

Women's Human Rights Report Series: BULGARIA



Implementation of the Bulgarian Law on Protection against Domestic Violence



Implementation of the Bulgarian Law on Protection against Domestic Violence A Human Rights Report

The Advocates for Human Rights
The Bulgarian Gender Research Foundation

The Advocates for Human Rights
Minneapolis



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- Identifies, protects, and lobbies on the specific needs and problems of young people;
- Supports and participates in working groups drafting new legislation in the field of equal opportunities of women and men and in the field of eradicating violence against women and discrimination;
- Advocates for the achievement of compliance with universal standards in the field of human rights and the universally recognized values of democracy.

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EXECUTIVE SUMMARY

In the two years since the entry into force of the Law on Protection against Domestic Violence (LPADV), its overall implementation has been positive. While challenges remain for all sectors and legislative amendments are needed, the response to domestic violence since the law passed in Bulgaria is encouraging. Bulgaria's non-governmental organizations (NGOs) have been instrumental in this progress through their initiatives in training, victim support, and coordination among government sectors. While the adoption of the LPADV is a significant step toward combating domestic violence, its effective implementation is essential for the realization of victim safety and accountability for offenders in Bulgaria.

The government ministries have promulgated several policies related to domestic violence, including a declaration and an inter-ministerial program on domestic violence as mandated by the LPADV. Notably, the Ministry of the Interior has appointed a National Coordinator on Domestic Violence, developed a domestic violence website, promulgated both a national plan and guidelines for the police response, and established good collaboration with the NGOs. The Ministry of Labour and Social Policy (MLSP) has also developed a plan against domestic violence. While the MLSP has provided some funding, more funds are needed to support NGOs, to finance more shelters, and to implement specialized programs for victims and perpetrators under Section 5(1)(5-6). Interviews showed that victims of domestic violence in Bulgaria are at risk of losing custody of their children due to inappropriate intervention of state authorities who have not been trained in the dynamics of domestic violence. The Directorate for Social Assistance (DSA), a body subsidiary to the MLSP, and its child protection departments need further training as to their authority

under the LPADV and the dynamics of domestic violence in general. While the DSA has the authority to file applications on behalf of victims, interviews indicate it is not doing so where their intervention is most needed. The Ministry of Health has not developed a plan on domestic violence.

Bulgarian police are also making progress implementing the law. While there were some reports of ineffective police responses to domestic violence, continued trainings will likely lead to further progress throughout the country. The most significant challenges for the police are the lack of a systematic, electronic method of data collection, as well as their response to violations of protection orders. Because the police authority is not clearly delineated in the LPADV or Ministry of the Interior Law, police responses to violations of protection orders have varied widely.

Interviews indicated that judges in Bulgaria are still gradually adapting their practice to fulfill their duties under the LPADV. The authors heard several reports of positive judicial practices, such as prompt issuances of emergency protection orders and general maintenance of security in the courtroom. Also, judges have been issuing increasing numbers of protection orders since 2005. Still, interviews indicated that judges are influenced by factors that should not determine the issuance of a protective order, such as evidence of physical injuries, how soon the victim files after the act of violence, and the submission of supplementary evidence. Such factors influence whether judges will issue the protection order and whether they will grant all forms of relief requested. Also, they deter victims who may not have the independent evidence of physical injury to support their application. Finally, some judges put victims at risk by

prolonging the process for obtaining a regular protection order by scheduling multiple hearings to accommodate the respondent's needs.

Prosecutors in Bulgaria face challenges in fulfilling their role in the LPADV. Because neither the LPADV nor the criminal law specifically instructs them on how to respond to violations, prosecutors' responses vary or are non-existent. Prosecutors generally agreed that they could only charge an offender who violates the protection order if the offender commits a separate, chargeable offense under the Criminal Code at the time of violation.

NGOs in Bulgaria are providing essential legal, social and psychological services to victims. In addition, they play an important role in coordinating the community response, carrying out public education, and conducting trainings for the relevant principals. A lack of funds, however, has limited their capacity to accommodate all victims' needs; this need is most

clear in Bulgaria's shortage of shelters. There are only three domestic violence shelters in the country.

Lastly, some Bulgarian media outlets tend to sensationalize domestic violence or perpetuate myths about domestic violence. Some sectors, including the police and NGOs, however, are working with the media to improve reporting on the issue.

By passing the LPADV, Bulgaria has become a leader in the region in combating domestic violence. Yet, the law will have little meaning for domestic violence victims if the principal actors are not adequately fulfilling their responsibilities. To promote victim safety and offender accountability, Bulgaria must identify and remedy the barriers to effective implementation of the LPADV. This report assesses the responses of the governmental and non-governmental entities under the LPADV and makes recommendations to improve implementation of the act.

INTRODUCTION

I. BACKGROUND

On March 16, 2005, the Bulgarian Parliament adopted the Law on Protection against Domestic Violence (LPADV). The impetus for the Law came almost ten years earlier in 1997-99 through a joint project of the Bulgarian Gender Research Foundation (BGRF) and The Advocates for Human Rights (The Advocates). In 1996, after conducting extensive research, The Advocates published a report on domestic violence as a human rights abuse, entitled *Domestic Violence in Bulgaria* (March 1996). This report was followed by further legal research by both organizations on domestic violence in Bulgaria and the gaps in Bulgarian legislation.

During 2000-2002, a group of BGRF and other attorneys began work on a draft domestic violence law. On April 17, 2003, Parliamentary Member Marina Dikova officially introduced the draft Law on Protection against Domestic Violence. The LPADV passed at its second reading on March 16 and entered into force on April 1, 2005.

The adoption of the LPADV is a critical step in the prevention of and protection against domestic violence. Domestic violence remains a widespread problem in Bulgaria. A 2006 report estimated that one in four women in Bulgaria are subject to domestic violence.¹ According to a 2007 report, 40% of Bulgarians knew a woman victim of physical violence.² The problem is compounded by other factors, such as weak criminal laws for punishing offenders, policies that prioritize the

offender's right to property over a victim's safety, and traditional views that domestic violence is a private matter. A majority of Bulgarians agree that a woman's right to be free from violence is more important than preservation of the family or the offender's right to live in his home. In one survey, sixty-eight percent of Bulgarians supported the idea of temporarily removing the offender from the family.³

¹ U.S. DEP'T OF STATE, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES – BULGARIA (2006), *available at* <http://www.state.gov/g/drl/rls/hrrpt/2006/78805.htm>.

² OPEN SOC'Y INST., VIOLENCE AGAINST WOMEN: DOES THE GOVERNMENT CARE IN BULGARIA? 65 (2007).

³ *Id.*

II. LAW ON PROTECTION AGAINST DOMESTIC VIOLENCE

The LPADV creates a remedy for victims of domestic violence in Bulgaria by allowing them to petition the regional court for protection.⁴ It defines domestic violence as any act or attempted act of physical, mental or sexual violence, as well as the forcible restriction of individual freedom and privacy.⁵ To warrant protection under the law, the violence must have occurred within one month of the petition⁶ and between the following persons: current and former spouses; current and former cohabitants; persons with a child in common; ascendant and descendants (e.g. parent/child); siblings; relatives within two degrees; guardian/foster parent and child relationship.⁷

There is no official application form for an order for protection in Bulgaria, but the law sets forth the required elements of an application.⁸ There is no initial

⁴Protection Against Domestic Violence Act [hereinafter LPADV], State Gazette [SG] 2005, No. 27, § 1. Also, courts hearing cases between the victim and respondent under the Family Code or Child Protection Act have authority to issue a protection order. *Id.* § 7(2). The order for protection remedy originated in the mid-seventies in the U.S. when Pennsylvania and Massachusetts legislators passed the first laws enabling a domestic violence victim to obtain an order for protection against her abuser directing him to leave the family home. See Abuse Prevention Statute, MASS. GEN. LAWS ch. 447, § 2 (1978) (current version at MASS. GEN. LAWS ANN. ch. 209A, §§ 1-6 (2007)); Protection from Abuse Act of 1976, 35 PA. STAT. ANN. §§ 10181-10190.2 (West 1976) (repealed 1990) (current version at 23 PA. CONS. STAT. ANN. §§ 6106-6122 (West 2007)). While a civil protection order interferes with an abuser's property rights (i.e., the right to live in one's house), legislatures have determined that a woman's right to be free from violence is more important than the abuser's property rights. Stop Violence Against Women, *OFPs and Family Law Issues* (2006), http://www.stopvaw.org/OFPs_and_Family_Law_Issues.html. Lawmakers decided that when an abuser was putting other members of the household in danger with his behavior, justice required that he should leave the home, not the women and the children. *Id.*

⁵ LPADV, SG 2005, No. 27, § 2.

⁶ *Id.* § 10(1).

⁷ *Id.* § 3.

⁸ *Id.* § 9(1). According to Section 9(1),

[t]he application or request is required to be in writing and must contain: (1) the names, the address, and the personal ID number of

cost to file for an order for protection.⁹ Depending on the outcome, however, either the applicant or respondent bears the expenses.¹⁰ When an application is filed, the court is required to schedule a hearing within thirty days.¹¹

In instances where the life or health of the victim is in imminent danger, the victim may apply for an emergency order.¹² In an emergency situation, a sibling or other direct line relative (ascending or descending) of the victim may also apply on his or her behalf.¹³ The regional court, sitting *ex parte* and *in camera*, shall issue an emergency protection order within 24 hours from receipt of the application of request.¹⁴ The emergency order can also be applied for via the nearest police department.¹⁵

If not regulated within the LPADV, this law relies on the rules of evidence in the Civil Procedure Code.¹⁶ The law explicitly allows for several types of documents to

the applicant or the individual filing the request; if a victim cannot or is unwilling to disclose his or her address, he or she may identify an address for litigation purposes; (2) the names and the current address of the respondent or any other address where the latter may be summoned, including a telephone and fax number; (3) data concerning the family, kinship or factual ties between the victim and the respondent; (4) a description of the facts and circumstances under which domestic violence occurred; (5) a signature.

Id. In addition, the applicant's statement describing the violence underlying the need for the order for protection must be attached. *Id.* § 9(3).

⁹ LPADV, SG 2005, No. 27, § 11(1).

¹⁰ If the order for protection is granted, the respondent will be ordered to pay the costs and expenses. *Id.* § 11(2). If the order is denied or revoked, the applicant will be ordered to pay. *Id.* § 11(3). If a social assistance agency has unsuccessfully applied for protection on behalf of a victim of domestic violence, the agency will be ordered to pay. *Id.*

¹¹ LPADV, SG 2005, No. 27, § 12(1).

¹² *Id.* § 4(2).

¹³ *Id.* § 8(3).

¹⁴ *Id.* § 18(1). "An emergency protection order shall have effect until a protection order is issued or until the court refuses the application or request." *Id.* § 19.

¹⁵ LPADV, SG 2005, No. 27, § 4(2).

¹⁶ *Id.* at Div. III, § 1.

be admitted into evidence at the hearing.¹⁷ It provides that where no other evidence exists, however, the court shall issue a protection order based solely on the applicant's statement, attached to the application, concerning the domestic violence.¹⁸

If an order for protection is granted, the judge shall order the respondent to pay a fine of 200 to 1000 Levs¹⁹ and take one or more of the following actions:

- A. order the respondent to refrain from committing further acts of domestic violence;
- B. remove the respondent from the common dwelling-house for a period from a month to a year as specified by the court;
- C. prohibit the respondent from being in the vicinity of the home, the place of work, and the places where the victim has his or her social contacts or recreation, on such terms and conditions and for such a period from a month to a year as is specified by the court;
- D. temporarily relocate the residence of the child with the parent who is the victim or with the parent who has not carried out the violent act at stake, on such terms and conditions and for such a period from a month to a year as is specified by the court, provided that this is not inconsistent with the best interests of the child;
- E. require the respondent to attend specialized programs;
- F. advise the victims to attend recovery programs.²⁰

¹⁷ Admissible evidence includes records, reports, and any other acts issued by the Social Assistance Directorates, by medical doctors, as well as by psychologists having provided counselling to the victim, documents issued by legal persons providing welfare services and entered in a register at the Social Assistance Agency, and the applicant's application statement concerning the domestic violence. *See id.* §§ 13(2)1-13(2)3.

¹⁸ *Id.* § 13(3).

¹⁹ *Id.* § 5(3).

²⁰ *Id.* § 5(1).

The order is subject to immediate execution.²¹ The police are responsible for executing an order where a measure under section 5(1)(1-3) has been imposed.²² Either party has the right to file an appeal in District Court within seven days of service of the Regional Court's order.²³

The state is also responsible for the implementation of programs to prevent domestic violence and assist victims;²⁴ the selection and training of people responsible for protection;²⁵ joint work with natural and legal persons registered under Articles 18(2-3) of the Social Assistance Act;²⁶ the development of a Domestic Violence Prevention and Protection Programme within six months of the law's entry into force;²⁷ and assistance to municipalities and non-profit organizations in establishing services to implement measures under Section 5(1)(5-6).²⁸

²¹ *Id.* § 20.

²² *Id.* § 21(1).

²³ *Id.* § 17(1). New evidence may be enclosed with the appeal as well. *Id.* The appeal shall not stay the execution of the judgment. *Id.* § 17(2). The District Court shall hear the appeal within 14 days and decide whether to affirm, reverse, or modify the Regional Court's order. *Id.* § 17(4). Where it decides to modify the order, the court shall issue a new order. *Id.* There is no right to appeal the District Court's judgment. *Id.* § 17(5).

²⁴ LPADV, SG 2005, No. 27, § 6(1).

²⁵ *Id.* § 6(2).

²⁶ *Id.* § 6(3).

²⁷ *Id.* at Div. III, § 2.

²⁸ *Id.* at Div. III, § 3.

FINDINGS

I. IMPLEMENTATION OF THE LPADV

Efforts are underway to monitor the implementation of the domestic violence law.²⁹ In March and July of 2007, delegations from The Advocates and BGRF traveled throughout Bulgaria to investigate the implementation of the LPADV.³⁰ The teams interviewed lawyers, advocates, police, media representatives, government officials, prosecutors, and judges in Bulgaria. The primary purpose was to monitor the implementation of the law and make recommendations to improve the government response to domestic violence.

Interviews revealed that most of the actors involved in enforcing and implementing the LPADV view the law as a positive development. The law gives a faster and less complicated option to a victim of domestic violence with a light or medium injury³¹ than pursuing the case privately through the criminal process. The relative speed of the procedure, which may immediately require the offender to leave the home and stay away from the victim, is, for the most part, supported by the Bulgarian legal community. Interviewees cited other positive features, including the variety of evidence³² allowed in the court proceedings, and the fact that the burden of proof is on the respondent. An attorney summarized:

The law filled a vacuum in society. It acts quickly. It is free. The execution of the order is official. Everything, the writ of summons, the order and decision, is served officially by the police. It is controlled and executed by the police. These are good things.³³

As the practice of the LPADV has developed, however, interviews revealed that procedural and substantive issues challenge full and effective implementation for all principals. This report begins by presenting findings on the use and application of the law using statistics. Next, the report addresses the positive and negative aspects of the response of the state, police, judges, prosecutors, media and NGOs. It concludes by making recommendations to the Bulgarian government and other sectors.

²⁹ For example, BGRF carried out two court monitoring projects in three cities throughout 2005 and 2006. Bulg. Gender Research Found., Summarized Results of the Court Watch Project (Dec. 2006) (unpublished manuscript, on file with authors).

³⁰ This is a joint report by The Advocates for Human Rights and the Bulgarian Gender Research Foundation.

³¹ See Criminal Code, State Gazette [SG] 2004, No. 103, art.130 (regarding trivial bodily injury); *id.* art.129 (regarding medium bodily injury).

³² Albena Koycheva, The Protection of the Human Rights Under the Law on Protection Against Domestic Violence in Bulgaria 9 (June 2007) (unpublished manuscript, on file with authors).

³³ Interview with Sofia Lawyer, in Pleven and Ruse (July 7-8, 2007).

II. GENERAL STATISTICS ON THE USE OF THE LPADV

Formal statistics on the use and application of the LPADV were not widely available from government agencies and NGOs at the time of the publication of this report. According to a national police official, statistics on the number of applications for orders and the number of orders granted are at the initial phase of collection.³⁴ Once the data system is fully operational, a government official stated that the statistics will be disaggregated by gender, relationship and type of violence, and that previous protection orders and other measures which are already in place will be included in the statistics.³⁵

At a 2007 press conference, the authors learned of a Ministry of Justice report that, in 2006, there more than 2,000 cases under the LPADV brought before the court throughout the country (pop. 7.97 million).³⁶ Bulgarian courts issued approximately 800 protection orders in 2006.³⁷ Overall, the numbers of protection orders are continually rising.

Reports of violations of orders for protection have been relatively low. Police in Plovdiv have received only three calls about violations of protection orders since the law passed.³⁸ In Karnobat, police reported receiving notification of a violation in one of the nine protection orders granted.³⁹ Police in Pleven estimated that violations occurred 2% of the time.⁴⁰ In Varna,

³⁴ Interview with National Police Directorate, in Sofia (July 17, 2007). In addition, data collection has been hampered by a lack of funds and technical difficulties. *Id.*

³⁵ *Id.*

³⁶ The exact number of applications is unknown, and the authors have heard reports of 2,072 and 2,092 cases in 2006. Email communication from NGO, in Sofia (Jan. 23, 2008) (on file with authors). The authors have been unable to locate published documentation citing the exact statistic.

³⁷ Bulg. Gender Research Found., *supra* note 29, at 1.

³⁸ Interview with Police, in Plovdiv (July 16, 2007).

³⁹ Interview with Karnobat Police, in Burgas (Mar. 30, 2007).

⁴⁰ Interview with Police, in Pleven (July 6, 2007).

police estimate the offenders violate protection orders around 15-20% of the time.⁴¹ Likewise, prosecutors reported receiving very few notifications of violations under Section 21(2) of the law. One prosecutor from Ruse estimated he received two or three notifications from January to July 2007.⁴² Whether these numbers indicate that perpetrators are obeying the orders is unclear. One prosecutor in Varna associated the low number of violations not to a low recidivism rate but to the law's novelty.⁴³

Interviews revealed there have been few applications from individuals in ethnic minority groups, such as the Roma or Turks. Interviewees shared different opinions as to the reason for the low number of applications by minorities. One legal advisor speculated it may be due to a lack of information among ethnic minorities or the fear of expulsion from their communities if they speak out.⁴⁴ Interviews showed, however, that outreach can increase public awareness and use of the law within these groups. For example, a small, predominantly Turk-populated town near Burgas has had no reports of domestic violence to the police since the law passed. Since a local NGO and police have begun doing outreach, however, police have received reports of twelve domestic violence cases within a three-month period.⁴⁵

III. Ministries, Municipalities and State Officials

Overall, there is a lack of administration and coordination of the social support system that is necessary to implement protection orders.⁴⁶ In the nearly three years since the passage of the LPADV,

⁴¹ Interview with Police, in Varna (July 11, 2007).

⁴² Interview with Prosecutor, in Ruse (July 9, 2007).

⁴³ Interview with Prosecutor, in Varna (July 11, 2007).

⁴⁴ Interview with NGO, in Sofia (Apr. 2, 2007).

⁴⁵ Interview with NGO and Police, in Burgas (Feb. 15, 2008).

⁴⁶ Interview with Judges, in Burgas (July 13, 2007).

the government has not provided the capacity or the financial support to fulfill many of the law's directives. There is no financial support for measures 5(1)(5) and 5(1)(6) of the LPADV,⁴⁷ which authorize specialized programs for perpetrators and recovery programs for victims; thus, there are no programs.⁴⁸ There are only three domestic violence shelters for victims in the entire country.⁴⁹ Interviews revealed that the lack of employment opportunity for many women in Bulgaria means that they have no resources for independent housing.⁵⁰ Until shelters are readily available to victims, the LPADV cannot be fully implemented.

Those measures that the government has taken to address domestic violence have primarily involved the promulgation of policy documents. The government has issued a declaration, as well as an inter-ministerial program, under which each ministry is charged with creating plans. In addition, some government bodies, such as the Ministry of the Interior (Mol), have undertaken specific initiatives related to domestic violence as described below.

A. DECLARATION TO COMBAT VIOLENCE AGAINST WOMEN

On December 8, 2006, the Bulgarian National Assembly adopted a declaration regarding the Council of Europe's Campaign to Combat Violence against Women, including Domestic Violence (2006-2008).⁵¹

⁴⁷ Interview with NGO, in Ruse (July 9, 2007); interview with NGO, in Burgas (July 13, 2007); interview with NGO, in Varna (July 12, 2007).

⁴⁸ One lawyer reported that each time she and her colleagues file an application, they ask that they be awarded these measures of support to the victim in the requests for orders for protection, as they believe that the government has a duty to provide these programs. Interview with Lawyer, in Sofia (July 5, 2007).

⁴⁹ See *infra* p. 44.

⁵⁰ Interview with Lawyers, in Plovdiv (July 16, 2007).

⁵¹ Declaration of the Nat'l Assembly of the Republic of Bulg. Regarding the Campaign of the Council of Europe "Parliamentarians United in the Fight against Violence against Women Including Domestic Violence" 2006-2008, State Gazette 2006, No.101.

The declaration reaffirms that combating violence against women, including domestic violence, is a priority of Bulgarian legislative activities. In addition, it states that the National Assembly supports the Council of Europe's domestic violence campaign, it will assist all governmental and non-governmental organizations in implementing information campaigns and creating zero tolerance toward domestic violence, and it will take legislative measures to effectively counter perpetrators of violence and establish opportunities for positive practices.

B. PROGRAM ON PREVENTION AND PROTECTION FROM DOMESTIC VIOLENCE

The LPADV mandates that government ministries develop a domestic violence program within six months of the law's entry into force.⁵² On October 19, 2006, the Bulgarian government adopted the Program on Prevention and Protection from Domestic Violence.⁵³ The program was created by a working group of experts from the Ministry of Interior, Ministry of Justice, Ministry of Labour and Social Policy, Ministry of Health, Ministry of Finance, Ministry of Education and Science, as well as the Social Assistance Directorate and the State Agency for Child Protection.⁵⁴

The program creates a national 24-hour hotline for victims of domestic violence.⁵⁵ While the Ministry of the Interior hopes to establish a separate telephone line, the current hotline is the police telephone number.⁵⁶

⁵² The relevant ministries include the Minister of the Interior, the Minister of Justice, the Minister of Labour and Social Police, the Minister of Health, the Minister of Education and Science, and the Minister of Finance. LPADV, SG 2005, No. 27, Div. III, § 2.

⁵³ The program's adoption was considerably delayed until nineteen months later. Republic of Bulg. Council of Ministries, *Temporary Shelters for Victims of Domestic Violence Will be Set Up*, Oct. 19, 2006, <http://www.government.bg/cgi-bin/e-cms/vis/vis.pl?s=001&p=0138&n=000798&g=>.

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ Stop Violence Against Women, *On 19 October 2006, the Bulgarian Government Adopted a Programme for Prevention and Protection from Domestic Violence* (2006),

The program also plans for the creation of temporary shelters, as well as the development of rehabilitation programs for victims.⁵⁷ Preventative measures include educational programs for children, general public awareness programs, and 15,000 copies of guidelines for protection against domestic violence for distribution.⁵⁸ Also, regional centers will have rooms for domestic violence victims.⁵⁹ The program addresses improving the qualifications of officials and service providers who deal with domestic violence, as well as secondary prevention efforts.⁶⁰ Finally, the program addresses the creation of a database, which will contain information about protection orders issued and perpetrators' history and information.⁶¹

Many aspects of the program are noteworthy, such as the provision of shelters and centers for domestic violence, as well as its legal reform goals. However, the program goals appear to overestimate internal state resources, depend on existing limited financial resources, and allocate additional responsibilities to the police for victim assistance, such as the hotline.

