ;
- 5) Stocking and other related forms of harassment of family member;
- 6) Damaging or destroying joint property and possessions or attempts thereof;
- 7) Lack of due care and supervision or failure to assist and protect when bound to do so by law and customs and when such inaction result in the physical, psychological or socioeconomic vulnerability.
- 8) Isolation and limitation in freedom of movement and communication with third persons;
- 9) Sexual harassment:
- 10) Deprivation of economic independence rights by prohibiting work or keeping the family member in dependant position or inferiority, by treats or by not giving livelihood subsistence as well as by other forms of economical domination of one family member by another family member;
- 11) Raising the children by physical punishment and other forms of humiliating treatment;
- 12) Other acts of violence in family.

Unofficial Translation

Article 7

Family member, subjects of protection, employees in education and social welfare institutions, as well as citizens who learn of occurrences of domestic violence in the family or if there are grounds for suspicion that domestic violence has been committed, shall have the responsibility to immediately report such cases to the police.

To provide for physical protection and to exercise the rights and interest of victim of domestic violence, without fear and danger, the police the Social Welfare Center or the office for social protection can, with previous consent of the victim, temporarily place the victim in appropriate accommodation (hereinafter: safe house).

The financial means for temporary accommodation and care of the victims in safe houses shall be provided from the budget of the municipalities and towns. entity in amount of 70% of the means necessary for functioning of the safe house, and from the budget of municipalities or cities up to 30% of the means necessary for functioning of the safe house.

The financial means provided from budget of the municipalities or the cities shall be transferred based on residential place of the victim to the competent Welfare center or the office of social protection which is obliged to forward the means to the safe house in which the victim is temporarily accommodated. The financial means provided by entity budget shall be transferred to the save houses.

Measure as referred to in paragraph 2 of this Article can be determined in terms of duration necessary to achieve the purpose of the measure itself, with the note that it cannot last more than three months. Exclusively, the duration of this measure can be extended for another three months, i.e. up to completion of proceedings and execution of decision ordering protective measure against the perpetrator.

The victim of violence, by measure as under paragraph 2 of this Article, shall be provided with temporary accommodation in social or other centers or with other families, or in other appropriate places.

To provide protection and ensure security of the victims of domestic violence, the police shall escort the victim to the house, apartment or any other housing facility to take his/her personal belongings and personal belongings of other persons that together with her had left mentioned facilities, and which are necessary to satisfy their every day needs.

III – KINDS AND PURPOSES OF MISDEMEANOR SANCTIONS FOR PROTECTION FROM DOMESTIC VIOLENCE

Article 8

Misdemeanor sanction for the protection from domestic violence is protective measures and a fine in case of disrespect of the protective decision.

The purpose of stipulating, pronouncing and enforcing misdemeanor sanctions shall be to prevent domestic violence, provide protection of health and safety of the victim of violence, prevent negative identification and remove favorable or stimulating circumstances for carrying out of new acts of domestic violence.

Article 9

The court may pronounce following protective measures against a perpetrator in the family:

- 1) Removal from the apartment, house or other dwelling;
- 2) A restraining order towards victim of the violence;
- 3) Prohibition from harassment and spying of the victim of violence;
- 4) Mandatory psycho-social treatment;
- 5) Mandatory rehabilitation for an addiction;
- 6) Socially useful work in benefit of local community.

The protective measures as referred to in paragraph 1 of this Article can be pronounced independently and without fine, or other misdemeanor sanction, and are subject of direct execution of the organ of the authorities competent for their execution, in the line with provisions of this Law.

Article 10

The purpose of protective measures shall be to prevent domestic violence by its application, to ensure necessary protection of health and security of the victim of the violence, and to remove the consequences which are favorable and encourage new acts of domestic violence.

Article 11

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 perpetrator who has abused a family member with whom he/she resides in an apartment, house or other dwelling, if the Minor Offence Court finds that there is a risk that the perpetrator might repeat an act of violence if this measure is not employed.

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A person for whom the measure described in Paragraph 1 of this Article has been prescribed shall immediately, without delay, vacate the apartment, house or other dwelling, in the presence of a police.

The measure set forth in Paragraph 1 of this Article shall be prescribed for a period of time of no less than 30 (thirty) days and not longer than 6 (six) months.

