

Protection Against Domestic Violence Act (Title amended, SG No. 102/2009, effective 22.12.2009)

Promulgated, State Gazette No. 27/29.03.2005, amended, SG No. 82/10.10.2006, amended and supplemented, SG No. 102/22.12.2009, effective 22.12.2009, amended, SG No. 99/17.12.2010, effective 1.01.2011, supplemented, SG No. 50/3.07.2015

Text in Bulgarian: Закон за защита срещу домашното насилие

Chapter One GENERAL DISPOSITIONS

Article 1. (1) This Act shall regulate the rights of individuals, victims of domestic violence, the measures for protection and the procedure for enforcement thereof.

(2) (Supplemented, SG No. 102/2009, effective 22.12.2009) Liability under this Act shall not preclude civil, administrative penal or penal liability of the perpetrator.

Article 2. (1) (Amended, SG No. 102/2009, effective 22.12.2009) Domestic violence shall denote any act of physical, sexual, mental, emotional or economic violence, as well as attempts of such violence, coercive restriction of personal life, personal liberty and personal rights committed against individuals, who are related, who are or have been in a family relationship or in de-facto conjugal co-habitation.

(2) Any domestic violence committed in the presence of a child shall be considered mental and emotional violence against said child.

Article 3. Protection under this Act may be sought by any person, who has become victim of domestic violence, perpetrated by:

1. spouse of former spouse;
2. person, with whom he/she is or has been in a de-facto conjugal co-habitation;
3. person, who has fathered her child;
4. ascendant;
5. descendant;
6. (amended, SG No. 102/2009, effective 22.12.2009) person with whom he/she is in a collateral relationship up to the fourth degree included;
7. (amended, SG No. 102/2009, effective 22.12.2009) person with whom he/she is or was related by marriage up to the third degree included;
8. guardian, custodian or foster parent;

9. (new, SG No. 102/2009, effective 22.12.2009) ascendant or descendant of the person with whom he/she is in de-facto conjugal co-habitation;

10. (new, SG No. 102/2009, effective 22.12.2009) person, with whom the parent is or was in de-facto conjugal co-habitation.

Article 4. (1) In case of domestic violence the victim shall be entitled to turn to court for protection.

(2) (Amended, SG No. 82/2006, 102/2009, effective 22.12.2009) In cases where there is data of a threat for the life or health of the victim, it may file also a request to the bodies of the Ministry of the Interior to undertake measures under the Ministry of the Interior Act.

(3) Each doctor shall be obliged to issue, upon request from the victim, a document, certifying in writing the injuries or traces of violence, established by the former.

Article 5. (1) (Amended, SG No. 102/2009, effective 22.12.2009) The measures for protection against domestic violence shall be:

1. obligating the perpetrator to refrain from committing domestic violence;

2. removing the perpetrator from the jointly occupied dwelling for a term, specified by court;

3. (supplemented, SG No. 102/2009, effective 22.12.2009) prohibiting the perpetrator to come close to the victim, the dwelling, place of work and the locations of social contacts and recreation of the victim under conditions and for a term, specified by the court;

4. provisional designation of the place of residence of the child with the victim parent or the parent, who did not perpetrate violence, under conditions and for a term, specified by the court if this would not be against the child's interests;

5. obligating the perpetrator of violence to attend specialized programs;

6. directing the victims into rehabilitation programs.

(2) (Amended, SG No. 102/2009, effective 22.12.2009) The measures under paragraph (1), items 2, 3 and 4 shall be imposed for a term from three to 18 months.

(3) (New, SG No. 102/2009, effective 22.12.2009) The measure under paragraph (1), item 4 shall not be imposed in case of a pending court dispute between the parents concerning custody of the child, the residence of the child or the personal relations regime.

(4) (Renumbered from Paragraph 3, SG No. 102/2009, effective 22.12.2009) In any case, by its decision under Article 15(1), the court shall also impose on the perpetrator a fine from BGN 200 to BGN 1 000.

Article 6. (1) The state shall create conditions for the implementation of programs for prevention and protection against domestic violence and programs providing support to victims.

(2) Bodies of the executive branch shall conduct selection and training of the individuals, responsible for the protection under this Act.

(3) (Amended, SG No. 102/2009, effective 22.12.2009) Bodies of the executive branch and/or legal entities, registered under the procedure of Article 18(2) and (3) of the Social Assistance Act and under the procedure of Article 45 of the Non-profit Legal Persons Act shall work for providing protection to persons, who have become victims of domestic violence.

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

(5) (New, SG No. 102/2009, effective 1.01.2010) Annually until March 31 the Council of Ministers shall adopt a National Program for Prevention and Protection against Domestic Violence.