C. MINISTRY OF THE INTERIOR

The National Police Directorate, a division of the Mol, has taken significant initiatives toward effective implementation of the LPADV. In 2007, the Director of the National Police Service appointed a National Coordinator of Domestic Violence, and the district police directorate directors appointed regional coordinators.⁶² In addition, the Ministry of the Interior

http://www.stopvaw.org/On_19_October_2006_the_Bulgarian_Government_Adopted_a_Programme_for_Prevention_and_Protection_from_Domestic_Violence.html.

⁵⁷ *Id.*

⁵⁸ The guidelines will provide advice on how to obtain quick and effective assistance. *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² Blagorodna Makeva, Initiatives of the Ministry of Interior and the National Police Service for Prevention and Counteraction to Domestic Violence, Undertaken in Fulfilment of the Law for

hosts a website on domestic violence. The website, located at <http://www.mvr.bg/Prevenia/default.htm>, contains several documents on domestic violence, victim assistance, and applications for protection orders.⁶³ The National Police Directorate has also begun collecting statistics and training police on ethics, human rights, and domestic violence.⁶⁴

Also, the Mol has promulgated a plan on combating domestic violence, pursuant to the Program on Prevention and Protection from Domestic Violence, for 2007-2008. The Mol plan has four main sections: 1) professional education of the police on domestic violence; 2) guidelines for victims; 3) public information campaigns; and 4) the establishment of a working group to propose amendments to the law.⁶⁵ An interviewee stated that evaluations of the plan's implementation will be undertaken every six months.⁶⁶

In addition, the Mol has promulgated guidelines for police that will help standardize their response to domestic violence.⁶⁷ The guidelines, issued on March 15, 2007, address the requirements and the rules for police response under the LPADV.⁶⁸ The Mol has

Protection against Domestic Violence, at 3 (received Feb. 2008) (unpublished manuscript, on file with The Advocates for Human Rights).

⁶³ The documents available on the National Police Directorate's website include: *Identifying domestic violence and assisting the victim; Domestic Violence in the Republic of Bulgaria: Research and facts; What can the police do in cases of domestic violence? How to seek help, when we are victims of domestic violence? Sample declaration according to art. 9, subd. 3 of the LPADV; Sample request to the Regional Court through the Chief of Regional Police Unit; Sample request to the Chief of RPU for taking urgent measures according to art. 4, subd. 2 of the LPADV; What is violence and how it occurs, and; Defining violence.* Republic of Bulg. Ministry of Interior, <http://www.mvr.bg/Prevenia/default.htm> (last visited Oct. 17, 2007). These documents can also be found on the Main Directorate Counteraction to Criminality, Observing Public Order and Prevention website at www.gdppoorp.mvr.bg.

⁶⁴ Interview with National Police Directorate, *supra* note 34.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ See *infra* Part D. At the time of publication, an English translation of the guidelines was unavailable.

⁶⁸ Makeva, *supra* note 62, at 3.

taken other initiatives relevant to domestic violence, such as the development of a Community Policing Plan until 2010 and guidelines for victims.⁶⁹ Regional police stations also maintain and update monthly a list of social service providers.⁷⁰

D. MINISTRY OF LABOUR AND SOCIAL POLICY

An official from the Ministry of Labour and Social Policy (MLSP) discussed the ministry's activities against domestic violence. Pursuant to the Program for Prevention and Protection from Domestic Violence required by the LPADV, the MLSP adopted a plan for 2007-2008.⁷¹ The Action Plan focuses on six points, including an awareness-raising campaign, the creation of a 24-hour national hotline, the development of rehabilitation programs for victims of domestic violence, including children, recommendations for amendments to the LPADV, the creation of an implementation plan for the program, and an evaluation of the program's implementation.⁷²

Responses from a high-level MLSP official indicated an appreciation of NGO involvement. For example, the interviewee viewed NGO management of social services for domestic violence victims as positive and a "good trend."⁷³ Additionally, the interviewee stated that they were open to NGO input on future initiatives

⁶⁹ The Ministry of the Interior coordinated a working group to develop a manual for victims of domestic violence. Interview with National Police Directorate, *supra* note 34; Makeva, *supra* note 62, at 3. The working group was composed of representatives of the Ministries of Health, the Interior, and Labour and Social Policy, NGOs, including BGRF, and social workers.

⁷⁰ Makeva, *supra* note 62, at 4.

⁷¹ The MLSP adopted the plan in the fall of 2006. Interview with Ministry of Labour and Social Affairs, in Sofia (July 17, 2007).

⁷² Republic of Bulg. Ministry of Labour and Social Policy, Action Plan—Program for Prevention and Protection against Domestic Violence—2007-2008 (2006).

⁷³ Interview with Ministry of Labour and Social Affairs, *supra* note 71.

against VAW, including NGO participation in proposing legislative amendments.⁷⁴

The MLSP provides some funding to combat domestic violence.⁷⁵ A high-level government official reported that 10,000 Leva (approximately \$7,270 USD) funded a seminar on domestic violence issues for the 2007 16 Days of Activism against Gender Violence campaign.⁷⁶ The MLSP coordinated this campaign with its Council of Europe representative, and the training targeted professionals in the field of domestic violence.⁷⁷ The MLSP also manages the Social Aid Fund, a program administered through BGRF,⁷⁸ which provides support for some NGO projects against domestic violence, but not on a regular basis.⁷⁹

An interview with an MLSP employee revealed that most of the agency's programming on domestic violence addressed children.⁸⁰ The interviewee explained that "the MLSP is not only working within the scope of the domestic violence law, but also working with the Child Protection Act."⁸¹ The interviewee

⁷⁴ *Id.* When proposing legislative amendments, the Ministry is mandated to follow a procedure that requires cross-sector coordination among stakeholders, institutions and NGOs. *Id.*

⁷⁵ The MLSP relies heavily on municipalities to assess the budget needs and to provide feedback to the Ministry. Interview with NGO, in Sofia (July 17, 2007). Proposals seeking funding must be submitted the prior year, and in July 2007, the MLSP was collecting proposals from the municipalities for the 2008 budget. Interview with Ministry of Labour and Social Affairs, *supra* note 71.

⁷⁶ Interview with Ministry of Labour and Social Affairs, *supra* note 71.

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ Interview with NGO, *supra* note 75.

⁸⁰ Because of the correlation between domestic violence and child abuse, it is critical that agencies that work with abused children are trained to recognize signs of domestic violence and to respond appropriately. Stop Violence Against Women, *Role of Child Protection Services* (2006), http://www.stopvaw.org/Role_of_Child_Protection_Services.html. When a batterer is also abusing a child, the best way to protect the child often is to ensure the safety of the mother. *Id.*

⁸¹ Interview with Ministry of Labour and Social Affairs, *supra* note 71. The LPADV addresses the responsibilities of the MLSP and its subsidiary bodies. The Executive branch is to identify and train persons in charge of protection, as well as work jointly with bodies registered under Art. 18(2) and (3) of the Social

described the role of the Social Assistance Directorate and how its units protect children-at-risk, including child victims of domestic violence.⁸² Child Protection employees provide various support to child victims.⁸³ When asked about trainings for social workers under the LPADV, the interviewee described trainings on the Child Protection Act (CPA) and LPADV for MLSP departments that deal with child protection.⁸⁴ The official also described a World Bank-funded project to establish ten social support centers to work with children-at-risk and disabled children and preventing violence against children.⁸⁵ The authors did not learn of any specific training programs addressing violence against women.

1. DIRECTORATES OF SOCIAL ASSISTANCE

Several bodies within the MLSP play an important role in the implementation of the LPADV. The MLSP houses the Agency for Social Assistance (ASA), which implements relevant government policies.⁸⁶ The ASA, in turn, has two subsidiary bodies on the regional and municipal levels, i.e. the Regional Directorate for Social

Assistance, and the Directorate for Social Assistance (DSA), respectively. Within the municipal-level DSA, there are child protection and social protection departments. Additionally, the MLSP funds the State Agency for Child Protection, a body under the Council of Ministers.⁸⁷ The State Agency for Child Protection provides guidance to the Child Protection Departments on the municipal level.⁸⁸ Under the LPADV, both the DSA and the State Agency for Child Protection are charged with specific responsibilities.⁸⁹

Interviews revealed a lack of response by the DSA in cases where its intervention is needed in domestic violence cases. Section 8(2) of the LPADV grants the Director of the DSA the authority to initiate proceedings for an order for protection. Two years after the passage of the LPADV, a legal advisor from a Sofia-based NGO stated that the DSA had not initiated any cases on behalf of victims.⁹⁰ Judges in several cities corroborated this observation and reported they never had an application filed by the DSA.⁹¹

Assistance Act to protect victims. LPADV, SG 2005, No. 27, §§ 6(2)-(3). The LPADV states that the Director of the Directorate for Social Assistance may initiate an application for a protection order on behalf of a victim. *Id.* § 8(2). Also, the law states that when “measures should be undertaken under the Child Protection Act, the court shall notify the Director of the Social Assistance Directorate.” *Id.* § 18(3). Also, a court hearing litigation between the applicant and respondent that is based on the Family Code or Child Protection Act is authorized to grant a protection order at any point in the proceedings. *Id.* § 7(2)

⁸² Interview with Ministry of Labour and Social Affairs, *supra* note 71.

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ The Agency for Social Assistance is an executive body within the MLSP, which has subsidiary bodies on the municipal and regional levels, and administers social benefits and services, registers entities as service providers, and makes decisions on the status of social services. MILENA HARIZANOVA, ASSESSMENT OF THE REFORM OF THE CHILD PROTECTION SYSTEM IN BULGARIA 14 (2007). The State Agency for Child Protection (CPA) is an agency of the Council of Ministers and, *inter alia*, manages child protection issues and programs, and advises Child Protection Departments. *Id.*

⁸⁷ *Id.* at 16. The Council of Ministers develops state policies on social assistance. BULG. CTR. FOR NOT-FOR-PROFIT LAW, ANALYSIS OF THE LEGAL FRAMEWORK OF SOCIAL SERVICES IN BULGARIA Q & A 2 (2004).

⁸⁸ HARIZANOVA, *supra* note 86, at 16.

⁸⁹ Section 8(2) of the LPADV states that “The proceeding for issuing an order may be instituted... at the request of the Director of the Social Assistance Directorate.” LPADV, SG 2005, No. 27, § 8(2). Section 13(2) states, “The following may also serve as evidentiary means in a proceeding under subsection 1: 1. records, reports, and any other acts issued by the Social Assistance Directorates, by medical doctors, as well as by psychologists having provided counselling to the victim; 2. documents issued by legal persons providing welfare services and entered in a register at the Social Assistance Agency. . .” *Id.* § 13(2)(1-2). Section 18(3) states, “Where it appears from the data on the file that measures should be undertaken under the Child Protection Act, the court shall notify the Director of the Social Assistance Directorate.” *Id.* § 18(3).

⁹⁰ Interview with NGO, *supra* note 44. *See also*, Daniela Gorbunova, Monitoring of the Application of the Protection Against Domestic Violence Act 9 (received Feb. 2008) (unpublished report, on file with authors).

⁹¹ Interview with Judges, in Plovdiv (July 16, 2007); interview with Judges, in Varna (July 11, 2007).

Often, third-party intervention in protection orders such as that anticipated by Section 8(2) is not in the best interests of the victim.⁹² However, such intervention is important for those victims who are incapacitated or otherwise unable to apply for a protection order themselves. For example, an NGO recounted the experience of an elderly man needing protection from his son:

...an old person, a man, 84 years old, is in the hospital for a broken bone, and the medical authorities notified the Social Assistance [Directorate]. Their answer is...he is not their client, he is not registered with them, so he is not their client or someone for whom they should be responsible. He was in a very bad condition, physical and mental, so he is totally unable to write his application by himself, to understand what is going on and for what to ask...In such a case, if the Social Assistance Director would submit such an application, if the certificate is from the health institute that he came for consultation, all this written evidence could be submitted to the court, this could have been a successful case, he could have been helped...his leg was broken by his son... A broken leg is a middle injury; since they are relatives, it is still a private [criminal] case.⁹³

⁹² Third parties may not understand that obtaining an order for protection may increase the risk to the victim and the children. See Stop Violence Against Women, *supra* note 80. Research indicates that the most dangerous time for a battered woman is after she ends the relationship. See Stop Violence Against Women, *Lethal and Extremely Dangerous Behavior* (2006) http://www.stopvaw.org/Lethal_and_Extremely_Dangerous_Behavior.html. For example, research indicates that women who leave their batterers are at a 75% greater risk of being killed by their batterers than those who stay. See Julian Center, *More Facts*, http://www.juliancenter.org/more_facts.html; see also Casa de Esperanza, *Myths and Facts About Violence*, <http://www.casadeesperanza.org/en/myths.html> (citing 65% of battered women who are killed are murdered after or when they leave). Furthermore, the victim may have already developed a safety plan, which could be undermined by seeking a protection order. See Stop Violence Against Women, *supra* note 80. It is very important for a battered woman to make her own decision to end a relationship because she is in the best position to assess the potential danger. See Stop Violence Against Women, *Lethal and Extremely Dangerous Behavior* (2006), http://www.stopvaw.org/Lethal_and_Extremely_Dangerous_Behavior.html.

⁹³ Interview with NGO, in Varna, *supra* note 47.

Also, interviewees reported that there is a need for the Child Protection Department to become more proactive on behalf of minor victims between the ages of 14 and 18 years. Children of this age need the signature of one of the parents to receive protection under the LPADV.⁹⁴ This parental signature is required on all LPADV applications unless the DSA is active in the case.⁹⁵ Without official agency intervention or a parent's signature, a child is unable to file an application for an order for protection. Under the LPADV, the Director of the Social Assistance Directorate could file the application, but interviews revealed that such initiative is rare. A lawyer described the difficulty that can result from this omission:

I have a case, the son was beaten by the father. The mother is obligated to write the application under the domestic violence law...She had an emergency order for herself; the boy is 17, and he didn't want to go to court alone...The mother didn't want to sign his application of the minor. So, it cannot be filed...The Child Protection Agency is not active enough, so they could not do anything. This is exactly the case where they should have acted. We have a problem between the mother and the child because of this...The son had bruises. He did not go to school because he was afraid his schoolmates would see them.⁹⁶

While the connections between child and partner abuse requires coordination between child protection

⁹⁴ Interview with Lawyers, in Sofia (Apr. 2, 2007). Under Bulgarian law, a child under the age of 14 has no legal will of their own and cannot file legal documents, including orders for protection. Interview with Lawyer, *supra* note 48, in Sofia (July 7, 2007). Parents, relatives or the DSA would have to file the order. *Id.* A child aged 14-18 years has some legal rights, including the right to work, but these rights exist only with the permission of his parents. *Id.* Therefore, if a youth of this age sought protection under the LPADV, he would also need the signature of one of his parents or, if the parent will not sign, child protection. Code of Civil Procedure [hereinafter CCP], State Gazette [SG] 1996, No. 44, art. 16. See also interview with Lawyer, *supra* note 48.

⁹⁵ LPADV, SG 2005, No. 27, § 8(2).

⁹⁶ Interview with Lawyers, *supra* note 94. For such cases, the lawyer suggested that the law on legal aid be changed so that there could be lawyers registered especially for the protection of children, such as the guardian ad litem statute in the USA. *Id.*

bodies and domestic violence advocates, the issues require separate systems. Addressing child abuse through a domestic violence law may have unintended consequences for the victim. For example, judges and police may not be sufficiently trained on removal of children in domestic violence cases. In other cases, such as the aforementioned example, the state agency required to obtain protection may not take the necessary measures when needed.

Such problems are exacerbated by the intersection of the LPADV with other laws, i.e. the family and child protection laws. The legal overlap has led to confusion and improper responses by the DSA in domestic violence cases. An attorney described a case of a wife divorcing her abusive husband:

[S]ome [agencies] don't understand what they are supposed to do...I had a divorce case where Social Assistance mixed up the divorce and domestic violence case, and made a social report on the divorce case. They did not understand that they were supposed to do a social report for the domestic violence case, and not the divorce...⁹⁷

In addition, it is essential to ensure that child protection and family laws do not have such unintended effects on the battered parent. Interviews revealed that positive provisions in the LPADV that promote victim safety are sometimes negated by other laws. For example, Section 9(1)(1) of the LPADV allows the victim to conceal her address from the perpetrator.⁹⁸ Under the CPA, however, Article 8(2) states that a “parent has the right to be informed and consulted about all the measures and the activities undertaken under this law except the cases of Article 13.”⁹⁹ The

⁹⁷ *Id.*

⁹⁸ Section 9(1)(1) states, “. . . if a victim cannot or is unwilling to disclose his or her address, he or she may identify an address for litigation purposes[.]” LPADV, SG 2005, No. 27, § 9(1)(1).

⁹⁹ Article 13 states, “Each child shall have right to be informed and consulted by the body for protection of the child also without the knowledge of his parents or the persons who take care for

conflict between these two laws can have serious consequences for victims. One judge stated there was no way to execute a social report without revealing the residence of a victim with custody of her children.¹⁰⁰

Interviews revealed that domestic violence victims in Bulgaria are at risk of removal of their children.¹⁰¹ While the LPADV allows judges to order temporary custody of the child with the non-violent parent,¹⁰² this determination remains at the judge’s discretion. In contrast, some jurisdictions in the United States have statutes directing the judge to order custody of the children with the non-violent parent. Furthermore, the Child Protection department has the authority to remove a child in the case of child abuse.¹⁰³ Courts should be aware that such removal can have victimizing consequences for the non-violent parent depending on the authority’s definition of child abuse. For example, some agencies may decide the mother is an unfit parent, because she was unable to protect her children from violence and/or leave the batterer.¹⁰⁴ This assumption disregards the mother’s own fear, her assessment of her and her children’s safety, and the possibility that she may lack the financial means to leave.¹⁰⁵ Child custody laws must take into account the

upbringing and tuition if this is necessary with regard to the best protection of his interests and informing them would affect these interests.” Child Protection Act [hereinafter CPA], SG 2006, No. 82, art. 13. See also Koycheva, *supra* note 32, at 12.

¹⁰⁰ Interview with Judges, in Pleven (July 6, 2007).

¹⁰¹ For a report and discussion of this issue in the United States, see CARRIE CUTHBERT ET AL., BATTERED MOTHERS SPEAK OUT: A HUMAN RIGHTS REPORT ON DOMESTIC VIOLENCE AND CHILD CUSTODY IN THE MASSACHUSETTS FAMILY COURTS (2002). The report examined the experiences of forty battered mothers in the Massachusetts family court system and found that the courts violated women’s human rights by, *inter alia*, granting custody of or unsafe visitation with children to the batterers. See *id.*

¹⁰² LPADV, SG 2005, No. 27, § 5(1)(4).

¹⁰³ See CPA §§ 11(1), 21(2-3), 38, 39.

¹⁰⁴ See Stop Violence Against Women, *supra* note 80.

¹⁰⁵ See Stop Violence Against Women, *supra* note 80; Martha Matthews, *Addressing the Effects of Domestic Violence on Children* (Feb. 1999) <http://www.casenet.org/library/domestic-abuse/effects.htm>.

power and control dynamics in an abusive relationship to avoid re-victimization through child removal.¹⁰⁶

Interviews indicated a strong need for the DSA and Child Protection departments to undergo trainings on the dynamics of domestic violence. In one case, a domestic violence victim's attempt to escape her abuser resulted in further victimization by the Child Protection department. The Child Protection department not only shared the victim's address with the perpetrator, it removed her child from her care. An attorney described the consequences for this longtime victim of domestic violence, "A.," by her boyfriend:

She got pregnant...They wanted to have this child, but he could not abstain from beating her now that she was pregnant. She was in the 8th month of her pregnancy...and he beat her again. And then even he was very frightened, because she began bleeding very seriously. They brought her to one of the best hospitals...finally, she gave birth, very painfully, to a girl...[The baby] died...She lived for only 9 hours. [The perpetrator] was the first person who knew; he was told by doctors she was dead. He started accusing A. that it was not true, that she had sold the girl. After that, for about 3 months, she stayed in bed. She was not able to work. So, during these three months, she was beaten almost all the time by him...He was not beating her where the operation was down below, but in the face and on her head during her convalescence.

She left her boyfriend, who then attempted to murder her. After her boyfriend stated, "This time, when I find you, I will kill you," she took their son and fled the city. She spent two months at a state institution that

¹⁰⁶ See Stop Violence Against Women, *Child Custody Issues* (2006), http://www.stopvaw.org/Child_Custody_Issues.html. Some jurisdictions have authorized courts to order the abuser out of the dwelling, rather than removing the child; others presume that specific behavior resulting from domestic violence should not be used to determine whether a parent is fit; other jurisdictions seek to coordinate child protection and domestic violence service providers' work. See Matthews, *supra* note 105, at ¶ 30.

instructs mothers on childcare. She left and found employment, but the institution refused to assist her with temporary childcare. When she expressed her difficulties working as a single parent, the DSA removed her child to an institution. The CPA failed to show her the order from Social Services for removal of her son and kept him for thirty-three days before returning him to her. Furthermore, the DSA sent a copy of the order, with her new address, to her batterer, the father of the child. The mother was re-victimized twice by the social services when it took her son away and notified the father of her whereabouts.¹⁰⁷

In summary, interviews revealed that the DSA and Child Protection departments are insufficiently active in filing applications on behalf of children and incapacitated or elderly adults who are unable to file on their own behalf. Overall, there is a need for more trainings for the DSA and Child Protection representatives to ensure they fully understand both the dynamics of domestic violence, as well as the LPADV and its intersection with other laws. Specifically, trainings for child protection workers on the power and control dynamics of domestic violence would inform them of its effects on battered mothers' emotional well-being and their ability to leave their batterers.¹⁰⁸ For example, child protection workers may

¹⁰⁷ Interview with Victim (July 15, 2007). This victim's lawyer believes that such a temporary administrative order, under Article 60 of the Administrative Code, is acceptable where there is an imminent risk of life and health to the child, but within one month there should be a file introduced in the court to decide the matter, so that mother and child are not separated for so long. Interview with Lawyer (July 15, 2007). Yet, the court file does not exist until it is introduced, so no one is policing the period of time. *Id.* The lawyer believes that it is in the best interest of the child to propose helpful alternatives to a parent facing difficulties, and that institutionalizing a child should be a last resort. *Id.* In answer to the Social Assistance Agency's claim of lack of capability in this area, the lawyer asserted that the low-functioning infrastructure of Bulgaria cannot be used to abuse parental rights. *Id.*

¹⁰⁸ The Power and Control Wheel demonstrates how batterers use a variety of tactics, including coercion and threats, intimidation, emotional abuse, isolation, children, male privilege, economic abuse, and minimizing, denying and blaming to exert

not understand the limited and difficult choices available to battered mothers.¹⁰⁹ Not only would such trainings change the way they view and work with their clients, but it would also help develop best practices in responding to children and battered mothers.¹¹⁰

E. MINISTRY OF HEALTH

The inter-Ministerial Program on Prevention and Protection from Domestic Violence requires the Minister of Health to develop a plan on domestic violence. At the time of publication of this report, the Ministry of Health had not prepared such a plan. It has announced its plans to establish an inter-ministerial working group, including NGO representatives, to develop and execute programs for perpetrators of domestic violence.¹¹¹

The ministry has undertaken other projects, and on May 15, 2007, the Ministry of Health funded a campaign to provide psychiatric consultations free of charge for women victims of domestic violence.¹¹² Seventeen health institutions throughout Bulgaria

conducted these examinations in university hospitals and mental health centers.¹¹³ These examinations focused on evaluating the mental health of the women.¹¹⁴ While resources and services for victims are an important goal, these psychiatric examinations risk diverting needed government resources from the primary goal of victim safety and offender accountability to the misguided goal of “fixing the victim.” Many victims of domestic violence do not need psychiatric counseling or rehabilitation. Rather, domestic violence victims more urgently need government agencies to focus resources on ensuring their safety through adequate provision of shelters and economic opportunities and ensuring offender, who has broken the law, is held accountable through adequate criminal laws and procedures.

power and control over the victim in an abusive relationship. Minn. Program Dev. Duluth Model, The Wheel Gallery, <http://www.duluth-model.org/documents/PhyVio.pdf> (last visited Mar. 13, 2008).

