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The Effects of Domestic Violence Legislation on Victims: A Socio-Legal Approach

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Abstract: *Domestic violence legislation plays an essential role in protecting victims and discouraging abusive behaviour. A socio-legal approach reveals that the effects of these rules are not limited to sanctioning the aggressor, but profoundly influence the victim's recovery and social reintegration trajectory. On the legal front, the introduction of protection orders, the explicit criminalization of domestic violence and the facilitation of access to justice have represented important steps in strengthening an effective legal framework. These measures offer victims the opportunity to benefit from protection quickly, even before the completion of a criminal trial. At the same time, legislative changes in recent years, including the recognition of psychological and economic violence, reflect a deeper understanding of the phenomenon. From a social point of view, legislation contributes to changing public perceptions of domestic violence, encouraging victims to break the silence and access available services. However, the positive effects are conditioned by factors such as the victim's level of information, access to support services (counseling centers, shelters), the professional training of the personnel involved (police officers, social workers, judges) and the availability of financial resources. A socio-legal approach also highlights the discrepancies between the law and its application in practice. For example, the protection order, although effective in theory, may become ineffective in the absence of monitoring of the aggressor or inter-institutional cooperation. Also, the social stigmatization of victims or economic dependence on the aggressor may limit the positive effects of legal intervention. In conclusion, legislation on domestic violence is a crucial but not sufficient instrument. Its efficiency depends on a coherent implementation and the integration of social services into a functional support network. Only through an integrated vision, which combines legal protection with psychosocial support, can sustainable results be achieved in the process of rehabilitation of victims and prevention of recidivism.*

Keywords: *legislation; domestic violence; legal, social; victim.*

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Introduction

Domestic violence is one of the most serious forms of violation of fundamental human rights, with devastating consequences for victims, families and society as a whole. It transcends cultural, economic and geographical borders, being a global phenomenon recognized by international bodies such as the United Nations and the Council of Europe. In this context, the development and implementation of effective legislation becomes not only a legal obligation of the state, but also a moral and social imperative.

In Romania, domestic violence has long been perceived as a private matter, invisible in the sphere of criminal or civil law. Only in the last two decades, following the pressure exerted by civil society and the international commitments assumed by the Romanian state, has the phenomenon begun to be explicitly addressed in national legislation, starting with Law no. 217/2003 (Parlamentul României, 2013) on the prevention and combating of domestic violence. Subsequently, this normative act was substantially supplemented and amended, especially following the ratification of the Istanbul Convention by Law no. 30/2016, marking an essential step in recognizing violence against women as a form of discrimination and violation of human rights. However, this legislative transformation is not sufficient in itself. The effectiveness of the law is not measured only in normative terms, but especially through the concrete impact on victims – on their physical and psychological safety, access to justice, effective protection and ability to reintegrate socially. A socio-legal approach is therefore indispensable to evaluate not only the normative framework, but also how it is applied in practice, to what extent it responds to the real needs of victims and whether it contributes to preventing recidivism and breaking the cycle of abuse.

This paper aims to analyze the effects of the legislation on domestic violence in Romania from an interdisciplinary perspective, combining the legal analysis of the norms in force with a sociological assessment of their impact on victims. We will focus both on legal protection instruments - such as protection orders and criminal measures - and on the institutional, social and cultural challenges that affect their implementation. The ultimate goal is to identify the strengths and weaknesses of the current system, with a view to formulating coherent proposals for reform and integrated intervention.

Applicable national and international legal framework

National legal framework

In Romania, the main legal framework in the field of domestic violence is represented by Law no. 217/2003 (Parlamentul României, 2013) for the prevention and combating of domestic violence. Adopted in a context of domestic and international pressure, the law was significantly amended by Law no. 25/2012 and subsequently by Law no. 174/2018 (Parlamentul României, 2018), which introduced the provisional protection order. This law aims to prevent and combat all forms of violence exercised in the family, protect victims and sanction aggressors. The law defines domestic violence in a complex way, including not only physical violence, but also psychological, sexual, economic, social and even spiritual violence (art. 3 para. 1) (Parlamentul României, 2003). This approach aligns with a modern vision of the phenomenon, which is not limited to criminal aspects, but also involves relational and power dimensions.

The central instrument of victim protection is the protection order, which can be issued by the court at the request of the victim or a legal or institutional representative, for a maximum period of 6 months. Also, the provisional protection order, issued by the police, allows immediate intervention in situations of imminent risk and is valid until the court pronounces its decision, but not more than 5 days (Parlamentul României, 2018). At the same time, the Criminal Code and the Code of Criminal Procedure include regulations applicable to acts of domestic violence. For example, art. 199 of the Criminal Code provides that the offenses of assault or other violence, bodily harm or threat, if committed against a family member, constitute aggravating forms (Parlamentul României, 2009). This aspect confirms the recognition of the relationship of power and vulnerability specific to this type of violence.