(6) (New, SG No. 102/2009, effective 1.01.2010) The funds to finance the performance of the commitments under the National Program under paragraph (5) shall be determined annually by the State Budget Act of the Republic of Bulgaria for the respective year in the budgets of the respective ministries specified in the program.

(7) (New, SG No. 102/2009, effective 1.01.2010) Annually by the State Budget Act of the Republic of Bulgaria for the respective year funds shall be foreseen in the budget of the Ministry of Justice to finance projects of non-profit legal entities, which are in line with the requirements of paragraph (3) and under the condition that they carry out activities as per this act to elaborate and implement:

1. programs for prevention and protection against domestic violence pertaining to:

(a) preparing and approval of programs at the education establishments;

(b) programs to work with the judiciary bodies and the bodies of the Ministry of the Interior;

(c) monitoring of law enforcement;

(d) holding seminars and conferences;

(e) books and publications;

2. programs to assist persons who are victims of domestic violence, which include:

(a) social, psychological and legal consultations and expert assistance;

(b) referral to other necessary specialists and inter-disciplinary consultations and to crisis centres for persons who are victims of domestic violence;

3. training of the persons who carry out the protection under the law;

4. specialized programs attended by persons who committed domestic violence and which include social and psychological consultations.

(8) (New, SG No. 102/2009, effective 1.01.2010, repealed, SG No. 99/17.12.2010, effective 1.01.2011).

Chapter Two

PROCEEDINGS FOR ENFORCEMENT OF MEASURES FOR PROTECTION AGAINST DOMESTIC VIOLENCE

(Title amended, SG No. 102/2009, effective 22.12.2009)

Section I

General dispositions

Article 7. (1) (Amended, SG No. 102/2009, effective 22.12.2009) The competence to impose a protection measure shall belong to the regional court, serving the area of the permanent or current address of

the victim.

Article 8. (Amended, SG No. 102/2009, effective 22.12.2009) Proceedings on issuance of the order may be initiated on the basis of a petition filed by:

1. the victim, if it is above 14 years of age or has been partially incapacitated;
2. a brother, sister or person, which is directly of kin to the victim;
3. the guardian or custodian of the victim;
4. the Director of the Social Assistance Directorate if the victim is under age, incapacitated or disabled.

Article 9. (1) (Amended, SG No. 102/2009, effective 22.12.2009) The petition shall be in writing and shall contain:

1. (amended, SG No. 102/2009, effective 22.12.2009) the full name, address and personal identification number of the petitioner, the address of the Social Assistance Directorate; if the victim is unable or does not wish to reveal its permanent or current address, it may specify another address;
2. names and the current address of the perpetrator or another address, at which he/she can be subpoenaed, including telephone and fax numbers;
3. data on the family, kin or de-facto relationship between the victim and the perpetrator;
4. (amended, SG No. 102/2009, effective 22.12.2009) the date, place, manner and other facts and circumstances pertaining to the committed domestic violence;
5. signature.

(2) (Amended, SG No. 102/2009, effective 22.12.2009) In the cases under Article 8, items 2 and 4, the court shall establish ex-officio the victim as a party.

(3) A declaration by the petitioner regarding the act of violence committed shall be attached to the petition under Article 8, item 1.

(4) Upon request by the petitioner, the court shall request ex-officio in regard to the perpetrator a certificate of criminal record, a summary of measures imposed under this Act and a certificate of whether the latter was registered at a psychiatric establishment

Article 10. (1) (Amended, SG No. 102/2009, effective 22.12.2009) The petition shall be submitted within a period of one month of the act of domestic violence.

(2) (Amended and supplemented, SG No. 102/2009, effective 22.12.2009) The petition shall be filed in a special register under a separate consecutive numbering (index) of the case-files and is assigned on the day of receipt.

(3) (Repealed, SG No. 102/2009, effective 22.12.2009).

Article 11. (1) (Amended, SG No. 102/2009, effective 22.12.2009) In case of submission of a petition under Article 8 no stamp fee shall be paid.

(2) When issuing the order, the court shall assign that the stamp tax and expenses of the case are paid by the perpetrator of domestic violence.

(3) (Amended, SG No. 102/2009, effective 22.12.2009) In the event of rejection to issue an order or reversal of an order, the stamp duty and the expenses of the case shall be paid by the petitioner unless the petition is for protection of persons under the age of 18 and for incapacitated persons and disabled persons.

Section II

Examination of the case

Article 12. (1) (Amended, SG No. 102/2009, effective 22.12.2009) On the day of receipt of the petition the court shall schedule an open court session not later than one month and shall notify the defendant, in addition to the subpoena and a copy of the petition with the enclosures, of his/her duty to provide evidence.

(2) (Amended, SG No. 102/2009, effective 22.12.2009) In the cases under Article 8, items 2 and 4, the victim shall also be subpoenaed.

