

# GENERAL AND SPECIAL INVOLVEMENT OF SOCIAL ASSISTANCE SERVICES IN FIGHTING THE PHENOMENON OF DOMESTIC VIOLENCE

*Alina-Raluca CUCU\**

## **Abstract**

*One of the most serious human rights violations is represented by the domestic violence phenomenon. Domestic violence represents that insidious form of violence, repetitive over time and oscillating in intensity, that occurs within the family, when one or more members are victims of violent manifestations of another family member, endangering their mental integrity, dignity, physical integrity or even life.*

*Given the magnitude of the phenomenon of domestic violence in recent years, but especially during the covid-19 pandemic, I intended through this paper to make an analysis of Romanian legislation, focusing on the responsibilities of social assistance services in preventing and fighting the domestic violence phenomenon.*

*In order to fulfil the proposed goal, I analysed, first of all, the legal provisions regarding the general attributions of the social assistance services and then the provisions comprised in the special law, which aims at preventing and fighting the phenomenon of domestic violence, to identify, in concrete, which are, from the perspective of the Romanian legislator, the methods and techniques by which the social system services intervene in cases of domestic violence.*

*At the end of the study, I will emphasize the conclusions drawn from the analysis undertaken, highlighting the reported errors and also I will try to sketch some proposals in order to improve the management of the domestic violence phenomenon by the social services.*

**Key Words:** *domestic violence, victims of domestic violence, general and special law, social services system, administrative bodies, procedures and methods.*

**JEL Classification:** [K4, K15, K36, K38]

## **1. Introduction and legislative information**

Violence is that reprehensible human behaviour, that implies imposition and domination by force. Despite sustained global efforts to fight it, violent manifestations have existed in human society since ancient times and still exist today. Although efforts have been made and are being made to stop this behaviour, people still tend to resort to violence, for various reasons and for various purposes.

One of the most insidious forms of violence is represented by domestic violence, respectively that form of violence directed against one or more members of one's own family.

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\* PhD. student, Lawyer, Bucharest Bar Association member, ELI member, National University of Political Studies and Public Administration (NUPSPA).

By its nature, domestic violence is the most difficult type of violence to detect and can be: verbal, psychological, economic, social, religious, sexual or physical violence. As a way of manifestation, it can cover one, several or all forms of violence previously shown, separately or simultaneously.

By studying the cases that caught the attention of the authorities, a cycle of domestic violence was identified - the aggressor gradually subjecting the victim or victims initially to psychological and economic violence. Most of the times, verbal and physical violence manifests itself much later, when the aggressor is convinced that the victim or victims are fully in his power (Bonea, 2016).

Moreover, due to the intimate setting of the family home where the acts of violence take place, the victim or victims are in permanent contact with the aggressor, without being able to find any refuge or safe area, where they can feel safe. This unfortunate situation makes, from a psychological point of view, the connection between the victim and the aggressor to be even deeper, implementing in the victim's consciousness the belief that there is no solution out of this situation (V.D. Zlătescu, I. Moroianu Zlătescu, 1994).

For this reason, the cases of domestic violence hardly reach the attention of the authorities, the victims being, most of the times, in a state of total psychological dependence towards the aggressor, generated by the long period of time they were subjected to acts of violence, but also by the lack of a safe area in which they can take refuge from the violent manifestations.

Domestic violence represents a serious and flagrant violation of human rights and fundamental freedoms, manifestations of violence seriously harming both the human dignity of the victim and their physical and mental integrity, even life itself being endangered in frequent cases (Moroianu-Zlătescu, 1997).

In support of victims of domestic violence, but also to prevent and fight this general phenomenon, a number of instruments have been adopted, both globally and regionally and also nationally. The states of the world are aware of the need on taking concrete measures, through which, on the one hand, aggressors should be held accountable and prevented from engaging in such behaviour, and on the other hand, help and counselling should be provided to victims of domestic violence.

