

# **BULGARIA:**

## **Protection against Domestic Violence Act**

*Promulgated, State Gazette, issue 27 of 29 March 2005*

### Chapter One GENERAL PROVISIONS

**Article. 1.** (1) This law governs the rights of individuals having suffered from domestic violence, the protection measures, and the procedure applicable to the imposition of such measures.

(2) Liability under this Act shall not preclude the civil and the criminal liability of the respondent.

**Article. 2.** Domestic violence is any act of physical, mental or sexual violence, and any attempted such violence, as well as the forcible restriction of individual freedom and of privacy, carried out against individuals who have or have had family or kinship ties or cohabit or dwelt in the same home.

**Article. 3.** Protection under this Act may be sought by any individual having suffered from domestic violence applied by:

1. a spouse or former spouse;
2. a person with whom that individual cohabits or has co-habited;
3. a person with whom that individual has a child;
4. an ascendant;
5. a descendant;
6. a sibling;
7. a relative by affinity up to the second degree;
8. a guardian or foster parent.

**Article. 4.** (1) In the event of domestic violence the victim has the right to seek protection from the court.

(2) In cases where evidence exists showing a direct and imminent threat to the life or health of the victim, the victim may file an application with the police authorities for the imposition of emergency measures pursuant to section 76 of the Ministry of Interior Act. The bodies of the Ministry of Interior shall forward to the court the application together with the explanations of the respondent, if such explanations have been provided, and the record drawn of any measures imposed, while describing the circumstances that call for emergency court protection.

(3) At the request of the victim, any medical doctor must issue a document to establish in writing any injuries or traces of violence found by that doctor.

**Article. 5.** (1) Protection against domestic violence shall be implemented through any of the following:

1. placing the respondent under an obligation to refrain from committing domestic violence;
2. removing the respondent from the common dwelling-house for a period specified by the court;
3. prohibiting the respondent from being in the vicinity of the home, the place of work, and the places where the victim has his or her social contacts or recreation, on such terms and conditions and for such a period as is specified by the court;
4. temporarily relocating the residence of the child with the parent who is the victim or with the parent who has not carried out the violent act at issue on such terms and conditions and for such a period as is specified by the court, provided that this is not inconsistent with the best interests of the child;
5. placing the respondent under an obligation to attend specialised programmes;
6. advising the victims to attend recovery programmes.

(2) The measures under subsection 1, points 2, 3, and 4 shall be imposed for a period from one month to one year.

(3) In any case, with its order under section 15(1) the court shall also impose a fine of 200 to 1000 Levs.

**Article. 6.** (1) The State shall ensure the implementation of programmes aimed at the prevention of and protection against domestic violence, as well as programmes providing assistance to the victims.

(2) The bodies of the Executive branch shall select and train the persons in charge of protection by virtue of this Act.

(3) The bodies of the Executive branch and the natural and legal persons registered by virtue of **Article** 18(Z) and (3) of the Social Assistance Act shall work jointly to provide protection to the victims of domestic violence.

(4) The persons referred to in subsection 3 shall develop, organise the implementation of, and implement the programmes under section 5(1), points 5 and 6.

## **Chapter Two**

### **PROCEEDINGS TO IMPOSE PROTECTION MEASURES AGAINST DOMESTIC VIOLENCE**

#### Division 1

#### ***General Provisions***

**Article.7.** (1) The court competent to impose a measure shall be the regional court in the area where the current address of the victim is found or, in the cases referred to in **Article** 4(2), the regional court in the area of the local police department where protection was sought.

(2) The court before which there is pending litigation between the victim and the respondent or litigation involving any of them based on a provision of the Family Code or of the Child Protection Act shall be competent to impose a protection measure at any stage of the proceeding.

**Article. 8.** The proceeding for issuing an order may be instituted:

1. on an application by the victim;
2. at the request of the Director of the Social Assistance Directorate;

3. whenever emergency court protection is sought, on an application by a sibling or by a person who is a relative to the victim in the direct line irrespective of the degree of kinship.

**Article. 9.** (1) The application or request shall be in writing and must contain:

1. the names, the address, and the personal ID number of the applicant or the individual having filed the request; if a victim cannot or is unwilling to disclose his or her address, he or she may identify an address for litigation purposes:

2. the names and the current address of the respondent or any other address where the latter may be summoned, including a telephone and fax number;

3. data concerning the family, kinship or factual ties between the victim and the respondent;

4. a description of the facts and circumstances under which domestic violence occurred:

5. a signature.

(2) In the cases referred to in section 8, points 2 and 3 the court shall, ex officio, involve the victim as a party.

(3) A statement by the applicant concerning the violence at issue shall also be enclosed to the application under section 8, point 1.

(4) At the request of the applicant the court shall seek ex officio in respect to the respondent a criminal record certificate, information concerning any measures imposed under this Act, and a certificate showing whether or not the respondent is registered at any psychiatric establishment.

**Article. 10.** (1) The application or request shall be filed within one month from the date on which the act of domestic violence occurred.

(2) The application or request shall be entered in a special register and assigned on the date of filing.

(3) In the cases referred to in section 4(2) the application shall be filed via the nearest local police department.

**Article. 11.** (1) No costs shall be charged upon filing an application under **Article 8**, points 1 and 3.

(2) Upon issuing the order, the court shall direct the respondent to pay costs and expenses.

