

**The Law on Protection against Domestic Violence in Bulgaria:  
Insights and History**

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**1. Introduction: The Environment to Be Changed**

On 16 March 2005, the Bulgarian parliament adopted the Law on Protection against Domestic Violence. The Law was promulgated in *Durzhaven Vestnik* (State Gazette) No. 27 on 29 March 2005. It is a great victory for Bulgarian women and women's NGOs.

In Bulgaria, as in other countries, violence against women hampers the realization of their human rights, is one of the main causes for their worsened health and has a very high cost for society - lost labor force and human potential, as well as costs for social services, rehabilitation, law enforcement, the judiciary, etc.

Statistical data for the country from 2002 show that there were 449 divorce cases primarily due to physical and psychological abuse. Of these, 371 were acts of men, 15 of women, and 22 of both spouses. Such abuse is one of the main reasons for divorce, after mutual consent and incompatibility of temperament, bearing in mind that domestic violence also exists in cases considered under other causes for divorce. In addition, divorce has been decided 4.4 times more often due to men's fault than to women's. According to a representative study by the National Centre for Study of the Public Opinion in 2003, physical violence by the male partner is the most common form of violence in the Bulgarian family and among partners. 66.2% of the respondents identified it as such.

Until very recently, violence against women in Bulgaria was not perceived as a serious public problem deserving special legal regulation. Ignoring the extent and underestimating the importance of this phenomenon in Bulgaria has been due to a range of factors. The concept inherited from the previous regime that gender equality was already achieved in Bulgaria is certainly one of the reasons. It is combined with the hypocrisy of society, which accompanies such an inconvenient issue as violence against women. The deeply-rooted patriarchal stereotypes which characterize the Balkan and Mediterranean regions represent an additional factor. Furthermore, the persistent public/private divide confines women and the violence suffered by them to the private sphere of society. Violence against women is a form of discrimination against women which is most related to cultural stereotypes. It is one of the strongest expressions of gender stereotypes, and at the same time is the tool used to maintain the defined roles of men and women in society. Therefore, the position of women in the family is the expression of the role attributed to them in society. The law in most countries just affirms the unequal position of women in society and, subsequently, in the family. According to Prof. Michael Freeman in "The State, the Law and the Family," law not only

serves and reproduces the social order, but in reality creates and defines this order. The legal form is one of the main expressions of the social practice, the expression of the real relations of inequality of the two sexes. Law defines the character and creates the institutions of the social relations in the frame of which the family acts. The legal system continuously reproduces a concrete ideological concept of the relations between the two sexes which can be defined as patriarchal ideology.

In that context, the adoption of the Law on Protection against Domestic Violence is a real breakthrough for women in Bulgaria. In recent years, a positive trend has been observed, thanks to the persistent efforts of women's NGOs, as well as foreign pressure and the challenge of EU accession, in which the issue of violence against women has received increasing public attention and recognition. The development by NGOs of support services for women who have suffered violence and the influence of the decade of human rights conferences during the 1990s contributed to this growing phenomenon. As a result of these processes, legislation in the field of violence against women and non-discrimination was progressively adopted: the Law for Combating Trafficking in Persons and the respective changes in the Penal Code; the Law on Protection against Discrimination; and, most recently, the Law on Protection against Domestic Violence.

The starting point for defining domestic violence in the new Bulgarian Law on Protection against Domestic Violence is the broad understanding of this phenomenon. Domestic violence, as defined by international documents and practice, in its typical form means: any act of violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, perpetrated by their male partners, whether they are married or not, and whether they live together or not. For the purpose of the new law, domestic violence is interpreted broadly, encompassing any physical or sexual violence or threats of such violence, as well as psychological or mental violence (such as repeated verbal abuse, harassment, confinement, deprivation of resources, control of contacts, etc.) between spouses, within the family, or between related persons.

## **2. Main Features of the Law**

It is significant that protection against domestic violence is contained in a special piece of legislation. With this new law, the State recognizes the importance of combating domestic violence in Bulgarian society, and by that confirms that violence within the family and the partnership is no longer a private but a public concern. The fact that a law was adopted separate from the Family Code means that the relations regulated by this law go beyond family relations. In fact, the circle of the persons protected is now much broader. The law provides for a special urgent civil procedure in cases of domestic violence. It is a *sui generis* procedure although similar to the quick civil procedure. The law also contains elements of criminal procedure, but remains within the framework of the civil one which allows the shift of the burden of proof in favor of the victim of domestic violence. The essence of the law is the issuing by the regional court of

special orders for protection of victims of violence which contain restraining measures for the aggressors. The new regulation is a modern law which will bring the Bulgarian legislation into compliance with the international standards on violence against women.