Being undeniable the importance of the existence of a national legal framework, correlated with international provisions in the field, to which Romania is a party and adequate to the standards of procedures and practices, the domestic legislator synthesized and adopted concrete legislative measures to prevent and fight domestic violence, but also to counsel and help the victims of this phenomenon. Thus, in this specific area of legislation, the help and counselling of the victims of domestic violence were given in the attributions of the social services.

The framework law regulating social services is Law no. 292/2011, with subsequent amendments and completions, which generally establishes the attributions of social services and their scope, and in addition, regarding strictly the domestic violence phenomenon, the law no. 217/2003, establishes in concrete the attribution of services in charge in preventing and fighting this phenomenon.

## **2. The general system of social services**

According to the general law, “the national social assistance system must be the set of institutions, measures and actions by which the state, represented by central and local public administrative authorities, as well as civil society, intervene to prevent, limit or eliminate the temporary or permanent effects of situations that may generate marginalization or social exclusion of individuals, families, groups or communities” and consists of two distinct systems: the social assistance benefits system and the social services system.

### *1. Legal nature*

As Professor N. Popa pointed out, normative acts, whether they are laws, decisions or resolution, all act in interdependence with each other (N. Popa, 1993), forming the legislative framework, or, more clearly, the legislative system.

Normative acts ensure the regulation of social relations, so as to achieve the framework for exercising fundamental rights and freedoms, but also the guarantees of their defence and prevention methods, taking into account, at the same time, the specific ways of attracting liability in case of infringement, with all the consequences arising from the infringement found.

Normative acts can only be adopted in correlation with each other, and the wording cannot be accidental, because it is necessary to take into account the social relations that fall under the regulation and the whole pleiad of natural interdependencies from which these social relations are formed (Zlătescu, 1995).

According to the provisions of the law regulating social services in the Romanian legal system, both social services and social assistance benefits constitute an unitary package of complementary and correlated measures, which intervene in the subsidiary or as the case may be, together with some social insurance measures.

The elaboration of the procedural framework in the field is the responsibility of the central public administration authorities, which, through normative administrative acts, establish the methodologies for implementing the measures and actions established by law, in charge of social services, as well as the development of policies to support the family, fighting poverty, supporting disadvantaged sections of the population etc.

The central public administration authorities also ensure the transfer of the attributions, but also the financial means necessary to carry out the social assistance actions established by special laws, both to the local public administration authorities and to religious institutions, non-governmental organizations, but also to associations and foundations authorized by special law to function in this area.

By corroborating this legal texts, we can define social services as those services of general interest, organized in various structures, which fulfil a set of activities designed to meet social needs, general or individual, general or special, in

order to immediately overcome difficult situations, but also to prevent and diminish the risk of violence and social exclusion and with the mediated goal of promoting social inclusion and increasing the life quality of citizens.

It follows from this definition that the legal nature of social services is a succession of individual administrative acts, issued on the basis of special, non-contentious administrative procedures. As the definition suggests, their primary purpose is to overcome situations of difficulty, prevent and fight violent phenomena or social exclusion.

## *2. Classification of social services*

According to Article 29 of the law 292 from 20 December 2011<sup>1</sup> social services are classified according to the following criteria:

- purpose of the service;
- the categories of beneficiaries to which they are addressed;
- the assistance scheme, respectively residential or non-residential;
- place of grant;
- the legal regime of the social services provider;
- the granting regime.

Depending on the purpose, the services can be recovery or rehabilitation, assistance and support to ensure basic needs, insertion or social reintegration services etc.

From the point of view of the beneficiaries to whom the services are addressed to, these can be services for mother and child, people with disabilities, homeless people, people diagnosed with various addictions (alcohol, drugs, toxic and ethnobotanical substances, gambling), victims of human trafficking, victims of domestic violence etc

According to the criterion of the place where the service is provided, the law states both accommodation services (fixed / indefinite) and services without accommodation, in residential centres, day centres, sheltered housing, social boarding schools, social canteen, night shelters and others, the legal enumeration not being exhaustive, services provided at the beneficiary's home being available as well.

According to the legal regime of the provider, social services can be provided by public structures, private structures or structures in public-private partnership, and according to the criterion of the granting regime, the services are provided both normal and special regime.

