

## **DOMESTIC VIOLENCE PROTECTION ACT**

**Promulgated in State Gazette, No. 27/29 March 2005,**

**amended in State Gazette, No. 82/10 October 2006**

### **Chapter One**

#### **GENERAL PROVISIONS**

##### **Article 1.**

(1) The present act regulates the rights of individuals who have become victims of domestic violence, the measures of protection and the terms of implementation thereof.

(2) The responsibility under the present law does not exclude any civil and penal responsibility of the violator.

##### **Article 2.**

Domestic violence shall be any act of physical, psychological or sexual harassment, including an attempt thereof, any forced limitation of individual freedom and private life committed to individuals who are or were in family or akin relations, in factual matrimonial cohabitation or in any other form of cohabitation.

##### **Article 3.**

Protection under the present law can be sought by any individual victim of domestic violence committed by:

1. current or former spouse of the victim;
2. individual who is or was in factual matrimonial cohabitation with the victim;
3. individual who is the other parent of a child of the victim;
4. ascending-in-kin relative;
5. descending-in-kin relative;
6. brother or sister;
7. relative by marriage up to second grade;
8. guardian, trustee or foster parent.

##### **Article 4.**

(1) In case of domestic violence the victim is entitled to demand protection by the court.

(2) (amended – SG, No. 82/2006) In cases when there are indications of imminent threat for the life and health, the victim can address police authorities and submit a request for introduction of urgent measures in accordance with Article 71 of the Ministry of Interior Act. The authorities of the Ministry of Interior will then send the request to the court accompanied with explanation of by the violator, if any, and the record of proceedings including the enforced measures and identifying the circumstances that require immediate court protection.

(3) Upon request by the victim, every physician is obliged to issue a document which in written form certifies any damages and injuries incurred as a result of the violence.

#### **Article 5.**

(1) The protection against domestic violence shall be implemented as follows:

1. by obliging the violator to restrain from committing home violence;
2. by displacing the violator out of the inhabited location for the term as specified by the court;
3. by banning the violator to approach the domicile, the place of work and places for social contacts and recreation of victims at the terms and conditions as specified by the court;
4. by temporary appointment of the child domicile at the parent victim or at the parent who did not committed violence, at terms and conditions as specified by the court provided that it is not in contradiction with the interests of the child;
5. by obliging the violator to attend specialized programs;
6. by directing victims to participate in recovery programs.

(2) The measures under paragraph 1, items 2, 3 and 4 shall be imposed for a term varying between one month and one year.

(3) In any case the court, pursuant to the ruling as adopted under Article 15, paragraph 1, shall impose the violator a fine at the cost of between 200 and 1000 BGN (levs).

#### **Article 6.**

(1) The state shall create conditions for the implementation of programs for domestic violence prevention and protection and programs providing for assistance to victims of such violence.

(2) The bodies of executive power shall carry out recruitment and teaching of officials authorized to enforce the protection under the present law.

(3) The bodies of executive power, the natural persons and legal entities as incorporated in accordance with Article 18, paragraphs 2 and 3 of the Social Assistance Act shall work in cooperation with the individuals who are victims of domestic violence.

(4) The individuals under paragraph 3 shall develop, organize the implementation and implement the programs under Article 5, paragraph 1, items 5 and 6.

## Chapter Two

### PROCEEDINGS TO IMPOSE MEASURES FOR DOMESTIC VIOLENCE PROTECTION

#### Section I

#### General Terms

#### Article 7.

(1) The competence to impose prevention measures shall be of the regional court as per current address of residence of the victim, and in the cases under Article 4, paragraph 2 – the competent authority will be the regional court as per address of the regional police authority where the court protection was requested.

(2) The court, which hears a pending lawsuit where parties are the victim and the violator or the case refers to either of them pursuant to a reason envisioned in the Family Code or the Child Protection Act, shall be competent to impose a protection measure at whatsoever stage of the lawsuit.

