

# **LAW no. 217/May 22, 2003 on preventing and fighting against domestic violence**

**The Parliament of Romania** ratifies the present law.<sup>i</sup>

## **CHAPTER I: General provisions**

### **Art.1**

(1) The protection and support of the family, the development and strengthening of family solidarity, based on friendship, affection and material and moral assistance between the family members, represents an objective of national interest.

**(1<sup>a</sup>) The preventing and fighting against domestic violence are part of the integrated family protection and support policy and represent an important public health issue.**

(2) The state takes actions in order to prevent and fight against domestic violence, in accordance with the provisions of the Penal Code, articles 175, 176, 179-183, 189-191, 193, 194, 197, 198, 202, 205, 206, 211, 305-307, 309, 314-316, 318 and others alike, of the Law no. 705/2001 concerning the national social welfare system and other legal stipulations in the matter, as well as of the present law.

### **Art.2**

(1) In the meaning of the present law, domestic violence represents any physical or verbal action deliberately perpetrated by a family member against another member of the same family that causes a physical, psychological, sexual suffering or a material prejudice.

(2) It is also considered domestic violence the hindering of the woman to exercise her fundamental rights and liberties.

### **Art.3**

In the meaning of the present law, through family member it is understood:

**a)** the husband;

**b)** the near relation, as defined by article 149 of the Penal Code.

### **Art.4**

From the effects of the present law are also benefiting the individuals who established relationships similar to those between married couples or between parents and children, proved on the basis of the social investigation.

#### **Art.5**

The ministries and the other central specialty bodies of the public administration, through their territorial structures, shall appoint the specialized personnel to promptly instrument the cases of domestic violence.

#### **Art.6**

(1) The authorities indicated at article 5 shall ensure the continuous training and improvement of the persons appointed to identify the forms of abuse and to instrument the cases of domestic violence.

(2) The service of social rehabilitation and surveillance of the offenders shall train specialized personnel – social workers and psychologists – capable of developing therapy and counselling programmes for the aggressors. The outcomes of these programmes' application shall be submitted to the courts of justice, under the stipulations of the law.

#### **Art.7**

(1) The local communities, through legal representatives, as well as the local public administration authorities ensure the conditions for strengthening the family, for preventing conflicts and violence within the family.

**(2) In case domestic violence breaks out, the local communities, through legal representatives, as well as the public administration authorities shall confer the logistics, informational and material support to the National Agency for Family Protection, respectively to the compartments in its coordination.**

(3) The mayors and local councils will cooperate with the cult associations, nongovernmental organizations, as well as any other legal and natural persons involved in charitable actions, providing them the necessary support in order to achieve the objectives stipulated under paragraphs (1) and (2).

(4) The nongovernmental organisations, as well as any other legal persons involved in charitable actions, which prove that they develop programmes of assistance for the victims of domestic violence, shall have the possibility to benefit from state budget subsidies or, according to the case, from the local budgets, under the stipulations of the law.

## **CHAPTER II: The National Agency for Family Protection**

#### **Art.8**

**(1) The National Agency for Family Protection is being established and organized, further on named agency, public institution with legal personality that functions as a specialty body subordinated to the Ministry of Labour, Social Solidarity and Family.**

(2) The objectives of the agency are:

- a) promoting family values, understanding and mutual assistance in the family, preventing and fighting against violence in the relationships between the members;
- b) supporting family members in difficulty as a result of domestic violence acts;
- c) supporting the victims through health recovery and social rehabilitation programmes;
- d) assisting aggressors through treatments for alcoholism and drug addiction, psychological and psychiatric treatments;
- e) protecting victims and, especially, minors, through measures of keeping the confidentiality concerning their identity, as well as psychological protection during the case instrumentation;
- f) initiating and coordinating social partnerships, with a view to preventing and fighting against domestic violence.

(3) The registered office of the agency, its organization, functioning and financing are being set by Government's decision.