¹⁰⁹ For a women without resources, leaving her home may mean that she may need to “find shelter in a setting that is not conducive to the health and welfare of her children, thus facing child protective intervention.” Matthews, *supra* note 105, at ¶ 27. Remaining in the home, however, may put her in danger of losing her children for failing to protect them. See Matthews, *supra* note 105, at ¶ 27.

¹¹⁰ Examples of best practices include: consistent coordination between, joint trainings for, and co-locations of child protection services and domestic violence advocates; use of a “dual victim” approach recognizing that both the mother and child are victims and strengthening the bond between them helps minimize the harm to child witnesses, and; statutory provisions that take into account the dynamics of domestic violence, such as those that provide for the defense in an omission to act that actions to protect the child would have led to further harm or that certain behaviors should not be considered when determining parental fitness. See Stop Violence against Women, *supra* note 80 (citations omitted).

¹¹¹ Letter from the Bulg. Ministry of Health, to the Bulg. Gender Research Found. (Apr. 5, 2007) (on file with authors).

¹¹² Interview with Ministry of Labour and Social Affairs, *supra* note 71.

¹¹³ *Free Examinations for Women Victims of Domestic Violence on Tuesday*, MEDIAPOOL (Bulg.), May 14, 2007, <http://www.mediapool.bg/>.

¹¹⁴ *Id.*

IV. POLICE

Although police responses varied throughout Bulgaria, reports indicated that police were responsive to calls reporting domestic violence and willing to help victims. Police are generally willing to help victims file an application for an emergency protection order under Section 4(2), and reports of police inaction were rare. Also, interviewees indicated that police were executing orders under Section 21(1), although a few interviews revealed obstacles in locating, serving or removing the offender from the home. Challenges still remain for full and effective implementation by the police. Law enforcement still face difficulties in responding to violations of orders, and questions remain as to the authority upon which to base an arrest of an offender for such violations, and how to consistently address violations. Other complicating factors, such as traditional misconceptions about domestic violence, affect police implementation. Yet, police in Bulgaria are participating in many trainings, which have and will continue to strengthen their response under the LPADV.

Bulgarian police have responded in varying ways to domestic violence since the law passed. This may be in part due to the delay by the Mol to officially regulate the police response. Soon after the LPADV came into effect, the National Police Directorate drafted and forwarded guidelines on the police response to domestic violence to the Mol for approval. The authors note, however, that at least eighteen months passed before the Mol authorized and issued the guidelines in March 2007. Interviewees from the National Police Directorate acknowledged a lack of a unified police response and the need for harmonization in the interim.¹¹⁵ Some police, however, reported they carry instructions on writing a police report and possible

police actions when responding to domestic violence cases.¹¹⁶

Generally, most police are following the LPADV and have implemented good police procedures in the absence of the national guidelines. Police reported that when called to the scene of domestic violence, they conduct interviews with the victim, perpetrator and witnesses separately. Additionally, most interviews revealed that police document injuries in a report. Police in one city, however, stated that they do not document injuries, as the medical certificate serves this purpose.¹¹⁷ The authors heard reports that the police inform the victim of her or his rights under the LPADV.¹¹⁸ Interviews in certain cities, such as Burgas, Sofia and Ruse, revealed that the police consistently work with an NGO and inform victims about the NGO.¹¹⁹ Many police reported that they issue a written warning to the perpetrator.¹²⁰ Police in Varna, however, reported that they sometimes issue only an oral warning to the perpetrator, particularly in cases where the victim does not wish to apply for a protection order.¹²¹ They explained, "Then it makes no sense to make a written warning, because it's against what she wants."¹²² Police reported making arrests or removing the perpetrator in cases where a weapon is available

¹¹⁶ Interview with Police, in Burgas (Mar. 30, 2007).

¹¹⁷ Interview with Police, in Ruse (July 9, 2007). Police documentation of injuries from domestic assaults are important for several reasons; the victim may not seek a medical certificate for financial or other reasons, or the doctors may not be specifically trained to work with domestic violence victims and therefore consider the impact of repeated injuries over a period of time, the appropriate measure of psychological injury, or the possibility that the severity of the injury may not be fully recognizable at the time of the examination. See Stop Violence Against Women, *Forensic Medical Systems* (2006), http://stopvaw.org/Forensic_Medical_Systems.html.

¹¹⁸ Interview with Police, *supra* note 117; interview with Police, *supra* note 41; interview with Police, *supra* note 38.

¹¹⁹ Interview with Police, in Burgas, (July 13, 2007); interview with Police, *supra* note 117.

¹²⁰ Interview with Police, *supra* note 116; interview with Police, *supra* note 40; interview with Police, *supra* note 117.

¹²¹ Interview with Police, *supra* note 41.

¹²² *Id.*

¹¹⁵ Interview with Police, in Sofia (Mar. 27, 2007).

or has been used,¹²³ the offender is drunk,¹²⁴ or the victim has sustained medium to serious injuries.¹²⁵

There have been efforts to train police throughout Bulgaria to develop a consistent response.¹²⁶ Also, police, in partnership with NGOs, are conducting a series of trainings on responding to domestic violence.¹²⁷ The authors attended one of these trainings in March 2007. A chief of police from Burgas trained police on how officers should respond when: a) taking emergency calls; b) visiting the scene of violence; 3) taking civilians to the police station, and; d) assisting with applications and executions of emergency protection orders.¹²⁸ During the seminar, trainers distributed sample templates for police,¹²⁹ which have helped alleviate prior problems with filing applications.¹³⁰ Now that the Mol has promulgated

¹²³ Interview with Police, *supra* note 116.

¹²⁴ Interview with Police, *supra* note 117. In this case, the offender can be taken to a place to sober up. Interview with Police, *supra* note 117.

¹²⁵ Interview with Police, *supra* note 116.

¹²⁶ The Advocates for Human Rights and BGRF carried out two trainings for police and judges in Bulgaria in 2005 and 2006.

¹²⁷ See *infra* pp. 42-43.

¹²⁸ The trainer addressed important issues, such as documentation, victim assistance, actions toward the perpetrator, victims, witnesses, and children, publicly prosecuted crimes, and police reports. Tactics for Police Action When Receiving a Report of Domestic Violence PowerPoint Presentation, 6 (Mar. 28-30, 2007) (on file with authors).

¹²⁹ Templates distributed included an application for an emergency protection order, victim declaration, request for emergency measures under Article 71 of the Mol Law, information letter to the Social Assistance Directorate regarding child abuse, information letter to the prosecutor's office regarding a violation of a protection order, and three police reports on information provided to the victim, warning issued, and notice to the victim of the possibility to file a request under Section 4(2) of the LPADV.

¹³⁰ Interview with Police, *supra* note 41. A lawyer reaffirmed the importance of providing the police with forms and a protocol when responding to and documenting domestic violence cases. Interview with Sofia Lawyer, *supra* note 33. She stated that the police must record the signs of violence on the person of the victim and on the perpetrator; they must look for broken items in the room where the violence occurred; they must study the demeanor of the victim and of the perpetrator; and they must record their explanations and other evidence. *Id.* Many of these factors disappear rapidly, the lawyer emphasized, within 30 minutes of the signal to the police. As she stated, "A lawyer does not help a victim collect already lost evidence, such as in the

guidelines, it is currently engaged in extensive police training.¹³¹

Additionally, police have taken steps to modify infrastructure and activities to improve their ability to assist victims. For example, police in Burgas are remodeling their telephone system to include a caller identification system, which will allow them to ascertain the caller's address.¹³² NGOs provide police with brochures and informational leaflets to distribute to victims. Police also coordinate with the media to provide outreach. For example, police described a 45-minute question-and-answer program on domestic violence they hold with the public, which is later broadcast over the radio and published in a magazine.¹³³ Police collaboration with other sectors and the media has been beneficial. A law enforcement public relations officer in Burgas reported that since they started working with a local NGO, they have received "complete tolerance" from the media.¹³⁴ Media representatives she works with are "not looking for shocking details, but are trying to find out the real reasons for the event."¹³⁵

A. POLICE APPLICATIONS FOR EMERGENCY ORDERS FOR PROTECTION

Statistics and reports from interviewees indicate that many victims are seeking help from and filing emergency applications through the police.¹³⁶ This is

emergency cases. I can complain to the emergency police, but nothing will happen if I have no evidence." *Id.*

¹³¹ Interview with National Police Directorate, *supra* note 34.

¹³² Possibility for Sustainable Implementation of the Law for Protection from Domestic Violence Training [hereinafter Training], 17 (Mar. 28-30, 2007) (transcript on file with authors).

¹³³ Interview with Police, *supra* note 119.

¹³⁴ Interview with Police Media Liaison, in Burgas (July 13, 2007).

¹³⁵ *Id.*

¹³⁶ A Burgas police officer estimated that his department receives fifteen to twenty domestic violence calls per month, one-half of which culminate in applications for emergency protection orders, which usually are successful. Interview with Police, *supra* note 119. Regional court judges in Varna estimated that they each received two to three cases for emergency

important because of the crucial role police play in the emergency protection order remedy outlined in Section 18 of the LPADV.¹³⁷ Under Section 4(2), where there is a “direct and imminent threat to the life or health of the victim, the latter may file an application with the police authorities for the imposition of emergency measures pursuant to section 76 of the Ministry of Interior Act. The bodies of the Ministry of Interior shall forward to the court the application together with the explanations of the respondent, if such explanations have been provided, and the record drawn of any measures imposed, while depicting the circumstances that call for emergency court protection.”¹³⁸ According to one judge in Varna (pop. 350,000), most applications for emergency protection orders she receives are from the police.¹³⁹ She reasoned that victims usually call the police first, rather than a lawyer, for an emergency protection order.¹⁴⁰

Other interviewees, however, reported that victims tend to file applications through non-police sources and cited different reasons for this. For example, police in Varna stated that it is more common for victims to call them to stop the violence than to file an application.¹⁴¹ According to them, victims usually file an application after they contact an NGO.¹⁴² Other interviews revealed that police are rarely the first point of contact for people seeking protection orders, because victims gravitate toward other resources first.¹⁴³ One attorney stated that her clients sometimes prefer to file an

protection orders each month. Interview with Judges, in Varna (July 11, 2007).

¹³⁷ Section 18(1) states that “[w]here the application or request contains data concerning a direct and impending threat to the life or health of the victim, the regional court, sitting *ex parte* and *in camera*, shall issue an emergency protection order within 24 hours as from receipt of the application or request.” LPADV, SG 2005, No. 27, § 18(1).

¹³⁸ *Id.* § 4(2).

¹³⁹ Interview with Judges, *supra* note 136.

¹⁴⁰ *Id.*

¹⁴¹ Interview with Police, *supra* note 41.

¹⁴² *Id.*

¹⁴³ Interview with Police, *supra* note 38.

application through a lawyer, citing client fears that the police will not take the violence seriously or that they lack the requisite legal background.¹⁴⁴

In certain cities, there were reports of police inaction to help a victim apply for an order. One lawyer described how the police refused to allow a victim to submit an application for an emergency protection order through them.¹⁴⁵ In this case, because the case involved a privately initiated criminal complaint between spouses, the police believed the victim should submit the emergency order application directly to the court and not through them:¹⁴⁶

...the father returned and found a remark in a school paper that the child had bad behavior. The father accused the woman of having no control over the child. He started beating her; he was a strong person. The child appeared, and he beat the child, too. The injuries were light injuries—there were bruises on her back, on her chest, and head. But they were light injuries...The wife filed an individual complaint for light injuries, because it needs to be brought to the court, and they started proceedings for an urgent protection order. The police refused to have the case to go through them for an urgent protection order, because it was private, and it should go to the court.

The lawyer informed the police that it was their duty to file an application, their behavior was unlawful, and he would inform the state.¹⁴⁷ Ultimately, the police submitted the application to the court, which issued the protection order.¹⁴⁸ The Plovdiv-based lawyer stated, however, that “in most cases, the police refuse.”¹⁴⁹ Overall, however, reports of police inaction under

¹⁴⁴ Interview with Lawyer, in Burgas (Mar. 30, 2007).

¹⁴⁵ Interview with Lawyers, *supra* note 50.

¹⁴⁶ Article 161 of the Criminal Code states that penal prosecution for light bodily injuries inflicted on a spouse is initiated on the basis of the victim’s complaint. Criminal Code, SG 2004, No. 103, art.161.

¹⁴⁷ Interview with Lawyers, *supra* note 50.

¹⁴⁸ *Id.*

¹⁴⁹ *Id.*

Section 4(2) were uncommon.¹⁵⁰ The authors noted that police failure to respond is more common in the remote areas of Bulgaria.¹⁵¹

Another attorney described obstacles in obtaining police files to attach as evidence to an application.¹⁵²

She explained that if the victim goes to the police station to request a copy of the file, the police may not give it to her. The court may either request the police send it a copy of the file or issue a certificate to the applicant authorizing her to obtain a copy. In practice, however, the police do not always produce the file. The attorney stated that when the victim goes to the police station with the court certificate, the police say, “We can’t give you a copy of this file with this certificate. We will give it to the court if the court asks us officially.”¹⁵³

This problem is compounded by the fact that the victim may not be informed about the registration number given to her file.¹⁵⁴ The attorney explained that when a victim files a complaint with the police, the police register the case in the court. Because it takes one day for the registration number to appear in the police registers, the victim does not know the registration number when she leaves the police station. Furthermore, if additional police actions are taken in regard to the file, the case will receive a second registration number. If the police submit the case to the prosecutor, it will receive a third number. As the attorney explained:

¹⁵⁰ Section 4(2) of the LPADV allows the victim, whose life or health is under direct and imminent threat, to file an application with the police, which forwards the petition to the regional court, for an emergency protection order. LPADV, SG 2005, No. 27, § 4(2).

¹⁵¹ Interview with Lawyers, *supra* note 94.

¹⁵² Interview with NGO, in Varna, *supra* note 47. See also Gorbunova, *supra* note 90, at 9.

¹⁵³ Interview with NGO, in Varna, *supra* note 47. Section 14(1) of the LPADV states that government agencies or bodies in possession of documentary evidence of domestic violence must issue authenticated copies upon the request of the victim, his or her representative, or the court. LPADV, SG 2005, No. 27, § 14(1). Failure to do so results in a fine of 100 Levs. *Id.* § 14(2).

¹⁵⁴ Interview with NGO, in Varna, *supra* note 47.

One problem is to know the number and who has the file and how to obtain this file, where to look for it, what number you should ask for. Sometimes, different police officers are responsible for this case: one in the beginning; then, this is reported to another one; when it comes back to a prosecutor, it might be given to a third one; so, you must follow the whole chain. In my personal experience, it happened that in one case, I made more than thirty phone calls with the police asking, “Where is this file?”¹⁵⁵

Although the LPADV does not mandate a deadline, police are forwarding applications to the court in a timely fashion. Interviews revealed that most police send applications for emergency protection orders to the court within a timeframe of 24 to 72 hours¹⁵⁶ and sometimes get the applications to the court within 24 hours or even “immediately.”¹⁵⁷

Interviews revealed that police uncertainty about evidentiary requirements led them to collect evidence for the emergency application, even though the LPADV does not require additional evidence other than the victim’s statement.¹⁵⁸ Police acknowledge that the court has the authority to issue an emergency order based on the victim’s declaration alone.¹⁵⁹ Nevertheless, they stated they ensure that

¹⁵⁵ *Id.*

¹⁵⁶ Police in Plovdiv reported it took them 24 hours to deliver an application for an emergency protection order to court; police in Karnobat reported it took them 48 hours, and police in Pleven reported it took them three days. Interview with Police, *supra* note 38; interview with Police, *supra* note 116; interview with Police, *supra* note 40.

¹⁵⁷ Interview with Police, *supra* note 117; interview with Police, *supra* note 41. Police submitting applications after 24 hours did not provide any explanations for the delay. Interview with Karnobat Police, *supra* note 39.

¹⁵⁸ Section 4(2) states that “. . . [t]he bodies of the Ministry of Interior shall forward to the court the application together with the explanations of the respondent, if such explanations have been provided, and the record drawn of any measures imposed, while depicting the circumstances that call for emergency court protection.” LPADV, SG 2005, No. 27, § 4(2). Section 9 states that the application must contain personal information, a description of the facts concerning the domestic violence, and a statement by the applicant regarding the violence. *Id.* § 9.

¹⁵⁹ Interview with Karnobat Police, *supra* note 39.

explanations and the warning protocol are submitted in addition to the victim's declaration.¹⁶⁰ Even though the law is clear, a police officer in Pleven stated, "all the time we end up needing more witnesses and evidence. Even for emergency orders."¹⁶¹

B. POLICE EXECUTION OF ORDERS FOR PROTECTION ISSUED BY COURTS

Under the LPADV, the police are responsible for immediately executing a protection order issued by the court.¹⁶² Police are generally enforcing protection orders, and interviewees reported many positive accounts of police implementation. A lawyer from Pleven shared the following story:

He was a very dangerous man. She was threatened many times and beaten very heavily with a piece of wood about the full two arms' span—it was a long rolling pin used to make pastries. She ran out of the house and was hiding, but never went to a doctor. I saw her on the 15th day. She said she just had headaches on her head where she was wounded--she had blue, yellow bruises that swelled from the stick. When she appeared, she had no visible traces. She was running and he was beating her everywhere practically—the neck, the shoulders, the back, the back of the head. She said he even hit one of her eyes from the side; she said, "I had a strong ache from inside my eye." She was too afraid to go to the doctor for a certificate or help because they had the same [doctor], and she was afraid he would check...¹⁶³

The woman left with the children and obtained an order for protection, excluding the perpetrator from the dwelling. Although the perpetrator was dangerous and connected to the mafia, the police executed the order for protection:

The police forced him to leave. When he got this order to leave the house, he didn't think it was serious. But the police said, "This is very serious. If you don't disappear in two hours, on the third hour, I will be here on the third hour with the troops and we'll help you with

¹⁶⁰ *Id.*

¹⁶¹ Interview with Police, *supra* note 40.

¹⁶² LPADV, SG 2005, No. 27, § 20. Police are responsible for executing a protection order where measures under Art. 5(1)(1-3) have been imposed. *Id.* § 21(1).

¹⁶³ Interview with Sofia Lawyer, *supra* note 33.

the luggage.” And in two hours, he left. He has not violated this order.¹⁶⁴

An NGO in Ruse described another incident where police enforced a protection order issued in another city:

The conflict was between her and her son. He has problems with alcohol, and he does not work. She is 70 years old, and she gets her pension while he’s of a laborer’s age. So, she was obliged to pay all the costs and ensure there was money for alcohol. She was obliged to give him money, too. He takes credit from other people, and she has to pay them back. She is 70 years old, but must work in the field to pay for this. He gathers all her dresses and clothes and burns them with gas. With a gas pistol, he shoots at her...he modified the pistol to shoot like a real weapon. She came to court and said the bullets are still in the walls and most of the furniture.¹⁶⁵

According to an NGO, the lack of established procedures for implementation of the law in Vidin, where she lived, meant that no one could protect or assist her in that city.¹⁶⁶ The victim’s relatives sought help for her from the NGO in Ruse. The NGO helped her apply for and obtain an emergency protection order through the court in Ruse. The Vidin police executed the order and forced the son to leave the dwelling.¹⁶⁷

Some interviews revealed challenges for police in implementation of the order and an immediate need for police training on this issue. One judge noted a general lack of understanding by the police about the law and their obligations under Section 20.¹⁶⁸ The judge stated, for example, that the police ask the court questions about how to execute the order, how to find the

respondent, and how to serve the final judgment on him.¹⁶⁹

Other interviewees described specific problems in finding the perpetrator to enforce the order. For example, interviewees described difficulties in locating the perpetrator at the pre-hearing stage. Police referred to this as the “magic circle,” where the perpetrator hides from the police to avoid being served with the summons and thus delays the process.¹⁷⁰ In another case, police delayed removal of the perpetrator from the dwelling based on their inability to locate him.¹⁷¹ As a result, the mother and child had no place to stay for ten days. Eventually, the police removed the perpetrator from the dwelling.¹⁷²

Police described obstacles in effectively removing the perpetrator from the dwelling. For example, in one case, police described their inability to enforce a court order:

There was sexual, physical, brutal sexual abuse, psychological abuse. It was very hard. The woman came to us in very bad shape and when her daughter left the house the violence became more and more brutal...She called the police...There have been more than 20 years of violence, with many injuries, heavy bodily injuries, middle, light, all that you can imagine. She experienced broken bones and brutal sex. There was an assault on her vagina, tearing of her ear, tearing her hair out. One of her hands was broken and she was left with a permanent disability.¹⁷³

The victim applied for and received all forms of relief available under the LPADV. They were divorced, but still lived under the same roof at the time of the application. Her ex-husband violated the protection order by refusing to leave the home and committing

¹⁶⁴ *Id.*

¹⁶⁵ Interview with NGO, in Ruse, *supra* note 47.

¹⁶⁶ *Id.*

¹⁶⁷ *Id.*

¹⁶⁸ Interview with Judge, in Varna (July 11, 2007).

¹⁶⁹ *Id.*

¹⁷⁰ Interview with Police, *supra* note 40.

¹⁷¹ Interview with Lawyers, *supra* note 50.

¹⁷² *Id.*

¹⁷³ Interview with Police, *supra* note 40.

further sexual and physical abuse by beating her, splitting her lip and attempting to rape her. The victim fled and called the police for help. The police forwarded the case to the prosecutor, who began a preliminary investigation. The police detained the perpetrator, but had to release him after 24 hours.¹⁷⁴ They stated, "...he doesn't want to leave the house. There is no way to remove him."¹⁷⁵ This scenario demonstrates the problems caused by the LPADV's failure to criminalize the violation of an order for protection, discussed below.