(3) In the event of refusal to issue an order or if the order is revoked, the costs and expenses shall be charged to the applicant, while in the cases referred to in **Article 8**, point 2 the expenses shall be incurred by the Social Assistance Agency

## *Division II*

### **Hearing of Case**

**Article. 12.** (1) On the day on which the application or request is filed the court shall schedule an open hearing to take place not later than 30 days thereafter and shall serve the writ of summons and a copy of the application or request with their enclosures on the defendant, while notifying the latter of his or her obligation to produce evidence.

(2) In the cases under **Article 8**, points 2 and 3 the victim shall be summoned as well.

(3) Where necessary, the writ of summons shall be served with the assistance of the police authorities or of the mayor.

**Article. 13.** (1) Evidence deemed admissible under the Code of Civil Procedure shall also be admissible in proceedings involving protection orders.

(2) The following may also serve as evidence in a proceeding under subarticle 1:

1. records, reports, and any other acts issued by the Social Assistance Directorates, by medical doctors, as well as by psychologists who provided counselling to the victim;

2. documents issued by legal persons providing welfare services and entered in a register at the Social Assistance Agency;

3. the statement made pursuant to Article 9(3).

(3) Where no other evidence exists, the court shall issue a protection order solely based on the statement made pursuant to Article 9(3).

**Article. 14.** (1) Where it appears from the data in the application or request that the bodies of the Ministry of Interior and other state government agencies possess documentary evidence of acts of domestic violence, the relevant body or agency shall forthwith issue authenticated copies of such documents at the request of the victim or his or her representative or attorney, or at the request of the court.

(2) Anyone required to issue a document or copy pursuant to subarticle 1 but who failed to do so shall be liable to a fine of 100 Levs imposed by the court in accordance with the Code of Civil Procedure.

**Article. 15.** (1) The court shall rule on the application by delivering a judgment in an open hearing.

(2) Where the application or request is granted the court shall issue a protection order.

**Article. 16.** (1) With the protection order, the court shall impose one or more protective measures.

(2) The order must include notification of the effects of any failure to comply therewith as set out in section 21(2).

(3) The judgment and the order shall be served on the parties, and where a measure under section 5(1), points 1, 2 and 3 is imposed they shall also be served on the total police department in the area where the current address of the respondent and the address of the victim are located.

**Article. 17.** (1) The judgment may be appealed to the district court within seven days as from its service. The appeal shall be lodged via the court having delivered the impugned judgment, and a copy for the other party shall be attached. New evidence may be enclosed to the appeal as well.

(2) The appeal shall not stay the execution of the judgment.

(3) The regional court shall forward a copy of the appeal and of the enclosures thereto to the other party who may, within three days as from their receipt, file objections and offer new evidence. After the expiration of that time limit, the appeal together with the enclosures and objections shall be forwarded to the district court.

(4) The district court shall handle the appeal within 14 days, in open court, the parties being summoned in accordance with Article 12, and shall rule on the appeal by delivering a judgment on the merits whereby it upholds or reverses or varies the

judgment appealed against. Where it decides to vary the order, the court shall issue a new order.

(5) The judgment of the district court shall be final.

**Article.18.**(1) Where the application or request contains data concerning a direct and impending threat to the life or health of the victim, the regional court, sitting ex parte and in camera, shall issue an emergency protection order within 24 hours from receipt of the application or request.

(2) The order under subsection 1 shall be served on the parties and forwarded ex officio to the local police department.

(3) Where it appears from the data in the file that measures should be undertaken under the Child Protection Act, the court shall notify the Director of the Social Assistance Directorate.

(4) The court shall schedule an open hearing to take place not later than 30 days thereafter and shall serve the writ of summons and a copy of the application or request with their enclosures on the defendant, while notifying the latter of his or her obligation to produce evidence.

(5) In the cases under Article 8, points 2 and 3 the victim shall be summoned as well.

(6) Where necessary, the writ of summons shall be served with the assistance of the police authorities or of the mayor.

**Article. 19.** An emergency protection order shall have effect up until a protection order is issued or until the court refuses the application or request.

### **Execution of Protection Order**

**Article. 20.** A protection order shall be subject to immediate execution.

**Article. 21.** (1) The police authorities shall ensure that the order is executed where a measure under Article 5(1), points 1. 2 and 3 has been imposed pursuant to such order.

(2) In the event of failure to comply with the court order, the police authority having found such failure shall arrest the offender and notify forthwith the prosecutorial authorities.

**Article. 22.** The court shall issue ex officio a writ of execution in respect of any fines imposed and of the stamp duties and costs awarded.

### **Final Provisions**

§ 1. The provisions of the Code of Civil Procedure shall apply mutatis mutandis to any matters not explicitly covered by this Act.

§ 2. The Minister of Interior, the Minister of Justice, the Minister of Labour and Social Policy, the Minister of Health, the Minister of Education and Science, and the Minister of Finance shall develop, within 6 months as from the entry of this Act into force, a Domestic Violence Prevention and Protection Programme.

§ 3. The State shall assist the municipalities and the non-profit legal entities with establishing and supporting services and centres designed to implement the measures under Article 5(1), points 5 and 6.

§ 4. The persons registered by virtue of Article 18(2) and (3) of the Social Assistance Act which provide welfare services and recovery programmes to victims of domestic violence or specialised programmes to perpetrators of such violence must provide the court with a list of available services and programmes.

§ 5. In section 63(3) of the Ministry of Interior Act (promulgated, State Gazette, issue 122 of 1997, issue 29 of 1998 Judgment No. 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), a new third sentence is inserted: "In the event of domestic violence a copy of the notification record shall be provided to the victim upon request."

*This Act was passed by the XXXIXth National assembly and the official seal of the National assembly is affixed thereto.*