**(4) In the methodological coordination of the agency, at the level of each district and of Bucharest municipality, within the directorates of dialogue, family and social solidarity of the districts, respectively of the Bucharest municipality, through order of the Minister of Labour, Social Solidarity and Family, a compartment with responsibilities in fighting against domestic violence is being set up.**

**(5) In the subordination of the agency are operating the Pilot Centre for Assistance and Protection of the Victims of Domestic Violence and the Centre for Family Information and Consultancy.**

**(6) The maximum number of posts for the agency's own staff is of 40, and will be ensured through transfer from the Labour Inspection.**

**(7) The posts necessary for the functioning of the compartment stipulated under paragraph (4) shall be ensured by re-allocation, respecting the number of posts approved to the Ministry of Labour, Social Solidarity and Family and to the subordinated public institutions funded from the state budget.**

**(8) The agency personnel are formed of civil servants and contractual personnel, staffed according to the law.**

#### **Art.9**

**(1) In order to achieve the objectives in the field of preventing and fighting against domestic violence, the agency has the following main responsibilities:**

- a) developing, substantiation and enforcement of the strategy and programmes in the field of the domestic violence phenomenon;
  - b) verifying the application of the regulations in its domain, and methodologically guiding the activity of the units destined to prevent and fight against domestic violence;
  - c) funding or, according to the case, joint financing the specific programmes in the field of the protection and strengthening of the family, as well as in the field of attending and protecting the victims of domestic violence;
  - d) endorsing the setting up of centres for sheltering the victims of domestic violence, of centres for the rehabilitation of victims of domestic violence and centres for assistance destined to aggressors;
  - e) including telephone calls related to cases of domestic violence within the emergency telephone service with single call number that functions according to the law;
  - f) training, authorizing and coordinating the professional activity of the family assistants;
  - g) organizing courses on the forms of domestic violence, and also on the means of preventing and fighting against them;
  - h) performing studies and research, elaborating strategies, forecasts, carrying out and publishing of specific scientific and promotional materials;
  - i) creating the data base for the administration of the domestic violence situations;
  - j) involving and supporting the initiatives of the social partners in solving the issue of domestic violence;
- (2) The agency reimburses the expenses connected to the legal and social-psychological counselling and to the issuing of forensic certificates for the victims of domestic violence, within the programmes stipulated under paragraph (1) letter c).

#### **Art.10**

(1) The agency establishes the evaluation procedures and criteria of the social needs in the field of domestic violence and settles the methodology of action in the cases where the intervention of family assistants is needed.

(2) The agency develops quality standards for the social services in the field of protecting the victims of domestic violence, approved by order of the Minister of Labour, Social Solidarity and Family within 3 months from its setting up.

(3) The Minister of Labour, Social Solidarity and Family submits yearly to the Government a report concerning the implementation of the strategy and programmes in the field of preventing and fighting against domestic violence.

#### **Art.11**

- (1) The agency is lead by a president, with a salary equal to that of a general director in the Ministry, appointed by the Minister of Labour, Social Solidarity and Family, under the law.**
- (2) Next to the president a consultative council formed of 7 members is functioning, having in its composition one representative from the Ministry of Labour, Social Solidarity and Family, the Ministry of Health, the Ministry of Education, Research and Youth, the Ministry of Administration and Internal Affairs, the Ministry of Justice, the National Authority for Child Protection and Adoption, and the National Authority for Persons with Disabilities.**
- (3) The president of the agency is a secondary loan programmer and by exercising his duties he issues decisions.**

#### **Art. 11<sup>1</sup>**

- (1) The agency's running and capital costs are covered from the state budget via the budget of the Ministry of Labour, Social Solidarity and Family.**
- (2) The agency may benefit from donations and sponsorships under the law.**
- (3) Running and capital costs for 2004 for the functioning of the central apparatus of the agency are covered by reallocating funds from the budget of the Labour Inspection, within the 2004 budget of the Ministry of Labour, Social Solidarity and Family.**
- (4) The personnel, material and capital costs for the functioning of the public institutions stipulated under art. 8 paragraph (5) and the compartment set up within the local directorate for dialogue, family and social solidarity shall be funded from the state budget, via the budget of the Ministry of Labor, Social Solidarity and Family.**
- (5) For the financing of the social services in the field of protecting victims of domestic violence, external reimbursable and non-reimbursable funds can also be used.**

