*Relevant changes in the promotion and protection of family*

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**Abstract**

In Romania, until recently there were no concrete measures to combat domestic violence. The philosophy of the new regulations was driven by accession to the EU. So now there were only general principles in theory were translated into practice. It is estimated that such tragedies caused by physical aggression between spouses arising in particular will decrease.

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To be able to debate the content of the proposed theme, we must first of all make a clear demarcation of the terms used. There is no identity between the physical punishment term and concepts of violence, aggression and abuse.

So, violence is "an elaborate act with intent to cause physical pain or physical injury to another person" (Murray A. Straus, 1991), aggression is "a deliberate behaviour, undertaken with the intent to harm or prejudice an individual who does not want to be treated in this way" (Robert Baron, 1977), and abuse refers not only to physical punishment, but to any aggression act aimed against another person (Sorin M. Radulescu, 1998).

The appearance of some kind of domestic violence indicates important malfunctions in this basic group for society.

If the rule is represented by assimilation and internalisation by children of some behavioural patterns observed in family, that means that, when exception occurs, we can discover some typologies at families with problems.

Classification of these situations can be made as follows:

- Families with educational deficiencies caused by damaged interfamilial relationships and by destabilisation of main functions. We may include in this category both organized or apparently organized families, but also disorganized families which practice a poor educational style with no positive valences for children socialization and which also do not exercise an effective control on their daily behaviour, which do know neither the extracurricular interests and the ways of spending time of their children, nor their group of friends.

- Families with special problems in the implementation of their functions due to disorganization or incomplete family group, death, abandonment, divorce or due to family dissolution-fights, tension, collisions, assaults, etc.

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Families with extremely serious problems because of lack of functionality or even more, because of total dissolution of family group. "These families are usually families where one or both parents are physical or mental chronically ill, or they are alcoholic, immoral or criminal recidivists". (Sorin M. Rădulescu, Dan Banciu, 1990)

"Domestic violence does not overlap marriage violence. The changes which have recently appeared in the families structure make this concept much too restrictive, because it excludes violence between partners where marital relationship ended in divorce, and in cases of cohabitation or partnership" (Elena Zamfir, 2000)

"The concept of domestic violence is broad and includes domestic violence, understood as violence that occurs between partners, be they spouses or cohabitants, and violence against children, elders or other relatives. Regarding domestic violence it is a repeated series of coercive behaviours and physical assault, sexual and psychological which a person manifests to partner to control and dominate it, using force and / or taking advantage of the inability of defence victim appears in couple relationships.

Domestic violence is a form of coercive control, by which men establish, maintain and strengthen their dominant position in the family as they see them. In this way women's lives is increasingly dominated by abuse, leaving less and less room for their freedom to think and act" (Maria Constantinescu, 2008).

The choice of this theme for the analysis it is argued that in practice the amount of acts committed with violence in the family home area is high in Romania.

Here you have to keep in mind that these statistics are reported to the actual data which do not necessarily contain undiscovered or unnoticed crime.

Domestic violence often involves facts that are not made public and therefore they do not they do not end up in the criminal investigation phase through the intercession of the State judicial bodies, by virtue of some resorts that we will detail later.

Protection of persons abused within the interfamilial environment was not until recently materialized in Romania. Although the level of the forms of verbal, mental or physical aggression, that occurred between family members or between persons with a situation comparable to the notion of family (partners) were and are punishable by criminal law tougher compared to the same acts committed against of any other person, specifically, removing exposure to danger or provided victim support was illusory.

Even though specific duties were imposed in the task of the social Assistant, when a case of domestic violence is announced, the intervention of social assistant could be only a palliative one.

The fact that the repressive State bodies, and more specifically police do not intervene in such cases, leads to a permissive situation for the offenders from the family.

These offenders consider their facts as a real right they have by distorted understanding of the term "pater familias".

Men prone to acts of the kind above relied on the hypotheses that proving the crime on the victim was in many cases difficult to achieve. Lack of witnesses or trying to sidestep of those who have been called for this made the victim to give up the support of society.

Another determining factor of the victim’s analysis of the situation was poor material situation (absence of any income and often no other choice as regards the domicile).

The compromise the injured woman usually ended was not a solution, because the violent acts did not end and they became increasingly worse. The false cause “we have children together” was used overwhelming in the case by women with primary education or the most with secondary education.

Transmission of the interfamilial violent acts from a generation to another, even if not in the same form, took place on the mother's acceptance of the above mentioned label.

The presence of children in the moments of aggression put on them this label they do not reject in their own future families. This is why that kind of „skills” were created in the primary socialization within family and, even if these skills were harmful, they were still added to the baggage information.