Regulations for the implementation of the measure in Paragraph 1 of this Article shall be enacted by the Ministry of Internal Affairs of the Republic of Srpska within 60 (sixty) days from the date of entry into force of this Law.

Article 12

A perpetrator 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, as of 200 m, which a perpetrator must not come near a victim of domestic violence.

The measure set forth in Paragraph 2 of this Article shall be prescribed for a period of time of no less than 30 (thirty) days and not longer than one year in duration.

The regulations of the implementation of the measures in Paragraph 1 of this Article shall be enacted by the Ministry of Internal Affairs of the Republic of Srpska within 60 (sixty) days from the date of entry into force of this Law.

Article 14

The prohibition of harassment and spying as a protective measure shall be placed upon a perpetrator who committed violence by harassing or spying another person, if there is risk that he/she might repeatedly harass or spy a person in Article 5 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 30 (thirty) days and not longer than one year in duration.

The regulations for the implementation of the measures in Paragraph 1 of this Article shall be enacted by the Ministry of Internal Affairs of the Republic of Srpska within 60 (sixty) days from the date of entry into force of this Law.

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Article 15

Mandatory psychosocial treatment, as a protective measure, may be granted to a perpetrator in order to remove his/her abusive/violent behavior or if there is risk that he/she might repeat the abuse towards the people referred to in the Article 5 of this Law.

The measure set forth in Paragraph 1 of this Article shall be prescribed for the duration of time until a reason for which it was assigned no longer exists in the first place, but it shall not exceed 2 (two) years.

Regulations on the manner for the implementation of the measures in Paragraph 1 of this Article shall be enacted by the Minister of Health and Social Policy of the Republic of Srpska, within 60 (sixty) days from the date of entry into force of this Law.

Article 16

Mandatory rehabilitation for an addiction, as a protective measure may be pronounced by the court to a perpetrator 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 perpetrator might repeat that act of violence.

The measures set forth in Paragraph 1 of this Article shall be prescribed for a period of time of no less than 30 (thirty) days and not longer than two years in duration.

The regulation on manner and place of the implementation of the measures in Article 15 and this Article shall be enacted by the Ministry of Health and Social Protection within 60 (sixty) days from the date of entry into force of this Law.

Article 17

The competent Court to conduct misdemeanor proceedings shall be the Court in which area the offence has been committed, exceptionally it shall be the Court in which area the victim of violence has the residence, or temporary residence,, if this is in the interest of the proceedings.

Article 18

Protective measures may be pronounced at the request of an person disposed to the violence or his/her authorized representative or at the request of the police, Prosecutor's office, Social Welfare Center, governmental or nongovernmental organizations or ex officio.

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

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Protective measure in Articles 11 to 16 of this Law shall be pronounced for a period of no less than 30 (thirty) days and not to exceed 2 (two) years from the day of final judgment on the offence, unless this Law provides otherwise.

Article 19

While pronouncing any protective measures, the court shall take into consideration the rationale behind, the severity weight and duration of the pronounced measure and its effectiveness.

The subjects of the protection referred to in the Article 3, paragraph 1 of this Law are responsible to monitor their enforcement and report to the Court on enforcement of the measures, and put forth proposals to stop or to extend the measure or replace it with another measure.

An appeal can be lodged against the decision ordering misdemeanor sanction as provided under this Law.

The subjects of the protection referred to in the Article 3, paragraph 1 of this Law are responsible to keep records of pronounced protective measures, of the victims of violence, and also of the perpetrators.

The competent authority in charge for enforcement of protective measure shall submit to the court a report on enforcement of the protective measure no later than 6 (six) months or sooner if necessary.

The Court and competent authority in charge for enforcement of protective measure are obliged, upon the request of the competent Social welfare center of the office for social protection, to submit records/information on pronounced measures and reports on their enforcement.

Article 20

A perpetrator who commits an act of domestic violence referred to in the Article 6, Paragraph 2 of this Law shall be sentenced to a pecuniary fine in the amount of KM 100 to 300 KM.

A perpetrator who repeat commitment of an act of domestic violence referred to in the Article 6 of this Law shall be sentenced to a pecuniary fine in the amount of KM 300 to 1,500 KM.

An adult family member who commits an act of domestic violence in the family referred to in the Paragraph 1 of this Article, in the presence of the child or minor person shall be sentenced to a pecuniary fine in the amount of KM 300 to 1,500 KM.