### **CHAPTER III: The Family assistants**

#### **Art.12**

- (1) Family assistants are social workers authorized by the agency to provide the assistance specific to the family relations.**
- (2) The training of family assistants and the coordination of their activity is being carried out by the agency.**
- (3) The agency establishes the criteria regarding professional experience and ethics, as well as regarding the moral conduct for the occupation of the family assistant position.**
- (4) The family assistants shall carry out their activity in the following institutions:**
  - a) the agency;**

- b) specialized compartments in the local directorates for dialogue, family and social solidarity;**
- c) public social assistance services;**
- d) shelters;**
- e) other units for preventing and fighting against domestic violence.**

#### **Art.13**

(1) In their activity family assistants have the following responsibilities:

- a) identify and keep account of the families where conflicts appear that can cause violent acts;**
- b) monitor the development of the activity of preventing domestic violence;**
- c) identify non-violent solutions by maintaining contact with the persons involved;**
- d) demand the support of natural or legal persons for the settlement of the situations which generate domestic violence;**
- e) monitor the observance of the rights of the persons forced to resort to shelters.**

(2) In case they ascertain acts of family violence against minors, the family assistants are obliged to provide instantly the necessary assistance and to notify the National Authority for Child Protection and Adoption, respectively the specialized public service at local level.

#### **Art.14**

Family assistants instrument the case together with the person appointed by the Ministry of Internal Affairs, under the provisions of article 5.

#### **Art.15**

**(1) The Agency shall establish the collaboration procedure of the appointed persons and the family assistants in preventing and monitoring domestic violence cases.**

**(2) The cooperation procedure is approved by joint order of the Minister of Labour, Social Solidarity and Family, the Minister of Administration and Internal Affairs, and the Minister of Health.**

## **CHAPTER IV: Measures of preventing and fighting against domestic violence**

#### **Art.16**

(1) The persons appointed by the public authorities to instrument the cases of domestic violence shall have the following major responsibilities:

- a) monitoring the cases of domestic violence from the district or territorial unit they serve; gathering information about them; keeping separate records; ensuring access to information at the demand of the legal bodies and of the parts or of their representatives;**

- b) informing and supporting the police officers who encounter domestic violence situations during their specific activity;
- c) identifying the hazardous situations for the parts involved in the conflict and guiding them to specialized services;
- d) cooperating with the local institutions of child protection and reporting the cases, in accordance with the valid legislation;
- e) guiding the parts in conflict with a view to mediation;
- f) demanding information regarding the result of mediation;
- g) instrumenting the case together with the family assistant.

**(2) In case of domestic violence perpetration, the Police bodies intervene at the complaint of the victim, of another family member, of an authority or ex officio.**

**(3)** The Police officer shall announce immediately the competent authority at local level, regarding the victim's situation.

#### **Art.17**

The Ministry of Health and Family together with the Ministry of Interior elaborates and distributes documentary materials concerning the causes and consequences of domestic violence.

#### **Art.18**

The Ministry of Education and Research carries out, having the support of the other ministries involved and in collaboration with the nongovernmental organizations having experience in the field, educational programmes for parents and children, with a view to preventing domestic violence.

### **CHAPTER V: Mediation in cases of domestic violence**

#### **Art.19**

The cases of domestic violence can be subjected to mediation on demand of the parts. The persons responsible in instrumenting cases of domestic violence shall guide the parts in this sense.

#### **Art.20**

**(1)** The prevention of the conflict situations and the mediation between family members are carried out by the means of the family council or by authorized mediators.

**(2)** The mediation does not hinder the development of the penal process or the implementation of the clauses of the present law.

#### **Art.21**

**(1)** The family council is the association without legal statute and without patrimonial purpose, composed of those family members which have full exercise capacity, according to the law.

(2) The position of family council member cannot be exercised by those who, according to the law, are executing a punishment or liberty privative measures or who, in order to participate to debates of the family council, should violate the interdiction of leaving the locality.

(3) In the family council participate also the tutors, for the family member they represent.

#### **Art.22**

The reunion of the family council can be summoned on request of one of its members or of the family assistant.