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<sup>1</sup> Law no. 292/2011 republished, published in the Official Gazette no. 905 of December 20, 2011 regarding social assistance.

### **3. The special framework for preventing and fighting domestic violence**

Coming in addition to Law 292/2011, Law 217/2003<sup>2</sup>, with subsequent amendments and completions, establishes in concrete some attributions for the social services in order to prevent and fight the domestic violence phenomenon.

Through its authorities, the Romanian state develops and implements, in addition to policies and programs to prevent and fight domestic violence also programs and policies aimed at protecting victims of this type of violence.

Thus, by special law, together with the state institutions involved, the categories of social services that actually come to the aid of the victims are established, as well as the types of counselling and reintegration services that the aggressors can benefit from.

#### *1. Organization of social services*

Social services in the field of preventing and fighting domestic violence, as regulated by the special law, focus on counselling and helping victims of domestic violence, on counselling and rehabilitating of aggressors and less on preventing such manifestations.

These services are organized both in residential and day care or in centres with continuous program. Regardless of the form of organization, all the respective centres provide, free of charge to the victims of domestic violence, a series of services, from simple emergency accommodation to medical interventions and psychological counselling.

#### *2. Types of services established by the special law*

As previously shown, the social assistance services provided to victims of domestic violence are of several types, the services they benefit from differ, depending on the type of organization that provides the service.

According to the law, residential centres are of three types: emergency reception centres, victim recovery centres and sheltered housing.

In emergency reception centres, also called shelters, victims of domestic violence receive free, but limited in time, family and medical assistance (if required), accommodation, care, food and protection against the aggressors, who have ban on entering these centres. At the same time, the victims also benefit from psychological, psychiatric and legal counselling, being informed and explained the rights they have and the legal instruments they can benefit from in defending their rights. The entry into these shelters is only made in case of emergency, when it is imperative to separate the victim or victims from the aggressor or when this is required as a protective measure.

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<sup>2</sup> Law no. 217/2003 republished, published in the Official Gazette no. 948 of October 15, 2020 for preventing and fighting domestic violence.

In recovery centres, victims of domestic violence receive, in addition to the services provided in shelters and counselling for their readjustment to an active social life, vocational counselling services, qualification courses, as well as support for the professional and social reintegration of the victims.

Safe housing is a type of organization of emergency social services, the existence of which is kept secret and which offers victims emergency protection, given that they cannot benefit, for various reasons, from the services provided in shelters. In here, victims receive, for a limited period of time, the same services as in shelters, in addition to benefiting from professional and social guidance counselling.

The centres for preventing and fighting domestic violence organized during the day provide victims, along with assistance, psychological and legal counselling, but also information and socio-professional guidance. At the same time, the centres for information and public awareness services represent those units that offer, in addition to social assistance, information and education services. Moreover, an emergency telephone service for information and counselling operates in these centres.

There are also two additional types of services, comprised in the special law, provided to victims of domestic violence: integrated emergency services for victims of sexual violence and information and counselling services for victims. These services are organized in a continuous program, and can be accessed at any time, as emergency.

Integrated services for victims of sexual assault are those centres where victims receive medical and forensic examination, as well as counselling and post-traumatic assistance, while information and counselling services for victims are emergency telephone services type (help line), free and confidential, which provides information and counselling on all forms of violence, but also on all forms of protection that victims can benefit from.

A different category of social services is established by special law, in order to counsel, rehabilitate and reintegrate aggressors into society. These social services are organized in day centres, where aggressors can benefit from educational measures, support and counselling for social rehabilitation and reintegration, family mediation and psychological counselling. Also, through these centres, the aggressors are referred to the contracting hospital units, in the event that it is found that they must follow treatment for various addictions.

#### **4. State institutions involved in preventing and fighting domestic violence**

The special Law no 217/2003 establishes tasks for state institutions to prevent and fight domestic violence.

According to the legal provision the ministries, as well as the other specialized central bodies belonging to the public administration are obliged to designate through their territorial structures, personnel with attributions in this field.