A definition of domestic violence is introduced in Art. 2: it is any act of physical, psychological or sexual violence, or the attempt at such violence, restraining of the personal freedom and the private life inflicted on persons who are or have been in family relations or are related, who live in factual cohabitation or live in the same dwelling. Such a definition encompasses violence committed by (Article 3): a spouse or a former spouse, a person who is or has been in factual cohabitation with the victim, a person who has a common child with the victim, a person in ascending relations or descending relations, siblings, a person who is connected by marriage with the victim up to the second level, a guardian, a tutor or a foster parent.

The orders for protection are vested in the form of a court decision and can contain one or more of the following measures: constraining the aggressor not to commit further acts of domestic violence, separating the aggressor from the victim and from the common dwelling, restraining the rights of the aggressor to approach the dwelling, the workplace and the places for social contact of the victim, ordering interim measures for contact with the child when they are in the best interest of the child. Further measures contained in the protection order may be: directing the victims toward programs for rehabilitation and obliging the aggressor to attend special treatment programs. The validity of the protection order is for up to one year. In all cases of violence, the court imposes a fine on the aggressor - from 200 to 1000 leva (100 to 500 EURO). It can be recommended that other measures not explicitly mentioned in the law, and as specified by the court, should be provided in order for the court to be more flexible in each individual case.

The procedure for protection against domestic violence may be initiated by the victim, or upon request of the executive director of the agency for social assistance. There is another possibility in case of the need for urgent protection - by an application from close relatives of the victim. Another important element in the new law is the possibility of issuing the order in some cases based only on the declaration of the victim in the absence of other evidence.

In order to expedite the procedure, the applications and requests will be registered immediately, and guarantees exist that the decision will be issued within 1 to 1½ months. In cases of serious threats for the health and life of the victim, an urgent procedure is applied where the order for protection is issued for 24 hours in an *ex parte* procedure, which then goes through the normal procedure for issuing protection orders. The documents issued by the NGOs working in the field of victim support are recognized in the procedure.

Police play an important role in the urgent protection of victims of domestic violence when they carry out the notification of the aggressor about the court procedure and court order, and especially in the implementation of the restraining orders which make up part of the court decision. Such restraining orders limit the possibility of the aggressor committing further violence and take

him/her away from the common dwelling and the places for contact with the victim. These measures are implemented with the participation of the police. Furthermore, in the case of non-compliance of the aggressor with the court decision, the police arrest him/her and notify the prosecutor.

A special role is attributed to NGOs working in the field of domestic violence. Those registered according to the Law on Social Assistance can issue documents which will be presented in court, their representatives can participate as witnesses of the effect of violence on the victim, and they are included in the network of social programmes for rehabilitation of the victims. In addition, further cooperation of NGOs with State institutions is envisioned. This cooperation will be in the areas of prevention of domestic violence, victim support, and selection and training of persons who will deal with the implementation of the law.

Despite the need for additional legislative changes, including changes to the criminal code, the adoption of this law is, undoubtedly, a sign of substantial progress in Bulgarian legislation.

### **3. The Drafting and Lobbying Process: A Question of Strategy, Professional Work and International Support**

The drafting of the Law on Protection against Domestic Violence began as a non-governmental initiative. The idea for such a law was born after the Beijing conference and more specifically in 1997-99 with a project of the Bulgarian Gender Research Foundation (BGRF) with The Advocates for Human Rights (MAHR): “Combating violence against women through research and education” funded by the PROWID Program - USA. The Gender Project for Bulgaria Foundation was another partner on the project.

In 1996, The Advocates undertook a human rights fact-finding report on domestic violence as a human rights abuse, and published its findings in [Domestic Violence in Bulgaria](#) (March, 1996). This was followed with further legal research by MAHR and the BGRF on the issue of domestic violence in Bulgaria and the gaps in the Bulgarian legislation. The commitment, the example and the expertise of Robin Phillips, Cheryl Thomas, Loretta Frederick, and Aviva Breen from MAHR were crucial for the implementation of the project and for influencing and motivating the Bulgarian partners, in particular the BGRF, to propose changes in legislation. The report, including legal research and an analysis of case law, was published and disseminated by the BGRF among NGOs and other institutions in Bulgaria.