## **CHAPTER VI: Units destined to prevent and fight against domestic violence**

### **SECTION 1: Centres for sheltering victims of domestic violence**

#### **Art.23**

(1) The centres for sheltering victims of domestic violence, further on called shelters, are social assistance units, with or without legal personality, which provide protection, accommodation, attendance and counselling to the victims of domestic violence, forced to resort to this social assistance service.

(2) The reception of the victims in the shelter takes place only in emergency cases or upon written approval of the family assistant, when the isolation of the victim from the aggressor is imposed as a protection measure. The access in the shelter's precincts, where the victims are, is forbidden to the persons who committed the act of aggression.

(3) The isolation of the victims from their aggressors can be done with their consent or, depending on the case, of the legal representative.

(4) The shelters can be public, private or in public-private partnership and are set up only with approval of the agency.

(5) The setting up, organizing and functioning of the public shelters are approved by decisions of the county councils or, depending on the case, of the local councils, respectively of the districts of the Bucharest municipality.

(6) The funding of public shelters is granted from the local budgets.

(7) Public shelters have to provide free of charge, for a determined period, family assistance to the victim as well as to the minors in her care, protection against the aggressor, medical care, food, accommodation, psychological assistance and juridical counselling, according to the agency's organization and functioning instructions.

(8) The private and public-private shelters can be set up only by the social service providers, accredited under the law.

**(9) In the case of the shelters stipulated under paragraph (8), the utilization of the sums allocated from the state budget or, as the case may be, from the local budgets, is subjected to the control of the bodies authorized by the law.**

**(10) In the case of granting subventions to the private or public-private shelters, the institution which has allocated the subvention can participate in their administration or monitors the utilization's opportunity of the allocated funds.**

#### **Art.24**

**(1) The bodies of public guardians set up next to the county councils and the General Council of the Bucharest municipality ensure the security of the public shelters in the area of their competence.**

**(2) Upon reception in the shelter, the victim is informed of the legal rights whereby to safeguard the possessions left with the aggressor, such as: the notification through legal executor to invalidate the silent agreement to alienate the joint possessions or to provide the evidence, by means of legal expertise. The legal counselling is free of charge, and the mayor, upon notification of the family assistant, in serious social cases, approves the bearing from the local budget of the costs regarding the elaboration of the legal documents.**

**(3) The stipulations of paragraph (2) are also applicable for obtaining the forensic certificates.**

**(4) All shelters must conclude an agreement of cooperation with a hospital or another health unit capable to provide medical and psychiatric care. The agreement is concluded by the local councils, the Bucharest district councils or, as the case may be, by the district councils, with the agreement of The Ministry of Health and of the shelter's owner. The agreement is a condition without which the functioning approval, stipulated under article 23, paragraph (4), cannot be given.**

**(5) The Ministry of Administration and Internal Affairs, through the police units, shall support the bodies of public guardians in exercising their responsibilities, under the provisions of law.**

## **SECTION 2: Other social assistance units specialized in preventing and fighting against domestic violence**

#### **Art.25**

**(1) The rehabilitation centres for the victims of domestic violence are social assistance units, with or without legal status, which ensure the accommodation, care taking, as well as their rehabilitation and social reintegration.**

**(2) The assistance centres for aggressors are social assistance units, with or without legal status, which ensure, under a residential or semi-residential regime, their rehabilitation and social reintegration, educational measures, and also family counselling and mediation.**

**(3) Psychiatric, drug abuse and alcoholism treatments are provided through the assistance centres for aggressors in hospitals or health units with which the shelters have agreements of cooperation under the provisions of article 24 paragraph (4).**

**Art. 25<sup>1</sup>**

**Assistance or, depending on the case, institutionalization of the victims or of the aggressors in the centres stipulated under article 25 is carried out only with their consent. For minors the consent is given by the non-aggressor parent, or, depending on the case, by the legal representative.**

**Art. 25<sup>2</sup>**

**The units stipulated under article 25 can be public, private or in private-public partnership and are set up only with approval of the agency.**

**Art. 25<sup>3</sup>**

**The provisions of article 23 paragraphs (5), (6), (8), (9) and (10) also apply accordingly to the social assistance units stipulated under article 25.**