At the same time, both the ministries, the other specialized central bodies belonging to the public administration, as well as the local public administration authorities are obliged to carry out activities for the prevention and fighting domestic violence. In addition, the law forces representatives of civil society and non-governmental organizations to carry out the same types of activities, separately or in collaboration with state authorities.

The ministries, together with the other specialized central bodies belonging to the public administration are responsible for elaborating the national strategy in order to prevent and fight domestic violence, as well as an internal mechanism for coordinating and monitoring the activities undertaken in this field.

The Ministry of Labour and Social Protection is the central public authority that is empowered to develop the policy on social assistance and to promote the rights of victims of domestic violence. At the same time, this ministry, through its specialized structures at central and territorial level, has attributions regarding the elaboration and application of special measures for the social and labour market integration of the victims of domestic violence.

Together with the Ministry of Internal Affairs, the Ministry of Education and Research, the Ministry of Health and the Ministry of Infrastructure and Telecommunications, it is responsible for developing and disseminating documentary materials for the population, studies, analyses and statistics on the causes and consequences of domestic violence, preventing and fighting this phenomenon.

Separately, each minister, according to the specific attributions and specializations, has the obligation, on the one hand, to elaborate instructions and personal instruments, in order to identify cases of domestic violence and, on the other hand, to develop public information and awareness programs, about the causes, but especially the consequences of domestic violence, both at individual and social level.

The Ministry of Education and Research also is called upon by the special law to introduce in the pre-university education program, depending on the students' level of understanding, notions regarding mutual respect, nonviolent conflict resolution, the right to personal physical and mental integrity, equal opportunities and equal treatment for women and men, gender-based violence and the fight against gender discrimination. At the same time, this ministry has the obligation to organize, together with other ministries, in collaboration with non-governmental organizations working in the field, educational programs to prevent domestic violence, harassment and sexual violence, both for teachers and for parents and students.

The National Agency for Equal Opportunities between Women and Men is a specialized body belonging to the central public administration, subordinated to the Ministry of Labour and Social Protection which "exercises functions of strategy, regulation, representation and state authority in the field of domestic violence, with attributions in the elaboration, coordination, application of the strategies and

policies of the Government in the field of domestic violence”. As a body with coordination responsibilities of decentralized specialized structures, it monitors inter-institutional and local cooperation in order to prevent and combat domestic violence. The National Agency for Equal Opportunities between Women and Men also manages the national database on victims of domestic violence and aggressors who benefit from social services provided in each county, in collaboration with other institutions and authorities in the field.

### **Conclusions**

At the present, from a legislative point of view, Romania benefits from a modern social assistance system. At a theoretical level, state institutions have an obligation to implement strategies, programs and policies designed to prevent and fight the phenomenon of domestic violence. And also at a theoretical level, victims of this type of violence benefit free of charge from social services at the highest quality standards, provided by specialised civil servants or highly qualified social workers.

In reality, however, the difference between the legislative basis and the actual exercise of the law is enormous. Even if real progress has been made, the factual reality has not yet been brought into line with the legal obligation, either due to lack of adequate funding, lack of staff qualifications, or due to cumbersome and misunderstood methodologies that affect practical applicability.

What is certain is that, although the special law is intended to be a law regulating the prevention and fighting of domestic violence, in reality, only those provisions governing post-factum situations are applicable, after the domestic violence situations come to light.

Although special law requires many central administration entities to adopt procedures, programs and methods in order to fulfil the goals of the special law, so far there are no well-developed plans, procedures, programs or methods ready to be enforced.

In order for the system to function as expected, it is still necessary to harmonize the special legislative provisions with the general legislative provisions, which often present terminology that no longer agrees with the updated forms of the special law and all the central administration entities must cooperate and adopt the required procedures, programs and methods, as regulated by the law.

At the same time, a specialization of the civil servants and a higher qualification of the social workers that are to implement special administrative procedures are required, so that efforts to reduce the phenomenon of domestic violence may have concrete results and, as far as possible, lead to a real decrease in the number of reported cases.

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