However, specialists criticize the fact that the application of the legislation is uneven, and in practice, there are cases in which protection orders are violated without appropriate sanctions, which reduces the effectiveness of legal protection (European Institute for Gender Equality, 2021). In addition, the lack of an extensive network of support services (shelters, psychological and legal counselling) affects the ability of victims to benefit in practice from the protection offered by the law.

International legal framework

Romania is party to several international instruments regulating protection against domestic violence. The most relevant of these is the Council of Europe Convention on preventing and combating violence against women and domestic violence – known as the Istanbul Convention,

ratified by Law no. 30/2016. The Istanbul Convention establishes a comprehensive legal framework, based on four fundamental pillars: prevention, protection, prosecution and integrated policies ("the 4 Ps") (Consiliul Europei, 2011). Article 3(a) defines violence against women as a violation of human rights and a form of discrimination, establishing the obligation of States to prevent violence, protect victims and punish perpetrators. A distinctive element of the Convention is its gender perspective. It recognises that women are disproportionately affected by domestic violence and that legislative and administrative measures must therefore take into account social realities and structural power imbalances (European Institute for Gender Equality, 2019).

In addition to the Istanbul Convention, Romania is also a party to other relevant treaties, including:

• The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) – ratified by Law no. 1/2001, which imposes positive obligations on the Romanian state to protect women against all forms of violence;

• The Charter of Fundamental Rights of the European Union, which, in Articles 3 and 4, guarantees the right to physical and mental integrity and prohibits inhuman and degrading treatment;

• The European Convention on Human Rights (ECHR) – through the jurisprudence of the European Court of Human Rights (e.g. the case Opuz v. Turkey, 2009), the obligation of states to protect victims of domestic violence effectively and promptly has been established (CEDO, 2009).These instruments create an international legal standard that goes beyond simple criminal provisions, imposing an intersectoral approach, focused on protecting victims, preventing revictimization and supporting social reintegration.

Therefore, Romania currently has a legislative framework relatively well harmonized with international standards on combating domestic violence. However, the effectiveness of this framework depends crucially on how it is implemented at the institutional level. Obstacles such as lack of training of the personnel involved, cultural prejudices or the lack of adequate social services reduce the potential of the protection offered by the law. Consequently, there is a need for coherent implementation, supported by integrated public policies and a paradigm shift at the social and institutional level.

Effects of legislation on victims

Effective legal protection

Effective legal protection is one of the most important dimensions of the fight against domestic violence. This requires not only the existence of legal norms prohibiting abusive behavior, but also ensuring that these norms are applied in a concrete, efficient and equitable manner to guarantee the safety and dignity of victims. In Romanian law, this protection is mainly manifested through mechanisms such as the protection order and the provisional protection order, as well as through the relevant criminal and procedural provisions.

1. Protection order - between theory and practice

The protection order, regulated by Law no. 217/2003 (amended), is issued by the court in an emergency regime, at the request of the victim or other competent institutions (police, prosecutor, social worker), in order to prevent imminent acts of violence (Parlamentul României, 2003). This may include measures such as:

- temporary eviction of the aggressor from the shared home,
- prohibition of approaching the victim, the workplace or other family members,
- forcing the aggressor to undergo psychological counseling or treatment for alcohol consumption.

Although the legislation provides for the resolution of the request within 72 hours, practice shows that, in some cases, the deadlines are extended due to the congestion of the courts or the difficulty of proving urgency (European Institute for Gender Equality, 2020). This delay may lead to the victim being continuously exposed to risk.

2. Temporary protection order - legislative progress

A notable progress in terms of victim protection was the introduction of the temporary protection order, through Law no. 174/2018, issued directly by police officers who intervene in emergency cases, without prior authorization from the court. It provides immediate protection for a period of 5 days, subject to court validation (Parlamentul României, 2018).

Recent studies indicate that this mechanism has increased access to protection for victims in immediate danger, but its application is uneven, especially in rural areas, where a lack of specialized personnel or training for police officers reduces the effectiveness of the tool. (ANES, 2021)

3. Uneven implementation and practical challenges

One of the main obstacles to effective legal protection is the uneven application of the rules. Data from the National Agency for Equal Opportunities shows that many victims do not file complaints, either out of fear, lack of trust in institutions, or for economic and cultural reasons (World Bank, 2018). In addition, there are difficulties in monitoring compliance with protection orders, and sanctions for their violation are often late or insufficient. At the same time, the lack of an integrated digital system between courts, police and social services makes the protection process cumbersome and fragmented. The victim is thus forced to go through several institutions, often without legal or psychological support, which can lead to re-traumatization or abandonment of the legal process.