An adult family member who repeats commitment of an act of domestic violence in the family in the presence of the child or minor person shall be sentenced to a pecuniary fine in the amount of KM 500 to 1,500 KM.

A perpetrator who commits an act of domestic violence to the injury of the child or minor person referred to in the Paragraph 1, Article 5 of this Law shall be sentenced to a pecuniary fine at least in the amount of KM 600 to 1.500 KM.

An official person or person working in educational, social and health institution who fails to report an acts of domestic violence as under the Article 6, Paragraph 2 of this Law shall be fined in the amount of KM 100,00 to 300,00 KM.

An adult member of family who fails to report an acts of domestic violence against juvenile member of family shall be fined in the amount of KM 100,00 to 300,00 KM.

Article 22

A perpetrator who commits a domestic violence is obliged to act in accordance with the pronounced protective measure.

A person who fails to act in accordance with the pronounced protective measure shall be sentenced with a pecuniary fine in the amount of KM 300 to 500 KM.

Article 22a

Regulations on conditions for the work of safe-house shall be adopted by Minister of Health care and Social protection.

The existing regulations shall be harmonized with provisions of this Law within 60 days.

Article 23

This Law shall enter into force on the eight day from its publishing in the “Official Gazette of the Republic of Srpska. .

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31 January 2008
Banjaluka

President of the National Assembly
Igor Radojicic

Reasoning
for Passing the Law on Amendments to the
Law on Protection from Domestic Violence

I Constitutional Grounds for Passing the Law

The constitutional grounds for passing the Law on Amendments to the Law on Protection from Domestic Violence is contained in Item 1, Sub-item 5 of the Amendment XXXII to the Constitution of RS providing that the Republic shall regulate and ensure the exercise and protection of human rights and freedoms, and in Sub-Item 12 providing that the Republic shall regulate and ensure social security and other forms of social care and child and youth welfare. Pursuant to Article 70 Paragraph 1 Item 2 of the Constitution of RS, the competency for passing the Law lies with the National Assembly of RS.

II Statement of Grounds for Passing the Law

Although believed to be a rare occurrence, a great deal of research from around the world confirms that such a belief is mistaken and that domestic violence is in fact a huge phenomenon, so vast that domestic violence is treated internationally as a violation of human rights. This fact served as a basis for its introduction into our criminal legislation in June 2000, which was subsequently adopted in the new Criminal Code of RS within the category of criminal offences against marriage and the family.

However, a general evaluation made by the relevant actors in BiH and RS that the applicable criminal legislation does not provide sufficient and efficient protection from domestic violence led to the passage of the Law on Protection from Domestic Violence (OG RS 118/05), which entered into force on 1 January 2006.

The Law was passed for the purpose of providing efficient and more comprehensive protection from domestic violence, since the only protection available until then was that contained in the criminal legislation. Namely, the Law provides that cases of domestic violence are to be processed through misdemeanour proceedings in accordance with the Law on Misdemeanours and the sanctions that can be pronounced are limited to protective measures and fines. In order to achieve the application and implementation of the pronounced protective measures, the Law provides that the competent Ministries issue an appropriate Book of Rules, distinct from the Book of Rules on Establishment and Functioning of the Alimony Fund and the Book of Rules on Implementation of the Protective Measure of Work for the Benefit of Humanitarian Organisation or Local Community. Namely, the Ministry of the Interior has passed the Book of Rules on Implementation of Protective Measures (OG RS 26/06) and the Ministry of Health and Social Welfare Affairs has passed the Book of Rules on the Manner and Place of Implementation of the Protective Measure of Protection of the Victim of Domestic Violence, the Book of Rules on the Manner and Place of Implementation of the Protective Measure of Mandatory Alcohol and Substances Abuse Treatment, and the Book of Rules on the Manner and Place of Implementation of the Protective Measure of Mandatory Psychosocial Treatment (OG RS 97/06).