C. VIOLATIONS OF ORDERS FOR PROTECTION

Police throughout Bulgaria reported difficulties with the LPADV's failure to address violations of a protection order in a meaningful way.¹⁷⁶ Section 21(2) of the LPADV states that "[i]n the event of failure to comply with the court order, the police authority having found such failure shall arrest the offender and notify forthwith the prosecutorial authorities." Section 21(2) has proved problematic for police for several reasons. Bulgarian law does not explicitly criminalize the violation of a protection order, but requires the police to make a 24-hour arrest.¹⁷⁷ This provision fails to refer to other legal authority that would empower the police to make the arrest, and it leaves the consequences undefined.¹⁷⁸

¹⁷⁴ *Id.*

¹⁷⁵ *Id.*

¹⁷⁶ One police officer referred to Section 21(2) as the law's weakest point. Interview with Police, *supra* note 41. Another officer described the resulting situation as "significant misuse of (Section) 21(2)." Interview with Police, *supra* note 117. A police chief stated that because prosecutors have nothing to do with a violation until further prosecutorial duties, i.e. a criminal act, arise, "[Section 21(2)] makes no sense." Interview with Police, *supra* note 119.

¹⁷⁷ Law on the Ministry of Interior [hereinafter MIA], State Gazette [SG] 2007, No. 41, arts. 63(1), 64.

¹⁷⁸ Police report that Section 21(2) of the LPADV fails to correspond to or authorize arrests in accordance with the MIA. Interview with Police, *supra* note 117. Specifically, they expressed a need for greater

Many police resort to using Article 63(1)(8) of the Mol Act to arrest an offender.¹⁷⁹ Article 63(1)(8) states that "[t]he police bodies may detain a person...in cases determined by law." Police officers, however, had concerns about arresting the perpetrator based on this law, because they are basing the arrest on the Mol, rather than the LPADV itself, and because the violation is not criminalized.¹⁸⁰

Furthermore, the vagueness of Section 21 of the LPADV has led other police officers to debate whether they can use Article 296 of the Criminal Code to arrest the offender.¹⁸¹ Police expressed conflicting opinions on their ability to arrest an offender for a violation under Article 296(1) of the Criminal Code. Article 296(1) of the Criminal Code states that anyone "who obstructs or prevents the enforcement of a judgment in any way whatsoever shall be punished by deprivation of liberty of up to three years or a fine of up to BGN five thousand." An interviewee explained that police officers debated the application of Article 296 during a meeting. He reported that police in some parts of Bulgaria recognize it as a violation and commence a police procedure under Article 296, while in other areas, police defer to prosecutors and the court to take action.¹⁸² A judge recognized the problems that police are facing under the provision, noting that after the police arrest the perpetrator, "[t]hey don't know what to

regulation under Section 21 that conforms to the MIA.

Id.

¹⁷⁹ *Id.*; interview with Police, *supra* note 119. An officer summarized, "According to the domestic violence law, we cannot arrest a violator. We arrest him according to the Law of Internal Affairs—Art. 63(8)." Interview with Police, *supra* note 117. The authors are not aware of any requirement for such an express reference.

¹⁸⁰ Interview with Police, *supra* note 117.

¹⁸¹ Criminal Code, SG 2004, No. 103, art. 296; interview with Police, *supra* note 38. Article 63(1)(1) of the MIA states, "The police bodies may detain a person...for whom data exists that he/she has committed crime." MIA, SG 2007, No. 41, art. 63(1)(1). Article 63(1)(8) states, "The police bodies may detain a person... in cases determine by law." *Id.* at art. 63(1)(8).

¹⁸² Interview with Police, *supra* note 38.

do.”¹⁸³ Interviews revealed there are three viewpoints regarding the applicability of Article 296 as a basis for an arrest for a violation.

The first viewpoint is that Article 296 authorizes the arrest of an offender who violates the order for protection. Interviewees reported that a violation of a protection order would violate Article 296, as the act is contradictory to the spirit of the order.¹⁸⁴ According to one Sofia police officer, a violation of a protection order is a crime against the legal system.¹⁸⁵ He compared a violation to contempt of court proceedings and said that Article 296 concerns crimes where a person does not obey a court order. He arrested a perpetrator who violated the protection order by entering the dwelling. The prosecutor charged the perpetrator under Article 296; the defendant pleaded guilty and was sentenced.¹⁸⁶ The police officer was not sure whether the perpetrator served jail time or was placed on probation, but he believed the sanction was not significant. Nevertheless, the police officer observed that the perpetrator had not committed any new offenses since his conviction.¹⁸⁷

Another police officer from Karnobat explained that Article 296 granted them the authority to detain the person for 24 hours and notify the prosecutor’s office.¹⁸⁸ He relied on Article 296 to make an arrest in the one case where a violation was reported to them.¹⁸⁹ In this case, a teenage daughter had a protection order against her father for physical and psychological violence, which resulted in many injuries

and bruises.¹⁹⁰ The protection order barred the father from approaching within 200 meters of the home.¹⁹¹ The father entered the home, whereupon the daughter’s grandmother called the police.¹⁹² The police arrested the father and notified the regional court.¹⁹³ At the time of publication, the prosecutor was investigating the case under Article 296.¹⁹⁴

In another city, police described a case where the perpetrator violated the protection order three times.¹⁹⁵ Each time, the police detained him for 24 hours and notified the prosecutor.¹⁹⁶ The police officers reported that after the three notifications, the prosecutors begin a preliminary investigation against him.¹⁹⁷ One lawyer told the authors that charging a first-time violator under Article 296 would be ineffective, since his punishment would not be immediate.¹⁹⁸

Other interviewees explained a second viewpoint that Article 296 only applies in criminal cases. Since the LPADV does not fall within criminal law, Article 296 does not apply. A police officer explained his view that this is why prosecutors rarely pursue violations of protection orders.¹⁹⁹ An NGO representative explained her view that the lack of use of Article 296 to arrest perpetrators is due to the perception that violations of protection orders are not a serious crime.²⁰⁰

The third viewpoint was articulated by a police officer who explained that Article 296 addresses obstructing

¹⁸³ Interview with Judge, in Ruse (July 9, 2007).

¹⁸⁴ Interview with Karnobat Police, *supra* note 39; interview with Police, in Sofia (Mar. 27, 2007); interview with Police, *supra* note 41.

¹⁸⁵ Interview with Police, in Sofia, *supra* note 184.

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

¹⁸⁸ Interview with Karnobat Police, *supra* note 39.

¹⁸⁹ *Id.* The police officer said there were nine people with regular protection orders, and only one order had been violated. *Id.*

¹⁹⁰ *Id.*

¹⁹¹ *Id.*

¹⁹² *Id.*

¹⁹³ *Id.*

¹⁹⁴ *Id.*

¹⁹⁵ Interview with Police, *supra* note 41. The protection order granted relief under Section 5(1). LPADV, SG 2005, No. 27, § 5(1).

¹⁹⁶ Interview with Police, *supra* note 41.

¹⁹⁷ *Id.*

¹⁹⁸ Interview with NGO, in Pleven (July 6, 2007).

¹⁹⁹ Interview with Police, *supra* note 119.

²⁰⁰ Interview with NGO, *supra* note 44.

enforcement of a judgment, which does not encompass a violation of a protection order.²⁰¹

As a result, police responses to violations of protection orders vary. While police in seven cities reported making arrests of perpetrators when they violated a protection order, the basis and the consequences of the arrest differ. Several police officers indicated a belief that they lack the authority to make an arrest based on a violation alone. When a violation occurs, these officers explained that they assess whether the perpetrator has committed another crime in conjunction with the violation with which he can be charged:

They will work on the separate crime, which is committed with the same act that consists of the violation of the domestic violence order. The perpetrator [if the victim pursues the case] is punished because of that, not because of the domestic violence order.²⁰²

An NGO in Ruse described a case where a young woman left her home because of physical violence and threats from her husband. The police helped her obtain an emergency protection order and directed her to an NGO. The NGO representative explained that ultimately, the husband was charged with hooliganism when he violated the order.²⁰³

²⁰¹ Interview with Police, *supra* note 38. See also discussion *infra* pp. 39-40.

²⁰² Interview with Police, *supra* note 119.

²⁰³ Article 325 of the Criminal Code states that:

(1) A person who performs indecent acts, grossly violating the public order and expressing open disrespect for society, shall be punished for hooliganism by deprivation of liberty for up to two years or by probation, as well as by public censure.

(2) Where the act has occurred with resistance to a body of authority or a representative of the public, fulfilling their obligations of preserving the public order, or where by its content it has been distinguished for its extreme cynicism or arrogance, the punishment shall be deprivation of liberty for up to five years.

(3) (New, SG No. 28/1982, amended, SG No. 92/2002, effective 1.01.2005 with respect to

It was necessary to call for the doctor to come to our center, as her husband threatens her in front of the hospital. She has to live on antidepressants, so she was in a difficult condition to speak, so her actions were delayed. The witness to all this is their five-year-old child, who was also depressed, and it was necessary to ask for medicinal help from pediatrics. An immediate order for protection was issued. They are in the process of divorce. In spite of all this, he even threatens the police and us at [name omitted]. So, together, we brought a case for hooliganism.²⁰⁴

Lawyers described another case where a woman obtained a protection order against her husband, who constantly slapped and pushed her.²⁰⁵ The husband violated the protection order by beating her violently, pulling her hair, and holding her under water. The prosecutor is pursuing charges of hooliganism and non-implementation of a court order under Article 296 of the Criminal Code.²⁰⁶

the punishment of probation - amended, SG No. 26/2004, effective 1.01.2004, SG No. 103/2004) Where an act under the preceding paragraphs has been committed for a second time, the punishment shall be: under paragraph (1) - deprivation of liberty for up to three years; under paragraph (2) - deprivation of liberty for one to five years. (4) (Renumbered from Paragraph 3, amended, SG No. 28/1982, SG No. 92/2002, effective 1.01.2005 with respect to the punishment of probation - amended, SG No. 26/2004, effective 1.01.2004, SG No. 103/2004) Where an act under paragraphs (1) and (2) constitutes dangerous recidivism, the punishment shall be deprivation of liberty for one to six years.

Criminal Code, SG 2004, No. 103, art.325.

²⁰⁴ Interview with NGO, in Ruse, *supra* note 47.

²⁰⁵ Interview with Lawyers, *supra* note 50.

²⁰⁶ *Id.* A police officer explained his view that when there is a violation of an order for protection, the police can only take action under the Criminal Code if the victim has sustained middle to heavy injuries. Otherwise, they cannot do anything else, because "it would be outside the law." Interview with Police, *supra* note 115. Article 161(1) of the Criminal Code requires most victims of domestic violence to pursue a private prosecution. It states that if trivial bodily injury is inflicted upon a mother or father, a pregnant woman, a minor, more than one person, or in a manner particularly painful to the victim (Articles 130 and 131, paragraph (1). 3-5), and if a certain kind of trivial

Seeking a concurrent crime with which to charge the offender is problematic in the many cases where the perpetrator violates the protection order but does not commit any violence. According to a police chief, the perpetrator will only be punished if he commits a more serious act, but in most cases, he never reaches that boundary.²⁰⁷ In one city, police reported three cases of violations of the protection order that did not involve violence.²⁰⁸ Although the police made an arrest and notified the prosecutor in each case, the prosecutor has not charged any of the perpetrators.²⁰⁹ In one of the cases, the prosecutor simply returned an instruction to warn the offender.²¹⁰

Interviewees expressed different views on whether the arrest alone was sufficient punishment. One police chief explained that the 24-hour arrest was adequate to deter the perpetrators from committing another violation. He indicated that the arrest not only

or medium injury (articles 132, 144(1), Article 145, 146, 147, 148 and 148a), or middle level bodily injury by certain means (See Article 129, *ibid.* Article 132, *ibid.* Article 133) is inflicted upon a relative of ascending and descending line, a spouse, brother or sister, by another relative, the penal prosecution must be instituted on the basis of a complaint by the victim. Criminal Code, SG 2004, No. 103, art.161(1).

Article 161 of the Criminal Code states:

(1) (Amended, SG No. 28/1982, supplemented, SG No. 89/1986, amended, SG No. 50/1995, SG No. 21/2000, redesignated from Article 161, SG No. 92/2002, amended, SG No. 26/2004) For trivial bodily injury under Article 130 and 131, paragraph (1), subparagraphs 3 - 5, for trivial and medium bodily injury under Article 132, for the crimes under Article 144, paragraph (1), Articles 145, 146 - 148a, as well as for bodily injury under Articles 129, 132, 133 and 134, inflicted on a relative of ascending and descending line, a spouse, brother or sister, the penal prosecution shall be instituted on the basis of complaint by the victim.

(2) (New, SG No. 92/2002) Public prosecution criminal proceedings with regard to acts qualifying under art. 133, art. 135, paras. 1, 3, and 4, and under articles 139 - 141 shall be formed upon complaint of the victim to the relevant Prosecution Office and may not be terminated upon his/her request.

Id.

²⁰⁷ Interview with Police, *supra* note 119.

²⁰⁸ Interview with Police, *supra* note 38.

²⁰⁹ *Id.*

²¹⁰ *Id.*

demonstrates that the police are willing to react, but also forces the offender to think about his action.²¹¹ An attorney reported she believed the perpetrators were fearful of the police arresting them.²¹² Other interviewees, however, view the length of the arrest as problematic. The MoI Law authorizes police to detain a person for a maximum of 24 hours.²¹³ If the police wish to detain an offender longer than 24 hours, they must commence a lengthy court procedure to do so.²¹⁴ Police officials in Sofia reported that despite the potential for arrest, the 24-hour time period is so short that it has no effect.²¹⁵ In addition, the authors are concerned that this process may increase the risk to victims because the offender may retaliate against her for reporting the violence.²¹⁶ One lawyer stated that most perpetrators are complying with the order for protection, but once they discover that nothing beyond their arrest and release 24 hours later will happen to them, they will no longer comply.²¹⁷ A judge stated, "It is a closed cycle. He beats her up, the police take him in, and it repeats itself. There should be something harder, because he can kill her in the end." Until the violation of a protection order is criminalized, police and prosecutors are left with little clout.

²¹¹ *Id.*

²¹² Interview with NGO, *supra* note 119.

²¹³ MIA, SG 2007, No. 41, arts. 63, 64. See also LPADV, SG 2005, No. 27, § 21(2).

²¹⁴ Interview with Police, *supra* note 115.

²¹⁵ *Id.*

²¹⁶ See Stop Violence Against Women, *Judicial Responses to Domestic Violence* (2006), http://www.stopvaw.org/Judicial_Responses_to_Domestic_Violence.html.

²¹⁷ Interview with Sofia Lawyer, *supra* note 33. One judge stated that it is also necessary for the LPADV to contain a specific penalty for violating an emergency order for protection, as in the language of the law it is distinguished from a regular order for protection. Interview with Judges, in Sofia (July 17, 2007). See also LPADV, SG 2005, No. 27, § 4(2).

Interviewees described some cases of police failure to respond at all to violations of a protection order.²¹⁸ An NGO representative described a client's story:

There was a divorce case, and the apartment was separated into two different rooms, so that each room could be locked. The husband, that night, knocked on the door and broke the door. He entered her room, obviously drunk. He wanted to sleep with her in one bed...they were divorced. She called the police. The husband even tried to hit her...[she] called the police at about 1:00am, in the middle of the night, and she says her husband is drunk, and the police says, "if we come, we will only detain him for about 24 hours, maximum, and when he gets back, it will only get worse."²¹⁹

There are cases where the respondent violated the restriction under Section 5(1)(3) on approaching the vicinity of the house. One judge described such a case. When the victim called the police, they came, but did not arrest him.²²⁰ A lawyer described another case concerning a police failure to respond to multiple violations of both emergency and regular protection orders in a rural town:²²¹

First, she had an emergency protection order. He violated this. After the next one, he continued to violate it. Finally, she decided to leave this village and left. She called the police every way, and finally she called in the biggest town in the area, one of the chief of police...The perpetrator beat her very badly. When the police went, he started to beat her, even when she went to the chief of police. Every time she reported to the police, they would make a report but would not do anything. Every time, the police would say she was lying...So, the main problem in this case is that these people are living in a distant area...This is a problem with their mentality. She has clear evidence of marks on her throat; she showed the mayor, and the mayor said, "How may I know that he really attacked you?"...Actually, the police showed her that

²¹⁸ Interview with NGO, in Varna, *supra* note 47.

²¹⁹ *Id.*

²²⁰ Interview with Judges, *supra* note 136.

²²¹ Interview with Lawyers, *supra* note 94.

there are many documents saying that she is lying. These documents were signed by her husband, so the police did not believe her, because the perpetrator declared before the police that she had lied.²²²

D. OTHER COMPLICATING FACTORS RELATED TO POLICE IMPLEMENTATION

Some interviews with police and others revealed traditional misconceptions held by police about domestic violence and its causes. For example, interviewees described how some police attribute domestic violence to alcohol abuse or to victims' mental state. Others prioritize preservation of the family over safety and accountability. These reports were infrequent, however, and there were few accounts of such complicating factors.

One interviewee attributed a violation of a protection order to the offender's drunken state, remarking that "[w]hen he is sober, he does not beat."²²³ Regarding the 24-hour arrest, one police officer stated that, "In many cases, some factors which have led to the violence actually disappear in that 24 hours, like alcohol."²²⁴

In the case above involving a woman who called the police at 1:00am because her ex-husband violated the order, an NGO described the police focus on the victim's mental state. In addition to telling her they

²²² Interview with Lawyers, *supra* note 94.

²²³ Interview with Police, *supra* note 40. A prevailing myth about domestic violence is that alcohol and drugs are the major causes of domestic abuse. See Stop Violence Against Women, *Myths About Alcohol and Domestic Violence* (2006), http://www.stopvaw.org/Myths_About_Alcohol_and_Domestic_Violence.html. In reality, some abusers rely on substance use (and abuse) as an excuse for becoming violent. *Id.* Alcohol allows the abuser to justify his abusive behavior as a result of the alcohol. *Id.* While an abuser's use of alcohol may have an effect on the severity of the abuse or the ease with which the abuser can justify his actions, an abuser does not become violent "because" drinking causes him to lose control of his temper. *Id.* Rather, domestic violence is used to exert power and control over another; it does not represent a loss of control. *Id.*

²²⁴ Interview with Police, *supra* note 119.

could not help her, the police also stated, “So you should look for psychiatric help and maybe a lawyer.”²²⁵

In another case, a battered immigrant woman from Turkey tried to escape and hide from her husband.²²⁶ Her husband found her with the help of the police. The police then took the woman to a psychiatrist, who medicated her with strong drugs for ten days.²²⁷ Eventually, she was able to tell her story to different police officers, who then directed her to an NGO for help.²²⁸

Some interviews suggested that police regard domestic violence as a lower priority in their work. For example, one police officer told the authors that “police have too much work to do and are responsible for too much to take on the responsibility for victim safety and implementation.”²²⁹

One police officer referred to the priority of preserving the family. In this case, a woman had obtained a protection order against her husband for injuries, including bruises to her face and head. The protection order banned the offender from approaching the home. The victim called the police when the offender came to visit the children; however, when the police arrived, they saw that the perpetrator was not violent and that he left the home voluntarily. The police chose not to inform the regional court about the violation and explained: “we decided we could ignore the case on a moral basis, so we saved the family after all.” According to the police, this incident took place in a small community, where they want to establish

humane relationships and help victims in other ways besides police intervention.²³⁰

In one case in Sofia, an indigent victim attempted to seek protection from the Sofia police several times. She had visible signs of violence, including a swollen black eye, inflicted by her boyfriend. The police refused to help her and would not warn the perpetrator. They told her, “You are not married.” In contrast, the victim observed that when well-dressed people sought help in the same station, the police paid attention. This led to a sense of impunity by the perpetrator, who realized if she went to the police, nothing would happen. Ultimately, he attempted to kill her by cutting her throat.²³¹

Interviewees proposed a number of legal changes that would improve the police response. First and foremost, violations of a protection order should be criminalized. Police recommended three ways to amend Bulgarian legislation to better address violations: 1) the LPADV should provide for a one-year sentence of jail without parole for violations; 2) the LPADV should prohibit any possibility of reducing the penalty to a lighter punishment, and; 3) the Criminal Code should include articles specifically addressing violations of a protection order and providing a very heavy penalty for such violations.²³² Also, police suggested that the LPADV describe how the police can act to prevent the violation of a protection order.²³³ Some interviewees believe the issue of firearms should be specifically addressed in the domestic violence law as they constitute an elevated source of danger to victims.²³⁴

In summary, the LPADV has enabled police to improve their response to domestic violence. Reports of police

²²⁵ Interview with NGO, in Varna, *supra* note 47.

²²⁶ Interview with Targovishte NGO, in Burgas (Mar. 29, 2007).

²²⁷ *Id.*

²²⁸ *Id.*

²²⁹ Interview with Police, *supra* note 38.

²³⁰ Interview with Karnobat Police, *supra* note 39.

²³¹ Interview with Victim, *supra* note 107.

²³² Interview with Police, *supra* note 40.

²³³ Interview with Police, *supra* note 41.

²³⁴ Interview with Police, *supra* note 38.

inaction were infrequent, but police in some cities still need to ensure they are assisting all victims who apply for an emergency protection order and executing and enforcing the order against the perpetrator in accordance with the law. Police in several cities have demonstrated effective and appropriate responses, but efforts must be made to ensure this becomes a consistent response by all police officers throughout the country.

V. JUDGES

Judges in both the District and Regional Courts reported that the LPADV presents new legal concepts and remedies in Bulgaria and that its implementation has been a challenge. The timeframe within which to file an application has proved problematic for technical reasons.²³⁵ The timeframe also affects some judicial decisions when the victim files too close to the deadline. Similarly, the LPADV includes new evidentiary standards, to which judges are still becoming accustomed. One judge stated, “The law is in contradiction to the Bulgarian philosophy of the legal system, to formal evidence and to equality of parties and the burden of proof in civil procedure...”²³⁶ A third factor that impacts judges’ decisions to issue a protection order and which measures to include is the evidence of physical injuries. Judges’ hesitancy to grant orders in the absence of evidence of physical injury undermines protection for victims who lack this evidence.

Nevertheless, judicial implementation of the LPADV is improving. In July 2005, three months after the law went into effect, approximately twenty applications for emergency orders for protection had been filed, but only one order for protection had been issued in Sofia’s family court.²³⁷ Since then, the number of protection orders issued has increased. A recent report indicated that judges granted almost 40% of applications for both emergency and regular orders for protection in 2006.²³⁸ Judges are granting emergency protection orders within the time period specified by the LPADV. They are substantially slower, however, in granting regular protection orders due to the scheduling of multiple

hearings over several weeks or months. While some judges grant all forms of relief requested, there were reports of judges not fully utilizing these measures to order the perpetrator out of the home under Art. 5(1)(2), order a meaningful distance under Art. 5(1)(3), or specify any terms of child support or visitation under Art. 5(1)(4). Finally, other complicating factors affecting judicial implementation of the LPADV include issues of courtroom safety, common perceptions of misuse of the LPADV, and the relationship between divorce and order for protection hearings.

A. TIMEFRAME FOR SUBMISSION OF APPLICATION

Interviewees reported problems related to the timeframe included in the LPADV or technicalities in the submission of an application. The thirty-day timeframe²³⁹ is troublesome for victims who require more time due to fear, lack of support or other issues, or who experience a long history of domestic violence not within the month preceding the application. Incorrectly completed applications also affect victims’ ability to obtain relief.²⁴⁰ Although not required by law, interviewees agreed it is better if the victim is represented by an attorney to overcome such problems.²⁴¹

Interviews revealed that, even within the thirty-day timeframe provided by the law, the timing of an application impacts whether the order is issued and the types of relief granted. In general, judges will grant an emergency order requiring the respondent to leave the residence only if the injury has been very recent.²⁴² A

²³⁵ Technical reasons include a failure to submit the application within thirty days of the violence, and incorrect or incomplete applications. See, e.g., LPADV, SG 2005, No. 27, §§ 10(1), 9(1).