4. Compliance with international standards

Effective legal protection is an express requirement of the Istanbul Convention, which stipulates that states must ensure prompt, effective and accessible protection measures for victims (arts. 52-53) (Consiliul Europei, 2011). Also, the European Court of Human Rights, in its consistent case law, has emphasized the state's obligation to intervene promptly and effectively to prevent harm in cases of domestic violence (e.g. Opuz v. Turkey, 2009) (CEDO, 2009). Thus, the lack of an adequate response from the authorities may constitute a violation of Articles 3 and 8 of the European Convention on Human Rights (prohibition of inhuman treatment and right to private and family life).

Although Romania has made important steps in aligning its legislation with international standards on the protection of victims of domestic violence, the effectiveness of legal protection depends crucially on the coherent and sensitive application of existing rules. There is a need for continuous professional training of the actors involved, digitalization of procedures, expanded access to free legal and psychological assistance services, as well as coherent public policies that do not leave victims alone in the face of the system.

Effects of legislation on victims: Access to justice

Access to justice is a central element of human rights protection and an essential pillar in effectively combating domestic violence. According to international and European standards, real and effective access to justice implies not only the theoretical possibility of filing a complaint, but also the existence of a system that allows victims to exercise their rights equally, safely and effectively, regardless of their social, economic or personal

condition. Access to justice is enshrined in multiple international legal instruments. Article 6 of the European Convention on Human Rights (ECHR) guarantees the right to a fair trial, and Article 13 enshrines the right to an effective remedy. The Istanbul Convention provides in Articles 8 and 18 the obligation of states to ensure an accessible judicial system that supports victims of domestic violence at all stages of the procedure, without discrimination (Consiliul Europei, 2011).

In Romania, the legislative framework includes provisions in Law No. 217/2003, the Code of Criminal Procedure and Law No. 211/2004 on measures to protect victims of crime. These acts establish that victims have the right to information, legal and psychological counselling, procedural support and protection against intimidation or reprisals. Although the legislation provides a robust formal framework, numerous obstacles prevent victims of domestic violence from fully exercising this right in practice:

a) Financial obstacles

One of the most common barriers is the lack of financial resources of victims, especially in cases where they are economically dependent on the aggressor. Although the law provides for the possibility of free legal aid, effective access to it is limited by bureaucracy, lack of information and the limited availability of public lawyers (Parlamentul României, 1995).

b) Lack of information and counseling

According to national studies, a significant part of victims are unaware of the existence of legal protection mechanisms, do not know how to file a complaint or are afraid of the aggressor's reaction and the lack of institutional support (ANES, 2022).

Also, many women do not clearly understand the legal implications of a protection order or a criminal action.

c) Revictimization in the judicial process

A common aspect in Romanian judicial practice is revictimization, that is, the treatment of the victim in an unempathetic or even hostile manner by the authorities – police officers, magistrates or medical personnel. Aggressive questioning, doubts expressed regarding the veracity of the complaint or trivialization of acts of violence are practices that reduce trust in justice (World Bank, 2018).

d) Inefficiency of the institutional system

Weak coordination between the police, prosecutors, courts and social services leads to slow and fragmented procedures. The lack of specialized support units in courts or the lack of translations into minority languages can particularly affect victims belonging to vulnerable groups – Roma women, women with disabilities or migrants (EIGE, 2019).

However, it should be noted that important steps have been taken in recent years to improve access to justice, including:

- the development of counselling centres in major cities,
- the appointment of magistrates specialised in domestic violence cases,
- the initiation of national information campaigns on victims' rights.

A positive example is the use of the temporary protection order in an emergency regime, which allows police intervention even before a court decision (Parlamentul României, 2018).Also, projects supported by NGOs (e.g. ANAIS, FILIA, Transcena Association) provide free legal assistance and emotional support to victims.

In its case law, the European Court of Human Rights has repeatedly condemned member states for inaction or inadequate responses to domestic violence. In the case of Eremia v. Moldova (2013), the Court held that the authorities had failed to protect the victim despite repeated complaints, establishing that formal access to justice is not sufficient if it is not complemented by efficiency and promptness (CEDO, 2013).

These precedents establish that authorities must react quickly, diligently and without gender bias, and failure to ensure effective access to justice may constitute a violation of Art. 3 (prohibition of inhuman treatment) and Art. 8 ECHR (right to private life). Access to justice, although formally provided for in Romanian legislation, remains a partially achieved objective for many victims of domestic violence. The factors that affect this access are of an institutional, economic, social and cultural nature. For the legislation to have a real impact, it is essential that it is implemented in a victim-friendly framework, with trained personnel, accessible procedures and integrated support measures. Only in this way can we speak of effective and equal legal protection.

