

Bulgaria Domestic Violence law

LAW OF PROTECTION AGAINST THE HOME VIOLENCE

Prom. SG. 27/29 Mar 2005, amend. SG. 82/10 Oct 2006

Chapter one. GENERAL PROVISIONS

Art. 1. This law shall provide the rights of the persons, suffered by home violence, the measures for protection and the order for their imposition.

(2) The responsibility under this law shall not exclude the civil and the punitive responsibility of the perpetrator.

Art. 2. Home violence shall be any act of physical, psychic or sexual violence as well as the attempt for such violence, the compulsory restriction of the personal liberty and the personal life, implemented to persons who are or have been in family or kinship relations, in factual marital co-existence or who inhabit one abode.

Art. 3. Protection under this law may seek each person, suffered by home violence, perpetrated by:

1. husband or former husband;
2. person, who is or has been in factual marital co-existence;
3. person by whom there is a child;
4. ascendant;
5. descendent;
6. brother or sister;
7. relationship by marriage;
8. guardian, trustee or receiving parent.

Art. 4. (1) In case of home violence the aggrieved person shall have right to address the court for protection.

(2) (amend. - SG 82/06) In the cases when there are data about direct and immediate danger for the life or the health if the suffered person he can submit application to the police bodies for imposing urgent measures according to art. 71 of the Law of the Ministry of Interior. The bodies of the Ministry of Interior shall send to the court the application together with the explanation of the perpetrator, if such has been given, and the compiled record about the imposed measures, pointing out the circumstances for immediate judicial protection.

(3) Upon request by the aggrieved person each physician shall be obliged to issue document in which to certify in writing the damages or traces of violence.

Art. 5. (1) The protection against the home violence shall be implemented through:

1. obliging the perpetrator to restrain from implementing home violence;
2. removing of the perpetrator fro the jointly inhabited abode for the term, defined by

the court.

3. prohibition for the perpetrator to approach to the abode, the place of work and the places for social contacts and recreation of the aggrieved person under conditions and term, defined by the court.

4. temporary determining of the place of living of the child with the suffered parent or with the parent who has not committed the violence under conditions and term, defined by the court, if this does not contradict with the interests of the child;

5. obliging the perpetrator of violence to attend specialized programmes;

6. directing the aggrieved persons to programmes for recovery.

(2) The measures of para 1, items 2, 3 and 4 shall be imposed for term from one month to one year.

(3) In all cases the court with its decision of art. 15, para v1 shall impose to the perpetrator also fine in extent from 200 to 1000 levs.

Art. 6. (1) The state shall create conditions for the fulfilment of programmes for prevention and protection from home violence and programmes, ensuring assistance to the aggrieved persons.

(2) The bodies of the executive power shall implement selection and training of the persons, charged with the protection under this law.

(3) The bodies of the executive power and the individuals and corporate bodies, registered by the order of art. 18, para 2 and 3 of the Law of social support shall work jointly for protection of the persons, aggrieved by home violence.

(4) The persons of para 3 shall develop, organize the fulfilment and fulfil the programmes of art. 5, pra 1, items 5 and 6.

Chapter two.

PROCEDURES FOR IMPOSING OF MEASURES FOR PROTECTION AGAINST THE HOME VIOLENCE

Section I.

General provisions

Art. 7. (1) Competent to impose measure for protection shall be the district court at the present address of the aggrieved person and in the cases of art. 4, para 2 – the district court at the location of the district police department on which territory protection has been looked for.

(2) The court before which there is pending lawsuit between the aggrieved person and the perpetrator or with regard to some of them on the basis, pointed out in the Family Code or in the Law of protection of the child, shall be competent to impose measure for protection at any situation of the case.

Art. 8. The procedures for issuing the order may be formed upon:

1. application by the aggrieved person;

2. request by the director of directorate "Social support";
3. application by brother or sister or by person who is in kinship relationship of direct line without limitation with the aggrieved person – in the cases of immediate judicial protection.

Art. 9. (1) The application or the request shall be in writing and contain:

1. the names, the address and the unified civil number of the applicant or the one submitted the request; in case the aggrieved person cannot or does not wish to reveal his address he can point out judicial address;

2. the names and the present address of the perpetrator or another address where he can be summoned, including telephone and fax;

3. data about the family, the kinship ties or the factual relationship between the aggrieved person and the perpetrator;

4. description of the facts and the circumstances at which the home violence has been accomplished;

5. signature.

(2) In te cases of art. 8, items 2 and 3 the court shall officially constitute as party the aggrieved person.

(3) To the application of art. 8, item 1 shall also be attached declaration by the applicant about the implemented violence.

(4) The court shall upon request by the applicant require for the perpetrator information about criminal record, information about imposed measures under this law and certificate whether he is kept in psychiatric account.

Art. 10. (1) The application or the record shall be submitted in one month term after the act if home violence.

(2) The application or the request shall be registered in special register and shall be distributed on the day of receiving.

(3) In the cases of art. 4, para 2 the application shall be submitted through the nearest district police department.

Art. 11. (1) At submitting of application of art. 8, items 1 and 3 state fee shall not be paid.

(2) At issuing of the order the court shall assign the state fee and the expenses for the case to the perpetrator of the home violence;

(3) Upon refusal to be issued an order or at revoking of the order the state fee and the expenses for the case shall be paid by the applicant and in the cases of art. 8, item 2 the expenses shall be paid by the Agency for social support.