(3) As required, the subpoena shall be served with the help of police bodies or of the mayor.

Article 13. (1) The means of evidence under the Code of Civil Procedure shall be admissible in the proceedings for issuance of a protective order.

(2) Means of evidence in the proceedings under paragraph (1) may also be:

1. protocols, reports and other acts, issued by the Social Assistance Directorates, by doctors, as well as by psychologists, having consulted the victim;
2. documents, issued by legal persons, performing social services and recorded in a register of the Social Assistance Agency;
3. the declaration under Article 9(3).

(3) Where no other evidence is available, the court shall issue a protective order only on the grounds of the declaration attached under Article 9(3).

Article 14. (1) (Amended, SG No. 102/2009, effective 22.12.2009) Where evident from the data in the petition that the bodies of the Ministry of Interior and other state bodies hold written evidence of domestic violence committed, they shall issue certified copies thereof forthwith upon request by the victim, its representative or attorney, or at the request of the court.

(2) In the event of failure to issue a document or a transcript thereof under paragraph (1) the person, which was obliged to issue it, shall be subject to a fine of BGN 100 following the procedure of the Code of Civil Procedure.

Article 15. (1) The court shall deliver a ruling at a closed session.

(2) (Amended, SG No. 102/2009, effective 22.12.2009) In case of upholding the petition, the court shall issue a protective order.

Article 16. (1) By means of the protective order, the court shall impose one or more measures of protection.

(2) (Amended, SG No. 102/2009, effective 22.12.2009) The order must contain a warning of the consequences of the failure to comply with it, as described in Article 21(3).

(3) (Amended, SG No. 102/2009, effective 22.12.2009) The ruling and the order shall be served to the parties and in the cases when a measure was imposed pursuant to Article 5(1) items 1, 2 and 3 - also to the regional directorate of the Ministry of the Interior serving the current address of the perpetrator and the victim.

Article 17. (1) (Amended, SG No. 102/2009, effective 22.12.2009) The ruling shall be subject to appeal before the district court within 7 days of handing it in. The petition shall be submitted through the court, having delivered the ruling, with a copy to the other party.

- (2) (New, SG No. 102/2009, effective 22.12.2009) Stamp fee shall not be paid upon filing of the appeal.
- (3) (Renumbered from Paragraph 2, SG No. 102/2009, effective 22.12.2009) Appeal shall not suspend enforcement of the order.
- (4) (Renumbered from Paragraph 3, SG No. 102/2009, effective 22.12.2009) The regional court shall forward a copy of the petition with the annexes thereto to the other party, which may make objections and invoke new evidence within three days of receipt thereof. Upon expiry of the said term, the petition, together with the annexes and objections thereto, shall be forwarded to the district court.
- (5) (Renumbered from Paragraph 4, SG No. 102/2009, effective 22.12.2009) Within 14 days the district court shall review the petition at an open session with summoning the parties under the procedure of Article 12 and shall deliver a ruling on the merits of the case, whereby it shall leave in effect, repeal or amend the ruling appealed. If the ruling is amended, the court shall issue a new order.
- (6) (Renumbered from Paragraph 5, SG No. 102/2009, effective 22.12.2009) The ruling of the district court shall be final.

Article 18. (1) (Amended, SG No. 102/2009, effective 22.12.2009) Where the petition contains data of a direct, immediate or subsequent threat for the victim's life or health, the district court shall issue, at a closed session without summoning the parties, an order for immediate protection within 24 hours of receipt of the petition or of the request.

(2) (Amended, SG No. 102/2009, effective 22.12.2009) The order under paragraph (1) shall be served to the parties and sent ex-officio to the regional directorate of the Ministry of the Interior.

(3) If data of the case show that measures must be taken under the Child Protection Act, the court shall notify the director of the Social Assistance Directorate.

(4) (Amended, SG No. 102/2009, effective 22.12.2009) The court shall schedule an open court session not later than one month and shall notify the defendant, in addition to the subpoena and a copy of the petition with the annexes, of his/her duty to provide evidence.

(5) (Amended, SG No. 102/2009, effective 22.12.2009) In the cases under Article 8, items 2 and 4, the victim shall also be subpoenaed.

(6) As required, the subpoena shall be served with the help of police bodies or of the mayor.

Article 19. (Supplemented, SG No. 102/2009, effective 22.12.2009) The order for immediate protection shall not be subject to appeal and shall be valid until the issuance of a protective order or of the rejection by court to do so.

Section III

Enforcement of the protective order

Article 20. The protective order shall be subject to immediate enforcement.

Article 21. Police bodies shall monitor enforcement of the order, in cases when a measure is imposed by it under Article 5(1), items 1, 2 and 3.