Effects of the legislation on victims: Rehabilitation and psychosocial support

Rehabilitation and psychosocial support are an essential component of the legislative and institutional response to domestic violence. In the absence of active post-traumatic support measures, victims risk remaining in the cycle of abuse, not accessing justice or suffering lasting consequences for their mental, social and economic health. From this perspective, legislation should not be limited to immediate protection, but should include clear

measures for the victim's recovery and reintegration into social life. Article 20 of the Istanbul Convention explicitly enshrines the obligation of states to ensure "adequate, accessible and effective services" for the physical and psychological recovery of victims of domestic violence. These include psychological counselling, medical support, legal support, temporary shelters and social and professional insertion.

The UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) also recommends that member states adopt active support measures for victims of gender-based violence, including rehabilitation and reintegration programs.

In Romania, the legislation theoretically provides for psychosocial support through:

• Law no. 217/2003, which provides in art. 6 letters h and i the provision of specialized services for victims, including psychological counseling, rehabilitation and social reintegration;

• Law no. 292/2011 on social assistance, which provides that victims of domestic violence have the right to free social services;

• Law no. 211/2004 on the protection of victims of crime, which guarantees access to support and counseling services for victims.

However, the implementation of these provisions is often deficient, and services vary significantly depending on the region, the capacity of local administrations and the support from non-governmental organizations.

There are also numerous obstacles to accessing psychosocial support, such as:

a) Lack of specialized centers

According to ANES (2023), in Romania, fewer than 60 specialized psychological counseling centers for victims of domestic violence were actively operating, insufficient for the number of cases reported annually. In many counties, there are no free specialized services at all, and where they exist, the capacity is reduced.

b) Underfunding and fragmentation of services

Most rehabilitation services are supported by NGOs, which operate through temporary projects. The state does not have a sustainable financing system for support centers, which affects the continuity and quality of interventions. The lack of collaboration between social assistance departments, hospitals, courts and NGOs leads to the fragmentation of the intervention, and the victim is forced to navigate a complex bureaucratic system alone.

c) Lack of staff training

Staff who provide psychosocial support (psychologists, social workers, counselors) are not always trained to work with traumatized victims. In the absence of a trauma-informed approach, the intervention can become revictimizing and ineffective.

Therefore, without psychosocial support, victims face:

• post-traumatic stress disorder, depression, anxiety or sleep disorders;

• difficulties in professional reintegration, especially in the case of women who were financially dependent on the aggressor;

• social isolation, lack of self-confidence and in institutions;

• returning to the aggressor, due to the lack of safe alternatives or economic resources.

A study conducted by the World Bank in 2018 showed that, in Romania, over 60% of victims who did not benefit from psychological support returned to the aggressor in the first year after the separation.

Legislation on rehabilitation and psychosocial support for victims of domestic violence provides a sound formal framework, but its effectiveness is severely hampered by lack of uniform implementation, underfunding and the lack of an integrated approach. Rehabilitation of victims is not only a legal and moral obligation, but also an investment in social cohesion and public health. Without concrete post-abuse support measures, efforts to combat violence remain incomplete and ineffective.

Conclusion

The effectiveness of domestic violence legislation cannot be analyzed exclusively in terms of the norms adopted, but must be understood in the context of the interaction between norms, institutions and the social realities of victims. From a legal point of view, Romania has taken important steps in aligning its legislation with international standards, in particular by ratifying the Istanbul Convention and consolidating the legal framework through Law no. 217/2003. The introduction of protection orders, electronic bracelets and the recognition of multiple forms of violence (psychological, economic, sexual) reflect a modern and comprehensive vision of the phenomenon.

However, from a socio-legal perspective, the effective application of the law remains uneven and often fragmented. The lack of a functional network of social services, the absence of specialized personnel in many localities, as well as tolerant cultural attitudes towards violence substantially reduce the positive impact that the legislation should have on victims. Thus, the victim does not only benefit from formal legal protection, but also needs

concrete support for reintegration, psychological counseling, safe shelter and economic support. From an academic point of view, the interdisciplinary analysis shows that the law, although fundamental for protection and sanction, is not self-sufficient. It must be accompanied by coherent public policies, social education, training of the personnel involved and the allocation of sufficient resources. A good law, but poorly applied, produces symbolic, not real effects. On the other hand, a coherent law, coupled with effective socio-institutional measures, can contribute not only to the protection of the victim, but also to the prevention of recidivism and the change of social mentalities.

In conclusion, the legislation on domestic violence in Romania has a high legal potential, but in order to fulfill its essential role in protecting and supporting victims, an integrated approach is necessary, in which law, social services, education and community support work together in a coherent and responsible system.

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