²³⁶ Interview with Judges, in Plovdiv, *supra* note 91.

²³⁷ Interview with Judges, *supra* note 46.

²³⁸ See Bulg. Gender Research Found., *supra* note 29, at 1.

²³⁹ LPADV, SG 2005, No. 27, § 10(1).

²⁴⁰ See Milka Yordanova Politova, Legal and Practical Issues in Civil Legal Proceedings Regarding the Enforcement of the Protection Act Against Domestic Violence (PAVDA) 2 (received Feb. 2008) (unpublished manuscript, on file with authors).

²⁴¹ See Gorbunova, *supra* note 90, at 2.

²⁴² LPADV, SG 2005, No. 27, § 5(2); interview with Lawyer, *supra* note 48; interview with Lawyers, *supra* note 94.

lawyer explained that a victim must file the application within a few days of the violence to obtain this relief.²⁴³ For example, one judge did not issue an emergency order for protection because the application was brought to court on the last day of the one-month deadline. The court explained that if the victim could wait for an entire month to file, the case did not involve an imminent threat.²⁴⁴ One attorney summarized her experience:

The practice of the court is: when the complaint is submitted in a short period after the violence, the court will usually ask the perpetrator to leave the home. When there is a delay of like a week in submission of the complaint, the court does not issue an emergency order, but just asks the perpetrator to refrain from violence.²⁴⁵

In addition, the timeframe is too short for many victims to react. Interviews revealed that thirty days is not long enough for victims who are unable to start legal proceedings because they are hospitalized or housebound with injuries.²⁴⁶ Also, the short timeline may impact indigent victims' ability to apply for a protection order. Victims without financial resources may need to apply for legal aid, and thirty days is generally insufficient to both file the application and apply for legal assistance.²⁴⁷ This may further hamper applicants' success in obtaining a protection order, since many interviewees agreed it is better if the victim has legal representation.²⁴⁸

²⁴³ Interview with Lawyer, *supra* note 48.

²⁴⁴ Interview with Lawyers, *supra* note 94. *See also* Gorbunova, *supra* note 90, at 1.

²⁴⁵ Interview with Lawyer, *supra* note 48.

²⁴⁶ Interview with Lawyer, *supra* note 144.

²⁴⁷ Koycheva, *supra* note 32, at 11. While many applicants have been able to obtain free legal assistance from NGOs or police experts, many other victims have not had the opportunity. Koycheva, *supra* note 32, at 12. Court monitors found that more than 90% of parties in protection order cases were unrepresented in Haskovo. Bulg. Gender Research Found., *supra* note 29, at 6.

²⁴⁸ *See infra* p. 43.

Technical issues concerning the application can also impact its success. One lawyer estimated that 50% of applications for emergency protection are denied because of "technicalities or formalities."²⁴⁹ A legal advisor described a situation where the judge rejected an application because the court received it after the deadline. At the first hearing, the judge told the applicant, "Your application cannot be considered, because it is after the date in the law." According to the postmark on the envelope, however, the victim mailed the application prior to the deadline. The interviewee noted that courts must abide by the date of postmark, not receipt. The applicant appealed in the Court of Second Instance, where a decision has been pending.²⁵⁰

Also, errors in the application document have impacted the success of an application. The legal advisor explained that insufficient or inadequate applications, whether submitted by the victim or police, are one of the main reasons why applications are unsuccessful.²⁵¹ Judges reported problems with application documents submitted by the police.²⁵² A group of judges suggested that the police should be better educated to work with victims to write applications to avoid technical problems.²⁵³

Courts have been amenable to amendments on incorrect applications. Interviews revealed that some courts will allow the victim seven days to revise her

²⁴⁹ Interview with NGO, *supra* note 198.

²⁵⁰ Interview with NGO, *supra* note 44.

²⁵¹ *Id.*

²⁵² *Id.*

²⁵³ Interview with Judges, *supra* note 217. In many jurisdictions in the United States, trained legal advocates assist domestic violence victims throughout the court processes. *See Stop Violence Against Women, Victim Protection, Support and Assistance* (2006), http://www.stopvaw.org/Victim_Protection_Support_and_Assistance.html.

application.²⁵⁴ For example, it is one judge's practice to notify the victim of additional information needed to proceed with an application.²⁵⁵ Another attorney reported, however, that judges do not allow victims to submit a second application if she has filed the first without a lawyer.²⁵⁶

Without an attorney's help, attorneys and judges agree it is more difficult for a victim to receive a protection order. For example, an unrepresented victim may not understand how to formulate her declaration to demonstrate her need for protection. An attorney stated:

Many people think "I have suffered domestic violence" in their declaration is enough. But you need the circumstances and the main facts, and the judge will believe you more...[S]ometimes they forget dates, substantial facts, essential circumstances...²⁵⁷

Also, applicants may not realize that violence occurring over many years, but not within the thirty-day timeframe, does not constitute an eligible act under the LPADV.²⁵⁸ A long history of physical and mental abuse, although characteristic of many Bulgarian victims, will not be enough without documentation of an act of violence which occurred within the last thirty days.²⁵⁹ When a victim writes an application without attorney assistance, it often includes a description of domestic abuse over many years.²⁶⁰ She may mistakenly believe that submitting old medical certificates—dating from years ago—will suffice to

obtain a protection order.²⁶¹ One attorney described a case in which the court rejected evidence of violence from 2004 because there was no LPADV then.²⁶² One NGO noted an additional complicating factor: "The culture in Bulgaria is such that a woman won't turn for help right away for domestic violence—they wait thirty years."²⁶³ As a result, she may not reveal violence that occurred within the one-month period as required by statute.²⁶⁴

²⁵⁴ Interview with Judges, *supra* note 136; interview with NGO, *supra* note 44. See also CCP, SG 1996, No. 44, art. 100 (regarding revising claims to satisfy stated conditions).

²⁵⁵ Interview with NGO, *supra* note 44.

²⁵⁶ Interview with Sofia Lawyer, *supra* note 33.

²⁵⁷ *Id.*

²⁵⁸ *Id.*

²⁵⁹ LPADV, SG 2005, No. 27, § 10(1).

²⁶⁰ Albena Koycheva, Monitoring of Application of Protection Against Domestic Violence Act 5 (received Feb. 2008) (unpublished manuscript, on file with authors).

²⁶¹ Interview with Sofia Lawyer, *supra* note 33.

²⁶² Interview with Lawyers, *supra* note 50.

²⁶³ Interview with NGO, in Pleven (July 6, 2007).

²⁶⁴ Interview with Judges, in Varna (July 11, 2007).

B. EVIDENCE

The law is explicit in allowing courts to grant emergency or regular orders for protection based only upon the victim's declaration.²⁶⁵ Interviews revealed that submitting additional evidence can affect whether a judge grants a protection order and which forms of relief are ordered. Many judges are requiring applicants to submit additional evidence, such as medical certificates or witness statements, particularly for non-emergency applications.²⁶⁶ A District Court Judge stated, "Medical evidence should be used with the declaration. If someone declares she is beaten up, there should be a medical certificate. You cannot be beaten up without medical evidence."²⁶⁷ One lawyer stated that despite the clear language of the LPADV:

The victim declaration under Art 9(3) is not enough. It is obligatory to have at least one more evidence, collaborating evidence, e.g., a medical certificate. For an emergency protection order, it is sometimes enough, but it's a bit risky. It's better to have more evidence. It's best to show the court that the police are engaged somehow in the case.²⁶⁸

The authors observed that the practice of requiring additional evidence other than the victim's declaration may be declining. Interviews in March 2007 revealed that a victim's declaration was not, at that time, considered to be sufficient to grant an order for protection. But by July 2007, many lawyers and judges interviewed agreed that a victim's declaration alone was sufficient to grant the order for protection.²⁶⁹

²⁶⁵ LPADV, SG 2005, No. 27, § 13(3).

²⁶⁶ Interview with Judges, in Burgas (Mar. 29, 2007).

²⁶⁷ Interview with Judges, in Pleven (July 6, 2007). See also Kristina Krasteva, Protection Against Domestic Violence Act: Interpretation and Practice on Its Implementation 10 (received Feb. 2008) (unpublished manuscript, on file with authors).

²⁶⁸ Interview with Lawyer, in Sofia (Mar. 27, 2007).

²⁶⁹ Interview with Judges, *supra* note 46; interview with Lawyers, *supra* note 50.

Interviews revealed that evidence will impact which forms of relief the judge will grant. The more types of evidence a victim can produce, the more likely a court is to grant all of the measures requested in the application. A lawyer described one such case:

...there were threats of taking the child and finally to kill her. [It had happened] several times before this, but this time we got witnesses and within ten days, the case was finished. She got the immediate protection order with all four measures. There was a declaration, police witnesses, an application with psychological evidence, a medical certificate of injuries that had happened before. We used the psychological certificate [of a local NGO] and also the police. The court documented this from the previous cases. The old medical certificates were presented to the court so she could be more thorough. This proved systematic violence.²⁷⁰

The presence and evidence of physical injuries also affects the success of an application.²⁷¹ A lawyer described one victim who sought help after four incidents of violence. Her husband beat her, split her lip, bruised her arms, and threw a chair at her.²⁷² The attorney stated, "Usually, when the violence is serious and complicated with physical injuries, then the court usually orders the perpetrator to leave the house..."²⁷³

In the absence of supporting evidence, an attorney summarized the importance of drafting a thorough and credible declaration:

When there is physical violence, then you can prove it or at least mention it, you might not have a medical certificate, but if you say [it] in the declaration—which is very important ...Bulgarian judges and lawyers are very strict about dates and hours...²⁷⁴

²⁷⁰ Interview with NGO, *supra* note 198.

²⁷¹ Interview with Lawyer, *supra* note 48.

²⁷² *Id.*

²⁷³ *Id.*

²⁷⁴ Interview with Sofia Lawyer, *supra* note 33.

C. TIMEFRAME FOR ISSUING AN ORDER FOR PROTECTION

In general, judges are issuing emergency protection orders under Section 18 in a timely fashion. In contrast, interviews revealed that obtaining a general protection order can become an extended process involving multiple hearings and attempts to either locate or accommodate the respondent.

Interviews revealed that most judges issue an emergency order quickly, from within one to three hours of the application²⁷⁵ to overnight if the application arrives late in the day.²⁷⁶ Then, depending on the location, it takes two to four days²⁷⁷ for the order to get to the police who serve it on the perpetrator.

Although the LPADV requires a hearing to be scheduled within thirty days, hearings are often postponed and not completed for several months.²⁷⁸ The language of the law refers to one hearing, but in many places in Bulgaria, there are at least two hearings on an application. The first one may be within the thirty-day limit, but the second one is not. A lawyer speculated this delay may be because the perpetrator is delaying the hearing²⁷⁹ or because the judge is hoping that the parties will reconcile.²⁸⁰ For example, a judge postponed the hearing for an order for protection by two months in order to give the perpetrator time to prepare a response, even though the law does not allow for such a delay.²⁸¹ In fact, it usually takes from

²⁷⁵ Interview with Judges, *supra* note 46; interview with Judges, in Burgas (Feb. 15, 2008).

²⁷⁶ Interview with Sofia Lawyer, *supra* note 33.

²⁷⁷ *Id.*; interview with Lawyers, in Sofia (Apr. 2, 2007).

²⁷⁸ Interview with Sofia Lawyer, *supra* note 33; interview with Lawyer, *supra* note 268; interview with Lawyers, *supra* note 94.

²⁷⁹ Interview with Lawyers, *supra* note 94.

²⁸⁰ Interview with Sofia Lawyer, *supra* note 33.

²⁸¹ Interview with Lawyer, *supra* note 268.

two to six months for the hearings to be completed and for the judge to rule.²⁸² Lawyers in Sofia summarized:

It takes 5-6 months for a regular order. For an emergency order, there is no problem with the timeline... The summoning is a problem. They (the perpetrators) usually do not receive the notification. There are a lot of non-valid summons, and then the perpetrator says it was not validly served, so this is a procedural obstacle. When there is an emergency protection order, and the perpetrator is expelled from the apartment, if, together with this emergency protection order, they have notification for the first hearing for the case, it is impossible to find the aggressor in Bulgaria.²⁸³

These delays present a serious risk to victims. Research shows that the risk of escalating violence increases when a victim separates from her abuser.²⁸⁴ Her application to the court to order the abuser out of the home will likely anger the abuser. Therefore, it is imperative that courts act quickly on these applications.

D. PSYCHOLOGICAL AND SEXUAL VIOLENCE AS A BASIS FOR A COURT-ISSUED ORDER FOR PROTECTION

Victims of psychological and sexual violence also face challenges in obtaining protection orders because of the absence of physical injuries. Also, a tendency of judges to underestimate the seriousness of these forms of violence, coupled with a misunderstanding of

²⁸² Koycheva, *supra* note 32, at 12; interview with Lawyers, *supra* note 94. There were reports, however, of judges issuing the order for protection within one month. A legal advisor who coordinated the court monitoring project suggested that judges generally try to respect the timeframe by issuing protection orders within one month. Email communication from NGO to rpark@advrights.org (Feb. 5, 2008) (on file with authors). See also Kalyna Lozanova, Short Analysis of the Operation of the Police and the Court in Exercising Their Respective Powers Under the Protection Against Domestic Violence Act 4 (received Feb. 2008) (unpublished manuscript, on file with authors). Likewise, judges in Burgas reported they seek to issue the non-emergency order for protection within one month. Interview with Judges, *supra* note 275.

²⁸³ Interview with Lawyers, *supra* note 94.

²⁸⁴ See Stop Violence Against Women, *supra* note 92.

what acts constitute psychological and sexual violence, creates additional barriers for such victims. One interviewee stated that it is rare for a victim of sexual violence to file a complaint under the LPADV.²⁸⁵

One attorney explained that judges frequently attach a great deal of importance to the presence of physical injuries, which is problematic for victims of psychological and sexual violence:

... it depends on the physical injuries. The judge just cannot accept anything except just very serious injuries... 'Every second case in family court for divorce is related to domestic violence,' says the judge, 'and we can't issue protection orders every time.' So I usually ask for all six forms of relief. In this case, I only got [5(1)(1) (for the violence to cease)].²⁸⁶

Interviews revealed that judges underestimate the seriousness of psychological violence and manipulation.²⁸⁷ For example, there are many cases where judges fail to recognize certain acts as domestic violence, such as stalking, although they would fall within the LPADV's definition.²⁸⁸ Furthermore, District Court judges stated that "...in most of the cases, there is no physical violence, but there is psychological violence, so there is no need for an order for emergency protection."²⁸⁹ When there is psychological violence but not physical violence, interviews revealed that judges tend to order relief only under Section

²⁸⁵ Interview with Lawyers, *supra* note 50.

²⁸⁶ Interview with Lawyer, *supra* note 48.

²⁸⁷ Interview with Lawyers, *supra* note 50. See also Gergana Popgeorgieva, A Pattern For Providing Psychological Advice From a Multidisciplinary Team Benefiting Women Victims of Domestic Violence and Commentary on the Protection Against Domestic Violence Act 7 (received Feb. 2008) (unpublished manuscript, on file with authors). In addition, there are concerns regarding allowing protection orders based on psychological violence; specifically, the perpetrator may use psychological violence as a defence or even to obtain a protection order against the victim. See e.g., interview with Judge, *supra* note 168 (where respondent asserted that his wife molested him psychologically).

²⁸⁸ Koycheva, *supra* note 32, at 4.

²⁸⁹ Interview with Judges, *supra* note 136.

5(1)(1) of the LPADV.²⁹⁰ Finally, there is the added risk that the perpetrator may cite psychological violence by the victim as a defense²⁹¹ or even to seek a protection order against the victim. For example, in one case, the respondent pulled his wife by her hair, kicked her with his shoes on, and tried to strangle her.²⁹² The respondent defended himself by saying that both incidents were her fault, because her behavior provoked him. Although the court ordered him to refrain from violence and stay at least 100 meters away from her for one year, the court expressed sympathy for the abuser's behavior. The court noted that the perpetrator attempted to avoid an argument by leaving the room, stating, "His behavior was a typical reaction to the wife's aggressive approach."²⁹³

E. MEASURES OF RELIEF

Interviews revealed that judges often do not fully utilize their authority under the LPADV to protect the victim. Some judges may not order the perpetrator out of the home, even upon a finding of violence.²⁹⁴ In one case, the respondent admitted to physically abusing his girlfriend. The court did not order him to leave the house, but rather ordered he refrain from domestic violence and fined him 200 Leva, noting that "more intensive measures [were] not necessary."²⁹⁵ Interviews revealed that the applicant must be able to communicate her fear and sense of danger to convince the judge to expel the perpetrator:

If for some reason she is no longer afraid, i.e. if he is in prison or has left the country, she feels no longer in danger. Probably, the judge

²⁹⁰ Interview with Sofia Lawyer, *supra* note 33.

²⁹¹ Interview with Judge, *supra* note 136.

²⁹² Paunova Staneva v. Stanev, No. 1317 (Burgas District Court June 26, 2007) (on file with authors).

²⁹³ *Id.*

²⁹⁴ Interview with Lawyer, *supra* note 48; interview with Lawyer, *supra* note 268; interview with Lawyers, *supra* note 94; interview with NGO, *supra* note 44.

²⁹⁵ Stambolieva v. Stoyanov, No. 1429 (Burgas Regional Court Sept. 20, 2006) (on file with authors).

will issue the order but only grant Art. 5(1). The judge will examine the criteria, and if the fear of the victim is not present and there's no evidence of that, this could be a reason for the judge not to apply all the measures. The judges assess the victim's fear from the evidence.²⁹⁶

Judges may also curtail the measures of relief when the respondent has already left the dwelling. In these cases, judges may grant an order for protection, but often do not order the respondent out of the home since he has already left. A judge stated, "When the harasser has left the home, there is no need to apply for the protection order."²⁹⁷ However, interviewees explained that this practice has proven dangerous for victims. For example, in one case the court issued an emergency order for only thirty days because the respondent had already left the home. Before the regular hearing could be scheduled, the protection order expired, and the respondent continued to assault the wife and children.²⁹⁸

Judges do not fully utilize provision 5(1)(3) to protect victims. Section 5(1)(3) prohibits the respondent from "getting within the vicinity of the home, the place of work, and the places where the victim has his or her social contacts or recreation, *on such terms and conditions...as is specified by the court.*"²⁹⁹ Interviews revealed that some judges allow the parties to stay within a common dwelling and merely relegate them to different rooms.³⁰⁰ Others allow the offender to stay a couple of meters apart in a common room.³⁰¹ Such practices are contrary to the goal of victim safety as anticipated by the law.

²⁹⁶ Interview with Sofia Lawyer, *supra* note 33.

²⁹⁷ Interview with Judges, *supra* note 267.

²⁹⁸ Interview with NGO, in Varna, *supra* note 47.

²⁹⁹ LPADV, SG 2005, No. 27, § 5(1)(3).

³⁰⁰ Interview with Judge, *supra* note 168.

³⁰¹ Interview with Judges, *supra* note 46.

Also, judges do not fully use Section 5(1)(4) to address financial support or visitation in the orders.³⁰² The court may order the temporary relocation of a child with the nonviolent parent "*on such terms and conditions...as is specified by the court.*"³⁰³ Interviews revealed that judges do not order the perpetrator to pay child support nor do they regulate visitation. An attorney noted that while these issues are not regulated, "it would not take much effort by the judge to decide upon the financial support and visitation as he decides the order, as well."³⁰⁴ For example, the attorney conceded that the "terms and conditions" clause could address how long the child could live with the mother. She concluded, "The judge has the discretion, but does not use it."³⁰⁵ This proves problematic for mothers who have no other source of income as there are few options available for garnering financial support. In some cases, the Child Protection services can assist the woman if they receive proper documentation and the child is at risk.³⁰⁶ The only other way to obtain financial child support from the father is through divorce.³⁰⁷ Yet, women are often unable to obtain relief even through the family law due to an inadequate schedule of child support.³⁰⁸ An attorney stated that without provisions explicitly authorizing support under the LPADV, victims must rely on NGOs for such assistance.³⁰⁹

F. COURTROOM SAFETY DURING HEARINGS ON ORDERS FOR PROTECTION

Interviews revealed concerns about victim safety in Bulgarian courthouses. Many problems occur in the hallways of court buildings when hearings fail to start

³⁰² Interview with Sofia Lawyer, *supra* note 33.

³⁰³ LPADV, SG 2005, No. 27, § 5(1)(4).

³⁰⁴ Interview with Sofia Lawyer, *supra* note 33.

³⁰⁵ *Id.*

³⁰⁶ Interview with Lawyer, *supra* note 48.

³⁰⁷ *Id.*

³⁰⁸ Interview with Sofia Lawyer, *supra* note 33.

³⁰⁹ Interview with Lawyer, *supra* note 48.

on time.³¹⁰ Volunteer court monitors, under the direction of BGRF and Demetra Association and through a project funded by the Open Society Institute-Sofia, have been monitoring hearings under the LPADV since 2005.³¹¹ One monitor felt that there should be no more than a ten-minute delay because, “every delay gives the offender the opportunity to dominate and make the victim afraid.”³¹² Although there is a security guard at the courthouse entrance, there is no security in the courtroom.³¹³

Within the courtroom, interviews revealed that judges are taking an active stance regarding security. One judge assured the authors that “We have experience in divorce cases, we are used to dealing with these [types of situations], so we are used to calming down the parties.”³¹⁴ Another judge recalled a case where the respondent was so violent, they sent for court security.³¹⁵

G. APPEALS OF ORDERS FOR PROTECTION

There have been very few appeals of the protective orders to Courts of the Second Instance.³¹⁶ One judge reported that respondents have only brought five or six appeals since the law passed.³¹⁷ Most appeals involved shortening the length of the restraining order, either because of the evidence, or because the court of first instance did not comply with the law. For example,

³¹⁰ Interview with NGO, *supra* note 44; Bulg. Gender Research Found., *supra* note 29, at 2. Volunteer court monitors, under the direction of BGRF and Demetra Association, have been monitoring hearings under the LPADV since 2005. Bulg. Gender Research Found., *supra* note 29, at 1. *See also*, Gorbunova, *supra* note 90, at 3.

³¹¹ Bulg. Gender Research Found., *supra* note 29, at 1.

³¹² *Id.* at 15.

³¹³ Interview with Judges, *supra* note 267; interview with Judges, *supra* note 46; interview with Judges, *supra* note 217; interview with NGO, in Sofia (Mar. 31, 2007).

³¹⁴ Interview with Judges, *supra* note 217.

³¹⁵ Interview with Judges, *supra* note 46.

³¹⁶ The law allows for an appeal of the judgment ordering an order for protection. LPADV, SG 2005, No. 27, § 17(1).

³¹⁷ Interview with Judges, *supra* note 100.

one order was for two years, and the LPADV limits most of the measures under the order for protection to one year.³¹⁸ Additionally, one judge explained that after the parties file for divorce, relations calm down between the parties so there is no further need for a protection order. In this case, an Appeals Court will then often shorten the term of the order.³¹⁹ The authors are concerned about this practice. To ensure the safety of victims, courts should be cautious about shortening the length of protection orders without concrete evidence of the absence of risk to the victim.