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The passing of the bylaws was indeed overdue. The lack of such bylaws has delayed application of the Law, and the situation further became complicated by passing of the new Law on Misdemeanours (OG RS 34/06) and its coming into force as of 1 September 2006. Namely, the provisions of the Law on Protection from Domestic Violence are not harmonized with this Law. This resulted in confusion for the actors responsible for protection in accordance with the Law on Protection from Domestic Violence. The Law on Protection from Domestic Violence contains the following provisions that are not in accordance with the Law on Misdemeanours: identification of actors responsible for protection, their conduct in cases of domestic violence, parties in the misdemeanour proceedings and the manner of initiation of misdemeanour proceedings, the actors to whom protective measures can be applied, the type of protective measures, territorial jurisdiction, urgency of pronouncement of protective measures, issuance of the decision on commission of a misdemeanour and filing of appeals. The new Law changes and accelerates misdemeanour proceedings, simplifies the proceedings and improves the efficiency in resolving misdemeanour cases, and in turn improves efficiency in resolving domestic violence misdemeanours.

Analysis of the court jurisprudence since the entry into force of the Law on Protection from Domestic Violence until today, apart from the lack of clarity in regulating some practical issues which impeded application of this Law, showed a lack of basic training of all competent actors. Namely, the case-law in a number of cases of domestic violence shows that misdemeanour proceedings are initiated for violation of the provisions of the Law on Public Peace and Order because of the failure of timely training of police officers about the Law on Protection from Domestic Violence. Such processing of domestic violence offences resulted in failures to request that the court order protective measures as a primary sanction. In this way, the victims remained available to the perpetrator and his/her influences such as threats, intimidation, etc. In this way, victims were exposed to undue influence, which often resulted in dropping of the charges due to a lack of evidence.

The applicable Law on Protection from Domestic Violence foresaw the amount of 750,000.00 KM in the Alimony Fund being available for its implementation, as well as passage of a separate program that would ensure implementation of the pronounced measures, accommodation of victims in safe houses, and training. The result of the failure to provide these resources was that the implementation of the Law was not followed by the logistical support, which in turn resulted in the aforementioned practical problems. Given the above, it was necessary to amend the Law on Protection from Domestic Violence in order to eliminate all difficulties and identified problems.

The amendments to the Law foresee financing of the pronounced protective measures and accommodation of victims in safe houses through municipal and city budgets as of 2009. Namely, the Draft Action Plan of the RS Government proposed by the Ministry of Health and Social Welfare Affairs, Ministry of Family Affairs, Youth and Sports, Ministry of Justice and the Gender Centre of RS foresees financing of the first phase of implementation of the Law (2007-2008). In this manner, sufficient time is given to municipalities and cities to ensure that the necessary resources are provided in the course of 2008 and for the full implementation of the Law in the 2009 budget plan. Pursuant to the existing statistical data on domestic violence, and other indications recognised until 2008, municipalities and cities will be provided with sufficient data for producing realistic financial plans.

Therefore, the Action Plan for implementation of this Law foresees that at the end of 2007 resources are secured from the budgetary reserves and in 2008 from the budget of RS in the total amount of 256,000.00 KM.

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For example, in 2007 the amount of 100,000.00 KM would be allocated for accommodation of victims of domestic violence in the safe houses in Modrica and Banja Luka.

The remaining resources would be allocated to the financing of: statistical data collection on domestic violence, a public campaign against domestic violence, capacity building of the social welfare centres, development of the strategy for combating domestic violence, creation of a framework for a sustainable model of shelters for victims, conducting public debate and for training of police officers, medical workers and social welfare centre employees.

Passing of a strategy against domestic violence (2009-2013) is foreseen as a concluding activity within the Action Plan.

For the purpose of joining with the existing campaigns for combating violence against women, including domestic violence, which is conducted in all countries members of the CoE, the Republika Srpska would substantiate its commitment to combating domestic violence by passing the Action Plan and the Law on Amendments to the Law on Protection from Domestic Violence. On 4 July 2007 the National Assembly of RS passed a Conclusion during its 12th session to forward the Draft Law on Amendments to the Law on Protection from Domestic Violence for expert discussion. Acting upon this Conclusion, the Ministry of Justice has conducted an expert discussion, which considered the fact that this Law regulates issues of particular importance for citizens and issues that require consultations with interested bodies and organizations, scientific and specialized institutions. At the end of September 2007, expert discussions were conducted in Doboj, Bijeljina, Istocno Sarajevo, Trebinje and Banja Luka. The joint conclusion resulting from these discussions was that the proposed legislation should ensure sufficient and efficient protection from domestic violence. The main criticism expressed by all participants in the expert discussion was that the police possess insufficient knowledge. However, we are of the opinion that during implementation of this Law, training should be conducted for all competent actors to improve their performance in this regard.