#### Article 8.

The proceedings of issuing the court order can be initiated as follows:

1. upon request by the victim;
2. upon demand by the director of the Directorate for Social Assistance;
3. upon request by a brother or sister or by an individual who has direct and unlimited kin relations with the victim – in the case when immediate court protection is needed.

#### Article 9.

(1) The request or demand thereof shall be submitted in written form and include as follows:

1. all names, the address of residence and personal identification number of the person submitting the request or demand; in case that the victim is unable or unwilling to disclose his/her address, he/she can inform of a court address;
2. the names and current address of residence of the violator or any other address to be used for serving the summons, including number of telephone and fax;
3. information about the family, origins or factual relations between the victim and the violator;
4. description of the facts and circumstances under which the domestic violence was committed;
5. signature.

(2) In the cases under Article 8, items 2 and 3 the court shall constitute the victim as party to the lawsuit.

(3) The request under Article 8, item 1 shall be accompanied by a declaration of committed violence submitted by the petitioner.

(4) Upon request by the petitioner the court shall demand ex officio a certificate of conviction, a record of any previously imposed measures under the present law and a certificate whether the petitioner is under psychiatric surveillance.

**Article 10.**

(1) The request or demand shall be submitted within one month from the act of home violence.

(2) The request or demand shall be registered into a special register and appointed for consideration at the same date of registration.

(3) In the cases under Article 4, paragraph 2, the request shall be submitted at the nearest regional police authority.

**Article 11.**

(1) Upon submitting the request under Article 8, items 1 and 3, no state fee shall be paid.

(2) Upon issuing a ruling of order, the court shall assign the state fee and the court expenses for payment by the perpetrator of domestic violence.

(3) If the court refuses to issue an order or in case of cancellation of such order, the state fee and the court expenses shall be paid by the petitioner and in the cases under Article 8, item 2 the expenses shall be paid by the Social Assistance Agency.

**Section II**

**Hearing of the case**

**Article 12.**

(1) Upon registration of the complaint or request, the court shall appoint an open court hearing to be held within 30 days and together with the summons and copy of complaint/request, including appendices, shall inform the defendant of the obligation to submit evidence.

(2) In the cases under Article 8, items 2 and 3 the victim shall also be summoned to court.

(3) If needed, the summons shall be handed down with the assistance of police or municipal authorities.

**Article 13.**

(1) The proceedings of issuing a court order for protection shall allow any evidence means in accordance with the Civil Proceedings Code.

(2) Evidence means under paragraph 1 herein can be also as follows:

1. records of proceedings, reports and any other acts issued by the Social Assistance Directorates, physicians, as well as psychologists providing consultancy to the victim;

2. any documents issued by legal entities engaged with providing social services, which are registered into a special register at the Social Assistance Agency;

3. the declaration under Article 9, paragraph 3.

(3) When there is no other evidence, the court shall rule on a protection order solely on the grounds of the declaration submitted under Article 9, paragraph 3.

#### **Article 14.**

(1) Whenever the information submitted in the complaint/request reveals that the authorities of the Ministry of Interior or any other state authorities dispose of written evidence for committed domestic violence, the respective authorities shall immediately issue certified copies of such evidence, upon request by the victim, by representative or by attorney of the victim, or upon request by the court.

(2) In case that an authorized institution refuses to issue a document or a certified copy of a document under paragraph 1, the court shall impose a fine of BGN 100 (one hundred levs) in accordance with the provisions of the Civil Proceedings Code.

#### **Article 15.**

(1) The court shall rule on the case during a open hearing.

(2) Upon positive ruling on the complaint or request, the court shall rule on the issue of a protection order.

#### **Article 16.**

(1) By means of the protection order, the court shall rule on the introduction of one or more measures for protection.

(2) The court order shall include the warning against any consequences deriving from failure to observe it in accordance with Article 21, paragraph 2.

(3) The ruling and the order shall be handed to parties and in the case of a measure imposed under Article 5, paragraph 1, items 1, 2 ? 3 – also to the regional police authority as per current address of residence of both the victim and the violator.