(2) (New, SG No. 102/2009, effective 22.12.2009) When a measure under Article 5 (1) item 2 has been imposed, and the perpetrator refuses voluntary fulfillment, he shall be removed from the jointly inhabited dwelling with the assistance of the police bodies from the regional directorate of the Ministry of the Interior serving the area of the dwelling.

(3) (Renumbered from Paragraph 2, SG No. 102/2009, effective 22.12.2009) In the event of failure to enforce the court order the police body, which has established the violation, shall detain the perpetrator and advise forthwith the services of the prosecutor's office.

Article 22. The court shall issue ex-officio a writ of execution in regard to the fines imposed and stamp taxes and costs adjudged.

Chapter Three

(New, SG No. 50/2015)

MEASURES FOR ENSURING PROTECTION ON THE GROUNDS OF REGULATION (EU) NO. 606/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 12 JUNE 2013 ON MUTUAL RECOGNITION OF PROTECTION MEASURES IN CIVIL MATTERS

Article 23. (New, SG No. 50/2015) Any protected person having obtained a protection measure ordered in one European Union Member State may apply for issuance of a national protection order to the Sofia City Court.

Article 24. (New, SG No. 50/2015) (1) The court shall review the application at a closed session. It shall rule within two weeks on the basis only of a certified copy of the protection order and of the certificate issued in compliance with Article 5 of Regulation (EU) No. 606/2013 of the European Parliament and of the Council of 12 June 2013 on mutual recognition of protection measures in civil matters (OJ, L 181/4 of 29 September 2013), hereinafter referred to as "Regulation (EU) No. 606/2013". The documents shall be accompanied by a translation into Bulgarian language.

(2) The court shall also verify whether the measure may be enforced by the methods of Bulgarian law. Where this is impossible it shall order a substituting protection measure under Bulgarian law. The court shall inform the person causing the risk of the substitution of the protection measure.

(3) The substituting protection measure shall be subject to appeal by the protected person or by the person causing the risk before the Sofia Appellate Court.

Article 25. (New, SG No. 50/2015) A refusal of recognition or enforcement of the protection measure may be ordered by the Sofia City Court at the request of the person causing the risk.

Article 26. (New, SG No. 50/2015) (1) The court of first instance reviewing the case, shall issue upon written request by the protected person the certificate under Article 5 of Regulation (EU) No. 606/2013.

(2) The court shall inform the person causing the risk of the issuance of the certificate and of the consequences of its issuance.

Article 27. (New, SG No. 50/2015) The act of amendment or withdrawal of the certificate under Article 5 of Regulation (EU) No. 606/2013 may be appealed against before the respective district court within two weeks, counting from the moment of notification that an act of amendment or withdrawal of the certificate had been issued.

FINAL PROVISIONS

§ 1. The provisions of the Code of Civil Procedure shall respectively apply in regard to any issues, not regulated in this Act.

§ 2. The Minister of the 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 be obliged to prepare, within 6 months of entry of this Act into force, a Prevention and Protection Against Domestic Violence Program.

§ 3. The State shall assist municipalities and not-for-profit legal persons in the establishment and support of services and centers for implementation of the measures under Article 5(1), items 5 and 6.

§ 4. (Supplemented, SG No. 102/2009, effective 22.12.2009) Persons, registered under the procedure of Article 18(2) and (3) of the Social Assistance Act and under Article 45 of the Non-profit Legal Persons Act, which offer social services and rehabilitation programs for victims of domestic violence or specialized programs for perpetrators of violence, shall be obliged to submit to the court a list of the services and programs.

§ 5. A new sentence three shall be added to Article 63(3) of the Ministry of Interior Act (promulgated in SG No. 122/1997, 29/1998 - Ruling No. 3 of the Constitutional Court of 1998; as amended in No. No. 70, 73 and 153/1998, 30 & 110/1999, 1 & 29/2000, 28/2001, 45 & 119/2002, 17, 26, 95, 103, 112 & 114/2003, 15, 70 & 89/2004, 11 & 19/2005): "In cases of domestic violence a copy of the protocol of warning shall be made available to the victim upon request".

§ 5a. (New, SG No. 102/2009, effective 22.12.2009) The Council of Ministers shall be assigned with the implementation of the act.



TRANSITIONAL AND FINAL PROVISIONS

to the Act Amending and Supplement the Protection Against Domestic Violence Act

(SG No. 102/2009, effective 22.12.2009)

§ 23. Proceedings on petitions (requests) and complaints submitted until this act enters into force shall be examined under the current procedure.

§ 24. Within three months of entry into force of this act the Council of Ministers shall adopt a regulation on its implementation.

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§ 27. The Act shall become effective from the day of it's promulgation in State Gazette, with exeption of § 7, item 2 regarding Article 6, paragraphs 5, 6, 7 and 8, which shall become effective from 1.01.2010.