III The Content of the Proposed Provisions

Article 1 of the Law contains definitions of terms which do not have any substantive importance for the provisions of the Law. It also contains provisions in respect to principle of gender equality for elimination of direct or indirect gender-based discrimination.

The procedure of protection in accordance to this Law is conducted in the course of misdemeanour proceedings, which indicates that the prosecutor's office is not amongst the actors providing protection. Namely, in accordance with the Law on Prosecutor's Offices of RS (OG RS 55/02, 85/03, 115/03 and 37/06) the prosecutor's office leads prosecutions of perpetrators of criminal offences. In addition, in the Law on Misdemeanours (OG RS 34/06) the Prosecutor's Office is not listed as an authorised body entitled to file a motion for initiation of misdemeanour proceedings. Given that the prosecutor's office was deleted from the list of actors providing protection, a procedure is developed between the police and social welfare centres to act upon reports of domestic violence which are not regulated by other legislation. The responsibility of cooperation amongst key actors providing protection is regulated in this manner, as well as by interdisciplinary and cross-institutional approaches to each domestic violence case. In essence, a holistic approach to this problem is the only one that guarantees success in combating domestic violence. Domestic violence cannot be eliminated only by police intervention since its intervention represents only the first step that urgently requires follow up cooperation with other institutions - primarily, social welfare centres.

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Article 2 of the Law on Amendments to the Law represents a logical continuation of the identified necessity for establishing close and standardized cooperation amongst mentioned institutions and services within clear and precise procedures in the protocols to be applied. In this way the best practices would become a rule known to all partners in combating domestic violence and increase efficiency in combating domestic violence.

The misdemeanour responsibility provided in the Law on Amendments to the Law on Protection from Domestic Violence does not exclude criminal responsibility in cases where circumstances for conducting criminal proceedings are met. The police are legally authorised and responsible to notify the prosecutor in cases where grounds of suspicion that a criminal offence has been committed exist and any inconsistent action taken by police would be illegal. This obligation of the police is in fact a general obligation from Article 218 Paragraph 1 of the CPC which sets the obligation of the police to inform the prosecutor about criminal offence in case police assesses that there are grounds of suspicion that a criminal offence has been committed. However, this provision of the CPC puts an additional obligation on the police to take the steps necessary to locate the perpetrator, collect evidence etc. This obligation of the police is executed under the direction of the prosecutor, following the prosecutor's order for conducting investigations, which is in fact a confirmation of the police assessment of the existence of the grounds of suspicion that a criminal offence has been committed.

We specifically emphasise that Article 208 of the Criminal Code of RS defines domestic violence as a criminal offence and that all types of violence from Article 3 of the Amendments to the Law on Protection from Domestic Violence which foresee misdemeanour responsibility may be interpreted in light of criminal offences from Article 208 of the Criminal Code of RS. Therefore, we believe that protection of the victims of domestic violence was reinforced by introduction of misdemeanour responsibility of perpetrators of domestic violence in the proposed draft.

Article 3 of the Amendments to the Law sets general prohibition of domestic violence and lists acts of violence. The term domestic violence is terminologically and linguistically improved.

In new Items 10, 11 and 12 acts of violence are amended with introduction of economic abuse and abuse of juveniles in a childrearing process. At the end, the following sentence: "and other acts of domestic violence", foresees the possibility of occurrence of other acts of domestic violence which should definitely be considered prohibited, and therefore punished in accordance with the Law.

Article 4 of the Amendments to the Law expands the obligation on social welfare centre employees to who might come across cases of domestic violence while performing their duties to report it, in accordance with the Law on Misdemeanours which grants authority to the police for initiation of misdemeanour proceedings. The police is the only body authorised to receive reports on domestic violence. The obligation of family members to report domestic violence is stipulated in Paragraph 1.