The aetiology of disorders of this nature can not be described in a linear pattern, so we can mention just a few causes: alcoholism, lack of a stable income, mental health status and even more, consumption of psychotropic substances, of which weeds have had a noteworthy success among young people.

From another perspective, after the introduction of the protection rules, in Romania totally different deficiencies appeared related to the protection of victims of interfamilial violence.
Administration of justice in Romania takes place through a limited number of judges and an insufficient number of courts.

The main effect of this issue of justice is that the number of cases that comes to a judge is high (between fifty to one hundred for a hearing) and trial periods are extremely long.

Effectiveness of safety measures stipulated in the regulations in this field can not be identified as long as they are willing too late.

Although the above inadequacies, the object of the restraining order is a generous one, because they can take very tough measures which sometimes can collapse the current offender rights.

Thus, they may prohibit to the offender to use the building which is the family residence, even when he is the owner of the property.

The other obligations of the offender are laid down in order to carry out any other functions of the legal penalty, namely prevention.

In this category are included the obligation to keep a certain minimum distance from the victim, the obligation not to have telephone contact with the victim, the obligation to surrender any weapons attacker held to police, etc. (Article 26 of the law as it stands).

If practical reality shows that utility protection order is in a direct relationship with its disposition by the court, this does not mean that the principles arising from regulatory philosophy is not correct.

So, it is established that the court procedure is a quick, cursory one, without excessive formalism that could lead to a late solution. Were accordingly added new articles (Article 27 index 1 to index 11) which provide that the term in which the judge may request postponement of pronouncing is within 24 hours, and the drafting of the resolution is disposed in less than 48 hours.

The referral to the Court with a request that it is issuing an order of protection can have as active subject (the one who can promote a request of this kind) both the injured person, as well as a public authority from those that have competence in this area.

These include the Prosecutor (as a representative of the State in finding out the truth and in respecting for legality), General Directorate of social assistance and child protection at the level of the County (authority that support services through residential or day centres for victims of family abuse) and the local authority in social assistance.

A decision of the court to set up a protection order is enforceable, this character being mediated through the care of the police that will communicate this fact immediately.

The part not satisfied with the initial solution may appeal in a much shorter time (3 days comparing to 15 days) from the delivery of the court decision if the parties had been cited, or from the pronouncing of the court decision if the decision the solution was taken in the absence of the parties.

The order of protection relates to a civil dispute and has a preventive character, because its purpose is to obstruct new criminal facts by State interference in family relations which are private by genre.

The direct involvement of State in interfamilial abuses is the guarantee or the security support for the victim to exit from passivity.

In the present work we have proposed to capture only some items worthy of be noted reegarding the matter of domestic violence.

However we cannot emphasize how that these regulations are closely linked to the new procedure of adoption that meets a new morphology.

Violent acts occur in very many cases also on children, so that in the light of such circumstances the new regulations emphasizes a new principle. The minor about which his family of origin did not expressed its intention to ensure the minimum required related to his material and moral support for his physical, mental growth and development, or education, is declared adoptable after the expiry of a period of 1 year from the expression in this mode of manifestation of will.

Offer of services addressed to persons injured as a result of domestic violence is particularly wide.

On the one hand there are reception centers in emergency regime, recovery centers for victims of violence in the family, centres for preventing and combating violence in the family and centres for information and sensitization of the population, and on the other hand support centres for the aggressors.
As such, they monitor both the victims and the aggressor. First they ensure a shelter whose location is confidential, food, medical services, psychological counselling and legal assistance free of charge. At the opposite pole, the offender will be included in social reintegration programmes, he will also benefit from psychological counselling and medical services, such as when the reasons for the acts are so determined (Detoxify, alcohol, psychiatric treatments).

Services to persons who are victims of domestic violence are provided in residential centres which involve living daily under such establishments, while the aggressors assistance takes place in day care centers and is limited only to the contact stated between the social worker and beneficiary.

One issue that will generate in concrete certain blockages is the fact that the financing of social assistance structures shown earlier is made from the local budgets of the administrative-territorial unit (municipality, city or county).

Saving solution which can meet this potential deficiencies is given by the private sector through non-governmental organizations. Starting of partnerships like private-public can remove most of the above inconveniences.

Even if at the moment there is no consistent practice in matters of protection and support for victims of violence committed between family members, the new regulations allow the formulation of a positive forecast for this purpose.

Proposals for amendments to the current text of the law can be made in the light of the evolution or involution domestic violence phenomenon reflected by reality.

References