H. OTHER COMPLICATING FACTORS IN JUDICIAL PRACTICE UNDER THE LAW

Many judges in Bulgaria believe that the LPADV is often misused by the complainant.³²⁰ As a group of Sofia-based lawyers stated, “Our family court thinks that the victim usually lies.”³²¹ It is an “easy way to get the husband out...we feel the wife is using this very often,” one judge said.³²² Other judges believe that the complainant might accuse the respondent of abuse to gain custody of the children.³²³

A belief that the applicant is misusing the LPADV is one reason why a judge prefers evidence in addition to the declaration for both emergency and regular orders for protection. An NGO representative stated, “They want to make sure that the victim does not use [the law] for her personal benefit.”³²⁴ This belief, however, has serious repercussions for victims. In the following description of a case, one judge revealed her bias against victims:

³¹⁸ LPADV, SG 2005, No. 27, § 5(2).

³¹⁹ Interview with Judges, *supra* note 100.

³²⁰ Interview with Judges, *supra* note 46; interview with Judge, *supra* note 183; interview with Judges, *supra* note 136; interview with Judges, *supra* note 217.

³²¹ Interview with Lawyers, *supra* note 94.

³²² Interview with Judges, *supra* note 46.

³²³ Interview with Judges, *supra* note 136.

³²⁴ Interview with NGO, in Sofia (Apr. 1, 2007).

The last case we had, they were in the process of divorce. The wife said the husband molested her, and he said she molested him psychologically. The whole dispute came from the struggle over who should leave the family house. Witnesses proved violence from the husband against the woman... We divided the house because it was an old one with many rooms... the plea was to restrict the husband's right to go near the house... There was one act of violence, or maybe two at most. The main use of the law is not for protection against persistent domestic violence, but mostly to regulate other problems of the relationship between the couple for getting evidence for the divorce case.³²⁵

The alleged misuse may be conflated with the difficulties involved in proving a case. One judge reported that problems arise when the emergency order expels the respondent from the home and the court decides not to issue the regular order in the subsequent hearing. Then, he stated, there is no clear and fast procedure to get the respondent back into the home. He stated that he has many such cases where he issues an emergency order only to discover nothing has happened, so the expulsion of the respondent must be reversed.³²⁶ Furthermore, if the judge finds evidence of misuse and a request for an order is refused or revoked, the costs and expenses are charged to the applicant,³²⁷ which could deter victims from using the LPADV. Other professionals involved in domestic violence cases differed in their opinions on misuse of the LPADV. Some attorneys reported no experiences of a client misusing the law.³²⁸ According

³²⁵ Interview with Judge, *supra* note 168.

³²⁶ Interview with Judges, *supra* note 217. Another judge stated she had seen the opposite pattern. *Id.* See also Politova, *supra* note 240, at 3.

³²⁷ LPADV, SG 2005, No. 27, § 11(3).

³²⁸ Interview with Lawyers, *supra* note 50. See also Albena Koycheva, *Statement Regarding the Application of the Protection Against Domestic Violence 2* (received Feb. 2008) (unpublished manuscript, on file with authors).

to one court monitor, applicants occasionally misused the LPADV for small matters, such as a TV set.³²⁹

Bulgarian judges do not agree on how cases of divorce and orders for protection under the LPADV should interact. In some areas, they hear the cases together. In others, they do not. Arguments for combining the cases include streamlining the process for the victim and limiting the expenses of both parties. Arguments against combination point out that the LPADV is not explicit in allowing the cases to be heard together although it does say that a court which is hearing a case under the Family Code “shall be competent to impose a protection measure at any stage of the proceeding.”³³⁰ Judges indicated a need to further define the law to ensure that the proceedings could be heard together.³³¹ One judge explained that, within the framework of the LPADV, they can only decide that the child should live temporarily with the nonviolent parent,³³² while the Family Code allows them to consider issues of visitation, custody and support. Attorneys expressed the concern that judges would focus on the Family Code’s criteria to determine such issues as custody and visitation, rather than focus on victim safety.³³³

Several judges admitted serious misgivings about the use of the LPADV by complainants as a strategic move prior to initiating a “fault” divorce, or as a way to speedily eject an unwelcome spouse from the home. Some judges reported that in a divorce proceeding, some people misuse the LPADV³³⁴ by claiming abuse where there is none, for two reasons: 1) in order to get the person out of the home quickly and to obtain the

³²⁹ Interview with NGO, *supra* note 313.

³³⁰ LPADV, SG 2005, No. 27, § 7(2).

³³¹ Interview with Judges, *supra* note 46.

³³² Interview with Judges, *supra* note 217.

³³³ Interview with Lawyers, *supra* note 94.

³³⁴ Interview with Judges, *supra* note 267; interview with Judges, *supra* note 100.

dwelling for themselves, or 2) as a reason not to order custody or generous visitation to the alleged abuser.

³³⁵ The use of the home and other necessary items is most often given to the one caring for the children, who is normally the nonviolent spouse.³³⁶

In summary, interviews revealed certain positive aspects of judicial implementation of the LPADV. Judges are granting increasing numbers of protection orders since the law's entry into force. Also, judges are generally issuing emergency protection orders within the 24 hours specified by law. Improvement is needed, however, with regard to judicial practice in determining whether to grant an order and which forms of relief to grant, which are at the judge's discretion. Interviews revealed that these decisions are often influenced by factors which should be irrelevant, such as how long the victim waited to file an application, whether evidence in addition to the declaration is submitted, and the presence and documentation of physical injuries. Also, some courts prolong the procedure to obtain a protection order over multiple hearings, a process which should be expedited. While some

judges described good practices that reflected the effects of training and an understanding of domestic violence, it is important that these practices become a consistent response among all judges.

³³⁵ Several Family Code Provisions refer to the "guilt" of a party to a divorce. *See, e.g.*, Family Code, SG 2006, art. 83 ("Support of a former spouse"); *see id.* art 99 ("Divorce because of marital breakdown"); *see id.* art. 107 ("Trusting the family home after the divorce").

³³⁶ *See id.* art. 107; *See also* art. 28 ("Apportioning larger share to a spouse"), which states that:

(1) On terminating the community of property due to divorce the court can apportion a larger share of the common property to the spouse to whom the underage children are left for raising and upbringing, if it will not create particular difficulties for him/her.

(2) The spouse with whom underage children remain for raising and upbringing shall receive, apart from his/her share, the chattel necessary for their raising and upbringing. *Id.*

Art. 74(1) ("Restriction of parental rights") of the Family Code states that:

[w]hen the conduct of the parent poses danger for the personality, upbringing, health or property of the child the regional court shall, ex-officio or at the request of the other parent or of the prosecutor, take respective measures to the interest of the child, whereas, if necessary, shall accommodate him/her in an appropriate place. *Id.*

VI. PROSECUTORS

A. IMPLEMENTATION OF THE LPADV

Overall, prosecutors face significant challenges in their role in implementing the LPADV. All interviewees, including prosecutors, other legal professionals and NGOs, identified problems in the domestic violence law and Criminal Code that impede prosecutors' abilities to respond to violations of protection orders.

Most importantly, prosecutors reported that the LPADV does not clearly outline their obligations on how to respond to violations of protection orders. One prosecutor explained, "...the problem is that the law does not tell us what to do."³³⁷ Two other prosecutors confirmed that "the process simply stops when police notify the prosecutors that the order for protection has been violated."³³⁸

In addition, the text of Section 21(2) poses problems for prosecutors seeking to charge violators under Article 296(1) the Criminal Code. Section 21(2) of the LPADV states:

In the event of failure to comply with the court order, the police authority having found such failure shall arrest the offender and notify forthwith the prosecutorial authorities.

Article 296(1) of the Criminal Code states:

A person who obstructs or prevents the enforcement of a judgment in any way whatsoever shall be punished by deprivation of liberty of up to three years or a fine of up to BGN five thousand.

One interviewee reported that prosecutors, as well as police, disagree on Article 296's application to an order

for protection.³³⁹ These are opposing views as to whether an order for protection constitutes a decision or a judgment, the latter of which would fall under Article 296.³⁴⁰ Because this language is vague and fails to explicitly refer to the order as a judgment, prosecutors remain uncertain how to proceed.³⁴¹ One police officer stated that, in his experience, prosecutors interpret this provision very narrowly, and there are only several cases per year, none of which are related to domestic violence, pursued by prosecutors under Article 296.³⁴²

Prosecutors explained that they do have authority to charge perpetrators with criminal offenses that occurred during the violation of an order for protection. One prosecutor explained that they check whether a chargeable crime occurred during the commission of the violation.³⁴³ If so, prosecutors begin a preliminary investigation for that particular crime.³⁴⁴ One prosecutor stated that although his office had never received any notifications of violations, there was an "urgent case" mechanism they could employ in this instance.³⁴⁵ In such a case, the prosecutor on duty could direct the police to take steps to assist the victim and prevent future acts from occurring.³⁴⁶ Such measures could include expulsion of the perpetrator from the home.³⁴⁷

³³⁹ Interview with Prosecutor, *supra* note 42. *See supra* pp. 22-24.

³⁴⁰ Interview with Prosecutors, *supra* note 338; interview with Prosecutor, *supra* note 42. *See supra* pp. 22-24.

³⁴¹ Interview with Prosecutor, *supra* note 42; interview with Prosecutors, *supra* note 338.

³⁴² Interview with Police, *supra* note 40. While there are some Supreme Court decisions on judges and prosecutors' responsibilities under this provision, these decisions were handed down prior to the adoption of the LPADV and therefore provide no direction on the law. Interview with Sofia Lawyer, in Ruse (July 9, 2007).

³⁴³ Interview with Prosecutor, *supra* note 42.

³⁴⁴ *Id.*

³⁴⁵ Interview with Prosecutor, *supra* note 43.

³⁴⁶ *Id.*

³⁴⁷ *Id.* The interviewee stated that the chief prosecutor had issued a private instruction detailing this "urgent case"

³³⁷ Interview with Prosecutor, *supra* note 42.

³³⁸ Interview with Prosecutors, in Burgas (Mar. 29, 2007).

In conclusion, prosecutors recognize the law must be changed to criminalize the violation of an order for protection.³⁴⁸ In addition, prosecutors suggested that the domestic violence law grant prosecutors authority to detain offenders, in which case they could hold them in jail for up to 72 hours.³⁴⁹ Other prosecutors noted that legal reform efforts should focus on the domestic violence law, rather than the Criminal Code, which is more difficult and takes too long to amend.³⁵⁰ Some prosecutors proposed that probation be imposed against offenders instead of fines.³⁵¹ In this regard, a prosecutor noted that fines levied on the perpetrator punish the victim, as well, since the sanction comes from the family budget.³⁵²

B. CRIMINAL PROSECUTIONS OF DOMESTIC VIOLENCE

Provisions in the Criminal Code hinder victims of domestic violence from obtaining justice.³⁵³ These obstacles make it especially important to amend the LPADV to improve its implementation. In 1996, The Advocates published a report on domestic violence in Bulgaria.³⁵⁴ The Advocates found that Bulgarian criminal laws present significant obstacles to effective prosecutions of domestic violence offenders. For

mechanism but that it was not publicly available. Interview with Prosecutor, *supra* note 43.

³⁴⁸ Interview with Prosecutors, *supra* note 338; interview with Prosecutor, *supra* note 42.

³⁴⁹ Interview with Prosecutors, *supra* note 338. The current provision grants this authority to police, who can hold the offender for 24 hours. LPADV, SG 2005, No. 27, § 22(2)). See also MIA SG 2007, No. 41, art. 64.

³⁵⁰ Interview with Prosecutors, *supra* note 338.

³⁵¹ Possibility for Sustainable Implementation of the Law for Protection from Domestic Violence Training Press Conference [hereinafter Press Conference], (Mar. 28, 2007) (transcript on file with The Advocates for Human Rights). Section 5(3) of the LPADV authorizes the court to order the respondent to pay a fine between 200 and 1000 Levs. LPADV, SG 2005, No. 27, § 5(3).

³⁵² Press Conference, *supra* note 351.

³⁵³ Article 161(1) of the Criminal Code requires most victims of domestic violence to pursue a private prosecution. Criminal Code, art. 161(1) (Bulg.). See also *supra* note 206 and accompanying text.

³⁵⁴ MINNESOTA ADVOCATES FOR HUMAN RIGHTS, DOMESTIC VIOLENCE IN BULGARIA (1996).

example, the Bulgarian government does not prosecute assaults that result in light injuries. Victims who sustain light injuries must file a complaint and proceed through the criminal justice system alone.³⁵⁵ Also, victims who sustain medium-level injuries from a relative must proceed through the criminal justice system without the help of a prosecutor.³⁵⁶ One attorney stated that a perpetrator of such an injury, knowing that he is subject only to a private prosecution, could easily influence a victim not to prosecute, given their close relationship and the power and control over victims exercised by the perpetrator.³⁵⁷

The fact that the LPADV lacks teeth and that criminal prosecution of a trivial- or middle-level bodily injury must be initiated and pursued by the victim is a double blow to victims, as illustrated by this case, described by a police officer:

A husband and wife were married for 8 years. They have two children. In a small city, in front of a bar, the man beat her. First the injuries were minor [and a protective order under the LPADV was issued.] The perpetrator violated that order. He inflicted far worse injury the second time. She had a broken leg and arm. Again, it occurred in front of the bar. The woman...has no place to go in Bulgaria. She still lives with him...we notified the prosecutor and he only stated that the case was under the Criminal Code for middle bodily injury...³⁵⁸

The Criminal Code provides for state prosecution of assaults resulting in medium-level injuries only when

³⁵⁵ *Id.* at 10.

³⁵⁶ For trivial bodily injury under Article 130 and 131, paragraph (1), sub-paragraphs 3 - 5, for trivial and medium bodily injury under Article 132, for the crimes under Article 144, paragraph (1), Articles 145, 146 - 148a, as well as for bodily injury under Articles 129, 132, 133 and 134, inflicted on a relative of ascending and descending line, a spouse, brother or sister, the penal prosecution shall be instituted on the basis of complaint by the victim. Criminal Code, art. 161(1).

³⁵⁷ Interview with Sofia Lawyer, *supra* note 33.

³⁵⁸ Interview with Police, *supra* note 119.

the victim and batterer are unrelated.³⁵⁹ Victims seeking to navigate the criminal justice system alone encounter many obstacles. For example, she must obtain a medical certificate from the Department of Criminal Medicine as evidence, as well as find her own witnesses.³⁶⁰

In its 1996 report, The Advocates recommended that “the Bulgarian government should not discriminate against victims of domestic violence in enforcement and prosecution of the laws. It should not deny victims equal and effective access to the criminal justice system and an effective remedy for harm they have suffered.”³⁶¹ In addition, The Advocates recommended that the government investigate domestic violence crimes when they occur.³⁶² To date, the government has not amended the Criminal Code to ensure that victims of domestic violence have equal and effective access to the criminal justice system.

³⁵⁹ MINNESOTA ADVOCATES FOR HUMAN RIGHTS, *supra* note 354, at 10.

³⁶⁰ *Id.* at 11 (citations omitted).

³⁶¹ *Id.* at 4.

³⁶² *Id.*

VII. NON-GOVERNMENTAL ORGANIZATIONS

NGOs are a crucial component in the prevention of and protection against domestic violence in Bulgaria.³⁶³ They offer victim services, conduct outreach and trainings, monitor and collect information, and facilitate coordination among sectors and institutions. Importantly, NGOs are often one of the first places victims go to seek help before applying for a protection order. While NGOs receive some government funding, they are seriously underfunded and rely on volunteers and in-kind donations. Despite these budget constraints, NGOs are carrying out commendable and important work in improving the government response under the LPADV.

A. TRAININGS AND OUTREACH

NGOs in Bulgaria conduct a great deal of training on domestic violence and the LPADV. Many of these trainings are directed toward specific groups. For example, in November 2005 and May 2006, BGRF and The Advocates trained police and judges on implementation of the LPADV. Since then, NGOs have continued to conduct trainings on the new law. One NGO in Ruse reported that it trains district inspectors every three months.³⁶⁴ A Burgas NGO provides trainings for NGO consultants, such as how to conduct dynamic interviews with victims and crisis interventions.³⁶⁵ It involves other institutions by inviting specialists to discuss specific issues, such as labor and children.³⁶⁶ A third NGO in Varna described its preventative programs for children and youth.³⁶⁷

³⁶³ The fact-finding teams interviewed representatives from NGOs in seven cities in Bulgaria.

³⁶⁴ Interview with NGO, in Ruse, *supra* note 47.

³⁶⁵ Interview with NGO, *supra* note 226.

³⁶⁶ *Id.*

³⁶⁷ Interview with NGO, in Varna, *supra* note 47. To date, this organization has educated 512 children, including 428 students, 54 children from institutions, and 30 volunteer students through this program. *Id.*

Other trainings use a multidisciplinary approach and target a wide audience. For example, BGRF, Demetra, and the Bulgarian Fund for Women have launched a two-year UNIFEM-funded initiative to introduce and improve the coordinated community response to domestic violence.³⁶⁸ The organizations will conduct trainings in ten cities throughout Bulgaria and bring together members of different sectors and city and municipal governments to work on domestic violence.³⁶⁹ The Advocates and BGRF attended the first of these trainings in Burgas in March 2007. Participants included police, prosecutors, social workers, judges, journalists, lawyers, and child protection agency and NGO representatives. The two-day training addressed various issues, including the coordinated community response model, police structures and response, the role of social services,

³⁶⁸ Genoveva Tisheva, *A Third Seminar on the Project "Building an Enabling Environment for Sustainable and Effective Implementation of the Law on Protection against Domestic Violence (LPADV)" to be Forthcoming*, STOP VIOLENCE AGAINST WOMEN, June 1, 2007,

http://www.stopvaw.org/A_Third_Seminar_on_the_Project_Building_an_Enabling_Environment_for_Sustainable_and_Effective_Implementation_of_the_Law_on_Protection_against_Domestic_Violence_LPADV_to_Be_Forthcoming.html. Coordinated

community response is an intervention strategy developed by the Domestic Abuse Intervention Project (DAIP) in Duluth. See Minn. Program Dev. Duluth Model, Domestic Abuse Intervention Project, <http://www.duluth-model.org/> (last visited Mar. 14, 2008). This strategy is a "system of networks, agreements, processes and applied principles created by the local shelter movement, criminal justice agencies, and human service programs..." See Stop Violence Against Women, *Coordinated Community Response* (2006),

http://www.stopvaw.org/Coordinated_Community_Response.html (quoting Ellen Pence & Martha McMahon, *A Coordinated Community Response to Domestic Violence*, PRAXIS INTERNATIONAL 2,

<http://www.praxisinternational.org/files/pdf/ccrdv.pdf>). Law enforcement agencies, advocates, health care providers, child protection services, local businesses, the media, employers and clergy should be involved in a coordinated community response. *Id.* When different members of the community coordinated their efforts to protect battered women and hold batterers accountable, these efforts were more successful. *Id.* Coordination helps to ensure that the system works faster and better for victims, that victims are protected and receive the services they need, and that batterers are held accountable and cease their abusive behavior. *Id.*

³⁶⁹ Interview with Social Worker, in Sofia (Mar. 27, 2007).

lawyers and judges, funding for NGOs, and included interactive discussions on implementing a multidisciplinary approach.³⁷⁰

Interviewees reported positive outcomes from the trainings and seminars, such as improved relationships and an increased understanding of domestic violence. For example, BGRF staff reported that seminars for family court judges established a positive foundation that helped facilitate their work on court monitoring.³⁷¹

When the LPADV was enacted, there was national publicity involving the cooperation of the television station, the Mol, and NGOs, including BGRF. The campaign publicized locations of service providers, types of services offered and phone numbers.³⁷² Such public education efforts have encouraged women to come forward to seek help. One social service agency reported that the number of women who seek their assistance has increased 100% since the law was enacted.³⁷³ Nevertheless, NGO representatives acknowledged the need for more trainings to address negative attitudes held by some authorities³⁷⁴ and to raise public awareness.³⁷⁵

B. VICTIM SERVICES

Most NGOs reported that they provide a combination of legal, social and psychological consultations through

³⁷⁰ See Tisheva, *supra* note 368.

³⁷¹ Interview with Social Worker, *supra* note 369.

³⁷² Interview with NGO, in Sofia (Apr. 1, 2007).

³⁷³ Interview with NGO, in Varna, *supra* note 47.

³⁷⁴ *Id.*

³⁷⁵ Interview with NGO, *supra* note 313. NGOs generally use materials as a way of conducting outreach. Nearly all NGOs interviewed provided the authors with brochures describing their organizations. NGOs distribute these brochures to key institutions, such as law enforcement and the judiciary, where they can be given to victims. Interview with NGO, in Varna, *supra* note 47; interview with Judges, *supra* note 46. NGOs also use multimedia tools, such as the internet and DVDs to educate the public. Interview with NGO, in Varna, *supra* note 47. In addition, BGRF and Demetra have developed a poster depicting their coordinated community response campaign as a flower, the petals of which represent the different key players.

representation, counseling, hotlines and shelters. These organizations serve a large number of domestic violence victims. For example, one NGO stated it consulted with 300 victims of domestic violence per year.³⁷⁶

Lawyers are available to help victims file an application and to represent them *pro bono* in court.³⁷⁷ Organizations have also collaborated with legal clinics to have supervised students represent victims.³⁷⁸ Lawyers play a pivotal role in obtaining protection orders.³⁷⁹ Attorneys generally believe that victims' applications for protection orders will not be successful without legal representation.³⁸⁰ One attorney stated, "When the victims come to me after they have tried to do this on their own, the damage is done. It is reflected in the procedure afterward."³⁸¹

In addition, social workers in NGOs play a role in consulting with the victim. They help them communicate more clearly with the lawyer and address factors that prevent them from leaving the perpetrator.³⁸² Many organizations also employ psychologists to assist victims of violence. For example, psychologists in one NGO conduct risk assessments, identifying possible consequences the

³⁷⁶ Interview with NGO, in Burgas (Feb. 15, 2008).

³⁷⁷ While the consultations are free for victims, BGRF pays lawyers, but not full remuneration. Due to limited funds, BGRF is able to cover costs for only the most severe cases and indigent women. This same protocol also applies to BGRF's branches in Haskovo and Plovdiv.

³⁷⁸ Interview with NGO, in Burgas, *supra* note 47.

³⁷⁹ Other jurisdictions have successfully used advocates to help domestic violence victims, where trained advocates assist the victim in the process. For example, the Domestic Abuse Service Center (DASC) in Minneapolis, Minnesota, U.S.A., has advocates who can explain the victim's rights, the criminal and civil court procedures, assist the victim in developing safety plans and finding temporary housing, and make referrals. See Minnesota Judicial Branch, Advocacy Agencies at DASC, <http://www.mncourts.gov/district/4/?page=765> (last visited Mar. 14, 2008).

³⁸⁰ Interview with Lawyers, *supra* note 94. See *supra* p. 30.

³⁸¹ Interview with Lawyers, *supra* note 94.