As a follow-up, in 1999-2000 the BGRF started working on a new project of legal aid for women victims of violence. This project, “Innovative strategies for combating violence against women in Bulgaria - a pilot scheme for legal aid and legal clinics,” was funded by the Dutch foundation NOVIB and was implemented until the year 2002. In the course of the project strong contacts were created, both with the centers for psychological support of women victims of violence in Sofia, Plovdiv, Varna, Bourgas, Silistra, and Pernik, and with lawyers committed to the work on violence against women. As a result of the project, more than 200

women received legal consultations and some of them were represented in court procedures; a network of 25 lawyers dealing with domestic violence cases was created in the country; and awareness was raised among legal practitioners, especially judges and prosecutors, about the need to change the existing legislation in the field. During the years 2000-2002, a small group of lawyers from the BGRF, including the director, Genoveva Tisheva, and the attorneys-at-law from the network of lawyers dealing with domestic violence, Daniela Gorbounova and Albena Koycheva, started working on a draft law on protection against domestic violence. ABA/CEELI in Bulgaria provided logistical support for the initial meetings of the working group, which were also attended by other lawyers and academics, including Prof. Irina Moulechkova, Chair of the Board of the BGRF, and Velina Todorova. This core group of lawyers prepared an initial draft by mid-2001 and began looking for opportunities to propose the draft to government institutions. In the meantime, the draft was discussed at meetings and seminars with judges and other legal professionals organized by the BGRF during the implementation of the above-mentioned project. The essence of the draft law was the quick and urgent measures for protection in a special civil procedure, including the issuing of protection orders in favor of the victims of violence. The work on the draft law by the legal experts was done on a voluntary basis.

After the national elections in June 2001, a favorable environment was created in the parliament with the election of 26% of women in the 39th National Assembly. In early July 2001, the BGRF organized a seminar for the new Members of Parliament (MPs) with the purpose of informing them about the new ideas for legislation in the field of gender equality. The draft law elaborated by the working group was among their materials for the seminar. This first seminar with parliamentarians was part of the BGRF project “Bringing Gender Equality to the Agenda of the Bulgarian Parliament”, funded by the Westminster Foundation for Democracy. It brought together many new women MPs, including Marina Dikova. Subsequently, during the 2001 “16 days against Violence against Women” campaign, the BGRF and other women’s NGOs initiated a campaign for the adoption of legislation against domestic violence. In the middle of the campaign, Genoveva Tisheva and Daniela Gorbounova took part in an interview at the National Radio and announced that it was high time for the state to take responsibility for domestic violence, and that a draft law was available to the MPs. One woman MP, Marina Dikova, was interviewed in parallel in the parliament. She said on the radio that she was interested in the draft and invited the two representatives of the civil society to the Committee on Legal Issues in the parliament.

Thus, the initial draft law reached the parliament at the end of 2001-beginning of 2002. A period of negotiations followed between the core group of lawyers working on the draft and Marina Dikova and her colleagues, among which were the Chair of the Committee, Anelia Mingova, and Konstantin Penchev. Some minor changes in the draft law were made at that stage. In the meantime, the BGRF continued to discuss the draft with legal practitioners and with international partners, including The Advocates for Human Rights. A visit to Minnesota in spring 2002 provided a comparison with the American experience

and the chance to meet with the Bulgaria committee which was created at The Advocates for supporting the preparation and campaigning for the law in Bulgaria. In the meantime, a regular dialogue between Marina Dikova and the BGRF was established. The MP made the decision to introduce the law in the parliament, but it was decided to seek the opinion of the Ministry of Justice prior to that in order to have more credibility. This was done in mid-2002 through the vice-minister, Meglena Tacheva who was provided with the draft law and all supporting materials - publications, list of supporters among the legal practitioners - by the BGRF.