This is the way to ensure protection and safety of victims of domestic violence. This means that right after the police intervene, who also have the obligation to notify the social welfare centre, the victim is placed in a safe house following assessment of her/his physical and psychological danger. The social welfare centres are authorised to make such an assessment and to immediately accommodate the victim upon his/her consent without waiting for the finalisation of the misdemeanour proceedings. This is the way to achieve practical urgency of

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handling cases of domestic violence and efficient protection of the victim. The protective measure allowing temporary removal of the perpetrator from the family has to be pronounced in the misdemeanour proceedings, in a decision on misdemeanour granting the right to appeal. When circumstances require, the application of the protective measure of removal of the victim from the residence must be conducted with the consent of the victim. This measure of temporary accommodation in a safe house represents a new solution in achieving the purpose of this Law. The safe houses, accommodation and services provided therein have to have fixed and permanent source of financing. Therefore, the accommodation and all the expenditures related to the accommodation of the victims is foreseen to be covered by the municipality or city of permanent residence of the victim and, for this reason, budgeted in each municipality and city. This would resolve problem of financing, and the transactions of the funds to the safe houses would be conducted through the social welfare centres.

In circumstances where a victim needs to get hold of his/her belongings from the residence in which the perpetrator resides, the court shall order police to escort the victim while s/he is taking her/his belongings. This means of protecting of the victim ensures that the violence is not repeated.

Another misdemeanour sanction provided in this Law beyond protective measures is the imposition of a fine. These amendments resolve the incompleteness of the current Paragraph 1 of Article 8 of the Law (Article 5 at present). Paragraph 2 of this Article is reformulated to reflect the purpose of imposition of both protective measures and a fine as misdemeanour sanctions provided in this Law.

The amendment to Article 9 of the Law (at present Article 6) corrects an inconsistency contained in the provision on pronouncement of the protective measure to the perpetrator, which referred to providing protection to the victim. Article 4 of the Amendments to the Law defines a measure of providing protection to the victim as a measure which is applied immediately, without delay, with the consent of the victim and an assessment by the social welfare centre. In addition, for the purpose of harmonization with the provisions of the Law on Misdemeanours and elimination of possible uncertainty about execution of pronounced protective measures, the new Paragraph clearly emphasises which authorities are the direct executors of the protective measures.

Article 7 of the Amendments to the Law provides for general territorial competence defined by the Law on Misdemeanours, but it also sets up an exception to allow easier access of the court to the victim. The court with territorial jurisdiction is the court of permanent or temporary residence of the victim.

Article 8 of the Amendments to the Law amends Article 19 of the Law to harmonise it with the provisions of the Law on Misdemeanours. This provision defines the obligation of monitoring and reporting about implementation of the pronounced protective measure by the actors providing protection. It also allows appeals against decisions on pronounced sanctions, which, in accordance with the Law on Misdemeanours, suspend their enforcement.

Paragraph 6 of Article 20 of the Law is amended to sanction authorised officials, medical workers, educational and social institutions employees for failing to report domestic violence cases. Fines are reduced to between 100.00 and 300.00 KM (Article 10 of the Amendments). The new Paragraph also fines adult members of the family for failing to report domestic violence against juvenile members of the family, which intensifies the severity of sanctions and

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protection in order to prevent illegal violence against children. The identical range of fines in the amounts provided in Paragraph 6 shall be applied.

Article 10 of the Amendments deletes Article 21 of the Law. Namely, it harmonises it with the provisions of the Law on Misdemeanours which provides for the execution of sanctions, that is deprivation of liberty due to failure to pay the fine- Article 82 Paragraph 5 of the Law on Misdemeanours: “Before deprivation of liberty the offender may propose to the court to perform work for the public benefit or for the benefit of the local community in exchange for paying a fine. The court shall keep a record of possibilities for performing such work in cooperation with authorized bodies...”.

The harmonisation with the Law on Misdemeanours, in particular with regard to its provisions referring to appealing and deadlines for appealing decisions on misdemeanours, required deletion of Article 22 Paragraph 3 (Article 11 of the Amendments to the Law).

A new Article 22a is added after Article 22 to provide for passing of new bylaws or harmonisation of current ones with the provisions of this Law, and their entrance into force (Article 12 of the Amendments to the Law).

IV Financial Resources

It is necessary to budget additional funds in the budget of RS for implementation of this Law. Namely, the Ministry of Finance has granted its consent and supported adoption of the Action Plan (2007-2008) for combating domestic violence, which contains a transparent financial plan of activities in total amount of 256,000.00 KM.

The Action Plan was drafted by the Gender Centre of RS, the Ministry of Health and Social Welfare Policy, the Ministry of Family Affairs, Youth and Sports, the Ministry of the Interior, the Ministry of Justice, and the Ministry of Finance.

The JPTC RS is responsible for the training of judges and prosecutors about domestic violence issues.