³⁸² Interview with Social Worker, *supra* note 369.

violence will have on the mother and children, and what they can do if the violence persists.³⁸³ Furthermore, the NGO can submit this statement as evidence to the court, which sometimes even requires it.³⁸⁴ One NGO worker described how they always ensure there is at least one psychologist present at their center.³⁸⁵ Other forms of psychological assistance include psychotherapy and support groups for women.³⁸⁶ Due to the lack of administration and coordination of the social support system necessary to implement the protective orders—specifically measure 5(1)(6) on victim recovery programs—these NGOs provide important emotional support for the victim.³⁸⁷

NGOs also provide hotlines and shelters. One psychologist described her organization's hotline, which employs trained staff. The staff speaks with the caller to identify the problem and set up a schedule of dates for the victim to come into the office.³⁸⁸ Another Sofia-based organization runs a 24-hour hotline to provide assistance to victims of violence, as well as preventive information.³⁸⁹ The NGO also staffs a volunteer with a law degree on the hotline during scheduled times to inform victims of their rights.³⁹⁰

The lack of funding is most evident in the dearth of shelters in Bulgaria.³⁹¹ Currently, there are only two operating shelters for domestic violence victims in the

country. NGOs send victims to one of the two shelters, or else a crisis center with a shorter term of stay.³⁹² The shelters are located in Pleven and Silistra and have approximately eight and seven to ten beds, respectively.³⁹³ There is no shelter in the capital city of Sofia. In cities where there are no shelters, NGOs place victims with relatives or friends for a short period of time.³⁹⁴ At the time of publication, a third shelter in Burgas was ready to be opened. The shelter has seven beds and will serve the 500,000 people in the district. More funding is needed, however, for the shelter's operations.³⁹⁵ In Sofia, the municipality has also allocated a building to an NGO for use as a shelter.³⁹⁶ Funds are needed, however, to complete the renovation.³⁹⁷

In addition to the shelters, there are two crisis centers located in Sofia and Plovdiv.³⁹⁸ Crisis centers provide immediate help, and staff are available to offer emergency psychological, social and legal support to severely beaten or trafficked women.³⁹⁹ Victims can stay at the Sofia crisis center between three to seven days.⁴⁰⁰ The crisis center in Plovdiv shelters approximately eight women for up to ten days.⁴⁰¹ In addition to these shelters and centers, there is a general shelter in Stara Zagora called Samaritan House, which houses adolescent victims of violence⁴⁰² and a family support center in Gabrovo.⁴⁰³

³⁸³ Interview with NGO, in Varna, *supra* note 47.

³⁸⁴ *Id.* Under Section 13(2) of the LPADV, records and reports issued by psychologists who counseled the victim may be submitted as evidence. LPADV, SG 2005, No. 27, § 13(2).

³⁸⁵ Interview with Targovishte NGO, *supra* note 226.

³⁸⁶ Interview with NGO, in Varna, *supra* note 47.

³⁸⁷ Interview with NGO, in Burgas, *supra* note 47.

³⁸⁸ Interview with Targovishte NGO, *supra* note 226.

³⁸⁹ Animus Association, Help-Line, <http://www.animusassociation.org/en/helpline.html> (last visited Mar. 14, 2008).

³⁹⁰ *Id.*

³⁹¹ Interviewees revealed that the lack of employment opportunity for many women in Bulgaria means that they have no resources for independent housing. Interview with Lawyers, *supra* note 50.

³⁹² Interview with NGO, in Varna, *supra* note 47; interview with NGO, in Burgas, *supra* note 47.

³⁹³ OPEN SOC'Y INST., *supra* note 2, at 39-40.

³⁹⁴ Interview with NGO, in Varna, *supra* note 47.

³⁹⁵ Interview with NGO, *supra* note 376.

³⁹⁶ Training, *supra* note 132.

³⁹⁷ *Id.*

³⁹⁸ OPEN SOC'Y INST., *supra* note 2, at 45.

³⁹⁹ *Id.* at 46.

⁴⁰⁰ *Id.* at 45.

⁴⁰¹ *Id.* Stays can be extended in the event of an emergency for up to several weeks. *Id.*

⁴⁰² *Id.* at 39; Interview with Victim, *supra* note 107.

⁴⁰³ OPEN SOC'Y INST., *supra* note 2, at 39.

NGOs have very limited, if any, material assistance for victims. In cases where NGOs can provide some form of financial help, it is usually as specific forms of aid. For example, one NGO reported it supplied victims with food, clothing and transportation to institutions.⁴⁰⁴ Also, because it is based in a town without a shelter, the NGO sometimes pays victims' travel expenses to the neighboring town where there is a shelter.⁴⁰⁵ Another organization has developed a program to cover the costs of filing fees for applications.⁴⁰⁶ Overall, however, it appears that the amount of financial assistance these NGOs can provide to victims is limited. This is a serious problem for victims with no other sources of support. When asked if judges ever order financial support in a protection order, lawyers responded, "No, there are no such provisions. Only the NGOs support the woman."⁴⁰⁷

C. STATISTICS AND INFORMATION GATHERING

All NGOs interviewed reported that they maintain statistics and keep records of the clients they serve.⁴⁰⁸ For example, one NGO described how it registers every woman who visits or calls its telephone line.⁴⁰⁹ The organization documents the date, client name, description of the problem, referral, orders for consultation, and police calls for each person.⁴¹⁰ The organization has a signing process for each document to ensure client privacy between the NGO and police.⁴¹¹

In addition to collecting information on clients they serve, NGOs also monitor other sectors. BGRF carried

out a court monitoring project to assess implementation of the domestic violence law in 2005-2006. Teams of volunteers monitored courts in Sofia, Burgas, Haskovo, and to a lesser extent, Plovdiv, over a two-year period.⁴¹² The organization has compiled its findings in a written report, which is currently in the process of being published. Initially, some judges refused the monitors access to the courtroom. The explanation offered was that the cases were a private matter, and monitors had to request special permission by the court directors to enter the courtroom. A court observer, however, stated that the monitoring has had a positive effect on the relationship between NGOs and judges.⁴¹³ According to this observer, the judges have realized the monitors are not assessing their professional qualities and that working together with an NGO is not a threat to their professional capacities.⁴¹⁴

The findings of the Court Monitoring Report varied among the three cities. Of the observed cases, monitors in Sofia and Haskovo documented that 95% and 100% of applicants for orders for protection under the LPADV are women, respectively.⁴¹⁵ Monitors in Sofia and Burgas found that most applications are submitted directly to the court, rather than via the police.⁴¹⁶ In Sofia, a large percentage of applicants were accompanied by an advocate, but in Haskovo, parties in more than 90% of cases were not.⁴¹⁷ In Sofia, the most common measures requested are expulsion from the home and prohibition against future violence.⁴¹⁸ In Haskovo, applicants most frequently requested a prohibition against future violence, and

⁴⁰⁴ Interview with NGO, in Varna, *supra* note 47.

⁴⁰⁵ *Id.*

⁴⁰⁶ Interview with NGO, *supra* note 226.

⁴⁰⁷ Interview with Lawyer, *supra* note 48.

⁴⁰⁸ Interview with NGO, *supra* note 198; interview with NGO, in Burgas, *supra* note 47; interview with NGO, in Ruse, *supra* note 47; interview with NGO, in Varna, *supra* note 47.

⁴⁰⁹ Interview with NGO, in Ruse, *supra* note 47.

⁴¹⁰ *Id.*

⁴¹¹ *Id.*

⁴¹² Interview with NGO, *supra* note 44.

⁴¹³ Interview with in NGO, *supra* note 313.

⁴¹⁴ *Id.*

⁴¹⁵ Bulg. Gender Research Found., *supra* note 29, at 5.

⁴¹⁶ In Sofia, most claims were filed directly to the court, and in Burgas, more than twice as many applicants filed via an application directly to the court (62) versus the police (28). Bulg. Gender Research Found., *supra* note 29, at 5.

⁴¹⁷ Bulg. Gender Research Found., *supra* note 29, at 6.

⁴¹⁸ *Id.* at 2.

approximately one-third of applicants asked for more measures of protection.⁴¹⁹ Finally, monitors in Burgas noted that courts generally issued emergency orders within 24 hours and protection orders within 20 days.⁴²⁰

D. COORDINATION WITH OTHER SECTORS

NGOs play an important role in coordinating the overall community response to domestic violence. As one attorney stated, “Where there’s an NGO, the level of coordination among sectors is good.”⁴²¹ The interviewee explained that NGOs can facilitate collaboration among state agencies and provide useful information, such as best practices from other countries.⁴²² The interviewee cited Sofia, Pleven, Burgas and Ruse as good examples of collaboration, but noted cooperation may also be strong in smaller towns where residents know each other and may exchange information informally.⁴²³

Overall, most NGOs reported good collaboration with police in terms of communication and referrals. One interviewee in Ruse stated that, in cases of domestic violence, “we have the full support of the police.”⁴²⁴ She reported that when they have a case of domestic violence, they call the district inspector and ask for police assistance in submitting an application for a protection order.⁴²⁵ The reverse process also applies, so that when a victim contacts the police first, the police direct them to the NGO.⁴²⁶ Police in Ruse confirmed this working relationship, saying that they always inform victims about the NGO as an option and coordinate their actions with the NGO.⁴²⁷ An NGO in Varna stated that the number of victims referred by

police is increasing.⁴²⁸ A lawyer in Burgas stated that her organization has excellent collaboration with the police, which informs the NGO about domestic violence cases.⁴²⁹ A crisis center employee described working with the police to ensure security and victim safety:

We have a very good security system, because we work closely with the police station in this district area. The social workers who work in the crisis center, they have a panic button and also a telephone number of one of the police in this station. Also, the police who are driving around in this district, they pass by the crisis center often. Once or two times since 2000, we had to use the panic button. In one of the cases, the husband came who wanted his wife to go with him. He poured kerosene on himself and threatened to light himself on fire if she didn’t leave with him. In this case, the social worker called the police, and the police came together with a psychologist, who specializes in speaking with people who want to commit suicide. The police came in less than ten minutes.⁴³⁰

The coordination between law enforcement and NGOs also extends to the national level. A representative of the National Police Directorate stated, “I believe that the police and government work well together only when we work with NGOs.”⁴³¹

Interviewees from NGOs noted challenges in working with the Directorate for Social Assistance. While representatives from the Child Protection department were present at the March 2007 training on coordinated community response, interviews revealed little coordination between the social assistance bodies and other sectors. In response to a question about the

⁴¹⁹ Bulg. Gender Research Found., *supra* note 29, at 5.

⁴²⁰ *Id.* at 4.

⁴²¹ Interview with Sofia Lawyer, *supra* note 33.

⁴²² *Id.*

⁴²³ *Id.*

⁴²⁴ Interview with NGO, in Ruse, *supra* note 47.

⁴²⁵ *Id.*

⁴²⁶ *Id.*

⁴²⁷ Interview with Police, *supra* note 117.

⁴²⁸ Interview with NGO, in Varna (July 11, 2007).

⁴²⁹ Interview with Lawyer, *supra* note 144.

⁴³⁰ Interview with NGO, in Sofia (Apr. 2, 2007).

⁴³¹ Interview with National Police Directorate, *supra* note 34.

Social Assistance Agency, one legal advisor answered, “I don’t know if anyone is working with them.”⁴³²

There were fewer reports of collaboration between NGOs and prosecutors. In Ruse, only one interviewee mentioned regular meetings involving prosecutors, NGOs and police.⁴³³ Other prosecutors in Varna and Ruse reported they had not participated in any domestic violence trainings.⁴³⁴ At the March 2007 training, however, at least two prosecutors were present.⁴³⁵

NGO collaboration with judges has centered primarily on training and court monitoring.⁴³⁶ Nevertheless, at least one interviewee revealed the challenges they face in judicial trainings. One judge explained that sometimes, only one training invitation is sent to the head of court, who does not always forward this invitation to his peers.⁴³⁷ She stated that no judges in her district or regional court have had trainings on domestic violence.⁴³⁸ The interviewee recognized there were very good local organizations involved in trainings and hoped they could disseminate this information about domestic violence.⁴³⁹

One good example of intersectoral collaboration involves the municipality, police and NGOs in Sofia. In Sofia, these three bodies provide a consultation center where a police officer, lawyer and social worker are available to meet with victims of domestic violence.⁴⁴⁰

⁴³² Interview with NGO, *supra* note 44. The connections between child and spouse abuse indicate a strong need for coordination between child abuse and domestic abuse agencies and advocates. See Stop Violence Against Women, *supra* note 80.

⁴³³ Interview with Police, *supra* note 117.

⁴³⁴ Interview with Prosecutor, *supra* note 42; interview with Prosecutor, *supra* note 43.

⁴³⁵ Interview with Prosecutors, *supra* note 338.

⁴³⁶ See *supra* pp. 42-43, 45-46.

⁴³⁷ Interview with Judge, *supra* note 168.

⁴³⁸ *Id.*

⁴³⁹ *Id.*

⁴⁴⁰ Interview with Police, *supra* note 184; interview with Social Worker, *supra* note 369; interview with Lawyer, *supra* note 268. These centers have proved to be effective means of coordinating

The purpose is to provide multiple resources for victims in one independent location.⁴⁴¹ Interviewees reported that victims of domestic violence are using the center to seek help. An on-duty police officer estimated he assisted one to two victims per day at the center, although this number sometimes reaches four or five per day.⁴⁴² Currently, the police and an NGO are taking steps to establish a second center in Burgas based on this model. While the Burgas municipality has allocated a building for this purpose, it has not provided funds for repair.⁴⁴³ Police interviewees reported that locating money for the repairs has hindered the center’s progress.⁴⁴⁴ For example, it is difficult to obtain the needed funds from the national government, because such requests must be made in advance the prior year.⁴⁴⁵ For the police to pay for the building’s restoration, the Ministry of the Interior must first assume ownership of the building, which has not yet happened.⁴⁴⁶

E. FUNDING

NGOs reported receiving funding from a variety of sources, including foundations, international organizations, foreign governments, and the state and municipalities.⁴⁴⁷ Despite these sources, NGOs in Bulgaria are seriously underfunded.

the response to domestic violence in other jurisdictions. For example, the Minneapolis-based DASC is a government-housed service provider that assists victims of domestic violence or harassment. See Minnesota Judicial Branch, *supra* note 379. DASC houses a variety of advocacy, city and county agency representatives in its office to assist victims. Minnesota Judicial Branch, *supra* note 379.

⁴⁴¹ Interview with Police, *supra* note 119.

⁴⁴² Interview with Police, *supra* note 184.

⁴⁴³ Interview with Police, *supra* note 119.

⁴⁴⁴ *Id.*

⁴⁴⁵ *Id.*; interview with MLSP, *supra* note 71.

⁴⁴⁶ Interview with Police, *supra* note 119.

⁴⁴⁷ Interview with NGO, in Ruse, *supra* note 47; interview with NGO, in Varna, *supra* note 47; interview with NGO, in Burgas, *supra* note 47; interview with Sofia Lawyer, *supra* note 33.

Funding from the Bulgarian government is both insufficient and irregular.⁴⁴⁸ For example, BGRF had requested \$75,000 to fund legal services in five cities for one year. The Ministry of Labour and Social Policy awarded one-fifth of the amount requested, or \$15,000. In another case, the government pledged \$195,000, or \$7,222 per region, for shelters. This is not enough to operate the shelters. The authors have observed that the Program on Prevention and Protection against Domestic Violence primarily focuses on the role of the police and less on the role of NGOs or the coordinated community response. Furthermore, while the national government has pledged the funds, it has not yet paid the money and there is neither a clear process nor deadline for obtaining the money. The authors are concerned that there is nothing in the government budget for domestic violence services, no clear government commitment and no clear deadlines for disbursing money.

The municipalities have assisted NGOs. The municipality has allocated buildings to NGOs in Burgas, Sofia, and Pleven.⁴⁴⁹ Another NGO noted it had received funding from the municipality every year since 2004.⁴⁵⁰ Despite this support from the local level, more money is still needed. As one NGO stated, “They do not give us enough money, but the help is really good. It is better than nothing.”⁴⁵¹ Additionally, the buildings donated by the municipalities are generally in need of repair, and NGOs must find additional funding for renovations before they can be used.⁴⁵²

⁴⁴⁸ Interview with NGO, *supra* note 372.

⁴⁴⁹ Press Conference, *supra* note 351; interview with NGO, in Burgas, *supra* note 47.

⁴⁵⁰ Interview with NGO, in Varna, *supra* note 47.

⁴⁵¹ *Id.*

⁴⁵² Interview with NGO, in Burgas, *supra* note 47. A police chief estimated renovations cost approximately 10,000 Euros. Press Conference, *supra* note 351.

The authors are concerned that the government expects NGOs to seek funding from sources abroad.⁴⁵³ Furthermore, the government’s stated commitment to funding, but failure to disburse the funds, has created a hurdle for organizations seeking additional funding from other sources, which view the government’s pledge as evidence that NGOs are adequately supported.

NGOs receive support from a few Bulgarian organizations. A Sofia-based NGO seeks to garner funding from donors and finance NGO projects to combat violence against women.⁴⁵⁴ The NGO also trains organizations on how to fundraise.⁴⁵⁵ For example, BGRF received a grant from the Social Aid Fund within the MLSP, which supports activities against domestic violence in four towns.⁴⁵⁶

To supplement their income, NGOs rely on in-kind donations. The German embassy and a German organization have donated furniture for preventive centers in Sofia and Burgas.⁴⁵⁷ Also, NGOs rely on volunteers to carry out their work.⁴⁵⁸ For example, one NGO is using the help of volunteers to renovate its building.⁴⁵⁹ Another NGO pays a small amount to a clinical social worker, who provides five free consultations to victims of domestic violence.⁴⁶⁰ Importantly, many lawyers volunteer their services to

⁴⁵³ Interview with NGO, *supra* note 372.

⁴⁵⁴ Bulgarian Fund for Women, <http://www.bgfundforwomen.org/> (last visited Mar. 14, 2008).

⁴⁵⁵ Press Conference, *supra* note 351.

⁴⁵⁶ Interview with NGO, in Sofia (July 17, 2007).

⁴⁵⁷ Interview with Sofia Lawyer, *supra* note 33; interview with NGO, in Burgas, *supra* note 47.

⁴⁵⁸ While the volunteer support is crucial for NGOs, the lack of a regular, paid staff has drawbacks. One interviewee described how an NGO uses volunteers to staff its hotline. She stated that this arrangement presents a disadvantage, as it has a high turnover and results in new and inexperienced people assisting victims over the telephone. Interview with Social Worker, *supra* note 369.

⁴⁵⁹ Interview with NGO, in Ruse, *supra* note 47.

⁴⁶⁰ Interview with Social Worker, *supra* note 369.

assist victims of domestic violence.⁴⁶¹ Free legal aid is critical for many victims of domestic violence. Since the LPADV entered into force, one NGO representative estimated that the number of women seeking advocacy assistance has increased about 100%.⁴⁶² Many of these victims may not be able to proceed with an application if she does not have legal representation. One lawyer described how, after a consultation, victims will choose not to file an application because they lack the money to pay the lawyer.⁴⁶³ Lawyers pointed out if criminal defendants are entitled to free legal aid, domestic violence victims should be also be entitled to their aid.⁴⁶⁴

NGOs have begun exploring the possibility of garnering funding from businesses. NGOs, however, reported a general reticence by businesses to donate money to charitable causes.⁴⁶⁵ NGOs have also explored creative means of raising funds through commercial activities. One organization operates a public laundry service, the proceeds of which go to funding social services for groups-at-risk.⁴⁶⁶

In summary, NGOs fulfill a variety of needs for victims of domestic violence. They not only inform and assist victims with the process of applying for protection orders, but also provide social and psychological services. An important contribution to improving the implementation of the LPADV is through NGO training of police and judges and coordinating the community response. Although their funding is limited, NGOs are

⁴⁶¹ While this is for free for the victim, BGRF must find the money to pay the social worker and the lawyers each month.

⁴⁶² Interview with NGO, *supra* note 47.

⁴⁶³ Interview with Lawyers, *supra* note 94.

⁴⁶⁴ *Id.*

⁴⁶⁵ Training, *supra* note 132, at 17; interview with NGO, *supra* note 372. Some reasons cited for business owners' reluctance to donate include superstition, guilt over illegal business transactions, and a fear of additional donation requests. Interview with NGO, *supra* note 372.

⁴⁶⁶ Interview with NGO, *supra* note 372.

fulfilling a critical role in ensuring full and effective realization of the LPADV.

VIII. MEDIA

The media plays an important role in raising public awareness about the LPADV and preventing domestic violence. Many interviewees acknowledged the need for increased education of both the public and the media. Certain sectors, such as the police, have begun developing relationships and working with the media. In fact, NGOs mainly rely on the mass media to raise public awareness about the LPADV. One of the main obstacles that NGOs face in working with the media is the absence of public relations persons to regularly deal with the media, organize public events and publicize services and trainings provided by NGOs. Prevention of domestic violence and increased use of the LPADV requires intense focus, something that NGOs unfortunately lack the funding and human resources to carry out to full effect. Despite the serious lack of resources, NGOs have generally managed to establish good relations with both local and national media and been very active in raising awareness among journalists on the issue of domestic violence.

The Program on Prevention and Protection against Domestic Violence calls for an awareness campaign, a video and a hotline for victims of domestic violence. Law enforcement professionals and judicial officials agree, however, that more public awareness of domestic violence is needed in Bulgaria.⁴⁶⁷ One year after the LPADV was passed, 20% of Bulgarians were not aware of the law and two-thirds of Bulgarians did not know the details of the law.⁴⁶⁸ "In the beginning with the law, there was adequate publicity," said a

⁴⁶⁷ Interview with Police Media Liaison, *supra* note 134; interview with Judge, in Ruse (July 9, 2007).

⁴⁶⁸ Koycheva, *supra* note 32, at 3 (quoting National Center for Study of Social Opinion).

judge, “but now everything is quiet.”⁴⁶⁹ A prosecutor agreed that “there should be better publicity on this issue.”⁴⁷⁰

Some Bulgarian media tend to dramatize domestic violence to the detriment of the victim.⁴⁷¹ For example, one article focused on the harmful publicity for a prominent man, whose wife obtained a protection order against him. The article highlighted the protection order’s impact on his authority, and how unfeasible it would be for him to stay away from his wife within this small town. It also conveyed the message that the woman should not have brought this case before the court and thus the public.⁴⁷²

Other coverage reflects a lack of sensitivity and knowledge about domestic violence by reporters. One Haskovo-based journalist wrote an article criticizing the use of state resources for domestic violence victims and perpetrators. In her article, entitled *The State to Save Domestic Violence Perpetrators and Victims? No Way!*, she stated,

...I would like to ask those that have gone so far as to become victims how they have let things go so far, and where the hell have they forgotten their human dignity...I don’t want the state, and the taxpayers, to give money for saving people with weak characters—victims or their abusers alike. At the end, every person determines his/her own life. If they enjoy being beaten every day, they should not engage the state in this.⁴⁷³

In summary, greater media coverage is needed to better inform the public about domestic violence and the LPADV. At the same time, intersectoral collaboration with the media should continue to

⁴⁶⁹ Interview with Judge, *supra* note 468.

⁴⁷⁰ Interview with Prosecutor, *supra* note 43.

⁴⁷¹ Interview with NGO, *supra* note 372.

⁴⁷² *Id.*

⁴⁷³ Radost Gineva, *The State to Save Domestic Violence Perpetrators and Victims? No Way!* HASKOVSKA MARITZA (Bulg.), Nov. 2006.

facilitate appropriate and responsible reporting on domestic violence issues.⁴⁷⁴

⁴⁷⁴ Interview with Police Media Liaison, *supra* note 143.