Section II. Implementing of local transfers

Art. 12. (1) On the day of receiving the application or the request the court shall set opened judicial session in term not longer than 30 days and together with the subpoena and the

copy of the application or the request with the attachments notify the defendant about his obligation to present proofs.

(2) In the cases of art. 8, items 2 and 3 shall also be summoned the aggrieved person.

(3) If necessary the subpoena shall be delivered with the cooperation of the police bodies or the mayor.

Art. 13. (1) In the procedures for issuing of order for protection shall be admissible the evidence means under the Civil Procedure Code.

(2) Evidence means in the procedures of para 1 may also be:

1. the records, the reports and other acts, issued by the directorates "Social support", by physicians, as well as by psychologists, consulted the aggrieved person;

2. the documents, issued by corporate bodies, implementing social services and entered in register at the Agency for social support;

3. the declaration of art. 9, para 3.

(3) When there are no other evidences the court shall issue order for protection only on the basis of the attached declaration of art. 9, para 3.

Art. 14. (1) When from the data in the application or the request is obvious that the bodies of the Ministry of Interior and the other state bodies dispose with written evidences of implemented home violence they shall immediately issue certified copies of them upon request on behalf of the aggrieved person, to his representative or proxy, or upon request by the court.

(2) For not issuing of document or copy of document of para 1 to the person who has had to issue it the court shall impose fine in extent of 100 levs by the order of the Civil Procedure Code.

Art. 15. (1) The court shall pronounce decision at an open session.

(2) At respecting the application or the request the court shall issued order for protection.

Art. 16. (1) With the order for protection the court shall impose one or more measures for protection.

(2) The order must contain the warning about the consequences of not fulfilling it under art. 21, para 2.

(3) The decision and the order shall be handed over to the parties and when measure of art. 5, para 1, items 1, 2 and 3 has been imposed – also to the district police department at the present address of the perpetrator and of the aggrieved person.

Art. 17. (1) The decision may be appealed before the regional court in 7 days term after receiving it. The appeal shall be submitted through the court, decreed the decision, with copy for the other party. To the appeal may also be attached new evidences.

(2) The appeal shall not stop the fulfilment of the order.

(3) The district court shall send a copy of the appeal with the attachments to the other party, who in three days term after receiving them may make objections as well as point out

new evidences. After the elapse of this term the appeal together with the attachments and the objections shall be sent to the regional court.

(4) The regional court shall consider the appeal in 14 days term at an open session with summoning the parties by the order of art. 12 and pronounce decision in essence with which remains in force, revokes or changes the appealed decision. When the order is changed the court shall issue new order.

(5) The decision of the regional court shall be ultimate.

Art. 18. (1) When the application or the request contain data about direct and immediate following threat for the life or the health of the aggrieved person the district court shall, in a closed session without summoning the parties, issue order for immediate protection in term of 24 hours after receiving the application or the request.

(2) The order of para 1 shall be handed over to the parties and sent officially to the district police department.

(3) When from the data in the case it is obvious that it is necessary measures to be undertaken under the Law of protection of the child the court shall notify the director of directorate "Social support".

(4) The Court shall set open court session in term not later than 30 days and together with the subpoena and copy of the application or the request with the attachments notifies the defendant about his obligation to present evidences.

(5) In the cases of art. 8, items 2 and 3 the aggrieved person shall also be summoned.

(6) If necessary the subpoena shall be handed over with the cooperation of the police bodies or the mayor.

Art. 19. The order for immediate protection shall have effect till the issuing of the order for protection or the refusal of the court.

Section III. Execution of the order for protection

Art. 20. The order for protection shall be subject to immediate execution.

Art. 21. (1) The police bodies shall follow the fulfilment of the order when with it has been imposed measure of art. 5, para 1, items 1, 2 and 3.

(2) At not fulfilment of the order of the court the police body, established the breach, shall apprehend the perpetrator and notify immediately the bodies of the prosecutor's office.

Art. 22. The court shall issue officially writ of execution for the imposed fines and the adjudicated state fees and expenses.

Concluding provisions

§ 1. For the issues not provided in this law shall be applied respectively the provisions of the Civil Procedure Code.

§ 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 in 6 months term after this law enters into force develop Programme for prevention and protection from home violence.

§ 3. The state shall cooperate with the municipalities and the non profit corporate bodies for creating and support of offices and centres for fulfilment of the measures of art. 5, para 1, items 5 and 6.

§ 4. The persons, registered b the order of art. 18, para 2 and 3 of the Law of social support, who offer social services and programmes for recovery of the aggrieved from home violence or specialised programmes for the perpetrators of the violence shall be obliged to concede to the court list of the services and the programmes.

§ 5. In art. 63, para 3 of the Law of the Ministry of Interior (prom. SG 122/97, SG 29/98 – Decision No 3 of the Constitutional Court of 1998; amend. SG 70, 73, 153/98, SG 30, 110/99, SG 1, 29/00, SG 28/01, SG 45, 119/02, SG 17, 26, 95, 103, 112, 114/03, SG 15, 70, 89/04, SG 11, 19/05) shall be created third sentence: "In the cases of home violence a copy of the record for warning shall be conceded to the aggrieved person upon request."

The law was passed by the 39th National Assembly on March 16, 2005 and is affixed with the official seal of the National Assembly.