#### **Article 17.**

(1) The court ruling can be appealed at the district court within seven days from handing it down. The appeal shall be submitted through the court, which ruled on the case, together with a copy for the other party. The appeal can be accompanied by new evidence.

(2) The procedure of appeal shall not interrupt the enforcement of the court order.

(3) The regional court shall send a copy of the appeal, together with appendices, if any, to the other party and the latter is entitled to make objections or submit new evidence within three days from

the date of receipt. After the elapse of this term, the appeal, accompanied by appendices and objections, if any, shall be sent to the district court.

(4) The district court shall hear the appeal with 14 days during an open hearing when it shall summon the parties under Article 12 and rule on the case in substance to confirm, repeal or amend the appealed ruling. When amends the order, the court shall issue a new order.

(5) The ruling of the district court is final.

#### **Article 18.**

(1) When the complaint or request includes information about direct or indirect imminent threat for the life or health of the victim, during a closed hearing the regional court – without summoning the parties – shall issue an order for immediate protection to be provided within 24 hours from the moment of receipt of the request or demand.

(2) The order under paragraph 1 shall be handed to the parties and sent ex officio to the regional police authority.

(3) When the evidence under the case shows that it is necessary to adopt measures in accordance with the Child Protection Act, the court shall inform thereof the director of the Social Assistance Directorate.

(4) The court shall appoint case hearing within 30 days and together with the summons and copy of complaint/request, including appendices, shall inform the defendant party of the obligation to submit evidence.

(5) In the cases under Article 8, items 2 and 3 the victim shall also be summoned to court.

(6) If needed, the summons shall be handed down with the assistance of police or municipal authorities.

#### **Article 19.**

The order for immediate protection shall be enforced until the court rules on the issue or refuses the issue of protection order.

### **Section III**

#### **Enforcement of the protection order**

#### **Article 20.**

The protection order shall be subject to immediate enforcement.

#### **Article 21.**

(1) Police authorities shall be engaged with control on the enforcement of the order whenever the latter provides for a measure under Article 5, paragraph 1, items 1, 2 and 3.

(2) Upon failure to execute the court order, the police authority which has detected the failure shall seize the violator and immediately inform the prosecution of the violation.

#### **Article 22.**

The court shall issue ex officio a warrant list concerning imposed fines and assigned state fees and expenses.

#### **FINAL PROVISIONS**

§ 1. For all issues which were not regulated under the present law, the provisions of the Civil Proceedings Code shall be applied.

§ 2. Within six months of the date of enforcement of the present law the Minister of Interior, the Minister of Justice, the Minister of Labour and Social Policy, the Minister of Health, the Minister of Education and Sciences, and the Minister of Finances shall develop a program for domestic violence prevention and protection.

§ 3. The state shall assist municipalities and legal entities in their activities to create and provide assistance to services and centers for implementation of the measures under Article 5, paragraph 1, items 5 and 6.

§ 4. The individuals registered under Article 18, paragraphs 2 and 3 of the Social Assistance Act who provide social services and programs for recovery of victims of home violence or develop specialized programs to violators shall be obliged to submit to court a list of such services and programs.

§ 5. To Article 63, paragraph 3 of the Ministry of Interior Act (promulgated in State Gazette, issue 122 of 1997, issue 29 of 1998 - Decision D 3 of the Constitutional Court of 1998; amended, issues 70, 73 and 153 of 1998, issues 30 and 110 of 1999, issues 1 and 29 of 2000, issue 28 of 2001, issues 45 and 119 of 2002, issues 17, 26, 95, 103, 112 and 114 of 2003, issues 15, 70 and 89 of 2004, issues 11 and 19 of 2005) the following sentence, third in sequence, shall be inserted:

"In cases of domestic violence a copy of the record of warning shall be handed down to the victim upon request."

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The Act was adopted by the 39-th National Assembly on 16 March 2005 and was sealed with the official seal of the National Assembly.