RECOMMENDATIONS

A. PRIORITY RECOMMENDATIONS TO THE GOVERNMENT

- Amend the LPADV to provide for an immediate and direct criminal penalty in the event of a violation of an order for protection
- Amend the LPADV to allow the issuance of protection orders for violence committed prior to the thirty-day timeline
- Amend the criminal laws to allow state prosecution in cases of low and medium-level assaults when the victim and perpetrator are related
- Promote policies that recognize the importance of maintaining the care and custody of children with non-violent parents
- Promote judicial practices that streamline hearing procedures and address delays in issuing orders
- Make a clear financial commitment to meeting the objectives set forth in the LPADV
- Provide adequate and consistent funding to non-governmental organizations working against domestic violence

B. TO THE MINISTRY OF LABOUR AND SOCIAL POLICY

- Place the responsibility for the management of the domestic violence shelters, hotlines and other related services with NGOs and provide adequate funding for this work
- Increase capacity of social services for victims through NGOs
- Create and fund rehabilitation centers for perpetrators of domestic violence and support centers for both child and adult victims of domestic violence under Section 5(1)(5-6) of the LPADV

- Ensure the DSA and Child Protection departments respond to and initiate applications in cases where their intervention is needed, including incapacitated or minor victims of violence
- Ensure the DSA and Child Protection departments are fulfilling their role with regard to child victims of violence in filing reports and making courtroom appearances
- Ensure that the DSA and Child Protection bodies receive training on the dynamics of domestic violence, including, *inter alia*, batterers as parents and violence against intimate partners
- Promote policies that recognize the importance of maintaining the care and custody of children with non-violent parents (*priority recommendation*)
- Collaborate with NGOs on specialized training in implementation of the LPADV and domestic violence
- Utilize the expertise of women's NGOs and support cooperation between the local authorities and NGOs at the municipality level
- Make a clear financial commitment to meeting the objectives set forth in the LPADV (*priority recommendation*)
- Provide adequate and consistent funding to non-governmental organizations working against domestic violence (*priority recommendation*)

C. TO THE PARLIAMENT

- Amend the LPADV to provide legal aid for indigent applicants seeking orders for protection
- Amend the LPADV to provide for an immediate and direct criminal penalty in the event of a violation of an order for protection (*priority recommendation*)

- Amend the LPADV to allow the issuance of protection orders for violence committed prior to the thirty-day timeline (*priority recommendation*)
- Amend the criminal laws to allow state prosecution in cases of low and medium-level assaults when the victim and perpetrator are related (*priority recommendation*)

D. TO THE MINISTRY OF THE INTERIOR AND POLICE

- Create a specialized domestic violence police unit, which includes officers who follow up with victims who have orders for protection
- Provide a full array of templates to standardize the police procedures for emergency applications for orders for protection and police reports
 - Include sections for information about prior offenses and orders for protection
- Conduct outreach about the LPADV and domestic violence to minority and immigrant communities
- Collaborate with NGOs to continue specialized training in implementation of the LPADV and domestic violence
- Increase capacity of electronic data monitoring of domestic violence cases, applications and violations through a special register
- Consistently arrest offenders who violate protection orders as mandated under the LPADV

E. TO THE MINISTRY OF JUSTICE AND THE COURTS

- Increase capacity of electronic data monitoring of domestic violence cases, applications and violations

- Track and maintain records about offenders' history of protection orders

- Collaborate with NGOs to participate in specialized training in judicial implementation of the LPADV
- Promote judicial practices that streamline hearing procedures and address delays in issuing orders (*priority recommendation*)
- Promote judicial practices on the objective issuance of protection orders without regard to the presence of physical injuries or evidence additional to the victim's declaration
- Promote judicial practices on the objective issuance of protection orders without regard to how close to the deadline the victim chooses to file an application
- Increase judicial capacity to hear cases under the LPADV

F. TO THE PROSECUTORS

- Collaborate with NGOs to continue specialized training in implementation of the law for prosecutors

G. TO CIVIL SOCIETY

- Continue to conduct outreach about the LPADV and domestic violence to minority and immigrant communities
- Create public awareness on who may issue medical certificates
- Continue to work to increase the coordinated community response between police, courts, the DSA, health care providers, and media
- Continue to train and provide court advocates to accompany the victim to hearings under the LPADV

H. TO THE MEDIA

- Collaborate with NGOs to continue specialized training on the dynamics of domestic violence and implementation of the LPADV for journalists
- Work in partnership with police and NGOs to increase social intolerance of domestic violence and educate the public about the LPADV
- Conduct responsible reporting on domestic violence through a human rights rather than a sensational dimension

CONCLUSION

In conclusion, implementation of the domestic violence law has been generally positive, but challenges still remain for all sectors and legislative amendments are needed. The authors found that the Directorate for Social Assistance (DSA) is in need of more training on the dynamics of domestic violence. The DSA is failing to initiate applications on behalf of incapacitated or juvenile victims who need their assistance; furthermore, battered mothers are at risk of losing their children to child protection services. On the other hand, Bulgarian police are making progress in implementing the law. However, because the law does not criminalize violations of a protection order, police still face challenges during violations and can only arrest the offender for 24 hours. The judges are issuing emergency protection orders within 24 or sometimes a few hours, but are still unduly influenced by other factors that should not affect their decision to issue a protection order. Prosecutors also face challenges, and there are very few reports of prosecutions for violations of protection orders. Finally, NGOs in Bulgaria are doing an excellent job by providing important legal, social and psychological services to victims and coordinating the community response.

The Advocates and BGRF make several recommendations to the government including, *inter alia*: legal reform to criminalize violations of an order for protection; amendment of the domestic violence law to allow the issuance of protection orders for violence committed prior to the thirty-day timeframe; the promotion of policies that recognize the importance of maintaining the care and custody of children with non-violent parents; the promotion of judicial practices to issue decisions on regular protection orders within thirty days and without

extending the process through multiple hearings; amendment of the criminal laws to allow state prosecution in cases of low and medium-level assaults when the victim and perpetrator are related, and; a clear financial commitment to meet the domestic violence law's objects and provide adequate and consistent funding to NGOs.

Overall, Bulgaria has taken important steps in combating domestic violence by passing the law, conducting trainings and monitoring. It is essential, however, that key players continue to identify and remedy obstacles to effective implementation of the law to best promote victim safety and offender accountability.

APPENDIX A: LAW ON PROTECTION AGAINST DOMESTIC VIOLENCE

PROTECTION AGAINST DOMESTIC VIOLENCE ACT

Promulgated, State Gazette, issue 27 of 29 March 2005

Chapter One

GENERAL PROVISIONS

S. 1. (1) This law governs the rights of individuals having suffered from domestic violence, the protection measures, and the procedure applicable to the imposition of such measures.

(2) Liability under this Act shall not preclude the civil and the criminal liability of the respondent.

S. 2. Domestic violence is any act of physical, mental or sexual violence, and any attempted such violence, as well as the forcible restriction of individual freedom and of privacy, carried out against individuals who have or have had family or kinship ties or cohabit or dwell in the same home.

S. 3. Protection under this Act may be sought by any individual having suffered from domestic violence applied by:

1. a spouse or former spouse;
2. a person with whom that individual cohabits or has co-habited;
3. a person with whom that individual has a child;
4. an ascendant;
5. a descendant;

6. a sibling;
7. a relative by affinity up to the second degree;
8. a guardian or foster parent.

S. 4. (1) In the event of domestic violence the victim has the right to refer to the court to seek protection.

(2) In cases where data exists showing a direct and imminent threat to the life or health of the victim, the latter may file an application with the police authorities for the imposition of emergency measures pursuant to section 76 of the Ministry of Interior Act. The bodies of the Ministry of Interior shall forward to the court the application together with the explanations of the respondent, if such explanations have been provided, and the record drawn of any measures imposed, while depicting the circumstances that call for emergency court protection.

(3) At the request of the victim, any medical doctor must issue a document to establish in writing any injuries or traces of violence found by that doctor.

S. 5. (1) Protection against domestic violence shall be implemented through any of the following:

1. placing the respondent under an obligation to refrain from applying domestic violence;
2. removing the respondent from the common dwelling-house for a period specified by the court;
3. prohibiting the respondent from getting in the vicinity of the home, the place of work, and the places where the victim

has his or her social contacts or recreation, on such terms and conditions and for such a period as is specified by the court;

4. temporarily relocating the residence of the child with the parent who is the victim or with the parent who has not carried out the violent act at stake, on such terms and conditions and for such a period as is specified by the court, provided that this is not inconsistent with the best interests of the child;
5. placing the respondent under an obligation to attend specialised programmes;
6. advising the victims to attend recovery programmes.

(2) The measures under subsection 1, points 2, 3, and 4 shall be imposed for a period from one month to one year.

(3) In any case, with its order under section 15(1) the court shall also make the respondent liable to a fine in the range between 200 and 1000 Levs.

S. 6. (1) The State shall ensure the implementation of programmes aimed at the prevention of and protection against domestic violence, as well as programmes providing assistance to the victims.

(2) The bodies of the Executive branch shall select and train the persons in charge of protection by virtue of this Act.

(3) The bodies of the Executive branch and the natural and legal persons registered by virtue of

section 18(2) and (3) of the Social Assistance Act shall work jointly to provide protection to the victims of domestic violence.

(4) The persons referred to in subsection 3 shall develop, organise the implementation of, and implement the programmes under section 5(1), points 5 and 6.

Chapter Two

PROCEEDINGS TO IMPOSE PROTECTION MEASURES AGAINST DOMESTIC VIOLENCE

Division I

General Provisions

S. 7. (1) The court competent to impose a measure shall be the regional court in the area where the current address of the victim is found or, in the cases referred to in section 4(2), the regional court in the area of the local police department where protection was sought.

(2) The court before which there is pending litigation between the victim and the respondent or litigation involving any of them based on a provision of the Family Code or of the Child Protection Act shall be competent to impose a protection measure at any stage of the proceeding.

S. 8. The proceeding for issuing an order may be instituted:

1. on an application by the victim;
2. at the request of the Director of the Social Assistance Directorate;
3. whenever emergency court protection is sought, on an application by a

sibling or by a person who is a relative to the victim in the direct line irrespective of the degree of kinship.

S. 9. (1) The application or request shall be in writing and must contain:

1. the names, the address, and the personal ID number of the applicant or the individual having filed the request; if a victim cannot or is unwilling to disclose his or her address, he or she may identify an address for litigation purposes;
2. the names and the current address of the respondent or any other address where the latter may be summoned, including a telephone and fax number;
3. data concerning the family, kinship or factual ties between the victim and the respondent;
4. a description of the facts and circumstances under which domestic violence occurred;
5. a signature.

(2) In the cases referred to in section 8, points 2 and 3 the court shall, *ex officio*, involve the victim as a party.

(3) A statement by the applicant concerning the violence applied shall also be enclosed to the application under section 8, point 1.

(4) At the request of the applicant the court shall seek *ex officio* in respect of the respondent a criminal record certificate, information concerning any

measures imposed under this Act, and a certificate showing whether or not the respondent is registered at any psychiatric establishment.

S. 10. (1) The application or request shall be filed within one month as from the date on which the act of domestic violence occurred.

(2) The application or request shall be entered in a special register and assigned on the date of filing.

(3) In the cases referred to in section 4(2) the application shall be filed via the nearest local police department.

S. 11. (1) No costs shall be charged upon filing an application under section 8, points 1 and 3.

(2) Upon issuing the order, the court shall award the costs and expenses to the respondent.

(3) In the event of refusal to issue an order or if the order is revoked, the costs and expenses shall be charged to the applicant, while in the cases referred to in section 8, point 2 the expenses shall be incurred by the Social Assistance Agency.

Division II

Hearing of Case

S. 12. (1) On the day on which the application or request is filed the court shall schedule an open hearing to take place not later than 30 days thereafter and shall serve the writ of summons and a copy of the application or request with their enclosures on the defendant, while notifying the latter of his or her obligation to produce evidence.

(2) In the cases under section 8, points 2 and 3 the victim shall be summoned as well.

(3) Where necessary, the writ of summons shall be served with the assistance of the police authorities or of the mayor.

S. 13. (1) The evidentiary means defined in the Code of Civil Procedure shall be admissible in the proceeding for issuing a protection order.

(2) The following may also serve as evidentiary means in a proceeding under subsection 1:

1. records, reports, and any other acts issued by the Social Assistance Directorates, by medical doctors, as well as by psychologists having provided counselling to the victim;
2. documents issued by legal persons providing welfare services and entered in a register at the Social Assistance Agency;
3. the statement made by virtue of section 9(3).

(3) Where no other evidence exists, the court shall issue a protection order solely based on the statement made by virtue of section 9(3).

S. 14. (1) Where it appears from the data in the application or request that the bodies of the Ministry of Interior and other state government agencies possess documentary evidence of perpetrated domestic violence, the relevant body or agency shall forthwith issue authenticated copies of such documents at the request of the victim or his or her representative or attorney, or at the request of the court.

(2) Anyone who had to issue a document or copy by virtue of subsection 1 but failed to do so shall be

liable to a fine of 100 Levs imposed by the court in accordance with the Code of Civil Procedure.

S. 15. (1) The court shall pronounce by delivering a judgment in an open hearing.

(2) Where the application or request is granted the court shall issue a protection order.

S. 16. (1) With the protection order, the court shall impose one or more protection measures.

(2) The order must contain notification of the effects of any failure to comply therewith as set out in section 21(2).

(3) The judgment and the order shall be served on the parties, and where a measure under section 5(1), points 1, 2 and 3 is imposed they shall also be served on the local police department in the area where the current address of the respondent and the address of the victim are located.

S. 17. (1) The judgment may be appealed against before the district court within seven days as from its service. The appeal shall be lodged via the court having delivered the impugned judgment, and a copy for the other party shall be attached. New evidence may be enclosed to the appeal as well.

(2) The appeal shall not stay the execution of the judgment.

(3) The regional court shall forward a copy of the appeal and of the enclosures thereto to the other party who may, within three days as from their receipt, file objections and invoke new evidence. After the expiration of that time limit, the appeal together with the enclosures and objections shall be forwarded to the district court.

(4) The district court shall handle the appeal within 14 days, in open court, the parties being summoned in accordance with section 12, and shall pronounce by delivering a judgment on the merits whereby it upholds or reverses or varies the judgment appealed against. Where it decides to vary the order, the court shall issue a new order.

(5) The judgment of the district court shall be final.

S. 18. (1) Where the application or request contains data concerning a direct and impending threat to the life or health of the victim, the regional court, sitting *ex parte* and *in camera*, shall issue an emergency protection order within 24 hours as from receipt of the application or request.

(2) The order under subsection 1 shall be served on the parties and forwarded *ex officio* to the local police department.

(3) Where it appears from the data on the file that measures should be undertaken under the Child Protection Act, the court shall notify the Director of the Social Assistance Directorate.

(4) The court shall schedule an open hearing to take place not later than 30 days thereafter and shall serve the writ of summons and a copy of the application or request with their enclosures on the defendant, while notifying the latter of his or her obligation to produce evidence.

(2) In the cases under section 8, points 2 and 3 the victim shall be summoned as well.

(3) Where necessary, the writ of summons shall be served with the assistance of the police authorities or of the mayor.

S. 19. An emergency protection order shall have effect up until a protection order is issued or until the court refuses the application or request.

Division III

Execution of Protection Order

S. 20. A protection order shall be subject to immediate execution.

S. 21. (1) The police authorities shall see to it that the order is executed where a measure under section 5(1), points 1, 2 and 3 has been imposed by virtue of such order.

(2) In the event of failure to comply with the court order, the police authority having found such failure shall arrest the offender and notify forthwith the prosecutorial authorities.

S. 22. The court shall issue *ex officio* a writ of execution in respect of any fines imposed and of the stamp duties and costs awarded.

Final Provisions

§ 1. The provisions of the Code of Civil Procedure shall apply *mutatis mutandis* to any matters not explicitly covered by this Act.

§ 2. The Minister of 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 develop, within 6 months as from the entry of this Act into force, a Domestic Violence Prevention and Protection Programme.

§ 3. The State shall assist the municipalities and the non-profit legal entities with setting up and supporting services and centres designed to implement the measures under section 5(1), points 5 and 6.

§ 4. The persons registered by virtue of section 18(2) and (3) of the Social Assistance Act which provide welfare services and recovery programmes to victims of domestic violence or specialised programmes to perpetrators of such violence must provide the court with a list of available services and programmes.

§ 5. In section 63(3) of the Ministry of Interior Act (promulgated, *State Gazette*, issue 122 of 1997, issue 29 of 1998 – Judgment No. 3 of the Constitutional Court of 1998; amended, issues 70, 73, and 153 of 1998, issues 30 and 110 of 1999, issues 1 and 29 of 2000, issue 28 of 2001, issues 45 and 119 of 2002, issues 17, 26, 95, 103, 112, and 114 of 2003, issues 15, 70, and 89 of 2004, issues 11 and 19 of 2005), a new third sentence is inserted: “In the event of domestic violence a copy of the notification record shall be provided to the victim upon request.”

This Act was passed by the XXXIXth National Assembly and the official seal of the National Assembly is affixed thereto.

**APPENDIX B: DECLARATION OF THE NATIONAL ASSEMBLY OF THE REPUBLIC OF
BULGARIA REGARDING THE CAMPAIGN OF THE COUNCIL OF EUROPE
“PARLIAMENTARIANS UNITED IN THE FIGHT AGAINST VIOLENCE AGAINST WOMEN
INCLUDING DOMESTIC VIOLENCE” 2006-2008**

*Issued by the National Assembly
Promulgated State Gazette #101 from December 15,
2006*

One of the main principles of the democratic society is the protection of human rights and freedoms of the individual. The fight against violence, including domestic violence against women, as one of the aspects of the protection of human rights, is within the focus of the actions of the Parliamentary Assembly of the Council of Europe and this makes it an important priority for the national parliaments. The women and children, as the most common victims of the different kinds of violence, are in need of protection through policy and actions.

We, the members of the 40th National Assembly of the Republic of Bulgaria:

Taking into account our responsibility for prevention of violence in any form, as violence does not know any boundaries on account of territory, age, ethnic background, gender, and religion and because violence creates enormous moral, physical and psychological damages on the citizens;

Reaffirming, that the fight against violence against women, including domestic violence, will be one of the priorities of our legislative activity and control, in order to create a more civilized and just society,

DECLARE:

We support the campaign of the Council of Europe “Parliamentarians united in the fight against violence

against women, including domestic violence” 2006 - 2008;

We would assist all governmental institutions and non-profit organizations for the implementation of an active information campaign on the problems of violence against women, as well as creating zero tolerance towards its forms;

We would create through legislative initiatives conditions for the effective fight against the perpetrators of violence and opportunities for implementing positive practices, including cooperation with the countries of the Council of Europe.

The declaration was passed by the 40th National Assembly on December 8, 2006 and is stamped by the official stamp of the National Assembly.

APPENDIX C: MINISTRY OF LABOUR AND SOCIAL POLICY ACTION PLAN – PROGRAM FOR PREVENTION AND PROTECTION AGAINST DOMESTIC VIOLENCE – FOR THE PERIOD 2007-2008

APPROVED:

MINISTER: EMILIA MASLAROVA

1. Leading awareness-raising campaigns in the community regarding the problem of domestic violence, using the mass media and creating a video.

- 1.1. Conducting work meetings with representatives from governmental institutions, non-profit organizations and the media – the aim is to discuss the opportunities for developing awareness-raising campaigns regarding the problem of domestic violence.

Responsible: The Minister of Labor and Social Policy, the executive director of the Agency for social assistance.

Deadline: January 31, 2007

- 1.2. Researching and discussing the possibilities for financing the awareness-raising campaigns with representatives of governmental institutions, non-profit organizations and the media.

Responsible: The Minister of Labor and Social Policy, the executive director of the Agency for social assistance.

Deadline: February 28, 2007

- 1.3. Conducting the campaign in order to raise awareness in the community regarding the problems of domestic violence.

Responsible: The Minister of Labor and Social Policy, the executive director of the Agency for social assistance.

Deadline: July 31, 2007

2. Creating a national 24-hour telephone line that would provide information to victims of domestic violence.

- 2.1. Conducting work meetings to discuss the development and financing of a hot line for children, victims of violence.

Responsible: The Minister of Labor and Social Policy, the director of the National Agency for Child Protection.

Deadline: March 31, 2007

- 2.2. Discussing in a work group the work mechanism of the telephone line and how it would function.

Responsible: The Minister of Labor and Social Policy, the director of the National Agency for Child Protection.

Deadline: April 30, 2007

- 2.3. Determining staff within the leading institution that would work with the telephone line.

Responsible: The director of the National Agency for Child Protection.

Deadline: July 31, 2007.

- 2.4. Creating a telephone line for children, victims of domestic violence.

Responsible: The director of the National Agency for Child Protection.

Deadline: December 31, 2007.

3. Developing programs for the rehabilitation of victims of domestic violence.

3.1. Creating legal, psychological and social consultations for children, victims of domestic violence in the departments of "Child Protection" in the Directorate "Social Assistance" and work on prevention of violence against children.

Responsible: The director of the Agency for Social Assistance.

Deadline: permanent

3.2. Insuring the participation of experts from the Ministry of Labor and Social Policy, the Agency for Social Assistance, and the National Agency for Child Protection in work meetings, organized by the leading institution to develop programs for rehabilitation of victims of domestic violence.

Responsible: The Minister of Labor and Social Policy, the executing director of the Agency for Social Assistance, the director of the National Agency for Child Protection.

Deadline: March 31, 2007

4. Researching the efficiency of the Law on Protection against Domestic Violence and making recommendations for changes in the law.

4.1. Insuring the participation of experts from the Ministry of Labor and Social Policy, the Agency

for Social Assistance, and the National Agency for Child Protection in work meetings, organized by the leading institutions to create recommendations for changes in the law.

Responsible: The Minister of Labor and Social Policy, the executing director of the Agency for Social Assistance, the director of the National Agency for Child Protection.

Deadline: March 31, 2008

5. Creating and passing a Plan for activation of the Program

5.1. Insuring the participation of experts from the Ministry of Labor and Social Policy, the Agency for Social Assistance in a work group, organized by the leading institutions, to develop a plan for activation of the Program.

Responsible: The Minister of Labor and Social Policy, the executing director of the Agency for Social Assistance.

Deadline: January 31, 2007

6. Creating reports for evaluation of the implementation of the program and the actions envisioned in it.

6.1. Submitting reports and analysis on the implementation of the program and the actions envisioned in it every six months.

Responsible: The Minister of Labor and Social Policy, the executing director of the Agency for Social Assistance, the director of the National Agency for Child Protection.

Women's Human Rights Report Series Publications

Domestic Violence and Child Abuse in Georgia: An Assessment of Current Standings of Law and Practice Regarding Domestic Abuse and Child Abuse in Georgia, and Recommendations for Future United Nations Country Team Involvement, 2006

The Government Response to Domestic Violence Against Refugee and Immigrant Women in Minneapolis/St. Paul Metropolitan Area: A Human Rights Report, 2004

Domestic Violence in Poland, 2002

Sexual Harassment and Employment Discrimination in Poland, 2002

Domestic Violence in Armenia, 2000

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Implementation of the Bulgarian Law on Protection against Domestic Violence: A Human Rights Report

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