**Art. 25<sup>4</sup>**

**The agency shall elaborate organization and functioning instructions for the social assistance units stipulated under articles 23 and 25, which are approved by joint order of the Minister of Labour, Social Solidarity and Family, the Ministry of Health and the Ministry of Administration and Internal Affairs.**

## **CHAPTER VII: Protection measures for the victims of domestic violence**

**Art. 26**

**(1) During the legal proceedings or the trial, the Court of Justice, on the complaint of the victim or ex officio, whenever there are solid evidences or indications that a family member has perpetrated a violent act causative of physical or psychological suffering to another member, can temporarily make use of one of the measures stipulated by article 113 and 114 from the Penal Code, as well as banning of returning to the family home.**

**(2) The measures stipulated by paragraph (1) cease at the disappearance of the danger situation that determined their taking.**

#### **Art.27**

(1) The measures stipulated at article 26 are disposed by the court of justice through motivated settlement.

(2) One copy of the settlement is handed to the parts and in the absence of one part, the result of the settlement will be notified on the residence door.

(3) The settlement of the Court can be contested separately on appeal in 3 days sentence term since sentence, for those present therein and for the absent ones since notification. The appeal is not suspensive of execution.

#### **Art.28**

The person wherewith the one of the measures stipulated by article 26 has been taken, can demand at any time, during the trial, to the court in charge to judge the ground of the cause, to repeal the measure when the grounds imposing its adoption have ceased to exist.

### **CHAPTER VIII: Sanctions**

#### **Art.29**

(1) The following stand for contraventions if in accordance with the penal Code, they don't stand for offences, and are to be fined between 10,000,000 ROL and 50,000,000 ROL, the following misdeeds:

a) to deny protection in a shelter or to award, following motivated demand of the human services worker, free medical care to a person under physical distress to remove the consequences of violence;

b) not to make known by the human service worker, under the provisions indicated by the article 13 paragraph (2), of the National Authority for Child Protection and Adoption, of the local public service, respectively;

c) to change the use of the shelter.

(2) It is considered contravention and is fined between 5,000,000 ROL and 10,000,000 ROL on refusal to leave the shelter, regardless of reason, when the conditions causing the institutionalising have ceased to be valid.

(3) It is considered contravention and is fined between 5,000,000 ROL and 10,000,000 ROL the attempt of the person who perpetrated the aggression or entered the premises of the shelter where the victim is or is considered to be found.

(4) The contraventions are recorded and the sanctions enforced, according to the law, by the family social workers, the mayor or their authorised persons.

(5) The provisions of the Government Ordinance no. 2/2001 regarding the legal regime of the contraventions apply to these contraventions applied with improvements and further provisions through the Law no.180/2002, with subsequent improvements, except for articles no 28 and 29.

#### **Art.30**

The agency can enforce, when it is ascertained the violation by the family social workers of the responsibilities pertains to their office or the disregarding of standard operating norms of shelters, the following sanctions:

- a) warning;
- b) the removal of the license of the family social worker or of the shelter operating for a period of 1 to 3 months;
- c) the removal of the license of the family social worker or closing down the shelter.

### **CHAPTER IX: Final provisions**

#### **Art.31**

The law herein is enforced within 90 days since its publication in the Official Monitor of Romania, First section.

This Law has been passed by the Senate in the session of April 24, 2003, according to the provisions of article 74 paragraph (2) of the Romanian Constitution.

Chairman of the Senate,  
Alexandru ATHANASIU

This Law has been passed by the Chamber of Deputies in the session of May 6, 2003, according to the provisions of article 74 paragraph (2) of the Romanian Constitution.

President of the Chamber of Deputies,  
Valer DORNEANU

Bucharest, May 22, 2003

No. 217

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<sup>i</sup> **The text in red (bold) represents the modifications to Law 217/May 22, 2003 as stipulated in Government Ordinance no. 95/December 24, 2003 regarding the modification and completion of Law no. 217/2003 for the prevention and fight against domestic violence – Published in the Official Gazette of Romania, Part I, no**

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*13/January 8, 2004 (signed by Prime Minister Adrian NASTASE, counter signed by the Minister of Labor, Social Solidarity and Family Elena DUMITRU and by the Minister of Health Ovidiu BRANZAN)*