In autumn 2002, a new stage in the fight for the law began: the Minister of Justice issued an order for the creation of a working group in the Ministry “for the elaboration of a draft law on quick measures for protection of victims of domestic violence”. The group was composed of representatives of the following institutions: Ministry of the Interior, Ministry of Labor and Social Policy, Ministry of Health, Ministry of Justice, the Sofia City Bar, the Chief Prosecutor’s Office and a representative of the Bulgarian Gender Research Foundation. Genoveva Tisheva and Daniela Gorbounova were the representatives of the civil society in this group. Another lawyer – Kalina Lozanova from the network of lawyers dealing with domestic violence - was representative of the Sofia Bar. The group started working at the end of 2002, using the initial draft agreed to by the first working group and the Parliamentarian Committee on Legal Issues. In the meantime, in autumn 2002 the BGRF started working on a special project funded by NOVIB and aimed at lobbying for the adoption of the Law on Protection against Domestic Violence. The Public Relations officer of the organization, Iliana Stoycheva, was asked to work together with the Executive Director at the level of the government and the parliament for reaching the final goal. A professional journalist was hired for the planning and organization of the lobbying campaign. Thanks to this project, the BGRF managed to concentrate its efforts on coalition building with the other NGOs and on specific lobbying activities until spring 2004. In fact, it played a major role in the 2002 campaign against violence when the other NGOs supported the efforts of the experts - organizations like Animus, Gender Project for Bulgaria Foundation, Nadia, Demetra/Bourgas, SOS-Families at Risk/Varna, Women’s Alliance for Development and many others. Thanks to the support of OSI, the BGRF could continue the legal aid program for women victims of violence and draw experience from these real cases. The expert work with the Ministry of Justice and the MPs was also facilitated by the educational projects on non-violence the organization was implementing in schools. The partnership with Demetra Association on such an educational project combined with the pilot work of this Association with male perpetrators was a particularly valuable initiative. The projects were funded by UNIFEM and by the Global Fund for Women.

The year 2003 was particularly important for the Law. After the completion of the work of the Ministry of Justice working group, on April 17, 2003 Marina Dikova officially introduced the Draft Law on Protection against Domestic Violence with a major press conference in the parliament. The draft was based on the initial draft law with some changes implemented by the working

group in the Ministry of Justice. M. Dikova had managed to get the support of some MPs from all the party groups represented in the parliament. An important period of campaigning and lobbying followed. The introduction of the Draft law coincided with the visit of the Secretary General of the European Women's Lobby, Mrs. Mary McPhail to Bulgaria. She was invited by the BGRF for this event and for the purpose of establishing on April 17, 2003 the Bulgarian Platform of the EWL. This symbolic coincidence brought the support of the biggest women's coalition in Europe for the act of introduction of the draft. In fact, letters of support were sent by the Lobby to the Bulgarian parliament. Such letters were also sent by MAHR and other institutions from Minnesota and the United States. In 2003, representatives of MAHR visited Bulgaria in May and in November upon invitation of the BGRF for events organized with the parliament, the government institutions, the media, and the judges. Robin Phillips, Cheryl Thomas, Loretta Frederick, Aviva Breen, former judge Mary Louise Klas and other experts from Minnesota joined their efforts to those of their Bulgarian colleagues for further promoting the Draft law in the parliament. Different political parties were lobbied for their support for the draft in the parliamentary committees. During 2003 Bulgarian organizations like Demetra and Women's Alliance for Development collected signatures for lobbying the parliament for the adoption of the law.

The most important lobbying took place prior to the session of the Committee on Legal Issues in April 2004. In this period the BGRF also sought the support of the judges from the Regional Court - Family Division. They gave their support in principle and made some comments on the draft. The Consultative Committee on Legislation (an expert committee to the Chair of the National Assembly, which gives opinions on the draft laws) was strongly lobbied, as well. The BGRF and other NGOs were invited to attend the session of the Committee on Legal Issues. One of the judges also attended the session and spoke in favor of the law after the BGRF representative. The approval by this Committee of the draft law for first reading, despite the negative votes of some opponents of the law, was a crucial moment.

At the end of June 2004, the first reading in the parliament was done. Based on the comments of the Committee on Legal Issues, some amendments had to be discussed and the law had to be redrafted before the second reading. Marina Dikova and the initial group of lawyers working on the very first draft (Daniela Gorbounova, Genoveva Tisheva, Albena Koycheva) undertook this job. Once the final version was prepared, it was discussed again in the parliamentary Committee on Legal Issues, and since the fall of 2004 awaited its turn on the agenda of the 39th National Assembly. During this final period the dialogue with Marina Dikova was very important, as was the continuous lobbying through other MPs and party groups. The Law on Protection against Domestic Violence was finally passed at its second reading on 16 March 2005.

In this process, the role of the staff of the BGRF and of the lawyers from the network of lawyers on domestic violence, as well as the support of partner NGOs and the media were all crucial. The contribution of international partners and donors was very important, as well.