

## Domestic Violence. Case Study: Romania



### Law

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### ABSTRACT

*The domestic violence is met in all the social environments, affecting both women and men, who, from certain reasons, tolerate it. Often happens that the educated and wealthy women to endure the partners that behave inside the family in a cruel and violent manner. Among the factors that contribute to the emerging of the domestic violence can be mentioned poverty, lack of education, alcohol consumption etc. In Romania, many women accept the violence of their spouses from fear or due to their belief that they deserve what happens to them, having as a model, the family from which they come.*

### 1. Introduction

According to art. 48 from The Romanian Constitution, 2003, the family is “founded on the free agreement between spouses, on the equality, the right and duty of the parents to assure the bringing up, the education and the tuition of children. The law stipulates the conditions for the concluding, the annulment and the nullity of marriage. The religious marriage is celebrated only after the civil marriage. The children outside the marriage are equal before the law with those inside the marriage”.

The violence against women (for further details regarding women as a vulnerable category, see Otovescu, D.(coord.), Otovescu, A., Frasie, M., & Motoi, G., 2012) constitutes a social and very serious problem, met in all the social environments, regardless the age or the social condition. Therefore, the domestic violence has been manifested in the environments in which the people had higher education. The victims come from the families with a superior social status and do not report the aggressions because their image, in that particular society, would be degraded.

The impact is very increased because there are affected many categories of people such are: the victim and the people who participate to the actions of the domestic violence.

### 2. The legislative background in Romania

In Romania, the domestic violence is regulated by Law no. 217 from the 22<sup>nd</sup> of May 2003, modified and completed by Law no. 25 from the 9<sup>th</sup> of March 2012. The law of modification entered into force starting with the 12<sup>th</sup> of May 2012, therefore the people who are victims of the domestic violence can benefit by this juridical measure in order to protect themselves physically and psychologically.

According to art. 2, the domestic violence constitutes “any unintended action, excepting the self-defending or defending actions, manifested both physically or verbally, made by a member of a family against another member of the same family that provokes or may cause a prejudice of physical, psychical, sexual, emotional or psychological suffering, including the menace of performing such deeds, the constraint or the arbitrary deprivation of freedom”.

In art. 24, section 1-6 it is stipulated that “The centres for receiving, in case of an emergency, that will be further on named shelters, are social assistance units, with or without legal personality, in the form of residences that provide protection, housing and counselling for the victims of the domestic violence. The shelters provide, on a determined period of time, free assistance both for the victim and the under-aged children that he/she takes care of, protection against the aggressor, medical assistance and care, nourishment, housing and psychological and juridical counselling, according to the instructions for organization and functioning elaborated by the authority. The receiving of the victims inside the shelter is made only in case of an emergency, with the written approval of the general direction manager for social assistance and child protection, when the isola-

tion of the victim from the aggressor is imposed as a measure of protection. The people who made the act of aggression are forbidden the access inside the shelter where the victims are. The location of the shelters is secret for the public. The isolation of the victims from the aggressors is made with the victims’ agreement or, providing the case, the legal representative’s one. All the shelters must conclude a collaboration convention with a hospital or another health unity that would ensure the medical and the psychiatric care. The convention is concluded by the local boards, the sector boards of Bucharest or, in certain cases, by the counties’ councils and the leading bodies of the accredited private suppliers of social services”.

The order or protection represents a measure at the disposal of the domestic violence victims and can be requested according to the dispositions of chapter VII from the law that was mentioned above.

In the provisions of section 1, art. 26, it is stipulated that “The person whose life, physical or psychical integrity or freedom is endangered due to an act of violence from a family member, can ask to the assistance that, in order to eliminate the dangerous condition, to emit a protection order, through which to be disposed, with a temporary character, one or more of the next measures – obligations or interdictions:

- a) the temporary evacuation of the aggressor from the family house, regardless the situation in which this is the owner of the property right;
- b) the reintegration of the victims and, given the case, of the children in the family house;
- c) the limiting of the aggressor’s right to use a part of the common dwelling place when it can be separated in such way that the aggressor not to come in touch with the victim;
- d) the obligation of the aggressor to keep a determined minimum distance from the victim, the children, other relatives or the residence, the job or the school of the protected person;
- e) the interdiction for the aggressor to go to certain localities or determined areas which the protected person frequents or periodically visits;
- f) the forbidding of any kind of contact, including by telephone, mail or any other way, with the victim;
- g) the obligation of the aggressor to give to the police the owned weapons;
- h) the entrusting of the under-aged children or the establishing of their residence.”

In the same article, at section 2 and 3, the instance can also dispose:

- “the payment by the aggressor of the rent and the maintenance expenses for the temporary dwelling where the victim, the under-aged children or other members of the family live or are going to live, due to the impossibility to remain in the family house;

- the obligation of the aggressor to go to psychological counselling, psychotherapy or can recommend the adopting of some measures of control, the treatment for some forms of care, especially for the detoxification”.

According to section 1-3, art. 271: “The petition for the emitting of the protection order comes within the competence from the area where the victim lives or resides. The petition for the emitting of the order can be introduced by the victim personally or through a legal representative. The petition can be filed in the name of the victim also by the prosecutor, the representative of the authority or the judicious structure, at the administrative-territorial level with attribution in the protection of the victims against the domestic violence, the representative of any of the social services suppliers for the prevention and fighting against the domestic violence, accredited by the law and with the agreement of the victim.”

Article 276 stipulates at section 1-4 that the judgement through which the protection order is disposed is subjected only to the appeal, in 3 days from the delivery, in case that this was given after the summoning of the sides and after the notification, if it was given without the summoning of the sides. The appeal instance can defer the distraint until the appeal is sentenced, but only with the payment of a bail whose quantum is established by it. The appeal is sentenced with the summoning of the sides, the attendance of the prosecutor being mandatory.

The activities made for the prevention and fighting against the

domestic violence are stipulated in art 28 and are financed with the next resources:

- a) “the state budget;
- b) the budgets of the funds that came from external contracts or were guaranteed by the state and whose refunding, interests and other costs are ensured from the public funds;
- c) the budget of the external grant funds;
- d) the local budget of the counties, the sectors of Bucharest and the municipalities, cities and communes;
- e) donations, sponsorships and other resources, under the provisions of law”.

### 3. Case study

A year after the entering into force of law 25 from 2012 (the revised Law 271 from 2003) regarding the prevention and the fighting against the domestic violence, has been realized a national study that has been monitoring the number of the protection orders that were given by the judges upon the victims’ request. At the national level, there have been registered 1.009 petitions for protection orders, among which 953 petitions filed by women and 59 by men. From the total number of files, only 23%, representing 236 files, have been sentenced in the Council Chamber, as the law provides. According to the statistic data, most of the protection orders have been given in the next counties from Romania: Bacău, Prahova, București, Vaslui, Iași, Neamț, Constanța, Argeș, Cluj, Suceavași Sibiu (data taken from <http://www.evz.ro/detalii/stiri/in-ce-judete-locuiesc-cei-mai-multi-barbati-care-isi-bat-nevestele-1027510.html>).

## REFERENCE

Otovescu, D. (coord), Otovescu, A., Frasier, M., & Motoi, G., 2012. Les problèmes actuels de l’humanité. Une perspective sociologique sur la population et sur la crise mondiale, Editions universitaires européennes, Saarbrücken, Germany. | Law no. 217 from the 22nd of May 2003, modified and completed by Law no. 25 from the 9th of March 2012 | Romanian constitution, 2003 | [www.evz.ro](http://www.evz.ro) |